

Present View of Capital Punishment in India and Around the World

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Abstract – The purpose of this paper is to provide some relevant information on Indian and global status of capital punishment. At first, the concept of capital punishment is discussed and then a capital offense is defined. The paper then describes the methods used in capital punishment. After that two major theories related to capital punishment including the reformatory theory and preventive theory are discussed followed by detail discussion of the views of different countries regarding capital punishment or death penalty including the concepts prevailing in the Retentionist and abolitionist countries. Then, the Indian concept of capital punishment along with the prevailing laws and capital punishment in ancient India are also discussed. At last, the paper concludes discussing the positive aspects of capital punishment.

Keywords: Capital Punishment, Death Penalty, Capital Offense, Reformatory Theory, Preventive Theory, Offender

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I. INTRODUCTION

Death penalty or Capital punishment is an intensive legal process whereby a state's legal system verdicts death penalty to a person as a punishment for committing a crime. The judicial process decrees that a criminal should be punished by execution. Crimes that lead to the death penalty or capital punishment are called capital offense or capital crime. The term "capital" is originated from the Latin word "Capitalism" that means "regarding the head" [1]. Execution by beheading was a norm in some part of Europe which is now called capital punishment with the reformed version of the death penalty.

According to Encyclopedia Britannica, Capital offense means any criminal charge to a person that is punishable by the death penalty. What kinds of criminal offenses are punishable in this way vary from one country to another even from one state to another. In some states of the USA, premeditated murder or murder in some special situations like intentional murder, rape with physical harm, etc. are considered criminal offense which can be considered for capital offense. Individual who is charged under such criminal offense is not given bail.

II. MODES OF CAPITAL PUNISHMENT

At present, most of the countries across the world do not practice the ancient processes of capital

punishment. Most of these punishments are either abolished or modified. New techniques have been adopted that have reduced the physical pain of execution to a large extent. Some of the new methods used for execution are as follows [2]:

- Hanging
- Lethal injection
- Shooting
- Electrocutation
- Gas Chamber
- Beheading
- Falling from height

Punishments like beheading are an old form of capital punishment which is almost extinct. Electrocutation as a process of capital punishment was first used in the prison of New York in 1890. At present, it is used in several other countries like Russia, Japan, and England. During the Second World War, a special machine called "Guillotine" was used for capital punishment. This was invented by Dr. Guillotine and named after him. This was used to kill Nazi soldiers. This machine had a sharp head with which the convicted soldiers

were beheaded. Later, England, Scotland, Poland, and some other countries also started using this machine for execution. China and Russia mostly use shooting as a method of capital punishment. In the USA, and German gas chamber is mostly used as a method of the death penalty. In a gas chamber, a convict dies immediately without feeling any physical pain. Hanging till death is practiced in many countries including India. However, hanging in public that is still in practice in several countries is considered illegal in India. Use of lethal injection is comparatively a new method that was first used in Oklahoma in the USA in 1977. It's the most positive aspect that the convict dies in seconds without feeling any speck of physical pain. Presently, countries like Canada and England Also use this process [3].

III. CRIMINOLOGICAL APPROACH TO CAPITAL PUNISHMENT

As far as the process of capital punishment is concerned, there are two theories most prevailing:

- Preventive Theory
- Reformatory Theory

“An eye for an eye will turn the whole world blind” - Mahatma Gandhi

This opinion of Mahatma Gandhi is the major motivation behind Reformatory theory or Bentham it can be said the opinion of Mahatma Gandhi as depicted above is the foundation of Reformatory theory. The most modern and humane concept of all theories is based on the principle of reformation of the criminals and treating them individually. This theory asks to not see a criminal as a beast but look at their faults on the criminal grounds and make them understand their faults. The aim here is to eradicate crime from the world [3]. According to this theory, the aim of any punishment should be to reform or educate the offenders. The theory is strongly supported by criminology. Criminology sees every crime as a pathological phenomenon which is a form of insanity and some level of physiological defect. Again, there are some crimes that are committed by the normal persons knowingly. These criminals need to be punished as per the moral law of a state. The aim of the Reformatory theory is to transform the criminal mind of the offenders with the help of peno-correctional institutions so that they can understand what does actually mean by “normal life” and what kinds of activities are not socially acceptable. It targets at their psychotherapy and conforming to the common norms of the society. It aims to make them law-abiding members of the state or country. Overall, the theory nullifies all forms of capital punishments and tries to bring back the offenders in the mainstream of the society [4].

