

American Federalism and American Public Attitudes Towards the Abolition of the Death Penalty

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Abstract

The international community has increasingly favored the abolition of capital punishment. The United States of America is one of only a few countries in the West to retain capital punishment and perceived internationally as a bastion of democracy and human rights. The death penalty, however, is pushing the U.S. further away from its allies and the growing consensus of international law. The European nations that share the Anglo-American heritage, America's democratic values, and maintain close ties with their transatlantic partner, cannot understand how the U.S. can claim to be the leading champion of democracy and human rights, and nevertheless continue to apply the death penalty. The reasons why the U.S. has become such an anomaly compared with other Western-developed countries will be explored. This paper focuses on two factors: American federalism and American public attitudes towards the death penalty. It traces, first, the history of the movement to abolish the death penalty in the United States and looks into its influence on the federal and state system. It then looks into the reviewing standard of the U.S. Supreme Court on the constitutionality of the death penalty in several landmark death penalty cases. Lastly, it reviews the significance and accountability of public opinion, and questions its creditability and appropriateness as a reference for important de-

cision-making on the death penalty system.

Key Words: moratorium on executions, cruel and unusual punishments, excessive and unnecessary penalty, evolving standards of decency, aggravating or mitigating circumstances