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DEATH PENALTY AND HUMAN RIGHTS: A LEGAL AND ETHICAL DIMENSIONS REGARDING CAPITAL PUNISHMENT

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I. ABSTRACT

Within the framework of this paper, the researcher examine the legal part as well as the frictionless of capital punishment and natural rights in modern justice system. It makes us think about whether state killing is possible in light of the need to create rules that protect the freedom to life and make cruel or illegal treatment illegal.

In the paper, the retributive, and the rehabilitative grounds based on statutes, treaties and the dynamic towards getting rid of the death sentence globally to show a more humane approach towards punishment has been examined. The article is anchored in the argument about prison reformation in the 21 st century to determine whether as a society, we have the capability of protecting the community and accomplishing and making people well without breaking its laws and subjecting itself into violence which is irreversible.

II. KEYWORDS

Capital punishment, human rights, retribution, utilitarianism, rehabilitation, right to life, criminal justice reform.

III. RESEARCH OBJECTIVES

- Include the legal reasons in the US along with the world that make executions less likely or impossible.
- Evaluate the ways in which capital punishment is compliant with the basic rights to human protection.

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- Consider the ethical propositions which are used to support or argue against the state right to execute.
- Write about the present tendencies in the rest of the world that reveal the reasons why such penalty must exist or not.
- Discover some other alternatives of prisons that are safeguarding justice and dignity.

IV. RESEARCH METHODOLOGY

The research is a pure doctrinal study where the results were retrieved on a systematic scrutiny of the constitutional provisions, treaty provisions, and the penal code, inter-providing jurisdictions of interest; and thematic content analysis of the judicial discourse.

Key Results:

- State-sponsored death by the hangman has become less authoritative courtesy to the growing demand to get rid of slavery.
- Due to the lack of due process, the element of irreversibility because of the unwarranted convictions is very fruitful in posing the risk of violation of due process.
- Punishing like hanging does not match with the new ideals of humanity when treating a person.
- The human dignity is not discredited by the fair sentence without parole.

Drawing conclusion, it results in the fact that the capital punishment is even more intolerable in the rights-respecting system of law, which being concerned about justice and equity the society must substitute the death penalties with a human prison term. The application of such kinds of policies makes the criminal justice more just, legal and sustainable.

V. INTRODUCTION

In practice, human societies have developed legal frameworks that govern behavior as well as impose sanctions on bad behavior. Death penalty has been the most extreme

of such sanctions used to prevent serious crimes as well as ensuring social stability. Early societies like Sumerians, Babylonians, Hittites etc. and even the Athenians stipulated their law in written works and most of these laws incorporated capital punishment as a prominent form of punishment. These early scripts show the crude but methodical way to address the social deviance and hence institutionalized the retributive justice long before the modern criminal jurisprudence took its ferocious form.

The Code of Ur-Nammu (c. 2100 BCE) is recognized as earliest legal code, laying the groundwork for punitive systems in Mesopotamia.[2]It was replaced by other authoritative code like the Code of Hammurabi in Babylon, which listed twenty-five offenses warranting death but notably excluded murder from that list.[3]In contrast, the Hittite Code of the 14th century BCE preferred forced labor and fines to the death penalty, except in specific sexual offenses.[4] The Draconian Code of Athens (7th century BCE), however, was infamous for prescribing death for even minor crimes, illustrating a radical form of deterrent justice.[4]

The consequences of these ancient legal codes have shaped the evolution of subsequent European law, particularly visible in the earlier British establishment of the justice system for criminals throughout the 17th & 18th centuries. During the same time, people who stole or broke into homes were often put to death.

VI. RESEARCH STATEMENT

This piece of research will be a historical analysis of the evolution and application of capital punishment in various ancient law systems and will focus on how primitive societies justified and established the imposition of death as a punishment of criminal wrong-doing. It analyzes codified laws such as the Code of Ur-Nammu, Code of Hammurabi, Hittite Code, and Draconian Code, tracing their treatment of capital offenses and the philosophical underpinnings of punitive justice[5].

[2] Martha T Roth, *Law Collections from Mesopotamia and Asia Minor* (Scholars Press 1995).
[3] GR Driver and JC Miles, *The Babylonian Laws* (OUP 1952) vol 2.
[4] ibid.
[5] Roth (n 1); Driver and Miles (n 2).

The capital punishment has its roots in the primordial notions of the justice and has since experience significant transformation gradually shifting the scope of its application and importance (namely, the capital punishment as a tool of cruel retribution and warning to criminal minds has become a more restrained element of the contemporary legal regime). Despite this turn of events, the justification that underlies modern regimes holds the consistent inability to rigorously draw a line-for instance by classifying acts of theft into the umbrella of murder. This study thus attempts to trace a genealogy of the severity justified in the early manuscripts of the law code and determine the line of its progression towards more current conception of jurisprudence formed around the discourse of death-penalty and whether remnants of archaic retributivism can claim a role in shaping our current capital-punishment and structure of laws.

The given work applies a doctrinal approach to analysis, focusing on the comparative textual discussive interaction with ancient sources of law and the modern second-order academic literature. This two-tier analysis therefore aims at shedding light on the historical development of constitutional thought and practice throughout antiquity. It uses reliable translations and expert interpretations of major legal writings to figure out how the death sentence has changed throughout time. This question assists the paper to contribute to the law reviews and literature on the topic of the validity and legitimacy of the death sentence as criminal law today on its historical basis.

VII. CAPITAL PUNISHMENT IN INDIA: HISTORICAL CONTEXT & GLOBAL TRENDS

Traditional approaches to control were mostly crime prevention efforts within the criminal offending world. The disciplinary measure either works or does not work as a possible shrinking of criminal recidivism due to the ability of disciplinary measure to impose ceaseless punishments on lawbreakers.

The need of man to punish nurtured criminals as well as reward them after the deed is a binding factor to all such criminal acts. Individuals, who subscribe to this

philosophy of deterrence[6], hold that punishment must strike fear on the minds of the people and also administer strong punishments to law offenders so that they are deterred against the probability of committing crimes. These punishments are very significant and needless to say, everyone; whether civilian or criminal people know the significance of such punishments due to its degree of harshness.

Deterrence is one of the main disciplinary premises in the criminal law, despite the fact that its limitations[7] appear at certain moments. The concepts of linking punishments to crimes as put forward by the deterrence theory have a direct and historical relation to the prevalent concepts on the same topics. The extreme punitive nature was there to act like a deterrence measure on the criminal to deter any other acts of crime.

The whole concept of retributive[8] theory finds its basis on punishment but in the deterrence model it is used to bring stability to the society. It operated in basis of rational justice because it has the law which states that criminals needed to repay their crimes. Although the outcomes of the wrong actions of people may be unexpected and turn out a good thing, people who commit a wrong have to be punished. The punitive norms in the retribution philosophy are closely related to the concept of expiation[9] because they utilize appropriate punishments to quench the guilt.