“An owner of the land puts a notice that ‘trespassers’ would be prosecuted. He does not want an actual trespasser and to have the trouble and expense of setting the law in motion against him. He hopes that the threat would render any such action unnecessary; his aim is not to punish trespass but to prevent it. But if trespass still takes place he undertakes prosecution. Thus the instrument which he devised originally consists of a general warning and not any particular convictions.”

-Fitchte

It is said that “prevention is better than cure”. The idea behind the Preventive theory of punishment is to separate the offenders from the mainstream of society. The Preventive theory is strongly supported by the utilitarian law reformers as this theory has an immense humanizing impact on penal law. In the view of reformers, the certainty and severe nature of law have a profuse effect on the offenders. It is obvious, that the emergence of institutions like prison is the outcome of the Preventive theory. This theory says that if a person has taken the life of another person then he has no right to live [5].

IV. CAPITAL PUNISHMENT IN VARIOUS COUNTRIES

The practice of capital punishment could be traced in ancient history. Ancient Roman law asked for physical torture before execution to make the punishment more painful. Centuries ago, the death penalty was given in public places to make people aware of the actual consequence of an offense. A patricide was packed in a sack with a cat, a dog, and snake. Then, the sack was thrown into the river. A person who failed to pay back his loan was pushed from a hill. In Yunan, a criminal was publicly tortured to death. In Philistine, an offender was killed by throwing stones. In German and Australia, a criminal was buried alive or crushed on the wheels.

A. England

Hanging was the traditional form capital punishment in England. But, it had not taken the form of what we know death penalty today. Henry VII was the first king of England who talked about and practiced capital punishment. He executed almost 72000 people in his regime. He used extremely terrific ways to punish the offenders, even small crimes and offenses were not spared. The offenders were frequently pushed into boiling oil or water containers. Later, hanging became a common form of capital punishment in England. However, there were other forms of executions too such as beheading. Beheading as a capital punishment was last used in 1747. During the reign of Queen Mary in the 16th century, more than 300 people were burned to death in that country. In the 18th century, several British women found guilty of

murdering or counterfeiting their husbands were burned to death. This form of capital punishment was abolished in England in 1790 [6].

Thereafter, hanging, quartering, and drawing were the common forms of capital punishment in England. If it was found that the convict was alive for a long time after hanging, he was quartered. The victims were drawn to the execution place on a hurdle pulled by a horse.

However, until the 20th century, hanging was the most common form of execution in England. In this method of execution, the criminal was placed on a ladder that was pulled away and sometimes the criminal was placed on a cart that was then moved. From the 18th century, the offender was placed on a trapdoor. Sometimes, the offender broke his neck when fell from a height. During the 18th and early 19th century, hanging was a common punishment for many crimes that was not just restricted to murder. After that period, the number of crimes leading to the death penalty was reduced. In 1836, hanging as a punishment for forgery was completely abolished. In 1861, it was decided that capital punishment would be restricted to murder, higher levels of betrayal, piracy, and arson in the royal dockyards. In 1908, convicts below 16 years age were relieved from hanging and in 1933 the minimum age for hanging was raised to 18 years.

In 1949, on the demand of the public, the British Royal Commission was established to consider total abolishment of the death penalty. Thereafter, capital punishment was stopped until 1965. It was finally abolished in 1969. However, the increasing crime rate over the last two decades inducing the government to reconsider the introduction of capital punishment [5].

B. Italy

Since 1989, the use of capital punishment has been abolished in Italy. It was re-introduced for a brief period between 1926 to 1947. Before the unification of the country, capital punishment was quite prevailing in all the states except in Tuscany. It was abolished in 1786. This is out of use since 1st January 1948 the adoption of the current constitution of Italy.

