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CAPITAL PUNISHMENT ALLIANCE SCHOOL **OF LAW (2022-2027)**

AUTHORED BY: SURESH KANNA P

(2022BBLHO7ASL001)

ABSTRACT:

The death penalty, also known as capital punishment, vary widely due to historical and ethical factors. This method of punishment involves executing individuals convicted of committing crimes, with proponents seeing it as a means to uphold justice and ensure societal safety, while opponents argue it violates fundamental human rights. Throughout history, various cultures, including Babylonian, Egyptian, and Chinese, have employed death as retribution and a deterrent for crimes. In more recent times, structured legal systems have defined crimes deserving of capital punishment, such as treason and murder.

Presently, there are significant international discrepancies in the application of the death penalty. Capital punishment elicits differing international responses, with China, Iran, Saudi Arabia, and Iraq still carrying out sizable numbers of executions, whereas Europe mostly abstains because of anxieties encompassing fallibility, severity, and biased allocation. Those advocating for the death penalty argue that it acts as a potent discouragement for illicit activities and offers emotional relief to relatives affected by tragedy whilst rendering appropriate judgement. Evaluations of capital punishment, nonetheless, should integrate manifold standpoints supplemented by substantiated data. Whilst appreciating how the practice promotes justice senses post devastating incidents, such as murder, it remains imperative to acknowledge major shortcomings. Empirical studies suggest that the death penalty exhibits scant influence over lowering overall criminal occurrences and potentially instigates dilemmas, such as unjust adjudications and partial enforcement affecting distinct populaces. Objectivity demands sensitivity toward all outcomes connected to capital punishment utilization. Furthermore, moral and ethical concerns exist around the issue of taking lives and potential violations of human rights standards. It is essential to engage in comprehensive discussions that weigh these pros and cons while considering shifting attitudes towards capital punishment among different population segments and political ideologies.

Supporters must acknowledge potential pitfalls and discriminatory practices, while opponents should recognize the emotional responses tied to addressing serious crimes. Ultimately, fostering comprehensive deliberations may lead to more reasoned resolutions on this contentious issue.

Capital punishment, which is also referred to as the death penalty, is a legally sanctioned process through which the state puts to death an individual found guilty of committing a severe crime, colloquially termed a "capital" offense. Tracing back to antiquity, the implementation of the death penalty has existed in numerous societies worldwide. Ancient cultures, including Babylonia, Egypt, and China, employed it as retribution for grave transgressions such as homicide or high treason, sometimes involving brutal modes of execution like immolation, live burial, or impalement. Similarly, the Roman Empire utilized the death penalty extensively, employing diverse techniques spanning decapitation to crucifixion. Throughout the European Middle Ages, the practice endured as a penal measure targeting infractions beyond murder alone, extending to larceny, conflagration, and sorcery.

Modernization brought forth comparatively merciful procedures of execution comprising hanging, electric chair usage, and lethal injection administration. Nevertheless, controversy surrounding the fairness and impartiality of the death penalty persisted due to frequent allegations of classism and racism influencing verdicts. Initial instances of American capital punishment date back to 1608, marking Captain George Kendall's execution in Jamestown, Virginia over charges of espionage. Eventually, the spectrum of punishable misdeeds broadened, encompassing felonies like theft, arson, and sodomy. Post World War II, mounting resistance emerged within the U.S., culminating in the abolishment of the death penalty in multiple jurisdictions. The landmark case of *Furman v. Georgia* (1972) prompted the U.S. Supreme Court to deem existing capital punishment practices unconstitutional, thereby temporarily suspending all executions countrywide. Four years subsequent, the court recanted, permitting newly instituted statutes delineating stringent parameters for capital offenses and sentencing discretion for jurors deliberating death penalties. Ever since, regional disparities characterize the utilization of capital punishment across America.

