

The McDonaldized Death Penalty by Ryan Phillips Article Review

Posted on September 21, 2018

Ryan Phillips's study, *The McDonaldized Death Penalty: Neoliberalism, Governmentality, and American Capital Punishment*, examines why capital punishment has remained institutionally durable in the United States despite recurring evidence of error, cost, delay, racial disparity, geographic inconsistency, and international isolation. The article's distinctive contribution is its use of George Ritzer's concept of McDonaldization to interpret legal and administrative reforms that promise rationality. Rather than describing the death penalty only through public opinion, crime rates, morality, or constitutional doctrine, Phillips asks how the institution is organized and legitimated. The four dimensions of McDonaldization—efficiency, calculability, predictability, and control—help explain why officials repeatedly respond to capital punishment's failures with new procedures, standards, technologies, and managerial techniques. These reforms may make the system appear more reliable while producing what Ritzer calls the "irrationality of rationality": a formally ordered process that remains costly, inconsistent, dehumanizing, and vulnerable to grave error. This review extends the original summary by examining the article's theoretical framework, historical context, evidence, limitations, and continuing relevance.

The Article's Central Research Problem

Phillips begins from an important gap in death-penalty scholarship. Extensive research has explained the modern American death penalty through federalism, racial politics, local prosecutorial power, public emotion, constitutional litigation, and the cultural history of punishment. Other scholars have shown how Supreme Court regulation after *Furman v. Georgia* and *Gregg v. Georgia* converted broad discretion into a supposedly guided system. Phillips does not reject those explanations. He asks what can be learned by placing them within a wider transformation associated with neoliberal governance. His concern is not simply that states seek cheaper executions or that private companies participate in punishment. The larger claim is that market-style rationality enters public institutions through measurement, standardization, auditing, technical expertise, risk management, and a preference for administratively manageable solutions. Capital punishment can therefore persist not because its defects are unknown, but because each defect is translated into a problem to be managed rather than a reason to reconsider the institution itself.

Neoliberalism as More Than Economic Policy

The original essay correctly notes that Phillips situates his argument in literature on neoliberalism, but

the concept needs careful definition. Neoliberalism is often reduced to privatization, tax reduction, deregulation, and faith in competition. Phillips uses it more broadly as a mode of governing that promotes market values, individual responsibility, performance measurement, and managerial control across institutions that are not ordinary markets. This approach is influenced by governmentality scholarship, especially the idea that power operates through categories, expertise, incentives, and self-regulation rather than only through direct coercion. In criminal justice, neoliberal governance may combine punitive treatment of marginalized populations with technical language about efficiency and risk. The death penalty becomes a site where sovereign power—the state’s authority to kill—coexists with managerial procedures designed to make that power appear controlled, professional, and objective. This combination helps explain why administrative modernization does not necessarily produce humane or equal outcomes.

Ritzer’s Four Dimensions of McDonaldization

Ritzer developed McDonaldization to describe the spread of organizational principles associated with fast-food production into other areas of life. Efficiency seeks the apparently optimal means to an end. Calculability privileges measurable quantities and may treat numbers as substitutes for quality. Predictability standardizes processes so outcomes appear uniform across times and places. Control reduces uncertainty through rules, technology, scripts, surveillance, and the replacement of human discretion. These dimensions can generate convenience and coordination, but they may also narrow judgment and obscure values that cannot be measured easily. Phillips applies this framework to capital punishment because the modern system is saturated with protocols: statutory aggravating factors, sentencing forms, appellate stages, execution procedures, lethal-injection sequences, competency evaluations, and timelines. The framework reveals how increasing procedural detail can make the institution look rational even when its ultimate distribution remains arbitrary.

Efficiency and the Search for an Administratively Manageable Death Penalty

Efficiency appears in efforts to shorten appeals, restrict repeated review, accelerate warrants, streamline clemency, and standardize execution methods. Supporters often argue that delay denies closure and wastes public resources. Phillips’s framework asks what the system is being made efficient at doing. A process can become faster while becoming less accurate, less transparent, or less capable of correcting error. Capital cases require unusual care because the punishment is irreversible. The discovery of wrongful convictions shows why review cannot be treated simply as bureaucratic friction. Attempts to make executions more efficient also confront a paradox: procedural safeguards were expanded precisely because earlier systems were condemned as arbitrary, yet those safeguards create complexity and delay. The institution then criticizes the very procedures needed to legitimate it. Efficiency becomes an unstable objective because a “quick” death penalty and a constitutionally

reliable death penalty pull in opposite directions.

