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# **THE LAST VERDICT: EVALUATING THE EFFECTIVENESS OF THE DEATH PENALTY IN INDIA**

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## **ABSTRACT**

The usage of the death sentence in India is critically examined in this article, which also discusses its historical underpinnings, ethical ramifications, effectiveness, and alternatives. The effectiveness of the death sentence in deterring crime, upholding justice, and safeguarding human rights is a topic of continuous debate, despite the fact that it is only used to the most heinous crimes<sup>1</sup>. In India, the death penalty has a long history that was shaped by colonial, religious, and cultural influences. Since its establishment in the Indian Penal Code of 1860, the death sentence has remained legal throughout independent India, with a few notable exceptions. In the landmark case of *Bachan Singh v. State of Punjab* (1980), the "rarest of rare<sup>3</sup>" principle was devised, which gives judges guidance when imposing the death penalty. Deeply ingrained moral concerns over the death penalty have spurred debates concerning morality, justice, and the intrinsic value of human life. Critics contend that both the fundamental right to life and the rules prohibiting cruel, inhuman, or humiliating punishment are violated by the death penalty. This adds to the ethical complexity, as evidenced by worries about erroneous convictions, arbitrary sentences, and inconsistent application. The effectiveness of the death penalty in deterring crime is still up for debate. Although proponents assert that it can be used as a form of punishment for serious crimes and has a deterrent effect, the main body of this research, which was founded on the Doctrine of Rarest of Rare Cases, deals with a number of cases in order to determine the study's object. The study examined whether the jury's verdicts in the heinous crimes were rendered with the general public's opinion in mind, concluding that, in the rarest of circumstances, the death penalty is indeed just and equitable. The study indicates that the judiciary has the discretionary authority to administer capital punishment; however, it must adhere to public demand in order to ensure the safety of all individuals.

Keywords; Death sentence, Arbitrary, Human life, Fundamental Rights, Crimes

## INTRODUCTION

“We don’t know if capital punishment is a deterrent, but we know that men we execute will not murder again”.

*-Mario Puzo*

The word "crime," which comes from the Latin word "crimen," which means "I take decisions, I judge, and I give judgment," has been embraced by the public. The initial significance of the Latin word crimen means "to charge" or "to weep with sorrow." A phrase from the American Greek mix language called "krima" (kpiua), from which the Latin cognate has been borrowed, literally means that an intellectual error is an offense against the community rather than a wrongdoing against an individual or moral principles. Crime is defined as an act that violates the laws of the land, and the perpetrator is subject to punishment in accordance with the clauses found in the applicable land laws. Stated otherwise, a crime is an act that violates the law and is subject to punishment from the relevant state or nation's government. Even though there isn't a single, widely recognized definition for the term "crime," several people have defined it in various ways, all arriving at the same conclusion that a crime is an act that has been deemed unlawful and is subject to legal punishment. In any state, the crime, often referred to as an offense, is detrimental to society as well as to an individual. The death penalty, also known as the capital punishment, is a form of punishment for transgressions. It needs to be kept apart from extrajudicial executions that take place without following the proper legal procedures. For the most horrible crime committed against humanity, it is the harshest punishment available impacting society. According to each nation's established legislation, the severity of such criminality varies. Draco (fl. 7th century BCE) advocated the death penalty for murder, treason, arson, and rape in ancient Greece, despite Plato's contention that it should only be applied to the incorrigible. Additionally, the Romans manipulated it for a broad variety of offenses, even though throughout the republic, citizens were briefly freed. Additionally, the majority of the world's main religions have supported it.

The death penalty is currently a hot topic of discussion worldwide as people's perspectives shift with the times. People form their own values, which are often accompanied by admirable opinions and have been followed for many decades or even centuries. As the concept of human rights has grown, people have become more conscious of their rights and power, as well as what they deserve and whether they deserve to live. Some people continue to hold the view that it is morally wrong to keep one person alive at the expense of another's life.

