

# ***The Failure of the Anti-death Penalty Movements Before the Civil War: An Analysis Through the Perspective of the Leaders' Attention***

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**Abstract:** This paper investigates the rise and fall of the 19th-century American anti-death penalty movement, with a focus on how the shifting focus of its leaders contributed to its ultimate failure. By examining historical documents, the study reveals that although the movement flourished under the influence of Enlightenment thought, Romantic literature, and Evangelical religion, it began to decline as leaders turned their attention to other social issues, including abolitionism, temperance, and Romanticism. Using the evolving content of *The Prisoners' Friend* magazine and changes in the personal interests of leaders as examples, the paper argues that this shift in focus was a critical factor in the movement's demise. The absence of sustained attention and advocacy from core leaders robbed the movement of its momentum and vitality, leading to its eventual decline. The findings of this study contribute to a deeper understanding of the complexities of 19th-century American social transformation and offer historical insights for contemporary anti-death penalty movements.

**Keywords:** Anti-death penalty movement, Criminal Justice, Civil War, Death penalty, History of Human Rights

## **1. Introduction**

If the death penalty should be abolished has long been a topic of focus in American, and the development of the anti-death penalty movement in America has been tortuous, as evidenced by the fact that a number of states in the country have reintroduced legislation permitting the use of death penalty. The movement was particularly developed. However, by the middle of the 19th century, the anti-death penalty movement had weakened dramatically [1]. Much of the current research discusses the impact of the Civil War and the like by contextualizing the anti-death penalty movement. However, the reasons for the decline of the movement during this period have rarely been studied by scholars. It is worth considering that the movement declined in this period may have been due to the fact that the movement's leaders began to focus on other issues, which seemed more pressing and important.

During the late 18th and mid-19th centuries, the United States witnessed a fervent debate over the abolition of death penalty. This movement stemmed from a rational reevaluation of the death penalty, questioning its efficacy as a means of maintaining social order and its association with the cruelty and barbarism of the past. Enlightenment thinkers and reformers, such as Cesare Beccaria, Benjamin Franklin, and Benjamin Rush, advocated for its abolition, arguing that prisons were more effective at

rehabilitating criminals and that public executions had detrimental social consequences [1]. Romantic literature and evangelical religion also supported abolition, emphasizing empathy for criminals and opposing unnecessary suffering [2]. However, proponents of death penalty believed it reflected the moral instinct of “an eye for an eye” and maintained that it served as a deterrent to crime. While the debate led to the abolition or restriction of the death penalty in several states, it did not succeed nationwide, partly due to a lack of cohesive effort by abolitionists and the influence of traditionalism and religious beliefs [3].

This debate emerged amidst profound changes in the legal, political, religious, and moral beliefs in the American society during the late 18th and mid-19th centuries. The influence of the Enlightenment prompted a rational reevaluation of the death penalty, questioning its effectiveness. *On Crimes and Punishments*, written by Beccaria, provided a theoretical foundation for reformers [1], while legal reforms in various states, such as the grading of murder, reduced the scope of death penalty. Politically, the rise of abolitionism and temperance movements provided support for the abolitionist cause. [4] Religiously, the growth of evangelicalism and skepticism towards the “eye for an eye” principle mentioned in the Old Testament. [5] undermined the religious justification for death penalty. Morally, romantic literature emphasized empathy for criminals and respect for life, fueling the movement. [2]

In summary, the United States in the late 18th and mid-19th centuries was undergoing a crucial period of transformation from tradition to modernity, and the debate over death penalty was a concentrated manifestation of the conflicts in legal, political, religious, and moral beliefs during this transition. This debate propelled the development of modern legal systems in terms of their theoretical foundation, legal framework, social values, and international human rights law, laying the groundwork for the construction of a more just, humane, and civilized legal system. [4]

## 2. Discussion of the Secondary Sources

Two articles written by Davis and Filler will be introduced and discussed in this section. Both of the two articles mentioned the anti-death penalty movement, in the historical perspective.

