

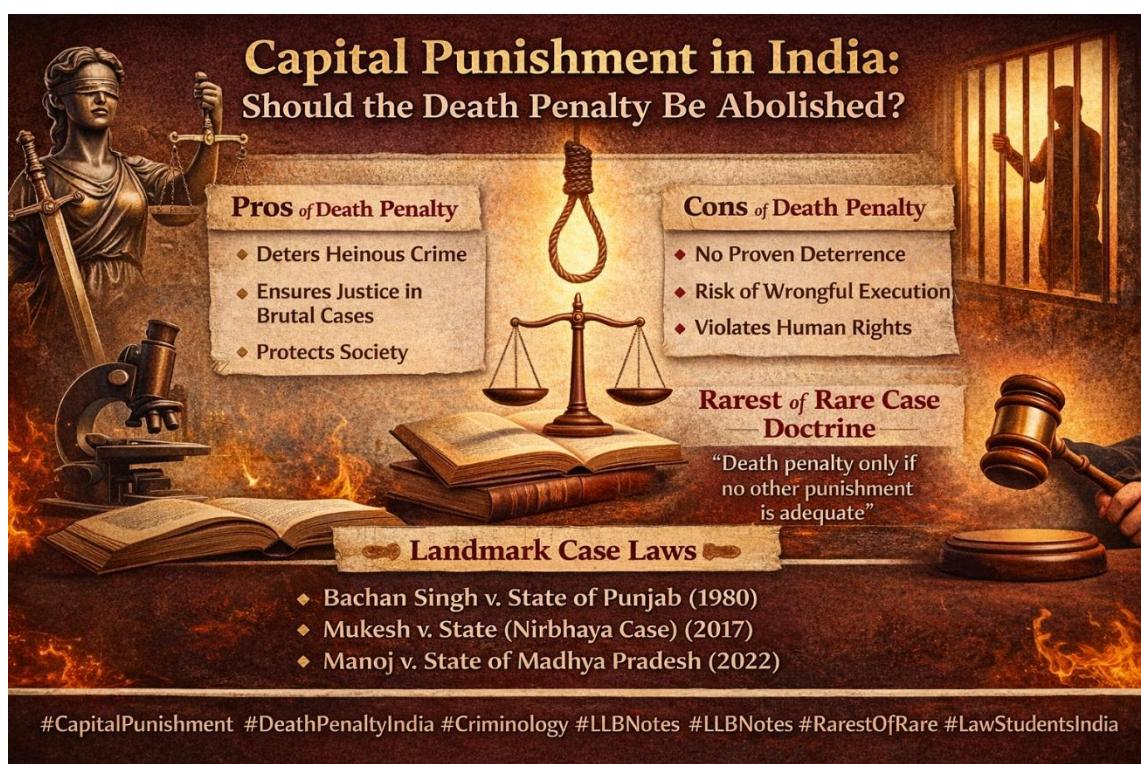
# CAPITAL PUNISHMENT IN INDIA: SHOULD THE DEATH PENALTY BE ABOLISHED?

## 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. Reformative 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

- Reformative 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
<b>Bachan Singh v. State of Punjab</b>	1980	Introduced “rarest of rare” doctrine
<b>Machhi Singh v. State of Punjab</b>	1983	Laid down detailed sentencing guidelines
<b>Ravji v. State of Rajasthan</b>	1996	Crime-centric reasoning; later criticized
<b>Santosh Kumar Bariyar v. State of Maharashtra</b>	2009	Warned against arbitrary sentencing
<b>Shatrughan Chauhan v. Union of India</b>	2014	Delay in execution = ground for commutation
<b>Mukesh &amp; Anr. v. State (Nirbhaya Case)</b>	2017	Death penalty upheld for brutal gang rape
<b>Manoj v. State of Madhya Pradesh</b>	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 reformative 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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