## **A BRIEF OVERVIEW OF THE DEATH PENALTY'S HISTORY.**

The Code of King Hammurabi of Babylon, which regulated the death penalty for 25 distinct offenses, was created in the eighteenth-century B.C. The death penalty is further described in the Draconian Code of Athens, which mandated the death penalty for all offenses. The offenders received death sentences that included burning alive, drowning, beating to death, and impalement. In the tenth century A.D., hanging was adopted as the common means of execution in Britain. In the century that followed, under William the Conqueror, hanging individuals was outlawed save in times of war.

Theories of punishment.

### **DETERRENT THEORY**

When punishment is used to keep an offender from committing the same crime again or to discourage potential offenders from committing comparable crimes, this is known as deterrence. It serves as a warning to other possible criminals about the consequences of imitating the wrongdoing<sup>1</sup>.

"No one punishes a wrongdoer on account of his wrongdoing unless one takes unreasoning vengeance like a wild beast," according to Plato, who first promoted it. "But he who undertakes to punish with reason does not avenge himself for the past offense since he cannot make what was done as though it never came to pass; he looks to the future and aims to prevent that particular person and others who see him punished from doing wrong again."

A normal mind is deterred by the certainty of punishment and the identification of an offense, while a criminal's mind lacks this deterrence. criminal activity without considering the repercussions. However, deterrence is ineffective for crimes driven by passion, greed, impulsivity, or fear. When a criminal seeks punishment out of guilt, deterrence is useless<sup>2</sup>. Detention serves more as a warning about punishment to make possible offenders fearful.

### **RETRIBUTIVE THEORY**

"This older conception of punishment is sharply distinguished from mere social hygiene: it

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<sup>1</sup> Joel Meyer, *Reflections on Some Theories of Punishment*, 59 J. CRIM. L. CRIMINOLOGY 595, 596 (1968)

<sup>2</sup> Leopold, *what is Wrong with the Prison System?* 45 NEB. L. REV. 36 (1966).



does not make primary, as modern thought does, the reduction of crime or the protection of society from the criminal; instead, it makes primary the meting out to a responsible wrongdoer of his just deserts," Professor Hart said, capturing the essence of the retributive theory of punishment.

Retaliation is the natural reaction of every victim to the perpetrator. The need for punishment is clear and well-founded. Dealing with the perpetrator and punishing him was the victim's responsibility long ago. The victim was compelled to give up their right to punish their perpetrator, though, as society evolved, and this idea was abandoned. Retribution was carried out by assigning the offended person's resentment and fury to the community. Society's desire to punish the guilty took precedence over the sentiments of the victim<sup>3</sup>. It is possible to argue that punishment, as a manifestation of society's collective interest, is equally immoral as the offense. It is important to remember, however, that this imposition does not violate any laws.

### **REFORMATIVE THEORY**

In contrast to the other approach, this one seeks to stop the crime rather than get revenge. It takes a more humanitarian view of penalties and is based on the idea that a crime's requirement for a penalty stems from societal demands. Therefore, society is attempting to stop the offenders from committing any more crimes in the future by locking them up. By doing this, society is shielded from any antisocial elements.

Every individual has value and dignity, and society is prepared to invest time and effort in reclaiming them for their own sake not just to prevent them from hurting society in the future. This is what drives rehabilitation. The emphasis of reformatory theory is on individualism. It centers on a criminal's transformation and the idea that convicts can be re-educated and reformed.

### **PREVENTIVE THEORY**

This theory, in contrast to the other, seeks to stop the crime rather than exact revenge. It takes a more compassionate stance toward penalties and is based on the idea that the need for a penalty for a crime is a result of societal demands. As a result, when society sends criminals to

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<sup>3</sup> *Supra* note 2 at 595.

prison, it is also trying to stop them from catching another crime. This safeguards the community against any antisocial elements.

The basic idea behind the preventive theory is that the criminal should be held in custody for an extended length of time to stop him from committing new crimes during that time. Rather than considering the offender's guilt for the offense for which he was sentenced, the length of the detention time is determined primarily by the necessity to safeguard the public.

