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Geliş Tarihi/Received 10.01.2024 Revizyon Talebi/Revision 06.06.2024 Requested Son Revizyon/Last Revision 10.06.2024 Kabul Tarihi/Accepted 28.06.2024 Yayın Tarihi/Publication Date 20.09.2024

Cite this article as: Walliss, J. & Littler, M. (2024). "This inmate declined to make a last statement": A quantitative exploration of the determinants of inmate execution final statements in Texas, 1982-2022. Current Perspectives in Social Sciences, 28(3), 293-299.



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"This inmate declined to make a last statement": A Quantitative Exploration of the **Determinants of Inmate Execution Final** Statements in Texas, 1982-2022

"Bu mahkum son bir açıklama yapmayı reddetti": Teksas'ta Mahkumların İnfazının Belirleyicilerinin Nihai Açıklamalarının Niceliksel Bir Araştırması, 1982-2022

Abstract

The last two decades have witnessed a significant growth in the volume of academic work exploring the final statements of inmates executed in the United States of America. While this has done much to advance academic understanding of final statements, comparably little attention has been paid to the not-insignificant number of inmates who decline to speak prior to their execution. The article presents the results of a regression analysis of a 574-case data set covering all executions conducted in Texas between December 1982 and April 2022. Despite including a range of variables, analysis identified only a single significant result: the presence of victims' family and/or close friends. The significance of this finding for existing scholarship and practice is discussed, alongside possible directions for future research.

Keywords: Death row, Texas, capital punishment, final statements

Son yirmi yılda, Amerika Birleşik Devletleri'nde idam edilen mahkumların son ifadelerini inceleyen akademik çalışmaların hacminde önemli bir artış görüldü. Bu, son ifadelerin akademik olarak anlaşılmasını ilerletmek için çok şey yapmış olsa da, idamlarından önce konuşmayı reddeden önemli sayıdaki mahkuma nispeten az olduğuna dikkat edildi. Makale, Aralık 1982 ile Nisan 2022 arasında Teksas'ta gerçekleştirilen tüm idamları kapsayan 574 vakalık bir veri setinin regresyon analizinin sonuçlarını sunmaktadır. Bir dizi değişkeni içermesine rağmen, analiz yalnızca tek bir önemli sonucu belirlemiştir: Kurbanların ailesinin ve/veya yakın arkadaşlarının varlığı. Bu bulgunun mevcut akademik çalışma ve uygulama açısından önemi, gelecekteki araştırmalar için olası yönlerin yanı sıra tartışılmaktadır.

Anahtar Kelimeler: Ölüm cezası, Teksas, idam cezası, son ifadeler

Introduction

The last two decades have witnessed a significant growth in the volume of academic work exploring the final statements of inmates executed in the United States of America. Focusing mainly on the state of Texas, this research has covered topics including the themes and psychological constructs found in last statements (Heflick, 2005; Schuck & Ward, 2008; Vollum, 2008; Vollum & Longmire 2009; Ross Meyer, 2011; Upton et al, 2017; Foley & Kelly, 2007; Kelly & Foley, 2013, Foley & Kelly, 2018; Kelly & Folley, 2018; James, 2022), patterns of apology and repentance (Vollum, 2008; Eaton & Theuer, 2009; Rice at al, 2009; Cooney & Philips, 2013; Eaton, 2014), the communication of defiance (James, 2022), and the use of positive emotional language (Lester & Gunn, 2013; Hirschmuller & Egloff, 2016; Goranson et al, 2017; for a recent review of this literature, see Walliss, 2022).

While this work has done much to advance academic understanding of final statements, comparably little attention has been paid to the not-insignificant number of inmates who decline to speak prior to their execution. Depending on the date range selected by the study, the number of inmates in this category may range from just over one in 10 (Ross Meyer, 2011) to around a quarter (Eaton & Theuer, 2009: 24%; Schuck & Ward, 2008: 25%; James, 2022: 25.85%). Scholars have put forward a range of explanations for this state of affairs, inferring that inmates remain silent because of the futility of their situation, or because they are so filled with remorse that they feel unable to express sorrow for their crimes (Hefflick, 2005; Schuck and Ward, 2009; Ross Meyer, 2011). Silence has also been argued to suggest that the inmate rejects the legitimacy of their execution (Ross Meyer, 2011), or the state's right to take a life (Johnson, 2013). Scholars have also argued that inmates may say nothing because they are simply rendered mute by fear of their impending demise (Johnson et al., 2014). While these explanations possess surface credibility, few of the papers published use large scale or empirically robust approaches to test these theories, and as a result, the literature is characterised by insights drawn from small samples, qualitative analyses, or simply conjecture. As a consequence, while there are a number of potentially credible theories, it is impossible to identify which - if any - best represents reality.

