

## Abolishing capital punishment in India - II

Click [here](#) to know more on the issue.

\n\n

### What are the reasons provided for its retention in India?

\n\n

\n

- The usefulness of a capital punishment lies in – serving as potential deterrent and achieving retributive justice.

\n

- Retributive justice holds that the best response to a crime is a punishment proportional to the offense inflicted, because the offender deserves the punishment rather than rehabilitation.

\n

- However, with its raising usage, the UN General Assembly passed a resolution in 2007 calling for a moratorium on the administration of the death penalty by the 59 countries that still retained it.

\n

- India is one of them, even if it does not employ it as frequently as countries such as Iran, China, Pakistan, Saudi Arabia, and the U.S.

\n

- The Law Commission of India in its 35th Report called for the retention of death penalty, which was subsequently expressed in its recent 262nd Report.

\n

- The commission did not go for its absolute abolition and the major reason for an exception to abolition was attributed to the cases of terror.

\n

- It noted that cases of violent terror are constant reminders of the need to protect national stability by ensuring appropriate responses to such actions.

\n

- Hence the death penalty forms part of the national response.

\n

- However, in 1980, the SC articulated the “rarest of rare” threshold stating that death must only be imposed where the alternative option is unquestionably foreclosed in **Bachan Singh v. State of Punjab** case.

\n

\n\n

## What are the problems in its implementation?

\n\n

- \n
  - The recent Death Penalty India Report indicates that the structural flaws in our criminal procedure and criminal justice system are most pronounced in death penalty cases.
  - \n
  - Between January 1, 2000 and June 31, 2015, the Supreme Court imposed 60 death sentences and it subsequently admitted that it had erred in 15 of them (25%).
  - \n
  - Due to biases in criminal investigations, the marginalised people are disproportionately subject to the death penalty.
  - \n
  - India also retains the death penalty as an option for **non-homicide offences**, where the offence doesn't involve killing another human being or an action that leads to the death of a person.
  - \n
  - For example, the SC in 2015 upheld constitutional validity of Section 364A of IPC making kidnapping for ransom an offence punishable by even death sentence in **Vikram Singh @ Vicky & Anr vs Union of India** case.
  - \n
  - The criminal law(Amendment) [Bill](#), 2018 also provides for death penalty as maximum punishment for those who rape minor girls under age 12.
  - \n
  - Also, the punishment itself is seen to be a reflection of societal mores.
  - \n
  - Only certain cases which shook the conscience of the entire society get higher demand for capital punishment, even when there are such similar cases happening at the same time.
  - \n
  - This is reflective in the fact that in the last 13 years, only four people have been executed.
  - \n
  - Finally, there is no study to show that the death penalty deters murder more than life imprisonment.
  - \n

\n\n

## What should be done?

\n\n

\n

- India's murder rate has declined continuously since 1991 and is at present the lowest in our recorded history except for 1963.  
\n
- Studies show that a more equal sex ratio paved the way for declining murder rates than capital punishments.  
\n
- Though Law Commission called for abolition of the death penalty for ordinary crimes, activists continue to argue for abolishing it altogether.  
\n
- Abolishing the death penalty will also save on the protracted litigation that death cases involve.  
\n
- Thus, it is time for the Supreme Court to decide whether the absence of political will for the abolition is sufficient ground to override the right to life guaranteed under Article 21.  
\n

\n\n

\n\n

**Source: The Hindu**

\n

