



## THE HUMAN RIGHTS LAW AND ITS CONTEMPORARY ISSUES: A CRITICAL ANALYSIS ON CAPITAL PUNISHMENT

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### ABSTRACT

*Capital punishment or death penalty is the highest level of punishment imposed on criminals in any society or democracy to maintain law and order. Capital punishment is known as the most severe form of punishment. It serves as punishment for the most heinous, grievous and abhorrent crimes against humanity. In Indian Constitution says that Article 21 -Protection of Life and Personal Liberty. Thus, "Life is precious and death is irrevocable". There are different kinds of Punishments in India such as Capital punishment, Life Imprisonment, Imprisonment and fine, Capital punishment is one among them and its severe form. India have come across various rise and fall of different dynasties through the passing centuries, the only one thing was followed by the kings was common between them was that the use of death penalty as a means of serving justice. While the death penalty is given to the offenders who have committed the heinous offence in nature. In India Capital punishment is given in the "Rarest of rare case", and in India most of the death penalty is commuted to life imprisonment, but in China once Capital punishment is awarded it cannot be irrevocable. The research is on the status of Capital punishment in India. The constitutional validity of capital punishment and the judicial approaches towards the capital punishment.*

### ➤ Introduction

Capital punishment is the punishment which is given all the countries in the World. Capital punishment is the one among of the various kind of punishments. The capital punishment is also known as death penalty and the capital punishment is the highest degree of punishment given to the offenders. Capital punishment plays an important role in the Indian Criminal Justice. Capital punishment is not new entity, it exists from the ancient period in our Society. Manu has prescribed death penalty for certain offences, even Islam countries prevails death penalty. This punishment applies only to the heinous and traumatizing offences to Society such as murder, rape, rape with murder. Crimes punished by death penalty varies from state to state and from country to country. In India the

Doctrine of "Rarest of the Rare" is followed and most of the death sentence are commuted to Life imprisonment. Thus, Indian Criminal Jurisprudence is based on combination of Reformatory and Preventive theories.

### ➤ Statement of problem

In India Capital punishment reduces social misbehaviour penalty should be used to eliminate crime. People commit crimes because they can pay the courts in advance to avoid atrocity forfeiture. This torment has no further justifications thus they must be punished. These consequences make kids afraid to commit a crime. If the government prioritizes the death sentence, rape will decrease in Asian countries. The country's Leadership should always implement the Capital punishment. The death penalty is



intended to be the severe and final warning for those who intend to commit similar crimes, reducing the likelihood that such crimes will be repeated in the future. As a result, it will decrease crimes in society.

#### ➤ **Objectives of the study**

1. To know the concept and origin of Capital Punishment.
2. To analyse the Capital Punishment.
3. To know about the Constitutional validity of Capital Punishment.
4. To examine the legal rules of Capital Punishment.
5. To study about the decisions of Capital Punishment.

#### ➤ **Hypothesis**

1. Abolition of Capital Punishment leads to increase in Homicide rates
2. Is Capital punishment laws in India are effective

#### ➤ **Research methodology**

The researcher attempts to create a foundation for conducting the research under study in research methodology. One needs to have a very solid foundation for the study that is intended to be undertaken in order to have a better investigation in the topic of inquiry. The data collected are secondary sources.

#### ➤ **Definition of capital punishment**

J.R.R. Tolkien wrote of Gandalf saying in *The Lord of the Rings*: "Many that live deserve death, and some that die deserve life. Can you give it to them? Then do not be too eager to deal out death in judgment".

The term "capital punishment" refers to the death penalty, which is the punishment for a crime by death. For example, capital punishment methods can include lethal injection, the electric chair or hanging. There is a great deal of controversy surrounding the issue of putting people to death, such that each state has different laws regarding this ultimate

penalty. To explore this concept, consider the following capital punishment definition.

