



GCE

Critical Thinking

Unit **F503**: Ethical Reasoning and Decision-Making

Advanced GCE

Mark Scheme for June 2014

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All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

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These are the annotations, (including abbreviations), including those used in scoris, which are used when marking

Annotation	Description
BP	Blank Page – this annotation must be used on all blank pages within an answer booklet (structured or unstructured) and on each page of an additional object where there is no candidate response.
SEEN	Additional page seen
	Key point
	Gap or flaw in reasoning. In combination, unsuccessful attempt at...
Question 3	
C	Criterion
E	Evaluation of criterion
A	Recognition of ambiguity
I	Intermediate conclusion/Inference
Q	Hypothetical reasoning, example, evidence, analogy, counter argument/assertion with response
Question 4	
P	Principle
E	Evaluation of principle
S	Relevant use of source
V	Evaluation of source
A	Alternative
C	Choice/Conclusion (Resolution of issue)

I	Intermediate conclusion/Inference
Q	Hypothetical reasoning, example, evidence, analogy, counter argument/assertion with response

NB

Examiners should use the annotations to assist them in deciding their marks. They do not, however, have to use them to annotate every instance seen.

Ticks are used in questions 1 and 2 to identify significant points. Because the questions are marked by levels, the mark awarded will not necessarily correspond to the number of ticks.

Question		Indicative Content	Marks	Guidance
1		<p><i>Examples of 3-mark answers</i></p> <ul style="list-style-type: none"> • There is a tacit assumption in paragraph 1 that there is a causal link between the abolition of capital punishment and the rise in murder. This is a causal flaw (<i>credit</i> selectivity in use of evidence). • According to Document 3, the murder rate has tripled since the abolition of the death penalty. The use of the word “quadrupled” by the author in Doc 2 is being used to effect an emotional response (panic) to reinforce his weak reasoning. • The description of the Professor of Ethics combines emotive language (“meek, mild little gentleman”) and an illegitimate appeal to authority. • It is highly unlikely that the “meek, mild little gentleman” is in a position to know that China no longer has a drug problem, because that is an absolute claim which would be very hard to prove. • Both the Professor and the author generalize from the experience of China to other countries, ignoring the significant differences between them. • Paragraph 3 is a slippery slope argument and the conclusion is therefore almost certainly over-stated. • The last sentence of the article unrealistically restricts the options. There are almost certainly other possible responses to a hypothetical increase in the number of murders. <p><i>Examples of 2-mark answers</i></p> <ul style="list-style-type: none"> • According to Doc 3, the author’s claim that the incidence of murder has quadrupled since the abolition of the death penalty is an exaggeration. • The “meek, mild little gentleman” is presented as an expert on criminal policy in the US, not China. • The article relies heavily on unsupported assertions, such as that China no longer has a drug problem. 	6	<p>3 marks Clear explanation of a specific weakness</p> <p>2 marks Vague or incomplete explanation of a specific weakness</p> <p>1 mark Explanation of a generic or marginal weakness</p> <p>0 marks No correct content.</p> <p>2 answers required.</p>

Question		Indicative Content	Marks	Guidance
		<ul style="list-style-type: none">• It is highly unlikely that the “meek, mild little gentleman” is in a position to know that China no longer has a drug problem.• Paragraph 3 is a slippery slope argument. <p><i>Examples of 1-mark answer</i></p> <ul style="list-style-type: none">• The abolition of the drugs problem may not be due to the execution of the drug traffickers.		

