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**Specialty: British Civilisation**

**THE ABOLITION OF THE DEATH PENALTY IN  
GREAT BRITAIN**

Dissertation Submitted in Partial Fulfillment of the Requirements for the Master degree

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## **Abstract**

The purpose behind this research paper is to discover the British history of the death penalty and to know its reforms. It also aims at finding the major reasons behind its abolition and mainly the impact of abolition on the British population. It is hypothesized that the death penalty was a reason for murdering many innocent people and violating the human rights for life. This hypothesis is proved through the study of two cases. The first is of Timothy Evans who was accused for the murder of his little daughter that was killed by his neighbour John Christie; he was hanged on the 9<sup>th</sup> March 1950. The second case was of a young person named Derek Bentley who was executed on 28 January 1953 as a reason for killing a police officer shot by his friend Christopher Craig. These two persons were innocent and for that reason the death penalty was abolished in Great Britain.

## *Dedication*

*This work is dedicated first of all to my beloved parents, to all*

*Members of my*

*Family "Benariba", to all my friends*

*And to the persons who helped me in doing this work*

*Thank you for your encouragements and support.*

## Acknowledgments

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Having accepted to supervise me and

for his guidance and valuable support.

I would also like to express my sincere thanks to all my teachers and my  
classmates.

### **List of Acronyms:**

**BC:** before Christ

**EU:** European Union

**UK:** United Kingdom

**NCACP:** National Campaign for the Abolition of Capital Punishment

**MPs:** Members of Parliaments

**ECHR:** European Convention on Human Rights

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# **Introduction**

## **General Introduction:**

The death penalty is a famous phenomenon that existed in several countries, Great Britain was one of these countries that saw capital punishment for many years; hanging was the perfect method that applied on criminals. Through time and after hot debates and several introduced bills the death penalty was completely abolished due to certain facts.

What motivates to choose this research topic is because the abolition of the death penalty in Great Britain is related to the domain of British Civilization, second the history of capital punishment is full of events and characters that contributed to its abolition. Moreover, the controversial cases that led the public to argue against capital punishment due to the miscarriages of justice, and the cruel method of execution, in addition to that the clashes that were between retentionists and abolitionists around preserving or avoiding the death penalty.

The problematic of this research topic is to find out why people at first supported the abolition of the death penalty, but later after the Murder Act 1965 was applied to suspend capital punishment for five years, they turned against its abolition and campaigned for its retention. So, what is the death penalty? What are its reforms? Why was it abolished? And why did people call for its retention?

So, the major aims of this research are to show the history of the death penalty in Great Britain, exploring the main events that led to its abolition and its impact on the British population. It is hypothesized that the death penalty executes the innocent people. In order to prove this hypothesis there is an analyzing and illustrating of two controversial cases one for Derek Bentley and the second is for Timothy Evans.

This study is made of three chapters. The first deals with the death penalty; its definition, its difference with capital punishment, it also tackles its history and its reforms. Whereas the second chapter sheds light on the abolition of capital punishment; primarily with the bill of the death penalty, the Homicide Act of 1957 and its parts, then it analyzes the most controversial cases and the last hangings that took place before the emergence of the Murder Act 1965, this later is going to be discussed as the last subtitle of this chapter. The last chapter is concerned with the failure to restore the death penalty including the public support for the capital punishment, the parliament debates about retention or abolition of the death penalty, and finally the international law that obligates Great Britain by ratifying on the sixth protocol to end the law of the death penalty for ever.

# **Chapter One**

## **Chapter One:**

### **The Death Penalty**

This chapter sheds light on the death penalty. First, it refers to the definition of the death penalty then to its difference with capital punishment. Second, it deals with the history of the death penalty in Great Britain during the 18<sup>th</sup> century. Last, it focuses on the main reforms that happened during the 19<sup>th</sup> century.

#### **I.1. The Death Penalty: Definition:**

The death penalty is the punishment of death used in some countries for people who have committed very serious crimes. It means also the practice of killing criminals as a punishment for certain crimes. Death penalty means killing the offender. There are various methods of penalty that have been existed through time and space such as hanging (Anglo-American), guillotine (France) and electrocution and lethal injection (USA), it was very popular with the public and the families of victims.

Death penalty, also called capital punishment, is when a government or a state executes someone that has committed a serious crime. A crime that can be punished with the death penalty is called a capital crime or a capital offense. Some dictionaries define the death penalty as the legal punishment of death (Longman Dictionary of Contemporary English).

Cambridge dictionary defines the death penalty as the legal punishment of death for a crime. The death penalty is considered as a cruelty that faces the criminals in general “...cruelty is the willful infliction of physical pain on a weaker being in order to cause anguish and fear”<sup>1</sup>

In Macmillan dictionary, the death penalty is a legal punishment by death, usually for a serious crime such as murder, and killing people officially is called capital punishment. A sentence of death imposed on a convicted criminal is the definition that is written in

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<sup>1</sup> Hugo Adam, Bedau. *The Death Penalty in America: Current Controversies*. (Oxford University Press: New York, 1997), p. 232.

Duhaime Legal Dictionary.

### I.2. Death Penalty and Capital Punishment:

The terms “Death Penalty” and “Capital Punishment” are frequently used to mean the same thing. However, some people believe that a difference exists because death penalty refers to the penalty received and not necessarily its performance, while capital punishment refers to the execution itself. Other people consider that penalty means punishment and capital refers to death so any difference between the terms is unimportant.

The death penalty is a more modern usage; capital punishment was widely applied in ancient times i.e., it can be found (1750 BC) in the Code of Hammurabi. The term “*capital*” comes from the Latin *capitalis*, meaning “*head*.” Therefore, capital punishment is the penalty for a strict crime which deserves de-capitation (losing one's head). In other meaning, the death penalty is the punishment forced by the court of law at sentencing for a capital crime, and capital punishment is the definite execution of that death penalty. Or it can be said that the death penalty applies to a criminal who has been sentenced to die, but has not yet been executed whereas capital punishment refers to his actual execution.

To explain more when the criminal is in fact executed, it is referred to this as a capital punishment. When execution is gloomy, or just being threatened to force a claim, it is referred to as the death penalty. All in all, the death penalty and capital punishment are similar because they refer to the same concept that is death which is the destiny of the offender, but they differ somehow because the latter deals with the execution while the first one has to do with the ultimate act, but they are used interchangeably in normal use.

### I.3. History of Capital Punishment in Great Britain:

Hanging was introduced by Henry I as a means of execution for a large number of offenses. Although other methods of execution, such as boiling, burning and beheading were frequently used in the mediaeval period, the eighteenth century saw hanging as the main traditional punishment for many crimes. At that time the criminal stood on a trapdoor, and sometimes they broke his neck when he fell.

The number of capital crimes in Britain increased extensively during the 18th century. In 1688, there were 50 offences on the law book punished by death, but that number had almost quadrupled by 1776, and it had reached 220 by the start of the 18th century. Crimes during that period ranged from the serious to the strange, and included: forgery, poaching,

stealing items of a certain value, associating with gypsies, cutting down a tree, being out at night with a blackened face, and robbing a rabbit warren, these offences had been introduced to protect the property of the upper classes that emerged during the first half of the 18th century. The system of laws and punishments for capital offences between 1688 and 1815 is often known as the “*Bloody Code*.”

