



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## Dr. Namita Jain



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## Mrs.S.Kalpana

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## Avinash Kumar



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and*

*learning.*



## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS

ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# DOES CAPITAL PUNISHMENT DETER CRIME?

AUTHORED BY - KRITHIKA SHIVAKUMAR

PES UNIVERSITY, RR NAGAR

BBA LLB | 4TH YEAR

"*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 judgement*"<sup>1</sup> as stated by J.R.R. Tolkien Hammond<sup>2</sup>, author of classic high fantasy works, couldn't be less agreeable. Life and death is in the hands of the giver, he who upholds the power above all of the human species, however in the real world the constitutional body of each country enjoys this power called, 'The Capital Punishment' also known as Death penalty, the practice of executing someone for a specific crime after proper legal trails.

As indicated by the source from capital punishment data, " The primary set up capital punishment was gone back to the eighteenth century B.C. in the Code of King Hammurabi of Babylon, which grouped capital punishment for 25 distinct violations. Capital punishments were done by methods, for example, torturous killing, suffocating, pounding the life out of, consuming alive, and implement". It proceeded and got increasingly horrifying throughout the years. Executions took place additionally for capital offenses like, for example, wedding a Jew, not admitting to wrongdoing, and treachery. The fundamentally recorded execution in the new states was that of Captain George Kendall in the Jamestown for being a clandestine usable for Spain. On considering the request by Virginia Governor, Sir Thomas Dale , the divine **Moral and Martial Laws** enforced the death penalty for even trivial offenses. Truly, executions were open occasions, witnessed by huge groups, and the bodies were regularly shown until they decayed.

Going to the 21st century, now the death penalty is limited to wrongdoings like homicide, assault, homosexuality and predominantly religious transformations.

---

<sup>1</sup> "A Quote from The Fellowship of the Ring." Goodreads, Goodreads

<sup>2</sup> Hammond, Wayne G. "J.R.R. Tolkien." Encyclopædia Britannica, Encyclopædia Britannica, Inc., 1 Jan. 2019, www.britannica.com/biography/J-R-R-Tolkien.

The article from 'The Telegraph', "**Which nation executed the vast majority a year ago and why**", by Samantha Herbert and Keely Lockhart, talks about which nation is completing the most executions around the worldwide and what the changing conditions are around the passings. It expresses that worldwide executions saw a little drop in the year 2017 however a more prominent number of those given capital punishments were sentenced for peaceful crimes. More than 23 nations did 993 executions barring China where the check remains a state mystery. As China doesn't discharge the figures of execution, Iran finishes the rundown with 507 individuals 501 men and six ladies in which five of them were matured 18, however it is trusted that the Chinese figures are in thousands. Iran's capital punishment cases depended on 'admissions' out of horrible torment as the fundamental preliminaries were missing on such capital punishment cases. Amnesty International <sup>3</sup>, recorded that few instances of individuals confronting capital punishment are in the wake of "admitting" under horrifying torment in Bahrain, China, Iran, Iraq, and Saudi Arabia. Scarcely any admissions were communicated live in Iraq and Iran.

Saudi Arabia recorded the second most noteworthy number, executing 146 throughout the year and Iraq pursued with something like 125, pursued by Pakistan with 50, Egypt with 35, Somalia with 24 and USA with 23.

"In disobedience of worldwide law, substantial quantities of capital punishments in 2017 were done of peaceful violations"- executing for drug offenses which were completed in China, Iran, Saudi Arabia, and Singapore pursued by 10 additional nations issuing capital punishments on the same. In Iran, 40% more than 500, in Saudi Arabia 40% of 150 and eight individuals in Singapore were executed for drug offenses all in the year 2017.

Anyway, somewhere around 21,919 individuals are to be under capital punishment all inclusive. Yet, after the high record in 2016, in 2017 they saw a fall in the number from 3117 to 2591 capital punishments which were passed in 53 nations.

The death penalty is a wide topic. Throughout this exposition, I will examine the two unmistakable point of view whether the death penalty discourages wrongdoing.

---

<sup>3</sup> "Global Executions Fall, but Large Numbers given Death Penalty for Drugs - New Report." Amnesty International UK

First how about we center around the point of view that Capital Punishment deters wrongdoing, to legitimize this viewpoint, Ann Widcomm had composed a solid supposition based article, “**The death penalty saves lives – the pope is wrong to call for a ban**”, in **The Guardian 2016**.

