

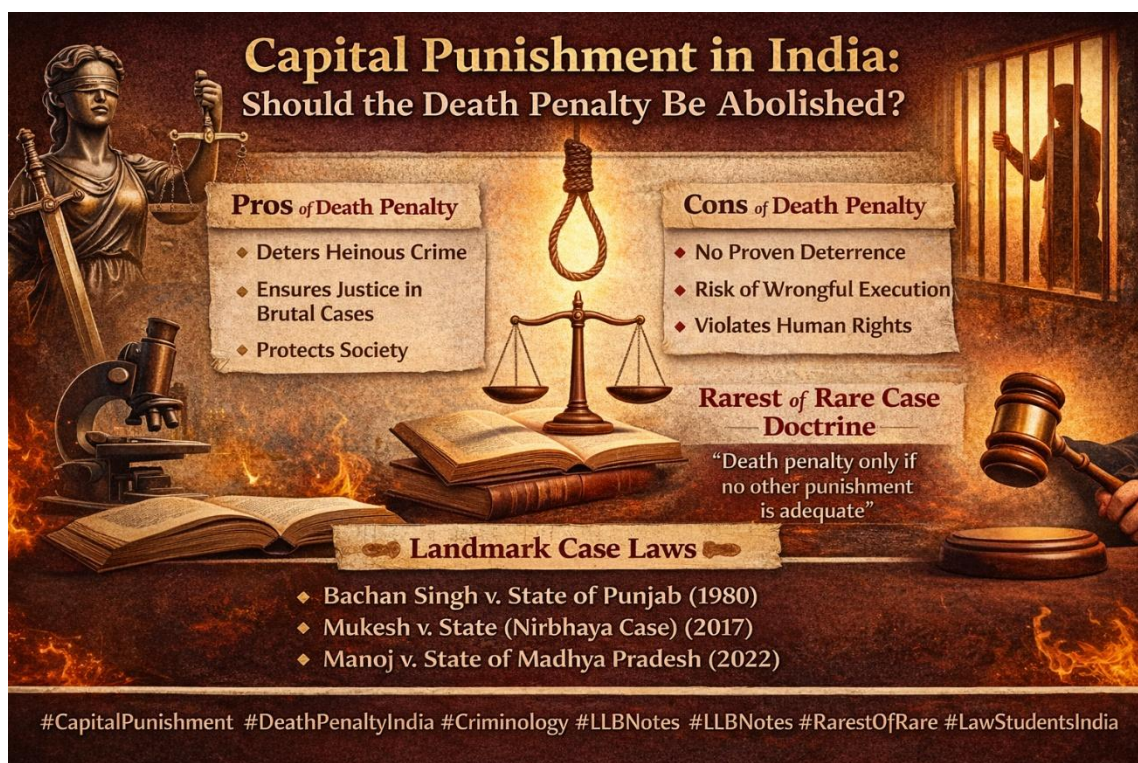
CAPITAL PUNISHMENT IN INDIA: SHOULD THE DEATH PENALTY BE ABOLISHED?

Introduction

Capital punishment, commonly known as the **death penalty**, is one of the most debated topics in criminology and criminal law. It raises serious questions about justice, human rights, deterrence, and morality. For LLB students studying **Criminology**, the issue of death penalty is crucial because it sits at the intersection of law, punishment theory, psychology, and constitutional values.

India continues to retain capital punishment for the “**rarest of rare cases**”. But the larger question remains—*should the death penalty be abolished altogether, or does it still have a place in the Indian criminal justice system?*

This blog examines capital punishment from a criminological and legal perspective, using simple language and landmark case laws.



What Is Capital Punishment?

Capital punishment is the **legal execution of a person convicted of a capital offence**. In India, death penalty is awarded for offences such as:

- Murder (Section 302, IPC / Section 103, BNS)
- Terrorist acts
- Waging war against the State
- Certain cases of rape resulting in death
- Aggravated offences against the nation

However, Indian courts have consistently held that death penalty is **not the rule but an exception**.

Criminological Justifications for Death Penalty

1. Deterrence Theory

Supporters argue that fear of death deters people from committing heinous crimes. According to classical criminology, harsh punishment discourages rational individuals from crime.

2. Retributive Theory

This theory supports death penalty as a form of moral justice—*a life for a life*. Society seeks closure and justice through proportionate punishment.

3. Preventive Theory

Execution permanently incapacitates the offender, ensuring that they never harm society again.

However, modern criminology questions whether these justifications actually work in reality.

Arguments Supporting Capital Punishment in India

1. Deterrence for Heinous Crimes

In cases of terrorism, brutal rape, or mass murder, courts believe death penalty sends a strong message to society.

✦ Case Law:

Mukesh & Anr. v. State (Nirbhaya Case) (2017)

The Supreme Court upheld the death sentence, emphasizing the brutality of the crime and its impact on collective conscience.

