The Death Penalty Across History and Countries: Health Professionals, Moral Responsibility, and Ethical Obligations

Introduction

The death penalty is one of the oldest and most controversial institutions of human civilization. It stands at the intersection of criminal law, political authority, religion, public morality, and medicine. Throughout history, governments have justified capital punishment as retribution for serious crimes, a deterrent against future offenses, a means of protecting society, or an expression of sovereign power. Opponents have challenged it as an irreversible punishment that risks executing innocent people, violates human dignity, perpetuates inequality, or contradicts the moral obligation to preserve human life.

A particularly difficult question emerges when the state requires health professionals—physicians, registered nurses, pharmacists, emergency medical personnel, psychologists, and others—to participate in an execution. These professionals possess specialized knowledge that can be used to relieve suffering, preserve life, and care for vulnerable people. Yet the same knowledge may be used to facilitate a deliberate, state-authorized death.

The resulting dilemma cannot be reduced to a simple conflict between personal opinion and professional duty. It concerns the relationship between law and morality, the limits of obedience to political authority, the meaning of professional responsibility, and the distinction between treating a person and using medical expertise to carry out a punishment.

To understand this dilemma, we must examine the historical development of capital punishment, its different forms across countries and legal systems, the evolving involvement of health professionals, and the ethical theories that help determine what professionals ought to do when legal obligations conflict with their moral convictions.

1. The death penalty in ancient civilizations

Capital punishment predates the modern state. In ancient societies, it was often connected to religious authority, social hierarchy, and the preservation of political

order. Death could be imposed for murder, treason, theft, adultery, sacrilege, rebellion, and offenses against rulers.

Mesopotamia and the ancient Near East

The Code of Hammurabi, dating to approximately the eighteenth century BCE, contains laws prescribing death for certain offenses. Its provisions reflect a society organized around status, property, family obligations, and differentiated legal rights. The principle often summarized as “an eye for an eye” expressed proportional retaliation, although the consequences depended on the social position of the parties involved.

Capital punishment was not merely a response to individual wrongdoing. It reinforced the authority of rulers and communicated the consequences of challenging the established order.

Ancient Hebrew law also included capital offenses, although biblical texts contain different provisions and interpretive traditions. The relationship between justice, mercy, repentance, and the protection of life subsequently became a major subject of Jewish legal and ethical debate.

Greece and Rome

In ancient Greece, capital punishment varied between city-states. The execution of Socrates in 399 BCE remains one of the most influential cases in the history of political philosophy. Convicted by an Athenian jury of impiety and corrupting the youth, Socrates accepted the legal sentence rather than escape. His death raised enduring questions about obedience to law, the legitimacy of political authority, and the responsibility of the individual conscience.

In Rome, execution could serve as punishment, military discipline, and political intimidation. The methods and severity of punishment often depended on citizenship, social class, and the perceived gravity of the offense. Crucifixion, for example, was associated particularly with slaves, rebels, and people lacking the protections enjoyed by Roman citizens.

The Roman experience illustrates an important historical pattern: states have frequently used capital punishment not only to punish crimes but also to demonstrate their power over the bodies and lives of their subjects.

Early ethical questions

Ancient societies did not possess the modern professional codes of medical ethics that govern physicians and nurses today. Nevertheless, the basic question was already present: does a ruler's legal authority establish the moral legitimacy of an action?

The later distinction between legality and morality would become essential to understanding the responsibilities of professionals who participate in executions.

2. Religion, medieval law, and the authority to take life

During the Middle Ages, capital punishment remained widespread in Europe, the Middle East, and Asia. Religious traditions sometimes justified it, sometimes restricted it, and often debated the conditions under which it could be morally permissible.

In Christian Europe, the relationship between divine commandments, political authority, and criminal punishment generated sustained theological debate. The commandment against killing was interpreted alongside arguments about legitimate defense, public justice, and the authority of the state.

Augustine of Hippo and, later, Thomas Aquinas argued that public authorities could legitimately impose death under certain circumstances. Aquinas, in the Summa Theologiae, treated punishment as a responsibility of legitimate authority directed toward the common good. His argument depended on the premise that the public authority acted justly and proportionately; it did not establish that every legally ordered execution was morally justified.