## HUMAN RIGHTS AND ETHICAL ASPECTS

The sanctity of life, justice, and morality are all major topics in the discussion surrounding the death penalty's morality. The necessity of protecting human rights and dignity in a law-and-order community is the topic of this conversation<sup>4</sup>. The claim made by those reason against the death penalty is that it blatantly infringes upon the rights to life and inherent dignity, which are safeguarded by the Indian Constitution and international human rights standard<sup>5</sup>.

The ethical argument against the death sentence is predicated on the knowledge that each individual has a right to life and inherent value<sup>6</sup>. Advocates argue that because the death sentence allows the government to intentionally take a person's life, it goes against this core principle irrevocably<sup>7</sup>. Many critics argue that by essentially serving as a judge of life and death, the state has overreached itself.

In addition, concerns regarding erroneous convictions cast a long shadow over the death penalty's morality. Throughout history, numerous accounts of persons who were wrongfully convicted and executed have surfaced, only to be later exonerated by fresh evidence or developments in the field of forensics. These examples serve as depressing reminders of the legal system's weakness as well as the irreversible consequences of executing innocent people<sup>8</sup>.

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<sup>4</sup> Subjective nature of selecting the rarest to rare case doctrine available at [linkhttp://docs.manupatra.in/newsline/articles/Upload/DFA397D3-B539-419D-A79B-28D367CFEE09.pdf](http://docs.manupatra.in/newsline/articles/Upload/DFA397D3-B539-419D-A79B-28D367CFEE09.pdf) visited on (March 5, 2025).

<sup>5</sup> Death penalty directly violates the right to life available at <https://www.ohchr.org/en/stories/2024/01/death-penalty-incompatible-right-life> visited on (March 5, 2025).

<sup>6</sup>P.K Agrawal the constitution of India (page no 114).

<sup>7</sup> International human rights available at [https://www.uscis.gov/sites/default/files/document/foia/International\\_Human\\_Rights\\_Law\\_RAIO\\_Lesson\\_Plan.pdf](https://www.uscis.gov/sites/default/files/document/foia/International_Human_Rights_Law_RAIO_Lesson_Plan.pdf) visited on (March 8,2025)

<sup>8</sup> Irrevocable effects of executing innocent people and the frailty available at link <https://static.prisonpolicy.org/scans/MandatoryJusticeRevisited-2-09.pdf> visited on (March 8,2025)

This ethical dilemma calls into question the sustainability of a system that puts the lives of the defenceless in danger for the sake of justice.

The arbitrary nature of capital sentencing and the variations in its application further erode the moral foundations of the death sentence. Research consistently demonstrates that sentencing guidelines for the death penalty vary depending on a person's race and ethnicity socioeconomic status and residential location. These distinctions raise concerns about equity and fairness in the legal system and call into question the notion that justice is unbiased. Because of this, structural injustices that disproportionately affect the poor are perpetuated and the public's trust in the integrity of the legal system is eroded<sup>9</sup>.

Given India's rich philosophical and cultural traditions, which strongly emphasize compassion, nonviolence, and respect for human life, the ethical debate surrounding the death sentence has particular significance there. Indian morality has always been founded on ideas like dharma (righteousness) and ahimsa (non-violence), which have an impact on how society perceives punishment and justice. Therefore, some would contend that the death penalty is incongruous with these firmly held convictions, casting doubt on how it aligns with India's moral and cultural heritage.

India's commitment to upholding human rights further complicates the moral dilemmas raised by the death sentence. As a party to several international treaties and conventions, India is obligated to protect and defend the fundamental rights of its citizens, including The International Civil and Political Rights Covenant (ICCPR)<sup>10</sup>. When the death sentence is used, there are serious concerns about whether these international human rights norms are being adhered to, particularly when due process or fair trial requirements are absent.