The MP, Sir William Meredith, stated that no country on the face of the earth in which there have been so many different offences to be punished only with death according to law. So, he suggested that Parliament consider more proportionate punishments. His offer was refused, but it started a debate about the cruelty of the law. With more than a thousand people a year being sentenced to death (although only a small amount of that number actually being executed), it was clearly that a debate was needed.

The root of reform was taken up by another MP, Sir Samuel Romilly who became the principal defender of the efforts to get Parliament to de-capitalize minor crimes. Around 1807, Romilly began to give serious attention to the problem of reform of the criminal law and of the Bloody Code in particular. He succeeded in persuading Parliament to abolish the penalty of death in cases of private stealing from the person, but failed to carry a similar reform in regard to shoplifting, stealing in houses, and on navigable rivers.

In 1811, he promoted requirements that changed transportation by death in cases of Stealing from bleaching grounds, and in the following year succeeded in getting Parliament to abolish the law that made it a capital offence for soldiers or seamen to be found vagrant without their passes. And in 1814 he pursued provisions that mitigated the severity of the law of treason and attainder.

After Romilly’s death in 1818, Sir James Mackintosh (MP), who supported Romilly’s proposals for reducing the harshness of the criminal law, took up the abolitionist cause. On the second March 1819, he carried a movement against the Government for a committee to think about capital punishment. In 1820, he introduced six bills embodying the recommendations of the committee, only three in which became law. The Lord Chancellor, Lord Eldon, secured an amendment to keep the death penalty for stealing to the value of more than £10. On the 21 of May 1823, Mackintosh also promoted further nine proposals to Parliament for abolishing the punishment of death for less serious crimes. In 1823, the Judgment of Death Act was enacted.

The latter abolished the obligatory death penalty by giving judges the judgment to reduce directly the compulsory death sentences for crimes other than treason and murder to lesser punishments of imprisonment or transportation. The death sentence was still recorded, but the defendant was treated as having been reprieved.

The Act of 1832 reduced the number of capital crimes to around 60. Between 1832 and 1837, Sir Robert Peel's Government introduced various bills to reduce the number of capital crimes. Shoplifting, and sheep or cattle and horse stealing were removed from the list in 1832, followed by sacrilege, letter stealing, forgery and coining arson, burglary and theft from a dwelling house, rape, and finally, attempted murder in 1861. By 1861, the number of capital offences had been reduced to just four by the Criminal Law Consolidation Acts of that year. These offences were murder, high treason, piracy with violence, and arson in the Royal Dockyards.

#### **I.4.The Reforms of the Death Penalty**

During the 18<sup>th</sup> and the early 19<sup>th</sup> centuries hanging was the common punishment for several crimes not only for killing some body's life that punishment led the number of crimes to be reduced more than it was before. In order to avoid the death penalty there were reforms among them the abolition of hanging for people under the age of 16 in 1908. Moreover, in the 1930s opposition to capital punishment was led by a rich lady whose name Violet Van der Elst. She wrote a book about the subject named "On the Gallows" in order to get rid of capital punishment.

##### **I.4.1.The Infanticide Act1922:**

The Infanticide Act 1922 was another reform to avoid the death penalty; it stated that the killing of a newborn baby by his mother is not considered as a capital crime anymore. To explain more, one of the famous crimes in Great Britain was infanticide during the 18<sup>th</sup> century, the offenders were usually women who became pregnant outside marriage, and were obliged to take care of their babies alone without support, neither monetary nor moral. Therefore, single mothers killed those children through poison, throw in streams, rivers and so on, and because of that they were hanged due to their crime. Nevertheless, in 1938, This Infanticide Act of 1922 was amended to eradicate the death penalty for women who killed their babies during their birth. It was stated on the chapter 36 of the infanticide act 1938 that: " ...but At the time of the act or omission the balance of her mind was

disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child."<sup>2</sup>

This means that women who practiced infanticide were not going to face the death penalty anymore because they were under the shock of being expectant, and factors such as the disturbed mental state of a new mother were permitted to provide a partial defense to a murder charge. Statics declared that seventy-nine women were hanged between 1735 and 1799, and more than nineteen between 1800 and 1834 because of doing such crime, and until the declaration of the Infanticide Act the number of hanging women was reduced.

#### I.4.2.The Children and Young Persons Act 1933:

After the Children Act of 1908, the Children and Young Persons Act 1933 was introduced, in which all the available laws for protecting children of the United Kingdom of Great Britain were united into one act. This latter banned the death punishment by execution for people under the age of 18; it means that the legal age of execution was 18 while it was 16 before 1933.

Moreover, it has different parts to take care of children, and which are still in power today. The first one among them claims with prevention of cruelty and exposure to moral and physical danger, the second one is about employment of children, it made the age 14 as the authorized age for working. Furthermore, the third one concerned with the protection of children and young persons in relation to criminal and summary proceedings, the last one is remand homes, approved schools, and persons to whose care children and young arsons may be committed.

#### I.4.3.The Royal Commission (1949-1953):

The Second World War and the Holocaust of the Germany Nazi were two main reasons for the loss of life; they also contributed in changing the thinking of the members of Parliament who were elected in 1945. For instance, the former Labour Prime Minister Lord Callaghan of Cardiff wanted to stop hanging, he stated that:

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<sup>2</sup> Carol, Henshaw et al., *Modern Management of Perinatal Disorders*. (RC Psych Publications: London, 2009), pp.61-62.

Carried a formidable armoury that convinced many of us just back from the war in the late 1940s that hanging should go. I cannot say that, until then, hanging had impinged on my thinking, and it was only when I reached Parliament in 1945 and was confronted by the need to take a position, that I concluded that hanging should be abolished. In the debates of 1948, I voted for abolition for the first time and, after that decision, did so steadily thereafter, whenever the issue came before the House.<sup>3</sup>

The United Nations issued the Universal Declaration of Human Rights in 1948, and in 1950 Britain adopted the original European Convention on Human Rights. By April 1948, a bill was introduced by Sidney Silverman, and which was voted in favour by the House of Commons to delay the death penalty for five years. The Labour Home Secretary, James Chuter Ede declared that, all murderers would be reprieved by him till the future of the bill was set on.

No execution was between March and October 1948, but in the late of this year the bill was refused by the House of Lords, and in November 1948; it was decided by the Home Secretary to set up a Royal Commission under the chairman, Sir Ernest Gowers, in order to study all the subject of the death penalty. Therefore, on the 20 January 1949, there was an announcement by the Prime Minister Clement Atlee to parliament that The King has been pleased to agree on the setting up of a Royal Commission on Capital Punishment under Sir Ernest Gowers as the chairman of the Commission with the following expressions:

To consider and report whether liability under the criminal law in Great Britain to suffer capital punishment for murder should be limited or modified, and if so, to what extent and by what means, for how long and under what conditions persons who would otherwise have been liable to suffer capital punishment should be detained, and what changes in the existing law and the prison system would be required; and to inquire into and take account of the position in those countries whose experience and practice may throw light on these questions.<sup>4</sup>

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<sup>3</sup> Brian, Block . Hostetter, John. *Hanging in the Balance: A History of the Abolition of Capital Punishment in Britain*. (Waterside Press. Winchester, 1997),pp.7-8.

