Point: The Reinstatement of the **Death** **Penalty** is Necessary in Canada.

**Authors:**

[Klassen, Jeff](javascript:__doLinkPostBack('','ss~~AR%20%22Klassen%2C%20Jeff%22%7C%7Csl~~rl','');)

**Source:**

[Canadian Points of View: Capital Punishment](javascript:__doLinkPostBack('','mdb~~p3h%7C%7Cjdb~~p3hjnh%7C%7Css~~JN%20%22Canadian%20Points%20of%20View%3A%20Capital%20Punishment%22%7C%7Csl~~jh','');). 2016, p2-2. 1p.

**Document Type:**

Article

**Subjects:**

[CAPITAL punishment](javascript:__doLinkPostBack('','ss~~DE%20%22CAPITAL%20punishment%22%7C%7Csl~~rl','');)  
[CRIMINAL justice administration -- Canada](javascript:__doLinkPostBack('','ss~~DE%20%22CRIMINAL%20justice%20administration%20--%20Canada%22%7C%7Csl~~rl','');)  
[CRIMINAL law](javascript:__doLinkPostBack('','ss~~DE%20%22CRIMINAL%20law%22%7C%7Csl~~rl','');)  
[CRIME prevention](javascript:__doLinkPostBack('','ss~~DE%20%22CRIME%20prevention%22%7C%7Csl~~rl','');)  
[LAW -- Canada](javascript:__doLinkPostBack('','ss~~DE%20%22LAW%20--%20Canada%22%7C%7Csl~~rl','');)  
[CANADA -- Politics & government -- 1980-](javascript:__doLinkPostBack('','ss~~DE%20%22CANADA%20--%20Politics%20%26%20government%20--%201980-%22%7C%7Csl~~rl','');)

**Geographic Terms:**

[CANADA](javascript:__doLinkPostBack('','ss~~DE%20%22CANADA%22%7C%7Csl~~rl','');) [[http://smallcontent.ebsco-content.com/interfacefiles/15.4.0.145.1/stGov.gif](http://web.b.ebscohost.com/pov/detail/detail?sid=e49faad7-1598-408c-9b45-ba70def1f984@sessionmgr198&vid=2&hid=128&ss=AN+%2217589046%22&sl=rl)Report Available](http://web.b.ebscohost.com/pov/detail/detail?sid=e49faad7-1598-408c-9b45-ba70def1f984@sessionmgr198&vid=2&hid=128&ss=AN+%2217589046%22&sl=rl)

The article presents an argument for reinstating the **death** **penalty** in Canada. The author argues that capital punishment is an appropriate option in certain circumstances. The use of capital punishment as a deterrent for criminal activity and for preventing future crimes is discussed. Studies conducted by economists regarding the connection between executing criminals and saving lives are examined.

**Word**

**Number:**

Point: The Reinstatement of the **Death** **Penalty** is Necessary in Canada

**Thesis:**Capital punishment is an appropriate sentencing option under certain circumstances, but caution is required in phrasing and applying legislation related to an action as extreme as the **death** **penalty**.

**Summary:**Reinstating the **death** **penalty** as a sentencing option would provide Canadian law enforcement officials with a useful tool with which to deal with the most severe category of criminal offenders. The application of the **death** **penalty** would be justifiable only in exceptional cases. Much of the debate surrounding capital punishment is focused on the issue of its effectiveness as a deterrent for murder and other capital offenses. Economists have concluded that the execution of one criminal will save several lives in the future, whereas lawyers and sociologists tend not to be convinced of this preventative ability. Regardless, the threat associated with the **death** **penalty** can alter patterns of future criminal behavior.

[**Introduction**](http://web.b.ebscohost.com/pov/detail/detail?vid=2&sid=e49faad7-1598-408c-9b45-ba70def1f984%40sessionmgr198&hid=128&bdata=Jmxhbmc9ZW4tY2Emc2l0ZT1wb3YtY2Fu#toc)

Capital punishment instills an awareness of the ultimate **penalty** in potential criminals, thereby deterring crime. The expenditures often associated with capital trials and capital punishment is justified if lives are saved through this measure. An intermediate test for reinstating capital punishment in Canada would be whether the threat of a more severe sanction renders lesser sentences, such as life in prison, more effective as a means for public safety. Evidence from American studies suggests that the answer is a resounding yes.