The aim of this article is to address this gap in the literature by using a robust quantitative method to explore the characteristics of inmates who decline to speak prior to their execution. It will use a sample comprising data from all executions conducted in Texas between the post-Furman resumption of capital punishment in December 1982 and April 2022 (n=574). Regression analysis will be employed to model the characteristics associated with whether an offender might make a final statement, with a view to determining which factors - if any - are significant predictors of inmates speaking prior to execution. The remainder of this article will be divided into five main sections: the first will briefly review the social scientific literature on final statements. In doing so, it will highlight a gap in the literature concerning the question of why inmates chose to make a statement or not. Following this, the methodology will outlines the sample and data gathering techniques employed for this paper, and will provide an overview of the demographic characteristics of the inmates sampled. The third section of the article will then present the results of regression analysis, which will then be discussed in the following section. The key areas of discussion, directions for future research, and limitations will then be surmised in a final concluding section.

Literature review

For almost two decades social scientists have researched various aspects of the final statements of executed inmates in the USA. The greater portion of this literature has focused on the themes found in final statements, with researchers observing similar, if not identical themes, within them. These include expressions of love and appreciation to family and friends, statements of religious faith, declarations of guilt, defiance, and innocence, and apology and repentance (Heflick, 2005; Schuck & Ward, 2008; Vollum, 2008; Vollum & Longmire 2009; Ross Meyer, 2011; Upton et al, 2017; James, 2022). This work has been complemented by several articles written by psychiatrists including Sharon R. Foley and Brendan D. Kelly on the psychological constructs found within final statements (Foley & Kelly, 2007; Kelly & Foley, 2013, Foley & Kelly, 2018; Kelly & Folley, 2018). According to Foley and Kelly, around half of the statements that sampled from Texas between 2002 and 2017 displayed evidence of 'unbearable psychological pain' (47%) and 'identification-egression' (51%), with the latter being defined as where the inmate "...identifies with a lost or rejecting other or ideal", such as a family member or freedom (Kelly & Foley, 2013:544; Foley & Kelly, 2018).

Several scholars have also explored which factors predict whether an inmate will apologise and express repentance. Vollum (2008) concluded that inmates who were under the age of 18 at the time of their crime and those with a high school education or General Education Diploma (GED) were significantly more likely to express contrition in their statement. Inmates were

also said to be significantly more likely to do so when witnesses for the victim(s) of the crime were present at the execution (see also Rice et al., 2009). In contrast, older inmates and those who were older when they committed their crime, as well as those who were executed for killing a police officer, were less likely to do so. Two other factors that have been highlighted in the literature as playing a significant role in determining whether an inmate apologises are the type of state in which the execution took place and the extent to which an inmate invoked God in their statement. In the case of the former, Eaton (2014) found that almost half of white males executed in Southern 'honor states' offered an apology compared with 29% of those from non-honor states, although they were no more likely to express remorse. She also concluded that both the length of time an inmate had spent on Death Row and, again, that the presence of witnesses for the victim(s)' family predicted whether an inmate would express remorse. Similarly, Cooney & Phillips (2013) found that the more an inmate mentioned God in their statement, the more likely they were to apologise, with 53% of those who mentioned God twice apologising and 71% of those who mentioned God three or more times doing so. In addition, mentioning God also increased the word count of the statement, with each mention of God increasing the word count by 175% and each increase in a hundred words also increasing the odds of an apology by 83%.

