CAN DEATH PENALTY BE EVER JUSTIFIED?

Vedant Gawshinde, Indore Institute Of Law, Indore

ABSTRACT:

It seems that public opinion on the death penalty does not deter crime, but more importantly it falls disproportionately on people of color and the poor and it is too often erroneously handed down and is irreversible its impact. The most common argument against capital punishment is that sooner or later, innocent people may get killed, because of mistakes or flaws in the justice system. Some subscribe to the “eye for an eye” or “life for life” philosophy, while others believe that sanctioned death is wrong. Most supporters of death penalty believe that it is justified on one or more of the following grounds: as means of revenge/justice, as a deterrent to others, to prevent any danger of re-offending and it is cheaper than life imprisonment where criminal will stay whole life in prison on tax payers’ money. Although killing is generally immoral, certain kinds of murders are justifiable. These includes killing in self-defense and in defense of other members of the society. Capital punishment doesn’t rehabilitate the prisoner and return them to society. Criminal justice systems across the world lost confidence in this mode of punishment Is death penalty a deterrent? tougher punishments act as a deterrent for others to commit the same.
I. Introduction

All over the world capital punishment is carried out against convicted criminals who have been found guilty of committing heinous crimes. On the other hand, opponents of capital punishment argued that it should be forbidden, whereas proponents of the death sentence can point to a number of equally strong arguments. Both viewpoints have their merits.

The death penalty should be abolished because it does not deter crime. People who support the death penalty argue that executing a criminal not only takes that one criminal off the streets for good, but it discourages would be criminals from action because they don’t want to die. People commit crimes because of environmental factors, like poverty, abuse and harsh living condition.

II. Does the death penalty actually work?

The death penalty unfairly targets the poor and marginalized and those without the capital get the punishment. Capital punishment or death sentence is the practice of executing someone as punishment for a specific crime after a proper legal trial. It can only be used by a state. It recently came into focus after the hanging of four persons convicted for the brutal rape and murder in Nirbhaya Case.¹

The international commission of Jurists (ICJ) condemned the hanging of the four men convicted for Nirbhaya’s gang rape and murder while stating that the execution of the perpetrators was an “affront to rule of law and does not improve access to justice for women”. An important statement given by the activist of human rights is that the power of the state to extinguish life stands entrenched, while women and girls in India continue to struggle to live a life of freedom, safety and dignity as equal persons. The death penalty is a barbaric exercise in which no civilized society should participate. Capital punishment is a flawed aspect of the judicial system. This system needs an overhaul. The death penalty should not have any place in modern society but it is of utter surprise that it’s still used in India, china and US and in many other countries of the world.

¹ Mukesh & Anrs. vs. NCT Of Delhi (2017)
We have to reform our laws especially for death penalty. Our laws should be such that a punishment should be so rigorous that it should remind not only to the offenders, terrorists, and culprits but also it should be a living example for the people around him about his inhuman act. Each day and night, he should regret his act of crimes and at the same time it should act as a deterrent.

III. Arguments in favor & opposition regarding removal of Capital Punishment.

A. Favor:

1. The death penalty should be continued uninterruptedly on the basis of vengeance, resistance, security, social unity and expenditure.
2. The death penalty unites members of society against crime.

B. Opposition

1. The death penalty reduces people’s respect for human life.
2. The vengeful idea of “eye for eye and teeth for teeth” is not acceptable in today’s civilized and progressive society.

IV. Look at the words of Justice

Significantly, Justice Joseph rekindled a debate, questioning the continuance of the death penalty. Demanded the removal of the death penalty from the legal books for not serving as a deterrent to the serious crime of capital punishment.
Referring to 262\textsuperscript{nd} report of the Law Commission, failed to curb and impose arbitrary and illogical imposition of capital punishment and any legitimate legal chronological goals.\textsuperscript{2} Justice Joseph also says as long as the law is presented in the books of law it will be considered a burden by the Judge to give the death penalty as the biggest punishment.

The duty of court should be constitutionally correct even its view is opposed to the nation of majority. Ultimately society’s perspective is usually formed by emotionally charged narratives.

V. Should the death penalty be justified for a convicted murderer?

“The death penalty should not be justified for convicted murderers.” Reasons are as follow:-

A. The death penalty deprives the convict of an opportunity to think about his crime over time and to repent.

B. The prospect of the death penalty does not deter potential murderers from killing.

C. The death penalty is ironic because it uses killing to show that killing is wrong.

These also believe that every death sentence before the court is related to human life which comes under constitutional protection. If life is to be taken then the procedure needs to be made stricter by following the standards of the Supreme Court.

\textsuperscript{2} Bachan Singh vs. State of Punjab (1980)
VI. Conclusion

It seems that the death penalty is favored by some who believe certain crimes are so heinous that they necessitate death, whereas others oppose it because they don’t believe the government should have power to kill people. Opponents also maintain that the death penalty is expensive, an ineffective deterrent and that it risks putting to death the innocent. Proponents hold that the death penalty provides closure to families and that making death the punishment for murder does deter potential criminal who may have murdered if not for being in place.

No one wants to live in a society where a murderer is unpunished and allowed to walk free. But does anyone want to live in a society where the state is allowed to murder? The death penalty has exceeded its usefulness. In an older and more primitive society, maybe it made sense to punish that harshly and irrevocably. But our society is too complicated, with too many nuances and too much room for error. Because the death penalty doesn’t prevent murder and is, in fact, unfairly administered and mistake-ridden, it should be eliminated. We keep the people safe from monsters becoming monsters ourselves.

“I considered the death penalty against non-violence, the right to take life is the same (GOD) who gives birth”

– Mahatma Gandhi