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Exploratory Paper

For this paper, I chose to discuss the death penalty, our right to privacy and the stigma that comes with AIDS/HIV in relation to South Africa. It wasn’t until recently that I actually thought about the death penalty and came to the realization that it should be outlawed but since it is still in use today, I wondered about who makes the decision to sentence someone to death. For privacy, I was interested in the topic ever since I watched an episode of Last Week Tonight with John Oliver that touched on this topic. Oliver later brought up Edward Snowden and how he went around asking people who he was and nobody really knew the answer, neither did I, so I decided to do some research and thus my interest on this topic came up. With stigma, it was more of a matter discussing the topic of AIDS and HIV. Once I had some research on the topic, most of the information was in direct relation to South Africa specifically.

*Capital punishment*. The death penalty is a widely debated topic, especially in the United States. While in a few states the death penalty has been outlawed, the majority of states still support it. Now, while the issue of whether it should be supported or outlawed can be debated, as it stands, it is still being used throughout the majority of the country, which poses the question of who should be responsible for ordering the death of a fellow human? Should it be a jury of his peers that sentences him to death or should the judge pass final judgement? In most cases, the decision is left up to the judge, however, in some states, the jury is left to decide. State law ultimately dictates who will make the decision.

In the Journal of Empirical Legal Studies, an article titled, *The Death Penalty: Should the Judge or Jury Decide Who Dies*, discusses the topic of who should be making the judgment on death penalty cases. Specifically viewing at Delaware due to the fact that in this state, the decision has shifted from jury to judge over the course of many years. From 1977 until 1991, the jury passed the final judgement on capital cases, however, after public outrage over a jury not condemning two murderers to death, jury sentencing was called into question. It was found that juries were less likely to sentence capital punishment and instead invoke life in prison without parole. Because of this, judges were placed to pass final judgement while juries were allowed to give a recommendation for sentencing, however, in most cases, juries opted for life in prison and the judge would overrule and sentence the defendant to death. Later, a hybrid system was introduced, where the jury needed to be unanimous in finding an aggravating factor, which is evidence that supports the severity of a crime, but the ultimate decision was left up to the judge.

An article by Paula Mitchell, *The Weight of Capital Punishment on Jurors, Justices, Governors, & Executioners*, details the impact these cases have had. For jurors, cases like these have led to effects similar to post-traumatic stress and that those effects can last for extended periods of time. Some jurors even find these effects reaching a boiling point once the execution day arrives and having difficult discussing these cases years later. As for judges, the majority of them find themselves against the death penalty years later and describe capital cases as the most difficult aspect of their job, the biggest fear being sentencing an innocent person to death.

The hybrid system being used in Delaware seems to be a way of getting around this issue. With a jury only sentencing system, jurors might not be well informed in the law process, have their own personal views on capital punishment that could sway their vote, or simply be afraid to pass such a serious punishment on a human being, especially when lawyers are trying to humanize and gain sympathy for their clients. As for judges, due to their job, they would seem more likely to vote for capital punishment, either as a deterrent or to mark as an example. By leaving one portion of the sentencing to the jury and the other to the judge, a fairer judgement can be passed. The biggest issue still being whether a person is actually guilty or not, thanks to manipulation of the truth and convincing word play. However, even if these cases take their tolls on both parties, until, or if, the death penalty is completely abolished, it seems like a viable solution to lessen the impact or remove biases from sentencing.

*Our loss of privacy*. In the digital age of today, a basic right of ours is being lost and that is our right to privacy. Thanks to the CIA, NSA, and other government associations or programs, we are constantly being tracked, watched and recorded. At the airport our whole bodies are scanned and seen by the security, but we’re told it is for our safety and that it is necessary to prevent terrorism or other violent actions against us. Does this mean it is justifiable to invade our privacy? The issue with this is how little society seems to care or even know about our privacy being lost. The outcry against banning or imposing stricter gun laws is tremendous so why do we not make the same outcry towards our right to privacy being violated?

Andrei Marmor argues in *What is the Right to Privacy*,that our right to privacy is defined when someone, without any justification, accesses information that we have chosen not to present about ourselves without our consent. He quotes Judith Thomson, “there is no such thing as violating a man’s right to privacy by simply knowing something about him.” (Marmor) He uses this to discuss that knowing something about someone else, even if it was private, isn’t a violation of a right, rather, it’s the process in which that information was obtained that violates our privacy. We do things we wish to keep private or say things to our friends and family that we wouldn’t want the public hearing, which stems from a desire to control what people know about us. We may try to keep certain aspects of lives away from social scrutiny. Even when in public, we are exposing ourselves to others but it is limited by the memory of the average person, but if CCTV cameras were recording our every move and stored, then that as well can be seen as an invasion of privacy.