The final, perhaps counterintuitive, finding of researchers working in this field is that statements tend to contain a higher proportion of positive emotional words than one might expect given the inmates' situation. Hirschmüller and Egloff (2016) found that inmates used on average a higher proportion of positive words (such as 'happy' or 'love') than negative ones (such as 'sad' and 'hate'), with 80% of the statements sampled containing more positive words than negative ones. They also compared these statements with results from a study where participants were asked to contemplate their own death (Kashdan et al., 2014) as well as suicide notes preceding actual or attempted death (Handelman & Lester, 2007), and in both cases found that the statements of those executed contained a higher proportion of positive words. More recently, Goranson et al. (2017) compared final statements with poetry and imaginary final statements from participants recruited online. They found that the final statements used a significantly lower percentage of negative words than either the poetry or imagined statements. The percentage of positive words was also higher in actual final statements and in the poetry reviewed than in the imagined statements.

However, while a significant amount of attention has been paid by researchers to what inmates say in their final statements and its importance as a signifier of other factors and traits, comparatively little attention has been paid to those inmates who declined to make a statement. Several possible explanations have been put forward by scholars to explain this state of affairs. Hefflick (2005) and Schuck and Ward (2009) have suggested that inmates remain silent because they know that nothing that they say will change their situation, and, indeed, feel that any speech may be perceived as disrespectful to co-victims or their own families. In addition, they may also not wish to betray their emotional state in front of witnesses, particularly when they are angry and/or scared. In contrast, Linda Ross Meyer (2011) has posited that silence may stem from a variety of motivations, ranging from a rejection of the legitimacy of the state's right to take their life, to their inability to express the remorse that they feel for their crimes. Silence may also, she suggests, signify that the inmate has been rendered mute – "reduced to the nonhuman, the 'dumb' animal" - by the execution process: effectively deprived of their voice through a combination of "...confusion, fear or emotion [al] turmoil" (Ross Meyer, 2011, p. 194). This latter point has been echoed by Robert Johnson, who has argued that inmates' silence may represent either "a profound alienation from the [execution] process, which they protest with their silence" or that they have been "rendered speechless by the enormity of the violence that awaits [them], made mute by the unspeakable cruelty of the killing process" (Johnson, 2013, p. 112; Johnson et al, 2014, p. 148). Nevertheless, as Stephen K. Rice and colleagues (2009) have noted, we should be cautious in (over)interpreting inmates' silence. While we may speculate as to the reasons why some may decline to make a final statement, in the absence of information about inmates – particularly in the period leading up to their execution – scholars may struggle to attribute meaning to silence.

Methodology

The literature considered in the previous section highlights an area for research exploration: identifying which demographic and penal factors predict whether or not an inmate will make a final statement. To explore this question, the analysis presented drew on data from 574 inmates executed in Texas between December 1982 and June 2022. This represented the totality of executions during this period in the state of Texas, and was chosen as the focus for analysis for two primary reasons. First and foremost, the vast majority (587 inmates) of those executed in the United States post-Furman have been put to death in Texas (which represents 37% of the 1,586 executions nationally in this period at the time of writing - June 2024). In addition, as will be discussed in more detail below, the state also publishes detailed information on its death row

population which is easily accessible online. Indeed, all but one published piece of research on the final statements of death row inmates in the contemporary United States draws on statements from inmates from Texas (Walliss, 2022), largely reflecting the ease with which data may be accessed. In contrast, other death penalty states are significantly more reticent in providing access to such information, with none providing anything that is comparable in breadth or depth to the data provided by Texas. No other state, for example, takes the time to transcribe the final statements of inmates at the time of execution nor publishes this information online. ¹

Data for analysis was gathered from the Texas Department of Criminal Justice (TDCJ) 'Death Row Information' website (https://www.tdcj.texas.gov/death_row/). This contains a variety of information about executed inmates, inmates currently on death row, scheduled executions, as well as other relevant information for news media, crime victims and interested parties. The 'Executed Inmates' section of the website provided the basis for the analysis, as it comprises a table of information about each inmate, which, in turn, links to transcripts of their final statements (if they chose to make one) and an inmate information sheet including key demographic and penal data: namely their date of birth, sex, ethnicity, their home state, the highest education level that they completed, their age when they committed the offence, and the dates that they were received by TDCJ and executed. Prior to analysis this data was transcribed and coded into a CSV file for analysis using SPSS. ²

