

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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THE DEATH PENALTY FOR RAPE OF WOMEN: BALANCING JUSTICE AND HUMAN RIGHTS

AUTHORED BY - PROF. MONICA CHAWLA

ABSTRACT

The imposition of the death penalty for the rape of women has sparked intense legal, moral, and human rights debates across jurisdictions, particularly in India. While rape is an abhorrent crime that demands a strong legal response, the appropriateness of capital punishment as a remedy remains contested. This paper critically examines the legal provisions under the Indian Penal Code (now the Bharatiya Nyaya Sanhita, 2023), judicial interpretations, and landmark cases such as *Mukesh v. State (Nirbhaya case)* to understand the scope and justification of the death penalty in rape cases. It also assesses whether such a punishment truly serves the ends of justice or undermines core human rights principles. Arguments in support of the death penalty such as deterrence, retributive justice, and public sentiment are weighed against concerns of wrongful convictions, disproportionality, and international human rights norms advocating abolition. By drawing from both domestic and international perspectives, the paper aims to strike a balance between the need for strict punishment and the imperative to uphold human dignity and constitutional values. Ultimately, it advocates for a justice system that prioritizes survivor-centric reforms, systemic improvements, and measured use of the death penalty in only the rarest of rare cases.

Capital punishment, commonly referred to as the death penalty, remains one of the most contentious and morally complex issues in criminal justice. It involves the legal execution of an individual convicted of a capital offense, most often murder. Although the practice has existed across numerous societies throughout history, its implementation and social acceptance vary significantly across countries and cultures. Proponents argue that capital punishment acts as a strong deterrent against serious crimes by instilling fear of the most severe consequences. In contrast, critics contend that it infringes upon the fundamental right to life and constitutes a cruel and inhumane form of punishment. They further highlight the risks of wrongful convictions, irreversible errors, and systemic biases within judicial systems, which undermine the fairness and reliability of the death penalty. This paper explores the multifaceted dimensions of capital punishment, including its definition, theoretical foundations, global perspectives, and

the principal arguments both in support of and against its continued use.

Keywords: Capital punishment, debated for centuries, future criminals.

“We are all the creation of God. I am not sure a human system created by a human being is competent to take away a life based on artificial and created evidence”

A.P.J. Abdul Kalam

I INTRODUCTION

Sexual violence against women is a pervasive and deeply rooted issue that transcends borders, cultures, and societies. According to the World Health Organization (WHO), nearly 1 in 3 women worldwide have experienced physical and/or sexual intimate partner violence or non-partner sexual violence in their lifetime. This violence is not only a violation of bodily integrity and personal dignity but also a manifestation of entrenched gender inequality and patriarchal power structures. In many countries, especially in conflict zones or under repressive regimes, sexual violence is used as a weapon of war, a tool of oppression, or as a means to control female autonomy. Even in democracies with progressive legal frameworks, women face barriers in reporting sexual crimes due to stigma, victim-blaming, and fear of retribution.¹

In India, the issue has drawn national and international attention due to high-profile cases such as the 2012 Nirbhaya gang rape and murder in Delhi, which triggered mass protests and widespread condemnation. According to the National Crime Records Bureau (NCRB), over 30,000 rape cases are reported annually, and many more go unreported. Factors such as societal shame, patriarchal mindsets, police apathy, and judicial delays contribute to the underreporting and under-prosecution of such cases. Marginalized women especially Dalit, tribal, disabled, and poor women are disproportionately affected and face even greater challenges in accessing justice.

The term “crime” comes from the Latin word *cerno*, which means “I decide,” “I judge,” or “I give judgment.” The original Latin word *crimen* meant “to charge” or “to cry out in grief.” There is also a word *krima* from a mix of Ancient Greek and Latin origins, which refers to a mistake

¹ Yashas Mohan, available at: “<https://ijirl.com/wp-content/uploads/2024/02/ANALYSING-THE-CONSEQUENCES-OF-CAPITAL-PUNISHMENT-IN-CASES-OF-RAPE-RESULTING-IN-COMMITTING-OF-SUBSEQUENT-CRIMES.pdf>, (last visited on 5 July, 2025).

made in judgment an offense committed not just against an individual, but against the community as a whole. In simple terms, crime refers to any act that goes against the laws of a country. When someone commits such an act, they become legally responsible and can be punished under that country's legal system. Although there is no single, universal definition of crime, most definitions agree that it is an action that is both wrong in the eyes of the law and punishable by the government. Crimes are also called offenses, and they harm not just individuals but also the society as a whole. Acts like murder, rape, and theft are considered crimes because they are forbidden by law and are punishable by the state. Such acts are seen as threats to public order and safety, and laws are in place to prevent and penalize them.