The core basis of penal consequences acts as a preventive[10] rather than seeking restitution since the purpose of its main goal is to prevent a repeat of crime in the future. The sociological approach advocates enforcement of sentence on criminals though functionality deems such rules and regulations. Criminal punishments only help to protect the society since they act as a net against future destructive crimes that can occur to people or their assets.

[6] Cesare Beccaria, *On Crimes and Punishments* (1764, Cambridge UP 1995) 45–48.
[7] Franklin E Zimring and Gordon J Hawkins, *Deterrence: The Legal Threat in Crime Control* (Oxford University Press 1973) 3–5.
[8] HLA Hart, 'Prolegomenon to the Principles of Punishment' in *Punishment and Responsibility: Essays in the Philosophy of Law* (2nd edn, Oxford University Press 2008) 1
[9] Anthony Duff, *Punishment, Communication and Community* (OUP 2001) 44.
[10] Emile Durkheim, *The Division of Labour in Society* (Free Press 1984) 90–91.

A Reformist[11] perspective in penology introduces the fact that the justice legitimacy forms through knowledge of behaviors exhibited by criminals and not the past deeds. An alternative in forming new accounts would be beneficial compared to terminating the current ones. The Indian constitution provides three foundations of individual rights that are safeguarded by a civilized society and after that through its working machineries enforced by the legal system with a firm hand.

As per the applicable principle a conviction on certain serious crimes renders the prisoners liable to death sentence and other felonies make them ineligible to enjoy life at all their rest of life as they can never live beyond prison walls. The death sentence is a regular punishment in this society since it's necessary for everyone to be different. Simple people believe that there is more fear of death than jail time and separation. To have a peaceful society, people must come to acquire this particular fear of being punished. The history of penology has continued to retain the execution sentence as the most ultimate penal provision since the inception of penology. Jail sentences will cause the criminal to lose the understanding of his or her presence before the court.

'Capitalis' is a word used to refer to the head parts of human bodies in the Latin terminology. The death punishment is an approved legal form of penalty applied on convicted criminals in various jurisdictions and administered by the state institutions. India has capital punishment as an official response to murder and serious crimes similar to the international custom and in line with previous customs. The discovery of energy in the development of criminal justice was due to the ever-present debates regarding thematter of capital punishment over the ages. Throughout the period of the pre-Middle Ages era death penalty[12] still served the sole purpose of punishment. Danda is one of the Hindi language terms to signify punishment. In ancient days the king of India had the authority to punish human beings as per law and as per the legal system the equal abilities to punish people were in force. Danda falls in the form of vyavahara[13] meaning royal judicial process.

[11] Nigel Walker, *Why Punish?* (OUP 1991) 78–79.
[12] Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (6th edn, Oxford University Press 2020) 14–17.
[13] Kautilya, *Arthashastra* bk 3, ch 1 (Penguin 1992).

Punishment There was a system of whereas punishment depended upon the status of the perpetrator and the status of the convict in the ancient Indian society. Through the community members of different castes were sentenced to that which is equal to the other in case found guilty of same offence. Even the worst situations did not have an impact on Brahmins since they never used any physical punishments. At that time the members of the Sudra caste were subjected to the harshest punishment whereas those who committed crimes of higher caste had to do with shortened sentencing. However, no crime could ever convict Brahmins into death in ancient India.

In India, various crimes could be awarded death penalty and that was as per the laws of India. To King Dyumatsena [14]the punishment of death by hanging was justified because he was of the idea that the occurrence of crime would go high once the law-breakers come out of prison. In his opinion criminals who could not be identified at the moment of the murders were the most appropriate ones as their techniques could result in peaceful outcomes.

The organizations that execute their activities using moral values must deprive the criminal groups found guilty of the right to join organized society of those who in any way want to support convicted criminals become part of the criminal groups. According to the Hindu beliefs, the judicial systems arose due to fear as postulated by the traditional law giver of Hinduism Manu. It was a government discipline applied to all the major degenerates in India during the second and third century of the reigning Mughal Empire as they were all punished through single execution.

Giving Punishment in ancient India, the punishments were based on the social standing of the person who did the wrong and the person who did the wrong to them. During the time when Muslims ruled India, sentencing the prisoners occurred by the Islamic law and they were monitored until the reign of the British which did not send its inmates to prison until they saw the criminal case under the guidance of the Hindu religious heads where Hindu criminal inmates sentenced on the Hindu law.

[14] R C Majumdar (ed), *The Vedic Age* (Bharatiya Vidya Bhavan 1951) 327

Over the year 1860[15], the Penal Statute in India was established after the Law Commission of Lord Macaulay had done its task. This code is lived nowadays in all areas in India. Over the years, the death penalty has been one of the best ways to punish people. In the course of history, culture has become a great achievement because it has not been implemented much in regards to the death punishment. Death punishment has been termed capital punishment in modern society.

Due to the rise of the human rights activists in India, they are the ones who have started to put into the pinnacle of conversation the issue of death penalty to be executed. Capital punishment is the most suitable topic to discuss in the current times. The Indian legal system can't get rid of the capital punishment. People in society have kept arguing about whether or not the death penalty should be used instead of criminal killings.Not only are those the standards of probability that prohibit such an act, but also the ethical laws that do not allow us to protect the life of one individual by killing several possible victims in the society.

There are many ideas regarding why the death sentence exists and why people employ it. The death punishment creates tensions among legal bodies, human rights movements and social propagandas and among themselves. Given that human rights leaped and capital punishment turned out to be unchangeable denial of life[16], the knowledge they had about the law changed how they thought about using the death sentence. India as a nation has an enormous number of individuals who exist as criminals and also they experience a lot of criminal incidences. The Indian courts do decide on the level of the punishment to be given depending on the extent to which they feel that the convicted criminal actually needs such harshness of the punishment being meted to him or her. There are two basic reasons that enable the administration to give out death penalties.

A death sentence embodies two things i.e. condemnation of wrong doers and infliction of torture to criminals. The penalty imposed to these individuals does not encourage other people within their value scale to practice righteous behaviours. The

[15] Lord Macaulay, *Draft Penal Code* (First Law Commission, 1837) and Indian Penal Code 1860.
[16] Amnesty International, *Death Sentences and Executions 2023* (AI 2024) 5–7.

Indian system of courts uses life imprisonment, death penalty, and other forms of multiple punishments having a combination of fines and jail terms, which have optional amounts of fine.

Death penalty is regarded as the ultimate legal action in relation to human crimes by humankind. Countries of the world along with their national jurisdictions exhibit a difference in measure of consent to condone executions of condemned persons. Some organizations working in the fields of human rights are cooperating in their actions against death penalty as an unethical practice. The spirit of death penalty angers Human Rights Watch since it limits the rights to personal expression. The law and the justice system for crimes allow for the death sentence, and it is employed as a penalty.

There are numerous systems of learning institutions that have come together to form the Indian legal system that we have today. The President and governors[17] have discretionary powers to stop execution on individual cases under the Constitution. According to the IPC, death is only given to the "rarest of rare" situations, such as murder (Sec. 302) or conducting conflict towards the State (Sec. 121). Before the court can pronounce sentence, CrPC Sec. 354(3) says it must record "special reasons."

