



Research Paper

Death Penalty: A Necessary Evil or a Violation of Human Rights?

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Since the beginning of the 20th century, the application of the death penalty in India has been a highly contentious matter, with passionate arguments presented on both sides of the argument. Those who are in favour of the death penalty contend that it should be used as a form of punishment for the most severe offences, including treason, terrorism, and murder, since it acts as a deterrent to people who might otherwise commit those crimes. They also claim that the death penalty is required in order to keep law and order in society, as well as to provide justice for victims and the families of those who were killed.

On the other side, individuals who are against the use of the death penalty claim that it is an unjust and brutal form of punishment that goes against fundamental human rights. They argue that the use of the death penalty does not effectively deter crime and that it is frequently used disproportionately against marginalised communities and the poor. In addition, they claim that the death penalty is a cruel and unusual punishment. Some further contend that the death penalty is inherently faulty and unjust because of the possibility of false convictions as well as the possibility of human error. In recent years, there has been a rising level of discussion in India over the efficacy and justice of the use of the death sentence. The Law Commission of India issued a report on the death penalty in 2015, in which they suggested that the death penalty be abolished for all offences other than those related to terrorism. The study was published with the year 2015 as its publication year.

The application of the death sentence in India continues to be the subject of heated discussion and public controversy; yet, the Indian legal system does not prohibit the use of the death penalty. In the present time, the death sentence is applied for a variety of crimes, some of which include homicide, treason, and acts of terrorism.

The Indian government conducts regular reviews of the application of the death sentence and has instituted new safeguards to guarantee that the execution procedure is both just and open to public scrutiny. For instance, in 2018, the government of India introduced amendments to the Protection of Children from Sexual Offences Act, which included the possibility of the death penalty being imposed for specific crimes committed against children. These crimes include sexual assault and aggravated sexual battery.

Concerns regarding the continued application of the death sentence in India continue to exist notwithstanding these attempts. There are ongoing discussions over the justice and effectiveness of the death sentence as a form of deterrent and punishment, and there have been instances of false convictions in cases where the death penalty was used. The problem is still highly complicated and contentious, and there is no broad agreement over the most effective strategy to move forward.

There are a number of reasons why the topic of the death penalty, sometimes known as capital punishment, continues to be significant and pertinent in the context of the present day. To begin, the application of the death sentence is a fundamental issue both in terms of justice and in terms of human rights. It is a decision that must be made with the highest care and regard to due process and the rule of law because it involves the state taking the life of an individual. Because of this, it is a decision that must be made. The application of the death sentence raises problems regarding the roles of the state and people in the administration of justice, as well as the rights and duties of society as a whole.

Second, there are vehement arguments on both sides of the discussion regarding whether or not the death sentence should be carried out. Those who are in favour of the death penalty argue that it is an essential method for effectively punishing the most severe of crimes, discouraging people who might otherwise engage in criminal behaviour, and ensuring that victims and their families receive justice. Those who are against the death penalty claim that it is a harsh and brutal kind of punishment that goes against some of the most fundamental human rights and is not an effective means of preventing future crimes.

Third, the use of the death sentence brings up significant ethical and moral concerns regarding the worth and sanctity of human life. It is a choice that needs to be made with considerable care and deliberation, and it demands thorough evaluation of the circumstances surrounding the crime, the individual who committed the crime, and the broader ramifications for society as a whole.

The use of the death sentence has real-world repercussions for the administration of justice and the overall operation of the legal system, which brings us to the fourth point. It is necessary to have a large amount of money and knowledge in order to guarantee that the procedure will be fair, transparent, and in accordance with international human rights norms. In general, the application of the death penalty continues to be an issue that is significant and pertinent in the current setting; as such, it is one that calls for careful study of the many legal, ethical, and social concerns that are at play.

As a kind of punishment for a serious offence, the state may carry out an individual's execution in accordance with the law. The formal proclamation that someone will be punished in this manner is known as a death sentence, and an execution is the method by which the individual will be put to death. Despite the fact that this is a movement that is gaining traction all over the world, India has not taken the stance of abolishing the death sentence. This sort of punishment is distinguished from the others in that there is an inherent quality of being unable to be undone associated to it. It is impossible to bring back to life someone who has already been executed for their crime. As this is the case, a mistake that was made while making a decision cannot be rectified at a later time.