Capital punishment, also called death penalty, execution of an offender sentenced to death after conviction by a court of law of a criminal offense. Capital punishment should be distinguished from extrajudicial executions carried out without due process of law. The term death penalty is sometimes used interchangeably with capital punishment, though imposition of the penalty is not always followed by execution (even when it is upheld on appeal), because of the possibility of commutation to life imprisonment. Proponents of capital punishment argue that it serves as a powerful deterrent, preventing potential criminals from committing heinous acts by instilling fear of the ultimate consequences. They believe that by executing convicted murderers, society upholds justice and protects innocent lives. Supporters also claim that capital punishment provides closure to the families of victims, offering them a sense of retribution and justice that no other punishment can deliver.

II BRIEF HISTORY OF CAPITAL PUNISHMENT

The death penalty was established in the Eighteenth Century B.C. in the Code of King Hammurabi of Babylon, where it was codified for 25 different crimes. The death penalty is also outlined in Athens' Draconian Code, which made the death penalty mandatory for all types of crimes committed. The criminals were sentenced to death by burning alive, drowning, beating to death, impalement, and burning alive. Hanging became the standard method of execution in Britain in the tenth century A.D. Except during wars, it was not permitted to hang people in the following century, during the reign of William the Conqueror.² Capital punishment, also known as the death penalty, is one of the oldest forms of criminal justice, dating back to ancient civilizations. Evidence of state-sanctioned executions can be found in the legal codes of early

² Altekar, "*History of Ancient India*" 120 (Motilal Banarsidass, New Delhi, 3rd edn.,1988).

societies such as the Babylonian Code of Hammurabi (circa 18th century BCE), which prescribed death for a wide range of offenses. In ancient Egypt, Greece, and Rome, executions were public and often brutal, serving both punitive and deterrent purposes. Methods ranged from stoning and beheading to crucifixion and burning at the stake. In medieval Europe, capital punishment was not only a tool of justice but also a means of enforcing religious conformity and political loyalty, often carried out with public spectacle. The Enlightenment in the 18th century sparked critical debates on the morality and effectiveness of the death penalty, with philosophers like Cesare Beccaria arguing against its use. Despite the rise of prison systems as alternatives, capital punishment persisted into modern times, though its use has declined, especially in democratic nations. Today, while many countries have abolished the death penalty or imposed moratoriums, it remains legal and actively practiced in others, such as China, Iran, Saudi Arabia, and parts of the United States.

III THEORIES RELATED TO CAPITAL PUNISHMENT IN INDIA

Punishment is an essential component of the criminal justice system, used to maintain order, deliver justice, and prevent future crimes. Legal scholars have developed several theories to explain the purpose of punishment and guide its application in society. The main theories include Retributive, Deterrent, Preventive (Incapacitation), Reformatory, and Compensatory theories. Each of these approaches reflects different goals and philosophies regarding crime and justice.

a) RETRIBUTIVE THEORY

The Retributive Theory is based on the idea that offenders deserve to be punished for the crimes they commit. It emphasizes justice and moral balance, following the principle of “an eye for an eye.” This theory does not focus on the future behaviour of the criminal or on social outcomes; instead, it believes that punishment is justified simply because the crime was committed. Retribution is not about revenge but about giving the offender a penalty proportionate to their wrongdoing. While this theory satisfies the need for justice, critics argue that it may be overly harsh and does not contribute to the rehabilitation of the offender.

b) DETERRENT THEORY

The Deterrent Theory aims to prevent crimes by instilling fear of punishment. It operates under the assumption that people make rational choices and will avoid

unlawful behavior if they know the consequences are severe. This theory is divided into two categories: *specific deterrence*, which seeks to prevent the same individual from reoffending, and *general deterrence*, which aims to discourage others in society by setting an example through punishment. Although it is widely used in many legal systems, the deterrent effect is sometimes limited, especially in cases involving crimes of passion or offenders who act under emotional or psychological distress.