Use of guillotine was withdrawn in 1989 and was re-introduced for a brief period under Fascism. After that with the approval of both houses of parliament and under the recommendation of Minister Zanardelli, the death penalty was completely abolished in Italy [6].

Various opinions are given regarding capital punishment. Lombroso argues that capital punishment is useful in certain situations while Gorofolo is completely against the application of the death penalty in any situation. Bakaria is also against

capital punishment and he opines that it causes a bad effect on society.

Italy has a strong stance against imposing capital punishment. They had even opposed the execution of Saddam Hussein in 2006. Some years back, Italy proposed a moratorium on capital punishment in the UN consortium asking the members countries to abolish the death penalty. In 2008, the European Values Study (EVS) revealed that more than 62% of respondents were against the death penalty while just 4.8% of Italian respondents were supporting death penalty [7].

C. America (The USA)

The process of capital punishment or death execution is restricted under the 8th amendment of the constitution of the USA. In most of the cases, it is used for the most brutal murders that have been committed by convicts in a good state of mind.

Under the English common law, capital punishment was used for many kinds of criminal acts. Before independence, the English common law was frequently applied in America. At present, capital punishment is practiced in 32 states [8]. It is also practiced in the military legal systems as well. Capital punishment was re-introduced in 1979. Since then, 34 states have used capital punishment. So far, Texas has performed the highest number of executions in this country while Oklahoma has registered highest per capita execution rate (till mid-2011) [9].

The crimes to be considered for the death penalty and the processes of execution vary from one state to another and these have altered over time. As per the data available for 2013, 39 offenders were executed in America [10] and 3108 convicts were on death row [11] that means around 1.5% was the execution rate in that year. States like Florida, Ohio, Texas, and Arizona execute the convicted murders on a regular basis.

D. China

In the People's Republic of China, capital punishment is generally used to punish serious offenders. However, there are some other kinds of criminal activities like drug trafficking that are considered under capital punishment. China tops in executing convicts but the countries like Singapore and Iran have the highest rate of per capita execution [12]. However, several global watchdogs opine the actual number of execution in China is far more than the given official number. In 2009, the Dui Hua Foundation predicted that the number could not be less than 5000 which they said much more than the total number of executions performed by all other nations' together [13]. The

exact number of executions in China is still a state secret.

The People Republic of China has been trying to reduce the execution rate by excluding some kinds of crimes from the purview of capital punishment. In 2011, a committee established by the government of China recommended some serious steps in order to reduce the number of executable crimes from 68 to 55 [5]. In the same year, the apex court of the country ordered the lower courts to suspend capital punishments for at least two years. They also asked the lower courts to ensure that the capital punishment is applied only to extremely serious crimes only [10].

The list of capital crimes included by the judiciary of the People's Republic of China includes different kinds of serious offenses such as organizing mass rebellion with arms, any crime that endangers the public security, crimes against individual persons like a rape of a minor, etc. Some economic crimes embezzlement, bribery, and drug trafficking are also included as a serious offense with a chance of getting capital punishment. There are some other aspects of capital punishment. Theft of cultural relics and killing of pandas are included under capital offense in this country [12].

In China, execution due to any political crime is extremely rare. It is not applied to the political ground unless it takes the form of political violence and becomes a threat to the common people of the country.

In 2011, after the recommendation of the established committee, thirteen crimes are removed from the list of capital offenses [10]. Some of these criminal activities are theft or smuggling of cultural relics, precious metals like gold, and wildlife products. This step of the government has brought down the number of capital offenses from 68 to 55 [2]. However, most of these crimes were rarely punished with death penalty [3]. In China, there are some other provisions for capital punishment like some illegal activities that are intended or tried several times but not actually committed such as repeated attempt of scam. In these cases, recidivism is accepted as a serious offense not the seriousness of the illegal activity. In China, recidivism is accepted to have the merit of a capital offense [3].