Question		Indicative Content	Marks	Guidance
2		<ul style="list-style-type: none"> The statistics for homicide in 1966-1970 and 1971-1975 show a marked increase, following the abolition of capital punishment. It is likely that the numbers of homicides increased because the fear of the death penalty was no longer deterring potential killers and that the number of homicides would therefore decrease if capital punishment were to be restored. However, the facts that the statistics were already increasing before capital punishment was abolished and continued to increase subsequently, together with other factors, such as population increase, suggest that abolition was at least not the sole cause of the increase in the number of cases of homicide. Furthermore, the cultural change which made homicide more attractive to potential killers may be irreversible / the latest statistics show a marked decline in cases of homicide without the reintroduction of capital punishment. Therefore it does not necessarily follow that the reintroduction of the death penalty would cause a significant reduction in cases of homicide. 	6	<p>Level 3 – 5–6 marks A reasonable judgment with clear explanation and recognition of ambiguity</p> <p>Level 2 – 3–4 marks A partial judgment with some clear explanation</p> <p>Level 1 – 1–2 marks Some valid comment</p> <p>Level 0 – 0 marks A valid judgment without explanation or an invalid judgment with or without explanation</p>

Question		Indicative Content	Marks	Guidance
3		<p>c = Criteria: Application and evaluation of selected criteria of choice</p> <p><i>Examples of 1 mark</i></p> <ul style="list-style-type: none"> • Valid simple assessment of issue (not stated choice) by reference to a valid criterion. • Valid simple assessment of stated choice by reference to an inaccurately-stated criterion. • Largely speculative assessment by reference to a valid criterion. • Largely repetitive assessment by reference to a different valid criterion. • Invalid/marginal/trivial assessment of stated choice by reference to a valid criterion. <p><i>Examples of 0 marks</i></p> <ul style="list-style-type: none"> • Entirely speculative assessment. • Invalid/marginal/trivial assessment by reference to invalid criterion. <p>Suitable choices to be evaluated include:</p> <ul style="list-style-type: none"> • Do not reintroduce capital punishment. • Make capital punishment mandatory for all cases of murder but no other crimes. • Make capital punishment discretionary for murder and other serious crimes. <p>Suitable criteria which might be used to evaluate these choices include:</p> <ul style="list-style-type: none"> • Justice • Public safety • Public opinion • Cost • UK's standing in Europe <p>Other valid criteria should be credited.</p>	12	<p>c = 9 marks – 3 marks for each of 3 answers:</p> <p>3 marks Valid assessment of stated choice by reference to a valid criterion including awareness of ambiguity and/or valid evaluation of criterion.</p> <p>2 marks Valid simple assessment of stated choice by reference to a valid criterion.</p> <p>1 mark Weak or marginal assessment of stated choice or issue by valid or inaccurately-stated criterion.</p> <p>0 marks Very weak attempt at assessment of stated choice or issue by criterion.</p> <p>Ensure that the correct item is highlighted in the marks column in scoris, ie:</p> <p style="padding-left: 40px;">3c1 (Criterion 1) 3c2 (Criterion 2) 3c3 (Criterion 3)</p> <p>and enter a mark out of 3 for each of three Criteria answers.</p>

Question		Indicative Content	Marks	Guidance
		<p><i>Examples of 3-mark answers:</i></p> <ul style="list-style-type: none"> • The choice to make capital punishment mandatory for all cases of murder would satisfy the criterion of justice to some extent, since depriving someone of life when they have done the same to someone else is a proportionate response. However, some murders are not fully intentional or may be considered partly justified. So punishing all murders in the same way does not seem just. Overall, therefore, this choice partially satisfies the criterion of justice. <i>(ambiguity)</i> • The choice to make capital punishment mandatory for all cases of murder would satisfy the criterion of justice to some extent, since depriving someone of life when they have done the same to someone else is a proportionate response. However, if someone were to be executed as a result of wrongful conviction, it would not be possible to compensate him/her, which would be unjust. Overall, therefore, this choice partially satisfies the criterion of justice. <i>(ambiguity)</i> • The choice to make capital punishment mandatory for all cases of murder would satisfy the criterion of justice, because when a life has been taken, it is only fair that a life should be forfeited. This is the most important criterion in issues of crime and punishment, since if punishments are unjust they lose all moral authority and become no more than an exercise of power. <i>(evaluation of criterion)</i> • The choice to make capital punishment mandatory for all cases of murder would incur certain costs in relation to executions and possibly further legal appeals than if the punishment were imprisonment, but such costs would be less than the cost of lengthy (perhaps even whole-life) terms of imprisonment. So overall this choice satisfies the criterion of cost. <i>(ambiguity)</i> • The choice to make capital punishment mandatory for all 		