#### ➤ **Origin of capital punishment**

The Capital punishment turns into a typical reaction to an assortment of wrongdoings, including rape and different military offenses as the inborn social orders formed into social classes and mankind made its own self-administered republics. Composed guidelines were caused among the general population to tell them about the punishment to be looked at by them on the off chance that they would partake in any of those criminals. One of the soonest composed archives that bolstered the death penalty was the Code of Hammurabi, which was composed on the stone tables around 1760 BC. It contained 282 laws that were gathered by the Babylonian King Hammurabi, including the hypothesis of "tit for tat." During the eighteenth and the nineteenth Centuries, legitimate bodies found quicker and less excruciating ways to deal with the death penalty incorporating hanging and executing with the guillotine. Capital punishment has become more controversial as time passes. In India, the history of capital punishment involves some brutal methods including everything from drawing and quartering, to burning people at the stake, or boiling them alive. There was also flaying, impalement, of course, hanging. Today, prisons still rely on lethal injection, the firing squad, and the electric chair. Most historical records show that capital punishment has been a cornerstone in the development of the justice system in nearly every society. China is the only country in world where capital punishment is in its peak with over 1000 executions every year, whereas In India Capital punishment is given in the "Rarest of rare case", and in India most of the death penalty is commuted to life imprisonment, But in China once Capital punishment is awarded it cannot be irrevocable.



## ➤ Theories related to capital punishment in India

### • Reformatory theory

Once Mahatma Gandhi quoted, "An eye for an eye turns the whole blind." This reformatory theory is based on this particular quote. The main objective behind this theory is to rehabilitate the criminal and reform into law-abiding members of society. The purpose to practice this theory is to disapprove of all kinds of corporal punishment and put more pressure on reform the offender. This theory helps a law-offender to live a life like a normal citizen in society. The prisons and reform homes are constructed with a motive to treat the inmates and help them to rebuild and reform themselves and as soon as offenders feel that they are ready to settle in the society and its members with a reform mindset. The transformation was generally done either through probation or parole as tools for reforming criminals. This reformatory theory always supports the ideology of criminology. Criminology explains that "every crime as a diseased phenomenon, a mild form of insanity, criminal anthropology, criminal sociology, and psychoanalysis support Reformatory theory. This theory aims to correct the criminal minds in a good manner and they can live a life like a normal citizen. This theory criticizes all kind of corporal punishment."

### • Preventive theory

As it is quoted, "Prevention is better than cure". Prevention is always helping us to prevent any unfortunate act to happen that may cause loss. The main objective behind this theory is to isolate the wrongdoer from the community and kept under security. According to this theory, the main purpose behind this is to set an example for the members of the community and prevent them to do any act that is against the law. In this theory, the judiciary passes sentence of the death penalty, life imprisonment, rigorous imprisonment to the offenders. This theory was supported by many law schools and law reformers because it helps to improve the penal law of the state and it shows the real effect on

members of community & offenders. The main aim of the preventive theory is to take proper measures that the offender doesn't repeat the unlawful act in the future after completing his/her punishment. This theory shows that the death penalty is the most severe form of punishment because of its impairment result. Taken the life of the accused person that killed an innocent person. If a person has killed someone and taken the life of that person. So, he is also liable to be deprived of his life as a punishment. In India penal law majorly follows this theory to provide justice and prevent the increasing rate of the crime rate.

## ➤ Offences punishable by capital punishment

Persons who have committed serious and heinous offences in nature are liable to be punished by capital punishment.

- One of the Offence that have been connected to the capital punishment is Waging war against government of India which is defined under section 121 of Indian Penal Code.
- Mutiny and its abetment which is defined under section 132 of Indian Penal Code.
- Section 194 of IPC which denotes fabricating false evidence upon which an innocent person suffers death.
- Murder which is defined under section 302 of Indian Penal Code, Murder is a heinous crime in nature.
- Section 305 of the IPC deals with punishment for assisting or supporting a person under the age of 18 or an intellectually disabled person in committing suicide. As a result, anyone who commits this crime can face the death penalty.
- Section 307 of IPC attempt to murder under sentence of imprisonment if hurt is caused in such attempt.
- Section 364-A of IPC Kidnapping for ransom.
- Section 376 A of IPC and Criminal Law Amendment, 2013 in case of rape the victim is caused to die or vegetative state then the



offender will be punished with capital punishment.

- Section 396 of IPC Dacoity accompanied with murder.
- Offences committed under section 31-A of NDPS (Narcotic Drugs Psychotropic Substances) will be awarded death penalty.
- The offences committed under section 4 of Prevention of Sati Act for aiding and abetting the act of Sati will be awarded Capital Punishment.
- Any Person who does not belong to Schedule Caste and Schedule Tribe commits any offences against the Schedule caste and Schedule tribe then he/she will be awarded Capital punishment under section 2 (1) of the SC and ST (Prevention) of Atrocities Act, 1989.
- Any offences committed by any person which is prescribed under section 27(3) of the Arms Act will be penalised by Capital Punishment.