<sup>4</sup> Julian B. Knowles. *The Abolition of the Death Penalty in the United Kingdom: How it Happened and Why it Still Matters*.(The Death Penalty Project,2015),p.20.

To explain more; the Commission was concerned with whether the capital punishment should be limited or modified, and not requesting for the abolition of the death penalty. It can be said that the abolition was an issue for parliament not the concern of the Royal Commission, and this was not what the worktable that the Labour wanted.

The Commission consisted of ten men and two women. It had 63 meetings over four years at Carlton House Terrace in London, it included people who have experience on the field of the death penalty such as judges, medical officers, prison governors and chaplains, employees and also hangman Albert Pierrepoint. Moreover, it went to ten British prisons, plus Broadmoor hospital, and different jails in the countries of Europe and in USA in order to study the methods that were practiced toward the offenders. The Commission's report was too long; it contained more than 500 pages, in addition to that; 200 pages were particular just for statistical tables and diagrams.

A large time was passed by the commission investigating on the law of murder in England, Wales and of course in Scotland which was a little bit different from the previous mentioned countries.

The commission's report includes five proposals in order to change the law of murder; started by the abolition of the doctrine of constructive malice; this latter was studied profoundly. Those two sentences affirm the main things that were discussed on the constructive malice: "we have no doubt that, as a matter of general principle, persons ought not to be punished for consequences of their acts which they do not intend or foresee. The doctrine of constructive malice clearly infringes this principle....".<sup>5</sup>

#### I.4.3.1. Constructive Malice:

The concept of constructive malice means if a person is killed during the charge of another criminal act, e.g. a theft or resisting legal detain, the offender can be guilty of murder although he or she may not have really began to kill ;in other expression the murder was not planned. So, the Royal Commission suggested the abolition of constructive malice and this recommendation was definitely established by the Homicide Act of 1957 which is going to be studied later on in more details.

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<sup>5</sup> Melvin F, Wingersky. Report of the Royal Commission on Capital Punishment (1949-1953): A Review. Article 1. *Journal of Criminal Law and Criminology*. Volume 44. Issue 6 :( March, April, 1954), p.702.

#### I.4.3.2.Provocation:

The second offer in the Royal Commission is that the law should be amended to enable a jury to return a verdict of manslaughter where they are satisfied that the accused was deprived of his self-control by provocation and that a reasonable man might have been so deprived, notwithstanding that the provocation was by words alone; it means that the extension of provocation to cover simple words; it means that, during the studying of the law of killing that has a relation with provocation there was a result, which determined that provocation should be expanded to have both kinds of provocation; the verbal and the physical one Furthermore, the jury who takes the decision about the provocation if it was proved ,it would be permitted to bring in a verdict of guilty of manslaughter rather than murder, as it was stated on the report:

Where the jury are satisfied that the accused killed the deceased upon provocation, that he was deprived of his self control as a result of that provocation and that a reasonable man might have been so deprived, the nature (as distinct from the degree) of the provocation should be immaterial and it should be open to them to turn a verdict of manslaughter.<sup>6</sup>

#### I.4.3.3.The Alteration of the Law Relating to Suicide Pacts:

The third suggestion was Aiding or abetting, suicide should no longer be treated as murder, but should be made a substantive offence punishable with imprisonment for life or for any lesser term, in other meaning; changing the law that is related to suicide deals by the permanent sentence of life or by other means.

Infanticide act was another area that was investigated in, The Commission was against excusing women from the death penalty, it also recognized that the percentage was very high (90%) when reprieving women .So, for that it suggested that the death penalty should be kept for women who found guilty.

#### I.4.3.4.Raising the Minimum Age of Death from 18 to 21:

Any person under 21 years convicted of murder at the time of doing a crime is not going to face the death penalty, in other expression; the parliament introduced four bills just to

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<sup>6</sup>Melvin F, Wingersky.*Op.cit*, p.703.

rise the legal age of the death sentence from 18 to 21 years and the commission also agreed on this idea.

#### I.4.3.5.The Abolition of M' Naghten Rules:

The last offer that was suggested by the Royal Commission was about the abolition of M'Naghten Rules that is related to insanity, to explain more; the history of the death penalty which is related to the persons who have mental disease is traced back to the case of Daniel M'Naghten who murdered the private secretary Edward Drummond of the prime minister Sir Robert Peel who was intended to be killed on the 20 th January 1843. The killer was freed from the crime by the adjudicators who found him insane. But this decision was a reason for both: the Lord Chancellor and Lord Lyndhurst to make a great discussion in the House of Lords about the responsibility of crime in 1843.this decision prepared for the M'Naghten Rules on insanity which declared that: in order to establish a defence on the ground of insanity, it must clearly be proved that, at the time of the committing of the act, the party accused was labouring under such a defect of reason, from disease of the mind, as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know he was doing was wrong.

The M'Naghten Rules also proposed that, whenever a person had a mental disease that he could not control, he is not going to be responsible for doing a crime. For example: the situation of young mothers who killed their children; Under M'Naughten Rules if they could be known that their action was immoral they would have been guilty for doing it. On the other hand, the report of the royal commission stated to the insanity verdicts about the previous mentioned case that, killing is something that they knew to be false but something they were motivated to do by a tempting urge.

Insanity is the state of being madness; insanity was defined on the report as it follows:

Insanity, as a word, is here used to describe a state where the patient is suffering from a major mental disease (usually a psychosis) to such a degree that restriction of his liberty is justified in his own or in the public interest" and he can thereupon be restricted pursuant to the Lunacy Acts. Since the phrase "of unsound mind" is not used by medical men it found no place in the Report. The meaning accorded "responsible" lies in the query pertaining to a particular person, i. e., "ought he to be punished, whatever the existing law may be?"<sup>7</sup>

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<sup>7</sup> Melvin F, Wingersky. Report of the Royal Commission on Capital Punishment (1949-1953): A Review. Article 1. *Journal of Criminal Law and Criminology*. Volume 44. Issue 6 :( March, April, 1954), p.705.

What can be said; is that persons who have insanity cannot be punished as Netherlands added that no punishment may be imposed on a person who commits an act for which he cannot be held responsible because of backward development or morbid disturbance of his mental faculties.

The Commission suggested recommendations, it saw the M'Naughten Rules imperfect and the law must be changed, in addition to that, the jury is supposed to make the decision about the sanity of the criminal during the time of doing the act plus that in order to abolish the rules the law must be changed.

The Commission also visited other countries in order to see the various types of the death penalty and to look for a change to the technique that is used in Great Britain which is hanging. So, it saw shooting but this latter was not appropriate because it is considered as a direct death, the guillotine also was neglected for the reason that it damages the body of the criminal, the British Medical Association was against injection because it was seen inhuman by the Commission. Moreover, this latter examined jails that is situated in the USA to study both gassing and electrocution and it found hanging better than any system of execution because it is very quick and even clean.

There were propositions by the report such as; it must be two persons to execute, one executioner and the other his helper, burning the dead body rather than buried it in the floor of the jail. Then, the obligatory psychiatric examination for the persons who were going to face the killing, and develop the procedures of execution. therefore, the jailbirds were removed from the rope and no longer left hanged because before their neck was stretched for a long time after their death.