[**Suspension, Prohibition, Reinstatement, and Abolition**](http://web.b.ebscohost.com/pov/detail/detail?vid=2&sid=e49faad7-1598-408c-9b45-ba70def1f984%40sessionmgr198&hid=128&bdata=Jmxhbmc9ZW4tY2Emc2l0ZT1wb3YtY2Fu#toc)

The last execution in Canada was performed in 1962. The **death** **penalty** was abolished for civilian offenses in 1976 and for military offenses such as treason and mutiny in 1998. Capital punishment was prohibited in the United States (US) in 1972 and reinstated in 1976. The number of convicted murderers executed in Canada before 1962 was significantly higher than that of the US. Overall, homicide rates in Canada are about a third of those of the US, but the pattern of increases and decreases in those rates has been virtually the same since the 1950s. In Europe, the abolition of capital punishment is nearly universal. Compelling justification for capital punishment in Canada is therefore required to even entertain the possibility of reinstatement.

Former Prime Minister John Diefenbaker predicted that the 1962 execution would be the last one ever performed in Canada. So far, Diefenbaker's prediction has been accurate, although the murders of several police officers in 1984 led to an effort by the Progressive Conservative (PC) Party of Canada to reinstate capital punishment; it was defeated by twenty-one votes in the House of Commons in 1987. In addition, Canada has reversed decades of national policy by declining to protest the execution of Canadians convicted of capital offenses abroad.

There is no evidence that any innocent person has ever been executed in Canada. Unfortunately, there have been examples of innocent defendants convicted of serious crimes, but the reason has almost invariably been the corrupt or substandard application of the law rather than the laws themselves. The mandatory appeals used in capital cases in Canada and the US provide every opportunity to clearly determine guilt and the appropriateness of the sentence. Furthermore, the enactment of the Canadian Charter of Rights and Freedoms in 1982 led to a substantial increase in the civil rights of those in prison. Convicts have probably benefited more from the Charter of Rights and Freedoms than any other group in Canada. The use of a capital sentence as a preventative measure might well be debated again.

[**Deterrence, Prevention, and Sentencing Tools**](http://web.b.ebscohost.com/pov/detail/detail?vid=2&sid=e49faad7-1598-408c-9b45-ba70def1f984%40sessionmgr198&hid=128&bdata=Jmxhbmc9ZW4tY2Emc2l0ZT1wb3YtY2Fu#toc)

Economist Issac Ehrlich's often-cited and disputed 1975 study of murder in the US between 1933 and 1967 concluded that each execution during that period saved eight lives. Ehrlich's controversial study was used as supporting justification for reinstating capital punishment in the US in 1976. Other economists now routinely argue that each execution prevents from three to thirty-two murders. A more cautious study conducted in 2004 suggested that Ehrlich's conclusion was valid, even if he overstated the preventative ability of capital punishment.

Executions as a means of state-sanctioned capital punishment are rare enough that a slight change in their occurrence can result in drastic changes in statistical indicators. In 1995, for example, the rate of non-capital murder offenses fell significantly in the US, whereas the rate of capital murder offenses fell only slightly. That change created the statistical impression that capital murders were increasing rapidly because there are always proportionally so few of them. More generally, both the overarching theories of deterrence and brutalization are probably accurate: after a high-profile execution, for example, some career criminals have admitted to leaving any firearms behind out of fear of execution while committing crimes. On the other hand, the potential of possible execution also seems to have led some criminals to escalate their use of violence. The two approaches to the issue, in other words, are not mutually exclusive.

Zhiqiang Liu, an economist who has worked with Ehrlich in defending his 1975 study, argues that eliminating the **death** **penalty** as an option reduces both the genuine deterrent effect of criminal law and the effectiveness of lesser **penalties** in preventing murders. Another study concludes that commuted sentences, which are reductions of capital convictions to lesser sentences, are likely to result in an increase in the number of capital crimes such as murder, eliminating the deterrent function of criminal sanction. These two studies reinforce the preventative ability of capital punishment and the importance of pursuing the **death** **penalty** in a court of law.

Liu's hypothesis probably provides the strongest justification for reinstating capital punishment in Canada. It states that law enforcement officials and prosecutors would be in a better position to secure appropriate sentences in both capital cases and non-capital cases if capital punishment were a legalized sentencing option. Of course, enforcement is necessary to create the threat of capital punishment. The standard for conviction for a capital offence would have to be quite high to minimize the problems that critics have cited in the American practice.

