

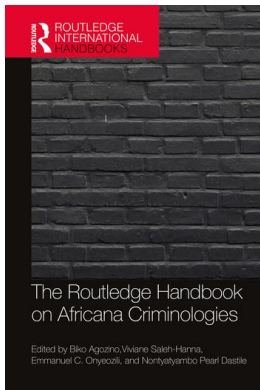
This article was downloaded by: 10.2.97.136

On: 31 Mar 2023

Access details: *subscription number*

Publisher: *Routledge*

Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: 5 Howick Place, London SW1P 1WG, UK



The Routledge Handbook on Africana Criminologies

Biko Agozino, Viviane Saleh-Hanna, Emmanuel C. Onyeozili,
Nontyatyambo Pearl Dastile

People of African Descent and the Retention of the Death Penalty

Publication details

<https://test.routledgehandbooks.com/doi/10.4324/9781003004424-24>

Noel Otu

Published online on: 30 Dec 2020

How to cite :- Noel Otu. 30 Dec 2020, *People of African Descent and the Retention of the Death Penalty from: The Routledge Handbook on Africana Criminologies* Routledge

Accessed on: 31 Mar 2023

<https://test.routledgehandbooks.com/doi/10.4324/9781003004424-24>

PLEASE SCROLL DOWN FOR DOCUMENT

Full terms and conditions of use: <https://test.routledgehandbooks.com/legal-notices/terms>

This Document PDF may be used for research, teaching and private study purposes. Any substantial or systematic reproductions, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The publisher shall not be liable for an loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

18

PEOPLE OF AFRICAN DESCENT AND THE RETENTION OF THE DEATH PENALTY

Noel Otu

Introduction

This chapter explores the question of whether the history of colonization, slave trade, slavery, lynching, and racial discrimination against people of African descent plays a role in the retention of the death penalty in the world. People of African descent live in many countries of the world, either dispersed among a community's local population or in a separate community. Whether they are descendants of Africans who were displaced during the transatlantic slave trade or are recent immigrants who migrated to Europe, the Americas, Asia, etc. and even those within the African continent, the fact is that they may be the most marginalized group in the world. Today, there is growing evidence that racial bias continues in many societies, and it affects the use of the death penalty. The death penalty, also known as capital punishment, is a government-sanctioned practice whereby a person is killed by the state as punishment for a crime or crimes. This chapter reveals that the suffering caused to people of African descent by colonialism, the slave trade, slavery, and lynching persisted for a long time, and it is among the factors that influenced and encouraged the continued use and retention of the death penalty. Today, it is very clear that the death penalty is the stepchild of lynching, and there is a correlation between lynching and the death penalty. Evidence shows that a diversification process has been occurring whereby the eradication of one evil act gives birth to another. Colonization gave way to the slave trade and slavery, which gave way to lynching and the death penalty, all with the aim of putting people of African descent in their "proper place." Countries, states, and regions in Americas that carry out the most executions today are the same places where lynching was more likely to have taken place. In the final analysis, research shows that the death penalty is both the intended and unintended consequence of

decades of wealthy political leaders and/or White people preying on the powerless, often on the people of African descent, and doing everything in their considerable power to keep that power, which has resulted in race- and class-based resentment and the retention of the death penalty.

The people of African descent and the retention of the death penalty all over the world. People of African descent (PAD) includes those who self-identify as Black, African Caribbean, African American, African National, and others of African ancestry from numerous countries who now live in all parts of the world (ELCA, 2019). Many millions live outside the continent of Africa. The largest concentration outside Africa, about 150 million, can be found in Latin America and the Caribbean. About 200 million people identifying themselves as being of African descent live in the Americas (U.N. Human Right, 2011). People of African descent are people from Africa who may have been displaced to the Americas during the transatlantic slave trade many generations back or be more recent migrants who have traveled to the Americas, Europe, or Asia. The contemporary situation of people of African descent must be understood in the context of colonialism, slavery, lynching, the death penalty, and the continued discrimination that perpetuates situations of inequality and marginalization (UN Human Right, 2011).