Islamic jurisprudence developed its own complex traditions concerning capital offenses, including retaliation for homicide (qisas), certain prescribed punishments, evidentiary requirements, and possibilities for pardon or compensation. Interpretations and practices differ significantly among schools of jurisprudence and contemporary national legal systems.

In medieval Europe, execution could be public and spectacular. Hanging, beheading, burning, and other methods were used, sometimes accompanied by torture. Public punishment served as a warning and a ritual reaffirmation of political authority.

However, the existence of religious justifications did not eliminate moral disagreement. Questions persisted about wrongful conviction, mercy, the authority to forgive, and whether a punishment that destroys life can restore justice.

3. The Enlightenment and the emergence of abolitionism

The modern debate over the death penalty was profoundly influenced by Enlightenment thought, especially its emphasis on reason, proportionality, individual rights, and limitations on government power.

Cesare Beccaria

In On Crimes and Punishments (1764), the Italian philosopher and jurist Cesare Beccaria challenged the legitimacy and usefulness of capital punishment. He argued that punishment should be necessary, proportionate, and directed toward preventing future crimes rather than satisfying vengeance.

Beccaria questioned whether executions actually deterred crime more effectively than certain, proportionate, and less severe punishments. He also challenged the state's moral authority to take life when its purpose was to protect the rights of citizens.

His argument helped transform the debate from a question of tradition or sovereign power into a question of rational public policy and individual rights.

Jeremy Bentham and utilitarianism

Jeremy Bentham's utilitarian philosophy evaluates institutions according to their consequences for human welfare. Applied to capital punishment, this framework asks whether executions prevent sufficient suffering and crime to justify the harm they cause.

A utilitarian could support capital punishment if it demonstrably produced greater overall benefits than alternatives. Conversely, if its deterrent effect were weak, its application discriminatory, or its risks of irreversible error substantial, utilitarian reasoning could support abolition.

This illustrates an important point: ethical theories do not always produce the same answer, even when their proponents share a commitment to reason.

Kant and retributive justice

Immanuel Kant defended a retributive conception of punishment. In his philosophy of law, punishment should respond to culpable wrongdoing rather than treat an offender merely as an instrument for deterring others. Kant famously defended capital punishment for murder.

His position contrasts with Beccaria's emphasis on social utility. It also demonstrates that the defense of human dignity does not automatically entail opposition to the death penalty: philosophers may disagree about what dignity and justice require.

The development of abolition

During the nineteenth and twentieth centuries, several countries restricted or abolished capital punishment. Venezuela abolished it for ordinary crimes in the nineteenth century, while European abolition developed unevenly over time. Portugal abolished it for civilian crimes in 1867, although subsequent legal and political developments must be distinguished from the initial reform.

Abolition gradually became connected to constitutional rights, the prohibition of cruel punishment, the presumption of innocence, and international human rights law.

The central modern question became not simply whether a person deserved punishment, but whether a state could legitimately retain the power to execute that person.

4. The death penalty in contemporary countries

The contemporary world is divided between countries that have abolished capital punishment and those that retain it. These differences reflect legal traditions, political institutions, public opinion, religious interpretations, and competing conceptions of justice.

According to Amnesty International's report published in May 2026, 113 countries had abolished the death penalty for all crimes by the end of 2025, while 145 had abolished it in law or practice. Fifty-four countries retained it for ordinary crimes. Amnesty recorded at least 2,707 executions in 17 countries during 2025, excluding thousands of executions believed to have occurred in China and executions for which information was unavailable in some other countries.

Amnesty International
These figures require careful interpretation. A country that retains the death penalty in law may carry out no executions for decades, while a country that uses it regularly may conceal its execution statistics. Legal retention, actual sentencing, and the frequency of executions are three different measures.

Europe: abolition and human rights

Most European countries have abolished capital punishment. The European human rights framework and the Council of Europe's abolition protocols have made the death penalty incompatible with membership in the organization. Belarus remains the principal European exception, retaining capital punishment.

