

Lawyers' Perspective on Capital Punishment: An Empirical Evidence from the Punjab (Pakistan)

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Abstract

Public perception about capital punishment in Pakistan has changed in the last few years. This perception is determined by numerous factors i.e., awareness about crimes and punishment. The present study was conducted on 600 practicing lawyers who were sampled through multistage sampling technique from five administrative divisions (Lahore, Faisalabad, Gujranwala, Multan and Bahawalpur). On the second stage, five districts (with highest reported crime rate) Bahawalpur, Faisalabad, Gujranwala, Lahore, and Multan were sampled. Field survey was used as a technique of data collection for the current study using a self-administered questionnaire. To ensure validity, reliability, and robustness of data collection tool, pre-testing was conducted on sixty (60) respondents. Linear regression was applied to assess the relationship between independent and dependent variables. It was found that there is a positive relationship between awareness about occurrence of crimes and effectiveness of capital punishment. A relationship was found between awareness about causes of crimes and effectiveness of capital punishment. Additionally, there was no relationship between awareness about punishment and effectiveness of capital punishment.

Introduction

Capital punishment in Pakistan is a legal penalty. Although in past, there have been a number of constitutional amendments in the country, but there is yet no provisions prohibiting the capital punishment as a retributive remedy (Constitution of Pakistan, 1973). A suspension on the executions in Pakistan was enacted in 2008; nevertheless, it was raised for cases related to terrorism as of 16 December 2014, after the massacre of over 130 students and 9 staff members of Peshawar's Army Public School and College (BBC World, 2015).

According to Amnesty International's report published in 2016, Pakistan executed 326 criminals involved in terrorist activities in 2015, 87 in 2016 while practice is continuing in 2017 as well. The question however that begs answer is that whether or not people's perception about capital punishment has any correlation with their level of awareness about crime and punishment. The opinion of social scientists, criminologists and personnel's from law enforcement agencies regarding this is widely divided. The former Chief Justice of USA's Supreme Court detailed in Georgia (1972) that common people have a very little awareness and knowledge about different punishments including death plenty. He thought that if the common citizens were familiar with the complete facts about crime and punishment, nearly nobody would support capital punishment anywhere in the world. Nevertheless, he further postulated that if anyone supports capital punishment for punitive reasons, no amount of awareness and knowledge can change their point of view (Georgia, 1972; Walker, *et al.*, 2000). Weatherby *et al.*, (2012) claimed that threat of being probable victim forces common citizens to favor punishments including death plenty. They further argued that sometimes even severe penalties like capital punishment and incapacitation are rationalized by common citizens in order to safeguard themselves from the threats of any kind of intimidation and assault. Del Carmen (2002) stated that deterrence is the most commonly used

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rationalization that supports the punishment of the criminals, Which is based on the notion that punishment to criminals will prevent or discourage others for engaging in any kind of criminal activities. He argued that the primary goal of common deterrence definitely is to persuade probable criminals that criminal activities bring feared and unaffordable consequences. Therefore committing crime is not worth the price (Siegel, 1998). In his famous book, 'On Crimes and Punishment', Cesare Beccaria endorsed the idea that before committing any crime individuals make choices on the basis of their coherent calculation of costs and benefits. He was of the opinion that punishment should not surpass crime, but be fairly befitting to crime. He thought this would eventually deter potential criminals from indulging in criminal acts (Beccaria, 1996). Here the argument of Beccaria seems to be directly linked with people's awareness about crime and punishment and their criminal intent. Ehrlich (1975) concluded that one cannot reject the hypothesis that punishment, in general, and execution, in particular, exert a unique deterrent effect on potential murderers.

Stolzenberg and D'Alessio (2003) argued that supporters of the deterrence proposition think that capital punishment acts as an efficient deterrent because people rationalize their decisions. He argued that calculations and rationalization before committing crime on the part of the people mainly depends upon personal experiences with punishment of crime, knowledge about sanctions enforced by law, and awareness about past punishments given to offenders. Despite the plausibility of deterrence perspective, numerous social scientists still are not convinced that death plenty discourages people from committing crimes like murder (Stolzenberg, & D'Alessio 2003).

The menace of the capital punishment, particularly when the probability of implementation is tremendously small, is not understood as containing the same inspiring power as criminals' wants at the time of the crime. Most of the murderers, for example, are believed to lack single minded criminal intent (Bohm, 1999).