In recent years, there has been a greater awareness of the necessity for a thorough review of the moral underpinnings of the death penalty in India. Human rights violations, the potential for false convictions, and the capricious nature of the death penalty have raised concerns resulting in demands for its outlawing. In their opinions, human rights advocates, civil society

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<sup>9</sup> Structural injustices available at link <https://www.ohchr.org/en/press-releases/2017/10/death-penalty-disproportionately-affects-poor-un-rights-experts-warn> visited on (March 8, 2024).

<sup>10</sup> International Covenant on Civil and Political Rights (ICCPR) available at link <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> visited on (March 8, 2025).

groups, and legal experts have urged lawmakers and politicians to reconsider the ethical implications of maintaining the death sentence in Indian law.

The morality of the death sentence is still up for debate, though, and varying opinions still have an impact on public opinion and legislative decisions. Proponents of the death penalty argue that it provides justice and closure to victims and their families while serving as a vital deterrence against severe offenses. They argue that the death penalty will be less effective as a deterrent and that it will be more difficult for the government to maintain law and order.

The death penalty's supporters also argue that it is morally justified in cases where the offense is deemed to be so terrible that no less severe punishment would be suitable. The death sentence, they contend, is a form of retributive justice that ensures offenders endure the full consequences of their actions and that it is morally required of society to hold individuals responsible for their actions<sup>11</sup>.

In conclusion, the death penalty in India is a contentious topic that raises significant questions about morality, justice, and human rights. Critics assert that the practice breaches an important deterrence against serious crimes, while advocates maintain that it is an inherent worth and right to life of every individual. As India struggles with these moral dilemmas, a thorough reexamination of the death penalty's underlying principles is required to ensure that justice is administered in a manner consistent with the principles of equality before the law, justice, and human rights.

**“The legality of Article 21 of the Indian Constitution is not violated by the Supreme Court of India's ruling that the death penalty is appropriate in exceptional cases.”**

The Supreme Court contested the constitutionality of the death penalty in *Jagmohan Singh v. State of U. P.*<sup>12</sup>. The court dismissed the allegations that the death penalty breaches Article 21 of the Indian Constitution and that the right to life is a fundamental right. The death penalty could not be considered a breach of Article 21. The death penalty was applied in *Deena v. Union of India*<sup>13</sup>, and the court determined that hanging is not a cruel way to carry out a sentence and does not, therefore, violate Article 21.

<sup>11</sup> Retributive justice available at <https://www.britannica.com/topic/retributive-justice> visited on (March 8, 2025).

<sup>12</sup> *Jagmohan v. State of U. P.* AIR 1973 SC 947 Cr.LJ 3301973 SCC162 Visited on March 8, 2025 from <http://www.indiankanoon.org>

<sup>13</sup> *Deena v. UOI* AIR 1983 SC 1155. Retrieved December 31, 2013, from <http://www.indiankanoon.org>

The Supreme Court ruled in *Mithu Singh v. State of Punjab*<sup>14</sup> that Section 303 of the IPC is unconstitutional because it violates Articles 14 and 21 of the Indian Constitution; nevertheless, in extremely rare instances, the death penalty is still applicable. Article 21 of the Indian Constitution ensure the right to human dignity in life, as well as the right to personal liberty. It also states that no one's rights may be taken away from them unless it is done in accordance with a legally mandated process. According to it, the state may be able to take away someone's life in the name of the law and the public.

According to the Supreme Court's ruling in *Menka Gandhi v. UOI*, the death penalty must be used in a way that is just and reasonable. Every accused person has the right to a fair trial, so they must rely on the following provisions of natural and procedural law:

- The death penalty ought to be reserved for exceptional circumstances.
- The death penalty will only be applied for very specific reasons and will be considered an extraordinary punishment.
- The accused is entitled to a hearing.
- Sentences must be tailored to everyone's circumstances.
- The HC must appropriately impose the death penalty.
- The ability to appeal.
- According to Articles 72 and 161 of the Indian Constitution, the accused has the right to ask the president and governor for forgiveness.
- Torture of the accused is prohibited.
- In trial custody, the accused is free to express themselves.
- The accused is entitled to select a competent attorney.