The demographic and penal information for the executed inmates can be briefly summarized as follows: all but six were male, with a mean age of 39.83 years at the time of their execution (SD 9.027). Two-thirds of inmates came from Texas (66%), with the majority (55%) being non-white (this group being composed of 66% Black and 34% Hispanic inmates). A majority (54%) of inmates were recorded as having had a prior conviction, and their mean education level was 10 years (SD 2.146). The mean age at which they committed the offence for which they were sentenced to death was 27 years old (SD 7.889), and on average each inmate had spent just over 11 years on death row prior to their execution (136.19 months: SD 58.332). ³

Analysis

In order to provide a robust exploration of the central research question, analysis employed a single binary logistic regression model with a binary measure capturing whether the offender gave a statement (yes/no) used as dependent variable alongside demographic controls for age (scale), sex (binary), ethnicity (nominal, black as reference category), and number of years of formal education (scale). Alongside this, three further measures relating to imprisonment were included as controls: duration of imprisonment in months (scale), previous imprisonment (binary), and the presence of victims' family and close friends (binary). Model diagnostics including Nagelkerke pseudo-R2, and Hosmer-Lemeshow goodness of fit tests were used prior to analysis to assess overall model fit and alignment. Significance was calculated at the 5% level.

A single model was produced including all independent variables, the results from which are presented in table 1, below.

¹ The procedure whereby this takes place is outlined in the Texas Department of Criminal Justice's Correctional Institutions Division Execution Procedure (April 2019). Once the inmate has been secured to the gurney in the execution chamber and an IV line has been inserted into a vein, the Unit Warden or designee gives them the opportunity to make a brief statement to the witnesses gathered in an adjoining room. Once the inmate has finished their statement, or signified that they do not wish to make one, the execution then commences. Any statement made is simultaneously transcribed by a member of correctional staff listening from a remote location, after which it is published on the previously discussed TDCJ death row information website. (see TDCJ, 2019).

² The information sheets also contained other information that was not transcribed, such as the inmate's height, weight (in pounds), eye colour, home county, as well as details about their prior convictions (if any) and capital offence.

³ Missing information: inmate's home state (n=30); ethnicity (n=2); prior conviction (n=28); education level (n=48); age when committed the crime (n=22); months on death row (n=14)

	b	S.E.	O.R.
Age (at Execution)	030	.048	.970
Sex	1.532	.856	4.629
Education Level	047	.057	.954
Ethnicity			
-White	115	.269	.891
-Hispanic	.280	.378	1.323
Age (at Offence)	.000	.049	1.000
Months on Death Row	.002	.004	1.002
Prior Imprisonment	.397	.248	1.473
Presence of Victim Family and/or Friends	1.477	.286	4.378***
Constant	045	1.170	.956
*p<.05, **p<.01, ***p<.001			

Table 1 – Demographic and Penal Variables as Predictors of Death Row Statements

The chi-square for the model was 39.126, with 9 degrees of freedom (p<.001). The Hosmer-Lemeshow test returned a chi-square statistic of 9.512 with 8 degrees of freedom (p=.301), indicating that the observed data did not significantly differ from the predictions of the model, while Nagelkerke's pseudo-R² indicated moderate but acceptable goodness of fit (R²=.118). Of all the variables included in the model, only the presence of the victim's family or friends (OR=4.378, p<.001) reached significance at the 5% level, suggesting that their presence significantly increased the likelihood of a statement being given. Moreover, the odds ratio for the presence of the victim's family or friends indicated an effect of significant magnitude, with its impact almost three times as strong as that of prior imprisonment (OR=1.473). While all other variables were non-significant at the 5% level, the effect for sex narrowly missed out on attaining significance (OR=4.629, p=.075) and would have been deemed significant had the 10% threshold been used. The implications of these findings are discussed below.

Discussion

The aim of the preceding analysis was to determine which demographic and penal factors predicted whether an inmate made a final statement. Of the variables included in our analysis, only one evidenced a significant result: the presence of victims' family and/or close friends. This is consistent with work by Rice et al (2009), whose analysis of a sample of 341 executions between December 1982 and June 2005 found that inmates were not only more likely to make a statement when such persons were present at the execution, but were also more likely to admit guilt and express repentance (see also Eaton, 2014). As they observe, "...it would appear that there is something emotionally palpable underway when witness lists are made up of not only criminal justice officials, media representatives, and inmate witnesses but also homicide survivors", and it is this which provides the impetus for inmates to give a final statement (Rice et al., 2009, p. 315).