People of African descent comprise a heterogeneous group with diverse histories, experiences, identities, circumstances, and problems. They have the common denominator, however, of not always being given full or complete human rights due to structural and institutional racial discrimination. People of African descent continue to suffer racial discrimination and related intolerance. It is obvious that slavery and the slave trade conducted against people of African descent were appalling tragedies in their history in particular and in the history of humanity in general. Slavery and the slave trade of people of African descent were crimes against humanity and show that the people were not seen as human beings with feelings. People of African descent are also victims of the consequences, of the continued use of the death penalty in many countries today. This inhumane treatment of people of African descent by colonialism, slavery, the slave trade, and lynching persisted for a long time, and they are the factors that have influenced and encouraged the continued use of the death penalty.

The definition of the death penalty

The death penalty is also known as capital punishment and is the most severe form of corporal punishment by requiring law enforcement officers to kill (to cause the death of, to end the life of) the convicted offender. The death penalty has been practiced at some point throughout all known human society. The use, form, function, name, and meaning of what we call the death penalty verdict greatly varies across different societies, countries, and contexts. Although it is difficult to find information on who started the death penalty, research shows that the use of it was very low during the medieval period. As well, there are several forms of the death penalty, including lethal injection, hanging by the neck, gassing, firing squad, and the guillotine (Duhaime's Law Dictionary, 2011).

In 1700 BC, the Code of Hammurabi was a legal document from ancient Babylonia (in modern-day Iraq) that contained the first known death penalty laws. During this period, 25 crimes were punishable by death. These crimes included, but were not limited to, adultery and helping slaves escape (Phillips, 2019). According to Sharpe (1979), there were 13 people hanged in Warwickshire between 1377 and 1397. Execution was relatively infrequent in the later Middle Ages, and there appears to have been only a slight increase in the number of capital punishment cases in the 16th and 17th centuries. About 9 people were executed yearly in Chester during the 1580s. The number went up to an annual average of about 17 in 1620. While there are no actual figure, studies reveal that individual towns in what was the Holy Roman Empire in Germany had similar numbers of execution to those found in England (Evans, 1996). By the end of the 17th century, the rates of execution in Germany and England were about 15 percent of what they had been 100 years earlier (Van Dulmen, 1990). In the Netherlands from 1650 to 1750, there was a substantial increase in the number of executions carried out in Amsterdam, and from 1701 through 1750, alone there were a total of 281 executions. At the beginning of the 18th century, the rate of execution was very low.

Precolonial Africa

There is no consensus on whether or not the death penalty existed in Africa and, if it did, which offenses it was imposed for. Kinemo (2007) describes “African indigenous law as the most humanitarian ever because the offenders’ misbehavior was redressed without dehumanizing the individual” (p. 3). He goes on to say that, in Africa, the idea of an executioner appointed by the government or kings and put on salary to kill was very much unknown in traditional culture. Prior to colonialism, the preferred form of execution varied widely throughout the African continent. In Islamic countries in Africa, the Quran gave directions on justice and retribution, and those principles were uniformly practiced. In non-Muslim countries in Africa, the form of the death penalty was contingent on traditional views of death and on life after death. Precolonial forms of the death penalty are very relevant today because they continue to influence public views and show the difference between the colonial and post-colonial forms of the death penalty because they are closely linked to societal beliefs. The death penalty and justice were the prerogatives of the king, acting in accordance with the traditions of the people, and depended on what the king remembered of traditional religious beliefs and actions.

Studies show that hanging was introduced into Africa by colonial masters (Kinemo, 2007). Albie Sachs (1973) clarifies this fact by saying that African indigenous law did not include capital punishment for murder as long as it was not provoked by witchcraft or related to military offenses. He goes on to explain that, in cases of witchcraft and assault on the king’s wives, summary execution was carried out as a result of spontaneous and irrational mob reaction. The death penalty was therefore nonexistent in the African kingdoms of Tsonga, Zulu, Sotho, and Barolong but existed among the Tswana and the Venda (Schapera, 1937). Among the Zulu, a murderer was at risk of being killed by a mob. Also, the Nguni, Venda, and Tswana sentenced culpable

homicide offenders to a time that may be the surrendering of a girl on the payment of dowry to the victim's family.

In some communities and tribes in Africa, ostracizing was also a common type of punishment. Some writers on African law are of the opinion that the death penalty existed in all precolonial African societies (Elias, 1956). In most centralized African societies, like the Yorubas in Nigeria, the Buganda in Uganda, and the Ashanti in Ghana, among others, adultery with any of the chief's wives was an offense punishable by the death penalty (Elias, 1956). In communities where cattle were the main form of wealth, cattle thieves were also put to death. In some African societies, the council of elders made the decision of who should die while in others, the chief alone decided who should die. The preferred methods of execution in precolonial Africa included decapitation, being buried alive, spearing, poisoning, and hanging. Also, in some communities, an offender was required to make restitution or pay compensation to the victim's family, go into exile, or perform sacrifice (Elias, 1956). Some precolonial African communities did not see a reason to sacrifice a second life for one already lost since the death penalty meant losing another breadwinner and increasing the number of orphans and widows or widowers (Elias, 1956).