Some researchers like Vidmar & Dittenhoffer (1981) worked in the past to study relationship between knowledge about crime and punishment and perception about capital punishment. They concluded that there was a strong reverse association between knowledge/awareness about crime and punishment and support for capital punishment. When we acknowledge that there must be instances when capital punishment helps deter a murder, we must also recognize that at other times it can encourage what it is meant to prevent (Lamperti, Marshall, & Nixon, 1994). Given its significance and controversial nature, it is important that awareness about crime and punishment and perceptions regarding capital punishment among lawyers who regularly advocate for suspected criminals be examined. Thus, this article examines the correlation between lawyers' level of awareness about crime and punishment and their perception about capital punishment in Punjab, Pakistan.

It is presumed that this research paper would enhance understanding of readers about how awareness about crime and punishment impacts the perception and opinion of people about capital punishment.

Methodology

The study population was comprised of lawyers practicing in the district courts of Punjab, Pakistan. Lawyers were selected as target population because of their vital role in criminal justice system. Moreover, lawyers have bipartisan (accused and complainant) perspective of the criminal cases. Multistage sampling technique was employed to select the sample for present study. At the first stage, five administrative divisions out of the total nine were selected on the basis of highest

reported crime rate, which included Lahore, Faisalabad, Gujranwala, Multan, and Bahawalpur. On the second stage, five districts (with the highest reported crime rate) Bahawalpur, Faisalabad, Gujranwala, Lahore, and Multan were selected from the previously selected administrative divisions of the Punjab province. On the third stage, a sample of 600 lawyers was selected through simple random sampling technique from the district bar associations of the selected districts. The division of sample was kept proportionate as per total number of lawyers in each selected district. Field survey was used as a technique of data collection for current study using a self-administered questionnaire. To ensure validity, reliability and robustness of tool of data collection, pre-testing was conducted on sixty (60) respondents. Pre-testing helped the researcher to ensure the workability, validity and accuracy of the data collection tool.

Results and Discussion

Table 1: Socio-Economic and Demographic Characteristics of the Respondents

Characteristics of the respondents	Frequency	Percentage
Sex		
Male	453	75.5
Female	147	24.5
Residence		
Rural	431	71.8
Urban	169	28.2
Professional Education		
LLB	501	83.5
LLM	95	15.8
Bar at Law	2	0.3
PhD	2	0.3
Age (years)		
20-30	303	50.5
31-40	202	33.7
41-50	61	10.2
51-60	21	3.5
60+	13	2.2
Household monthly income (thousand rupees)		
20-40	294	49.0
41-60	139	23.2
61-80	70	11.7
81-100	38	6.3
100+	59	9.8
Marital status		
Married	328	54.7
Unmarried	271	45.2
Widow	1	.2
Language		
Urdu	162	27.0
Punjabi	358	59.7
Siraiki	80	13.3
Family Type		
Nuclear	237	39.5
Joint	339	56.5
Extended	24	4.0
Practicing Experience (years)		
1-5	338	56.3
6-10	142	23.7
11-15	65	10.8
16-20	24	4.0

21-25	10	1.7
26+	21	3.5
Expertise of practice		
Civil	239	39.8
Criminal	361	60.2
Capital Cases Dealing		
Yes	351	58.5
No	249	41.5
Total	600	100.0

