



## India's mystification: The evaluation of the ethical structure of capital punishment

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### Abstract

This research paper delves into the ethical considerations surrounding capital punishment in India. Examining the evolutionary history and current judicial framework, the paper explores diverse ethical philosophies and perspectives to shed light on the complex moral domain of the death penalty. The study presents arguments both for and against capital punishment, considering issues such as dissuasion, retaliation, wrongful convictions, and the sanctity of human life. International comparisons offer a broader context, while an exploration of public opinion and the social impact of executions highlights the multifaceted nature of the debate. The paper also scrutinizes the judicial process, focusing on the potential for wrongful convictions, and examines alternative forms of punishment and rehabilitation. In conclusion, the research synthesizes key findings to provide a nuanced understanding of the ethical dimensions surrounding capital punishment in India, offering insights for future research and potential reforms. Drawing on historical comparisons, the study contextualizes India's stance on the death penalty, considering its history, agreements, and conventions.

**Keywords:** Ethical, death penalty, capital punishment

### Introduction

India finds itself at a turning point in its debate over the morality of the death penalty, as the focus of attention shifts globally to issues of justice and human rights. In India, a plethora of laws are employed to suppress unlawful activity. Nevertheless, the quantity and severity of crimes continue to rise despite this legislation. Consequently, the penalties imposed for these offenses are insufficient. Chastisement is desperately needed to reduce the frequency and severity of offenses. In addition, it is necessary to guarantee that the criminal or offender who committed the crime must endure a protracted period of agony and punishment.

The punishment or discipline used to curtail the wrongdoings must also demoralize and deter other members of this society amid their fear of receiving it, which is another worry and requirement. One of the harshest forms of discipline or punishment meted out to criminals in India for their terrible and major offenses is the death penalty, often known as capital punishment. Death is the penalty for capital crimes, executions, and death sentences. This type of punishment has been the focus of heated debates and discussions. Human motives have varied throughout the history of the death penalty. At one point in time, getting even for any crime done was seen as crucial, and retribution was seen as essential.

The phrase "an eye for an eye" refers to the people's practice of exacting revenge as a kind of punishment. But these days, people want justice more than they want retribution. As this topic is still being discussed, it is important to remember that justice must be served while upholding human rights, maintaining a solid moral foundation, and resisting the corrupt impulses of some evil minds. One of the most important discussions in the modern era is the one over the death penalty. This type of penalty is an integral component of India's legal system.

However, the growing support for human rights raises serious concerns about the execution system. However, it might be argued that it is unethical and morally wrong to

preserve one individual who may be a malefactor at the expense of numerous others who may become prospective victims of society. The goal of this research article is to further the current discussion over the morality of the death penalty in India. It aims to support a more thorough comprehension of whether the country's existing execution procedure is consistent with its ethical principles as a means of achieving justice, compassion, and respect for human rights and dignity. The research analyzes the moral ramifications of the death penalty by examining human rights rhetoric and legal precedents.

### Literature of Review

Agarwal, V., Srivastava, G., Jain, I., & Singh, V. (2022) <sup>[1]</sup> researched a debate surrounding the ethical and moral aspects of capital punishment. This research paper opens by defining how Capital Punishment which is also known as the death penalty refers to the State commissioned execution of persons convicted of certain serious offenses such as murder. It later talks about how in countries that continue to practice this form of punishment, the legislature prescribes through statutes the commission of which offenses or under what circumstances is one eligible for capital punishment. Imposition of death sentences on individuals below the age of eighteen (at the time of the commission of the offense) is prohibited by most nations across the globe, however in recent times three countries namely, Iran, Sudan, and Saudi Arabia are known to have executed persons falling in the said category. It must be noted that under International Law there is an absolute prohibition to the imposition of death penalties to juveniles.