Question		Indicative Content	Marks	Guidance
		<p>cases of murder might well reduce the number of cases of homicide (although perhaps not by many), in which case public safety would be increased to some extent. This criterion is very important, because there is no point in punishing criminals if doing so does not increase public safety. <i>(evaluation of criterion)</i></p> <ul style="list-style-type: none"> According to Document 1, public support for capital punishment is declining, and was less than 50% in 2006. Although a more recent poll (reported in Doc 5) found a slightly higher proportion in favour, the sample size was quite small. Most of those who do support capital punishment limit its application to murder. So it appears that the choice to reintroduce mandatory capital punishment for murder would have more support from public opinion than reintroducing it for any other offence(s), but the support would still not be enough to satisfy this criterion. <i>(ambiguity)</i> <p><i>Examples of 2-mark answers</i></p> <ul style="list-style-type: none"> The choice to make capital punishment mandatory for all cases of murder would satisfy the criterion of justice, because when a life has been taken, it is only fair that a life should be forfeited. [However, it would be unjust to execute someone if they had been wrongfully convicted.] The choice not to reintroduce capital punishment would forgo the possible benefits to public safety which would occur if such reintroduction would reduce the numbers of homicides and other serious crime. So it would not satisfy the criterion of public safety. Recent polls indicate that around 50% of the public support the reintroduction of capital punishment. This is not enough to be able to claim that reintroducing it for murder would satisfy the criterion of public opinion. <p>Q = Quality of Argument</p>		Q = 3 marks

Question		Indicative Content	Marks	Guidance
				<p>3 marks Evaluations well-supported by reasoning.</p> <p>2 marks Evaluations generally supported by reasoning.</p> <p>1 mark Evaluations clearly stated but largely unsupported. Or Reasoning contains significant gaps or flaws.</p> <p>0 marks Evaluations not clearly stated or not related to criteria.</p> <p>Ensure that the correct item is highlighted in the marks column in scoris, ie: 3q and enter a mark out of 3 for Quality of Argument.</p>

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Question		Indicative Content	Marks	Guidance
4		<p>p = Identification and Application of Relevant Principles</p> <p>General principles have implications that go beyond the case in point. Different kinds of principle a candidate can refer to might include legal rules, business or working practices, human rights, racial equality, gender equality, liberty, moral guidelines.</p> <p>Candidates are likely to respond to the issue by explaining and applying relevant ethical theories. This is an appropriate approach, provided the result is not merely a list or even exposition of ethical theories with little or no real application to the problem in hand. Candidates who deploy a more specific knowledge of ethical theories will be credited only for applying identified principles to the issue in order to produce a reasoned argument that attempts to resolve it. Candidates are not required to identify standard authorities such as Bentham or Kant, or even necessarily to use terms such as Utilitarianism etc, although they may find it convenient to do so; the word "however" is likely to deserve more marks than the word "deontological".</p> <p>Credit must be given to any argument based on a principle in the sense outlined in the preceding note. On this occasion (unusually), some free-standing principles, some of which are well-known, may be particularly useful. Principles of that kind might include:</p> <ul style="list-style-type: none"> • The (prime) purpose of punishment is rehabilitation. • The (prime) purpose of punishment is deterrence. • The (prime) purpose of punishment is retribution. • Punishment should be as humane as possible consistent with the achievement of its purpose(s). 	36	<p>p = 12 marks</p> <p>Level 4 – 10–12 marks</p> <ul style="list-style-type: none"> • Accurate identification and developed application of at least 3 contrasting plausible ethical principles or at least 2 contrasting major ethical theories. <p>Level 3 – 7–9 marks</p> <ul style="list-style-type: none"> • Accurate identification and application of at least 2 relevant ethical principles or theories. <p>Level 2 – 4–6 marks</p> <ul style="list-style-type: none"> • Identification of at least 2 relevant principles or developed discussion of 1 principle. • Basic application of principles to the issue. <p>Level 1 – 1–3 marks</p> <ul style="list-style-type: none"> • Some attempt to identify at least one principle and to apply it to the issue. <p>Level 0 – 0 marks</p> <ul style="list-style-type: none"> • No use of principles. <p>Maximum level 1 for Identification and Application of Relevant Principles for anyone who only re-cycles criteria from question 3 as principles.</p> <p>To be located in level 4, the use of principles must normally be all of the following:</p> <ul style="list-style-type: none"> • Contrasting (in approach and/or outcome) • Plausible (supported by reasoning and/or generally accepted) • Applied (not necessarily at great length, but more than a brief summative judgment) <p>Ensure that the correct item is highlighted in the marks column in scoris, ie 4p, and enter a mark out of 12 for Identification and Application of Relevant Principles.</p>