An article on Business Insider, *The Truth About Online Privacy: Who Cares*, flat out states that normal people don’t care about privacy. That almost everything we do is already either public record or stored online or being tracked by companies so it shouldn’t be matter of concern. Instead of not caring, however, we should be more active in how much information of ours is being put out there for anybody to see. We don’t think twice of giving our credit card information during purchases and we plaster our daily lives all over social media. We are practically giving away all our privacy when we should be finding ways of protecting it.

Privacy is something that is being lost in the digital age, especially when it comes to everything we put online or how easy it is to access someone’s information. The issue here being how this is a topic that most people are aware of but are doing nothing to prevent it or simply don’t care. We are being told that all the surveillance placed on us is for our protection and accept it. There needs to be a serious discussion on government surveillance and how it directly relates to our loss of privacy. “I don’t care” or “privacy is already lost” aren’t proper ways of thinking about this issue. Even without the intrusion of the government, we have lack of privacy between ourselves. There are people who steal others social security information, credit card information, or sensitive information and pictures. Suppose, like Marmor brings up in his article, that we lived in a world where everything we did could be seen or known by everybody else, it wouldn’t be a pleasant place to live in. We deserve to have a right to keep things to ourselves, hidden from each other and public.

*The Stigma of Aids and HIV.* Stigma is something that is seen in all parts of the world, for a myriad of different reasons. As long as something is disapproved of or goes against cultural norms, people will be socially excluded or shunned for it. In Africa, Aids and HIV is a huge problem and what makes it worse is the stigma that comes with having these diseases. It’s to the point where most people try to prevent others from knowing about them. Being outcast, losing your job or home, or having a family member or loved one attacked can be caused by others knowing that you have Aids or HIV. This leads to people avoiding treatment as that would expose them and instead continue to spread the disease all around. In order to prevent this disease from its continuous spread and allow more people to be treated, this stigma needs to be combated.

In the article, *Stigma and HIV/AIDS in South Africa: Exploring Respect and Treatment Adherence*, it was found that people fell into three categories of stigma. Internalized stigma, where the person feels unworthy or shameful for having Aids or HIV.The article, *An exploratory survey measuring stigma and discrimination experienced by people living with HIV/AIDS in South Africa: the People Living with HIV Stigma Index*, linked people deciding to not to have children, get married or have sex to this type of stigma. Perceived stigma, where the person believes they would be treated differently if friends and family knew about their disease. And experienced stigma, where a person suffers discrimination due to their disease, a huge human rights violation. Common forms of stigma and discrimination were verbal abuse, psychological manipulation and sexual rejection. (Dos Santos) Some participants indicated that they lost their job, partially due to the disease and being too sick to work. One participant said “I was helped by my sister because even the money I was receiving for social grant was cut off.” (Eyles) None of these people didn’t knowingly or willing contract this disease and yet are being punished for it.

While stigma may not be the leading factor in the spread and treatment adherence of Aids and HIV in South Africa, in fact, surveys done in 2005 had shown that stigma was decreasing, it is still a contributing factor towards it. Participants who had the support of their family and friends, mostly took their treatment as opposed to participants who were either afraid to tell their friends and family or had a lack of support. A big portion of challenge also comes keeping the records of these people confidential as any exposure could lead to harm for the patients.

Despite this, there is an overwhelming amount of hope and optimism as indicated by participants. “Even when people talk or look at me knowing that I am sick, I have no problem with that because I am living my own life and I didn’t step down and everybody knows that I am ill,” a quote from a successful participant. (Eyles) As of right now, there are systems in place to help reduce the stigma and discrimination that comes with diseases. However, both the article and survey indicated that there could be expanded roles in combating stigma, most notably with better accessibility to treatment and having interventions or better educating on this matter. “A potential solution could be the introduction of PLHIV ‘champions’ at various service points such as ARV clinics and sexual health and reproductive clinics.” (Dos Santos) We should be perusing any methods to help prevent this disease and at the same time, helping those who have contacted it and prevent any further human rights violations on their behalf.

Conclusion

With all three of these topics, I want to pursue the topic of privacy more fully. It’s an issue that even I am guilty of saying “who cares” about and never gave it much thought. However, with the recent research I’ve done, it seems like this a topic worth looking into and gaining more insight into. With the inclusion of the internet, GPS, surveillance, and the ever evolving technology that will be coming, privacy is something that needs to discussed and we need to find ways of making sure it is not all lost. We wouldn’t want to live in a society where single little thing we do is public knowledge, being able to keep our little or big secrets, as long as they aren’t illegal, is a part of who we are.

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