#### ➤ **Category of offenders exempted from capital punishment**

##### • **Minor**

A person who committed a crime while still a minor, that is, below the age of 18, cannot be executed. Our lawmakers had decided to include minors in the group of offenders but have exempted from the death penalty because they thought that anyone who hasn't reached Adult age has lot of ways for improvement and they might be able to learn from their his mistakes by being given the right environment and education. In India there is a separate law known as the Juvenile Justice Act (2015) that is only implemented in situations involving minors.

##### • **Pregnant women**

Pregnant women were added to the list of criminals who are excluded from the death penalty. According to Section 416 of the CrPC, if the high court finds that a woman who has been awarded the capital punishment is pregnant then such sentence can be postponed or commuted to life imprisonment. The reasoning behind this is that hanging a

pregnant woman kills both the pregnant woman and the unborn child in her womb. The unborn child in the woman's womb has not committed any crime and does not deserve to die for what the woman had committed. Thus, pregnant women may thus fall under the category of criminals who are excluded from the death penalty.

##### • **Intellectually disabled**

According to Indian law, anyone who is intellectually disabled or physically challenged will fall under the category of offenders who are exempted from the death penalty. If a person committing a serious crime is unable to comprehend the nature and consequences of their actions, this is sometimes referred to as having an intellectual disability. Because of their intellectual disability, someone with a criminal record might not be aware of the specifics of the crimes what they have committed. Consequently, the intellectually disabled were added to the list of criminals who were exempted from the death penalty by our Indian lawmakers.

#### ➤ **Constitutional validity of capital punishment**

Article 21 of The Constitution of India provides protection of life and personal liberty to every people. And the deprivation of life of anyone is unconstitutional under Article 21. It is also said that "*No person shall be deprived of his life or personal liberty except according to the procedure established by law*", it means, if there is a procedure then the state can deprive a person of his life. In India, too there are many social workers including lawyers and judges who have voiced this demand. Krishna Iyer J. very recently while addressing a Human Rights organization strongly expressed himself in favour of the abolition of the death penalty.

This means that though there is a procedure established by law, the State can deprive a person of his life. Through judicial pronouncements, this procedure is interpreted to mean, a fair, just, and reasonable one.



Though the constitutional validity of the death punishment was challenged as violative of Article 19 and 21 of the Constitution of India, because it didn't provide any procedure to the Court upheld the validity of the death sentence. Since the procedure by which life is taken is fair, just, and reasonable. The judges are given ample power to exercise their discretion to award the capital punishment as against imprisonment for life.

#### ➤ **Legal frame for capital punishment**

The legal framework for Capital Punishment in India is primarily governed by the Indian Penal Code, which prescribes the circumstances under which capital punishment can be imposed. The code of Criminal Procedure, 1973 and the Indian Evidence Act, 1882 also play an important role in the application of Capital Punishment. The Indian Penal Code, 1860, provides for the Capital punishment for several offences including murder, terrorism relating offences which results in death. In order for a person to be sentenced to death, the crime must be of an extremely serious nature and the court must be convinced that no other punishment will be adequate. The capital punishment can only be punished in cases where the crime has resulted in the death of the Victim.

The process for awarding capital punishment in India involves a trail by session court of law followed by an appeal process that can extend up to the Hon'ble Supreme Court of India. The final decision to award the death penalty is made by the President of India who considers the recommendation of the respective State Home Minister and the Supreme Court before making a decision. In recent years, there has been a growing movement in India to abolish the death penalty, with several high-profile cases bringing the issue to public attention. However, capital punishment remains a legal option in our country and is still used in certain cases where the court deems fit to award the Capital Punishment.

The Law Commission of India in the year 2015, recommended that the Capital Punishment be abolished for all crimes except the offences related to terrorism and waging war against the Country. However, the government has not yet taken any action with regard to this recommendation.

#### ➤ **Judicial Approach on Capital punishment.**

In 1973, for the first time the constitutional validity of capital punishment was challenged in the case of **Jagmohan Singh V. State of U.P.**, where the petitioner challenged the validity of death sentence on the ground that it violates Article 14, Article 19 and Article 21 of the Constitution as it doesn't provide any procedure for execution of death penalty. It was contended that the procedure prescribed by the Code of Criminal Procedure was to confine guilt and not to award death sentence. The five Judges Bench of the Hon'ble Supreme Court held that the choice of awarding death sentence is done in accordance with the procedure established by law and the Judges has the power to make choice between capital punishment and imprisonment of life on the basis of circumstances, facts and nature of crime being record during the trial. So, Capital punishment doesn't violate Article 14, 19 and 21 of the Constitution, and hence it is constitutionally valid. But after this decision, the constitutional validity of the capital punishment was not open to doubt.