c) PREVENTIVE (INCAPACITATION) THEORY

The Preventive Theory, also called incapacitation, focuses on protecting society by removing dangerous individuals from the public. By imprisoning or executing offenders, this approach ensures they are unable to commit further crimes. It is less concerned with the idea of moral guilt and more focused on public safety and crime control. While effective in preventing repeat offenses, this theory has been criticized for neglecting the offender's potential for reform and contributing to issues like prison overcrowding and high incarceration rates.³

d) REFORMATIVE THEORY

The **Reformative Theory** takes a rehabilitative approach, believing that criminal behavior can be corrected and that offenders can be reintegrated into society. This theory promotes moral and psychological improvement through education, counseling, vocational training, and therapy. It is especially applied in the case of juveniles and first-time offenders, where there is a high chance of rehabilitation. Reformative punishment aims not only to prevent future crimes but also to improve the individual. However, this theory may not be suitable for habitual or violent offenders who show little willingness to change.

e) COMPENSATORY THEORY

The Compensatory Theory is focused on restoring the loss suffered by the victim rather than punishing the offender alone. It holds that justice can be achieved if the offender provides compensation for the harm caused, whether in the form of money, services, or restitution. This theory is more common in civil law but is also used in restorative justice practices within criminal law. While it is effective in promoting reconciliation

³ Tanaya Wageshwari, *available at*: <https://ijlr.iledu.in/devadasi-system-in-india-historical-background-supreme-court-stances-on-it/> (last visited on June 21, 2025).

and healing, it may fall short in cases of severe crimes such as murder, where no form of compensation can truly make up for the loss.

In summary, each theory of punishment serves a different purpose -some aim to deliver justice, others to prevent crime, reform the offender, or compensate the victim. Modern legal systems often incorporate a mix of these theories to create a more effective and balanced approach to justice. The choice of theory often depends on the nature of the crime, the offender's background, and the values of the society in which the justice system operates.

IV NATIONAL AND INTERNATIONAL PERSPECTIVE

I. NATIONAL PERSPECTIVE

After these theories even the real difference was not coming into hands and our country after independence believed in constitution and In *Jagmohan Singh v. State of Uttar Pradesh*, the constitutionality of the death punishment was affirmed. It was argued that the death penalty was unconstitutional since no method for giving the death sentence was established, and that the procedure under the CrPC was limited to determinations of guilt. The court found that the decision to sentence someone to death is made in line with the law, and that the judge makes the decision between capital punishment and life imprisonment based on the circumstances, facts, and nature of the offence as presented at trial. The bench unanimously determined that capital punishment did not violate Articles 14, 19, or 21.⁴

India allows the death penalty for rape in certain aggravated circumstances, especially after the Criminal Law (Amendment) Acts of 2013 and 2018, and under the new *Bharatiya Nyaya Sanhita, 2023 (BNS)*. Applicable Scenarios, rape of a woman resulting in death or persistent vegetative state (Section 70(2), BNS). Rape of a girl under 12 years (Section 64(2), BNS). Gang rape of a girl under 12 years (Section 65(2), BNS). India follows the “rarest of rare” doctrine, which mandates that the death penalty be imposed only in the most extreme cases, as per *Bachan Singh v. State of Punjab* (1980).

Bachan Singh v. State of Punjab and *Machhi Singh v. State of Punjab* are the key cases on when the death sentence should be applied. In the former, the Supreme Court reversed its previous decision in *Rajendra Prasad*, concluding that the death sentence is not irrational as an alternative

⁴ H.M. Seervai, *Constitutional Law of India* 222 (Universal Law Publishing, New Delhi, 4th edn., 2011).

punishment for murder and hence does not violate Articles 14, 19, and 21 of the Indian Constitution. In this case, the rarest of rare doctrine was established, with the death sentence being enforced only in the "rarest of rare circumstances." The later decision summarised the former and established the broad contours of the extraordinary circumstances under which the death penalty should be inflicted. Considering the nature of the crime and the circumstances of the criminal, and taking into account all aggravating and mitigating circumstances. As a result, the resulting 'rarest of rare' theory provides as a guideline for imposing the death sentence. In *Bachan Singh*, the Court acknowledged that each case is unique and must be resolved based on its own facts and circumstances. As a result, the Court refused to establish any classification of the kind of circumstances that might warrant the death punishment. And judges were instructed to decide whether a case is the rarest of the rare, taking into account judicial principles drawn from a study of precedents about the types of aggravating and mitigating elements.⁵ The imbalance in sentencing caused by judges' preferences, the criminal justice system is unable to deal with all offences fairly. Such an imperfect sentencing system would be legally arbitrary since it would treat similarly situated prisoners differently, i.e., it would not give people convicted of identical offences with equal protection with regard to their right to life.