The above table shows that a large majority (75.5%) of the respondents who participated in the study were male while 24.5% were female. Locality of an individual matters a lot as socio-cultural settings of a residential area influence the individual's way of thinking and living. In the present study, a majority of respondents (71.8%) was from rural background while a little more than a quarter (28.2%) was from urban areas. The above table depicts that a vast majority of respondents (83.5%) had acquired LLB while 15.8% had acquired LLM. A research conducted by Hughes and Robinson (2013) found that support for capital punishment dropped with the rise of education. Data illustrated that about a half (50.5%) of the respondents belonged to the age category of 20-30 years while one-third (33.7%) of the respondents belonged to the age category of 31-40 years. It shows that a major fraction of sampled lawyers was young. It is also depicted from above table that about a half of the respondents (49.0%) had Rs. 20-40 thousand monthly household income, and a little less than one fourth (23.2%) had Rs. 41-60 thousand monthly income. Data show that 11.7% respondents had Rs. 61-80 thousand monthly household income and only 9.8% respondents had more than Rs. one lac monthly household income. The same table indicates that more than half (54.7%) of the respondents were married and a little less than half (45.2%) of the respondent were unmarried. The previous literature suggests that unmarried individuals were less supportive of capital punishment as compared to married, divorced, or widowed (Bohm, 2003). Data illustrate that a little less than one fourth of the respondents (27.0%) were Urdu speaking and more than half of the respondents (59.7%) were Punjabi speaking, while 13.3% were Siraiki speaking. It is evident from the above table that more than half (56.5%) respondents belonged to joint family, a little more than one third (39.5%) respondents belongs to nuclear family, and only 4.0% respondents belonged to the extended family. Experience during practice may influence attitude, level of knowledge, and perception of lawyers. In current study, more than half (56.3%) respondents had 1-5 years of experience. A little less than a quarter (23.7%) respondents had 6-10 years of experience while 19.0% respondents' experience of practice was more than 10 years. Data show that the majority of respondents were young lawyers with less than 10 years of experience. Data in the table illustrates that a little less than half of the respondents (39.8%) had expertise in civil cases while more than half (60.2%) respondents had criminal expertise. Data in the table depicts that a little more than half of the respondents (58.5%) had been dealing with cases in which capital punishment could be awarded and a little less than a half (41.3%) had not dealt with a case in which Capital Punishment could be awarded.

Table 2: Knowledge of Respondents Regarding Crimes

Description	To a great Extent		To Some Extent		Not At All	
	<i>f</i>	%	<i>f</i>	%	<i>f</i>	%
Crimes taking place in your community	349	58.2	235	39.2	15	4.6
Violation of social norms	359	59.8	186	31.0	55	9.2
Violation of state laws	375	62.5	178	29.7	47	7.8
Criminal behavior is learned through social interaction	263	43.8	282	47.2	54	9.0
Psychological problems (failure in love and depression) cause of crimes	178	29.7	358	59.7	64	10.6
Some crimes (drug addiction) are specific to some social groups	192	32.0	359	59.8		8.2
Social isolation (boredom) causes criminal intent	144	24.0	355	59.2	101	16.8
Poor living conditions (poverty, unemployment) lead to criminal intent	260	43.3	305	50.8	35	5.8

Data in the above table showed that more than half (58.2%) respondents were aware up to great extent about crime taking place in their community and 39.2% respondents had awareness up to some extent about crime taking place in their community. This shows that the level of awareness of the majority of respondents about crime taking place in the community is very high. It is evident in the table that more than half (59.8%) respondents had awareness up to 'great extent' about the violation of social norms and less than one third (31.0%) respondents had awareness up to 'some extent' about the violation of social norms in the society and only 9.2% respondents are not at all aware about the violation of social norms. Data of the table depicted that a little less than two third (62.5%) respondents had up to great extent awareness about violation of state laws, and a little more than one fourth (29.7%) respondents had up to some extent awareness about violation of state laws while 7.8% are not at all aware about violation of state laws. A 43.8% respondent agreed up to great extent that criminal behavior is learned through social interaction and a little less than a half (47.0%) of the respondents agreed up to some extent that criminal behavior is learned through social interaction. Some 29.7% respondents agreed up to great extent and more than half (59.7%) agreed up to some extent that psychological problems such as failure in love and depressive behavior are the major causes of crime and only 10.7% respondents did not agree that psychological problems are the causes of crime. Data also portrayed that a little less than one third (32.2%) respondents agreed up to great extent that some crimes (drug addiction) are specific to some social groups, and more than half (59.8%) of the respondents agreed up to some extent that some crimes (drug addiction) are specific to some social groups. A little less than one fourth (24%) respondents agreed that up to great extent that social isolation causes criminal intent. And more than half (59.2%) of the respondents agreed up to some extent that social isolation causes criminal intent. A little less than half (43.3%) of the respondents agreed to great extent that poor living conditions (poverty, unemployment) lead to criminal intent and a half (50.8%) of the respondents agreed up to some extent that poverty, unemployment and poor living conditions lead to criminal intent.