United States: a divided legal system

Capital punishment remains legal under federal law and in some states, while other states have abolished it or maintain moratoriums. The Supreme Court has restricted its use in certain circumstances, including executions of people who were under 18 at the time of their crimes and people with intellectual disabilities. Controversies include racial disparities, wrongful convictions, lengthy appeals, and the constitutionality of execution methods.

Japan: retention within a democratic society

Japan retains capital punishment, primarily for aggravated murder. Its continued use demonstrates that the divide is not simply between democracies and authoritarian governments. Questions about secrecy, lengthy confinement on death row, psychological suffering, and the possibility of error remain significant.

Iran and Saudi Arabia: extensive use

Both countries retain capital punishment for a range of offenses. International criticism has focused on the volume of executions, fair-trial concerns, the death penalty for drug offenses, and the application of capital punishment to conduct that international human rights standards do not recognize as warranting execution.

Mexico and Guatemala: abolition for ordinary crimes

Mexico abolished capital punishment for all crimes in 2005. Guatemala is classified as abolitionist for ordinary crimes, although its legal history is more complicated: its constitutional and statutory framework once retained capital punishment for certain offenses, and its Constitutional Court decisions contributed to its non-use. Guatemala should therefore not be confused with a country whose abolition for every possible offense followed exactly the same legal route as Mexico's.

The international movement toward abolition reflects the growing influence of human rights principles, particularly the right to life, due process, and protection against cruel, inhuman, or degrading punishment. Nevertheless, continuing executions show that the debate remains politically and morally unsettled.

Death Penalty Information Center+1

5. Methods of execution and the changing role of medicine

Historically, executions included hanging, beheading, crucifixion, burning, drowning, and firing squads. Later, some states introduced the electric chair, the gas chamber, and lethal injection. More recently, nitrogen gas asphyxiation has been used in the United States.

The methods differ technically, but they share a defining characteristic: their intended outcome is the death of the condemned person under state authority.

Lethal injection and the medicalization of execution

Lethal injection became prominent in the United States partly because it was presented as a more controlled and less visibly violent alternative to earlier methods. Its apparent resemblance to a clinical procedure, however, creates a serious ethical problem.

An execution is not medical treatment. The purpose of treatment is to benefit the patient, alleviate suffering, restore or preserve health, or provide appropriate palliative care. The purpose of execution is to carry out a sentence of death.

Difficulties with lethal injection have included unsuccessful intravenous access, prolonged procedures, uncertain consciousness, and disputes about the effectiveness and effects of the drugs used. The extent of pain or awareness in individual executions is not always ascertainable. These uncertainties undermine the claim that a medical-looking procedure is necessarily painless or humane.

The involvement of physicians and other health professionals may include assessing a prisoner's fitness for execution, advising on physiological effects, obtaining or administering drugs, monitoring vital signs, establishing or maintaining intravenous access, and certifying death. The precise roles permitted or requested differ by jurisdiction.

The ethical issue is not merely whether a professional can perform these tasks competently. It is whether professional competence should be placed at the service of an act whose intended result is the death of a person.

6. The ethical obligations of physicians

The World Medical Association (WMA) has adopted a clear position: physicians must not participate in executions because doing so is incompatible with their role as healers. Its resolution, reaffirmed in October 2023, grounds this position in respect for human life and the principle that medical knowledge should not be used to violate human rights and civil liberties.

The World Medical Association

Several ethical principles explain this position.

A. Nonmaleficence: do no harm

The principle of nonmaleficence requires clinicians to avoid causing unjustified harm. In ordinary clinical practice, a physician does not deliberately kill a patient as a means of fulfilling a therapeutic objective.

A state execution reverses this relationship: death is not an unwanted side effect of treatment but the intended outcome of the procedure. For many medical ethicists, this distinction is decisive.

Supporters of participation may argue that professional involvement reduces suffering and makes execution safer. Yet this reasoning raises a troubling question: does making a harmful act less painful transform it into an ethically permissible act?

