

Capital Punishment in India

Capital punishment, also known as the death penalty, represents the most severe form of legal retribution for heinous crimes. Its application in India has been a subject of intense debate, reflecting broader global controversies over its ethicality, efficacy, and moral standing. The historical roots of the death penalty in India can be traced back to colonial times when British law heavily influenced the Indian legal system. Despite India's strides in democracy and human rights, capital punishment remains a sanctioned penalty for certain grave offences. This dichotomy highlights the tension between traditional justice systems and contemporary human rights standards.

Legal Framework

Indian Penal Code (IPC), 1860, enumerates several offences that are punishable by death. These include murder (Section 302), waging war against the government (Section 121), and certain offences under anti-terrorism laws, among others. The Code of Criminal Procedure (CrPC), 1973, outlines the procedural aspects of imposing the death penalty, emphasising the necessity of a rigorous legal process.

The landmark case of **Bachan Singh v. State of Punjab (1980)** holds an important place in the discourse on capital punishment in India. The Supreme Court, in this case, upheld the constitutional validity of the death penalty under Section 302 IPC but introduced the "rarest of rare" doctrine. According to this doctrine, the death penalty should be imposed only in cases where the crime is so heinous that it shocks the collective conscience of society. This principle has since guided judicial discretion in sentencing.

Judicial Interpretations

Over the years, the Supreme Court of India has played a crucial role in interpreting and applying the "rarest of rare" doctrine. In **Machhi Singh v. State of Punjab (1983)**, the Court expanded on this doctrine, listing specific guidelines to aid judges in determining whether a case falls within this category. Factors such as the manner of commission of the crime, the motive, the severity of the crime, and the victim's vulnerability are considered.

In recent years, the debate over capital punishment has intensified, particularly following high-profile cases. The **Nirbhaya gang-rape case (Mukesh & Anr v. State for NCT of Delhi, 2017)** reignited discussions on the death penalty, with the Supreme Court affirming the death sentences for the convicts, citing the brutality and heinous nature of the crime. The case highlighted the societal demand for stringent punishment for egregious offences, juxtaposed against the ethical concerns surrounding capital punishment.

Scholarly Opinions

Scholarly opinions on capital punishment in India are divided. Proponents argue that it serves as a deterrent to grave offences and provides justice to victims and their families. They cite empirical

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studies suggesting a correlation between the death penalty and a reduction in certain types of crimes. However, this deterrence effect is highly contested.

Opponents, including various human rights organisations, argue that the death penalty is inherently flawed. They point to the irreversible nature of the punishment, which becomes particularly problematic in light of judicial errors and miscarriages of justice. The possibility of wrongful convictions has led to calls for the abolition of the death penalty. Furthermore, studies have shown that marginalised and economically disadvantaged individuals are disproportionately affected by capital punishment, raising concerns of social and economic bias.

The **Law Commission of India**, in its 262nd Report (2015), recommended the abolition of the death penalty for all crimes except terrorism-related offences and waging war against the nation. The Commission argued that life imprisonment without parole could serve as a viable alternative, balancing the need for justice with the principles of human rights.

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Conclusion

Capital punishment in India remains a complex and deeply polarising issue. While the legal framework provides for its application in the "rarest of rare" cases, the ethical, moral, and practical implications of the death penalty continue to provoke debate. The judiciary's role in ensuring that this punishment is meted out with utmost caution and fairness cannot be overstated. As India grapples with evolving societal values and international human rights norms, the future of capital punishment will likely remain a subject of intense scrutiny and deliberation.

Ultimately, the discourse on capital punishment in India highlights the need for a balanced approach that upholds justice while respecting the sanctity of human life. Whether through judicial reforms or legislative action, the quest for a just and humane criminal justice system continues.