Crime under Indian laws, which can be barred to death penalties should be of the greatest limit. Killing, the law offers death penalties to soldiers who initiate State wars or cause insurrection or commit deadly armed robbery that causes loss of lives. In a scenario where a court feels that the sentence on murder[18] is lengthy than death, the court then agrees to the death warrant since they think the culprit hasn't gotten what he deserves. The courts will issue orders of executing a person in cases where the courts decide that it is high time that a death sentence was given to the criminal. Various scholars investigate the origin of death penalty in India through their work writing. There are India and its role in modern law and there is also an equally large body of literature.

[17] Constitution of India 1950 arts 72, 161.
[18] *Machhi Singh v State of Punjab* (1983) 3 SCC 470 [38]; Code of Criminal Procedure 1973 s 354(3)

As the Mughal empire expanded the Islamic law[19] was introduced and the emperor was able to preside over the Sharia criminal trials since it employed canon and standard based procedures. Islamic law has two primary roles which a penal system ought to fulfill because it is supposed to deter the chronic harmful behaviour and also end the further instances of such behaviour. Punishments of the worst offenders were once taken by society during daylight hours because of the teaching effect in the punishment. The doctrine of Islam determines the capital punishment as the appropriate way to carry out deliberate killers.

Owing to years of internal political changes, the legal system in India has undergone extensive changes. During its initial period of growth, the Hindu idea found the Islamic Law[20] to be prevailing at its initial period of development. Since their empire rose as a result of a Mughal conquest, the Mughals became the ruling entity in terms of the law. British administrators[21] also introduced a completely different code of law in the Indian society after the fall of Mughal Empire. They transformed this through establishment of two independent legislative bodies and judicial bodies. This they did by establishing legislatures and courts.

In 1790, Lord Cornwallis [22]made substantial changes in Indian criminal law. The most consequential one was the one that abolished a certain Islamic exception about capital punishment related to murder that had been carried out without drawing blood out of the victim. Cornwallis considered the situation was not in accordance with English criminal law, which he had learnt about there and that centred on impartiality in the procedure and natural justice.

The conceptual implementation of British capital punishment in India elucidates the prevailing legal culture. Between 1565 and 1783 the Anglo-Saxon kingdom of Britain was dependent on the system of hanging as the only official procedure of blank execution, and the Indian authorities have turned to that system. An English form of

[19] Rudolph Peters, *Crime and Punishment in Islamic Law* (CUP 2005) 15, 30; Quran 2:178.
[20] ibid
[21] M P Jain, *Outlines of Indian Legal and Constitutional History* (8th edn, LexisNexis 2021) 164–66; Lord Macaulay, *Draft Penal Code* (1837).
[22] M P Jain, *Outlines of Indian Legal and Constitutional History* (8th edn, LexisNexis 2021) 164-66; Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (OUP 1998) 56-57.

execution then used a mix of hanging, followed by quartering[23]; the convict would be hanged at the place of execution until death, and then the body was expertly split in sections. Within the English media, the mode of hanging as a capital punishment was criticized, and mainly majority of them preferred the mode of punishment, which involved execution in fire, in the case of treason and abhorrence. These criticisms were, however, mostly formal; burning-to-death was a royal prerogative, and not a statutory offence.

The nineteenth and the eighteenth centuries saw the emergence of the so-called bloody code[24] which turned out to be the most dominant ruling regime in Britain. Petty theft, timber theft and pick pocketing which were some of the minor crimes became capital crimes under the framework. Many more particular felonies were subject to capital punishment control and this caused a mass protest. The rights of individuals and the worth of a group in social terms were the things that people discussed day by day since they disliked the way the Bloody Code was executed.

Those who defended the reform, such as the death sentence, said that the rules were left over from before the Enlightenment; philosophies of the World Enlightenment exalted the individual freedom and autonomy. Other crimes that were punishable by death before 1750 were homicide and three other principal crimes: treason, piracy and arson at royal dockyards. The early Enlightenment Reforms made the modern claim that Death punishment can only be used on the gravest offences.

Starting in 1726, the British charter[25] established a pyramidal system of jurisdiction where the Mayor Courts of Presidential Districts were local courts and the Privy Council, already a King-in-Council authority, would be the ultimate court of appeal. All these judicial arrangements relegated local Indian courts to second-hand systems to the Privy Council, and ensured supremacy of English law in Indian legal systems. After the Indian independence, in 1947, the Judicial Committee Act denied the

[23] John H Langbein, *The Origins of Adversary Criminal Trial* (OUP 2003) 217; Carolyn Steedman, *Labour, Luxury and the British State, 1760-1860* (CUP 2023) 101-05.
[24] J M Beattie, *Crime and the Courts in England, 1660-1800* (OUP 1986) 476-80; Simon Devereaux, 'The Abolition of the Bloody Code' in Clive Emsley (ed), *Handbook of the History of Crime and Punishment* (Routledge 2017) 389-91.
[25] Charter of 1726 (6 Geo I); M P Jain (n 1) 78-81.

existence of Privy Council as its original status as the appeals body to the Indian High Court. Though, Indian jurists bore sharp understanding of the specifics of legal matters within their jurisdiction, the preparation on English law was overriding as until 1948 the role of Indian Legislative Assembly shifted to legislative power.

VIII. LEGAL STATUS OF DEATH PENALTY IN DIFFERENT COUNTRIES

The current American legal system has established five major methods of procedure that include; the lethal injection, the gas chamber, the electric chair and the firing squad, as well as nitrogen-3-hypoxia[26], Twenty-three states, including the District of Columbia, have officially ended the death penalty. The national government has the most authority over anything, but the final moments of fiasco in the state of Kentucky, where nitrogen oxide was utilised to execute Kenneth Eugene Smith, as well as the media coverage that followed forced the U.S. Court to go back to the three-drug protocol that it had first gotten rid of. This indicates that capital sentencing is subject to a lot of authority by the government.

Matters of procedural control are very discretionary to the courts. In Baze v Rees the Court upheld the three-drug procedure that was adopted by Kentucky and it instructed plaintiffs to come up with options that would reduce suffering. In Bolock new v Precythe Court had dealt with an as-applied challenge, the lethal-injection procedure was ruled unconstitutional in the situation where a condition that demanded medical attention in a given situation caused an unreasonable threat of severe pain. Ramirez v Collier also added that In Texas, a condemned prisoner, under the premises, has to be accommodated in terms of religion during the time of his execution, thus substantiving the RLUIPA.[27]

The Supreme Court has limited in a gradual nature the types of criminals to be punishable by death. In Hamm v Smith, the Court stayed executions of the mentally retarded defendants, an extension of the Atkins v Virginia[28] precedent, that gave way

[26] Execution protocols: Ala. Code § 15-18-82.1 (2022); Utah Code Ann. § 77-18-5.5 (2024).
[27] Ramirez v Collier, 595 U.S. ___ (2022).
[28] *Hamm v Smith*, 604 U.S. ___ (2024); *Atkins v Virginia*, 536 U.S. 304 (2002).

to Batson v Kentucky challenges of the capital sentencing systems. Similarly, in case of Glossip v Oklahoma, it was noted that abstinence in Oklahoma regarding testimony of mental-health by a defendant violated an anti-perjury state policy. The federal presence cannot be ignored even when states continue with the practice of abolition; the case of Dzhokhar Tsarnaev who received death penalty was unable to receive adequate administration, which is another indication that there is federal protection.