A professional's ability to reduce suffering is important, but it does not automatically justify participation in every activity that causes suffering or death.

B. Beneficence: acting for the patient's benefit

Beneficence obliges health professionals to promote the welfare of those under their care. A condemned prisoner remains a human being and a person entitled to appropriate medical care.

The physician's obligation to treat illness does not disappear because the patient has committed a serious crime. Nor does it disappear because a court has imposed a death sentence.

The difficulty is that an execution is not ordinarily conducted for the benefit of the condemned person. Even if the procedure is intended to minimize pain, the professional is not treating a disease or pursuing a therapeutic goal.

C. Respect for autonomy and human dignity

Autonomy concerns a person's capacity to make informed decisions about medical care. A prisoner may consent to medical treatment, refuse treatment where legally permissible, or express preferences about end-of-life care.

However, consent to a medical procedure is not the same as consent to a judicial execution. A person under sentence of death may be subject to profound institutional pressure and cannot necessarily choose whether the state will carry out the sentence.

Respect for dignity also requires professionals to recognize that a person's moral status does not vanish following conviction. A criminal sentence does not make

the condemned person an object or deprive that individual of all claims to humane treatment.

D. Professional integrity and independence

A profession is more than a collection of technical skills. It has a public purpose, ethical standards, and duties that can limit what its members may do even when an employer or government requests it.

If a physician's role is understood as preserving health and alleviating suffering, participation in execution may compromise the public's trust in medicine. Patients may reasonably fear that the same expertise used to treat them could be employed to facilitate their deaths under governmental authority.

This concern is particularly important in prisons, where people depend on state-employed health professionals and cannot freely choose their circumstances of care.

7. Registered nurses and the ethics of caring

The American Nurses Association (ANA) offers one of the clearest professional positions on this issue. Its position statement, reaffirmed in 2024, opposes both capital punishment and nurses' participation in any phase of an execution. The ANA considers such participation incompatible with nursing's ethical traditions, commitment to human dignity, and obligation to prevent harm.

ANA

For registered nurses, the dilemma is particularly significant because nursing emphasizes the continuous care of vulnerable individuals, including those who are imprisoned, seriously ill, or approaching death.

The ANA identifies several obligations:

- Preserve human dignity. The nurse must care for an incarcerated person without allowing the person's crime or sentence to erase their humanity.
- Prevent harm. Nurses should not contribute to the process of deliberately causing a prisoner's death.

- Maintain professional fidelity. Their primary professional commitments cannot simply be overridden by an employer's instructions.
- Protect public trust. Nursing must remain associated with care and the relief of suffering rather than with the execution of punishment.
- Provide appropriate care. Nurses must continue to offer legitimate medical treatment, comfort, and palliative support to condemned prisoners.

The distinction between caring for a person who will die and participating in causing that person's death is fundamental. A nurse may provide pain relief, psychological support, or spiritual assistance without becoming an agent of the execution.

This distinction also shows why opposition to participation does not require abandoning the condemned person. On the contrary, refusing to participate in an execution can coexist with an unwavering commitment to care.

8. Pharmacists, psychologists, and other professionals

The ethical problem extends beyond physicians and registered nurses.

Pharmacists may be asked to obtain, prepare, or supply drugs intended for executions. Their professional expertise ordinarily serves the safe and appropriate use of medicines. When medicines are supplied for an execution, the pharmacist must consider the distinction between legitimate therapeutic use and facilitating a procedure intended to cause death. Legal restrictions, professional codes, and institutional policies differ by jurisdiction.

Psychiatrists and psychologists may face requests to assess a prisoner's competence to be executed, evaluate mental illness, or provide treatment that could affect whether an execution proceeds. The ethical challenge becomes especially acute when treatment is requested primarily to make a prisoner eligible for execution rather than to promote the prisoner's welfare.

Emergency medical personnel may be asked to attend executions or respond if a procedure fails. Their duties to preserve life and relieve suffering must be distinguished from roles that directly facilitate the execution.

