

Women & the Death Penalty

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Gender, Politics, Prisons

The death penalty in the US

History + current policy

- Currently considered constitutional
- In use in 29 states, by the federal government, and the military
 - Although has been suspended on the federal level since 2013
- Currently 2600 inmates on death row
 - 62 on federal death row



The death penalty in the US

History + current policy

- *Furman v. Georgia* (1972)
 - Suspended DP over concerns of “capricious or discriminatory” application
- *Gregg v. Georgia* (1976)
 - Reinstated DP in “extreme criminal cases”

Most analyses of death penalty activity focus on the “post-Furman era.”

- *Atkins v. Virginia* (2002)
 - Prohibits the execution of intellectually disabled inmates
- *Roper v. Simmons* (2005)
 - Prohibits the execution of inmates under 18 at the time of the crime
- *Kennedy v. Louisiana* (2008)
 - Prohibits use in cases of non-homicidal crimes against an individual

The death penalty in the US

& women

- Since 1973, women have made up 2% of death sentence-ees
- Since 1976, sixteen women have been executed, all at the state level
 - The last federal execution was in 1953
 - 2 women currently on federal death row



Capital crimes - “biased” against women

Capital punishment is an eligible sentence based on **certain criteria** of the crime committed - decided on a state-by-state basis.

Aggravating criteria are more likely to apply to male perpetrators while mitigating criteria are more likely to apply to female perpetrators.

Common criteria

- Aggravating circumstances
 - Committing murders for hire
 - Men predominantly carry out for-hire murders
 - **Exception:** Hiring a murder
 - Women are more likely to be convicted of hiring a murder
 - Previous record of violent crimes
 - Felony + murder (armed robbery, rape, etc)
 - Murder as planned/premeditated
- Mitigating circumstances
 - Acting under influence of emotional duress
 - Acting under domination of another

Yet certain women are still sentenced to death.

___ What crimes are women executed for?

- Murder
 - Of their husbands/partners
 - Of children

Crime	Women executed since 1976
Murder of husband	7 - Barfield; Buenoano; Beets; Plantz; Newton*; Lewis*; Gissendaner
Murder of partner	2 - Allen; Basso
Murder of child	4 - Riggs; Newton*; Lewis*; Coleman
Other	5 - Tucker; Smith; Block; Wuornos; McCarthy

*Charged with murder of both husband and child

What motivates these sentences?

Violating gender norms

- Killing children broaches expectations of motherhood
 - 25% of women executed since 1976 were convicted of killing children
 - Ex: all five women on AL death row were convicted of killing children
- Killing men threatens male-female hierarchy / social order
 - 10/16 women executed since 1976 were convicted of killing men

Race of the victim

- Capital punishment is sentenced more often in murders of white victims, especially when the perpetrator is Black
 - 13 of the executed women since 1976 were convicted of murder of white victims

**Yet overall - these
death sentences are
applied in a sporadic
and inconsistent
manner.**

Recommendation - abolish the death penalty for women.

The arguments against the death penalty are well known and well-evidenced: costliness, arbitrariness, pervasive racial bias, its ineffectiveness as a deterrence, etc.

- For female defendants, the same arguments hold true. This is reinforced by:
- The tiny percentage of women who are sentenced to death compared to murder rate
 - Women commit 10% of murders yet make up only ~2% of death row
 - The disproportionate effect on victims of domestic violence who are punished for harming or killing their abusers
 - Most of the women executed in the U.S. had a history of sexual, physical, and/or child abuse.

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Three other countries have abolished specifically sentencing women to death: Belarus, Zimbabwe, and Tajikistan. This can be used a step towards a total abolishment of the death penalty (often politically unpopular or untenable).

Banning the execution of women as a “Trojan horse”

→ Codifies existing practice to the most part - very small percentage of executions of women already

→ Constitutional equality statutes can then be leveraged to ban the practice outright