These rulings are part of an even-handed jurisprudence that runs after Furman v Georgia (1972), that overturned mechanical capital death, to Gregg v Georgia (1976), which endorsed statutory guidelines and discretionary protections. Later on, in the verdicts, the most renowned Hall v Flrida, Moore v Texas, and Madison v Alabama, Nance v Ward, a narrower focus of the performance of eligibility and procedural safeguards aimed at preventing unconstitutional overreaching was evident[29].

These trends are shed light on by historical precedents. The early English jurisprudence denied informal permits of bloodless murders, though the Lord Cornwallis (1790)[30] and the written version of 1793 accepted obligations of federal permit to implement the state residents. The Charter of Colonies, 1726 is another early example of federal jurisdiction in capital prosecution, because, by recognizing native appeals to Privy Council, it afforded it the administrative power. The second one gives the background of the history that supports the emerging Court clause of ratifying the death penalty with certain limitations of procedures and supports the deterrence doctrine.

IX. US LEGALITY OF THE DEATH PUNISHMENT

The US Constitution is related to the topic based on the following Amendments.

- Amendment 8 of the US constitution states that an individual will be not be requested to cover excessive bail, face severe penalties or be inflicted with anything deemed cruel and unusual punishment. [31]The accused even in any

[29] *Furman v Georgia*, 408 U.S. 238 (1972); *Gregg v Georgia*, 428 U.S. 153 (1976); *Hall v Florida*, 572 U.S. 701 (2014); *Moore v Texas*, 581 U.S. 1 (2017); *Madison v Alabama*, 586 U.S. ___ (2019); *Nance v Ward*, 596 U.S. ___ (2022).
[30] Judicial Reforms of Lord Cornwallis," *Only IAS* (2024)
[31] US Const amend VIII.

other criminal proceeding is entitled to fair trial by jury and in public with expediency.

- The amendment XIV of the American Constitution requires every state to protect the rights of its citizens in relation to life, liberty and property but within the procedural law.
- The Sixth Amendment establishes the right of every criminal defendant to receive a fast and open court process that uses an unbiased jury panel during criminal court cases.[32]

In Trop v., constitutionality of a punishment based on being cruel and unusual was challenged. The law was enacted by Dulles [33] in 1958. Under the Nationality Act of 1940, in conjunction with SS 401(g) of that act, individuals inhabiting the area are not subject to being interrogated about the possibility of their being citizens of the US ,which offered as legal punishment instead of death penalty. Section 401(g) received an unconstitutionality ruling since it violated the developing standards of decency as defined by the Eighth amendment for a society living without cruel and unusual punishments. Despite not being within capital punishment jurisdiction Trop provided abolitionists with evidence to push their argument regarding the moral progress of American society as demonstrated through death penalty compatibility changes.

According to Jackson case, US Supreme Court analyzed the death-sentence requirement in the abduction law during its 1968 decision. The Court said that it was discriminatory because of the manner that led defendants to choose to renounce jury involvement for their own safety. In Witherspoon v Illinosis , the court declared that defense against juror selection must not depend on hesitations regarding capital punishment because such doubts do not fulfill the criteria. The legal request for juror disqualification in death penalty proceedings may happen only if prosecutors

[32] US Const amend VI.
[33] 356 U.S. 86 (1958)

successfully show that specific jurors have personal beliefs against the death sentence which hinders their capability to make fair decisions[34] during sentencing.

The SCOTUS evaluated Crampton case as one of its cases in 1971. Ohio and McGautha v. California[35], so addressing the question of jurors' discretion in death eligible cases in a consolidated decision. The defendants maintained that unconditional juror power to select between capital punishment and imprisonment infringed upon Fourteenth Amendment procedural rights thus leading to sentencing inconsistencies[36].

The combination of the death punishment with the Premeditated murder conviction through per jury instructions led Crampton to doubt the legal legitimacy of simultaneous guilt and punishment determination during a single trial. The Court validated unrestricted jury decision power together with single-phase proceedings that determined both criminal conviction[37] and the level of punishment. The Court observed that the filtering of the decisions affecting the death penalty was beyond the capabilities of human beings thus that intervention became inappropriate.

The most recent patterns are indicating that death penalty has indeed become a crime that is legally terminated in more states in the US and this is a westward calture in the social norms. A majority of the democratic nations of the world have got rid of capital punishment, and such a pattern can be traced in Virginia (2021), Colorado (2020), New Hampshire (2019), Washington (2018), and Illinois (2011).The number of constitutional and legislative systems that prohibit capital punishment around the world is growing. The US road concerning abolition of the death sentence is coming behind the other democratic regimes like Germany, South Africa, Nepal, Australia and Canada where the constitutional or legislative challenges have been incorporated into the death sentence no more.

[34] *Witherspoon v Illinois* 391 US 510 (1968).
[35] *Trop v. Dulles*, 356 U.S. 86 (1958).
[36] *McGautha v California* 402 US 183 (1971), consolidating *Crampton v Ohio*.
[37] Carol S Steiker and Jordan M Steiker, *Courting Death: The Supreme Court and Capital Punishment* (Belknap Press 2016) 85.

According to the researcher, this merging represents both a legal corrective and a substantive advancement of ethical principles and human rights. Any just society should make protecting the right to life and banning brutal punishment its top priority. Capital punishment violates these base values since it is irreversible and it can never be administered without arbitrariness.

The modern movement against capital punishment is becoming more and more defined as the question of fundamental rights. Apart from this, the States already mentioned Germany, south Africa, Nepal, Australia and Canada several representative governments have also abolished Death executions and encompass the rights to survive and dignity and prohibition of unkind and severe act. Norway, Sweden, Portugal, Mexico and the Philippines serve as examples and all of them utilize global civil liberties norms in process of justification.

Portugal a wonderful example of this, as its Constitution prohibits the death sentence way back in 1976[38], which states that human life should not be taken away. Mexico eliminated the death punishment in the year 2005 aligning itself with the Pact of San Jose.[39] The Philippines, had revived death sentence in the 1990s, later repealed it permanently in 2006 with the objective of adhering to the Second Optional Protocol to the ICCPR.

X. THE BLOCKADE

Most famously known as Furman v. Georgia[40], defendants Furman and McGautha employed opposite constitutional amendments for defending their death penalty sentences - while Furman chose the Eighth Amendment to challenge cruel or arbitrary sentencing Furman used the Fourteenth Amendment to explain due process problems with jail decrees. It is apparent that the Supreme Court used a petition by Furman under the Eighth Amendment instead of the arguments on the 14th Amendment used by McGautha.