In brief, the report of the Royal Commission was published in September 1953, it contained about 506 pages, moreover it was a reason for some changes in the system of the death penalty in which it forbade the capital punishment for certain situations.

#### Conclusion:

All in all, the death penalty was a famous phenomenon that faced Great Britain, this latter saw hanging as the main method of execution for many years. Therefore, hanging led to the appearance of different reforms which caused a public support for abolition of capital punishment.

## **Chapter Two**

## **Chapter Two**

### **Abolition of the Death Penalty**

This chapter sheds light on the abolition of capital punishment that caused several murders; it first tackled the Bill of the Death Penalty which paved the way for the Homicide Act of 1957; this one classified murder into capital and non capital. Later, it discusses some cases that were apparent at that time and mainly which led to the Murder Bill of 1956.

#### **II.1.The Death Penalty (Abolition) Bill:**

The main factor that led the abolitionists to have control of the House of Commons over the retentionists was the emergence of the National Campaign for the Abolition of Capital Punishment (NCACP), which was created in 1955. Gerald Gardiner and Victor Gollancz were two powerful leaders for the NCACP. The latter influenced the abolitionist through his contacts to organize public meetings, he was a publisher and a campaigner, and he also circulated abolitionist books and pamphlets through his company of publishing while Gerald Gardiner was a prominent lawyer in the Supreme Court.

Investigation was undertaken by the Howard League for Penal Reform that the NCACP worked alongside with. The works of politics and the distribution of information was the main focus of the NCACP. This latter had the intention of strong support by Harold Wilson whose government saw the abolition of the death penalty, the prominent Conservative Member of Parliament Julian Critchley, and Jeremy Thorpe the leader of the Liberal Party.

The NCACP worked with many abolitionist MPs in order to make campaigns in public and mainly to inform people about the importance of abolition in general. Moreover, it believed that a civilized society must not contain capital punishment; Sydney Silverman was one among those MPs who introduced the Death Penalty (Abolition) Bill to the House of Commons in November 1955 as a revenge from the decision of the conservative government that was never accepting the recommendations of the Royal Commission, but it was passed by the House of Commons in February 1956 in order to stop or abolish the death penalty in Great Britain.

The government was in a very embarrassed situation, it chose to find time for Silverman's Private Members' Bill because this choice would allow the government to crush the Bill and never leave it rising in the Lords; who were expected to vote in line with

the public opinion, and to avoid supporting the bill of abolitionists; It means that this decision weaken the bill and strengthen the government, the Bill failed and capital punishment continued in the United Kingdom. All in all, the government introduced its own bill which became the Homicide Act 1957 passed into law contrary to the precedent.

## II.2. The Homicide Act 1957:

The Homicide Act of 1957 is an act of the Parliament of the United Kingdom; its origins traced back to the Royal Commission on Capital punishment 1949-1953, on 21 March 1957 this act received the Royal Assent and became a law, it also attempted to make a distinction between the different types of murder. The Homicide Act can be divided into distinct parts:

### II.2.1. Amendments of Law of England and Wales as to Fact of Murder:

#### II.2.1.1. Abolition of Constructive Malice: It took two forms:

Where a person kills another in the course or furtherance of some other offence, the killing shall not amount to murder unless done with the same malice aforethought (express or implied) as is required for a killing to amount to murder when not done in the course or furtherance of another offence. This section means that; a killing does not amount to murder except when it is done with malice aforethought expressed or implied by law. Moreover, this section is designed to eradicate the felony murder rule as it was activated in England.

For the purposes of the foregoing subsection, a killing done in the course or for the purpose of resisting an officer of justice, or of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from, legal custody, shall be treated as a killing in the course of furtherance of an offence. i.e., under the doctrine of constructive malice; trying to escape from a legal arrest or custody usually amounted to murder.

#### II.2.1.2. Persons suffering from diminished responsibility:

The Homicide Act 1957 created a partial defence of diminished responsibility; this partial defense reduced murder to manslaughter; i.e., whenever the accused person was suffering from an abnormality of the mind during the practice of killing is not going to be convicted of murder, and the burden of proof is on the accused person to confirm that he was suffering from diminished responsibility.

### II.2.1.3.Provocation:

Section three of the Homicide Act 1957 made some changes about the ordinary law of provocation.

Where on a charge of murder there is evidence on which the jury can find that, the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury; and in determining that question the jury shall take into account everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.<sup>8</sup>

It means that provocation didn't lead only the accused to lose his self control but also would lead the reasonable man to lose his self control; here the jury decides whether the provocation was in fact enough to act on a reasonable person, and whether the accused did in fact act under its stress. Moreover, the Homicide Act looks for amendment of the law by leaving both questions to the jury, and at the same time removing the restriction that words alone cannot be a sufficient provocation.

### II.2.1.4. Suicide Pacts:

Suicide pact means a common agreement between two or more persons who have the intention to be died all of them. "It shall be manslaughter, and shall not be murder, for a person acting in pursuance of a suicide pact between him and another to kill the other or to be a party to the other killing himself, to be killed by a third person"<sup>9</sup>. To explain more; this section decreased the murder to manslaughter where the survivor is the other person who took part in the killing of another person in the pact, or was a party to that other person being killed by a third person.

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<sup>8</sup> Ronald H., Maudsley. *Developments in the English Law of Homicide*.(University of Miami Law Review: Institutional Repository,1960), p.369.

<sup>9</sup> Graham, Hughes. The English Homicide Act of 1957: The Capital Punishment Issue, and Various Reforms in the Law of Murder and Manslaughter. *Journal of Criminal Law and Criminology*.Volume 49.Issue 6 Article 1(March, April, 1959), p. 529.

## II.2.2. Liability to Death Penalty:

### II.2.2.1. Death Penalty for certain Murders:

It is considered as the fifth section in the Homicide Act 1957, it made the following murders capital murders:

- Any murder done in the course or furtherance of theft.
- Any murder by shooting or by causing an explosion.
- Any murder done in the course or for the purpose of resisting or avoiding or preventing a lawful arrest, or of effecting or assisting an escape or rescue from legal custody.
- Any murder of a police officer acting in the execution of his duty or of a person assisting a police officer so acting.
- Murder of a prison officer acting in the execution of his duty, or of a person assisting a prison officer so acting, by a person who was a prisoner at the time when he did or was a party to the murder.

II.2.2.2. Death Penalty for Repeated Murders: this section required the death penalty for any person convicted of two murders.

II.2.2.3. Abolition of Death Penalty for other Murders: the lasting murders were punished with a compulsory life sentence.

Briefly; the 20<sup>th</sup> century saw the Homicide Act 1957 as the most important restriction which represented the beginning of the end of capital punishment in Great Britain, this Act has greatly enlarged the area of the crime of manslaughter in England, but it led to problems when it classified murders into capital and non-capital offences.

## II.3. Mysterious Executions: Controversial Cases:

There can be little doubt that the abolition of the death penalty in the United Kingdom was finally achieved in significant part because of public disquiet over three executions in the 1950s, namely those of Timothy Evans in 1950, Derek Bentley in 1953, and Ruth Ellis in 1955. Each case raised different

concerns but, taken together, they made the case for abolition in a way that purely theoretical and moral arguments could not<sup>10</sup>.