	<ul style="list-style-type: none">• Punishment should be proportionate to the offence.• Forms of punishment should provide means for compensating people who are wrongly convicted.• States should not spend a disproportionate amount of their resources on punishing criminals. <p>Many candidates are likely to appeal to two or three of the following ethical principles and theories.</p> <p>Simple Consequentialism seeks to identify the choice which will bring about the greatest good of the greatest number. The great cost of very lengthy terms of imprisonment must be taken into account from this point of view. The fact that people executed deserve their fate cannot be taken into account in a Consequentialist or Utilitarian analysis.</p> <p>Hedonistic Utilitarianism focuses specifically on happiness/pleasure and pain. People who are executed are deprived of some happiness, and so are their relatives and friends, but very long terms of imprisonment (especially without possibility of parole) may be even more painful and distressing. The fact that someone may have been wrongly convicted does not add much to their distress (or, at least, not much more than being unjustly imprisoned for life). Many victims and members of the general public would be made happy by knowing that those who are guilty of very serious crimes, such as murder, are paying the ultimate penalty, but some people are distressed at the idea of a fellow human being deliberately put to death.</p> <p>From the perspective of Preference Utilitarianism, presumably most criminals would prefer not to be put to death for their crimes, although some would prefer it to the alternative of lifelong imprisonment without possibility of release. A significant proportion of the general public would approve of the reintroduction of capital punishment,</p>	
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	<p>but it appears that they would constitute a majority only in relation to certain categories of murder.</p> <p>Any answer based on human rights is likely to focus on the right to life. Probably the most commonly used justification for capital punishment is that anyone who wilfully infringes the right to life of someone else thereby forfeits their own right to life. It is also possible to argue that anyone who persistently flouts the rule of law has forfeited the right to life, although this claim would have been held more widely in previous centuries than now. Genocide, war crimes and child sex abuse are other crimes which some people may consider to justify forfeiture of the right to life. If, however, the right to life is so fundamental that it can never be forfeited or waived (which some people claim), then capital punishment for any crime is unacceptable, because it infringes the criminal's right to life. An appeal to the right to life in opposition to capital punishment can contribute to a level 4 answer only if the candidate engages with the issue of whether the right to life can be forfeited or not. Of course, if innocent persons are executed, then their right to life is infringed.</p> <p>Other rights which could legitimately be brought into the discussion include (other people's) right to safety/ freedom from fear of harm.</p> <p>Candidates who approach the issue from the perspective of duty may appeal to Kant's Categorical Imperative. The first version, "Act according to that maxim which you can will to be a universal law" could be used to support mandatory death sentences for murder, and possibly other offences. Modern Kantians (who may include circumstances in their principles) could use this principle to support capital punishment for certain categories of murder (and perhaps other crimes) but not others. The second version of the Categorical Imperative, that we</p>	
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	<p>should always treat persons as ends, and not as means only, has been used by some philosophers to oppose capital punishment, although Kant himself did not take that view, insisting that the death penalty was morally mandatory for murder, because any other punishment would be disproportionate to the seriousness of the crime.</p> <p>Any candidate who refers to W D Ross's theory of <i>prima facie</i> duties may legitimately claim that the duties of justice and reparation both support the death penalty in cases of murder.</p> <p>The content of any appeal to Divine Command ethics would vary according to which religion such commands were drawn from, but the Jewish, Christian and Islamic Scriptures all prescribe the death penalty for serious crimes, including, but not limited to, murder. Although some candidates may legitimately express their own opinion that capital punishment violates the commandment prohibiting killing, that is not what the Scriptures actually say. Mainstream Christian teaching has supported capital punishment, although some sects, including Quakers, have opposed it. Roman Catholic teaching states that capital punishment is not contrary to Natural Law, but accepts that it may be rejected for other reasons.</p> <p>Of the three competing principles, Equality, Need and Desert, the last is most relevant to this issue. Many people would say that those who take the life of another deserves to forfeit their own lives. Perhaps even more would recognize that those guilty of perpetrating the extreme horror of some crimes, such as genocide, deserve nothing less than death.</p> <p>Traditional theories of Social Contract state that the death penalty may legitimately be imposed on those who – by breaking the Social Contract – put themselves outside the</p>	
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	<p>moral community. This certainly covers murder, but arguably other serious crimes as well. Perhaps this approach could apply most persuasively to persistent criminals who have resisted repeated attempts to reform them. Hobbes's version of the Social Contract could be used to support executing people who try to overthrow the government.</p> <p>It is almost universally accepted that the Government is responsible for setting punishments for crime and the courts are responsible for imposing them. So Libertarianism and Paternalism are not relevant to this issue, unless any candidate wished to argue in favour of the vendetta as the basis for revenging injury.</p> <p>Behind Rawls's Veil of Ignorance, one might be any of: a victim of crime, a potential victim, a criminal, someone unjustly convicted, or related to any of these.</p>		
	<p>s = Use and Critical Assessment of Sources</p> <p><u>Document 1</u></p>		