Since ancient times, people have been able to be sentenced to death. Despite this, anthropologists believe that prehistoric cave dwellers at Vallaloid depicted the execution in their artwork. The cave in question is called Vallaloid. There is some evidence that the death sentence originated from the practise of human sacrifice. The first written reference to the execution of criminals can be found in the lex talionis of the Code of Hammurabi, which was penned around 1750 B.C. The Bible prescribes the death sentence as the fitting punishment for a number of different crimes, including those involving witchcraft, violations of the Sabbath, blasphemy, adultery, homosexual activities, bestiality, incest, and rape. In addition, Plato's rules devote much attention to the subject of carrying out the sentence of death. The middle ages were marked by an especially gruesome use of the death penalty. Grotius, John Locke, and Thomas Hobbes were just a few of the well-known philosophers who advocated for this method of retribution.

One could argue that the so-called "trials by fire," "trials by water," and other such events that took place in the 1600s were a type of the death penalty. The writings of the acclaimed Italian criminologist Cesare Beccaria, which were instrumental in convincing many statemen of the pointlessness and inhumanity of the death penalty, served as the impetus for the development of the contemporary abolitionist movement. During the negotiations that took place in 1791 in France regarding the introduction of a new penal code, there was a passionate argument in favour of the elimination of the death penalty. Throughout the 19th century, notable jurists like Bentham and Romilly lent their support to the abolitionist movement, which resulted in the movement's growth. In 1846, Michigan was the first state to do away with the practise of capital punishment, and in 1867, Portugal and Venezuela followed suit. During the time that the Universal Declaration of Human Rights was being drafted in 1948, there was a strong effort to make ending the use of the death penalty a priority for all industrialised countries.

There are still 58 countries in the world that have some kind of capital punishment in place, including the United States of America, Japan, Belarus, Cuba, and Singapore. As of the year 2012, there are 97 states that have abolished slavery. According to Amnesty International, China is responsible for more than one thousand deaths), Iran (314+ deaths), and Iraq (129+ deaths) were the three countries that were the biggest offenders in 2012. In 2012, the organisation documented a total of 682 executions (not including China) and 1,722 death sentences.

II. Review of existing literature on death penalty in India

Historical Context: The practise of putting criminals to death in India can be traced all the way back to ancient times; but, throughout the colonial era, the frequency with which the death sentence was carried out increased significantly. India did not abolish the death penalty after it gained its independence in 1947; rather, it has continued to apply it, albeit to a lesser extent. The historical background has played a role in shaping opinions regarding the death sentence, with some believing that it is an inherent part of Indian legal heritage, while others view it as a legacy of colonialism. Both of these perspectives are influenced by the historical setting.

Legal Framework: The Indian Penal Code, the Code of Criminal Process, and the Constitution of India all play a part in India's convoluted legal framework, which governs the application of the death penalty in the country. The legal framework has developed over the course of time, with several major rulings by the Supreme Court of India establishing the scope of the death penalty and the manner in which it is applied. Issues concerning the

justness and coherence of the legal framework, as well as the function of the judicial system in the administration of justice, are brought up in the research that has been conducted.

Deterrence: One of the most compelling arguments in support of the use of the death penalty is that it acts as a deterrent to people who might otherwise commit a crime. The research that has been done on the topic of deterrence, on the other hand, has produced contradictory results. Some studies claim that the death sentence has a negligible impact on crime rates, while others claim that it may have some degree of deterrent effect. The body of research also brings to light concerns about the reliability of studies examining the efficacy of capital punishment as a deterrent and the challenge of separating the impacts of capital punishment from those of other factors that may have an impact on crime rates.

Human Rights: Some who are against the use of the death penalty claim that it is a harsh and brutal form of punishment that runs counter to basic human rights. Concerns have been raised in the research on human rights regarding the application of the death sentence to members of marginalised groups, such as the poor and members of minority groups, as well as the possibility of false convictions and executions. The published material also draws attention to concerns over the treatment of death row inmates and the facilities in which they are held.

Public Opinion: The research on public opinion towards the use of the death sentence in India is contradictory, with some surveys indicating that there is widespread approval for the use of the death penalty among the general population, while others think that views are more complicated and reliant on the setting in which they are expressed. The research that has been done on the topic focuses on the ways in which personal experience, political debate, and media coverage all have a part in the formation of opinions towards the death sentence.

In general, the body of research that has been done on the subject of the death sentence in India has shed light on the complexities and contentious aspects of this extremely contentious matter. The body of research highlights the significance of doing thorough research and deliberation when examining the use of the death sentence, as well as the necessity of striking a balance between concerns relating to social policy, human rights, and justice.