Timothy Evans and Derek Bentley were two controversial cases; it paved the way for the abolition of the death penalty in Great Britain through the public support for these two cases.

### II.3.1. Timothy Evans:

He was a Welsh born in the town of Merthyr Tydfil on 20 November 1924. He had a tubercular sore on his right foot. Evans was an illiterate lorry driver from South Wales; he met Beryl Thorley who became his wife on September 20<sup>th</sup> 1947 in the Notting Hill area. The couple moved into a new top floor flat at 10 Rillington Place where they met their new neighbours John and Ethel Christie.

In October 1948, Beryl gave birth to the first daughter whose name is Geraldine Evans. The relationship between Timothy and Beryl was troubled somehow. So, by the time Beryl found herself pregnant again, although abortion was illegal at that period but it was the only choice that the married pair wanted to go through because they were suffering financially.

The neighbour Christie suggested doing the abortion, relying on his first aid skills. One day in November 1949, while Evans was at work, Christie assaulted Beryl and strangled her, after that he raped her dead body. Moreover, he concealed her body in the washhouse at the back of the house. After Evans' coming back from work, Christie informed him that Beryl had died during the abortion.

Evans turned up at Merthyr Tydfil police station on the 30<sup>th</sup> of November, he declared that his wife had died after he had given her some mixture to abort the baby, and assumed that he had disposed the body of his wife in a drain outside the house, but when the police looked for the region nothing was found. Therefore, he altered his story stating that Christie had decided to do an abortion for the wife, in addition to that Beryl had died during the procedure, and after his return to his house he was told by Christie that his wife had died, he was also told that his daughter would stay with a couple known by him, and didn't allow him to see her advising him to leave London.

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<sup>10</sup> Julian B. Knowles. *The Abolition of the Death Penalty in the United Kingdom: How it Happened and Why it Still Matters*. (The Death Penalty Project, 2015), p. 32

After a second search Beryl's body was found wrapped in a cloth in the wash house at the back of 10 Rillington Place beside her there was the body of Geraldine. Timothy Evans was asked if he had killed his wife and child. He replied "Yes". It was later exposed that much of his confession was actually dictated to Evans by police investigators, and there was an almost total lack of forensic evidence. During the trial of Evans for the murder of his daughter on the 11<sup>th</sup> of January 1950, Evans claimed that Christie had committed the murders, but Christie testified against Evans, arguing against all the claims about offers of abortion, he also gave an evidence that there was fights between Evans and Beryl, Evans was hanged on 9 March 1950 by Albert Pierrepoint at Pentonville Prison.

Three years later the bodies of six dead women were discovered in Christie's flat and backyard, including that of his wife. Christie was arrested and confessed. He also admitted to the murder of Evans' wife, but he denied murdering his baby. He plead guilty but insane, but was found guilty and sane, and was hanged in June 1953.<sup>11</sup>

After three years (1950-1953); the police discovered about six dead bodies of women hidden under floorboards and in the wash house. In late 1952; Christie killed his wife Ethel and during his trial he confessed that he killed Evans' wife, he admitted to the crimes and was executed in July 1953. Therefore, during his trial an inquiry into what was termed a "possible miscarriage of justice" upheld the guilt of Timothy Evans And was granted a royal pardon in October 1966 but after the second inquiry.

All in all, Evans' case was one of the cases that led for public support for abolition and it

remains one of the most terrible miscarriages of justice ever.

### II.3.2.Derek Bentley:

Derek Bentley was born in 1933; he was an illiterate young person suffering from health problems mainly mental ones. On Sunday the second of November 1952, Bentley and his friend Christopher Craig (16 year old) went to rob the warehouse of the Barlow & Parker; Craig was armed with a gun, whereas Bentley was given by his friend a knife and a knuckle duster. When Craig and Bentley were seen by a lady on the roof of the warehouse the police were called, and sooner the nearest cop arrived to the right place; the two guys

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<sup>11</sup> Neville, Twitchel. *The Politcs of the Rope: The Campaign to Abolish Capital Punishment in Britain 1955-1969*. (Arena Books: Bury St.Edmunds, 2012), p.32.

attempted to escape but DC Fairfax , a detective constable, caught Bentley; Craig shot Fairfax on the shoulder, and Bentley was hold by Fairfax for a second time. After few minutes a crowd of police officers had arrived; the first one to reach the roof was called PC Sidney Miles who was killed by a shot through the head, moreover during the shooting Bentley was heard that he had said Let him have it, Chris, and Craig threw himself from the roof where he broke his back and wrist.

In 1952, the two teenagers were accused with the murder of PC Miles, and their trial was in front of the judge Lord Chief Justice, Lord Goddard at the Old Bailey. Craig was sentenced for 10 years because he was less than 18 years and must not face the death penalty, while Bentley was sentenced to death because he was 19 years old. Although the defence stated that Bentley had a retarded mental, and he was captured by the officer at the time of shooting, but Bentley was executed because of being a part of the murder, moreover his famous expression led the case turned against him “Let him have it, Chris”; it was mainly as an evidence provided by the police officers claiming that he was encouraging his friend to shoot.

there was an appeal to the Court which was made by around 200 Members of Parliament in order to reprieve the execution and calling for mercy, but unfortunately the appeal was dismissed on 13 January 1953, and although people crowded outside Wandsworth jail in order to support Derek Bentley who was a victim of the miscarriages of justice at that time, Bentley was hanged at 9:00am on 28 January 1953 at HMP Wandsworth by Albert Pierrepoint.

“In 1993 Derek Bentley home secretary Michael Howard granted Derek Bentley a posthumous pardon on the grounds that the decision to carry out the grounds that the decision to carry out the death penalty was clearly wrong”.<sup>12</sup> After the execution of Bentley his family continued its defence to prove that he was innocent; mainly in 1993, the victim was given a pardon by the Secretary of State, and in 1997 his case was referred to the Court of Appeal by the Criminal Cases Review Commission. In 1998 the Appeal Court abolished Bentley's conviction stating that the judge was unfair; as well as he led the jury take a wrong decision.

## II.4.Britain's Last Hangings:

### II.4.1. Ellis Ruth:

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<sup>12</sup>Lizzie, Seal. *Capital Punishment in Twentieth Century Britain: Audience, Justice, Memory*.(Roultdedge,2014), p.158.

Ellis was a beautiful lady (28 years old) and a mother for two children. She went to London in order to look for a job; she became a hostess of a nightclub which made her life unorganized because of several relations with different categories of people. In 1953 Ellis was the new manager for the nightclub, and during this time she met lover Blakely. The latter was a drinker, aggressive and selfish.

Blakely lived with Ellis in her home, but their relationship was troubled because Ellis started visiting and seeing a lot of people, and due to the jealousy of Blakely, he hit her on the stomach which led her bedridden, as a reason of her illness he became kind, and they agreed to spend the weekend together, so he left her in the flat by giving her a promise to be back on that day. The problem was that he didn't return, but she went to the place that she supposed to find him in, Hampstead, as she reached the place she saw him getting outside with his friend Clive Gunnell, Blakely had made a big mistake when she call on him while he ignored her when she talked to him, Ellis was armed with a gun she shot on him 5 bullets, only four killed him immediately.

