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## ABOLITION OF CAPITAL PUNISHMENT: A CRITICAL STUDY ANALYSING HUMAN RIGHTS CONCERNS

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Dheekshanya R, School of Law, Christ (Deemed to be University), Bangalore

### ABSTRACT

The death penalty, or capital punishment, has been one of the most debated subjects in legal and moral discourse worldwide. Rooted in retributive justice, it has historically been justified as a deterrent to heinous crimes and as a means of delivering ultimate punishment for grave wrongdoing. However, with the rise of human rights jurisprudence and the consolidation of international legal norms following the adoption of the Universal Declaration of Human Rights<sup>1</sup> and the International Covenant on Civil and Political Rights<sup>2</sup>, serious concerns have emerged regarding its compatibility with the principles of dignity, equality, proportionality, and justice.

This paper critically examines the abolition of capital punishment by analyzing its human-rights implications, international legal developments, constitutional and judicial perspectives, and the enduring debate between deterrence and reformative justice. It further considers the moral authority of the state in imposing irreversible punishment and questions whether the objectives of criminal law deterrence, retribution, incapacitation, and rehabilitation can legitimately justify the deliberate deprivation of life. The paper also evaluates empirical evidence concerning arbitrariness, wrongful convictions, socio-economic and racial disparities, and procedural deficiencies, all of which undermine claims of fairness and consistency in its enforcement.

By situating abolition within the broader framework of evolving standards of decency and comparative constitutional practice, the study highlights the growing global consensus favoring the restriction or elimination of capital punishment. It argues that the irreversible nature of the penalty, its disproportionate and often discriminatory application, and its tension with the modern understanding of the right to life render it incompatible with contemporary human-rights values. Accordingly, the paper contends that abolition is not merely a policy preference but a necessary step toward strengthening the rule of law and advancing a humane, equitable, and rights-respecting system of criminal justice.

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<sup>1</sup> Universal Declaration of Human Rights art. 3, G.A. Res. 217 A (III), U.N. Doc. A/810 (Dec. 10, 1948).

<sup>2</sup> International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171.

**Keywords:** Capital Punishment, Death Penalty, Abolition, Retributive, Deterrence, Human Rights

## Introduction

The contemporary debate unfolds against the backdrop of a broader transformation in international human-rights law since the adoption of the Universal Declaration of Human Rights. While the Declaration did not explicitly prohibit capital punishment, its recognition of the inherent dignity and equal rights of all human beings laid the normative foundation for subsequent abolitionist arguments. Over time, treaty regimes such as the International Covenant on Civil and Political Rights have progressively narrowed the permissible scope of the death penalty, and optional protocols aimed at abolition reflect an emerging consensus that state execution sits uneasily with the modern human-rights project. The development of these instruments signals not merely policy evolution but a deeper normative shift in how the international community conceptualizes punishment, sovereignty, and the limits of state power.

At the same time, capital punishment remains defended by retentionist states on grounds of sovereignty, deterrence, retribution, and public order. These governments often argue that international law, as presently codified, does not absolutely prohibit the death penalty and that domestic legal systems retain discretion to impose it for the “most serious crimes.” This tension between universal human-rights norms and claims of national autonomy highlights a central fault line in contemporary international law: whether certain punishments, even if historically entrenched, can survive the evolving standards of human dignity and proportionality that increasingly define global legal discourse.

The persistence of executions in a limited number of jurisdictions further complicates the abolitionist narrative. Global data collected by organizations such as the Amnesty International<sup>3</sup> and resolutions adopted by the United Nations General Assembly<sup>4</sup> reveal a dual reality: a steady increase in the number of abolitionist states, alongside concentrated and sometimes intensified use of capital punishment in others. This divergence raises critical questions about compliance, enforcement, and the practical authority of international norms in the absence of uniform state practice.

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<sup>3</sup> Amnesty International, *Death Sentences and Executions 2023* (2024).

<sup>4</sup> G.A. Res. 62/149, Moratorium on the Use of the Death Penalty (Dec. 18, 2007).