2. Protection of Society

Some offenders are considered beyond reform and pose a continuous threat.

✦ Case Law:

Ravji v. State of Rajasthan (1996)

The Court prioritized societal interest over individual reform in extremely brutal crimes.

3. Public Confidence in Justice System

Supporters argue that abolition may weaken public faith in criminal justice, especially in cases involving extreme cruelty.

Arguments Against Capital Punishment

1. No Conclusive Proof of Deterrence

Criminological studies worldwide show **no clear evidence** that death penalty deters crime more effectively than life imprisonment.

✦ Case Law:

Bachan Singh v. State of Punjab (1980)

The Supreme Court acknowledged that deterrence alone cannot justify death penalty.

2. Possibility of Judicial Error

The criminal justice system is not infallible. A wrongful execution cannot be undone.

✦ Case Law:

Santosh Kumar Bariyar v. State of Maharashtra (2009)

The Court stressed extreme caution due to subjectivity in sentencing and irreversible consequences.

3. Violation of Human Rights

Critics argue that death penalty violates:

- **Article 21** – Right to life and dignity
- International human rights norms

India has not abolished death penalty, but it has consistently narrowed its scope.

4. Reformatory Theory of Punishment

Modern criminology emphasizes **reformation and rehabilitation**, even for serious offenders.

✦ Case Law:

Mohd. Giasuddin v. State of Andhra Pradesh (1977)

Justice Krishna Iyer highlighted that criminals are capable of reform and should not be treated as beyond redemption.

The “Rarest of Rare” Doctrine

India does not follow mandatory death penalty. The Supreme Court introduced the “**rarest of rare**” doctrine to limit its use.

✦ Landmark Case:

Bachan Singh v. State of Punjab (1980)

The Court held that death penalty should be imposed only when:

- Life imprisonment is inadequate
- The crime shocks the collective conscience
- The offender is beyond reform

Further Refinement

✦ **Machhi Singh v. State of Punjab (1983)**

The Court laid down guidelines focusing on:

- Manner of commission
- Motive

- Anti-social nature
- Magnitude of crime
- Personality of victim

Recent Judicial Trends

Indian courts have shown increasing hesitation in awarding death sentences.

✦ Case Law:

Shatrughan Chauhan v. Union of India (2014)

The Court held that undue delay in execution is a ground for commutation to life imprisonment.

✦ **Manoj v. State of Madhya Pradesh (2022)**

The Supreme Court emphasized collecting mitigating circumstances and psychological evaluation before awarding death penalty.

This reflects a **shift towards reformative and humane criminology**.

International Perspective

Many countries have abolished capital punishment, considering it:

- Arbitrary
- Inhuman
- Ineffective as a deterrent

India, however, retains it for exceptional cases while restricting its application.

Should the Death Penalty Be Abolished?

From a **criminological perspective**, the trend is clearly towards **limiting and questioning** capital punishment rather than expanding it.

Key Observations:

- Deterrence is unproven
- Risk of miscarriage of justice exists

- Reformatory justice aligns better with constitutional values
- Life imprisonment can protect society without taking life

However, given India's social realities, courts still believe total abolition may be premature.

Case	Year	Key Holding
Bachan Singh v. State of Punjab	1980	Introduced "rarest of rare" doctrine
Machhi Singh v. State of Punjab	1983	Laid down detailed sentencing guidelines
Ravji v. State of Rajasthan	1996	Crime-centric reasoning; later criticized
Santosh Kumar Bariyar v. State of Maharashtra	2009	Warned against arbitrary sentencing
Shatrughan Chauhan v. Union of India	2014	Delay in execution = ground for commutation
Mukesh & Anr. v. State (Nirbhaya Case)	2017	Death penalty upheld for brutal gang rape
Manoj v. State of Madhya Pradesh	2022	Mandated psychological evaluation, mitigating factors

Conclusion

Capital punishment in India represents a **constant tension between deterrence and human dignity**. While the law permits death penalty, the judiciary applies it with extreme caution.

For criminology students, this debate highlights an important truth: **criminal law is not just about punishment, but about values, morality, and social justice**.

The future of death penalty in India may not lie in frequent executions, but in **gradual movement towards abolition through judicial restraint and reformatory thinking**.

References (Landmark Cases)

1. *Bachan Singh v. State of Punjab*, AIR 1980 SC 898
2. *Machhi Singh v. State of Punjab*, AIR 1983 SC 957
3. *Mukesh v. State (NCT of Delhi)*, (2017) 6 SCC 1
4. *Santosh Kumar Bariyar v. State of Maharashtra*, (2009) 6 SCC 498
5. *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1
6. *Manoj v. State of Madhya Pradesh*, (2022) 3 SCC 1

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Visit Blog: [Dr. Ganesh Visavale's Webpage](#)

LinkedIn: <https://www.linkedin.com/in/ganeshvisavale/>

Contact: ganeshvisavale@gmail.com