Table 3: Knowledge of Respondents Regarding Punishment

Description	To great Extent		To Some Extent		Not At All	
	<i>f</i>	%	<i>f</i>	%	<i>f</i>	%
Severity of punishment is necessary to curb crime	477	79.5	107	17.8	16	2.7
Certainty of punishment is necessary to curb criminal intent	468	78.0	119	19.8	13	2.2
The best way to punish the criminals is to send them in prison	166	27.7	275	45.8	159	26.5
Retributive punishment is necessary to deal with the revenge of victims	260	43.3	275	45.8	65	10.9
Punishment is necessary to rehabilitate criminals	260	43.3	273	45.5	67	11.2
Incapacitation is the way to away the criminal from criminal activity	165	27.5	299	49.8	136	22.7

A huge majority of the respondents (97.3%) agreed that severity of punishment is necessary to curb crime. It is also evident that vast majority of the respondents (97.8%) agreed that certainty of punishment is necessary to curb criminal intent. More than two third (73.6%) of the respondents agreed that the best way to punish the criminals is to send them in prison, where as more than one fourth of the respondents (26.5%) did not agreed with the statement. Data in the above table points out that a huge majority (89.1%) of respondents agreed that retributive punishment is necessary to deal with the revenge of victims, and only 10.8% respondents did not agree. Some 43.3% respondents agreed up to great extent while 45.5% of the respondents agreed up to some extent to the statement that punishment is necessary to rehabilitate criminals while only 11.2% did not agree that punishment is necessary to rehabilitate criminals. A little more than one fourth (27.5%) of the respondents agreed up to great extent and about half of the respondents (49.8%) agreed up to some extent that incapacitation is the way to keep away the criminal from criminal activity while the remaining 22.7% respondents did not agree that incapacitation is the way to away the criminal from criminal activity. Data showed that 40.0% respondents agreed up to great extent and a little more than half of the respondents (51.0%) agreed up to some extent that punishment is necessary for the restoration of something lost or stolen to its proper owner. Only 9% respondents did not agree that punishment is not necessary for the restoration of something lost or stolen to its proper owner.

Table 4: Respondents Level of Knowledge Regarding Capital Punishment

Description	To great Extent		To Some Extent		Not At All	
	<i>f</i>	%	<i>f</i>	%	<i>f</i>	%
Capital Punishment most effective deterrent for serious violent crimes	378	63.0	173	28.8	49	8.2
Capital Punishment is a part of Pakistan penal code	521	86.8	68	11.4	11	1.8
Capital Punishment is a controversial punishment	138	23.0	208	34.6	254	42.4
Have you heard the execution of any innocent	215	35.8	250	41.7	135	22.7
Ratio of CP has increased in Pakistan in last couple of years	318	53.0	221	36.8	61	10.2

Data in the above (table 4) portrays that a little less than two third (63.0%) of the respondents agreed up to great extent and a little more than one fourth (28.8%) respondents agreed up to some extent that capital Punishment is most effective deterrent for serious violent crimes. It was also found that only 8.2% respondents did not agree that capital punishment is most effective deterrent for serious violent crimes. A huge majority of the respondents (86.8%) agreed up to great extent and only 11.3% agreed up to some extent that capital punishment is a part of Pakistan penal code. More than half of the respondents (57.6%) agreed that capital Punishment is a controversial punishment where as a less than half of the respondents (42.3%) did not agree to this statement. More than one third (35.8%) of the respondents agreed up to great extent and 41.7% agreed up to some extent that they heard the execution of any innocent while a little less than one fourth (22.5%) of the respondents did not agree that they hear the execution of any innocent. Data pointed out that more than half (53.0%) of the respondents agreed up to great extent and 36.8% agreed up to some extent that ratio of capital punishment has increased in Pakistan in last couple of years while only (10.2%) of the respondents did agree that the ratio of capital punishment has not increased in Pakistan in last couple of years.