As of now, global discourse concerning the death penalty continues dividing opinions, given divergent stances between nations. Some countries prohibit the practice entirely; meanwhile, others maintain it as judicial redress for egregious crimes. Reportedly, Amnesty International documented 657 state-sanctioned killings globally in 2020, primarily occurring in five nations:

China, Iran, Saudi Arabia, Iraq, and Egypt. Advocates endorse the death penalty citing deterrence against violent criminal activity, furnishing solace to grieving family members, and restricting capital sentences solely to appalling offenses like calculated murders. Opponents counterargue, asserting breaches of fundamental human rights accompanied by uneven impacts upon ethnic minorities and economically underprivileged cohorts. Moreover, irreversible errors could result in blameless parties receiving capital punishment. Detractors further emphasize successful reductions of violent crime witnessed elsewhere sans reliance on the death penalty. Notwithstanding vigorous arguments favoring either side, the future trajectory of capital punishment remains uncertain amidst fluctuating societal perceptions and values.

CAPITAL PUNISHMENT IN AMERICA:

Britain significantly shaped America's employment of the death penalty more than any other nation. European immigrants brought along the custom of implementing capital punishment upon establishing themselves in new territories. Historical records indicate that the initial execution took place in the early American colony of Jamestown, Virginia, specifically in 1608, wherein Captain George Kendall lost his life after being found guilty of acting as a spy for Spain. This marked the commencement of capital punishment in the American colonies. Subsequently, in 1612, Governor Sir Thomas Dale passed the Divine, Moral and Martial Laws, mandating capital punishment for seemingly petty misdemeanors, including filching fruits, poultry, and engaging in trade with Native Americans.

Jurisprudence pertaining to the death penalty fluctuated amongst the separate colonies. For example, the Massachusetts Bay Colony conducted its initial execution in 1630, preceding the implementation of the Capital Laws of New England by several years. Similarly, the New York Colony adopted the Duke's Laws of 1665, penalizing acts such as physically assaulting parents or denouncing "the true God" with the severest punishment available - execution. (As cited in Randa, 1997).¹

CONSTITUTIONALITY OF CAPITAL PUNISHMENT:

Conflicts pertaining to the consistency of capital punishment with the principles outlined in the U.S. Constitution have surfaced recurrently ever since the establishment of the nation. These

¹ Death Penalty Information Center, <https://deathpenaltyinfo.org/facts-and-research/history-of-the-death-penalty/early-history-of-the-death-penalty> (last visited 17 March, 2024).

disputes reflect varying interpretations of constitutional provisions related to the legality and application of the death penalty. Given the Eighth Amendment's ban on harsh punishments, questions arise about whether capital punishment goes against this rule. An illustrative example of objection is seen in the seminal 1972 case *Furman v. Georgia*, where the Supreme Court nullified prevalent death penalty statutes due to worries about unreliable verdicts causing a countrywide suspension of executions. However, just four years after, in *Gregg v. Georgia*, the Court analyzed the situation anew, finding that fresh state policies instructing juries on death penalty qualifications adequately handled prior complaints expressed in *Furman*. Hence, the Court accepted that capital punishment could comply with the Eighth Amendment provided it takes place reasonably and uniformly.

Modern litigation now targets dilemmas such as racial biases, mental limitations, and youthful position, generating crucial decisions curtailing the extent of the death penalty, like *Atkins v. Virginia* (halting execution of cognitively impaired people), *Ring v. Arizona* (insisting on juries rather than judges setting up attenuating conditions needed for pronouncing the death penalty), and *Roper v. Simmons* (withdrawing death penalty for teenagers).²

Though the fundamental constitutionality of capital punishment stands firm yet differs greatly across assorted states, doubts remain on how well the death penalty matches developing ethical sensitivities and appreciation for human value. Those supporting alternatives propose that suitable outcomes achieve preventive and controlling goals without posing lasting danger attached to ending lives. Assessment of the death penalty's legality carries on, directed by maturing customs, factual insights, and readings of the law.³

Apart from the constitution-related disputes discussed earlier, there are other vital topics surrounding capital punishment that merit consideration, specifically addressing proportionality, bias, credibility, and community sentiment. Below is a summary of the main components relevant to each aspect:

Proportionality: Contention exists around whether capital punishment fits the gravity of the crime committed. Alternatives like lifetime incarceration without parole gain popularity as plausible options, considering the chance of flawed convictions and changing norms concerning reasonable punishments. Compulsory death penalty protocols face criticism for jeopardizing justice by

² <https://www.gale.com/open-access/death-penalty>

³ <https://www.indianbarassociation.org/constitutional-ity-of-death-penalty/>

restricting decision-making authority entrusted to judges and juries alike.