In 1979, death sentence was held unconstitutional and challenged in the case of **Rajendra Prasad V State of Uttar Pradesh**, Justice Krishna Iyer held observed that capital punishment would not be justified unless it is shown that the criminal was dangerous to the society and held that giving discretion or power to the Judge to make a choice between the death sentence and life imprisonment on special reasons under section 354(3) of the Code of Criminal Procedure, 1973, would be violative of Article 14 of the Constitution of India which condemns arbitrariness. He also pleaded for the abolition of death penalty and retention



of it only for punishing white collar criminals. But Justice Sen, held that the question whether the capital punishment should be abolished or the scope of section 302 of IPC and Section 354(3) of Cr.P.C should be curtailed or not is a question to be decided by the Parliament and not by the Court. But finally, then in 1980, the Supreme Court restored the constitutional validity of the capital punishment.

The Supreme Court overruled the decision of Rajendra Prasad's case in the case of **Bachan Singh V. State of Punjab**, providing that the provision of death sentence under section 302 of IPC was an alternative punishment for murder which doesn't violate Article 21 of the Constitution. Article 21 of the Constitution states the right of the State to deprive a person of his life or personal liberty in accordance with fair, just and reasonable procedure established by law. The death penalty for the offence of murder does not violate the basic feature of the constitution. The ratio of Bachchan Singh's case, therefore, is that capital punishment is constitutional if it is prescribed as an alternative sentence for the offence of murder and if the normal sentence prescribed by law for murder is imprisonment for life. In this case the majority concluded that section 302 of IPC is valid for three main reasons: i. that the capital punishment provided for, under section 302 of IPC is an alternative to the sentence of life imprisonment; ii. that special reasons have to be stated under section 354(3) of Cr.P.C.; and iii. that the accused is entitled under section 235(2) of the Cr.P.C. to be heard on the question of sentence given to the accused as an opportunity. These principles and validity of capital punishment were affirmed by Hon'ble Supreme Court in the series of cases, again and again. In 1983, again in Sher Singh V. State of Punjab, the question regarding constitutional validity of capital punishment was raised and the Supreme Court held that capital punishment is constitutionally valid and permissible as per the rules made under Bachchan Singh's case and this has to be accepted as the law of the land.

In **Mithu Singh V. State of Punjab**, the Supreme Court held that capital punishment even under section 303 of IPC which is mandatory, is void and unconstitutional as it violates Articles 14 and 21 of the Constitution. The Court held that there shall be no rational justification to be given for making distinction in the matter of punishment between persons who commits murder while they are under the sentence of life imprisonment and persons who commits murder while they are not under the sentence of life.

#### ➤ **Rarest of rare case theory**

The Supreme Court formulates the rule of the "rarest of rare case" theory in the case of Bachchan Singh which was reiterated in **Macchi Singh V. State of Punjab**. The Court made an attempt to formulate what constitutes a rarest of rare cases. And laid down specific circumstances under which the collective conscience of the community may receive shock. The Constitutional Bench considered by three-Judges Bench in this case observed that in the rarest of rare cases when collective conscience of a community is shocked by the crime committed, the judiciary in his power can award death penalty. The community may enter such sentiment in the following circumstances:

- **Manner of Commission of Murder:** When the murder committed is an extremely brutal, grotesque, and diabolical, so as to arouse intense and extreme indignation of the society, i.e.,

- When the house of the victim is set aflame with the end view to roast him alive in the house.
- The victim subjected to inhumane acts of torture or cruelty resulting in death.
- The body of the victim is cut into pieces.

- **Motive for Commission of Murder:** When the murder is committed for a motive which is immoral and mean, i.e.,



- i. When hired assassin commits murder for sake of money
- ii. When a cold-blooded murder committed with a deliberate design in order to inherit property or to gain control over property by a trusted person
- iii. When a murder committed due to betrayal of the motherland.