[38] Portuguese Constitution 1976, art 24(2): 'In no case shall there be the death penalty.'
[39] American Convention on Human Rights (Pact of San José) 1969, art 4; see also UNGA, *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions* A/70/304 (7 August 2015) para 16.
[40] Furman v Georgia, 408 US 238 (1972).

The Appelant Court established a legal standard for determining what makes punishments cruel and unusual through their evaluation of penalties based on crime severity and penalty arbitrariness and its impact on public justice sense as well as whether moderation could achieve equal effectiveness. The Court tenacious that the 8th Amendment[41] had been broken and that the legislative system of punishment was thus "cruel and unusual."

In June 29, 1972 the Court formally overturned forty capital punishment measures and this led to the issuing of 629 death row trials across the land and so all executions had to be suspended since the existing laws had become dated. In Furman v. Georgia, Justice William Brennan stated, "There was are, then, four criteria by which we can decide whether or not a particular treatment is 'cruel and unusual'." Rules of interpretation enable courts to analyze punishment against dignity standards without determining their official significance in deciding a case. The two ideas hold comparable elements that normally validate the endpoint decisions. The sentence goes against all moral codes established under the Eighth Amendment.

The determination will normally be cumulative: does the punishment inevitably outweigh the punishment in many respects, is there a high risk of random punishment, is it widely condemned by the society nowadays and does it mean that there is no rational assumption that it actually serves some criminal purpose better than some other punishment? in that case, the excruciation of that atonement contravenes the prohibition of the Clause that hinders the Nation to administer inhumane and uncivilized penetrations to the penalized people.

He anticipated that "no state would enact legislation that clearly contravenes any of these principles, hence judicial rulings pertaining to the 8th Amendment would necessitate a 'cumulative' examination of the ramifications for each of the four pillars. After so many controversies & amendments , the arbitrariness from capital sentencing, supporters of Death penalty began drafting new statutes. Different states adopted sentencing guidelines which were designed to regulate the capital punishment decision process by judges and juries. The judging process contained two competing

[41] Furman v Georgia, 408 US 238 (1972).

evaluation techniques where judges assessed defendants for mitigation or aggravation components to determine death penalty sentencing. The Supreme Court adopted multiple provisions in the Gregg verdict by using the 1976 rulings from Florida's case and many other cases.

The Florida case, courts gave their approval to death penalty statutes in these states that enabled them to execute prisoners. The Gregg decision established multiple modifications that could apply to the procedure. The sentencing procedure of courts begins with automatic assessment for conviction and sentences before organizing hearings to confirm fair sentencing distribution. The application of proportional comparison under the "last of rare" principle becomes difficult for death penalty cases in India because each case displays unique features that are different from others. The distinctive features of each case lead to differentiation even though no two cases show complete correspondence of elements. The comparison needs matching circumstances yet duplicate events should not occur during similar actions. Similarities between cases do not need to establish complete equal outcomes because the principle of comparison supports the sentencing method that measures proportionality. Proportional punishment enhances the fairness of criminal sentencing practices through its mechanism to give alike penalties to similar offenders alongside a relationship between legal sanctions and their corresponding seriousness of crime.

National establishment of the death penalty moratorium should exist throughout all American states- after the World War II global rights documents defined right to life as absolute before they included death penalty as a limited option that requires specific procedural rules. The writ of grazing remained illegal for all West European countries regardless of their death penalty inclusion in official legal documents.

Through this era the United States did not eliminate capital punishment though it reduced its applications. The 1977 Georgia Supreme Court ruling established that executing a survivor of violent assaults on adult women contravenes constitutional principles, as affirmed by the US Court.The Appelant Court of Georgia issued an opinion which declared capital punishment as unconstitutional when a living victim

survives an attack against adult women. The choice set new restrictions regarding capital punishment after its announcement throughout subsequent years.

XI. CAPITAL PUNISHMENT VIS-A-VISIVE TO LIFE

Since ancient times death punishment has existed as an official method of punishment worldwide. The legal community has officially recognized death penalty as the most effective punishment since the tribal governance era up until the beginning of colonialism through the current period.

People can understand the reasons for structural shifts in capital punishment when they monitor basic social developments and shared modifications in public cognitive frameworks. The investigation of changing patterns enables scientists to track what triggers changes in death penalty practices. Increased awareness has led people to grasp better importance of human rights. Through their worldwide standards organizations and unions compel their entire national membership to comply by establishing agreements between nations.

Every member state of this international union must follow standard rules and procedures in their domestic territories without exception. If EU member states want to stay in the group, they need to stop using the death penalty. Turkey experienced to end its capital punishment sentence in 2004 in order to join the EU. This was a requirement for membership to join the EU.[42]Several conventions together with treaties have been signed by multiple countries across the world. Different states exist in every area throughout the world. According to these treaties and agreements, death penalty is totally against the rights of a human being.

The type of human rights that will get protection should be guarded by the governments endorsing the deal. The International Covenant on the Rights of Child aims at ending the capital punishments on young offenders. According to the Convention on the Rights of the Child (CRC), each country at which the convention was signed is obliged to take measures to realize children rights..It must provide

[42] Council of the European Union, '10015/08' (2008) http://www.consilium.europa.eu/uedocs/cmsUpload/10015.en08.pdf (last visited Sept. 30, 2016).

juvenile protection from adult treatment and banned against sentencing them to life imprisonment or death penalty.

There were certain cases where death sentence first existed and was later banned, but eventually it was reinstated to counteract the spur to various crimes of heinous nature. Chad had reinstated the capital punishment in 2015 to curb terrorism which it had banned in 2014.[43] The United Arab Emirates presented this honour to Mr. Ahmad Mansour because of his dedication to human rights progress. He adds that he is among the few individuals in the United Arab Emirates to be responsible in providing the truthful and fair reports on the state of enhancing human rights. Multiple accusations target the person who experienced detention followed by torture while also violating international trial standards and lacking independent judiciary and domestic violence. These various allegations exist as receiving charges against this individual. The expert has repeatedly mentioned his doubt about international law violations perhaps occurring.

XII. HUMAN RIGHTS PERSPECTIVE TOWARDS DEATH PENALTY

Human nature exists beyond the scope of being divine or devilish because people cannot only carry out goodness without limits, yet they also do not seek mutual destruction through murder. Human existence falls outside both categories of divine beings and devils, who engage in fratricide even at the cost of self-annihilation. The characteristics of humanity make it both difficult and impossible to achieve criminal behaviour total eradication from present-day society.

Crime researchers together with penologists, focus their professional work toward achieving this goal through concerted efforts and studies in criminal justice domain. Present crimes make an immense part of our population so we need to give offenders proper correction and rehabilitation to make them law-abiding citizens. Acceptable social attitude reform is necessary for deviants to acquire some rights of regular

[43]Martin Ennals Award for Human Rights Defenders, http://www.martinennalsaward.org/?page_id=70 (last visited Oct. 5, 2016).

citizens through restricted frameworks. All citizens require some freedoms for their maintenance and that applies also to offenders.