II. INTERNATIONAL PERSPECTIVE

Although many countries have made such abolitions, provisions relating to the death penalty are not prohibited by international law, such as the International Covenant on Civil and Political Rights and other universal international treaties. Noting further that as such conventions and treaties become more widespread at the international level, other instruments such as the Second Optional Protocol and Protocol No. 6 to the International Covenant on Civil and Political Rights will also become available should. European Convention for the Protection of Human Rights Human rights. include human rights and fundamental freedoms, as well as those with few ratifications and those aimed at abolishing the death penalty. According to the international legal paradigm, Article 6 of the ICCPR is the most important and clear provision regarding the death penalty. The clauses set out in the Related Clauses state that States that have not yet abolished the death penalty are obliged to act in accordance with the laws in force at the time the crime was committed, and to act contrary to the death penalty.

In the U.S., the Supreme Court ruling in *Kennedy v. Louisiana* (2008) held that the death penalty

⁵ The Constitution of India, 1950 (Act 27 of 1949).

for rape if not resulting in the victim's death—violates the Eighth Amendment's prohibition of cruel and unusual punishment. Current Legal Position, death penalty is not allowed for the rape of adults or children, unless it results in the death of the victim. Some U.S. states have challenged this view and sought to introduce death penalty for child rape, but no law has yet passed that test constitutionally. In European Union Complete Abolition, the European Union uniformly abolishes the death penalty, both in law and practice, for all crimes, including rape. EU member states are bound by the European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the EU, which prohibit capital punishment. Even in cases of rape-murder, only life imprisonment is permitted. Emphasis is placed on rehabilitation, restorative justice, and victim support systems. In Saudi Arabia and Iran, rape is often punished by death, sometimes mandatory, based on Sharia (Islamic law) and the interpretation of hudud (serious fixed offences). Public executions are carried out in rape cases, especially where violence or murder is involved. Courts often consider confessions, but fair trial standards are frequently criticized. Iran, Rape (referred to as *zina bi al-jabr*) can result in capital punishment. Human rights organizations have condemned executions in rape cases due to coerced confessions, lack of defense, and gender discrimination in trials. In Bangladesh 2020, following mass protests after a gang rape, Bangladesh amended its law to introduce the death penalty for rape as an option. Human rights groups criticized this move as reactionary, calling for reform and proper implementation of existing laws instead. In the Pakistan Anti- Rape (Investigation and Trial) Ordinance, 2020 and Criminal Law (Amendment) Act, 2021 introduced stricter punishments, including chemical castration and death in certain rape cases. These laws are politically popular but face challenges from human rights bodies and religious legal experts. Abolitionist Trend: Over 140 countries have abolished the death penalty in law or practice, including for rape. UN Stance, the United Nations Human Rights Committee and OHCHR advocate that rape, unless resulting in death, should not be punished by execution. No Proven Deterrence, numerous studies, including those by Amnesty International and Human Rights Watch, show no conclusive evidence that capital punishment effectively deters rape more than life imprisonment.

The provisions of this Covenant and the Convention on the Prevention and Punishment of Genocide Crimes. Although the article provides for the application of the death penalty by ratifying states, it also imposes a number of severe restrictions. At the international level, the issue of capital punishment and conviction has been transferred to the realm of human rights. This is because death sentences and convictions must be carried out within a country's borders,

regardless of considerations in the country's criminal justice system. This is further supported by his HRC decision in *Judge Roger v. Canada*. The ruling states that states opposed to the death penalty have an obligation to allow such situations to arise, and that the same is required in their petitions. Such postponements and decisions by the commission further divided opinion between those in favor of abolition and those in favor of continuation. *Mithu v. State of Punjab*⁶, In this case the Supreme Court struck down Section 303 of the Indian Penal Code, which recommend for mandatory death sentence for offenders.