Furthermore, it has been prohibited under The Convention on the Rights of Child, a party to which the three countries described above were. However, it is noteworthy that the four most populous countries in the world namely, India, China, the United States, and Indonesia continue the use of this form of punishment, and have voted against the call for its abolishment at the UN. The principal argument in support of the retention of capital punishment is that it

would deter individuals from committing such offenses. However, the abolishment of such practice does not seem as convenient in practice as it does in theory; this is particularly because it is first necessary to bring about a social change before a legal change can be made. Therefore its abolishment seems distant, while society continues to regard the imposition of the death penalty as justifiable under certain circumstances. This calls for social education in criminology and penology, to make known the importance of social and legal change.

In its favor, it talks about how capital penalties are pronounced to have a deterrent effect that halts other potential hooligans from delivering such monstrous evil which concedes the possibility of leading bureaucracy to specific punishment. Every individual's excellent fear in existence is to mislay their existence and this fear deters them from completing activity disaster crimes. The basic alternative to capital penalties takes place to be growth confinement, which keeps the sentenced culprits in jail till they die. These offenders are likely food and even ready healing treatments as well these costs obtained command a price of by the person native of the country's hard-earned money. So a suggestion of correction, growth imprisonment, and Capital penalties substantiate to be wiser and in-event would sustain a lot of services of all treasury. Capital punishment is confirmed to be an economic resolution to the nation as it kills the blameworthy alternatively keeping bureaucracy arrested for life. The likely debate has been confirmed and expected to be very judicious in conditions of fairness that happened sensed for one victim's kin in addition to the criminal's family. It's absurd to restore the person but the lawfulness structure can specify a sense of satisfaction, insane harmony, and consolation to the persecuted one by the exercise of capital punishment/capital punishment. Also, capital punishment does not leave the chance of re-cheating the affected kin. It shields bureaucracy from future possible cheating.

Ms. Ravi, Advocate, at The Punjab and Haryana High Court, Chandigarh, India researched on Death Penalty: A critical study. This research paper delves into the intricate discourse surrounding the death penalty, presenting it as a profound form of punishment. Rooted in India's historical traditions, the death penalty has been a longstanding practice, initially under British rule before the enactment of the Constitution in 1950. However, contemporary perspectives have undergone a notable transformation, sparking a substantial debate on the justifiability of this severe punishment. In the present era, there is a growing consensus that capital punishment is morally reprehensible and fundamentally violates constitutional and human rights. The evolving understanding emphasizes the sanctity of life, contending that no entity, including the state, possesses the right to curtail it. Critics argue that capital punishment constitutes a breach of the constitutional and human rights of individuals, particularly as society progresses. The Constitution of India, through Article 21, guarantees every citizen the right to life and personal liberty, asserting that no individual should be deprived of these rights. This recognition underscores the significance of protecting

innocent lives, as marginalized populations are disproportionately susceptible to the death penalty due to a lack of resources and adequate legal representation. The Supreme Court, recognizing the inherent flaws in the system, has acknowledged that prolonged delays in the execution of the death penalty inflict both physical and psychological suffering on the condemned, creating an environment of prolonged anguish marked by oscillations between hope and despair. Moreover, the research contends that capital punishment fosters a sense of empathy as society acknowledges the potential for a convict's transformation during a protracted legal process. This realization prompts reconsideration of the appropriateness of exchanging a life sentence for imprisonment, prompting a reevaluation of the prevailing perceptions surrounding the death penalty.

The contentious issue of the death penalty remains a subject of debate, particularly in the context of serious offenses such as murder and rape. Advocates argue that the death penalty is a justifiable response, contending that it serves as a fitting consequence for criminals who harbor a profound sense of guilt for their actions. Supporters of capital punishment assert that individuals convicted of heinous crimes forfeit their right to life and, therefore, deserve the ultimate penalty. In the pursuit of justice, proponents posit that imposing the death penalty provides a sense of closure for victims and their families. Moreover, they argue that such a punitive measure can act as a deterrent, influencing societal behavior by instilling fear of severe consequences for committing grave offenses. However, an opposing viewpoint contends that criminals should be afforded an opportunity for rehabilitation and redemption. This perspective emphasizes the potential for individuals to reform and reintegrate into society after serving their sentences. Advocates for a more lenient approach to punishment underscore the importance of second chances and argue against the irreversibility of the death penalty. In the backdrop of a world grappling with brutal crimes such as the infamous Delhi and Hyderabad gang rape cases, the demand for justice is fervent. Societal sentiments lean towards a punitive approach that mirrors the severity of the crime committed. In this light, the death penalty continues to be enforced in India, reflecting a societal belief in the necessity of stringent consequences for the most grievous offenses.