Justice Iyer argued in favor of removing the death penalty and limiting its application to white collar offenses in *Rajendra Prasad v. State*<sup>15</sup> of U.P.

However, in the *Bacchan Singh Case*, the Supreme Court overturned *Rajendra Prasad's* decision by a majority, held that death penalty under section 302 of IPC doesn't violate Article 21. India ratified the 1979 International Convention on Civil and Political Rights, which does not outlaw the death penalty but only permits its application in a fair and non-arbitrary manner.

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<sup>14</sup> *Mithu Singh v. State of Punjab* (1983)2 SCC 277. Retrieved Visited on 9, 2025 from <http://www.indiankanoon.org>

<sup>15</sup> *Rajendra Prasad v. State* AIR 1979 SC 916. Visited on March 9, 2025, from <http://www.indiankanoon.org>



In *T.V. Vantheswaran v. State of Tamil Nadu*<sup>16</sup>, the issue is whether postponing the execution of a death sentence violates Article 21 and, if so, whether life in prison should be used in its place. The court ruled that the execution of the death penalty must be postponed in a reasonable way.

The court ruled in *Triveni Bai v. State of Gujarat*<sup>17</sup> that the death penalty must be postponed until the accused's final breath and that the trial must be fair.

**“The death penalty is advantageous to society even though it violates human rights in India”.**

No one shall endure torture or cruel, inhuman, or humiliating treatment or punishment, according to Article 5 of the UDHR, (1948)<sup>18</sup>. The death penalty was documented by the UN General Assembly as a necessity for high standards for a fair trial that were once adhered to by all nations, and the processes to must be reasonable, equitable, and just.

The complete elimination of the death sentence under all circumstances is provided for in the 13th protocol of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which was available for member states to ratify. It is acknowledged that the death penalty is terrible, cruel and inhumane punishment that violates the accused's fundamental human rights as stated in Article 3 of the European Convention on Human Rights. The right to human life, liberty, and security is also guaranteed under Article 3 of UDHR (Ahmed, 2002).

Deterrent, preventative, retributive, reformatory, and rehabilitative ideas are some of the several theories of punishment. The deterrent theory of punishment places greater emphasis on removing criminals from society to protect it from them. As stated by according to this theory, the purpose of punishment is to discourage lawbreakers from breaching the law.

Death sentences and other deterrent punishments should serve as a reminder to society and those who are prone to committing similar crimes that anyone who does so will face the same

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<sup>16</sup> T.V Vantheswaran v State of Tamil Nadu (1983)2 SCC 68. Visited March 10 ,2025 <http://www.indiankanoon.org>

<sup>17</sup> Triveni bai v. State of Gujarat AIR 1989 SC 142. Visited on Mrach 10,2025 fro<http://www.indiankanoon.org>

<sup>18</sup> United Declaration of Human Rights. (1947). Article 5. Visited on March,10 from <http://www.un.org/en/documents/udhr/>

kind of punishment. In this manner, it keeps individuals from breaching the law, and by getting rid of offenders, it lowers the crime rate in society. Thus, there are four reasons to support this theory: (1) prevention; (2) isolation; (3) elimination; and (4) exemplary danger to society's potential criminals (Bhattacharya, 2013)<sup>19</sup>.

In International glance Article 5 of UDHR provided that “No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.”<sup>20</sup>

- Although the standards for the use of the death penalty are provided by the United Nations and the Economic and Social Council, those are.
- The death penalty may only be applied to extremely serious offenses in the member nations that have not abolished it. And because we were adhering to UNECOSOC rules, the death penalty was only ever applied in the most exceptional of circumstances in India.
- Pregnant ladies and deranged people shouldn't be given the death penalty.
- The death penalty shouldn't be applied to minors under the age of sixteen.
- Article 14 of the ICCPR states that the death penalty can only be used following a fair trial.
- The death penalty will not be applied retroactively.
- The ability to appeal to a higher court must be obtained.
- The death penalty cannot be applied in a pardon or appeal.