Laboratory professionals, technicians, and biomedical specialists may contribute through equipment testing, physiological monitoring, or technical advice. Their

work may appear remote from the final act, but indirect involvement can still raise ethical concerns when it materially assists an execution.

The American Medical Association explicitly includes direct and indirect assistance within its definition of physician participation, including technical advice, supervision, and certain preparatory activities. The ANA likewise rejects direct and indirect nursing involvement. These are professional ethical standards; their precise legal enforceability depends on the relevant jurisdiction.

AMA Code of Medical Ethics

9. The central moral theories: what should professionals do?

The dilemma becomes clearer when examined through several major traditions of moral philosophy.

Immanuel Kant: duty and human dignity

Kant's ethics asks whether an action respects persons as ends in themselves rather than treating them merely as instruments. A health professional who uses clinical knowledge to execute a prisoner risks subordinating the person to the state's purposes. However, Kant himself defended capital punishment for murder, making his philosophy an especially important example of how agreement about dignity can coexist with disagreement about punishment.

John Stuart Mill: consequences and social welfare

Utilitarianism asks whether a policy produces more overall benefit than harm. Defenders of capital punishment emphasize deterrence, public safety, and justice for victims. Opponents emphasize wrongful executions, unequal application, suffering, and the availability of alternative punishments.

The empirical question is whether capital punishment prevents murders more effectively than alternatives. The ethical question is whether even a demonstrated benefit would justify the deliberate and irreversible taking of life.

Hannah Arendt: responsibility and obedience

Arendt's reflections on political responsibility and the dangers of thoughtless obedience challenge the assumption that following official instructions removes personal moral responsibility. An official order may explain why a person acted, but it does not necessarily justify the action.

Applied to health professionals, the lesson is that institutional authority does not eliminate the obligation to examine what one's professional skills are being used to accomplish.

Albert Camus: the limits of state power

In Reflections on the Guillotine (1957), Camus challenged the death penalty, questioning its deterrent value, its irreversible character, and the state's authority to kill in the name of justice.

His argument highlights the moral asymmetry between a criminal act and an execution: the state claims to defend life and order while deliberately destroying a human life.

Thomas Aquinas: natural law and the common good

Aquinas held that legitimate public authority could impose capital punishment under certain conditions. Yet his natural-law framework also asks whether actions conform to reason and the common good. It therefore invites a separate inquiry into whether a particular execution is just, proportionate, and legitimately authorized.

A physician or nurse must still consider whether professional participation is consistent with the obligations of their vocation, even when the legal system recognizes capital punishment.

These thinkers illustrate three questions that should not be confused: whether the state may impose the death penalty, whether a particular person deserves it, and whether a health professional may ethically participate in carrying it out. A person might answer these questions differently.

10. Moral obligations when law and professional ethics conflict

The most difficult situations arise when a government legally authorizes an execution but a professional code prohibits participation.

Four obligations deserve particular attention.

First, the obligation to respect the law. Citizens and professionals ordinarily have strong reasons to obey legitimate laws. A functioning legal system depends on predictable rules, due process, and institutional cooperation. Nevertheless, legal authorization is not identical to moral justification. History contains numerous examples of legally authorized practices that were later recognized as profoundly unjust.

Second, the obligation to exercise independent judgment. A professional cannot always transfer moral responsibility to a superior, employer, judge, or government. Physicians and nurses must consider the purpose of the requested act and the limits of their professional role.

Third, the obligation to protect the vulnerable. Prisoners are subject to extraordinary institutional control. They depend on authorities for medical access, safety, and basic living conditions. This dependency makes professional independence particularly important.

Fourth, the obligation to remain compassionate. Refusing to participate in an execution should not mean refusing to treat the prisoner, expressing contempt for the person, or disregarding the suffering of victims and their families. Ethical consistency requires compassion toward people harmed by crime as well as respect for the humanity of the condemned.

When a professional is asked to participate, appropriate steps may include consulting the relevant professional code, seeking advice from an ethics committee, clarifying the proposed role, requesting reassignment where appropriate, and obtaining independent legal guidance. Professionals should distinguish legitimate care from actions that directly or indirectly facilitate an execution. The applicable law and professional rules must be examined locally.