Colonial period

Colonization involves one nation or territory taking control of another nation or territory, either through the use of force or by acquisition (Akintola, 2014). Colonization and assimilation influence each other, and the latter is an important part of colonization because it involves the colonized being forced to conform to the culture and tradition of the colonizers. Assimilation is the most effective element of political and criminal justice actions (Viswanathan, 1988).

The Europeans brought new concepts of the death penalty to the African continent, which outlined that the state is responsible for investigating crime, trying the suspects, and executing the guilty. The death penalty was a way to formally enforce social control and was a display of the power of the colonial masters. The death penalty was a major feature of colonial legislation on the African continent. The colonial masters introduced the death penalty to their colonies as a political tool against people of African descent, and it was used by fellow Africans to oppress the poor. Most of Africa was colonized by Britain and France, but Belgium colonized Congo, German colonized Tanganyika, the United States colonized Liberia, and the list goes on (UN Working Group, 2011).

The Europeans introduced public execution, then left it behind after colonialism ended. Even after the death penalty was abolished in Europe, the practice still continued in colonized African countries. Most researchers see the death penalty by the colonial masters as a tool of political oppression against the people of Africa, specifically in British Nigeria, Kenya, French Algeria, Rhodesia, and South Africa, dominated by Whites.

France influenced the use of death penalty in the French African colonies because the death penalty existed in French law but was abolished in 1849 for political crime and replaced in 1850 with "deportation *dans une enceinte fortifiée*" (UN Working Group, 2011). The death penalty was reinstated in 1939 for crimes against internal

and external security, including treason. On October 9, 1981, the death penalty was abolished and replaced by *la reclusion criminelle a perpetite*, which is a life sentence (Stefani, Lavoisier and Bouloc, 1992).

Great Britain had a lot to do with the death penalty in all its African colonial territories by introducing and practicing it. Great Britain abolished the death penalty in its homeland in 1969, but the countries they colonized still maintain use of the death penalty today, including Nigeria, Sierra Leone, Sudan, and Uganda. The rulers of these countries, including military groups that periodically gain power by coup d'état, expanded the scope of capital offenses by ruthlessly enforcing the death penalty (Human Right Watch, 1992).

Germany extended its imperial German Criminal Code to its African colonies in 1871. The German Code included the death penalty as a reasonable form of punishment for capital offenses like resistance to a German official, rape of a White woman, rebellion against German authority, and resistance to colonial rule (UN Working Group, 2011).

Slave trade and slavery

Slavery and the slave trade were the result of colonization. Europeans discovered the Americas and the continent of Africa, they established trade routes to improve their economies and decided to settle in parts of Africa and the Americas.

“Eric Williams (1942) exposed in vivid detail a fact that the west would like to forget. The west owes its wealth in large part to slavery (and genocide of course). It was slavery that funded the industrial revolution. Not in some abstract way but quite literally the famous Watt engine (The first steam engine) was funded with money from the West Indian sugar plantations.

Many of Europe's great fortunes owe themselves to slavery. Williams wrote his book long ago in 1942 but the facts he revealed have been intentionally ignored ever since.

(Turner, 2016, p. 1)

The slave trade and slavery arose out of the economic necessity for labor. First to be enslaved in the Americas were the Natives, but they died quickly or, knowing the local territory, often escaped. Ironically, next it would be the turn of the poor Whites, who were forced into servitude (Williams, 1942).

It is important to note that the colonization of the Americas and parts of Africa divided countries and created borders, some of which still remain. Slavery may have ended in many parts of the world today, but the intended and unintended consequences of slavery are still alive and active (Akintola, 2014). For example, the assumption that people of African descent are inferior and prone to violence is alive and well in many parts of the world today.

It is widely recognized that the death penalty continues to be imbued with the legacy of slavery and lynching in many parts of the world, including, but not limited to, the United States. Each country's death penalty is shaped by its history of

colonization, slavery, slave trading, lynching, and racial violence. The imposition of the death penalty discriminates against people of African descent, just as slavery was often marked by divisions over race. The death penalty is like slavery, predicated on the same notion that some races should be selectively eliminated (Malkani, 2018).