The 28 year old nightclub hostess, Ruth Ellis was hanged in 1955 for

shooting and killing her former lover, racing driver David Blakely. She was the last women to be hanged in Britain and at her trial at the Old Bailey the judge, Sir Cecil Havers, barred the jury from considering whether she had committed manslaughter following severe provocation.<sup>13</sup>

A police officer who was off duty detained Ellis; this latter confessed to the police that she killed Blakely, and due to that she was accused with the murder. Her trial was in front of Havers J., and she was defended by Aubrey Melford Stevenson QC at the Old Bailey.

Ellis was asked about her intention during shooting; she replied that she planned to kill Blakely, therefore the jury took provocation as evidence to Ellis case who didn't appeal her conviction, moreover she was executed on 13 July 1955 at HMP Holloway by Albert Pierrepont, and was as the last women to be hanged in Great Britain.

#### II.4.2. Gwynne Evans and Peter Allen:

Gwynne Evans and Peter Allen were the last people to be hanged in the United Kingdom. The latter was married to Mary (21 years) whom he had with two children, they

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<sup>13</sup>John, Hostettler. *The Colour of Injustice. The Mysterious Murder of The Daughter Of A High Court Judge.*(Waterside Press: Hook,2013), p.142.

lived in Preston, Lancashire, Evans lodged with them, he was 24 years old known as Ginger and also Sandy due to the colour of his hair.

Allen required money to pay a tax in Clarendon Street and also to pay a fine. So, Evans worked with John West, a 53 years old man, at the Lakeland Laundry, the two guys wanted to visit him and lend some money. So, they had stolen a car on the evening of Monday in the 6<sup>th</sup> April 1964 to go to Cumbria, the 7<sup>th</sup> April they arrived to the house of West, only Evans entered, he was welcomed. Evans said that West invited him to have sex with because he was homosexual; Evans stated to Police that he said no telling him that he has a friend waiting outside and he asked him for £10, but West summoned him into his bedroom in order to get back something from a storeroom.

Mr. and Mrs. Joseph Fawcett were the neighbours of West, they heard a noise and thumps on the mid night coming from outside, as a result of that Mr. Joseph looked from his bedroom's window; he saw a car going away, he went to explore what was going but there was no reply from West's home. So, he ran to another neighbor who had a phone in order to call the police saying that he saw the body of a man lying on the floor at the foot of the stairs, and there was a big amount of blood on the ground and of course the man was absolutely dead.

Mr. West was bitten to the head with a metal pipe and with a knife in the left side of his body mainly in the heart. Dr. Faulds who examined the body of the victim Mr. West's found thirteen individual wounds, as well as serious head injuries. There were six grazes to the face and upper body, and six hurts elsewhere. The doctor stated that Mr. West had died due to the shock, and mainly bleeding as a result of the stab which was on the heart and the different wounds.

The police found the coat that was for Evans who missed it unwisely in Mr. West's bedroom, they realized it doesn't fit the body of West, and during looking for evidences they found inside the pockets of the raincoat a medallion inscribed with G. O. Evans. Moreover, they had found a paper written on it an address of a lady named Nora O'Brien in Liverpool. Therefore the police interviewed her; she recognized the medallion and gave them the full name and the right address of Evans whom she had met in Preston.

Under the Homicide Act 1957 not all murders were capital offences but murder committed in the furtherance of theft, among others, was, and Allen and Evans had stolen from their victim. The jury had heard evidence from 40 witnesses and the judge told them that three verdicts were possible: not

guilty; guilty of capital murder, guilty of murder, and pointed out that at the heart of the case was the problem of who committed the murder- was it Allen or Evans, or was it both?<sup>14</sup>

Those two criminals withdrew £10 in Liverpool by stealing the bank books of West, they returned to Preston. The police found the stolen car in Ormskirk full of prints that traced back to Allen and Evans. In addition to that, the knife was also found full of blood group 'A' as Mr. West's blood. On the 8<sup>th</sup> of April both, Peter and Evans, were arrested the latter was found with Mary possessing a watch that was imprinted in it J. A. West. This watch was awarded by the Laundry to the victim 25 years ago, whereas Evans claimed that he had bought it earlier in that day. Allen was under arrest in Preston and had been taken to Workington for interviewing.

Evans confessed that they were going to Mr. West's home only to borrow money; he also denied whipping the victim and put all the responsibility on his friend Allen for the attack. Therefore, both of them were charged with the murder.

From the 1st to the 7th of July 1964 both of them were tried at Manchester in front of Mr. Justice Ashworth, The prosecution was led by Joseph. D. Cantley Q. C., helped by J. Bamber and the defence by S. G. Nance, J. Naylor, G. W. Guthrie Jones and Morris Jones, the two murderers blamed one another in trying to escape from the gallows.

After a discussion and debates lasted for three hours and quarter, the jury which consisted of nine men and three women agreed on the decision that both guys were guilty of capital murder of John West in the case of robbing him in his house under the 1957 Homicide Act, and Mr. Justice Ashworth sentenced them to suffer death in the manner prescribed by law.

On Thursday the 13th of August 1964 at 8:00 am; Peter Allen was hanged at Walton prison by Robert Leslie Stewart assisted by Harry Robinson Liverpool and Evans was hanged at the same moment in Strangeways prison in Manchester by Harry Allen, aided by Royston Rickard. During the last visit by Mary, the wife of Allen, He threw himself angrily at the glass partition that was between them, breaking both the glass and his hand, when he was led to the gallows the next morning, his hand was still in a bandage, and during his last moments of life while the rope was dangling over the trap doors he cried "Jesus" as the last word in his life.

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<sup>14</sup>Brian P, Block. John, Hostettler. *Hanging In The Balance : A History of the Abolition of Capital Punishment In Britain.* ( Waterside Press: Winchester,1997), p.11

All in all, those two accused men were the last persons to be hanged in Great Britain; but they were unlucky because two months later capital punishment was suspended for five years.

#### II.5. The Murder (Abolition of the Death Penalty) Bill 1965:

After the coming of the new Prime Minister Harold Wilson in 1964, there were some moves in order to abolish the death penalty, the Member of Parliament Sydney Silverman was given the duty to introduce a private member's bill. After a long debate including the Royal Commission, the Homicide Act and the controversial cases the Murder (Abolition of the Death Penalty) Bill 1965 received the Royal Assent on 8 November 1965.

The Murder (Abolition of the Death Penalty) Bill 1965 is an act of the Parliament of the United Kingdom which suspended the death penalty for murder in Great Britain for five years; it started in the ninth of November 1965. This act changed the punishment of death with a mandatory sentence of life, moreover the act left murder for four other capital crimes; piracy with violence, high treason, arson in royal dockyards and espionage and capital offences under military law.

Two important amendments were made to it in its passages through parliament. The first of these was designed to secure for the act an experimental character, and provides that the act shall expire on 31 July 1970 unless both houses of parliament resolve otherwise. The second amendment was designed to restrict the Home Secretary's powers to determine the length of imprisonment to be served by those convicted of murder and sentenced to imprisonment for life.<sup>15</sup>

The parliament had put two essential amendments for the act; the first one claimed that the act should be qualified for five years unless both houses (Lords and Commons) voted to leave it lasting. i.e.; until July 31, 1970 the act is no more active, whereas the second amendment limited the powers of the Home Secretary to the Lord Chief Justice and the Trial Judge primary in releasing the period of sentence for persons convicted of murder.