	<p>The TES has a good reputation and there is no reason why it should be biased on this issue; in addition, neutrality should be a presupposition of their resources for teachers. However, the tone of the article is rather unsympathetic to the death penalty.</p> <p><u>Document 2</u> The Daily Telegraph is a respected broadsheet newspaper, but its readers generally take conservative and Conservative attitudes towards political issues, and many of them may therefore be likely to support the reintroduction of capital punishment. Since this is an opinion article rather than a news item, the author is free to express his own views or the views which he thinks will please his readers. As indicated in the markscheme for q 1, there are weaknesses in the reasoning in this document.</p> <p><u>Document 3</u> The Home Office is the Government department responsible for keeping statistics about crime. So the statistics should be reliable.</p> <p><u>Document 4</u> It is clear from this document that Amnesty is strongly biased against the death penalty. The document takes it for granted that capital punishment is evil and should be abolished. It emphasizes the least justifiable uses of capital punishment and does not consider whether it can ever be justified.</p> <p><u>Document 5</u> The only vested interest of the Metro is to attract advertisers, which does not obviously lead to any bias on</p>	<p>s = 8 marks</p> <p>Level 4 – 7–8 marks</p> <ul style="list-style-type: none"> • Relevant and accurate use of sources to support reasoning. • Sustained and persuasive evaluation of sources to support reasoning. <p>Level 3 – 5–6 marks</p> <ul style="list-style-type: none"> • Relevant and accurate use of sources. • Some evaluation of sources. <p>Level 2 – 3–4 marks</p> <ul style="list-style-type: none"> • Some relevant and accurate use of sources, which may be uncritical. <p>Level 1 – 1–2 marks</p> <ul style="list-style-type: none"> • Very limited, perhaps implicit, use of sources. <p>Level 0 – 0 marks</p> <ul style="list-style-type: none"> • No attempt to use sources. <p>Except at Level 1, credit references to sources only if they support reasoning.</p> <p>Maximum level 2 for Use and Critical Assessment of Sources for uncritical use of sources.</p> <p>Typical indicators of L4 (any two of which normally locate an answer in L4):</p> <ul style="list-style-type: none"> • More than 2 evaluative references to sources • Nuanced evaluation • Strong support to reasoning <p>Ensure that the correct item is highlighted in the marks column in scoris, ie 4s, and enter a mark out of 8 for Use and Critical Assessment of Sources</p>
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		<p>this issue. The article presents both sides of the issue, but the results of the opinion poll are presented in such a way as to emphasize the support for the reintroduction of capital punishment. The sample size for the opinion poll is not very big, but the newspaper is being transparent by stating the number. The charity Reprieve clearly has a bias against capital punishment.</p> <p>q = Quality of Argument</p>		
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			<p>q = 8 marks</p> <p>Level 4 – 7–8 marks</p> <ul style="list-style-type: none">• Claims well supported by clear and persuasive reasoning.• Consistent use of intermediate conclusions.• Reasoning supported by relevant use of some of: hypothetical reasoning, counter argument/assertion with response, analogy, evidence, example.• Few errors, if any, in spelling, grammar and punctuation. <p>Level 3 – 5–6 marks</p> <ul style="list-style-type: none">• Claims supported by clear reasoning.• Few significant gaps or flaws.• Generally clear and accurate communication.• Few errors in spelling, grammar and punctuation. <p>Level 2 – 3–4 marks</p> <ul style="list-style-type: none">• Claims mostly supported by reasoning.• Some significant gaps and/or flaws.• Some effective communication.• Fair standard of spelling, grammar and punctuation, but may include errors. <p>Level 1 – 1–2 marks</p> <ul style="list-style-type: none">• Little coherent reasoning.• Perhaps significant errors in spelling, punctuation and grammar. <p>Level 0 – 0 marks</p> <ul style="list-style-type: none">• No discussion of the issue. <p>Ensure that the correct item is highlighted in the marks column in scoris, ie 4q, and enter a mark out of 8 for Quality of Argument.</p>
		<p>r = Resolution of Issue</p>	<p>r = 8 marks</p>