Conclusion: Can medicine serve justice without becoming an instrument of execution?

The history of capital punishment reveals a persistent conflict between the authority of the state and the moral limits of that authority. Ancient civilizations frequently treated execution as an expression of sovereign power. Enlightenment thinkers challenged its necessity and proportionality. Modern human rights movements increasingly question whether the irreversible destruction of life can be reconciled with human dignity and the protection of fundamental rights.

The participation of health professionals brings this conflict into especially sharp focus. Physicians, nurses, pharmacists, psychologists, and other specialists possess knowledge that society entrusts to them for purposes associated with health, care, and human welfare. Using that knowledge to facilitate an execution raises questions that cannot be resolved simply by observing that a court has authorized the punishment.

The World Medical Association and the American Medical Association prohibit physician participation in executions, while the American Nurses Association opposes both capital punishment and nursing participation. These positions establish an important professional distinction: a health professional can respect the law, care for a condemned prisoner, and acknowledge the suffering of victims without personally becoming an agent of execution.

The World Medical Association

The deepest question is not whether a murderer deserves sympathy or whether society has a duty to protect innocent people. It is whether the state should require a profession dedicated to healing to participate in deliberately ending human life.

A society can debate the legitimacy of capital punishment through its legislatures, courts, and democratic institutions. But the professional's moral responsibility cannot be reduced to obedience. The physician's duty to preserve life, the nurse's duty to care, and every professional's duty to exercise independent judgment remain meaningful precisely when political authority demands something that challenges them.

Justice requires accountability for wrongdoing. The ethical question is whether accountability must culminate in execution—or whether a society can protect its citizens, recognize victims' suffering, and uphold the rule of law without making the deliberate taking of life a task for those trained to heal.

Selected readings and professional resources

1. Cesare Beccaria, On Crimes and Punishments (1764) — proportionality, deterrence, and the state's authority to punish.
2. Immanuel Kant, The Metaphysics of Morals (1797) — duty, retributive justice, and the moral foundations of punishment.
3. Albert Camus, Reflections on the Guillotine (1957) — a philosophical critique of capital punishment.
4. American Medical Association, Code of Medical Ethics, Opinion 9.7.3: Capital Punishment — professional standards for physicians.
5. World Medical Association, Resolution on Prohibition of Physician Participation in Capital Punishment — international medical ethics.
6. American Nurses Association, Capital Punishment and Nurses' Participation in Capital Punishment — nursing ethics and professional obligations.
7. Amnesty International, Death Sentences and Executions 2025 — contemporary international statistics and country comparisons.

These sources provide for an academic discussion organized around three distinct but related questions: the moral legitimacy of capital punishment, the legal authority of the state, and the independent ethical obligations of health professionals.

Para estudiar la pena de muerte desde la filosofía moral, el derecho y la ética profesional, conviene distinguir entre los autores que la rechazan, quienes la justifican bajo determinadas condiciones y quienes cuestionan los fundamentos mismos del poder estatal para quitar la vida.

Se recomiendan dos textos o pasajes fundamentales de cada autor: uno para comprender su posición y otro para profundizar en sus argumentos. En el caso de Camus, la referencia principal es su crítica del castigo capital; en el de Tomás de Aquino, su justificación dentro de una concepción del bien común.

1. Cesare Beccaria (1738–1794): la crítica ilustrada de la pena capital

Texto 1. De los delitos y de las penas (1764), capítulo XXVIII: «De la pena de muerte».

Es el texto indispensable. Beccaria cuestiona que el Estado tenga derecho a ejecutar a un ciudadano y pone en duda que la ejecución sea necesaria o más eficaz que una pena prolongada para prevenir delitos.

Texto 2. La misma obra, capítulos XII, «Fin de las penas», y XXVII, «Suavidad de las penas».

Estos pasajes permiten comprender su principio de proporcionalidad: el castigo debe prevenir nuevos delitos, no satisfacer la venganza ni reproducir la violencia que pretende combatir.

