
CAN CAPITAL PUNISHMENT BE JUSTIFIED? A STUDY

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PART- I

Introduction

Death Penalty:

The Death Penalty is the punishment of highest severity. The existence of Capital punishment has always raised debates all over the world. There are people who support it and oppose it. Generally there are people who support abolishment of death penalty and those who are against the abolishment. Most of the people, who are against the ban, think that the convict needs to be hanged because he has forfeited the right to live of other person. And the supporters view is that the person should be given reformatory punishment like imprisonment. The supporters only think about the welfare of the convict, but they have to start looking from the victim's point of view too. India is a country where the punishment is given for reformation and not for deterrence. The law in India is such that, it ensures that the person who committed the wrong realises his mistake and refrains from repeating that. *Relevance to present day India:*

As the agitation for the death penalty for rapists intensifies after a recent spate of horrific gang rapes and murders, the role of India in sentencing convicts to capital punishment needs to be investigated¹. These inhumane activities started protests to hang the Convict to give justice to the Victim and his/her family. Very recently in 2018, the parliament introduced POCSO (Protection of Children from Sexual Harassment) act. This extended the scope of capital punishment. There is a strong emphasis on convicts of sexual abuse as people who deserve death penalty in particular. But there is no evidence that this addition of death penalty served as deterrence to rapes. Despite the death penalty being extended, the rape-murders increased alarmingly increased. Here are some statistics of Capital punishment executions in India, According to an article published in Economic times, since 1947 as many as 720 prisoners have

¹ Death Penalties in India: Convictions and Acquittals, THE ECONOMIC TIMES(December 17th 2019)
<https://economictimes.indiatimes.com/news/politics-and-nation/death-penalties-in-india-convictions-and-acquittals/about-720-executed-since-1947/slideshow/72834576.cm>

been executed in India, according to India's death penalty records². As per a survey conducted by National Crime records prison's statistics 2018, the trial courts handing out the capital punishment has decreased from 186(2018) to 102(2019)³.

Capital punishment in other countries:

At face value, the Capital punishment in America and Britain appears to be cruel, that's what the rest of the world thinks. But the death penalty is so deeply embedded in American and British law that makers of the Bill of rights clearly did not want to prohibit it⁴. In America it has always been a topic of discussion, whether the death penalty should be abolished or not. Many professionals around the world criticized America's Death Penalty practices. There are many land mark cases in which death Penalty was struck down too. One of the land mark cases in USA is Furman V. Georgia, 1972. In this scenario, the Supreme Court of America did not allow capital punishment calling it unconstitutional and cruel⁵. While some countries abolished Capital Punishment, the other tried to use this judiciously. There are countries which still refuse to abolish this cruel punishment.

Significance of the study:

This study is very relevant in present India. As the number of Rapes and other cruel crimes increase, people started assuming that to give justice to the victim the convict has to face a cruel punishment. As per researchers observation many of the people think that Capital punishment can resolve the issue and deter others from doing the same. The question here arises whether it really decreased crime rate. As per the researchers observation the answer is a NO. Now, let's think about abolishing it and seeking for change in the Convict. This might increase crime rate. So, this study is quintessential as abolishing or putting a ban on Capital punishment affects society as a whole.

Scope and limitations of the study:

² Death Penalties in India: Convictions and Acquittals, THE ECONOMIC TIMES(December 17th 2019)
<https://economictimes.indiatimes.com/news/politics-and-nation/death-penalties-in-india-convictions-and-acquittals/about-720-executed-since-1947/slideshow/72834576.cm>

³ Rukmini S, *The Curious case of Capital Punishment in India*, THE ECONOMIC TIMES(January 19,2020)
<https://economictimes.indiatimes.com/news/politics-and-nation/the-curious-case-of-capital-punishment-in-india/articleshow/73359520.cms>

⁴ Tom Heard, *Supreme court Death Penalty cases- an overview*, THOUGHT.CO ,(March 17, 2017)
<https://www.thoughtco.com/supreme-court-death-penalty-cases-721139>

⁵ *Id.*

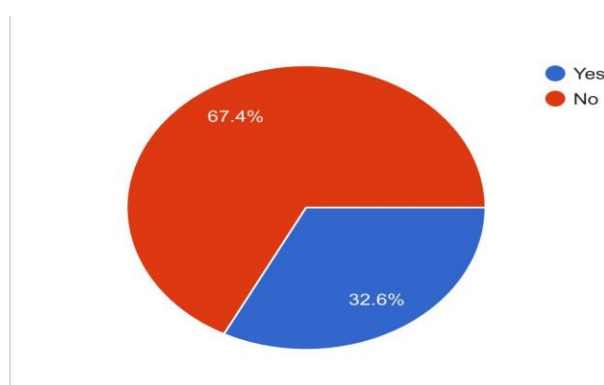
The present study focuses on the validity of capital punishment not just in India but all over the world. This study is interested on if the capital punishment, which has been in practice from many centuries, should be abolished or not. One of the purposes of the study is to know what people think about validity of capital punishment and why. This survey is conducted on a very small group of people, but they all belong to different backgrounds. The survey was conducted in India, so the opinions I analyse are only of people in India. This might help me find out what common people think as of Capital punishment is doing justice or not.

PART-II

Data Analysis:

When a person does something illegal, he is punished. The punishment varies from fine and imprisonment to death penalty. The punishment is given for two reasons, one is deterrence another is reformation. In India, we Opted punishment as a way to change the persons mind and make him/her realise that he did wrong (reformation) and this makes him/her not do it again. Death penalty is the highest punishment in the world. Its purpose is deterrence not reformation. When a person is punished with death for his/her acts, it has to stop others from doing the same. So, death penalty doesn't stand with Indian laws, as the only purpose is reformation. Law depends on the society and its morals. Even if it doesn't go along with Indian laws, capital punishment is still implemented in India. What the society think about the existence of death Penalty? Here are some opinions of people about the justification of Death Penalty from the survey conducted through Google form. This form has been filled by 40people, some of the relevant opinions have been analysed.