Table 5: Perceived Effectiveness of Capital Punishment as Deterrence

Description	To great Extent		To Some Extent		Not At All	
	<i>f</i>	%	<i>f</i>	%	<i>f</i>	%
Capital punishment has a proven deterrent effect on the murder rate	421	70.2	151	25.2	28	4.7
Capital Punishment is more effective than life imprisonment	348	58.0	184	30.7	68	11.3
Capital Punishment is effective because it finish the criminal ultimately	345	57.5	197	32.8	58	9.7
Severe penalties are effective to stop criminals from committing crimes	440	73.3	130	21.7	30	5.0
Capital punishment is effective to curb the criminal intent	377	62.8	175	29.2	48	8.0
Mere existence of capital punishment without execution has deterrence effect	213	35.5	200	33.3	187	31.2
Only actual execution has effective deterrent for potential murderers	396	66.8	168	28.0	36	6.0

A huge majority (95.4%) of the respondents agreed that capital punishment has a proven deterrent effect on the murder rate. Majority (73.3%) of the respondents agreed that severe penalties are effective to stop criminals from committing crimes and a little less than one fourth (21.7%) of the respondents remained neutral. A small proportion of the respondents (5.0%) did not agree to the statement that severe penalties are effective to stop criminals from committing crimes. A little less than two third (62.8%) of the respondents agreed that capital punishment is effective for curb in, the criminal intent while a little less than one third of the respondents (29.2%) remained neutral. A small proportion of the respondents (8.0%) disagreed that capital punishment is effective for curb in, the criminal intent. A little more than one third (35.5%) of the respondents agreed and a little less than one third (31.2%) of the respondents disagreed to the statement that existence of capital punishment without execution has deterrence effect while 33.3% respondents remained neutral. Data in the above table highlighted that two third (66.0%) of the respondents agreed that actual execution is an effective deterrent for potential murderers. A little more than one fourth respondents (28%) remained neutral while only 6% respondents did not agree to the statement that all actual execution is an effective deterrent for potential murderers.

Table 6: Relationship of Independent and Dependent Variables

Constant	B	SE _B	B
	2.104	.388	
Awareness about Occurrence of the crime	0.235	0.052	0.208*
Adjusted R ² =0.016 Test of the full model: F=10.692, p=0.001			
Constant	B	SE _B	B
	12.121	.888	
Awareness about perceived causes of the crime	.052	.047	.046
Adjusted R ² =0.002 Test of the full model: F=1.239, p=0.266			

	B	SE _B	B
Constant	5.851	.670	
Awareness about Punishment	.607	.055	.413*
Adjusted R ² =0.169			
Test of the full model: F=123.175, p=0.266			

Note: * p=0.000

In order to assess the association between awareness about occurrence of crimes and effectiveness of capital punishment, linear regression was applied. The overall model proved significant. (R = 0.018, F = 10.692, p=0.001). The relationship between the two variables was positive leading to the acceptance of hypothesis which stated that there is a positive relationship between awareness about occurrence of crimes and effectiveness of capital punishment. The value of constant means that if awareness about occurrence of crimes is equal to 0, then the expected or predicted value for effectiveness of capital punishment score is 3.47. In the next regression, awareness about causes of crimes was independent variable and effectiveness of capital punishment was a dependent variable. The results showed R²=0.002 thus showing that approximately 1.3% of the variance in effectiveness of capital punishment were listed under the awareness about causes of crimes. The overall model proved significant. (R = 0.018, F = 1.239, p=0.266). The relationship between the two variables was positive leading to the acceptance of hypothesis which stated that there will be a relationship between awareness about causes of crimes and effectiveness of capital punishment. In the last regression, awareness about punishment was the independent variable and the perceived effectiveness of capital punishment was the dependent variable. The results (R²=0.169) show that approximately 16.9 % of the variance in effectiveness of capital punishment was listed under the awareness about punishment. The overall model proved non-significant because R = 0.171, F = 123.175, p=0.226 and the relationship between the two variables lead to the acceptance of the null hypothesis which stated that there is a no relationship between awareness about punishment and effectiveness of capital punishment.

Conclusion

This study was aimed at examining the relationship between lawyers' level of awareness about crime and punishment and their perception about capital punishment in Punjab. The results of the study revealed that people who had more awareness about occurrence of crimes believed more in effectiveness of capital punishment. It can be concluded from findings that people with little knowledge about causes of crimes were linked with lower acceptance of effectiveness of capital punishment. In addition, no relationship was found between awareness about punishment and the effectiveness of capital punishment.

Research implication

Capital punishment is a controversial subject worldwide. Despite the fact that most of the countries have abolished capital punishment, its practice remains usual in some countries including Pakistan. This study has strived to explore the potential link between the level of awareness about crimes/punishment and perception about effectiveness of capital punishment. Findings of the current study help to comprehend the role of awareness in perception building about capital punishment.

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