Accordingly, this paper situates the death penalty within the broader framework of international human-rights law, constitutional interpretation, and comparative criminal justice policy. It examines whether the right to life understood not merely as protection against arbitrary deprivation but as a substantive commitment to human dignity can be reconciled with a system that authorizes deliberate state killing. It further considers related protections, including prohibitions against cruel, inhuman, or degrading punishment, guarantees of due process, and principles of equality and non-discrimination, all of which bear directly on the legitimacy of capital sentencing regimes.

By grounding the analysis in both normative theory and contemporary empirical data, this study seeks to assess whether abolition is best understood as an emerging customary norm, a binding legal obligation for certain states, or a moral aspiration still contested in practice. Ultimately, the inquiry aims to clarify what the trajectory of international human-rights law implies for domestic legislatures, courts, and policymakers confronting the future of capital punishment in the twenty-first century.

## **Literature Review**

Capital punishment has been a deeply recognised punitive measure historically to maintain order through cruel and public executions and the origins of the abolitioners such as Montesquieu and Beccaria. Carolyn Hoyle in his paper *Efforts towards Abolition of the Death Penalty: Challenges and Prospects* presents a comprehensive analysis of this and the global approach towards the abolition of death penalty focusing on international human rights<sup>5</sup>. He interprets right to life as adopted in the UDHR and ICCPR which establishes a normative framework for right to life and strives for commitment to abolition as an universal goal. The UN Rights Committee has helped in advocating for progressive restrictions and safeguards for vulnerable populations such as juveniles, pregnant women and mentally ill persons. Various judicial decisions such as *Wooden North Carolina in the U.S*<sup>6</sup>, *Mithu V. State of Punjab in India* play an instrumental role in the abolition process. The paper also discusses the phenomenon of death row syndrome arising from prolonged delays before execution. The study calls for renewed efforts for the realisation of universal abolition of death penalty. While the international human rights law has significantly advanced the abolitionist agenda, its success

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<sup>5</sup> Carolyn Hoyle, *Efforts Towards Abolition of the Death Penalty: Challenges and Prospects*, 31 *Crim. L. F.* 241 (2020)

<sup>6</sup> *Woodson v. North Carolina*, 428 U.S. 280 (1976)

depends on the political will and public interest. The persistent resistance rooted in political authoritarianism; cultural and religious conservatism has to be addressed.

The main argument for Abolition of Death penalty is mainly centred on the principle of the right to life which is basic inherent right of every individual as recognised by international norms and treaties. Ben Jones in his article *Death Penalty Abolition, the Right to Life and Necessity* about the death penalty's implication on the right to life and analyses whether it can be a necessity based on justified defensive killing<sup>7</sup>. While addressing the issue of necessity the author highlights that while many may accept the use of deadly force in self-defence, capital punishment being a delayed, state sanctioned execution does not align with the immediacy or necessity typically required for such acts. The article recognises another point of argument that is the State's Obligation to use Non-lethal Incapacitation (ONI) which morally bounds the State to employ non-lethal means such as imprisonment to incapacitate, as long as an offender does not pose any imminent threat. Modern States have sufficient means to uphold ONI without resorting to execution which fails to meet the threshold of necessity required for defensive killing. The Empirical studies are cited in this research article demonstrates the unreliability of predicting future dangerousness – a rationale often used to justify death penalty. It shows that such predictions are frequently incorrect and once imprisoned most of the offenders do not commit further violence. These findings undermines the contradictory argument that executions are necessary for societal protection. Based on these contentions this article calls for abolition of death penalty.

Similarly, in the research article *A Contractarian argument against the Death Penalty*, Finkelstein proposes a categorical moral opposition to death penalty based on contractarian ethics unlike the usual capital punishment debate arguments such as racial bias, cost factors and errors<sup>8</sup>. The study presents how even in a theoretically flawless justice system free from discrimination and error, the death penalty shall still be unjustified. The author critiques the two major grounds which justifies capital punishment that are deterrence and retributivism. While the aspect of deterrence in capital punishment might potentially save lives, it is not morally sufficient to justify execution given the chance of even innocents being executed. It says that the retributive nature of capital punishment based on *lex talionis* (an eye for an eye) is also practically and morally implausible. The article brings in the concept of contractarianism which is a

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<sup>7</sup> Ben Jones, *Death Penalty Abolition, the Right to Life and Necessity*, 35 *Oxford J. Legal Stud.* 1 (2015)

<sup>8</sup> Claire Finkelstein, *A Contractarian Argument Against the Death Penalty*, 9 *N.Y.U. J.L. & Liberty* 100 (2015)

conservative version of social contract theory. This framework holds that rational agents would not consent to a system that includes death penalty and just institutions must be such that it is acceptable to rational contractors. These moral-philosophical foundation for abolitionism which doesn't leave a space for empirical uncertainties provides a powerful lens for re-evaluating capital punishment in modern liberal democracies.