Idea central: la legitimidad de una pena depende de su necesidad social y de su eficacia preventiva, no de la intensidad del sufrimiento que produce.

Beccaria es particularmente útil para discutir si una sociedad puede defender la vida mediante una institución que deliberadamente la destruye. También permite preguntar si la pena capital disuade más que otras sanciones y si un error judicial irreversible es moralmente aceptable.

2. Tomás de Aquino (1225–1274): la defensa del bien común

Texto 1. Suma teológica , II-II, cuestión 64, artículo 2: «Si es lícito matar a los pecadores».

Aquino sostiene que la autoridad pública puede, bajo ciertas condiciones, ejecutar a una persona considerada peligrosa para la comunidad, de manera análoga a la extirpación de una parte enferma para preservar el cuerpo.

Texto 2. Suma teológica, II-II, cuestión 64, artículo 6: «Si es lícito matar a alguien en defensa propia».

Aunque trata principalmente de la legítima defensa, el pasaje es importante para estudiar la intención moral, la proporcionalidad y la diferencia entre querer la muerte y actuar para proteger un bien legítimo.

Idea central: el acto de quitar la vida no se evalúa únicamente por su resultado físico, sino también por la autoridad que actúa, la finalidad perseguida y su relación con el bien común.

Conviene leer estos textos junto con la cuestión 40 de la II-II, sobre la guerra, y con la cuestión 64, artículo 3, sobre la licitud de matar en defensa de la comunidad. Aquino ofrece una justificación condicionada de la pena capital, no una autorización indiscriminada para matar.

3. Immanuel Kant (1724–1804): la justicia retributiva

Texto 1. La metafísica de las costumbres, primera parte, Doctrina del derecho, § 49, observación general E.

Es el pasaje esencial para comprender la defensa kantiana de la pena de muerte. Kant sostiene que quien comete asesinato debe morir, porque la justicia exige una correspondencia entre el delito y el castigo.

Internet Encyclopedia of Philosophy+1

Texto 2. La misma obra, Doctrina del derecho, sección sobre el derecho de castigar y la pena judicial, especialmente el pasaje relativo a la disolución de la sociedad civil.

Kant argumenta que incluso si una sociedad decidiera disolverse, debería ejecutar al último asesino condenado antes de desaparecer. Con ello afirma que la justicia no depende exclusivamente de que el castigo produzca beneficios sociales.

Idea central: la pena debe imponerse porque el culpable ha cometido un delito, no simplemente para intimidar a otros, rehabilitar al delincuente o producir alguna ventaja colectiva.

Kant representa una posición especialmente importante porque rechaza la justificación puramente utilitaria del castigo. Su teoría plantea una pregunta fundamental: ¿puede la justicia exigir una ejecución incluso cuando esta no produce ningún beneficio social demostrable?

4. Jeremy Bentham (1748–1832): utilidad, prevención y proporcionalidad

Texto 1. An Introduction to the Principles of Morals and Legislation, capítulo XIII, «Cases Unmeet for Punishment», y capítulo XIV, «Of the Proportion between Punishments and Offences».

Bentham establece que el castigo es, en sí mismo, un mal que solo se justifica si evita un mal mayor. Debe ser necesario, proporcional y suficientemente eficaz para prevenir delitos.

Library of Economics and Liberty+1

Texto 2. The Rationale of Punishment, capítulo XI, «Capital Punishment».

Este capítulo examina específicamente la pena capital, sus métodos, sus sufrimientos y sus consecuencias. Es una referencia directa para evaluar el castigo desde el cálculo de sus costes y beneficios sociales.

Wikimedia Commons

Idea central: ninguna pena es legítima por el mero hecho de que el delincuente la merezca; debe justificarse por sus consecuencias.

Es importante hacer una precisión histórica: Bentham no mantuvo siempre una posición absolutamente abolicionista. En sus primeros análisis admitió algunas excepciones, pero posteriormente defendió la eliminación de la pena de muerte. Entre sus objeciones destacan la incertidumbre de la disuasión, la aplicación desigual y la imposibilidad de reparar una ejecución judicial errónea.