V. ABOLITIONIST AND RETENTIONIST COUNTRIES

More or less, 140 countries all over the world have withdrawn capital punishment from their judiciary system. Among them, 97 countries have completely abolished the death penalty for any types of crimes. So, no crime comes under the purview of a capital offense in these countries. Countries like Germany, Albania, Palau, Greece, Nepal Poland, Switzerland, Turkey, South Africa, United Kingdom; etc. have

abolished capital punishment from their respective judiciary system [13].

Out of these 140 countries, there are 8 countries who have withdrawn capital punishment just for general types of crimes. These countries are El Salvador, Israel, Bolivia, Brazil, Chile, Fiji, Kazakhstan, and Peru. A closure look at their judiciary systems reveals that these countries generally verdict death penalty unless the crime is too severe and exceptional such as crimes under military law and crimes committed in too brutal manners.

There are 35 countries like Congo, Ghana, and Algeria who have not officially withdrawn capital punishment but they do not apply this practice in general cases or have not applied capital punishment for a long time. These countries have a provision for capital punishment for the crimes like murder but their judiciary systems have been found to have not given the death penalty to any criminal in the past decade. On the other hand, there are 58 countries that still have retained capital punishment for ordinary crimes. Some of these countries are India, Indonesia, Afghanistan, Bahamas, Iran, Iraq, Saudi Arabia, Singapore, Bangladesh, and Pakistan. These countries regularly use capital punishment for punishing the offenders. Overall, the number of abolishing countries is growing and the number of retentionist countries is decreasing with time [2].

Normally, countries do not re-introduce capital punishment after abolishing them until and unless there is a serious reason behind that. Since 1985, as per the data available, more than 50 countries all over the world have withdrawn the death penalty from their judiciary system. There are some countries that have abolished the death penalty for ordinary crimes before 1985 and abolished it for all sorts of crimes after 1985. Since then, just four countries re-introduced capital punishment under some changing political; scenario. Nepal was one such country that re-introduced the death penalty and again abolished it. The Philippines is another example like Nepal who introduced death penalty after abolishing it but later stopped using the death penalty. There have been no official records of executions in Papua New Guinea and Gambia for a long time though they have not abolished capital punishment [1].

VI. CAPITAL PUNISHMENT IN INDIA

Viewing at the Indian history, we cannot decline the prevalence of capital punishment in Indian history. One of its bases could be traced in teachings of Hindu that permits and also denies death penalty. Though Hinduism believes in ahimsa yet they consider death to be body centric and cannot harm soul. Soul Geeta sloka gets reborn and in a different body only after one gets moksha and is similar to the way human change their clothes. The

civil, religious and the laws criminal has been drafted in Arthasastra and Dharmasastra [2]. The latter has description of varied death penalties along with punishments consisting of warfare, murder or caste discrimination.

But Mahabharata has plenty of passages that voice denial of death penalty in all such circumstances. For instance, the conversation between the King Dyumatsena and Prince Satyavan, his son where many men were deterred from execution owing to the demand of king.

Prince Satyavan states that at time crimes meddle into virtue and virtue to sin. Destruction of all is not feasible virtuously. To this the king replies if all the ones who should be punished are spared then no difference prevails between vice and virtue.

To this, Satyavan says, the king should punish without destructing the body as mentioned in scriptures. Acting otherwise is not important and the king can choose to prioritize morality than offending character. Killing the one who has done wrong also harms plenty of innocent people [3]. By killing one robber, you additionally kill his entire family. Upon injury by the wicked lot, the king must consider the punishment questions. At times, it is seen that a wicked man drives good from one that is pious. And so the same should not be exterminated. The wicked extermination does not rely by the law.

Also, such an interpretation of liberal texts does not appear to be absolute and the same context as evident in Bhagwad Gita reveals wicked righteous destruction has been commended as fulfillment and meritorious of caste duty.

Undertaking pain and pleasure, loss and gain, defeat or via, girding for battle and so one must not inculcate sin.

As per the Vedic injunctions, there exist around six various aggressors [4]:

1. Poison giver.
2. One attacking with forceful weapons.
3. One setting house on fire.
4. One is plundering riches.
5. One occupying others lands.
6. One kidnapping someone else's wife. All such aggressor must be given death penalty and doing things does not incur sin.