Calculability and the Authority of Numbers

Calculability is visible when officials emphasize execution counts, case-processing time, costs per stage, aggravating-factor totals, polling percentages, or numerical risk assessments. Quantitative evidence can expose inequality and improve accountability, but numbers can also create an illusion of neutral precision. A sentencing system may count aggravating and mitigating circumstances without resolving their moral weight. Prosecutors may report conviction rates while the quality and fairness of decisions remain difficult to measure. Public discussion may focus on how many people support capital punishment without asking how opinions change when respondents are offered life without parole or informed about wrongful convictions. Phillips's argument is not anti-statistical. It is a warning that what institutions count reflects political priorities. If measurable throughput is valued more than dignity, accuracy, or equal treatment, calculability can legitimize a system rather than evaluate it critically.

Predictability and the Promise of Equal Application

The modern death penalty was reconstructed around predictability. After the Supreme Court invalidated existing schemes in *Furman*, states enacted guided-discretion statutes intended to narrow eligibility and structure sentencing. Aggravating circumstances, bifurcated trials, automatic review, and standardized jury instructions were designed to reduce arbitrary decisions. Yet predictability remains limited by local prosecution, plea bargaining, defense resources, jury composition, race, county budgets, and the facts that prosecutors choose to emphasize. Most murders do not result in death sentences, and similarly serious cases can be treated differently across neighboring jurisdictions. Predictable procedure is not the same as predictable selection. Phillips's McDonaldization framework shows how a consistent form can conceal inconsistent substance. A capital trial may follow the required steps while the decision to seek death remains shaped by geography and institutional culture.

Control Through Law, Technology, and Professional Expertise

Control appears in the regulation of juries, prisoners, defense counsel, execution teams, witnesses, journalists, and the condemned person's body. Lethal injection was promoted as a controlled, medicalized alternative to visibly violent methods, even though drug shortages, secrecy laws, improvised protocols, and failed executions have undermined that image. Technical language can distance participants from moral responsibility: one official orders the sentence, another reviews it, a team follows a protocol, and each actor performs a limited task. This division resembles rationalized

production. It may reduce individual discretion at one stage while distributing responsibility so widely that no one appears accountable for the whole process. Control also includes information. States may restrict the identity of drug suppliers or execution personnel, claiming security while limiting public scrutiny. The appearance of professionalism can therefore coexist with secrecy and uncertainty.

The Irrationality of Rationality

The strongest part of Phillips's analysis is the use of Ritzer's "irrationality of rationality." Systems designed around rational principles can produce outcomes that defeat their stated purposes. Capital punishment is defended as a decisive response, yet cases often take decades. It is presented as consistent, yet application varies dramatically. It is framed as cost-conscious justice, yet specialized trials and appeals commonly cost more than noncapital alternatives. It is described as certain punishment, yet many death sentences are reversed, commuted, or never carried out. It is justified as closure, although long litigation can repeatedly reopen trauma for victims' families. It is presented as controlled and humane, yet execution protocols can fail. These contradictions are not accidental exceptions to an otherwise simple system; they result partly from attempts to combine irreversible punishment with constitutional safeguards, decentralized administration, political choice, and bureaucratic rationalization.

Capital Jurisprudence as Legitimation

Phillips argues that legal rationalization helps sustain capital punishment. Constitutional doctrine narrows categories of eligible defendants, requires individualized sentencing, regulates jury instructions, and establishes review. These protections matter and can prevent some unjust sentences. At the same time, the existence of detailed doctrine may reassure the public that the system has corrected arbitrariness. Judicial oversight can thus both constrain and legitimate state killing. A decision that invalidates one procedure may imply that a revised procedure is acceptable. The system's survival depends on the belief that technical repair can resolve moral and structural problems. Phillips's analysis is valuable because it refuses to equate more rules with complete fairness. It asks whether procedural refinement addresses the distribution of prosecutorial power, unequal defense, racial history, geographic concentration, and the possibility of innocence.

Neoliberal Responsibility and the Condemned Individual

Neoliberal discourse often emphasizes autonomous choice and personal responsibility. In capital cases, this may isolate the defendant from social context and present the crime as the product of an entirely self-making individual. Criminal responsibility is essential to law, but individualized blame can minimize childhood abuse, intellectual disability, severe mental illness, poverty, racialized exclusion,

or institutional failure. Mitigation evidence exists partly to restore context, yet it competes with narratives that frame context as excuse-making. Phillips's framework suggests that the condemned person is treated as both a dangerous risk to be managed and an entrepreneur of his or her own moral failure. The state's structural contribution disappears while punishment is represented as the calculated consequence of individual choice. A balanced account can hold a person responsible without pretending that development and opportunity occur outside social conditions.