The Indian judiciary only applies the death penalty in extremely rare cases that have an impact on the general population, in accordance with UNECOSOC principles, and thus practice does not contravene those guidelines. The right to personal life and liberty is guaranteed by Article 21 of the Indian Constitution, which also states that no one may be denied their right unless the legal process is followed. It implies that it will be considered as just and equitable if someone has been punished by the law, even if it involves the death penalty<sup>21</sup>.

The Indian Constitution, which governs the country's general populace, states that if someone repeatedly affects the public by their unlawful actions, their life shall only be taken away if the guardians of the constitution deem it appropriate because not only the accused's human rights

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<sup>19</sup> Bhattacharya, T. (2013). The Indian Penal Code (ed. VII)

<sup>20</sup> United Declaration of Human Rights. (1947). Article 5. Visited on March ,10 from <http://www.un.org/en/documents/udhr/>

<sup>21</sup> The Constitution of India. (1950). Eastern Book Company, Lucknow.

have been violated, but we also need to consider the victim's perspective. Victims may take matters into their own hands and attempt to punish their abusers if they see that the state is unwilling to do so in the interest of reform and correction, which will result in chaos. According to Benham's theory of penal objectives, which states that the offender's pain should be greater than the pleasure he receives from committing the crime, prescribed and proportionate punishment is therefore crucial to preventing this circumstance<sup>22</sup>.

**“When the Indian judiciary imposes the death penalty, it does so with discretion and consideration for the general welfare of the populace”.**

In *Macchi Singh and ors. V. State of Punjab*<sup>23</sup>, the court considers the viewpoint of the general public, whose reaction is so shocked that they want to give the accused the death penalty because they affect the general public. The court also mentions in his ruling the requirements that must be met to grant the death penalty, along with an example. The court states that the five categories of murder through which the doctrine of rarest of rare cases shall be considered are motive, manner of commission, extent of crime, anti-social or repugnant nature of crime, and victim personality. The jury has the discretion to impose the death penalty while keeping in mind these principles that promote public welfare and security.

## EFFICACY AND ALTERNATIVES

Because they think it can deter crime and bring retribution for very horrible acts, supporters of the death sentence occasionally argue in Favor of its implementation. However, the precise evidence regarding its deterrent efficacy remains unclear because research indicates that additional aspects can impact crime rates more significantly. Furthermore, the increasing recognition of restorative justice principles highlights the importance of rehabilitation, community engagement, and reconciliation initiatives in mending harm and discouraging future transgressions<sup>24</sup>. Alternative sentencing options, such life in prison with the potential of parole, are not only a more humane and efficient approach to deal with crime, but they can also aid in rehabilitation and reintegration into society.

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<sup>22</sup> Ahmed, I.G. (2002). Death Sentence and Criminal Justice in Human Right Perspective. Published in University of Calcutta.

<sup>23</sup> Macchi singh and ors v. State of Punjab AIR 1983 SC 957. Visited on March 11 ,2025 sssfrom <http://www.indiankanoon.org>

<sup>24</sup> restorative justice emphasizes the value of community involvement and rehabilitation available at [https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/restorative\\_justice.pdf](https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/restorative_justice.pdf) visited on (March 13,2025).

Advocates of the death penalty have long maintained that the possibility of execution deters people from committing serious crimes, and this has been the rationale underlying their activism. The supporting data, however, is inconclusive and contradictory. A significant amount although there are those who argue that the death penalty may have a deterrent effect, no study has shown a correlation between the death penalty's existence and crime rates.

Other factors, such as socioeconomic level, access to education and employment opportunities, and the efficiency of the criminal justice system, may have a greater influence on crime rates than the dread of the death penalty.