After the period of experiment that lasted around five years was passed, time came to return the death penalty as it was approved before the suspension, but since the act was

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<sup>15</sup>H.L.a,Hart.*Punishment and Responsibility: Essays in the Philosophy of Law.*(Oxford University Press,2008),p.248.

successful and reduced several murders by imprisonment for life, it continued to be “permanent abolition”. This latter took place on 16 December 1969 as a result to certain factors; MPs gained a majority of vote for the abolition, and the public support for the controversial cases of Timothy Evans and Derek Bentley who were victims of the miscarriages of justice.

#### Conclusion:

All in all, the death penalty was abolished after the public support for the controversial cases; the long campaigns and the introducing bills of the MPs and before the attempts to restore capital punishment to be discussed in the following chapter.

## **Chapter Three**

## **Chapter three**

### **Failure to Restore the Death Penalty**

This chapter sheds light on the public support for the death penalty after the 1965 Murder Act, moreover it focused on the parliament debates which ended by rejecting the whole votes for the restoration of capital punishment, it also tackles the most important arguments that is alongside with the death penalty and at last it focuses on the international law that obligates Great Britain to avoid the death penalty forever.

#### **III.1. Attempts to Restore the Death Penalty:**

##### **III.1.1.Public Support for the Death Penalty in Great Britain:**

After the suspension of the death penalty in 1965 by the MPs, public opinion had risen and asked for the restoration of the death penalty as a result of several cases:

The moors murders were the first reason that led people to support the reintroduction of the death penalty in 1966. These murders moors were done by two persons; a man named Ian Brady and a lady called Myra Hindley in a period that lasted around two years mainly in England. These two persons had killed five children in the Manchester area, their ages wobble between 10 and 17 years; those victims were buried in low graves in order to avoid any evidence for the police.

The second case was the massacre of killing three police men; they were killed by Harry Roberts and two persons mainly in 1966, those three criminals were sentenced to life imprisonment.

Yorkshire Ripper was another reason for demanding the restoration of the death penalty where Peter William Coonan, known as a serial killer, killed 13 women and attacking seven others in the North of England.

Those criminals were all sentenced for life imprisonment as a result of abolishing the death penalty for five years, and led the public to support the death penalty because they

wanted to conserve the supreme penalty; in addition to that they thought that life imprisonment was too insignificant for those who took the life of others.

“Many people felt they were deprived of a basic right because they were not given the opportunity to register their opinions through a referendum or through inclusion of the question of abolition as an issue in a General Election”<sup>16</sup>. This means that People felt that they were totally ignored; because they were not invited to give their opinion about the question of abolition in the general elections. Therefore, after the Murder Bill’s passage crimes became apparent through terrorism and bombing which raised the public fear and worry.

Through time capital punishment was abolished in 1969 for permanent, it was primarily discussed as a part of the Criminal Justice Bill. In the 1970s there were retentionists from the public for the abolition of the death penalty, they emphasize on two important issues that were the murder through acts of terrorism, and secondly the murder of police officers. In this latter, retentionists had focused their efforts to retain capital punishment over the past few years, whereas the first one turned out to be the most popular center of attention of the retentionists’ campaigns.

After the abolition of capital punishment for ever in December 1969, a group of people started asking for the restoration of the death penalty for people who assassinated police officers in the course of their duty. Those people were mainly the wives of policemen who made a campaign by forming the Police Wives’ Action Group, in addition to that they didn’t highlighted just the danger that faced the police officer, but also the shock or we can say the impact on his family as being the father or the husband, numerous attention was given to this campaign by the media in the beginning of the 1970s, but this was not optimistic because of Mrs Athlene O’Connell who was accused of being a member of the a Right-Wing Extremist, and of Wandsworth Council. As a result of that the Police wives vanished from the public observation.

### III.1.2.The Parliament Debates:

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<sup>16</sup> Carol A, Ransone. *Capital Punishment: Public Opinion and Abolition in Great Britain During the Twentieth Century*.( University Of Richmond UR Scholarship Repository :Virginia ,1982),p.43.

In the middle of the 1970s, conservative politicians started calling for the restoration of the death penalty for the terrorist killers which lasted till the 1990s. Terrorists killed directly innocent people whom they do not know; moreover they caused horrors and annoyance for the British popularity, and according to retentionists they must face the death penalty, Jill Knight provided an amendment calling for applying the execution for the terrorists but her amendment was defeated. The table below shows the number of votes:

Groups	Retentionists (yes)	Abolitionists (no)
Votes	217	369

**Table 01: The Votes of the Jill Knight's Amendment**

After certain period the conservative Member of Parliament Edward Taylor introduced a bill in April 1973 in order to summon for the reintroduction of the death penalty for any person kills a police officer or using any kind of weapons as well as explosive arms, but the bill was refused by the former Home Secretary Roy Jenkins and defeated; this table indicates the statistics of vote for this bill:

Groups	Retentionists (yes)	Abolitionists (no)
Votes	178	320

**Table 02: Statistics about the Bill of Edward Taylor**

In 1975, the movement of Ivan Lawrence was also rejected, he stated that the House needs capital punishment for terrorist offences, but the abolitionists were fixed on their idea about abolition. This table is about the retentionists against abolitionists about the movement that was mentioned before:

Groups	Retentionists (yes)	Abolitionists (no)
Votes	232	361

**Figure 03: the Motion of Ivan Lawrence in 1975**

In 1979 the Conservatives won in the general election and the Parliamentary adviser to the Police Federation of England and Wales Eldon Griffiths made a movement declaring that the courts must have the sentence of death penalty, but this motion was defeated more than it was supposed to be which is shown on the table below:

<b>Groups</b>	<b>Retentionists (yes)</b>	<b>Abolitionists (no)</b>
<b>Votes</b>	243	362

**Table 04: the Defeat of the Motion of Eldon Griffiths in 1979**

In 1982, it was seemed as if the Criminal Justice Bill paved the way for capital punishment by giving opportunities for the restoration of certain clauses but unfortunately they were all rejected; the first one stated that any person convicted of killing shall be legally responsible to capital punishment. Secondly; the death penalty must be available for the act of terrorism which causes the loss of human life. In addition to that, the death penalty must be for criminals who murder people through guns and explosives. Making the execution for the killing of a police officer was another article for bringing the death penalty, and the last clause included leaving the death penalty for any offender carrying an offensive arm during a course of theft or robbery. This table shows the statistics of vote between abolitionists and retentionists in 1982:

<b>Groups</b>	<b>Abolitionists (no)</b>	<b>Retentionists (yes)</b>
<b>Votes about The Murder For</b>		
Persons convicted Of murder	357	195
Terrorist	332	176
Persons who use guns	343	176
People who kill police officers	332	208
Persons armed with weapons during the course of theft	331	151

**Table 05: Statistics about the Clauses' Votes to Retain Capital Punishment in 1982**

The new parliament wanted to return capital punishment in a compulsory way because in 1983 different amendments were introduced for the second time. These amendments included movements for certain types of murder; all of them were about providing the death penalty for:

- The acts of terrorism, it was rejected by 245 to 361 votes.
- Killing a police officer during the course of his duties, it was defeated by 263 to 344.
- Murder of a prison officer during the course of his duties, it was refused by 252 to 348.
- Shooting or causing an explosion, and was discarded by 204 to 374.
- The course or furtherance of theft which was also defeated by 194 to 369.