Slavery was, as the death penalty is today, an elementary practice in the early modern states' effort to keep people of African descent from enjoying equal rights. The use of the death penalty to deter people of African descent from committing crimes reinforced the retention of it. Slaves and free people of African descent often faced the death penalty for crimes that were not eligible for such punishment when committed by individuals of other races.

The retention of the death penalty is not unconnected to slavery, the slave trade, lynching, state power, and oppression. Slavery and the slave trade have a major link between the continent of Africa and the British American colonies. We can never have a complete history of the slave trade and the death penalty without showing the link between Europe, Africa, and the Americas. According to Garland (2011), the distinctive political and penological value of the death penalty was central to the development of a state or nation with regard to three functions: crime control, economy, and state power. The first person executed by the British colony now known as the United States was Captain Gorge Kendal, a Jamestown Council member, in 1608. He was executed by a firing squad for alleged espionage activities. In 1917, 19 African American military veterans were executed by the U.S. government for their role in the Houston riot.

In 1682, Pennsylvania limited the crimes punishable by death to treason and murder, but the Massachusetts Bay Colony listed 13 crimes punishable by death, which included idolatry and witchcraft. William Penn convened his first general assembly at Chester, Pennsylvania, on December 4, 1682, which led to the creation of the Quaker Criminal Code and the replacement of the death penalty with imprisonment in a house of correction (Tecters, 1955).

By the start of 1775, the death penalty was used in all 13 U.S. colonies. Rhode Island was the only colony that did not have at least ten crimes punishable by death. In 1787, the U.S. Constitution was drafted. The Fifth Amendment expressly allowed for taking a life, and the Eighth Amendment was broadly phrased in an ambiguous way to show that government executions were permissible. In 1790, U.S. Marshal Dearborn coordinated the first federal execution of Tomas Bird by hanging him in Massachusetts. Michigan became the first U.S. state to abolish the death penalty in 1846, except in the event of treason. In 1852, Rhode Island became the first state to abolish the death penalty for all crimes, including treason. Between 1857 and 1917, nine states abolished the death penalty. On June 29, 1972, the U.S. Supreme Court ruled the death penalty unconstitutional (Blomberg and Lucken, 2000). On June 2, 1976, the Supreme Court reaffirmed the constitutionality of the death penalty.

Prior literature

A great deal has been written about capital punishment and the deterrent effect, the moral and immoral arguments, and other aspects of the death penalty (Bentele, 1993; NCADP, 2019; Castro, 2017; Chenivi, 2007). Studies on people of African descent

and the retention of the death penalty have been mostly descriptive and narrative; however, these sources lack a compelling and in-depth perspective that would provide a fuller explanation of the origin, growth, and possible diversification of the evil acts that led to the death penalty. (Douglass, 1985; DPOC, 2017; ELCA, 2019; Human Rights Watch, 1992). Many of these studies are too broad and should be subdivided to allow each component to be examined individually. The components include race and capital punishment, modes of capital punishment, slavery and the death penalty, the probing of capital prosecutors, and the nature of African customary laws (Elias, 1956; Pokorak, 1998; Malkani, 2018; Bentole, 1993). Most studies on people of African descent deal with human rights issues (UN Working Group, 2011; Human Right Watch, 1992; Douglas, 1985) and not with the specific reasons the death penalty is linked to people of African descent and how the failure and/or abolition of colonialism, slavery, the slave trade, and lynching necessitated diversification of the portfolio to include the death penalty (Otu, 2013).

There have been exceedingly few studies dealing with the retention of the death penalty as it relates to people of African descent. A preliminary investigation aimed at gaining insight into the extent that people of African descent being oppressed and selectively killed is one of the reasons for the retention of the death penalty in the United States and many other countries has to do with their repression and extermination. This study is the only one that points out the diversification of the portfolio and the connection between colonization, slavery, lynching, and the death penalty.

This study hypothesized that colonization gave birth to slavery and the slave trade, and the abolition of the latter gave way to lynching, which later changed its name and method to the death penalty. The same assumption by some governments that they could terrorize, suppress into submission, and possibly eliminate people of African descent may have caused the retention of the death penalty. This study explores the question of whether or not the history of slavery, the slave trade, lynching, and racial discrimination against people of African descent played a role in the retention of the death penalty in the United States and many other countries. The second hypothesis is that the attitude towards the death penalty in the United States and in many other countries in the world may have been formed, nurtured, maintained, influenced, and retained by the history of colonialization, slavery, the slave trade, lynching, and racial disparity.