The other points of arguments against capital punishment can be understood from the study *A Reflection on Contemporary Issues Regarding the Death Penalty* by authors Talia Roitberg Harmon, David Taylor, Chelsea Henning which explores six central themes in relation to capital punishment which are: incapacitation, deterrence, caprice and racial bias, retribution, innocence and miscarriages of justice and cost<sup>9</sup>. The article shows how in the recent decades, death penalty has undergone substantial transformation, especially focusing on the process towards abolition in the U.S with decline in public support for death penalty. Adoption of Life Without Parole (LWOP) achieves the same outcome in ensuring that offenders no longer harm others as that of execution in retaining public safety thereby, countering the argument for incapacitation. The empirical studies also show how LWOP is an effective punishment for deterring crimes. The scope for rehabilitation is also eliminated in execution while it is only retributive in nature. Wrongful convictions of innocents and miscarriage of Justice such as false convictions and prosecution misconduct in relation to capital punishment is the subject on which death penalty debates have recently shifted. Apart from the above-mentioned arguments financial concerns associated with death penalty and the racial disparities remain as a persistent aspect of capital punishment which calls for significant judicial intervention and legislative measures for abolition of death penalty based on morality, fairness and human rights.

Charles Jessup in his research paper *Against the Death Penalty* presents a critique on capital punishment rooted in philosophical theory, empirical evidence and racial justice<sup>10</sup>. It reviews and synthesizes various literature and helps us contextualize capital punishment with broader ethical, practical and societal frameworks. The author bases his philosophical arguments by citing ethical theories specifically the utilitarianism and deontology. The Utilitarian perspective justifies punishment on the basis of its utility in deterring crime and maximizing societal good. But the empirical research shows no convincing data for its effective deterrence thereby undermining this principle. Similarly, the deontological theory that upholds retributivism is

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<sup>9</sup> Talia Roitberg Harmon, David Taylor & Chelsea Henning, *A Reflection on Contemporary Issues Regarding the Death Penalty*, 52 *Am. Crim. L. Rev.* 1315 (2015)

<sup>10</sup> Charles Jessup, *Against the Death Penalty*, 30 *Harv. J.L. & Pub. Pol'y* 835 (2007)

undermined due to its lack of proportionality as the punishment may not truly mirror the severity of offence, contradicting its own ethical standards. The empirical source it primarily relies on is the analysis by Bailey and Peterson and the modern statistics from the Death Penalty Information Centre. Apart from these, Jessup addresses the racial disparities, systematic bias and other legal and societal implications associated with death penalty. Collectively the article considers death penalty as ethically unjustifiable, socially unacceptable and legally problematic thereby supporting and validating its abolition.

The research on abolition of death penalty is usually done by associating factors such as crime rates, economic conditions, legal traditions and relying on reforms through democratic governance and political institutions. However, in the research study *Diffusion and the Abolition of Death Penalty: A Global Comparison* by Carsten Anckar, Thomas Denk focuses on the under-explored role of international diffusion mechanisms in shaping death penalty policies across States<sup>11</sup>. The authors propose four primary diffusion mechanisms that influence reforms in capital punishment which are: geographic proximity, global diffusion, cultural homogeneity and colonial heritage. It draws a compiled global data from 1800 to 2021 providing both quantitative and qualitative analysis on how they shape the abolition of death penalty. They have systematically integrated spatial econometrics and logistic regression to evaluate the impact of these diffusion networks and its effects which vary over time. The study also categorizes the death penalty regimes based on Amnesty International's classifications which helps in distinguishing complete abolition, stepwise reforms and retentionist practices allowing for more precise tracking of reform trajectories. The empirically grounded approach of this research fills the critical void in the existing research literature by providing a better understanding of how international influences shape domestic penal policies. Also, the multi-network diffusion model to explain the global dynamics of death penalty abolition and deals with various control variables in relation to death penalty abolition such as State power, liberal democracy and common law traditions.