Bias: Perpetuating partiality affecting the dispensing of the death penalty raises considerable anxiety. Investigations expose links connecting race, socioeconomic status, and standard of legal assistance to variations in exposure to capital punishment. Statistics exhibit a notable presence of African Americans on death row relative to their demographic distribution. Social stratification enables wealthy suspects to engage top-tier lawyers, widening systemic gaps and challenging the constitutional soundness of capital punishment.

Credibility: Debates on the death penalty's constitutionality feed off uncertainties regarding the authenticity of testimonials from witnesses, forensic results, and self-confessions. Illustrative examples of absolution after DNA analyses lay bare vulnerabilities embedded in the criminal justice mechanism, calling either for thoroughgoing enhancements or complete dissolution of capital punishment. Even though supporters concede space for enhancement, they accentuate existing safety nets developed to preserve exactitude, honesty, and answerability, hence reducing risks involved.

Community Sentiment: While not immediately connected to legality, oscillating public opinion shapes conversations on capital punishment suitability. Current studies indicate waning support levels for the death penalty, signaling a shift from accepting it as a befitting response to selected crimes. Judiciaries observe evolutions in societal tolerance limits – anchored in the Eighth Amendment – when gauging permissibility of specific tactics. Expect continual reductions in approval ratings to trigger amplified pressures on authorities to periodically review the wisdom behind retaining capital punishment as a tenable solution.

All things considered, multilayered dynamics entwined dialogues regarding capital punishment's compliance with the constitution, shedding light on themes encompassing equilibrium, inclusiveness, confidence, and collective judgment. Efforts to resolve complications via regulatory tools encounter constant critiques sparking uncertainty about the longevity of this approach. Exchanges between both sides illuminate delicate navigation required to harmoniously reconcile conflicting priorities while upholding bedrock constitutional concepts.⁴

⁴ <https://deathpenaltyinfo.org/facts-and-research/history-of-the-death-penalty/early-history-of-the-death-penalty>

INDIAN PENAL CODE 1960:

1. One of the crimes that have been connected to the death penalty is waging war against India or attempting to do so. Waging war against a country is a crime that is specifically defined in [Section 121](#) of the IPC. Anyone who attempts to wage war against India or is successful in waging war may be sentenced to death.
 2. The death penalty has also been associated with the abatement of mutiny. Abatement of armed rebellion by an officer or member of the army, navy, or air force is specified in [Section 132](#) of the
 3. I.P.C and accordingly, anyone who abets in the commission of a mutiny by an officer, soldier, sailor, or pilot in the army, navy, or air force of the Government of India, so that mutiny will be committed as a result of that complicity, can be punished by death.
 4. [Section 194](#) of the IPC has been added to the list of crimes punishable by death. According to Section 194, fabricating evidence is punishable by the death penalty if it is done to obtain a capital conviction for a crime. A person who commits such a crime can face the death penalty.
 5. [Section 302](#) of the IPC imposes the death penalty for a person who commits murder.
 6. Assisting or supporting a minor's suicide has been associated with the death penalty. [Section 305](#) of the IPC deals with punishment for assisting or supporting a person under the age of 18 or an intellectually disabled person in committing suicide. As a result, anyone who commits this crime can face the death penalty.
 7. Kidnapping for ransom or other purposes is a serious offence punishable by death. Kidnapping a person with the intent to cause them harm or death is specified under [Section 364A](#) of IPC. Any person who commits this crime can face the death penalty.
 8. The following offences were added to the IPC by the [Criminal Law \(Amendment\) Act of 2013](#) for which a court may impose the death penalty:
 - [Section 376A](#) specifies the death penalty for rape that results in death or a permanent vegetative state of the victim.
 - Under [Section 376E](#), repeat rape offenders may face the death penalty.
1. [Section 396](#) also provides for the death penalty in cases of dacoity with murder.⁵