The retention of the death penalty and the people of African descent

People of African descent are often seen by others as posing a physical danger to other races and even to other people of African descent; hence, any crime suspect must be heavily and promptly punished in order to deter future crime. Once again, this study reveals that colonial masters introduced the death penalty to their colonies as a political tool to oppress people of African descent, and it continued to be used by fellow Africans to oppress the poor who opposed legitimate and illegitimate governments.

The death penalty is used and retained to undermine and compromise the basic standard of human dignity, to reduce the population of people of African descent, and

to repress and oppress PAD. The death penalty is a failed government policy, but after analyzing its cost-benefit effectiveness, many countries cannot change it.

Today, one of the most controversial topics in modern history is the death penalty and the disparate treatment of both people of African descent and the poor. From sentencing standards, evidentiary hearings, and even appellate reviews of lower court decisions, death sentencing has eliminated neither racial nor economic factors. The decision of the criminal justice system to seek the death penalty is mostly related to the race and economic status of the victim and the defendant. Also, it should be known that the key decision-makers in death sentencing cases are almost exclusively White males, rich members of society, including judges. In addition, prosecutors using the death penalty are Whites and/or rich individuals (Pokorak, 1998). Many studies underscore a persistent pattern of racial, income, and class disparities throughout countries that use the death penalty (Lartey and Morris, 2018; Malkani, 2018; Smead, 1986). The human cost of racial and class injustice is incalculable.

Among Western democratic states, the United States is alone in retaining the death penalty. The United States should have been expected to abolish the death penalty following the trends in Western Europe, Canada, and South America. Why does the United States not follow the judicial system, cultural norms, and values of other Western democracies, instead retaining the death penalty and the totalitarian regime that the death penalty retentionist represents?

According to Bentele (1993), Europeans subjugated people of African descent first through slavery and then through repressive legislation and practices. After the abolition of slavery and lynching, the death penalty was retained because Whites were terrified that people of African descent might otherwise come to outnumber them. The Whites were aware of what happened in Haiti when people of African descent took over the entire island (Soodalter, 2007). While new laws were enacted in the United States to stop the slave trade, there was no law preventing selling slaves from state to state – for example, from Texas to Oklahoma – and for over four decades, not one slave trader was hanged (Soodalter, 2007). The retention and practice of the death penalty throughout the African continent is directly linked to colonialization, which enabled those in positions of authority to use their power against the poor.

Post-colonial Africa – independence

All African countries adopted the death penalty from the power they gained through colonization. After gaining independence, African countries started down different paths, some of which included adding new crimes to their lists of capital offenses, such as spying, aggravated theft, aggravated kidnapping, and treason. Some countries in which this was particularly true are Burundi, Cameroon, Chad, the Democratic Republic of Congo, Ethiopia, Nigeria, Swaziland, Tanzania, Uganda, and Zambia (Chenwi, 2007). In African countries under military dictatorship, the death penalty is commonly used in the name of protecting the security of the country by suppressing political opponents and protecting their regime. Presently, 38 African countries have retained the death penalty, 8 have abolished it or are in the process of abolishing it, and 8 have put a moratorium on the application of the death penalty. (U N Working Group, 2011)

The death penalty has a timeless history because no one knows when it began; we assume it was born with humanity. Though times have changed, laws have changed, underdeveloped countries have become developed, and people of African descent have gone from slaves to free human beings, the criminal justice system in many countries is still confined to this old form of punishment.

While there are various forms of punishment administered by the government, the death penalty is distinct in two ways: it is irreversible, and it is based mostly on racial and income disparities. A number of persons executed in many countries were later cleared by confessions of the individuals who actually perpetrated the crimes. Between 1973 and 2016, 156 people who had been condemned to death by the U.S. court system were later determined to be innocent (DPIC, 2017). During the same period, 1,142 people were executed, which means that for every 10 people executed more than one individual was later exonerated. This figure does not include all the people executed despite compelling evidence of innocence or those for whom evidence of innocence was discovered after their execution (NCADP, 2013). It is known that the majority of people executed in the United States are of African descent, compared to their percentage in the population (DPIC, 2017). The fact that effort has always been made for the possible elimination of this group of people is one of the reasons for the retention of the death penalty in the Americas.