III DOCTRINE OF RAREST OF RARE CASES

The Doctrine of Rarest of Rare Cases is a crucial principle in Indian criminal law that guides the imposition of the death penalty. It originated to ensure that capital punishment is awarded only in the most exceptional circumstances, preventing arbitrary or excessive use of the ultimate punishment. This doctrine emerged from the Supreme Court's effort to harmonize the death penalty with the fundamental right to life guaranteed under Article 21 of the Indian Constitution. The doctrine was first explicitly laid down in the landmark case of *Bachan Singh v. State of Punjab (1980)*, where the Supreme Court held that the death penalty should be reserved for the "rarest of rare" cases, emphasizing that life imprisonment should be the norm rather than the exception.

Before this ruling, the death penalty could be imposed more liberally under Section 302 of the Indian Penal Code, which deals with punishment for murder. However, the court recognized that the right to life is a fundamental right, and capital punishment, being an irreversible penalty, requires strict scrutiny. The *Bachan Singh* judgment laid down the foundation that the death penalty can be imposed only if the alternative option of life imprisonment is unquestionably foreclosed due to the heinous nature of the crime.

The Supreme Court later elaborated on the criteria for identifying such "rarest of rare" cases in *Machhi Singh v. State of Punjab (1983)*. The court identified various factors like the manner in which the crime was committed, the motive behind the crime, the personality of the accused, and the impact of the crime on society. The court emphasized that crimes committed in an extremely brutal or grotesque manner, or those that shock the collective conscience of society, may warrant the death penalty. Additionally, the possibility of reforming the accused and the

⁶ AIR 1983 SCC 473.

presence of mitigating circumstances must also be carefully considered.

In *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra (2009)*, the Supreme Court reaffirmed that the death penalty should be the exception rather than the rule, and courts should cautiously examine whether the facts truly fit the “rarest of rare” category before sentencing someone to death. The court reiterated the need for judicial restraint in imposing capital punishment, highlighting that the sanctity of life requires that such a sentence should be given sparingly.

Another important case is *Shatrughan Chauhan v. Union of India (2014)*, where the Supreme Court expanded the scope of the doctrine by considering undue delays in the execution of death sentences as a factor that may reduce a death sentence to life imprisonment. The court noted that prolonged delays can cause mental agony amounting to cruel, inhuman, and degrading treatment, violating fundamental rights. This judgment reinforced the protective approach of the judiciary towards death row convicts while maintaining the essence of the doctrine.

The doctrine, however, has not been without criticism. Some argue that the criteria for “rarest of rare” are vague and subjective, leading to inconsistent application across different cases and courts. Human rights activists advocate for the complete abolition of the death penalty, pointing to the risk of judicial errors and the irreversible nature of capital punishment. Moreover, the doctrine requires courts to balance the nature of the crime with the circumstances of the accused, which is often complex and open to interpretation.

Despite these challenges, the doctrine remains a landmark legal principle in India. It reflects a careful judicial approach that balances the demands of justice and deterrence with constitutional values of human dignity and the right to life. The Supreme Court’s insistence on this doctrine has significantly reduced the number of death sentences and ensured that capital punishment is imposed only when absolutely necessary. Thus, the Doctrine of Rarest of Rare Cases protects individuals from arbitrary death sentences while maintaining the deterrent effect of capital punishment for truly egregious crimes.

In conclusion, the doctrine acts as a constitutional safeguard that limits the use of the death penalty to cases where the crime is so atrocious that no other punishment would be adequate. It embodies the judiciary’s commitment to protecting human rights without compromising on

the delivery of justice in the most serious criminal cases. The doctrine continues to evolve, but its core principle remains to impose the death penalty only as a last resort in the rarest and most heinous cases.