Question 1: Do you think death penalty needs to be abolished? (Poll)



So there more people who are pro-death penalty (67.4%) and very less anti-death penalty (32.6%).

Question 2: If your answer is yes, then why do you think Death penalty should be abolished?

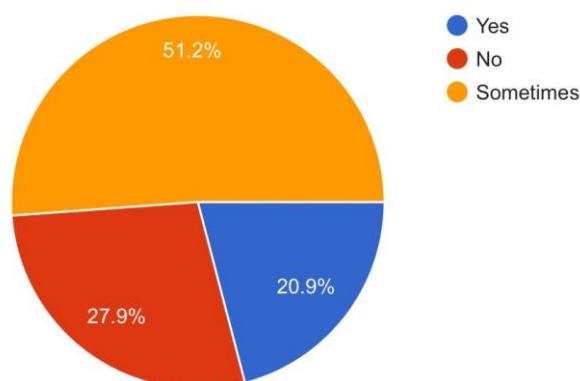
Most of the people, who think death penalty has to be abolished, think it is inhumane and immoral to take a person's life. A person backed up his/ her/ their opinion by posting the following argument: "I believe in the Socratic philosophy of forgiveness where he says the murderer/rapist/assassin is not just harming the other person but also harming one's own humane soul. So the convict will be punished with prison sentence but for rehabilitation and an opportunity to change... Socrates died for the same reason by drinking hemlock as a punishment because he refused to sentence a person to death for a crime, Socrates was a part of jury deciding that crime. So he was ready to die for the truth he believed but didn't let go off his strong conviction against death penalty. Not just this but there are many more arguments that Socrates pit forward regarding the same." This person has argued telling how Socrates chose death over punishing somebody with death. I think it anyhow costed a life, so he could've just let the criminal die instead. Few people argued that there is no solid proof if the death penalty works as a restraint to people who commit crimes and a person's life cannot be taken for a "mistake" he committed. Others argue that a person has to be given a chance for the mistakes he committed whether they are small or big because what might look blunder for some might not look the same for others.

Question 3: If your answer is no, why should it still exist?

Few people reasoned their disapproval to abolishment stating that change in humans who commit heinous crimes is impossible. They said that those people have strong mentality, which can't be changed easily. Some people just told that the people committing heinous crimes like this do not deserve to live and if capital punishment is abolished then those criminals will have to serve sentence in jail and practically the government has to pay for his/her food and other expenses so why should the government borne costs of maintaining a criminal. Few people cut it short and said that death penalty provides instant justice to the aggrieved and it stands as a deterrent in the society. They tried to justify their argument as- if one person is hanged then others in the society will be cautious about it and the crime rate might decrease. While others have rationally put their words, as courts don't sentence people with life when they commit petty crimes and they only sentence life when the crime is unforgivable, the death penalty

shouldn't be abolished. The number of crimes for which capital punishment awarded is limited. They argue that, as severity of the punishment should be proportionate to the seriousness of the crimes, this has to be guiding force to not abolish the capital punishment. So, in conclusion to their words they think that people committing the worst crimes of all deserve the capital punishment. The punishment should be given to people who have committed unbelievable and heinous crimes. A person put a very interesting argument that capital punishment makes justice to the victim/ victim's family. This argument sounds similar isn't it? Recently the rapes in India have been alarmingly increasing. According to most people, they think killing the rapist is the only way to serve justice. So this person spoke the minds of millions of people in Indian. In conclusion to these opinions people think the people committing heinous crimes should definitely be punished with death penalty.

Question4: Is Capital punishment violating Human rights?



This is the main question which refutes the existence of Capital punishment all over the world. Most of the people voted for "sometimes". This represents ambiguity in people about the issue. This is because there are no laws which strongly state that the person, who committed the crime, deserves to die if he/she violates others rights or the person or he/she will be having the same rights as everybody and shouldn't be sentenced with life as it violates his right to life.

PART-III

Conclusion/suggestions:

Death Penalty is almost never given in India or for that matter any place in the world except for the rarest cases. A person gets sentenced with death only when he/she commits a very inhumane crime. People committing such crimes are practically emotionless or they have a very strong mind set. Imprisonment cannot be serving justice as all it can do is stop the person from living freely. As per the argument of human rights, yes these people have right to live too, because as a person who commits crime doesn't make him any less of a human. But this is the time when we have to concentrate on victim rather than the person committing the crime. When we think from victim's perspective, he/she/hem might have lost their live/s. When a victim/s dies not just him/her/them but all of the people who are emotionally attached to that person will also suffer. So the person doesn't just affect one but a lot. As per my morals, I think when a person kills somebody out of intention to kill, the person loses all the right he deprived of the victim. Coming to capital punishment and deterrence in Indian society, it does work as a deterrent. Though there I no statistical evidence proving this, as per what I have observed in recent years, it has acted as a deterrent sometimes. This cannot be guaranteed all the times, as "privileged people" are escaping from any punishment after they commit a crime due to corruption. This gives them the confidence that they can escape even if they kill/ rape someone and make them commit such crimes. So, capital punishment shouldn't be abolished and the court proceedings should be fair. Though Indian law aims towards reformation from the beginning, I think law has to evolve according to the needs of people. I hereby conclude that abolishment of death penalty has more cons than advantages. So, it shouldn't be abolished and to be implemented in very serious cases.