VII. CONTEMPORARY STATUS OF CAPITAL PUNISHMENT IN INDIA

The nation retains plentitude of punishment for varied offences. Further the Supreme Court of India gives provision of death penalty only for four examples from the time of 1995 for instances that occur rate and undertakes community conscience [5].

The Supreme Court in *Mithu vs. State of Punjab* [6] strikes off the IPC section 303 that said the ones that are given death penalty should indulge in life time imprisonment. Capital Punishment imposition does not always suggest execution as one has the option of sentencing lifetime imprisonment. Total people count since independence is a matter of dispute and reports suggest that only 52 cases have been successfully executed. But the Civil Liberty of Public Union stated the information that in lieu with Appendix 34 as of 1967 Indian Law Commission reports state that a total of 1,422 executions has been done successfully in around 16 states of India from 1953 - 1963, and reveal that total execution as of independence would be as more as 3000-4300. As of December 2007, reports suggest that Indians voted against a resolution of United Naiton General Assembly leads to death penalty moratorium. As of November 2012, it was seen that India was once again upheld for its stance based on capital punishment through voting with odds against UN General Assembly that drafts resolution and seek to ban the death penalty. In *Mithu vs. The State of Punjab* (1983) Supreme Court has struck down Section 303 of IPC that leads to death punishment being offenderly for all offenders that serve life sentence. Capital punishment is the rule, death penalty is an exception-*Ediga Anamma vs. state* AIR 1974SC799, *Bachan singh vs. state of Punjab* AIR 1980SC898. Again in *Bachan Singh vs. The State of Punjab* case challenges capital punishment's constitutional validity along with the grounds state it does not stand by Article 14, 19, 21 of the constitution of India was challenged. Supreme Court held that capital punishment need grant only for "rarest of rare cases" and death penalty is constitutional [5]. It has been held by the Supreme court in *Jagmohan vs. state* AIR 1973SC942 that death sentence is not violate of Article 14, 19, 21 of the Constitution. It cannot be regarded as unreasonable. In *Deena vs. state* AIR 1983SC1155 the supreme court reiterated the execution or death sentence by hanging as provided by section 354(5) code of criminal procedure, 1973 does not violate Article 21 of the Constitution. In *Shashi Nayar vs. union of India* AIR 1992SC375 the apex code observes that the procedure provided by the law for awarding death sentence is reasonable. Law commissions 25th Report which stated that rising capital punishment abolishment is something Indians cannot do. Also the error possibility as committed in sentence matter has been corrected

through appeals along with revisions upon which the higher courts rely. Machhi Singh vs. The State of Punjab case saw the court laying down statement as - "with the aim of applying above guidelines few of the questions that might be inquired include:

- (a) Does there prevails something that is uncommon related to the crime, and renders life time imprisonment leading to death sentence?
- (b) Does there prevails crime circumstances as something being not alternative but leads to imposition of death sentence also post maximum weightage given to circumstances mitigating that speak for the offenders?"

Article 21 the constitutional of India states that "None should be deprived of one's life apart from the law process as set by the government." There exists high possibility stating that due process as set might fail to follow law.

In Makhan Singh Tariska v. The State of Punjab held, it was that "prior to depriving a person of his own life, it is imperative to follow the process as set by law and does not be departed leading to person disadvantage.

In the Sher Singh and others vs. The State of Punjab, the court held was that the one who has declared death sentence is convinced that the murderer was in a sound state of mind. No matter if the Magistrate testimony has approved the declarant to be sound to provide the statement and in absence of that, the opinion of doctor stands false and involuntary. Along with the declarant, doctor's certificate is importantly a cautionary rule and hence, the truthful and voluntary nature of the statement has to be established.