According to France Castro (2017), the death penalty is a “tool of state repression.” He states:

Death penalty targets the poor, oppressed and marginalized, who cannot afford adequate legal representation which violates their basic right to due process. Given the existing inequality in the society combined with our flawed and corrupt justice system, the re-imposition of death penalty will inflict another series of injustice to the poor and marginalized. They will experience continuous injustices. We all know that those who are “poor in life must be more on law” but with death penalty the poor will be both poor in life and in law.

(PI)

Colonialization to slavery to lynching to the death penalty

When we study the history of colonization throughout the world, we find similarities between countries colonized by Europeans in search of trade and money to improve their economies. European colonizers include the English, the French, the Spanish, the Hollanders, the Dutch, the Swedish, etc. (Akintola, 2014).

Colonization later led to the establishment of the slave trade, and slaves subsequently ended up in many parts of the world, but the intended and unintended consequences of slavery still remain active today (Akintola, 2014):

Slavery and imperialism still have negative effects on the African economy; African economies were made to serve the purpose of production economies,

which are ultimately dependent on other economies for survival. The African economy was put in an economies hole that is difficult to climb out.

(PI)

It is common knowledge to interested researchers that poor people and those of African descent disproportionately suffer the death penalty all over the world. Slavery created a mental idea and habit that one race (White) was to be superior to another (people of African descent). It is easy to form a habit but very difficult to kick a habit. Hence, colonization created slavery, which, in turn, created lynching, and once lynching was outlawed in civilized society, the politically correct replacement was the death penalty.

Historians “agree that lynching were a method of social and racial control meant to terrorize people of African descent and the poor into submission, and into an inferior caste position” (Lartey and Morriss, 2018 PI). A typical lynching would consist of a criminal accusation, often something dubious against a person of African descent; an arrest; and then the gathering of a “lynch mob” intent on skirting the normal constitutional judicial process. In many instances, the mob was aided and abetted by law enforcement (who were often the same people). “The mob wanted the Lynching to carry a significance that transcended the specific act of punishment” (Smead, 1986, p. x).

The mob turned the act into a symbolic rite in which the ‘people of African descent’ victim became the representative of his race and, as such, was being disciplined for more than a single crime. The deadly act was a warning to the ‘people of African descent’ population not to challenge the Supremacy of the white race. Until this century white supremacy took precedence over the law.

(Smead 1986, p. x)

The aftereffect of lynching, immediate and long term, on the local, national, and international levels, had intended and unintended consequences graver than the loss of one person of African descent (Smead, 1986). It was the 1934 lynching of Claude Neal in the United States that produced a shift in government policy and led to the second and final major attempt to pass a federal anti-lynching law in the U.S. Although lynchings continued, they declined significantly in number, and the mobs became considerably smaller in number. By 1940, lynching was a thing of the past in the U.S. (Smead, 1986). The reduction in the number of lynchings gave way to the increased number of death penalty cases, which may, in all reality, be considered a government or official form of lynching. The diversification process occurs, which is the extension of criminals’ capabilities and skills into other areas of criminal activity (death penalty). Generally, there are two major diversification strategies. The first is related or concentric diversification, in which organizations produce products or services similar to their current products or services that target new or similar groups. The second type of diversification is the unrelated, conglomerate, or horizontal, in which the organization produces products or services that are totally unrelated to

their current products or services. In the case of death penalty and the people of African descent, concentric diversification is at work: colonialization – slave trade/ slavery – lynching – death penalty (Otu, 2013).

The death penalty is a direct replacement of lynching as people of African descent and the poor were and are still often held to a different legal code and legal treatment in most countries. Some critics have referred to official execution as “legal lynching.” Typically, when people use the term, it is meant to convey a similarity to the injustice done when a person of African descent is executed by the government despite their innocence of a crime. Countries that sentence the most people to death also tend to be the countries whose histories hold the highest number of lynchings. The finding showed a clear link between the number of lynchings, the proportion of people of African descent in countries, and the number of death sentences. It also found that the number of death sentences increases in countries after a growth in the population of people of African descent (Jacob, Carmichael and Kent, 2005). The death penalty is disproportionately applied to those who are poor and people of African descent. PAD make up 13 percent of the U.S. population, but they make up 42 percent of the prisoners on death row (NAACP, 2016). There are 62 people on federal death row (see Figure 18.1). Of these, 26 individuals are PAD.