With respect to the U.S, Derek Roberts in his paper *Capital Punishment and the Case for Abolition* presents a comprehensive and critical analysis of capital punishment imposed at federal level in the United States<sup>12</sup>. However after the oppositions to death penalty based on human right violations, cost inefficiencies, wrongful convictions, international implications,

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<sup>11</sup> Carsten Anckar & Thomas Denk, *Diffusion and the Abolition of the Death Penalty: A Global Comparison*, 59 *Int'l Stud. Q.* 513 (2015)

<sup>12</sup> Derek Roberts, *Capital Punishment and the Case for Abolition*, 43 *U. Rich. L. Rev.* 521 (2009)

lack of deterrence as well as claims of discrimination, the Federal Government of U.S gave the states the right to choose whether or not to allow death penalty. Currently 24 States have legalised the death penalty, 23 states do not allow it and 3 states have outlawed it. The number of executions has significantly dropped in the U.S from 300 death sentences in the 1900s to 85 in the mid-1990s and 30 afterwards till 2016. This trend steers into the right direction towards abolition of death penalty as it is majorly flawed and there is a need for urgent efforts from the State to abolish it swiftly. The paper puts forward a strong proposition for the U.S federal government to unreservedly abolish the death penalty as a whole.

Capital punishment in India has been discussed by several authors, in the paper *A Critical Study*, Ravi shows how the Death penalty has been a contentious issue for a very long time and analyses the capital punishment issue in the Indian criminal Jurisprudence rooted in historical precedent and moral debate as well as its constitutional, moral and societal implications<sup>13</sup>. The author specifies the heinous crimes for which death penalty is imposed and examines its rationale such as deterrence, justice and upholding public conscience as well its negative implications arising from violation of right to life, severe mental agony, long wait for execution. There also exists systematic flaws associated with the capital punishment such as wrongful convictions, socio-economic biases, procedural delays and the disproportional effects on the marginalised. The study explores the “rarest of rare” doctrine by discussing landmark judgments including *Bachchan Singh V. State of Punjab*, *Machhi Singh V. State of Punjab* and the Nirbhaya gang rape case. The study emphasizes on the global shift against death penalty noting that most liberal democracies have abolished it. It advocates for abolition of capital punishment, promoting a reformative approach over a retributive one and urges the Indian Legal system to eliminate crimes through rehabilitation rather than through execution.

In *Abolition of Capital Punishment in India: The Need of the Hour*, the authors Sana Humd, Haris Umar, Mohd. Wazid Khan offers a penological perspective and legal critique of capital punishment in India<sup>14</sup>. It says that though historically capital punishment was used as a form of retribution and deterrence, its continuance in India even now is in contrast to a growing international consensus favoring abolition with over 150 countries already having abolished it. The Article critically examines the contentious views of policymakers, judiciary, human rights activists and the Law Commission of India. It recognizes how the Indian judiciary has been

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<sup>13</sup> Ravi, *A Critical Study of Capital Punishment in India*, 4 *Int'l J. L. Mgmt. & Human.* 1456 (2021)

<sup>14</sup> Sana Humd, Haris Umar & Mohd. Wazid Khan, *Abolition of Capital Punishment in India: The Need of the Hour*, 8 *Bharati L. Rev.* 112 (2019)

oscillating between upholding the death penalty and expressing reservations about its application by citing Judgments such as *Bachan Singh V. Union of India* that imposed the rarest of rare cases doctrine; *Channu Lal Verma V. State of Chhattisgarh*; *Sangeet V. State of Haryana*. The Article further talks about the 262nd Report, 2015 of the Law Commission of India which recommended the gradual abolition of the death penalty except in cases of terrorism, citing its arbitrary use, lack of deterrent effect and the global movement towards abolition. It points out how India the being a signatory of the international treaties such as ICCPR and its Second Optional Protocol which calls for abolition of death penalty, is still not in line with its comprehensive reforms.