					<p>Level 4 – 7–8 marks</p> <ul style="list-style-type: none">• Resolution of the issue on the basis of a persuasive account of the arguments in favour of the stated choice and developed consideration of at least one alternative.• Perhaps an awareness that the resolution is partial/provisional. <p>Level 3 – 5–6 marks</p> <ul style="list-style-type: none">• Clear identification of a choice.• Consideration of at least one alternative.• Some attempt to resolve the issue. <p>Level 2 – 3–4 marks</p> <ul style="list-style-type: none">• Basic discussion of the issue, including support for one choice. <p>Level 1 – 1–2 marks</p> <ul style="list-style-type: none">• Limited discussion of the issue. <p>Level 0 – 0 marks</p> <ul style="list-style-type: none">• No discussion of the issue. <p>Ensure that the correct item is highlighted in the marks column in scoris, ie 4r, and enter a mark out of 8 for Resolution of Issue.</p>
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APPENDIX

PE's answer (1166 words) **NB** This does **not** represent the standard of response expected from candidates.

I am going to argue that capital punishment should be introduced on a discretionary basis for people convicted of certain grave crimes and for persistent offenders.

There is a consensus about the purposes of punishment, although opinions vary as to the relative importance of each. These purposes are retribution, reform, prevention and deterrence.

The principle of retribution is that criminal behaviour must be paid for. It follows from this that punishments should be proportionate to the offence for which they are imposed. As a number of recent cases have shown, genocide and war crimes are so serious that no penalty short of death seems to be a proportionate response. The only exception is that it seems inhumane to execute very elderly people for offences committed many decades previously. Some cases of murder, too, seem by their nature to demand the death penalty, although this would seem an excessive response to some other cases. The clear inference is that capital punishment should be made available on a discretionary basis for genocide, war crimes and murder.

On the face of it, capital punishment goes against the principle that the aim of punishment should be reform, since executing criminals deprives them of the opportunity to reform. However, it is virtually certain that the aim of reform will not be achieved in the case of criminals who are convicted of further serious offences after previously undergoing periods of imprisonment. In these cases, the primary concern of the penal system should be to prevent them from committing more crimes. The death penalty is the most effective way of achieving this aim. However, it should be discretionary, because if a death sentence were mandatory for repeat offenders, some people would be executed for trivial offences, in the same way as some people in the United States are sentenced to life imprisonment for minor crimes under the "three strikes and you're out" policy, and this would be obviously unjust.

