

**CAPITAL PUNISHMENT:
A CROSS JURISDICTIONAL CRITIQUE**

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DECLARATION OF ORIGINALITY

I, Vengadesh Kumaravelu, hereby declare that this thesis is my own work and effort and that it has not been submitted anywhere for any award. Where other sources of information have been used, they have been acknowledged.

Vengadesh Kumaravelu

Dated: 02 December 2013

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ABSTRACT

This thesis analyses whether any changes to the current scope of the death penalty in either Australia or Singapore invite consideration or whether the respective regimes are grounded in sound principle. Both countries have been selected as they are at opposing ends of the death penalty spectrum, being abolitionist and retentionist respectively.

One major issue reoccurring in various jurisdictions is an innocent accused being wrongfully convicted of a crime. Human institutions such as a country's criminal justice system are fallible. Countries like Singapore that have a more 'weighted' approach towards Herbert Packer's 'crime control model' must try to strike a balance with the 'due process model' to prevent the occurrences of wrongful convictions.

Given the irreversible nature of capital punishment, this paper contends that an accused charged for a capital offence must be provided their fundamental rights, such as the right to access to counsel and the right to silence. The thesis also emphasizes the importance of pre-trial investigative procedures, such as the video-recording of suspect statements during police questioning or the preservation of DNA samples, to protect innocent individuals.

Mandatory sentencing itself is subject to various problems. These issues may be amplified when the mandatory death sentence is concern. Therefore, the thesis contends that the mandatory death sentence does not deter (or only marginally deters) crimes as many retentionist States recognize. However, parliamentary sovereign nations, like Singapore, have the right to determine its criminal laws. The current state of international law does not totally prohibit the imposition of capital punishment.

By considering the community's perception of capital punishment in both jurisdictions, this paper finally discusses two issues; (1) whether the current state of the law in Australia allows it to reintroduce the death penalty if it desires to, and (2) whether the amendments in Singapore's death penalty regime in 2012 signal the possible abolition of the punishment.

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