The paper *Abolition of Capital Punishment – A Critical Analysis* by Abhishek Srivastava cites empirical concerns about the arbitrariness and inconsistencies in the application of the “rarest of the rare” doctrine which forms the basis for awarding death sentences in India<sup>15</sup>. The author depicts studies which show that death penalty is no more effective in deterring crime than life imprisonment. In fact death penalty may have a counterproductive impact leading to a more violent society rather than preventing it. It may also disproportionately affect the poor and underprivileged who lack access to competent legal defense. Reformative measures rather than the retributive ones preserve a convict’s chance for remorse and rehabilitation. These are again substantiated with various legal precedents in India such as *Jagmohan Singh V. State of Punjab*, *Bacchi Singh V. State of Punjab*. India still holds death penalty as punishment for heinous crimes which is justified with the claim that procedure established by law given under Article 21 legitimizes the deprivation of life under certain conditions and by due process of law. Despite the acknowledgements of these claims, the article strongly calls for abolition of death penalty and shows how life imprisonment with rigorous conditions serves as a more humane and transformative form of punishment.

### **International Legal Framework and Global Trends**

Capital Punishment is not entirely banned by any universal treaty, however several international instruments and UN practices have progressively constrained it. Human-rights organs, such as the UN Human Rights Council, and the Office of the High Commissioner for Human Rights (OHCHR), have repeatedly encouraged moratoria and eventual abolition; UNGA resolutions calling for a moratorium on executions have received growing cross-

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<sup>15</sup> Abhishek Srivastava, *Abolition of Capital Punishment – A Critical Analysis*, 2 *Indian J. Legal Stud.* 87 (2020)

regional support in recent years. This normative architecture signals an emerging international consensus that abolition is the preferred human-rights-aligned position.

Monitoring by Amnesty International and UN reporting shows a complex picture: although the number of countries that carry out executions has fallen and more states have abolished the death penalty in law or practice, global execution counts have at times spiked because a small number of states carry out very large numbers of executions. For example, recent reports documented increases in recorded executions concentrated in a few countries while the majority of states have moved toward abolition or moratoria. These dynamics highlight both progress (widening abolitionist footprint) and persistent challenges (high-execution states).

### **Human-Rights Objections to Capital Punishment**

The right to life is the foundational human-rights claim challenged by capital punishment. Abolitionists argue that State-sanctioned killing is incompatible with a modern, rights-respecting legal order because it intentionally takes human life. While many human-rights instruments (e.g., ICCPR Article 6) permit the death penalty under narrow circumstances, subsequent UN practice and interpretive trends favour restrictions and eventual abolition, signaling a shift in how the right to life is understood in policy and practice<sup>16</sup>. The interpretive trend places heavy weight on minimization and exceptionalism rather than routine recourse to capital punishment.

A long-standing empirical critique is that death sentences are frequently applied in an arbitrary, discriminatory, or biased manner (by race, ethnicity, socio-economic status, or geography). Where capital sentences are concentrated among marginalised groups or applied inconsistently for comparable crimes, the penalty violates principles of equality before the law and non-discrimination. Empirical monitoring often finds such disparities in jurisdictions that still execute.

Irreversibility is a central human-rights concern: wrongful convictions cannot be remedied once carried out. The possibility of judicial error, unreliable evidence (e.g., coerced confessions, forensic errors), or later exculpatory information means that any justice system faces an unacceptably high risk when imposing an irreversible sanction. This risk is amplified

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<sup>16</sup> Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, Dec. 15, 1989, 1642 U.N.T.S. 414

in systems with weak procedural safeguards.

Even when procedures are followed, methods of execution or the conditions surrounding them (prolonged death-row confinement, procedural indignities) may amount to cruel, inhuman or degrading treatment, prohibited under modern human-rights norms. International bodies have increasingly treated prolonged pre-execution detention and certain methods as raising serious human-rights concerns.

### **The Indian Jurisprudence on Death penalty**

India occupies a distinctive position: the death penalty remains constitutional under Indian law but is circumscribed by doctrine. In *Bachan Singh v. State of Punjab* (1980), the Supreme Court of India held that the death penalty is not per se unconstitutional under Article 21 (right to life) but must be imposed only in the "rarest of rare" cases where the alternative of life imprisonment is unquestionably foreclosed<sup>17</sup>. The Court required individualized sentencing and consideration of mitigating circumstances, creating a judicially enforceable constraint on arbitrary imposition. This landmark judgment established that while capital punishment could be retained, its application must be guided by strict judicial scrutiny. The Court emphasized that sentencing must balance aggravating and mitigating factors, examining both the crime and the criminal. This doctrine has guided Indian sentencing practice for decades and shows an attempt to reconcile retention with human-rights protections by limiting application.