Davis’s article explores the rise, development, and impact of the American abolitionist anti-death penalty movement, arguing that it was not merely a legal reform but a profound reflection on justice, responsibility, and the integrity of the judicial system. The essay delves into the intellectual origins of the movement, drawing on Enlightenment thought, Romanticism, and Evangelical theology. It examines the debates between retributive and deterrent theories, as well as the tension between naturalistic and idealistic interpretations of human nature. Davis highlights the social context and influences shaping the movement, including the Industrial Revolution, urbanization, prison reform, and evolving attitudes towards crime and punishment. He notes the active participation of prominent figures from various walks of life, the intense debates in state legislatures, and the movement’s key arguments, such as the violation of natural and Christian law, the lack of deterrence, the corruption of public morals, and the denial of redemption to the guilty. Despite strong opposition from traditionalists and religious conservatives, the movement achieved some successes, like the abolition of the death penalty in Michigan, Rhode Island, and Wisconsin, but ultimately failed. Davis attributes this failure, in part, to a shift in focus among the movement’s leaders. [2]

Filler’s article focuses on the origins and development of the American abolitionist anti-death penalty movement, emphasizing the influence of prison reform and Enlightenment ideas. The essay details the early reformers’ ideas, including those of Benjamin Rush and William Bradford, and significant events like the “Maine Law” and the abolition of the death penalty in Michigan. It analyzes the movement’s progress and impact across different states and the changing public opinion on death penalty. The article acknowledges that, while early reforms narrowed the scope of capital crimes and some states attempted abolition, the movement faced significant obstacles from traditional beliefs,

legal systems, and social conditions. It also explores the relationship between the movement and other social reforms, such as prison reform, civil rights, prohibition, and antimilitarism. The article suggests that while other social movements may have had some indirect positive effects on the movement, such as prohibition, these effects were largely negligible. The decline of the movement was largely inevitable when its leaders shifted their focus away from death penalty. [1]

### 3. Research Methods and Purpose

The sources, the articles or the magazines authored by the historians have cast important light on the anti-death penalty movement of the 19<sup>th</sup> century, but almost all of them just regard the failure of the movement as a background but not a question. A failed movement produces far fewer sources and there might be various reasons lead to its failure, which makes it challenging to prove why the movement failed. The strategy in this paper is to focus on the leaders of the movement to abolish the death penalty.

The magazine articles, files or documents related to show that each of them eventually gave up on that cause and shifted their attention elsewhere will be explored. They, as leaders of the movement, made public speeches, magazine articles, started newspapers, etc. and contributed to the anti-death penalty movement by a variety of means, but again, in the period leading up to the Civil War in the mid-nineteenth century, together the evidence makes a clear point: The leaders of the movement believed there were more important issues facing the nation, and the turned their attention to other issues rather than the death penalty.

To prove this issue, we need to consult literature and documents from the late 18th century to the early 19th century and regard them as the primary sources, up until the outbreak of the American Civil War in 1861. These primary sources were predominantly legal, sociological, and theological materials of the time. The failure and subsequent oblivion of the movement for the death penalty during that period have led to the loss of much empirical evidence. However, the ideological foundation of the movement can still be traced through "*The Prisoners' Friend*" newspaper, established by Charles Spear, the reverend, in 1844. [2] The development and decline of the movement can be evidenced by the frequency with which the newspaper addressed the issue of death penalty abolition, among other indicators.

Additionally, attempting to trace the detailed shifts in attention among these leaders to prove their waning interest in the anti-death penalty movement may be unfeasible due to the lack of detailed information, and perhaps it is unverifiable. Therefore, this article's argument that "the shift in the leaders' focus is one of the reasons for the ultimate failure of the anti-death penalty movement" does not necessitate, nor can it provide, an exhaustive account of all the leaders' changing points of interest. The purpose of this article is merely to demonstrate, through the available evidence, that some key leaders experienced a shift in their focus. How this shift affected the vitality of the movement is evident—if a movement loses the core forces leading it, it will either fail or decline.

### 4. Analyzation of the Primary Sources

The purpose of this section is to introduce some carefully selected primary sources and to analyze each in an attempt to substantiate the fundamental argument of this article: that the shift in focus by the leaders of the anti-death penalty movement was one of the causes for the ultimate failure of the movement in the 18th and 19th centuries in the United States. The three primary sources mentioned in this section are an article from the North America Review (whose author remains unknown), an article from *The Prisoners' Friend* as mentioned previously, and the catalog section of *The Prisoners' Friend* from 1854.

We will begin with two sources from 1846 and 1850 to show the vitality of the anti-death penalty movement in the late 1840s. Firstly, the article from the NAR was published in 1846, at a time when the anti-death penalty movement in the United States was at its zenith. Society at all levels – rulers, the middle class, and the masses – due to the simultaneous rise of abolitionism, rationalism, and romantic literature, began to question whether the practice of death penalty was at odds with the basic tenets of human rights, just as slavery was considered a violation. The North America Review, a publication known for its reserve, rarely commented on social issues [6], yet in 1846, this article was published, which effectively confirmed that the anti-death penalty movement was a hot topic of exploration and debate across all social strata. The backdrop for this article was the Reverend Theodore Parker's abolitionist speech in Boston and the opposing views supporting death penalty by the jurist Cheever. The author of the article sought a middle ground between these somewhat extreme views, but ultimately sided with abolition due to the uncertainty and irrationality of the death penalty. Indeed, the publication of this article also demonstrated NAR's contemplation and stance on this focal social issue.