Death penalty has been a major subject of debate in recent past as a major contravention of the intrinsic right to life and as prohibited by the Universal Declaration of Human Rights (UDHR) and the ICCPR with reference to cruel,ihuman, or degrading treatment.[44]

The right to life is guaranteed in Article 3 of the Universal Declaration of Human and Article 6 of ICCPR and it does not specifically state that death sentence is wrong. However, ICCPR has very strict requirements on its operation and with an implicit drive to its ultimate abolition, states a set of conditions that broadly signaled towards the eventual abolishment of capital punishment[45]. The second opinion protocol to the ICCPR which was established in 1989 compels the signatory nations to participate in global abolishment of the death punishment thus establishing the said provision as a mandate within the ICCPR constitution.

The death sentence is prone to miscarriage of justice despite the fact that it is non-reversible. Indeed, there are cases of exoneration posthumously: in the United States there is the example of Cameron Todd Willingham[46], which wascommenced in Texas in 2004, and revealed some technological and process-related gaps that then revealed suspect conviction.

The capital punishment is also contrary to Article 7 of ICCPR that states that assault and brutal, inhuman or degrading treatment is unacceptable. Regardless of the type of execution whether it is a hanging, electric shock or a death injection, it all brings prolonged suffering as alleged by its proponents. This perception was seen on the case of Soering v United Kingdom of the European Court of Human Right which favoured extradition to a system that still practised capital punishment arguing that the

[44] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 3; International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, arts 6–7.

[45] Sarah Joseph and Melissa Castan, *The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary* (3rd edn, OUP 2013) 195–198.

[46] David Grann, *Trial by Fire: Did Texas Execute an Innocent Man?* (The New Yorker, 7 September 2009) https://www.newyorker.com/magazine/2009/09/07/trial-by-fire accessed 18 June 2025.

detention conditions on death row was a violation of Article 3 of the European Convention on Human Rights.[47]

The unequal effect of death penalty on the marginalised groups is also true. In a case of Furman v .Georgia[48], Georgia the United States of appeals ruled that the usage of death penalty in Georgia was not as consistent as the Fourteenth Amendment had promised and offered equal protection under the law

Many state actors are thus abrogating or suspending the capital punishment. As an illustration, South Africa ended its practice in 1995 on the basis of contradictory requirements that death penalty was entangled with right to exist with dignity in the constitution[49]. Other nations, like Mexico, Nepal, Cambodia, Rwanda, the Philippines, and others, have also gotten rid of the death penalty at different points in their democratization or transition, as well as during the growing international conversation about human rights.

The situation requires evaluation against both perpetrator and victim perspectives. When victims find out that the state avoids punitive action to train criminals they may start taking revenge on their offenders. Such lack of state control could result in complete social disorder. Preventing this situation requires specific and proportionate penalties that must be introduced immediately. The penal objectives of Bentham match his approach by establishing offender punishment whose intensity should surpass the gratification offenders gain from their criminal actions. The execution penalty cannot be used effectively to punish crimes such as stealing, along with trespassing and extortion because death and life imprisonment exceed the reasonable limits of proportion. The higher punishment needs to respect both principles of proportionality alongside regularity.

In a few words, applying the death penalty is also cited as something that is against the existing human-rights trend. The abolitionist tendency gains even more strength, and the supporters of this movement argue that the state-sponsored execution violates

[47] *Soering v United Kingdom* (1989) 11 EHRR 439.
[48] *Furman v Georgia*, 408 US 238 (1972).
[49] *S v Makwanyane and Another* 1995 (3) SA 391 (CC).

the very foundations of the justice and hampers the development of the truly civilized society.

XIII. INDIAN SCENARIO

Under the 1860 Indian Penal Code all criminal offenses and sentencing penalties are defined which establishes both public policy and substantive criminal law. Section 53 of the IPC describes death penalty along with life imprisonment as possible sanctions. Section 155 in Bhartiya Nayaya Sanhita has replaced Section 53 of IPC which contained conditions for capital punishment as well as imprisonment until death.

In Mithu v. State of Punjab[50], Section 303 becomes unconstitutional according to the highest court because it fails to align with articles 14 and 21 within the constitution. Many civil society organizations, alongside public support, both rights-based movements against cruel penal actions and favour human rights protection in India.

Despite its existence capital punishment continues to operate. Multiple legal proceedings have shown that implementing the "rarest of rare cases" legal precedent violates constitutional standards despite judicial establishment of this principle for severe crimes.

XIV. FROM THE POINT OF CONSTITUTIONAL VALIDITY

Article 21 of the constitution protects everyone by giving them personal freedoms and the right to keep their dignity. People cannot lose their rights unless legal procedures approved by law are properly followed. Under the established procedures of law, the state possesses the power to either block or restrict the right to life to preserve legal and public order.However, this process should be carried out as due process as in Maneka Gandhi Case.[51]

[50] The punishments under the Indian Penal Code include: (1) death sentence, (2) imprisonment for life, (3) imprisonment with or without hard labour, (4) forfeiture of property, and (5) fine. Under the Indian Penal Code, the death sentence is provided as an alternative punishment for several offences such as: waging war against the Government of India (Sec. 121); abetting mutiny actually committed (Sec. 132); and giving or fabricating false evidence upon which an innocent person suffers death (Sec. 194).

[51] (1983) 2 SCC 277

To establish sound procedures for defining basic human life one must devise reasonable guidelines combined with just procedures and logical reasoning systems. Procedural laws together with natural justice establish trial procedures which fulfill the highest conceivable standards of significance. A capital punishment sentence attains its greatest judicial importance upon its legal registration. A properly justified system for concluding basic human life establishes its fundamental principles through Natural Law principles that align with our constitutional system's procedural elements.

Case going concern Kasambersingh Counsel at the State of U.P. claimed that the death penalty on murder violates the constitutional rights of Article 21 and Article 14. The discretionary power was contested by the defense attorney that stood up to defend the appellant defendant. Recently, the Calcutta High Court transformed the death penalty of a 24-year-old male who killed his former girlfriend on June 11, 2025, by stabbing her 45 times. .The Court concluded that even though the crime was very serious, the circumstances that surrounded the defendant, his youth, and absence of an exceptional circumstance that points towards a harsh punishment led to an extinguishment of possibility that the offence could be found sedition . Therefore, the decision replaced death sentence with a life sentence that entailed strict treatment but gave the accused defendant remission after 40 years.[52]

Article 14 of the statute says that two cases with comparable facts that lead to different punishments, such as the capital penalty and life in prison, create death penalty applications illegal.According to the court the reasoning was proved incorrect. Sentencing decisions under judicial discretion become unpredictable because the law grants excessive powers to the courts to make judgements. The natural dissimilarities between cases serve as an adequate basis for judges to apply different values and interpretations that influence their courtroom decisions. The imposition of capital punishment was believed to violate three essential articles of the Constitution: 14 alongside 19 and 21. No existing legal framework exists to help establish whether

[52] *Susanta Choudhury v State of West Bengal*, Calcutta High Court (11 June 2025).

death sentence or lesser penalties should be given after a defendant's guilty conviction.