In the case of Rajendra Prasad vs. The State of Uttar Pradesh, Justice V.R. Krishna Iyer was of the view that death penalty should not be imposed. Further, he stated that Benjamin N Cardozo from his Judicial Process Nature and said that," In case the judges woefully misinterpret the days mores or if the same does not appear to be more than ours they would not tie as in submission being helpless and at the successor hand. [12]" Also the Honble Judges should shed a traditional form to see death penalty and further take a better stand for the convict. One should deter the practice done usually and further speak human dignity impulse. Also, stop succumbing to the situation amd also the practice prevailing in the society. The judges must set up a prototype for human life and their dignified existence. He drafts the saying of Lok Nayak Jayprakash Narayan, "as of my mind, an ultimate question is of life respect along with the human approach for all who commit hurt previously to all. Also, the death sentence is not the only solution for horrendous crimes. One can take up a better and a more humane approach by removing

the concerned culprit from normal milieu. Further, treat him as one have mental imbalance. I believe that a huge proportion of the killers can be easily weaned apart from their own pathways along with the mental condition and help be a better person but in few cases this does not appear acceptable. They could be kept in house of prison before they die naturally. The above might lead to more of a burden as comapred to hanging. However, a doubt whether the murderer humane treatment would better has dignity and lead to a better society.." In Kehar Singh vs. State (Delhi Administration) case, a statement that in a civilized society attributes must not be deemed as important more than life [10]. The court said Article 21 is the paramount position. The above two attributes have a better fundamental The personal liberty deprivation along with life deprivation threat by the State action is taken seriously in almost all civilized societies either with the provision of express constitution or via the legislative enactment as provided to judicial organ. However, the human judgment fallibility as standing undeniable in even the most dedicated mind, one that has been resourced by experience harvest, they consider it apt in life and personal liberty matters. This entrusted power is one that belongs to people and the reposed in the state's highest dignitary.

Former Chief Justice, Pathak, has explained in the case of Kehar Singh that " power of pardoning of President is one of the a constitutional responsibility having immense significance, which must be exercised in cases of occasion arising in lieu with the context discretion." further, CJ explains the reasons as : "of any society civilized, attributes could not be deemed more important than one's life along with the members personal liberty ... provision of recourse for protection to the judicial organ. Also there exists a human judgement possibility of fallibility." The Constitution provides balances and checks for all situations that are conceivable. In case the judiciary appears to be fallible, then the President can make correction under the Article 72. Also, if President has exercised his power and is questionable, then the higher judiciary might instruct him to reconsider his decision.

This was the way of conviction of culprit to death in case of Rajiv Gandhi assassination, namely the Santhan, the Murugan, and Perarivalan, securing a reprieval from the high court of Madras post the President has dismissed the clemency petition dating back in 2011. Also, in the ongoing year, a plea as admitted by the Supreme Court was of the wife of Devinder Pal Singh Bhullar. For an attack in Delhi in 1993, he was given death penalty with rejection of his pardon.

Another prisoner wife filed a case against the rejection of their petition, In another case by the intervention of Supreme Court, which suspends his hanging. Also in the case of Dhananjay Chatterjee,

High Court of Calcutta studied a petition that sought to review the decision of President Abdul Kalam's disregarding his plea. However, it was again rejected and his execution followed in 2004 [13].

VIII. CAPITAL OFFENCES IN INDIA

Indian constitution Article 21 states that, no person shall be deprived of his life and personal liberty except according to the procedure established by law.

A person who hatch a criminal conspiracy would be given death penalty as mentioned under IPC Section 120B

One who waging war against the Indian Government or even takes an attempt to do so would be awarded the capital punishment as stated under IPC Section 121 of the Indian panel court.

As per IPC Section 132, who abets the community through soldier, officer, sailor or the airman, as in Navy, Army, or the Air Force of Indian Government must if committed by mutiny along with that of abetment, will be given death penalty or life imprisonment or an imprisonment with description of the term that last for around 10 years and could be open to fine.

IPC Section 194 states, if any innocent person has been either convicted or executed and also if the person has been convicted on the basis of false evidences then the person who has provided such evidence would be given death penalty.

According to Section 302 IPC, people are granted capital punishment is they are the one involved in murder case.