Stanford Encyclopedia of Philosophy+1

Para un análisis ético, Bentham permite formular la pregunta: si la prisión puede proteger a la sociedad con menos riesgos irreversibles, ¿qué utilidad adicional justificaría la ejecución?

5. Albert Camus (1913–1960): la crítica moral de la guillotina

Texto 1. Reflexiones sobre la guillotina (1957).

Es su obra fundamental sobre el tema. Camus cuestiona la supuesta ejemplaridad de las ejecuciones y sostiene que el Estado no puede justificar el homicidio legal simplemente presentándolo como justicia. Examina también la incertidumbre judicial, la irreversibilidad del castigo y la realidad material de la ejecución.

Société des Études camusiennes+1

Texto 2. El extranjero, especialmente la parte final, en la que Meursault espera su ejecución.

Aunque es una novela y no un tratado jurídico, permite estudiar cómo la sociedad, el sistema judicial y las convenciones morales construyen la figura del condenado. Es un complemento literario para reflexionar sobre la muerte, la responsabilidad y la legitimidad del juicio social.

Idea central: el Estado no debería arrogarse una certeza moral absoluta que le permita decidir irreversiblemente quién merece vivir y quién debe morir.

Camus también cuestiona la pretendida equivalencia entre asesinato y ejecución. El Estado prepara legalmente una muerte deliberada, mientras que la ejecución no reproduce necesariamente la experiencia ni el sufrimiento de la víctima original. Su propuesta se orienta hacia una justicia consciente de sus propios límites, sin confundir compasión con impunidad.

Société des Études camusiennes+1

Comparación de las cinco posiciones

Autor	Posición general	Fundamento moral

Beccaria	Abolicionista, con matices excepcionales en situaciones extremas	Derechos, necesidad y prevención
Tomás de Aquino	Justifica la pena capital bajo ciertas condiciones	Bien común y autoridad legítima
Kant	Defiende la pena de muerte por asesinato	Justicia retributiva e igualdad
Bentham	Evoluciona hacia el abolicionismo	Utilidad, prevención y proporcionalidad
Camus	Abolicionista	Dignidad humana, falibilidad judicial y límites del Estado

¿Cuáles leería primero para un seminario de ética?

Se recomendaría este orden:

1. Beccaria, capítulo XXVIII: para abrir el debate sobre el derecho del Estado a quitar la vida.
2. Kant, Doctrina del derecho, § 49: para presentar la defensa filosófica más rigurosa de la retribución.
3. Bentham, The Rationale of Punishment, capítulo XI: para contrastar la retribución con el análisis de consecuencias.
4. Tomás de Aquino, Suma teológica, II-II, cuestión 64, artículo 2: para examinar la relación entre autoridad, bien común y vida humana.
5. Camus, Reflexiones sobre la guillotina: para cerrar con las implicaciones humanas, políticas e institucionales de la ejecución.

Las referencias primarias pueden consultarse en español en estas fuentes:

- Beccaria, De los delitos y de las penas, capítulo sobre la pena de muerte.

  edu-dh.org

- Tomás de Aquino, Suma teológica, cuestión 64.

  Santo Tomas de Aquino

- Para Kant, buscar La metafísica de las costumbres, «Doctrina del derecho», § 49.
- Para Bentham, buscar Teoría de las penas legales o The Rationale of Punishment, capítulo sobre la pena capital.
- Para Camus, buscar Reflexiones sobre la guillotina, publicado en 1957 y posteriormente incluido en Reflexiones sobre la pena capital.

  Société des Études camusiennes

Una cuestión especialmente fecunda para su estudio de la ética médica es la siguiente: si el Estado considera legítimo ejecutar a un condenado, ¿puede exigir a un médico o a una enfermera que participe en esa ejecución? Aquí se cruzan la legitimidad de la pena, la obligación profesional de no causar daño, la autonomía de los profesionales sanitarios y la diferencia moral entre curar, aliviar el sufrimiento y provocar deliberadamente la muerte. Los cinco autores permiten construir posiciones distintas para discutir ese dilema.