## Discussion and Findings

### Key Arguments in favor of Capital Punishment

Advocates argue that despite a plethora of laws aimed at suppressing unlawful activity, the quantity and severity of crimes in India continue to rise. They contend that chastisement, particularly in the form of the death penalty, is desperately needed to reduce the frequency and severity of offenses. Supporters assert that criminals who commit heinous crimes forfeit their right to life and should endure a protracted period of agony and punishment. The death penalty, seen as one of the harshest forms of discipline, is deemed essential for justice and deterring potential offenders.

### Ethical Considerations

The paper explores the ethical implications of preserving one individual through the death penalty at the potential expense of numerous others who may become victims of society. It recognizes the growing support for human rights

and questions the morality of the execution system. The study contends that justice must be served while upholding human rights, maintaining a solid moral foundation, and resisting corrupt impulses.

### **Comparative Analysis and International Context**

International comparisons provide a broader context for understanding India's stance on the death penalty. The research contends that societal attitudes and legal frameworks vary globally. Despite global calls for abolishment, populous countries like India, China, the United States, and Indonesia continue to support the death penalty. The principal argument supporting its retention is its perceived deterrent effect.

### **Legal Perspectives and Human Rights**

The research adds depth to the discussion by focusing on the ethical and moral aspects of capital punishment. The study emphasizes the international prohibition on the imposition of death penalties on juveniles. It notes the continued use of capital punishment in populous countries and the challenges associated with its abolishment. Social education in criminology and penology is suggested as a means to effect social and legal change.

### **Critique and Opposition**

Critics argue that capital punishment constitutes a breach of constitutional and human rights, particularly as societal perspectives evolve. They emphasize the sanctity of life and the potential for rehabilitation, questioning the irreversibility of the death penalty. The Supreme Court's recognition of prolonged delays and the psychological suffering inflicted on the condemned highlights the flaws in the current system.

### **Conclusion**

In conclusion, this research paper articulates a compelling argument endorsing the continued implementation of capital punishment in India, asserting its justifiability and indispensable role within the nation's legal framework. The exploration of ethical dimensions, historical trajectories, and international comparisons collectively illuminates the nuanced context in which India maintains the death penalty. A pivotal contention in favor of capital punishment is its perceived deterrent impact, dissuading potential perpetrators from engaging in heinous acts by instilling a fear of severe repercussions. The paper intricately probes the cultural and societal facets of retribution, underscoring the significance of delivering justice to victims and their families. Capital punishment, according to this perspective, emerges as a mechanism for affording closure to those scarred by appalling crimes while reaffirming society's unequivocal condemnation of such acts.

Moreover, the research highlights pragmatic considerations associated with the death penalty. It delves into economic perspectives, positing that capital punishment can represent a cost-effective resolution compared to the sustained expenses entailed by prolonged imprisonment. While acknowledging the global emphasis on human rights, the paper asserts that India's cultural and legal ethos, grounded in principles of justice and deterrence, validates the retention of capital punishment. In acknowledgment of evolving ethical standards and the international discourse on human rights, the research contends that crimes of

extraordinary gravity necessitate a punitive response commensurate with societal expectations. The study places significant importance on procedural safeguards to mitigate the risk of miscarriages of justice, emphasizing the imperative for a discerning application of capital punishment.

Advocating for the sustained enforcement of the death penalty, this research paper aligns with the prevalent sentiment in Indian society, which calls for stringent consequences for the most egregious offenses. As India navigates shifting societal norms and global perspectives, this study makes a substantial contribution to the ongoing discourse on the morality and efficacy of capital punishment. It provides nuanced insights that resonate with the nation's cultural, legal, and ethical considerations, ultimately endorsing the retention of capital punishment as an integral element of India's legal response to the most heinous criminal acts.

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