The future of the death penalty depends on the future of people of African descent and the poor. So many scholars and human rights groups are studying its effects and challenging its retention. As long as people of African descent and the poor are minorities in the world, the death penalty may continue to be retained and survive

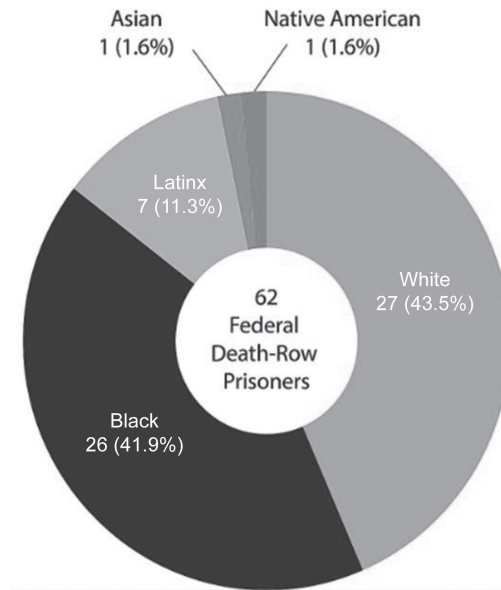


Figure 18.1 Current U.S. federal death row population by race

Source: 2019 - Death Penalty Information Center (DPIC)

strengthened. Or it may fall, but it most likely won't stay the same for very long, just as colonization, slavery, and lynching did not.

Discussion

The primary purpose of this study was to analytically uncover diversification strategies used by Europeans to expand their portfolios through colonization, the slave trade, slavery, lynching, and finally the death penalty. Using available data and literature derived from this and previous studies and the consensus from known exonerated former death row inmates, the findings on the retention of the death penalty as it relates to people of African descent were as hypothesized and expected and were consistent with the diversification heuristic. This evidence shows that the Europeans used a variety of techniques to control, marginalize, and possibly attempt to exterminate people of African descent. Their method has been imitated by rich political leaders and dictators all over the world and used against the poor to remain in power. This study reveals that behavior is often altered when the anticipated consequences outweigh the benefits, just as colonization led to the slave trade, which led to lynching and, finally, the death penalty. While this research does not want to predict what the death penalty may lead to, the act of capital punishment is a culmination of many factors, and combatting and abolishing it depend on educating the human race on the negative effects of the death penalty. This awareness will reduce the practice of taking advantage of other people and lessen the intense struggle regarding race and class, which should, in turn, reduce the evil forces of superiority versus inferiority.

References

- Akintola, C. A. (2014) *Colonization in Africa and America*. Retrieved from <https://sites.psu.edu/afillo/2014/10/08colonization-in-Africa-and-america/>
- Bentele, U. (1993) Race and Capital Punishment in the United States and South Africa. *Brooklyn Journal of International Law* 235. Retrieved from <https://brooklynworks.brooklaw.edu/bjiL/VoL19Jiss2/1>
- Blomberg, T. and Lucken, K. (2000) *American Penology A History of Correction*. New York: Taylor and Francis.
- Castro, F. (2017) Death Penalty a “Tool of State Repression”. *Rappler*. Retrieved from rappler.com/nation/163577-full-text-death-penalty-vote-france-Castro
- Chenivi, L. (2007) Towards the abolition of the Death Penalty in Africa. *PULP*, Pretoria.
- Douglass, F. (1985) Capital Punishment is a Mockery of Justice. In John Blassingame (ed.), *The Frederick Douglass Papers*, Vol. 3. New Haven: Yale University Press.
- DPIC – Death Penalty Information Center (2017) *Innocence: List of Those Freed from Death Row*. January 8. Retrieved from www.deathpenaltyinfo.org/innocence-list-those-freed-death-row
- Duhaime’s Criminal Law Dictionary (2011) Oxford University Law Library, BODLEIAN, September 7. Retrieved from www.duhaime.org/LegalDictionary/D/DeathPenalty.aspx
- ELCA (2019) African Descent. *ELCA.org*. Retrieved from www.elca.org/our-work/congregation-and-Synods/Ethnic-specific-and-multicultural-Ministries/African-Descent
- Evans, R. J. (1996) *Rituals of Retribution: Capital Punishment in Germany 1600–1987*. Oxford: Oxford University Press.
- Garland, D. (2011) Modes of Capital Punishment: The Death Penalty in Historical Perspective. In Garland David Meranze Michael and McGowen Randall (eds.), *America’s Death Penalty: Between Past and Present*. New York: Routledge.