According to the Supreme Court judicial review is always accessible for accused individuals in cases of murder so they can present their stance toward capital punishment. The Supreme Court declared life-taking measures through established legal processes to be constitutionally suitable for execution. Public interest does not oppose the death penalty and it lacks illogical characteristics. The problematic nature of creating exact sentencing criteria allows judges to make individual decisions in the sentencing process. Creating rational rules about punishment differences between different situations presents a problem with no solution in sight. The I.P.C. Code section 302 outlines the punishment standards for all offenses, including murder. However, it is hard to figure out what reasons make some murders more serious than others.

The case laws of Rajendra Prasad v. V. R. Krishna Iyer provides descriptions of State of U.P. Courts seldom look into how the humanistic constitutional tenets outsmart the Punishment Code Criminal Procedure on the punishment code (J) code [53]makes it possible for rights to be carried out in Parts III and IV and the first paragraph of the Constitution. during decision-making about executing capital punishment. The Supreme Court judges analyzed how human rights interpretations were absent in Penal Code section 302 and Code section 354(3) because they originated during the post-constitutional period,as both were rooted in pre-constitutional frameworks and lacked the lens of modern constitutional morality.[54]

Criminal Procedure makes it possible for rights to be carried out in Parts III and IV and the first paragraph of the Constitution. Article 19(2) permits capital punishment as the law allows executions when the state requires protection together with social requirements or when public order demands or public security demands execution. The judicial organization delivered its judgment according to the following approach: The implementation of social justice meets both Article 19 and Article 14 requirements

[53] *Rajendra Prasad v State of Uttar Pradesh* (1979) 3 SCC 646, 678 (V R Krishna Iyer J).
[54] ibid

by being non-arbitrary in practice. According to Justice V. R. Krishna Iyer unique circumstances create necessary justifications for court systems to enforce penal measures towards criminal offenders for protecting both state and society. He also made hypocritical stands in the same issue where he supported the retention of this capital punishment against white-collar crimes and at the same time asking that there should be a complete abolition of the death penalty in the judicial system.

With the case of Rajendra Prasad, the attitude of the Supreme Court was altered since they were coming up with their verdict on the case of Bachan Singh case. It was a condition imposed by the four out of five judges in the Supreme Court that had to accept the article 21 protection that can never be put to death penalty under section 302 IPC in the State of Punjab.

When India implemented the civil and political rights covenant in 1979, there was no full-scale opposition to capital punishment by the Indian law enforcers. Law enforcement needs strict criteria to determine capital punishment through only the gravest criminal offenses. Judges must refrain from showing uncontrolled desire for blood according to a decision signed by the court. Human dignity takes precedence over life which requires that all forms of laws that enable death penalty should be barred. Society should use execution only as an extremely rare step when no other effective alternative exists.

The issues in T.V.Vatheeswaran's case addressed two main points regarding constitutional rights under Art 21 and whether death sentences should be replaced by life imprisonment. The legal definition of due process defined in Maneka Gandhi extends past declarations of death sentences to include the proper execution of capital punishment. Two years had gone. In the most important judgment Pradeep Yashwant Kokade & Ors v Union of India, ruled on 9 December 2024 that the Supreme Court, the extended delays of the mercy-pleas and thereafter of the issue of the death-warrants to the murderers was shown as the violation of the Article 21 of the constitution of India and therefore, the death-sentences of the two murderers of the present case would be converted into the life-term imprisonments with definite terms (35 years). A three-judge bench emphasised that such delay has created a

dehumanising effect and hence laid down procedures to be created as a safeguard in the future[55].

The procedure for executing death penalty has finished through its prolonged duration. The court declared that procedure timeliness stands as a vital part of Article III in the Constitution with correspondence under Article 21. The convicted person has stayed in prison believing that his death sentence would soon be carried out following the trial outcome. He experienced terror every minute. The constitutional rights suffer an illegal encroachment because of this issue.

In Sher Singh case [56] ,the Justice overruled the previous decision from Vatheeswaran case which established life imprisonment in situations where death penalty took longer than two years while denying similar replacement pleas.. life imprisonment as a form of capital punishment. A court needs to find out the reasoning behind execution delays when such events occur. The outcome of two previous judges received rejection from a judicial panel made up of three judges. According to the court death penalties become less executable when they are delayed beyond standard execution terms.

Prior to outlining gravest of grave case doctrine requirements in the course of Macchi Singh v. the Apex Court introduced the concept of Punjab state first time in the case of Bachan Singh v. State of Punjab[57]. The authority established that death caused by an individual to a victim cannot create mandatory societal duties following the killing event. The law requires everyone to obtain protected lifetime safety and security.

To establish the rarest of rare doctrine one needs to meet these conditions:

- Society will escalate its anger toward homicide when the murderer uses evil means that are disgusting and vile and horrifying and wicked and dangerous to carry out their crimes.

[55] *Pradeep Yashwant Kokade & Ors v Union of India*, writ petition (death sentence delays) (SC, 9 December 2024).
[56] *Mithu v State of Punjab* (1983) 2 SCC 344.
[57] *Bachan Singh v State of Punjab* AIR 1980 SC 898.

- A person with depraved motives to murder ends in wicked acts of extreme severity.
- Social or unacceptable behavioral characteristics of an offense need evaluation.
- Gravity of the offense.
- Youth together with helplessness and public recognition defined the characteristics of the murdered person.

This is what happened to Ramesh A. Naika, in an exceptional course of action v. The Court set aside a death sentence pronounced in a lower court that did not consider any extenuating circumstances to a quadruple homicide (Registrar General, Karnataka (13 Feb 2025). Justice house made it plain that the idea of "rarest of the rare cases" means looking very closely at the convict's life, his repentance, his conduct in the jail and his mind.[58]Similarly,The legal procedure demands protection according to Article 21 as per Triveniben v. State of Gujarat precedent because Lachmi Devi case ruled that public hanging violates Article 21. In Madhu Mehta v. Union of India,[59] A defendant who filed for mercy petition spent nine years undergoing their case review in front of President India at that time before facing Union of India. The court heard this point when the petitioner presented it during the hearing stages. The legal system had to go from execution to life in prison since the long wait failed to provide enough justifications, which goes against Article 21's requirement for a speedy trial. The death punishment was conducted after 9 years.