Within the Indian Constitution, Article 21 safeguards every citizen's Right to Life and Personal

⁵ <https://blog.ipleaders.in/capital-punishment-in-india-2/#:~:text=Section%20194%20of%20the%20IPC,can%20face%20the%20death%20penalty.>

Liberty, constituting a crucial foundation of the country's dedication to personal liberties and equal treatment under the law. Although this core principle generally holds no compromise outside the boundaries defined by legislation, notable exceptions and restrictions apply - particularly in relation to capital punishment.

The death penalty, entailing the ultimate sacrifice of one's life, represents an intensely disputed and emotive topic in India. Simultaneously invoking respect for the sacred nature of the Right to Life alongside appreciation for the restorative power of law and order maintenance, the Indian judiciary acknowledges the paradoxical essence of capital punishment. Echoing this complex relationship, the 35th Law Commission Report published in 1967 reasoned that eliminating death penalty clauses might prove detrimental to Indian society. Given the substantial heterogeneity in educational attainment, cultural norms, and moral values intrinsic to India's extensive geographical landscape, capital punishment emerges as a vital instrument ensuring social stability and security. Thus, striking a delicate balance between individual rights and collective interests lies at the heart of the Indian judiciary's nuanced interpretation of capital punishment within the framework of Article 21. By serving as a deterrent and ensuring justice in select extreme cases, the provision acted as a powerful tool to protect citizens.

The constitutional validity of capital punishment in India has been tested and debated countless times through legal proceedings under Articles 14, 19, and 21. Among the landmark cases dealing with the issue is *Smt. Shashi Nayar vs. Union of India* (1980), in which the petitioner argued that capital punishment violated the constitutional right to life guaranteed under Article 21. Rejecting her plea, the Delhi High Court observed that the death penalty served as a measure of last resort, applied only in what are commonly referred to as the 'rarest of rare' cases. Furthermore, the court noted that the procedural requirements laid down by the Criminal Procedure Code ensured that no arbitrary actions took place during the trial, conviction, and eventual sentencing phases.

Other major legal developments in India reinforced the notion that capital punishment should be limited to exceptional situations. *Jagmohan Singh vs. State of Uttar Pradesh* (1973) dealt with the interpretation of the phrase 'life imprisonment,' ultimately holding that it implied a natural lifespan unless commuted by the President or the Governor. *Rajendra Prahladrao Wasnik vs. State of Maharashtra* (1995) extended similar protections to juveniles by stating that no child younger than eighteen years old could receive the death penalty regardless of the nature of the crime. While the Indian judiciary maintains that capital punishment plays an irreplaceable role in the criminal

justice system, it continually grapples with identifying the criteria governing its deployment. In *Bachan Singh vs. State of Punjab* (1980), the Supreme Court recognized three broad categories requiring special consideration when determining the necessity of the death penalty: rarest of rare cases, exceptional circumstances, and extraordinary reasons. The ambiguity in the definition of capital punishment grants judges and magistrates liberty to base their decisions on personal beliefs instead of concrete rules. Skeptics raise doubts about the compatibility of the death penalty with the democratic and charitable principles laid down in the Indian Constitution. Ironically, the death penalty generates an atmosphere of concern and tacitly approves unwarranted aggression by law enforcement officers. Prevalent corrupt practices and deficient legal aid result in flawed execution of the law, predominantly impacting religious minorities and downtrodden strata of society.

Champions of the death penalty underscore its value in curbing mounting criminal activity and uplifting societal wealth. Imposing stern penalties ensures calmness and establishes a suitable background for constructive change and betterment. Developments in forensic technologies and investigation mechanisms reinforce evidence credibility, ultimately improving trial integrity and fairness.

Finding common ground between opposing expectations placed on India's handling of capital punishment obliges policy creators, intellectuals, and pressure groups to carefully study domestic matters and follow outstanding international examples. Adopting this stance enables India to gauge whether the death penalty corresponds with its unique mixture of constitutional commitments and societal responsibilities.