• **Anti-Social or Socially Inspired Nature of Crime:**

- i. Murdering of a member of scheduled caste or scheduled tribe or minority community, not for any personal reason, but to arouse social wrath.
- ii. 'Bride Burning and Dowry Death' or in order to remarry for the sake of extracting dowry and murdering.

• **Magnitude of Crime:** When multiple murders say for all or almost all the members of a family or a large number of persons of a particular caste, community or localities are committed.

• **Personality of Victim of Murder:** When the victim of murder is

- i. An innocent child
- ii. A helpless women or old age
- iii. A person whom the murderer is in a position of trust
- iv. A public figure who is loved and respected by the community for the services rendered by him and the murder is committed for political reasons.

• **Mitigating Circumstances:** The Court shall take account of the following circumstances that the

- i. Offence committed under the influence of extreme mental or emotional disturbances.

- ii. Age of the accused, if the accused is below the age of 18, he shall not be sentenced to death.
- iii. Probability that the accused will not commit criminal acts of violence resulting in continuing threat to the society.
- iv. Probability that the accused can be reformed and rehabilitated.
- v. Accused, if can justify morally about the offence committed.
- vi. Accused acted under intimidation or domination of another person.
- vii. Condition of the accused showing mentally defective.

➤ **Women under Judicial Approach**

The report also states that at the time of their study there were 373 prisoners on death row (excluding State of Tamil Nadu), out of which 12 were women and death warrants were awaited for all of them. Except Section 416 of Cr.P.C., which directs but not mandates the High Court to commute the death sentence passed on a woman who is found pregnant to life imprisonment, no other provision lends such a relaxation in favour of women death row convicts for any reason whatsoever. The reasoning used by courts to justify such a lenient approach towards women reveal the rationale behind such a strong bias and the fact that the entire death penalty system in the country suffers from a very fundamental flaw.

One of the most controversial cases is that of Nalini Sriharan who was initially sentenced to death for her involvement in the assassination of the then Prime Minister of the country Mr Rajiv Gandhi in the case of State of Tamil Nadu through Superintendent of Police, **CBI/ SIT V. Nalini**. The Supreme Court in 1999 had upheld her death penalty, but the 3-Judge bench was divided in its opinion. The minority opinion given by Justice K.T. Thomas considered multiple mitigating factors that were in favour of Nalini. While deliberating that in a normal scenario death penalty was the ideal punishment for her,



light was thrown on her statement. The learned judge said that one gets an impression that she was led into the conspiracy by playing on her feminine sentiments. Further, stressing on the facts that she belonged to the weaker sex and was helpless, the Judge concluded that it was not possible for her to retract once the conspiracy had set in motion. One more important factor considered was her being a mother. The father to the child was already awarded death sentence and hence commutation of her sentence would spare the child from orphan hood. These factors among others in his opinion excluded Nalini's case from the category of rarest of rare.

Moreover, what is interesting to note here is that in the first line of the paragraph where he discusses Nalini's sentence, it is mentioned that she was an elderly and educated woman. In our opinion, educational qualification should have been considered as an aggravating factor rather than a mitigating one because she was fully aware of her actions. It is hard to understand that she wasn't able to foresee any implications of this conspiracy. Also, similar exercise of evaluating mitigating factors was not undertaken for any of the other male co-accused awarded death penalty. The other two judges decided against this line of reasoning of their brother judge and confirmed her death sentence. Although, later in 2000, Sonia Gandhi's intervention pushed the Tamil Nadu Government to commute her sentence to that of life imprisonment.

Another example where unwarranted mercy was shown by the Supreme Court on a woman perpetrator is the case of ***Ediga Anamma V. State of Andhra Pradesh***. The judgment in which the Supreme Court commuted death sentence of the young woman to life imprisonment was delivered by learned Justice V.R. Krishna Iyer. The victim and her child were stabbed to death by the accused with help of a chisel. While discussing the dilemma which courts face when deciding the question death penalty, the Judge highlighted the lack of comprehensive provisions and adequate

machinery for collection and presentation of the social and personal data of the culprit to the extent required in the verdict of the sentence. The fact that victims included a two years old child and its mother should have been enough aggravating factor for the court to award the death sentence. The judgment illuminates the deep root feeling of protectionism and paternalism which prejudices the mind of the courts, which in almost all such cases result in women delinquents being spared of the capital punishment. The Supreme Court in 2006 had upheld the decision of the High Court, granting death penalty to the two women for murder and kidnapping. They were charged with thirteen cases of kidnapping and 9 cases of murder. The Supreme Court in its judgment particularly stated that there were no mitigating factors except of the fact that the accused were women. It has been a usual practice in India that mercy petitions of women are accepted by the executive and the sentences are commuted to life imprisonment. However, one recent and rare deviation from this trend was when mercy petition of Renuka Shinde and Seema Gavit was rejected by the President in 2014.