The ethical implications of employing the death penalty as a deterrent should also be carefully considered. Using people's fear of dying as a deterrent to crime raises ethical questions about whether this tactic is suitable and how it aligns with ideas of human rights and justice. Critics contend that the emphasis on deterrence overlooks the fundamental worth of human life as well as the social and economic problems that underpin criminal behaviour.

Unlike the punitive nature of the death penalty, restorative justice principles advocate a more thorough and community-centred approach to repairing harm and discouraging future crimes. Restorative justice places a high priority on accountability, reconciliation, and healing for all parties involved victims, offenders, and the greater community.

Instead of concentrating solely on punishment, restorative justice seeks to address the root causes of crime and make amends for the harm caused by criminal activity<sup>25</sup>. Rehabilitation acknowledges that criminals are capable of evolving and reintegrating into society. A key element of restorative justice is reintegrating people into society as law-abiding citizens. Rehabilitation programs aim to address the underlying causes of criminal behaviour and reduce the likelihood of recidivism by giving access to mental health services, education, vocational training, and other forms of support<sup>26</sup>.

Community involvement is another crucial element of restorative justice, which recognizes that

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<sup>25</sup> Restorative justice aims to address the underlying causes of crime and repair available at link<https://bjatta.bja.ojp.gov/media/blog/what-restorative-justice-and-how-does-it-impact-individuals-involved-crime> visited on (March 13,2025).

<sup>26</sup>Rehabilitation programmes lower the risk of recidivism available link<https://lao.ca.gov/Publications/Report/3720> visited on (March 19,2025).

crime impacts not just the victim and the offender but also the greater community<sup>27</sup>. The goal of restorative justice is to create stronger, more resilient communities that are by including community members in conflict resolution and offender rehabilitation programs, we can effectively prevent and address criminal activity.

Additionally, the moral and ethical objections to the death penalty such as the potential for the murder of innocent people, the arbitrary nature of sentencing, and the disproportionate impact on marginalized groups are lessened when life in prison with the prospect of release is offered. To respond to criminal activity in a more humane and equitable manner and to promote rehabilitation and reintegration into society, alternative sentencing tactics place a higher priority on human rights, justice, and fairness.

It is still debatable whether the arguments put out by supporters of the death penalty that it deters crime and is a way to get revenge for heinous crimes are supported by factual evidence. Additionally, the increasing acceptance of restorative justice concepts highlights the importance of community engagement, rehabilitation, and reconciliation efforts in mending damage and discouraging future offenses<sup>28</sup>. Alternative sentencing options, like life in prison with the chance of release, offer a more humane and potentially more effective means of deterring crime while encouraging rehabilitation and reintegration into society.

## CONCLUSION

The death penalty's implementation in India necessitates a thorough examination and deliberate deliberation in light of evolving social perspectives, human rights standards, and equity principles<sup>29</sup>. Critical analysis of the ethical, legal, and practical implications of the death sentence while yet acknowledging the seriousness of violent crimes and the necessity of providing victims with justice. In the future, a careful analysis of alternatives to the legal system, like restorative practices and rehabilitation programs, could aid India in creating a criminal justice system that is more efficient, humane, and just<sup>30</sup>.

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<sup>27</sup>Essential components of restorative justice available at link <https://restorativejustice.org/what-is-restorative-justice/three-core-elements-of-restorative-justice/> visited in (March 19,2025).

<sup>28</sup> Rehabilitation, and reconciliation in repairing harm and deterring future transgressions available at link<https://philarchive.org/archive/BRORJA-7> visited on (March 19,2025).

<sup>29</sup> Human rights norms, and equity available at link <https://www.humanrightscommission.ky/human-rights-principles> Visited on (March 19,2025).

<sup>30</sup> India develops a criminal justice system that is more just, humane available at link<https://www.legalserviceindia.com/legal/article-14952-refining-justice-system-s-reaction-to-crime.html> visited on (March 19,2024).