Only then can India truly determine whether capital punishment belongs in the pantheon of constitutional rights and responsibilities.⁶

CASE LAWS:

Vinay Sharma v. Union of India (2020):

The *Vinay Sharma v. the Union of India* (2020) case, also famously known as the Nirbhaya gang-rape case, had shocked the conscience of the whole country. The unfortunate and brutal incident

⁶ <https://www.legalserviceindia.com/article/1289-Right-to-Life-and-Capital-Punishment-Under-Article-21-Indian-Constitution.html>

occurred in the chilled weather of Delhi on a bus. The girl was brutally raped by six accused which also led to the death of the girl. An iron rod was also inserted into her private parts and she was thrown naked to the road. All the physical and mental torture led to her death. When the case was brought before the court, one of the accused committed suicide in jail and one of the accused was a juvenile so he was not sentenced to death. But the other four accused were sentenced to death and were also hanged in the year 2020. This judgement was concluded after analysing the aggravating and mitigating factors. The aggravating factors outweighed the mitigating factors if any. The death sentence was imposed because life imprisonment seemed inadequate considering the relevant circumstances of the crime and the inhuman torture committed on the victim which brought about her death.⁷

Jagmohan singh vs state of up:

some six or seven years before the present offence, one Shivraj Singh, father of Jagbir Singh, a cousin of the appellant, was murdered. The deceased Chhotey Singh was charged for that murder but was eventually acquitted by the High Court. As a result of that murder, there was ill-feeling between Chhotey Singh, on the one hand, and the appellant and Jagbir Singh, on the other. Both of them were minors at the time of the murder of Shivraj Singh. But by now they had grown up and it is plain from the evidence that Chhotey Singh's murder was the result of this ill-feeling. Chhotey Singh was murdered on September 10, 1969 at about 5.00 P.M. A day earlier, there was a quarrel between Jagmohan Singh and Jagbir Singh, on the one hand, and Chhotey Singh, on the other, on the question of a right to irrigate their fields. However, the dispute was settled by persons who reached the spot at the time and nothing untoward happened. Next day, however, the appellant armed with a country made pistol and Jagbir Singh armed with a lathi concealed themselves in a bajra field and emerged from the same as Chhotey Singh passed by to go to his field for fetching fodder. The appellant asked Chhotey Singh to stop so that the matter between them could be settled once for all. Naturally Chhotey Singh tried to run away but he was chased by the appellant and shot in the back. Chhotey Singh fell down after running some distance and died. That is how the murder was committed. On the facts and circumstances of the case, the learned Sessions Judge held that the appellant deserved the extreme penalty. The High Court, while confirming the death sentence, observed that there were no extenuating circumstances and the sentence of death awarded to the appellant was just and proper. The question is whether this Court should interfere with the sentence. Lastly it was contended by Mr. Garg that under Article 21 of the Constitution

⁷ <https://www.legalserviceindia.com/legal/article-12834-vinay-sharma-v-s-union-of-india-an-analysis.html#:~:text=The%20grievous%20nature%20of%20the,served%20them%20with%20death%20penalty.>

no person shall be deprived of his life except according to procedure established by law and, in his submission.⁸

SHABNAM VS UNION OF INDIA:

Petitioner Shabnam Hashmi, a renowned Indian social worker and human rights champion, submitted a plea before the Supreme Court of India under Article 32 of the Indian Constitution. Ms. Hashmi, a practicing Muslim, sought recognition of the right to adopt and be adopted as a fundamental right under Part III of the Indian Constitution. She filed the petition on behalf of herself and a young girl she had taken in and cared for since childhood. Ms. Hashmi stressed that the Juvenile Justice Act of 2000, a secular law, allows anyone, regardless of their faith, to adopt a child. Her submission requested that the Court advise states and union territories bound by the act to implement Section 41 and follow Central Adoption Resource Authority (CARA) guidelines strictly.

She proposed twofold prayers to the Honourable Court:

Declaring the right to adopt a child as a fundamental right under Part III of the Indian Constitution.

