

LESSON PLAN: THE JUVENILE DEATH PENALTY

The Eighth Amendment Ban on Cruel and Unusual Punishment: How Does the U.S. Supreme Court Make Decisions?

The Juvenile Death Penalty

1. The Eighth Amendment establishes that a punishment must be in proportion to a crime. It may not be excessive.
2. Whether a punishment is constitutional and in proportion to a crime is determined partly by defining “evolving standard of decency.” When the court makes decisions, its justices try generally to determine what standards are contemporary or current, and to consider them rather than standards in existence when the Constitution was first written, or, even necessarily standards of fifty years ago.
3. To define contemporary standards of decency, the court has reviews “objective factors,” or “objective indicators” to determine national consensus on punishment. At various times, the court has considered the following objective factors when evaluating punishment under the Eighth Amendment:
 - The types and characteristics of laws passed by the state legislatures
 - How frequently juries impose particular sentences
 - The frequency with which sentences are carried out
 - The views of professional organizations and experts
 - National and international views
4. The court conducts its own independent analysis of a punishment to determine if its application meets its identified social goals or the underlying justification for the punishment. The court’s *precedents* have established that the social goals of and underlying justification for the death penalty are *retribution* and *deterrence*. [A *precedent* is a previously reported opinion by a court that establishes a legal rule.]
 - *Retribution* is punishment. The court evaluates the suitability of a punishment in part by determining the degree of personal or moral blameworthiness of someone for his/her crime. For example, in the U.S. Supreme Court case *Atkins v. Virginia* (2002), the court decided that the mentally retarded are not as blameworthy as people who are not mentally retarded who commit similar crimes. The court decided because they are less blameworthy, mentally retarded individuals should not be punished as severely as other people who commit similar crimes.
 - The court also evaluates whether a punishment meets the social goal of preventing others from committing particular crimes because they fear a punishment. This is what is meant by *deterrence*. In the case *Atkins v. Virginia*, the court decided that the death penalty did not deter the mentally retarded from committing crime or contribute to the social goal of deterrence.