While it is difficult to draw firm conclusions from the results of our single limited study, should our findings be replicated, they would pose significant questions in respect of the conduct of executions in the United States. Primarily, the fact that a significant number of inmates (possibly around a quarter) decline to make a final statement presents a profound commentary on the psychological and emotional toll of the death penalty, showing how the death row process strips individuals of their dignity and voice; effectively rendering them mute in the face of their own demise (Johnson, 2013; Johnson et al., 2014). Secondly, the presence of witnesses for the victim(s) also raises questions about the dynamics of justice, forgiveness and closure within the US capital punishment system. Final statements are an attempt by the condemned to seek forgiveness,

express remorse or even provide explanations, all of which can have a profound impact on grieving families. However, this raises an important question about whether the purpose of the death penalty is retributive justice, a form of deterrence, or a path to reconciliation between offender and victim(s). The presence of a victim's family not only highlights the emotional complexities of the judicial process, but also raises the question of whether the final moments of an inmate's life should serve as a platform for addressing the emotional needs of the victims' families or if this places an undue emotional burden on both parties. Ultimately this execution chamber interaction between offender and representatives of victim(s) underscores the complex interplay between punishment, healing, and the quest for justice, challenging society to reflect on the deeper implications of capital punishment.

Future work may wish to consider triangulating our findings through either qualitative interviews with pre-execution inmates or through the analysis of the creative outputs of death row inmates (see for example, Abu-Jamal, 1996; Arriens, 2004; Rossi, 2004; Dicks, 2013; Owens-Murphy, 2023). In respect of the latter there is a particularly rich seam of data that future studies could use to explore the state of mind amongst pre-execution criminals, and with which few academic studies have sought to engage. Equally, replication in alternate jurisdictions within the US would be welcome as a further test of our results, as would studies extending our approach geographically to non-Western states and states in the Global South. The lack of a literature on the factors predisposing inmates to speak at execution in these jurisdictions may be regarded as one of the key shortcomings of the existing literature.

Conclusion

This paper has sought to contribute to ongoing debates around the factors determining the behaviour of death row inmates in respect of their decision to make a pre-execution statement. Building on work by Rice et al (2009) and Eaton (2014), it examined a 574-case data set encompassing all executions in the state of Texas between 1982 and 2022. The results of regression analyses highlighted a significant effect on pre-execution statement making for only the presence of victim family and/or friends. While it is impossible from our analyses to determine the underlying cause of this behaviour, our results are in line with findings in work by Rice et al (2009) and Eaton (2014), and suggest that inmates are more likely to say something when victims' family and close friends are present at the execution.

A key limitation of this research is that, like almost all the research on final statements, it focused solely on those who were executed in Texas. Future research may wish to expand on our analysis via the use of a larger data set, considering behaviours around executions outside Texas. This should include other US states as well as other international contexts, particularly in the Global South. Equally, qualitative research may wish to pay attention to the views of death row offenders prior to execution, with a view to shedding further light on their decision-making process around the decision to make a statement.

Author Contributions: Concept - J. W.; Design- M. L.; Supervision- J. W.; Resources-J. W., M. L.; Data Collection and/or Processing- J. W.; Analysis and/or Interpretation- J. W., M. L.; Literature Search- J. W.; Writing Manuscript- J. W.; Critical Review- M. L.

Peer-review: Externally peer-reviewed.

Conflict of Interest: The authors have no conflicts of interest to declare.

Financial Disclosure: The authors declared that this study has received no financial support.

Yazar Katkıları: Fikir-J. W; Tasarım-M. L.; Denetleme-J. W.; Kaynaklar-J. W., M. L.; Veri Toplanması ve/veya İşlemesi- J. W.; Analiz ve/veya Yorum-J. W., M. L.; Literatür Taraması-J. W.; Yazıyı Yazan-J. W; Eleştirel İnceleme-M. L.

Hakem Değerlendirmesi: Dış bağımsız.

Çıkar Çatışması: Yazarlar, çıkar çatışması olmadığını beyan etmiştir.

Finansal Destek: Yazarlar, bu çalışma için finansal destek almadığını beyan etmiştir.

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