XV. ALL ABOUT INDIAN LEGAL SYSTEMS AND LAW AT THE PARDON AUTHORITY

The session courts, which decide on death penalty, must get the official approval of High Court in accordance to the penal procedure code (1973). It is at that time when the court passes its final decision.The convicted inmate possesses legal entitlement to petition the Supreme Court for evaluation of his death sentence at the three judicial

[58] *Ramesh A Naika v Registrar General, High Court of Karnataka* (SC, 13 February 2025).
[59] (1984) 4 SCC 62

levels. Affronted prisoners who run out of Supreme Court petition options or receive rejected submissions must petition the state governor for conditional freedom or permanent release from execution. States need to follow government-prescribed procedures for clemency petitions both from condemned inmates and their legal representatives and from such prisoners to both the Supreme Court and special courts. The author has a copy of an application by the Ministry of Home Affairs to the states with the detailed guidelines on handling petitions of leniency by death-row inmates as well as their request to the Supreme Court. A death sentence can be carried out when there is a failure of the signing of the Mercy Petition by the governor and the president. The delayed presidential mercy petitions lead to a unique occurrence of carrying out executions despite an unchanged number of death sentences.

Any executive legislation in state jurisdiction confers on the State Governor the Constitutional power to extend remission or amnesty along with pardons and reprieves while he can also suspend or shorten penalties of lawbreakers. Article 72 bestows the President with varied powers as compared to article 161, where the governors of various states are bestowed with the same amount of power as far as imposing fines to state and city laws is concerned. State governors throughout all regions in the country have established a ban on issuing unmediated pardons for capital punishment cases.

As the top executive authority for death penalty sentences Presidents exercise full decision-making power to issue pardons for those under capital punishment. Both the federal and state governmental bodies have equal provision of granting pardons as the Indian Penal Code of 1860 and the Code of Criminal Procedure of 1973 gives them the same licence. By Article 72(2) the military commander who has the power, in regard to decisions of the courts-martial, to grant clemency, has the same power to grant such clemency on account of regret or compelling consideration. The presidential office oversees most cases of clemency despite constitutional restrictions on basic presidential duties.

XVI. DEATH PENALTY AND HUMAN RIGHTS: AN AMBIVALENT RELATIONSHIP

Justice, ethics, and political authority are fundamental worldwide discourses that arise from the interplay between rights for individuals and capital punishment. The death penalty was once a historical penalty that was imposed on serious criminal misbehaviors, but it has been highly discussed because of emerging attitudes regarding unalienable rights.

A. The Entitlement to Existence

Articles 3 and 6 of UN Declaration of the Rights of the Individuals and the International Covenant on the Protection of civil and political rights stipulates that the right to survival is the most important value in the human rights law. Executing people creates conflicts with the basic human right which protects all humans[60] from death. According to Art. 6 of ICCPR Capital Punishment should remain a legal option but only be enforceable for "most serious crimes" without any arbitrary implementation[61].

The human rights movement maintains that human life rights exceed all alternative rights because they cannot be limited at any time including during abnormal circumstances. Executions represent permanent imprisonment which belongs on no legal system since none can be considered error-free.

XVII. EVADE DEGRADING, INHUMANE, OR CRUEL TREATMENT

As stated in Art. 5 para. 3 and Art. 7 para. 1 of the UDHR and Art. 7 para. 4 of the ICCPR one of the basic human rights guaranteed is that, punishment cannot mean cruel barbaric or degrading treatment. The death penalty and related mental stress of punishment waiting and some non-medical execution approaches violate the fundamental human right to forbid inhumane and degrading treatment. The death penalty meets the criteria of harsh treatment according to multiple human rights

[60] International Covenant on Civil and Political Rights (n 1) art 6(1)–(2).
[61] UN Human Rights Committee, 'General Comment No 36, Article 6: Right to Life' (30 October 2018) UN Doc CCPR/C/GC/36 para 35.

organizations because of the distressing psychological isolation and confusing conditions that death row inmates endure.

A. Equity and Disparate Application: Discrimination

Human rights necessitate two essential principles which include non-discrimination alongside ensuring equality before the law. Systematic death penalty enforcement has consistently shown bias toward discriminated communities consisting of racial and ethnic populations as well as economically challenged groups and unrepresented defendants. Judicial systems lose their intended purpose of impartiality and fairness because the mental institutions employed today fail to provide equal legal protections as outlined by human rights principles.

B. Global Elimination Trends and Rights Standards

The death penalty conflicts with modern human rights principles because almost every nation has reached a common agreement on this issue. Legal and practical data shows that two-thirds of nations across the world have made executions illegal. [62] Organizations like the United Nations, several rights organizations across the world including the US desire nations to shun away the death penalty through the abolition of capital punishment.

Since it was ratified in 1989 under the 2 nd Optional Protocol under the ICCPR, the members of the protocol commit themselves in the effort to end capital punishment. The agreement presents the position that getting rid of capital punishment both defends human dignity while advancing human rights forward.

XVIII. A LEGAL AND ETHICAL DILEMMA RELATED TO PRESENT SCENARIO

Capital punishment critics state that all governments should avoid killing people since legal and ethical reasons demonstrate the lack of authority to terminate life while social and political conditions can corrupt fair legal processes. Life imprisonment is a better option than execution within human rights standards since it is both a more

[62] Amnesty International, *Death Sentences and Executions 2023* (April 2024) https://www.amnesty.org/en/documents/act50/7650/2024/en/ accessed 20 June 2025.

humane remedy and a decision that can be abandoned in cases of serious crimes. Supporters of death penalty oppose it because they believe execution brings justice to victims' families and deters future crimes and ends their loved ones' suffering. Numerous academic examinations have proven that death penalty does not demonstrate higher deterrent values when compared to the alternative of long-term imprisonment.

XIX. CONCLUSION

Human rights standards blend with capital punishment discussions through the essential elements of living rights coupled with fair treatment along with protection from mistreatment and torment. The recent progress of global human rights has strengthened opposition to death penalty validity under the law. The most fundamental right to live creates a complete contradiction with death penalty through its execution methods. Strict international death penalty rules receive restrained consent mainly because specialists note the insufficient safeguards that protect human dignity and justice principles.

Every prosecutable wrongdoing requests death penalty to extinguish humanity forever. Judicial systems making mistakes presents a problem to justice because judicial errors might lead to executing innocent individuals. Poor populations along with members from racial and social minority groups experience disproportionate harm when the administration of death penalty sentences shows bias. The regulations concerning torture treatments create two main difficulties since they incorporate the mental distress of death row prisoners together with their exposure to artificial execution methods.

Worldwide society shows an increasing inclination toward banning the death punishment method. The death punishment stands unsuccessful as a method of delivering true justice and healing powers and crime prevention benefits according to numerous worldwide nations. This violent pattern operates against both modern court efforts of rehabilitation and the implementation of humanistic approaches. Various human rights groups around the world and international treaties are working

toward eliminating the death penalty thus determining it to be a matter which affects both legal standards and human dignity while promoting social progress.

Executing prisoners violates all present standards of human rights protection rules and regulations. Societies with moral standards should create different methods of criminal justice to safeguard the natural importance of human beings. Death penalty abolitionists worldwide demonstrate absolute devotion to justice that upholds fairness through empathy and upholds human value. The requirement of human worth demands complete elimination of death penalty legislation beyond institutional alterations.

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