



# The Indian Journal for Research in Law and Management

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Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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## Death Penalty and Right to Life

The death penalty has always been a divisive issue in human history because it involves so many intricate moral, ethical, and legal factors. The core idea at the center of the discussion is the right to life, which is protected by numerous international human rights declarations and legal systems. The conflict between defending each person's right to life and fighting for victims' justice has generated intense debates, arousing feelings and convictions on both sides of the issue.

India is among the 78 nations that support the death penalty, making it a retentionist country, arguing that it should only be applied in the most extreme circumstances and for unique justifications; in the 'Rarest of Rare Cases'.

### What is Death Penalty?

The death penalty, also known as capital punishment, is the practice of executing individuals who have been convicted of certain crimes deemed by society to be heinous or severe. Its proponents argue that it serves as a deterrent to crime, particularly to acts of extreme violence, and provides a sense of justice to victims and their families. They view it as a necessary tool for maintaining law and order and ensuring that the most dangerous offenders are permanently removed from society.

### Right to Life

The Right to Life is a principle recognized as fundamental by various international treaties and declarations. In India, the Right to Life is provided to every person under Article 21 of the Constitution of India. They assert that no individual, regardless of their actions, should be deprived of this fundamental right.

### Constitutionality of Death Penalty

The death penalty has been a hotly debated topic in India for many years. Deeply rooted in intricate moral, legal, and social issues, this topic explores basic concerns of justice, human rights, and the sanctity of life. Numerous instances have periodically contested the death penalty's constitutionality.

- In *Jagmohan Singh v. State of Uttar Pradesh*<sup>1</sup>, the five-judge bench of the Supreme Court, by a unanimous verdict, upheld the constitutional validity of the death penalty and determined that Articles 14, 19, and 21 were not violated by the death sentence. The death penalty in this instance was contested on the grounds that it violated Articles 19 and 21 because there was no mechanism in place. It was argued that the process outlined in Cr. P.C. only applied to guilty verdicts and did not apply to the imposition of the death penalty. The Supreme Court ruled that the legal process is followed while deciding on a death sentence. It was noted that the judge decides whether to impose a life sentence or the death penalty depending on the facts, circumstances, and kind of crime that is presented at trial.
- In another case *Rajendra Prasad v. State of Uttar Pradesh*<sup>2</sup>, Justice Krishna Iyer stressed that the death penalty is violative of articles 14, 19, and 21. In this instance, the court concluded that the death sentence violates Articles 14, 19, and 21 since it robs the accused of his right to life and other fundamental rights. Additionally, he said that to impose the death sentence two things must be required:
  - Special reasons should be recorded for imposing the death penalty in any case.
  - The death sentence must be imposed only in extraordinary circumstances.
- In the case of *Bachan Singh v. State of Punjab*<sup>3</sup>, the court again observed that the death penalty is not considered unconstitutional and awards the death penalty only in “rarest of rare cases”. The question was again considered by the five-judge bench of the Supreme Court, wherein by a majority of 4 to 1 (Bhagwati J. dissenting) the court overruled its earlier decision in Rajendra Prasad. As an alternative punishment for murder, it expressed the opinion that the death penalty is not unreasonable and does not violate Articles 14, 19, and 21 of the Indian Constitution because "public order," as defined by clauses (2) to (4) of Article 19, is distinct from "law and order." It also outlined the principle that the death penalty should only be applied in the "rarest of rare cases."

In his dissenting opinion, Bhagwati J. said that as the basis of rarest is not constituted, we can say that it is not unconstitutional but is undesirable from some point of view.

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<sup>1</sup> Jagmohan Singh v. State of Uttar Pradesh, AIR 1973 SC 947

<sup>2</sup> Rajendra Prasad v. State of Uttar Pradesh, AIR 1979 SC 916

<sup>3</sup> Bachan Singh v. State of Punjab, AIR 1980 SC 898

- Further, the Supreme Court in *Machhi Singh v. State of Punjab*<sup>4</sup> established the more general viewpoint that the death sentence should only be applied in the "gravest of cases of extreme culpability." The court laid down broad outlines of the circumstances when the death sentence should be imposed. Justice Thakkar speaking for the Court gave out the five categories of cases may be regarded as rarest of rare cases deserving extreme penalty. They are:
  - a) Manner of Commission of murder
  - b) Motive
  - c) Anti-social or socially abhorrent nature of the crime
  - d) Magnitude of the Crime
  - e) Personality of a victim of murder
- In *Sher Singh v. State of Punjab*<sup>5</sup>, expressing the opinions of the three Supreme Court judges, the court observed that, within the bounds of the Bachan Singh rule, the death penalty is constitutionally admissible. This ought to be regarded as national legislation.
- Similarly, In *Triveniben v. State of Gujarat*<sup>6</sup>, the Supreme Court affirmatively asserted that the death penalty is not prohibited by the constitution.

## Conclusion

The debate surrounding the death penalty and the right to life is far from settled. It forces us to confront profound questions about justice, morality, and the nature of punishment in society. As we navigate these complex issues, it's imperative to consider not only the demands of justice but also the inherent dignity and worth of every human life. Only through thoughtful dialogue and a commitment to upholding fundamental rights can we strive towards a more just and compassionate society, where justice is tempered with mercy, and the sanctity of life is respected above all else.

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<sup>4</sup> Machhi Singh v. the State of Punjab, AIR 1983 SC 957

<sup>5</sup> Sher Singh v. State of Punjab, AIR 1983 SC 465

<sup>6</sup> Triveniben v. State of Gujarat, AIR 1989 SC 1335