Evidence from the Contemporary Death Penalty

Developments since Phillips's study reinforce several themes. Death sentences and executions are concentrated in a relatively small number of states and counties, demonstrating that geography remains crucial. Exonerations and reversals show that procedural systems can produce wrongful convictions. Drug availability and litigation have repeatedly disrupted lethal-injection schedules, while some states have considered or used alternative methods. Public support has declined from its 1990s peak; in 2025, Gallup polling summarized by the Death Penalty Information Center placed support at 52 percent, the lowest level in approximately five decades (Death Penalty Information Center, 2025). These developments do not prove Phillips's theory by themselves. They show why his central question remains relevant: how does an institution persist when its practical operation continually contradicts its rationalized image?

Strengths of the Article

The article's first strength is conceptual originality. McDonaldization makes connections among legal procedure, management, technology, and cultural expectations that may be missed by narrower doctrinal analysis. Second, the framework explains why failure can generate more rationalization rather than abolition. A botched execution leads to a revised protocol; disparity leads to a new guideline; delay leads to a shortened appeal; uncertainty leads to more expertise. Third, the concept of irrationality prevents the analysis from celebrating rationalization as progress automatically. Fourth, Phillips connects capital punishment to wider institutional trends, showing that criminal justice is influenced by the same performance-oriented reasoning found in education, healthcare, work, and public administration. The article therefore expands the sociology of punishment beyond a debate about whether executions deter crime.

Limitations and Questions for Further Research

McDonaldization can become too broad if every rule, statistic, or technology is treated as evidence of neoliberalism. Bureaucratic rationalization existed before the late twentieth-century rise of neoliberal policy, and capital punishment has roots in racial domination, popular sovereignty, religion, retribution, and local political culture. The theory must therefore show what neoliberalism adds

beyond Weberian bureaucracy or general modernization. The analogy to fast food may also understate the exceptional moral character of state execution. Furthermore, legal safeguards cannot be treated only as legitimation; some have genuinely protected defendants and reduced eligibility. Future research could compare jurisdictions that abolished the death penalty with those that retained it, examine how prosecutors use managerial language, analyze execution-protocol secrecy, and test whether performance metrics influence capital decision-making. Comparative work could determine whether McDonaldization explains uniquely American persistence or a broader pattern in punitive governance.

Overall Evaluation

Phillips provides a persuasive heuristic rather than a complete causal theory. The article does not demonstrate that neoliberalism alone causes the death penalty to persist, but it illuminates how institutional actors convert moral controversy into manageable technical questions. Its most important insight is that rationalization can stabilize a troubled institution by representing each failure as repairable. The death penalty's "iron cage" is built from legal categories, standardized forms, execution protocols, professional roles, deadlines, measurements, and claims of control. Yet the system remains dependent on discretionary decisions and unequal resources. This tension explains why formal order does not eliminate arbitrariness. The article is therefore useful not because it settles the capital-punishment debate but because it asks readers to evaluate the political work performed by procedural rationality.

Conclusion

The McDonaldized Death Penalty offers an important sociological interpretation of modern American capital punishment. By applying efficiency, calculability, predictability, control, and the irrationality of rationality, Phillips shows how a deeply contested institution can be modernized and legitimated without resolving its central contradictions. The framework clarifies why added procedures can both protect defendants and sustain public confidence, why efforts to accelerate cases can conflict with accuracy, and why standardized execution technology can conceal uncertainty. The article should be read alongside scholarship on race, federalism, prosecutorial discretion, wrongful conviction, victim experience, and constitutional law. Its enduring contribution is the warning that administrative sophistication is not the same as justice. A system must be judged not only by the orderliness of its procedures but by the fairness, accuracy, transparency, humanity, and social distribution of its outcomes.

References

Death Penalty Information Center. (2025). *The death penalty in 2025: Public opinion*.

Garland, D. (2010). *Peculiar institution: America's death penalty in an age of abolition*. Harvard University Press.

Phillips, R. (2017). *The McDonaldized death penalty: Neoliberalism, governmentality, and American capital punishment* [Master's thesis, Eastern Kentucky University].

Ritzer, G. (2019). *The McDonaldization of society: Into the digital age* (9th ed.). SAGE.

Steiker, C. S., & Steiker, J. M. (2016). *Courting death: The Supreme Court and capital punishment*. Harvard University Press.

Weber, M. (1978). *Economy and society*. University of California Press.