While on 1 April 1987 a new clause was proposed to the Criminal Justice Bill, it suggested the reintroduction of the death penalty for persons who killed people on purpose, but it was rejected by 230 to 342. Moreover, in 1990 new bills were introduced including the previous mentioned clauses and were also rejected, and on 21 February 1994 there was the most recent debate about the reintroduction of capital punishment in which there was a rejection by 159 to 403 for a new clause giving for general reintroduction with power for the Court of Appeal to substitute life imprisonment, and police murders by 385 to 188.

During the period that saw the start of the abolition from 1965 till 1994; 13 attempts were hold in the Parliament in order to reintroduce capital punishment, but unfortunately the last vote took place on February 1994 in front of the House of Commons by the method of amendment to the Public Order Bill and the Criminal Justice Bill but it was refused by the House of Commons. The following table shows the statistics of vote:

Groups	Retentionists (yes)	Abolitionists (no)
Votes	159	403

**Table 06: The Last Vote for Reintroduction the Death Penalty**

In each occasion the majority always reject the calling for the restoration of the death penalty in Parliament, moreover in the 1980s and 1990s there were the asking for the

innocence of people who were executed as a reason of the miscarriages of justice as the cases of Derek Bentley and Timothy Evans; These miscarriages played a great role in altering the mentality of the retentionists who called for the restoration of the death penalty, among them the Home Secretary Michael Howard who stated that he had understood that the system of hanging could make errors.

### III.3. Arguments for the Death Penalty:

The supporters of the death penalty argued by providing some arguments which led them confirm that capital punishment is the most appropriate solution for criminals rather than life imprisonment, the main arguments are as follows:

#### III.3.1. Criminal's Inability:

The death penalty brought a big protection and safety for people by murdering awful criminals from the British population; it is better than life imprisonment because this latter may help criminals to escape from jails and continue their horrible works whereas death penalty send them to death and avoid their danger.

#### III.3.2.Price:

The government must spend money on the people including old, young and also the ill persons rather than wasting them on the prisoners just to rehabilitate them instead of executing them.

#### III.3.3.Revenge:

It is an important reason for keeping capital punishment because of the notion of “lex talens” which means an eye for an eye.

#### III.3.4.Deterrence:

the continuation of the death penalty as a possible law discourages others from committing crime, particularly murder, but there is a big question whether the death penalty is deterrent or not, and in order to answer that question there must be comprehension about the situations in other countries mainly in Britain, the United State of America and Singapore:

#### III.3.4.1.The Situations in Great Britain:

From the beginning of the abolition of the death penalty in Great Britain crimes had doubled from 0.68 to 1.42, in 1964 it became as 300, and later rose to 565 in 1994. Those murders were as a result of clashes between persons through shooting, choking, attacks with knives and so on.... A big percent (72%) was given to the young persons and men as being the victims.

From 1900 until 1965 there were a standard of 29 per year, but rapidly after the abolition in 1965 convictions for the concrete crime of murder have been growing inevitably it arrived to 57 per year, and the following years saw the rise to 173 mainly in 1985.

In the first five years of abolition (1965-1969) there was a rise for the crimes (125%) because of the different ways of killing including drug, Stabbings, and kicking or beating people who have done something as minor as arguing with someone or pushing them in a crowd to death (gratuitous killings). This table shows the increase of crimes after the suspension of the death penalty for five years:

Year	Per million population
1965	6.8
1966	7.6
1968	8.6
1969	8.7
1970	8.1

**Table 07: The Increase of Murder from 1965-1970**

#### III.3.4.2.United States of America:

During a period of a larger use of the death penalty the murder rate in the U.S.A moved from 24.562 in 1993 to 18.209 in 1997, all along this period cities such as New York claim great success in dropping crime rates through the use of "zero tolerance" policing policies. Moreover, according to academic studies in the USA capital punishment is deterrent.

#### III.3.4.3. Singapore:

It performed the death penalty forever where no appeal existed, any person convicted of murder or drug trafficking he is certainly going to face the death penalty. In 1995, Singapore hanged in a strange way big number of 7 murderers, 4 in 1996, 3 in 1997 and only one in 1998. It took hard punishment for unimportant offences such as chewing gum in the road and so on. To answer the question the death penalty is deterrent only when it is performed to the right criminals in order to reduce the percentage of crimes.

#### III.7.The Death Penalty and the International Law:

The minority of the parliament members who asked for the reintroduction of the death penalty were obliged to agree on the abolition due to the international law, where Great Britain was a member of the Europe Council and the European Union, moreover any movement from Britain to restore the death penalty would lead her to leave those two associations and to abandoned the European Convention on Human Rights.

The condition for any country to be part of the EU was the totally abolition of the death penalty; this means that Great Britain must forget about the restoration. The European Union stays away from the death penalty by means of international relations and assistances; it is also a guided organization around the world.

The second article of the European Union stated that no one should be executed or convicted of murder. "Protocol No. 6 required state parties to abolish the death penalty in peacetime"<sup>17</sup>; in 1994 the Parliamentary Assembly of the Europe Council invited the whole members to ratify the sixth protocol asking them to abolish the death penalty from their law. And in 1997 the Heads of State and Government called for worldwide abolition of the death penalty and preserve it forever.

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<sup>17</sup> Julian B, Knowles. *The Abolition of the Death Penalty in the United Kingdom: How it Happened and Why it Still Matters*. (The Death Penalty Project, 2015), p.58.

“The UK ratified the 6<sup>th</sup> protocol to the ECHR (the European Convention on Human Rights) which abolishes the death penalty completely, Including in time of war or imminent threat of war”<sup>18</sup>, this means that Great Britain ratified on the sixth protocol of the European Convention on Human Rights to abolish the death penalty permanently except in time of war or imminent threat of war in 1999.

Conclusion:

All in all the restoration of the death penalty through public support, introduced bills and amendment by the retentionists had failed, moreover Great Britain was obliged to abolish capital punishment completely after joining the European Union in 1998 and making the life imprisonment as the most helpful method of punishment for criminals.

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<sup>18</sup> Sir Jeffery, Jowell. Dawn, Oliver. *The Changing Constitution*. (OUP Oxford, 2011), p. 73.

## **General Conclusion:**

In conclusion, it can be said that although the death penalty decreased from criminals in Great Britain, but it had stolen the life of people that was one of their human rights, moreover people at first supported its abolition because of the hanging of innocent persons, but since it was suspended for five years they started asking for its retention due to the increase of terrorism. Abolition of the death penalty was not easy to be obtained, but since the Murder Act 1965 came it paved the way for the permanent abolition, moreover Great Britain was obliged to end the journey of the death penalty after joining the European Union which refused totally the use of capital punishment by its members, in addition to that Britain ratified on the sixth protocol of the European Convention on Human Rights that made life imprisonment as the alternative punishment for capital punishment.

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