[**Conclusion**](http://web.b.ebscohost.com/pov/detail/detail?vid=2&sid=e49faad7-1598-408c-9b45-ba70def1f984%40sessionmgr198&hid=128&bdata=Jmxhbmc9ZW4tY2Emc2l0ZT1wb3YtY2Fu#toc)

Reinstating capital punishment in Canada would be a difficult endeavor, but one that should be considered. In the 2001 case United States v. Burns, the Supreme Court of Canada decided that extraditing a murderer to the US to face execution was a violation of the Canadian Charter of Rights and Freedoms, but qualified its stance by stating that execution could be considered under "exceptional circumstances," the meaning of which was left undefined. The Charter also provides a "notwithstanding clause" that allows the temporary enactment of legislation that would otherwise violate the rights of civilians. Although the federal government has never used this particular clause, it is certainly not unthinkable that a domestic terrorist attack could convince the federal government to invoke the notwithstanding clause in order to reinstate capital punishment.

[**Ponder This**](http://web.b.ebscohost.com/pov/detail/detail?vid=2&sid=e49faad7-1598-408c-9b45-ba70def1f984%40sessionmgr198&hid=128&bdata=Jmxhbmc9ZW4tY2Emc2l0ZT1wb3YtY2Fu#toc)

1. In 1987, Member of Parliament Geoff Wilson argued that the state's right to take a life is comparable to its right to compel civilians to take the lives of others in a war, as both are theoretically based on the state's duty to protect the nation as a whole. Based on the author's arguments for reinstating capital punishment, would you agree? Why or why not?

* 2. If it could be demonstrated that each execution saves fifteen lives, as some economists claim, would that evidence alone justify reinstating capital punishment in Canada? What if the evidence supported the conclusion that each execution saves five lives?
* 3. Is the state compelled to perform executions, either for moral or practical reasons, if the evidence of the deterrent effect of executions is proven over time?
* 4. Discuss the author's use of statistics to support his argument that the **death** **penalty** is a deterrent.

[**Bibliography**](http://web.b.ebscohost.com/pov/detail/detail?vid=2&sid=e49faad7-1598-408c-9b45-ba70def1f984%40sessionmgr198&hid=128&bdata=Jmxhbmc9ZW4tY2Emc2l0ZT1wb3YtY2Fu#toc)

*Books*

*Abell, Jennie and Elizabeth Sheehy. Criminal Law & Procedure: Cases, Context, Critique. 3rd ed. Concord: Captus Press Inc., 2002*

*Bessler, John D. Kiss of****Death****: America's Love Affair with the****Death******Penalty****. Boston: Northeastern University Press, 2003.*

*Dershowitz, Alan. Contrary to Popular Opinion. New York: Pharos, 1992.*

*Wilson, Geoff. Should Capital Punishment Be Restored?" In Contemporary Political Issues. Eds. Mark Charlton and Paul Barker. Scarborough: Nelson Canada, 1991.*

*Periodicals*

*Donohue, John J. and Justin Woolfers. "Uses & Abuses of Empirical Evidence in the****Death******Penalty****Debate." Stanford Law Review 58 (14 December 2005).*

*Mocan, H. Naci. "Getting Off****Death****Row: Commuted Sentences & the Deterrent Effect of Capital Punishment." Journal of Law and Economics (October 2003).*

*Liu, Zhiqiang. "Capital Punishment & the Deterrence Hypothesis: Some New Insights & Empirical Developments." Eastern Economic Journal (Spring 2004).*

*Phillips, Tom. "The end of the rope." Contemporary Review 272.1587 (Apr. 1998): 181. Academic Search Complete. EBSCO. [Library name], [City], [State abbreviation]. 8 Sep. 2009*

*Shepherd, Joanna M. "Deterrence Versus Brutalization: Capital Punishment's Differing Impacts Among States." Michigan Law Review 104 (2005).*

*Websites*

*"Capital Punishment & the Deterrence Debate." Spring 2007. Columbia University Institute for Social and Economic Policy and Research. 25 February 2008http://www.iserp.columbia.edu/news/articles/capital\_punishment.html.*

* These essays and any opinions, information or representations contained therein are the creation of the particular author and do not necessarily reflect the opinion of EBSCO Information Services.

~~~~~~~~

By Jeff Klassen

Copyright of Canadian Points of View: Capital Punishment is the property of Great Neck Publishing and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.