Directing the Union Government to create non-compulsory guidelines facilitating adoption for individuals, transcending barriers of caste, creed, and religion. Also, she urged the creation of a supplementary law centered on child welfare, giving scant importance to factors like religion.

In *Shabnam Hashmi vs. Union of India*, the bench wholeheartedly agreed that adoption is a fundamental right applicable to all citizens, immune to distinctions based on caste, creed, or belief. Referencing the Juvenile Justice (Care and Protection) Act of 2000, the bench maintained adoption opportunities unaffected by religious or caste constraints. Despite the absence of robust proof offered by the petitioner, the Court honoured her prayer and declared the right to adopt a child as falling within the ambit of Part III of the Indian Constitution, classified as a Fundamental Right.

Clarifying further, the bench explained that Islamic law doesn't officially recognize adoption, but neither does it prohibit childless couples from assuming parental duties for a child's emotional and material sustenance. Once a couple adopts, they become the child's lawful parents, superseding the role of traditional guardianship. Recognising the spirit of the Juvenile Justice Act of 2000,

⁸ <https://indiankanoon.org/doc/1837051/>

the bench added that adoption rights apply equally to every couple, independent of their religion, gender, caste, or creed, affirming every child's right to family and every adult's right to care for a child.⁹

SURENDRA KOLI VS STATE OF UP:

Multiple children went missing in and around Noida Sector 31 and Nithari village, Gautam Buddha Nagar, starting from 2005. Complaints were filed by relatives, including Anil Halder regarding the disappearance of his daughter, Rimpa Halder, and Nand Lal, father of another missing girl named Payal. Following these incidents, the Chief Judicial Magistrate of Gautam Buddha Nagar ordered the registration of an FIR (No. 838 of 2006) under sections 363 and 366 of the Indian Penal Code (IPC) regarding Payal's disappearance.

Initially, Ramesh Bharti, CO City Gautam Buddha Nagar, investigated the case, but Dinesh Yadav, Deputy SP (now PW 35), took over the investigation based on an order from the Superintendent of Police, G.B. Nagar. During the course of the investigation, Surendra Koli (A-2) was arrested on December 29, 2006, and admitted to killing Payal and disposing of her body in the enclosed gallery at the back of house no. D- 5, Sector 31, Noida. A-2 then led the investigation team to recover 15 skulls and bones from the location, as well as a knife from a bathroom tank and other bones from a nearby drain.

Following these discoveries, Smt. Dolie Halder, mother of Rimpa Halder, visited the police station on January 3, 2007, for identification purposes. She recognized clothes belonging to her daughter, which led to the filing of another FIR (No. 3 of 2007) against Moninder Singh Pandher (A-1) and Surendra Koli (A-2) for kidnapping, raping, and murdering Rimpa Halder. The Central Bureau of Investigation (CBI) took over the case, conducting a detailed investigation and submitting a charge sheet against Surendra Koli alone, acquitting Moninder Singh Pandher due to insufficient evidence linking him to the crime. Both A-1 and A-2 denied the charges and claimed innocence. However, no witnesses supported A-2's alibi. The trial court eventually found both accused guilty and sentenced them to death.

Unsatisfied with the verdict, both appellants filed appeals. Moninder Singh Pandher's counsel

⁹[https://lawbhoomi.com/shabnam-hashmi-vs-union-of-india/#:~:text=In%20the%20case%20of%20Shabnam,and%20Protection\)%20Act%20of%202000.](https://lawbhoomi.com/shabnam-hashmi-vs-union-of-india/#:~:text=In%20the%20case%20of%20Shabnam,and%20Protection)%20Act%20of%202000.)