She was extremely positive about her contention that countering against the pope's mass intrigue to stop the death penalty. She inspected the results of such intrigue with expressed suspicion on the people in question. At the point when Pope Francis guaranteed that capital punishment is "an offense against the sacredness of life and the respect of the individual", Ann Widcomm inquiries regarding the life and poise of an unfortunate casualty who might not be an injured individual if capital punishment were in power. She is solidly willed in her explanations, which demonstrates that she has a real enthusiasm for the theme and has dived in too far before composing this article. It's somewhat entrancing to perceive how her article represents those unfortunate casualties, looking for their rights for self-preservation and arousing the state to it's obligation, that is, if the state trusts that there are reasons that undermine its resident's life, at that point the state needs to safeguard them regardless of whether it's to authorize the death penalty. She made her sentiment solid by giving factual information too as if those were insufficient to help her case and expectation.

Notwithstanding this, Japan Today, the main paper demonstrates that 85% of individuals are really supporting the death penalty.

According to the insights distributed, Japan is the second most minimal wrongdoing rate nation with a wrongdoing rate of 13%.

Be that as it may, each plan will have both supporter and rivals. In the later course of this exposition, I will talk about the other differentiating point of view that is, 'The death penalty doesn't prevent wrongdoing'.

In the article, "**There's no evidence that the death penalty is a deterrent against crime**", by John Donohue<sup>4</sup>, begins off by expressing that the death penalty is such an exorbitant, disputable, and disruptive issue that, except if it prevails with regards to sparing lives, it unmistakably ought to be nullified.

---

<sup>4</sup> John J. Donohue III." Stanford Law School, Los Angeles Times, [law.stanford.edu/directory/john-j-donohue-iii/](http://law.stanford.edu/directory/john-j-donohue-iii/)



Right off the bat, he makes reference to that hypothesis can't disclose to us whether the scene of state-endorsed killings works to unhinge negligible personalities into suspecting that their own complaints merit comparative types of retaliation that they at that point attempt to dispense individually. Regardless of whether some different culprits were hindered by capital punishment, one must ask whether these kept away from wrongdoings would be more than counterbalanced by the conceivable brutalization impact. Besides, as the execution can't happen without legitimate preliminaries, he recommends that death penalty is in all respects exorbitant and tedious, years may go by in lawful interests, channel up the season of examiners, judges, and resistance legal advisors.

He even considers Life Imprisonment as it is more affordable and the lawbreakers can be bolted up far away for a time span.

To make his feeling more grounded, he stated that there isn't the scarcest tenable measurable proof that death penalty diminishes the rate of manslaughter. Various examinations – all of which, tragically, are just accessible by means of subscription –inferred to find obstacle impacts anyway these examinations fallen after bungles in coding, assessing truthful centrality, or in the structure up causal associations are re-examined. He even referenced that a leading group of the National Academy of Sciences kept an eye on the anticipation question genuinely in 2012 and reliably assumed that there was no dependable verification that death penalty deters murders. The report communicates that those familiar with criminal value issues are not stunned by the nonattendance of demoralization as in the United States one needs to complete exceptionally shocking bad behavior to be presented to the death penalty, as demonstrated by the manner in which that last year around 14,000 murders were done anyway only 35 executions happened.

He advances another legitimate point like 'squandered assets'. He stated that to give a feeling of the weight of the death penalty, note that in the course of recent years the territory of California spent generally \$4 billion to execute 13 people. The \$4 billion would have been sufficient to employ approximately 80,000 cops who, if fittingly allocated, would be relied upon to counteract 466 killings (and a lot of other wrongdoing) in California – undeniably more than any of the most idealistic (but defamed) perspectives on the conceivable advantages of the death penalty.

This article was increasingly proficient and proof filled. It even contains adequate factual

information. It was more common sense than an obscure discourse.

I selected these two sources since one of it was from a surely understand the paper and the other is from a pragmatic yet a successful article, which manages a more extensive learning base.

## Conclusion

Taking everything into account, I would state that both point of view have its supporters and adversaries. People believe in death penalty as it is a process of killing people who kills. Few more assumed that it can be used as population control for over populated prison.