- Human Right Watch (1992) 'Ghana' – Revolutionary Justice. Abuse of the Legal System Under PNDC Government. *News from Africa Watch*, Vol. iv, No. 1 (January 31). Retrieved from www.org/reports/1992/01/31/Ghana-revolutionary-injustice.
- Jacobs, D., Carmichael, J. T. and Kent, S. L. (2005) Vigilantism, Current Racial Threat, and Death Sentences. *American Sociological Review*, Vol. 70, No. 4 (August), 656–677.
- Kinemo, R. E. J. (2007) Contemporary Tanzanian Penal Policy: A Critical Analysis. Paper presented at the Crime Conference, organized by the British Institute in East Africa at Naivasha, Kenya, pp. 4–6, 22. Retrieved from www.academia.edu/10603839/EXAMINATION-FOR-THE
- Lartey, J. and Morris, S. (2018) *How White Americans used Lynchings to Terrorize and Control Black People*. Retrieved from www.theguardian.com/us-news/2018/apr/26/Lynchings-memorial-us-south-montgomery-alabama
- Malkani, B. (2018) *Slavery and the Death Penalty A Study in Abolition*. New York: Taylor & Francis Group.
- NAACP (2016) Legal Defense & Education Fund. *Death Row U.S.A.*, pp. 1, 9 (Summer). Retrieved from www.naacpldf.org/files/publications/DRUSA_Summer_2016.pdf
- NCADP-National Coalition to Abolish the Death Penalty (2019) *Executed and Innocent: Four Chapters in the Life of America's Death Penalty*. Retrieved from <http://b3cdn.net/ncadp/d2454771f2f03cl8f99-lpmbbsa.34.pdf>
- Otu, N. (2013) Kidnapping: A Variant of Nigeria Advance Fee Fraudsters (419) Diversified Portfolio. *International Journal of Criminal Justice Sciences*, Vol. 8, No. 1.
- Phillips, K. (2019) Justice Department Resume Capital Punishment after Nearly Two Decades. *USA Today*, July 25.
- Pokorak, J. (1998) *Probing the Capital Prosecutor's Perspective: Race and Gender of the Discretionary Actor*. Cornell Law School, Cornell Law Review.
- Sachs, A. (1973) *Justice in South Africa*, University of California Press, E-Books Collections 1982–2004, Issue 12 of Perspective on Southern Africa.
- Schapera, I. (1937) *The Bantu Speaking Tribes of South Africa*. London: George Routledge and Sons.
- Sharpe, J. A. (1979) Judicial Punishment in England, London 1990. In A. Hanawalt Barbara (ed.), *Crime and Conflict in English Communities*. London: Routledge.
- Smead, H. (1986) *Blood Justice: The Lynching of Mack Charles Parker*. New York: Oxford University Press.
- Soodalter, R. (2007) *Hanging Captain Gordon: The Life and Times of an American Slave Trader*. Washington, DC: Washington Square Press.
- Stefani, L., Levasseur, H. and Bouloc, B. (1992) *Droit Penal General*, 14th ed. Paris: Dalloz.
- Tecters, N. K. (1955) *The Cradle of the Penitentiary: The Walnut Jail at Philadelphia 1773–1885*. Retrieved from www.joc.gov
- Turner, H. (2016, February 8) *A Review of Capitalism and Slavery, Global Research*. Retrieved from globalresearch.ca
- UN Human Right (2011) People of African Descent. *OHCHR*. Retrieved from www.UN.org/en/events/Africandescentdecade/assess/pdf/PADfinal%20for%20NY.pdf
- UN Working Group (2011) *The African Commission on Human and People Rights*. Retrieved from study-question-deathpenalty-africa-2012eng.pdf-adobe-AGObatReader
- Van Dulmen, R. (1990) *Theatre of Horro: Crime and Punishment in Early Modern Germany* translated by Elisabeth Nea. Oxford: Oxford University Press.
- Viswanathan, G. (1988) Currying Favor: The Politics of British Education and Cultural Policy in India. *Social Text*, Vol. 18, No 19/20 (Autumn).
- Williams, E. (1942) *Capitalism and Slavery*. Charlotte: The University of North Carolina Press.