According to IPC Section 303 people who are given the life imprisonment commit suicide would be punished with death.

According to IPC Section 305, a person is who below eighteen years of age or any delirious or insane or any stupid person in a bad mind stare is involved in suicide, murder he will not be punished but the one that abets committing murder would be punished with life imprisonment or death. Or even an imprisonment that lasts for not more than ten years, and need to pay fine.

IPC Section 364A of the Indian panel code 1860 states that a person who either kidnaps or even abducts a person or retains one after abduction or kidnapping with life threaten or causing hurt to one through his conduct leads to an unwanted apprehension starting that this person might be granted death or even hurt, for other causes to death or hurt, this person for compelling either the Government or the foreign state or the organization

that is international inter – Governmental or along with any other person that abstains from performing an act or ransom payment, would be punished with death, or life imprisonment along with fine.

As per IPC Section 376A, amendment as made in 2013 provides death penalty for cases that inflicts injury on woman during rape and causes death and in state of persistent vegetation [13].

IPC Section 396 of Indian panel code suggest that of five person involved in dacoity, even one commits murder then in committing such a dacoity, each of them would be granted death penalty or life imprisonment or even an imprisonment for not more than ten years with liability of fine. There are several other laws which enable death penalty such as narcotics offences.

IX. LAW COMMISSION'S REPORT ON CAPITAL PUNISHMENT

The Indian Law Commission has reported to government of India as on 18 November, 1971 where it said that capital punishment having the aim of making aware to society against the criminals and not the feeling of taking revenge. Further, the Law Commission 42nd report as published in the month of June 1971 states that the following to hold groups of people exempted from capital punishment.

1. When the criminal perform the crime, he is of age less than 18 years then he is not liable to be granted with death penalty.
2. In a case woman, there does not exist any reason to avoid capital punishment except when she is pregnant.
3. In India, suicidal attempts are not to be considered as form of capital crime.

X. CONCLUSION

Further, practicing capital punishment in India dates back from the ancient times no matter the methods vary from time to time. Ramayana along with Mahabharata has evidence of Capital punishment.

The Mahabharata's Santiparva suggest that with respect to capital punishment if the offender is not punished, this will cause's increase in crime and therefore providing capital punishment is not wrong.

The capital punishment history does not voice any illegal act. Also in the Roman culture, as per Sir Henrymen, capital punishment abolishment has been considered as wrong though the same was

not in use frequently except in special cases namely rarest in rare.

In a civilized and developing society, the provision of capital punishment has remained the subject of serious debate in India and abroad. Viewing internationally most of the countries has abolished it and many have practically stopped it. United Nations has passed death penalty Moratorium Resolution with second support. However India upheld its stance on capital punishment by voting against the UN General Assembly Draft Resolution Seeking to end the provision of capital Punishment globally – Lawyer's update January 19, 2019.

In 1980 the Supreme Court in Bachan Singh's case upheld the constitutionality of death sentence as the 35th report of the law commission, 1967 justified its retention. Law commission of India recently (2015) also recommended death penalty in brutal murder and rape cases including causing murder in order to carry on terrorist activities considering human rights issue of death convicts, there is lack of access to legal aid and effective counselling to meet them free and fair trial. The mental health problems agony of death row prisoners are writ large. From the death of pronouncement of death sentence by trial court to final stage of mercy petition or review petition, which may take decades, the death penalty prisoners remain under the shadow of death. Therefore there is need of speedy trial as of fundamental right of these prisoners.

The opposition of death penalty has been gaining ground the world over for decades now, and while the voices against capital punishment did get louder over the years in India as well; death penalty has maintained its position on the statute book although the Supreme Court restricted its application to only the 'rarest of rare' cases indicating that we were inching slowly but severely towards a complete abolition. However recently the parliament has deemed a few additional crimes (apart from murder) deserving of death penalty, which suggest that we are not exactly moving close to dropping the death penalty altogether. (J.S. Verma Report).

The Deterrent Effect of the death penalty has been in doubt for a long time, which makes its effective largely in terms of retributive justice, which may not be particularly good reason to retain it.

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