The discussion around the death sentence in India has mirrored the nation's broader views on justice, punishment, and crime. Although the death penalty is only used in the "rarest of rare" situations, due to the fact that it is an irreversible punishment with implications for justice and human rights, its application needs to be properly thought out.

When evaluating the death penalty's application, its ethical ramifications must be considered<sup>31</sup>. The state's deliberate taking of a person's life raises important ethical questions about the worth of human life, the propriety of vengeance, and the role of punishment in a just society. Human rights norms protect the right to life and inherent dignity, which are infringed by the death penalty, as detractors claim. This emphasizes how crucial it is to uphold these values when administering justice.

Furthermore, the legislation pertaining to the death penalty in India must be carefully examined. Even while the Supreme Court's "rarest of rare" concept offers guidance on punishment, there are still issues regarding its application and interpretation. The arbitrary determination of what constitutes the "rarest of rare" case raises questions about the consistency and fairness of the death penalty.

Disparities in access to legal representation and systemic biases in the criminal justice system exacerbate issues about equity and fairness in capital cases. Practically speaking, there is ongoing debate on the death penalty's effectiveness as a deterrent to crime. Despite contradictory empirical evidence, proponents argue that the fear of execution may dissuade people from committing serious crimes. Furthermore, research shows that other factors, such as socioeconomic level, employment and educational opportunities, and the efficiency of the criminal justice system, have a bigger influence on crime rates<sup>32</sup>. This highlights the significance of investigating various strategies for crime prevention and rehabilitation.

Traditional punitive approaches can be effectively replaced by the principles of restorative justice<sup>33</sup>. By emphasizing healing and rehabilitation for all parties concerned restorative justice

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<sup>31</sup> The ethical implications of the death penalty available at [linkhttps://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(23\)01004-8.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(23)01004-8.pdf) visited on (March,16,2024).

<sup>32</sup> Melchor De Guzman, Maryann Stone White, The Criminal Justice System: Theory, Research, and Practice: Theories, Philosophies, Research and Practice 90 EBCN 3rd Rdn.,( page no 112)

<sup>33</sup>Principles of restorative justice present a viable substitute for traditional punitive methods available at [linkhttps://www.ojp.gov/pdffiles1/ojjdp/grants/250872.pdf](https://www.ojp.gov/pdffiles1/ojjdp/grants/250872.pdf) visited on (March,19, 2025).

aims to alleviate the pain brought on by unlawful activity. responsibility, rapprochement, and communal service. By focusing on mending relationships and addressing the underlying causes of crime, restorative approaches offer a more comprehensive and compassionate approach to justice.

Similarly, rehabilitation is becoming a more important component of alternative justice strategies. Because they recognize the possibility of reoffending, rehabilitation programs aim to treat the root causes of criminal behaviour and lower the likelihood of reoffending. that people might transform and reintegrate into society. People must have access to mental health therapies, education, vocational training, and other forms of support in order to be successfully rehabilitated and able to lead fulfilling lives outside of jail.

Involving the community is another crucial element of alternative justice tactics. By engaging the community in programs for crime prevention, conflict resolution, and offender rehabilitation, restorative practices foster a sense of shared ownership and accountability. Increased public safety, a drop in recidivism, and the effective reintegration of felons into society are all helped by deeper linkages to the community and support services<sup>34</sup>.

In conclusion, it is imperative to carefully consider and analyse India's application of the death penalty in light of changing social norms, human rights standards, and justice concepts. The seriousness of violent acts and the duty to grant victims justice must be acknowledged, but it is also important to consider the moral, legal, and practical ramifications of the death penalty. In the long run, a thorough investigation of alternatives to the criminal justice system, such as restorative practices and rehabilitative measures, may help India develop a criminal justice system that is more humane and efficient.

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<sup>34</sup> Increased public safety, a decline in recidivism, and the successful reintegration available at link<https://www.ojp.gov/archives/ojp-blogs/2019/reducing-recidivism-released-offenders-improves-public-safety> visited on (March 20, 2024).