Rivals, on the contrary maximizes the right to live and value of life. (According to a report published in BBC) . In Japan, the process is also highly criticized as several victims and guards define it as cruel and secretive<sup>5</sup>. The death penalty may have an obstruction impact yet we have to take a gander at the opposite side of the story also. Despite the fact that it makes dread among the natives and keeps them away from perpetrating any frightful wrongdoing, it likewise influences them rationally and may likewise prompt migration from that particular nation that puts capital punishment to constrain, to nations that don't. In the event that Life Imprisonment is picked rather, the lawbreakers being kept in detainment facilities gains admittance to progressively criminal techniques as they get the chance to blend with different detainees and is likewise uncalled for to the people in question. Being costly, it can deplete away government spending. In spite of being extremely inspired by the death penalty, toward the start of this exploration, I had an exceptionally obscure supposition on it, however, before the finish of this I have an inside and out information. In spite of a great deal of research and discussion on a similar motivation, there's still more to investigate as there is no finished up answer to this yet.

## Bibliography

- 1) <https://deathpenaltyinfo.org/DonohueDeter.pdf>
- 2) “Study: 88% of Criminologists Do Not Believe the Death Penalty Is an Effective Deterrent.” Study: 88% of Criminologists Do Not Believe the Death Penalty Is an Effective Deterrent | Death Penalty Information Center  
<https://deathpenaltyinfo.org/study-88-criminologists-do-not-believe-death-penalty-effective-deterrent>
- 3) “History of the Death Penalty.” PBS, Public Broadcasting Service

- <https://www.pbs.org/wgbh/frontline/article/history-of-the-death-penalty/>
- 4) Lockhart, Samantha Herbert; Keely. “Which Countries Executed the Most People Last Year, and Why? .” The Telegraph, Telegraph Media Group, 12 Apr. 2018  
<https://www.telegraph.co.uk/news/2018/04/12/countries-executed-people-last-year/>
  - 5) “The Death Penalty and Deterrence – Amnesty International USA.” Amnesty International USA  
<https://www.amnestyusa.org/issues/death-penalty/death-penalty-facts/the-death-penalty-and-deterrence/>
  - 6) Widdecombe, Ann. “The Death Penalty Saves Lives – the Pope Is Wrong to Call for a Ban | Ann Widdecombe.” The Guardian, Guardian News and Media, 23 Feb. 2016  
<https://www.theguardian.com/commentisfree/2016/feb/23/death-penalty-saves-lives-pope-francis-wrong-ban-capital-punishment-deterrent-murder>
  - 7) Hiroicci, et al. “Survey Shows 85.2% of Japanese in Favor of Death Penalty.” Japan Today, 26 Feb. 2013  
<https://japantoday.com/category/crime/survey-shows-85-2-of-japanese-in-favor-of-death-penalty>
  - 8) “Crime.” Cost of Living  
[https://www.numbeo.com/crime/rankings\\_by\\_country.jsp?title=2019&region=150](https://www.numbeo.com/crime/rankings_by_country.jsp?title=2019&region=150)
  - 9) Encyclopedia.com, Encyclopedia.com, 2019  
<https://www.encyclopedia.com/articles/countries-with-the-lowest-crime-rate-in-the-world/>
  - 10) Stein, Rob. “Life Expectancy Drops Again As Opioid Deaths Surge In U.S.” NPR, NPR, 21 Dec. 2017  
<https://www.npr.org/sections/health-shots/2017/12/21/572080314/life-expectancy-drops-again-as-opioid-deaths-surge-in-u-s>
  - 11) “Read ‘Deterrence and the Death Penalty’ at NAP.edu.” National Academies Press: OpenBook  
<https://www.nap.edu/read/13363/chapter/1#x>
  - 12) “Fact Check: No Proof the Death Penalty Prevents Crime.” ABC News, 3 May 2015  
<https://www.abc.net.au/news/2015-02-26/fact-check3a-does-the-death-penalty-deter3f/6116030>
  - 13) Donohue, John, et al. “There's No Evidence That Death Penalty Is a Deterrent against Crime.” The Conversation, 14 Sept. 2018

<https://theconversation.com/theres-no-evidence-that-death-penalty-is-a-deterrent-against-crime-43227>

- 14) Dobson, James. "Does the Death Penalty Deter Crime?" Human Rights and Discrimination, Human Rights and Discrimination, 22 Apr. 2016

<https://humanrights.brightblue.org.uk/blog-1/2016/4/22/does-the-death-penalty-deter-crime>

- 15) "Five Things About Deterrence." National Institute of Justice

<https://nij.gov/five-things/pages/deterrence.aspx>