The final aim of punishment is deterrence. This is often used as a justification for reintroducing capital punishment and it does have some validity. It is unclear whether the "meek, mild little gentleman" mentioned in Doc 2 was claiming that capital punishment worked as prevention or as deterrence, and in any case his claim was probably over-stated, but part of his claim may have been that other drug dealers would be deterred by the fate of the six hundred, and this claim may have been true. Similarly, it would be simplistic to claim that the abolition of capital punishment in the UK caused the rise in cases of homicide reported in Doc 3, but it probably did have some effect. Although Doc 4 claims that the death penalty is ineffective as a deterrent, this claim is not backed up by any evidence. There is no doubt that people will risk death under certain circumstances, especially if they think they are unlikely to be caught, but it is counter-intuitive to deny that fear of the death penalty never deters anyone from committing a serious crime. The principle of deterrence therefore supports my proposal, although I do not consider it the most important argument, since it is more pragmatic than ethical and is not based intrinsically on justice.

Those who oppose capital punishment generally argue that it breaches the right to life, which is universally accepted as the most fundamental human right. This point is made briefly in Document 4, which is part of a campaign to eradicate capital punishment. But those who claim human rights for themselves should also respect the rights of others. To claim a right for yourself without respecting it for others is in effect to ask for a "free ride" in life. On this basis, it can be argued that those who unjustly deprive someone of life have thereby forfeited their own right to life. This, too, justifies capital punishment in cases of genocide, war crimes and at least some murders.

The fundamental basis of a civilised society is that I agree to refrain from killing you, injuring you or stealing your property, and in return you agree to refrain from those actions towards me. This is the simplest version of the Social Contract. Anyone who blatantly fails to abide by their side of this bargain thereby forfeits their membership of the moral community. Compensation can be made for minor offences against the social contract, but only expulsion is a proportionate response to serious or repeated offences. It is no longer realistic to exile such people to a penal colony, or to make them outlaws. The death penalty is the only other way of expelling them from society. That governments are entitled to cause death in this way can be seen by analogy with war. The primary duty of governments is to protect citizens against external and internal threats. In order to protect from external threats, some soldiers have to die, although the tactical decisions which cause those deaths should never be made lightly. It is neither surprising nor objectionable if protecting the citizenry against crime also involves sending some people to their deaths.

Kant's principle of universality goes against my proposal that the death penalty in these cases should be discretionary. Kant himself believed it should be mandatory. However, it is obvious that not all cases of murder are alike, and modern Kantianism is more willing than Kant himself was to take circumstances into account. A modified version of the principle of universality could support making capital punishment discretionary, provided that clear guidelines would ensure that similar cases were treated consistently.

Some would argue that the punishment for the categories of criminal I have identified should be whole-life imprisonment rather than death. This would achieve the aim of preventing these criminals from committing further crimes and would arguably be proportionate to the seriousness of their offences. Those who support this alternative would probably claim that imprisonment without possibility of parole is more humane than the death penalty, but the opposite can also be argued, provided that any appeal is considered speedily and no criminal is subjected to the lengthy periods on Death Row mentioned in Document 1. The main reason for rejecting whole-life imprisonment is the expense. There are limits to the proportion of a country's resources that can reasonably be spent on punishing criminals. The country cannot afford to spend the amount of money it costs to keep someone in prison for many years, and the criminals concerned do not deserve to have such a disproportionate amount of the national wealth to be spent on them.

I have shown that certain plausible principles concerning punishment support the discretionary imposition of the death penalty on those guilty of war crimes, genocide and some categories of murder and also on people who have been repeatedly convicted of serious crimes. This policy is also supported by the Social Contract, human rights and the Categorical Imperative. I have shown why it should be preferred to making the death penalty mandatory or replacing it by whole-life imprisonment.

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