#### ➤ **Capital punishment was confirmed**

The bench of **Justice Suraj Govindaraj and Justice G Basavaraja** said disposing of two petitions filed by the convict and the State. "The atrocity of the crime resulting in five deaths including 3 children below 10 years of age and the brutality with which the same has been committed, leaves us no option but to confirm the order of death sentence passed by the trial court, which we do with a heavy heart.

This in our considered opinion qualifies the test of rarest of rare cases requiring the award of death penalty,"

The HC had reserved the judgement on the petitions after completing the hearing on **November 22, 2022** itself. But it had sought several pieces of information including certain records and reports.





These records, the court said were necessary to issue directions to be followed in all cases where the prosecution seeks for award of the death penalty.

#### **Facts of the Case:**

The accused Byluru Thippaiah, a labourer from Kenchanagudda Halli in Kampli, Hosapete, Ballari, suspected his wife of 12 years was having an affair which led to quarrels. They had four children, and Thippaiah declared that only one of them was born to him. On February 25, 2017, he attacked his wife, Pakkeeramma with a chopper. He also attacked his sister-in-law Gangamma and his children Pavithra, Nagaraj and Rajappa. All the five succumbed to their injuries.

The **Sessions Court at Ballari** which conducted the trial against him, examined 36 witnesses and 51 material objects before finding him guilty and awarded the death sentence on December 3, 2019 under Section 302 (murder) of the IPC and directed him "to be hung till death."

Thippaiah approached the HC against the sentence imposed by the Trial Court while the prosecution approached the HC for confirmation of the death penalty.

The **High Court of Karnataka** in its judgment said that it was shocked at the brutality.

"The manner in which the offence has been committed by the appellant is having attacked two women and three children in the house, hacked them and chopped them resulting in multiple injuries being caused to them and the Appellant coming out of the house and proclaiming that he has killed the prostitutes while holding chopper covered in blood. The same would shock the conscience of anybody and has indeed shocked our conscience, despite us having dealt with so many cases of offences relating to murder," the HC said.

The HC while confirming the death sentence, ordered for payment of compensation to Rajeshwari, the only child that survived the massacre.

The Additional Registrar was directed to forward the concerned file to the District Legal Service Authority to make necessary arrangements.

The HC also gave guidelines for the prosecution to follow in all cases where it is seeking the award of the death penalty.

These include placing report on the conduct and behaviour of the accused in jail, a psychological and physiological evaluation of accused, details of family background, relationship with siblings, history of violence or neglect, opinion of parents, relationship with family members, educational background, socio-economic background, criminal antecedents and history of social behaviour.

"The above reports to be submitted firstly at the time when the Appellant is committed to trial, a second report, at the time of hearing on sentence if the Appellant were to be convicted, third report at the time when the appeal is heard and the matter is reserved for judgment," the HC directed.

#### **➤ Conclusion**

The movement to end death penalty is being embraced around the globe and according to a report of Amnesty International in 2018 around 142 countries have abolished death penalty in law or in practice. The report states that the greatest number of executions are carried out by countries like China, Saudi Arabia, Vietnam and Iraq. It is here important for us to highlight the example of Canada. In Canada death penalty was abolished in 1976. The rate of murder has declined steadily and the country recorded its lowest rate in 2016 since 1966. This further stresses on to prove that there is no universality to the argument of deterrence in favour of capital punishment. It is time that people move on to more reformist and progressive ideology, thereby setting an example for other nations in Asia to follow. In India the capital punishment is awarded in the rare cases, the doctrine of "Rarest of rare case" is been followed since from years. Capital Punishment must exist in all countries till the world exists.



Although terrorist attacks and rape cases are fundamentally distinct from one another, five cases above mentioned have a common thread running between brutality, gruesomeness, and inhuman act against the victim(s) that a person in the normal course of things could not even possibly imagine. The Law Commission recommended the abolition of the death penalty in its 262<sup>nd</sup> Report, with the exception of acts of terrorism.

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