In *Machhi Singh v. State of Punjab* (1983), the Supreme Court attempted to further clarify the "rarest of rare" doctrine by identifying specific categories of cases that might warrant capital punishment<sup>18</sup>. The Court outlined five categories of cases falling within this framework: cases exhibiting exceptional depravity or extreme brutality, cases involving the murder of public servants on duty, cases threatening national security or social order, cases involving multiple murders, and cases where the victim is entirely helpless or defenseless. While intended to provide greater clarity and consistency in death penalty jurisprudence, this categorization has been criticized for potentially expanding rather than restricting capital punishment's scope, as it created a framework that could be interpreted broadly by trial courts.

The Court's approach evolved significantly in *Mithu v. State of Punjab* (1983), where it struck

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<sup>17</sup> *Bachan Singh v. State of Punjab*, (1980) 2 S.C.C. 684

<sup>18</sup> *Machhi Singh v. State of Punjab*, (1983) 3 S.C.C. 470

down Section 303 of the Indian Penal Code, which mandated capital punishment for persons serving life imprisonment who committed murder<sup>19</sup>. The Supreme Court held that mandatory death sentences violated Article 21 by eliminating judicial discretion and preventing individualized sentencing. This decision reinforced the principle that death penalty imposition must involve case-by-case evaluation rather than automatic application based solely on offense category. The judgment demonstrated the Court's commitment to ensuring that capital punishment, where retained, must be applied with maximum restraint and procedural safeguards.

Subsequent Indian jurisprudence has refined what constitutes "rarest of rare," with courts examining factors such as the defendant's age, mental health, socio-economic background, reformation potential, and delay in execution. Cases like *Shatrughan Chauhan v. Union of India* (2014) recognized prolonged incarceration and execution delay as grounds for commutation<sup>20</sup>, while *Sangeet v. State of Haryana* (2013) emphasized the importance of considering mitigating circumstances comprehensively<sup>21</sup>. However, critics argue that the doctrine has not eliminated arbitrariness or ensured uniform application across India's vast judicial landscape. Empirical studies have shown significant disparities in how different High Courts and trial judges interpret and apply the "rarest of rare" standard, raising concerns about geographical and demographic variations in sentencing outcomes.

The debate continues over whether judicially-created limits are sufficient, or whether constitutional abolition is necessary to remove the structural risks of irreversibility, error, and discrimination identified by international human rights bodies. Questions persist about whether procedural safeguards can adequately address systemic issues of inadequate legal representation, socio-economic bias, and the impossibility of rectifying wrongful executions. Domestic advocacy in India thus presses for legislative reform or a moratorium, paralleling international abolitionist arguments while acknowledging India's unique constitutional and social context. Recent trends show declining numbers of death sentences and executions, suggesting a de facto movement toward greater restraint, yet the absence of formal abolition leaves the framework vulnerable to expansion under different political or judicial circumstances.

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<sup>19</sup> *Mithu v. State of Punjab*, (1983) 2 S.C.C. 277

<sup>20</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 S.C.C. 1

<sup>21</sup> *Sangeet v. State of Haryana*, (2013) 2 S.C.C. 452

## Evaluating the Deterrence and Retribution Arguments

Proponents argue the death penalty deters serious crime. However, rigorous empirical literature fails to produce consistent evidence that capital punishment has a unique deterrent effect beyond long-term imprisonment. International monitoring and comparative studies suggest that high-execution rates do not necessarily correlate with lower homicide rates, and many abolitionist states have not experienced increases in violent crime following abolition. Given the absence of compelling causal proof, deterrence alone is insufficient to justify irreversible punishment in the face of significant human-rights costs.

Retribution, the idea that the worst offenders deserve death is a powerful moral argument, tied to victims' families and public sentiment. Yet modern human-rights frameworks require that punishments be compatible with dignity and non-cruel treatment; retributive instincts must be balanced against systemic rights protections. Several abolitionist theorists argue that respect for human dignity requires an upper limit on what the state may do even in response to heinous crimes. This debate often reflects broader societal values and constitutional commitments.