Secondly, an excerpt from an 1850 article in *The Prisoners' Friend* titled "Present Position of The Society for The Abolition of Death penalty" was authored by Charles Spear, the founder of *The Prisoners' Friend* and a leading figure in the anti-death penalty movement. This article, effectively an Annual Report, played a landmark role in the course of the movement. It documented the movement's achievements up to that point and offered a vision for its future. The article noted that starting with the establishment of *The Prisoners' Friend* in 1844, organized abolition movements were set up in New York and Massachusetts, and within six years, by 1850, another seven states – Tennessee, Ohio, Alabama, Louisiana, Indiana, Iowa, and Pennsylvania – had all established their respective abolitionist groups. This illustrates the robust growth of the anti-death penalty movement during this period. [6]

As early as 1854, though, the emphases of these leaders and journals began to evolve. The 1854 issue of *The Prisoners' Friend* shows a marked shift in content focus. Previously, the publication predominantly featured articles related to punishment and law, mostly concerning the anti-death penalty movement, with some content on prison reform, judicial reform, and editorials. However, glancing at the table of contents of this issue reveals a significant reduction in death penalty abolition content, with more emphasis on prison reform, temperance movement, abolitionist essays or literary works, and even a substantial inclusion of romantic literature and Western expansion. This was almost entirely at odds with the publication's original purpose, and the shift in focus cannot be simply attributed to the negligence or lack of diligence of the editorial staff, but rather to a change in the publication's goals.

In other words, this reflects a change in focus by Charles Spear, the founder of the publication, whose stance the journal, to some extent, represented. Indeed, during this period, Spear himself has shifted his attention away from the anti-death penalty movement to focus on the temperance movement, abolitionism, and romantic literature. His colleagues were also engaged in various pursuits: Parker, Greeley, and Upham were primarily involved in the movement, [1] Charles himself favored the temperance movement and romantic literature [7], O'Sullivan was drawn to the mysteries of destiny, and Rantoul found the Western expansion more exhilarating than the fate of death row inmates. [2, 8]

The following section concerns O'Sullivan, who was in fact one of the first leaders to shift his focus to other social issues. He was also one of the core leaders of the anti-death penalty movement at the time, wielding significant influence. As an American historian, the primary source mentioned in this section is actually his most influential work on the anti-death penalty movement, which also had an impact on later activists against the death penalty. O'Sullivan began to embrace Beccaria's rational anti-death penalty ideas presented in "*On Crimes and Punishments*" in the 1820s and

considered them to be correct, devoting himself to this cause over the following years.” [9] However, after 1837, he created successfully became the editor of the Democratic Review journal and subsequently immersed himself in studying the thoughts of American expansionists at the time. He proposed the concept of "manifest destiny" and continued to delve deeply into this field. As for the anti-death penalty movement and related matters that he had previously focused on, they were no longer his primary concern. [10]

In summary, based on all the evidence presented, the conclusion we can draw from this section is that we have successfully demonstrated a shift in focus among some of the core leaders of the movement during this period. Consequently, we can naturally consider this as a fact or background when examining the failure of the anti-death penalty movement, leading us to our ultimate conclusion.

## 5. Conclusion

The evidence presented above demonstrates that over time, the strength of the anti-death penalty movement resembled a downward-opening parabola, peaking at a certain point before continuously declining. Ultimately, even the most passionate leaders shifted their focus to other social issues. The reasons for this phenomenon may have been the leaders’ astute political instincts, or their belief that the anti-death penalty movement could not achieve significant progress in the short term, leading them to pursue other endeavors that could yield greater benefits. However, the reasons behind the leaders’ shift in focus are not within the scope of this article. Because the available evidence allows us to treat the leaders’ redirection of attention to other social matters as an established fact. With this fact and context in mind, regardless of the issues the leaders threw themselves into – even if their support for romantic literature and the anti-death penalty movement could indirectly or directly promote the anti-death penalty movement [1], and even if individuals like the jurist Edward continued to advocate for abolition – without the primary focus and energy of the core leaders, the movement had already lost its vital core. [11] Therefore, when this fact occurred, the failure of the anti-death penalty movement in that era had already taken root, which is the argument that this article seeks to explore.

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