In the context of capital punishment, the concepts of aggravating and mitigating circumstances play a crucial role in ensuring just sentencing. Aggravating circumstances refer to elements of a crime that make it more heinous, such as extreme brutality, premeditation, the vulnerability of the victim (e.g., children, women, or public servants), or the presence of a criminal record. These factors weigh in favor of imposing the death penalty. In contrast, mitigating circumstances are those that reduce the moral blameworthiness of the offender. These may include the offender's young age, lack of prior criminal record, mental illness, emotional disturbance, possibility of reform, or socio-economic disadvantages. The Indian Supreme Court, in the landmark case of *Bachan Singh v. State of Punjab*⁷ laid down the principle that the death penalty should only be imposed in the “rarest of rare” cases, and only after carefully weighing the aggravating and mitigating factors. The court reiterated in *Machhi Singh v. State of Punjab*⁸ that the manner of the crime, motive, and societal impact must be considered alongside the circumstances of the accused. For instance, in the *Nirbhaya Case*, the brutality and impact on collective conscience served as aggravating factors justifying capital punishment. Conversely, in *Santosh Kumar Satishbhusan Bariyar v. State of Maharashtra*⁹ the court commuted the death sentence to life imprisonment citing youth, no prior record, and potential for reform as mitigating factors. The balance of these circumstances ensures that the punishment fits not only the crime but also the criminal, thus upholding constitutional values and human dignity even in the most serious of cases.

IV METHODS OF EXECUTION CAPITAL PUNISHMENT

After understanding the meaning, the evolution of capital punishment, not its time to understand the way or the method of execution of capital punishment. There are many ways of execution of death penalty here we will encounter all the ways within India and other countries and also identifying the ways which are followed India-

- a. **Hanging:** All executions in India are completed by hanging. In 1949, Nathuram Godse, the professional killer of Mahatma Gandhi, was quick to be executed by hanging in

⁷ AIR 1980 SC 898.

⁸ AIR 1983 SC 957.

⁹ AIR 2009 SC 452.

autonomous India. The Incomparable. Court of India has recommended that capital punishment ought to just be given in the "most uncommon interesting cases." Ajmal Kasab, the as it were fear monger getting by from the assaults in Mumbai in 2008, was executed on 21 November 2012. The High Court of India had recently dismissed his leniency supplication, which was then dismissed by the Leader of India. He was hanged seven days after the fact. On February 9, 2013, Afzal Master, a fear-based oppressor who was deemed responsible for plotting during the attack on the Indian parliament in December 2001, was hanged in Tihar's jail in Delhi. In the most improbable of circumstances, the code should provide specific justification before sending a person to the scaffold.¹⁰

- b. Shooting:** The passing sentence can also be carried out in accordance with the Military Demonstration and Flying Corps Act. The Aviation Based Armed Forces Act of 1950, Section 46, authorizes the court to compel the imposition of sentences for the offenses listed in Sections 34(a) through (o) of The Flying Corps Act of 1950. "After imposing a death sentence, a court of war will, in its sole watchfulness, determine that the guilty party will be slain by the neck, will be hanged until he is dead, or will be executed by being shot," states Segment 163 of the Constitution.
- c. Gas Chambers:** a procedure in which an individual or group of individuals is forced into a small, tightly-closed compartment where not even air can flow. Infested areas gave rise to a structure like a shower where dangerous chemicals, including nitrogen oxide, are released. These gases are damaging to human health and can cause death. Generally speaking, this kind of punishment was used in earlier times. specifically in Germany's Nazi administration. Despite not being utilized today, it is nevertheless employed as a secondary form of punishment alongside the death penalty in some states, including California, Arizona, Oklahoma etc.
- d. Stoning:** It is a form of punishment when the offender is given to the community or group of people. Stones are picked up and thrown at the criminal by the crowd gathering nearby. The constant stoning causes severe injuries and, eventually, death. That was a custom that was regularly observed throughout the entire planet. Early on, particularly throughout the Middle Ages when Islam was in power, evening was an important feature in India. It is no longer practiced in India, but is still found in Gulf countries including Saudi Arabia, Qatar, Iran, Yemen, Sudan, and the United Arab Emirates.

¹⁰ Ram Ahiya, *Social Problems in India* 308 (Rawat Publications Jaipur and New Delhi, 2nd edn., 2003).

- e. **Electrocution:** It is a different kind of punishment that qualifies as a harsh punishment that is still used in industrialized countries like the United States, the Philippines, and China. In this, the offender is made to sit in an electric chair, have his or her hands restrained, and then receive electric shocks at predetermined intervals with an escalating walt. The person finally dies as a result of this.
- f. **Decapitation:** A person's head being severed from his or her body is another cruel technique to put someone to death. In ancient conflicts, this kind of punishment was used, in which the king wouldst throw the enemy's head away from the body. Currently, middle east countries are still using these sorts of punishment.¹¹
- g. **Lethal Injection:** It's a technique for overdosing the criminal on drugs. The abuse of narcotics eventually results in death for the offender. This is an ancient tradition that was utilized in former times, but it is currently mostly observed being used in the United States and other regions of the world, where some are in notice and some are not due to a lack of data.