## Comparative International Perspectives

A growing number of states have abolished capital punishment in law or practice, reflecting a steady consolidation of the global abolitionist movement. Repeated moratorium resolutions adopted by the United Nations General Assembly have called upon retentionist states to suspend executions with a view toward complete abolition, thereby reinforcing an emerging international norm against the death penalty<sup>22</sup>. Although such resolutions are not legally binding, their expanding support signals shifting global attitudes and strengthens the moral and political pressure on retentionist governments. Simultaneously, sustained advocacy by organizations such as Amnesty International and the World Coalition Against the Death Penalty has amplified scrutiny of execution practices, highlighted procedural irregularities, and mobilized transnational networks in favor of reform<sup>23</sup>.

The global movement's strategy has combined normative advocacy grounded in human-rights principles, strategic domestic litigation before constitutional courts, legislative reform initiatives, and diplomatic engagement through multilateral forums and bilateral dialogues.

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<sup>22</sup> G.A. Res. 62/149, Moratorium on the Use of the Death Penalty (Dec. 18, 2007).

<sup>23</sup> World Coalition Against the Death Penalty, *Global Report on the Death Penalty*

Public education campaigns, empirical research on deterrence and wrongful convictions, and coalition-building with local civil society actors have further strengthened abolitionist efforts. These coordinated approaches have produced measurable gains in many regions, including formal legal abolition, de facto moratoria, and narrowing of capital offenses. At the same time, targeted advocacy continues to focus pressure on high-use states through reporting mechanisms, sanctions debates, and international scrutiny, underscoring the movement's dual objective of consolidating abolition where achieved and progressively restricting executions where they persist.

### **Policy Recommendations**

Given the serious human-rights concerns associated with capital punishment and the clear global movement toward its decline, several policy recommendations emerge for states considering abolition or substantial reform. First, governments should adopt an immediate moratorium on executions while conducting a thorough review of all pending capital cases and systemic safeguards. A moratorium not only prevents irreversible miscarriages of justice but also creates political and legal space for meaningful reforms. Second, states should pursue legislative abolition of the death penalty or, at minimum, severely restrict its statutory scope. Removing capital punishment from legal frameworks especially for ordinary crimes offers the strongest protection against arbitrary or politically motivated reinstatement in the future.

In contexts where the death penalty is still retained, strengthening procedural safeguards becomes essential. This includes ensuring effective and early access to competent legal counsel, establishing higher forensic and evidentiary standards, prohibiting coerced confessions, and guaranteeing rigorous appellate review. These measures reduce the inherent risks of wrongful convictions within capital systems. Additionally, states should expand humane alternatives such as life-imprisonment options and invest in victim-centered restorative justice practices. Such approaches emphasize accountability, victim reparations, and community healing rather than state-administered execution.

Finally, transparency and independent monitoring must be prioritized. Governments should institute mandatory public reporting on death sentences, commutations, and execution methods, and where appropriate, permit independent or international monitoring. Increased transparency not only reduces arbitrariness but also strengthens public trust and facilitates informed democratic debate on the future of capital punishment.

## **Conclusion**

The abolitionist critique anchored in human-rights concerns the sanctity of life, arbitrariness and discrimination, risk of irreversible error, and the prohibition of cruel treatment presents a powerful case against continued use of capital punishment. While some states retain the penalty and others temporarily increase execution counts, the broader international movement and evolving interpretive practice of human-rights bodies point toward abolition as the durable, rights-consistent policy choice. For jurisdictions like India that retain the death penalty under restrictive doctrines such as the rarest of rare doctrine, the pressing question is whether judicial constraint and procedural enhancements are sufficient, or whether legislative abolition is the only reliable means to eliminate the structural risks inherent in state-sanctioned killing. This paper supports abolition or, at minimum, an immediate moratorium followed by legislative reform and strengthened procedural guarantees.

Ultimately, a justice system committed to constitutional morality and human dignity must prioritize irreversible safeguards over irreversible punishments. The movement toward abolition reflects not leniency toward crime, but fidelity to the fundamental principles of fairness, equality, and the protection of life that define a modern rule-of-law society.

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