argued that there was no legally admissible evidence against him and that his confession should not be used against him. They also questioned the legality of summoning him under section 319 Cr.P.C. Meanwhile, Surendra Koli's counsel disputed the completeness of the circumstantial evidence and challenged the admissibility of his own confession. The counsel for the complainant, on the other hand, supported the trial court's decision. In response to these arguments, the court examined the oral and documentary evidence on record, focusing on the statements and conduct of key witnesses, medical records, and other physical evidence. The court thoroughly analyzed each piece of information, weighing the credibility of each claim, b Surender Koli vs State of UP is a series of cases related to the serial killings and sexual assaults that took place in Nithari, Uttar Pradesh, India, between 2005 and 2006. Various judgments were passed by the Trial Court, the Allahabad High Court, and finally, the Supreme Court of India. Here's a summary of some of the key judgments in the case:

Trial Court Judgment (Special Fast Track Court, Ghaziabad): Surender Koli was found guilty on five counts of murder, attempted murder, and concealment of evidence. He was sentenced to death on March 21, 2009, for each count of murder under Section 302 of the Indian Penal Code (IPC). The trial court also fined him Rs. 2,000 for attempting to murder Hemraj's wife, and Rs. 1,000 for destroying evidence. Allahabad High Court Judgment (High Court of Judicature at Allahabad, Lucknow Bench): Surender Koli challenged the death penalty awarded by the trial court. The division bench of the High Court dismissed his appeal on October 11, 2010, upholding the death penalty. Koli then filed a Special Leave Petition in the Supreme Court of India against the High Court's judgment.

Supreme Court Judgment (Supreme Court of India, New Delhi):

Surender Koli filed a writ petition (CRL.) No.

162 of 2011 in the Supreme Court, challenging the death penalty awarded by the trial court and upheld by the Allahabad High Court. The Supreme Court appointed senior advocate K.T.S. Tulsi as Amicus Curiae to assist the court in the matter. The Supreme Court, on May 11, 2011, stayed the death warrant issued by the trial court for executing Surender Koli.

The apex court conducted hearings on the matter, going through voluminous documents, witness testimonies, and other evidence presented by both the prosecution and the defense. Finally, on July 12, 2019, the Supreme Court rejected Surender Koli's appeal and upheld the death penalty awarded by the trial court and upheld by the High Court.

These judgments collectively confirm the guilt of Surender Koli and uphold the death penalty awarded by the trial court and upheld by the Allahabad High Court. The Supreme Court, in its final judgment, deemed the crimes committed by Surender Koli as "rarest of rare" cases, deserving of the highest punishment under Indian law. efore delivering its final verdict.¹⁰

CONCLUSION:

The debate on capital punishment in India remains a complex and polarizing issue. While there is a strong emphasis on the right to life and personal liberty as outlined in Article 21 of the Indian Constitution, the application of capital punishment is viewed differently based on the type of crime and its perceived impact on society. Historically, Indian courts have relied on the "rarest of rare" doctrine to decide whether capital punishment is warranted. This doctrine leaves room for judicial discretion, which can result in inconsistent judgments and application of the death penalty. Arguments against capital punishment generally focus on the lack of concrete evidence showing its deterrent effect, the possibility of errors in the criminal justice system leading to wrongful convictions, and the potential for discrimination based on factors such as economic status, caste, and religion.

On the other hand, proponents of capital punishment argue that it serves as a deterrent for heinous crimes, provides justice to victims and their families, and instills public confidence in the criminal justice system. Over the past few decades, there has been a gradual decline in the number of cases attracting the death penalty in India. The Supreme Court has increasingly favored life imprisonment over capital punishment, particularly in cases where there are mitigating circumstances or where the offender shows signs of rehabilitation. The debate on capital punishment in India continues to evolve, with various stakeholders presenting compelling arguments for and against its use. While the practice remains constitutional, its application is carefully restricted to the "rarest of rare" cases, reflecting the country's commitment to upholding human rights and the sanctity of life. The conversation will likely persist as the judiciary, legislature, and society strive to balance the need for justice with compassion and forgiveness.¹¹

¹⁰ <https://www.scconline.com/blog/post/2023/10/16/nithari-killings-allahabad-high-court-acquits-surendra-koli-moninder-pander-set-aside-death-sentence/#:~:text=In%202009%2C%20the%20Allaha%20High,the%20Supreme%20Court%20in%2020%2011.>

¹¹ <https://www.britannica.com/topic/capital-punishment>