The above listed are the most prominently used punishment, which prevailed in earlier as well as in current scenario. Talking about India, the hanging and the shooting are the two types of execution of the Death Penalty. Shooting was used in earlier stages but slowly and steadily the shooting as execution is removed and hanging is the execution process used.

V ARGUMENTS IN FAVOR OF CAPITAL PUNISHMENT

- a) **Deterrence:** One of the main arguments in favor of the death penalty is that it can deter would-be criminals. Proponents argue that the fear of the death penalty can deter people from committing violent crimes, especially murder. They believe that the existence of harsh penalties is a powerful deterrent and protects society by deterring potential criminals.¹²
- b) **Retribution and Justice:** Proponents of the death penalty argue that it is a form of retribution and justice for victims and their families. They believe that certain crimes, especially murder, deserve the highest punishment. The death penalty is seen as an appropriate response to the seriousness of such crimes, allows for the separation of the victim's family, and upholds the principle of justice by ensuring that the punishment is

¹¹ B.N. Srikrishna, *Judges' Role in the Administration of Criminal Justice* 111 (Universal Law Publishing, New Delhi, 2005).

¹² V.R. Krishna Iyer, *Prison and the Prisoner*, 342 (Deep & Deep Publications, New Delhi, 2nd edn., 2001).

commensurate with the crime.

- c) **Allocation of costs and resources:** Proponents of the death penalty argue that the death penalty could be cheaper than a long prison sentence. They argue that imprisoning dangerous criminals for life could cost the state enormous financial losses. The death penalty is seen as a more efficient way of allocating resources and directing them towards other societal needs, such as crime prevention programs and victim support services.
- d) **Public opinion and democracy:** Proponents of the death penalty often point out that its implementation has the support of a significant segment of the population. They argue that the use of the death penalty reflects the will of the people and preserves democratic values. Proponents believe that the death penalty should be kept as a legitimate option because it reflects the wishes and expectations of the majority.
- e) **Closure and Emotional Satisfaction:** Another argument by proponents is that the death penalty brings an end and emotional satisfaction to the victim's family. They believe that witnessing the execution of a convicted felon gives them a sense of justice, that those responsible are being held accountable, and that grieving families can move on.

VI CONCLUSION

At the point when a capital punishment is granted to the denounced it is more than simple a discipline, we are finishing or killing an individual in name of equity and regulation.

It is shameless to kill an individual what's more; it shows the absence of regard towards human existence. Contradicting the death penalty also doesn't imply that one is endorsing the criminal. The imposition of the death penalty eliminates the potential for significant advancement that might have altered a person's existence. For this reason, numerous countries throughout the world accept the reformative discipline hypothesis while also eliminating the barrier discipline hypothesis. As a result, one should respect every single person because "even the most wretched lawbreaker stays a human being equipped with normal human poise." We have no right to decide who will live and who will die based on rules and regulations that we set ourselves. The evidence clearly shows that a criminal should be punished for the crimes he did, but as a society, we must focus on punishing the offense rather than the criminal. The essential difference between people and other species is this. The fact that "we are a human" is a precious gift, because killing someone else distorts the essential truth of what it means to be a person.

Even if we refer to ourselves as an "enlightened civilization," we continue to murder people in the name of equity. The legal basis for the death penalty is obstruction hypothesis, which does not only set a model by inspiring fear in the minds of others. But there are some alternative methods by which a primary model can be established, such as reformative hypothesis. The idea of the death penalty is old and uncouth and ought to be nullified as it includes killing of an individual which is corrupt as life is valuable and passing is irreversible. Majority rules systems ought to flourish more on reformative hypothesis as opposed to obstruction hypothesis as it given opportunity of progress which can change the existence of an individual and can offer him an opportunity to get back in the general public and subsequently reformative hypothesis enjoys its upper hand over obstacle hypothesis. Subsequent to taking a gander at every one of the measurements and report we can reason that China actually has far to cover to nullify the idea of capital punishment.