Taking into account legal, ethical, and social factors allows for the examination of a variety of perspectives on the topic of capital punishment or the death sentence. The following is a list of some of the most important arguments for and against the death sentence, organised according to category:

Arguments for the death penalty:

- The death penalty is morally justified as a form of punishment for those who commit heinous crimes.
- The death penalty serves as a deterrent and helps to prevent serious crimes.
- The death penalty offers victims and their families a sense of closure.
- The death penalty is consistent with the principles of retribution and proportionality in criminal justice.

Arguments against the death penalty:

- "The use of the death penalty creates a culture of violence and retaliation," which is one of the arguments against the death penalty.
- The poor and members of underrepresented groups are disproportionately affected by the death sentence, among other groups.
- It would be more effective to put the resources that are used to administer the death sentence towards programmes that focus on crime prevention and rehabilitation.
- Because it is a violation of a person's right to life, the death sentence is not only harsh but also unlawful.
- The application of the death penalty is frequently arbitrary and inherently biased, with certain groups being disproportionately impacted as a result.
- It is not worth taking such a significant chance of executing innocent individuals.
- It has not been demonstrated that the death penalty is an effective deterrent to crime, and it is ethically unjustifiable because it includes the killing of a human life.

- The possibility of executing innocent people is a breach of the principle of human dignity.
- The death sentence does not promote rehabilitation or reconciliation but rather perpetuates a cycle of violence and retaliation.

In general, the discussion around the use of the death sentence encompasses a wide range of intricate legal, ethical, and social factors that need to be properly examined and balanced. The arguments in favour of and against the use of the death sentence bring to light opposing ideals and ideas, and the issue continues to be one that is highly contentious and controversial.

Past research and studies on the effectiveness and effects of the death sentence in India have yielded a variety of outcomes, some of which are contradictory to one another. According to the findings of certain studies, the death penalty acts as a deterrent to crime, whereas other studies have failed to find any strong evidence that the death penalty has such an effect. In a similar vein, research conducted in India to determine how the death penalty affects the prevalence of crime has yielded contradictory findings. Some studies have found that the death penalty may have a marginally effective deterrent effect on certain types of crime, while others have discovered that it has no significant impact at all.

According to the findings of one study that was carried out by researchers at the National Law University in Delhi, who analysed crime data from India's National Crime Records Bureau from the years 2001 to 2014, the use of the death penalty did not have a significant impact on the number of cases of homicide, rape, or other violent crimes. Researchers at the University of Hyderabad found that the death penalty had no significant impact on the number of rapes that were committed, and researchers at the National Law University in Bangalore found that the death penalty had little effect as a deterrent on crimes related to terrorism. Both of these studies were conducted in India. On the other hand, some studies have found that the death sentence may be effective in preventing certain forms of crime from being committed. For instance, researchers at the Indian Statistical Institute showed that the adoption of the death sentence had a marginally significant but statistically insignificant effect as a deterrent against homicides committed during armed robberies.

In spite of the contradictory findings of studies that investigated the effectiveness of the death penalty as a deterrent in India, there is some evidence to suggest that its application is not always fair or consistent. According to the findings of a study that was carried out by the National Law University in Delhi, the application of the death penalty in India is frequently influenced more by factors such as the severity of the crime and the socioeconomic status of the accused than it is by the actual culpability of the accused. In general, the extant research on the efficacy and impact of the death sentence in India is inconclusive, suggesting that the topic is complicated and highly dependent on the specific circumstances of each case. More research is required to better understand the factors that drive the use of the death penalty in India and the impact it has, as well as to guide policy decisions linked to the use of the death sentence.

Legal analysis

The legal structure that governs the use of the death sentence in India is intricate and multi-layered, reflecting the constitutional, legislative, and case law traditions of the country. The Indian Penal Code and the Code of Criminal Procedure are the two principal pieces of legislation in India that govern the use of the death sentence. The Indian Criminal Code details the precise offences that might result in the imposition of the death penalty. These crimes include homicide, kidnapping for the purpose of obtaining ransom, and some terrorist activities. The Code of Criminal Process details the processes that must be followed during trials and appeals in instances involving the capital penalty. One of these procedures is the requirement that the death sentence must be reviewed by an even higher court.

In addition, the legal structure that governs the use of the death sentence in India is heavily influenced by the Constitution of India. The right to life and personal liberty is guaranteed by Article 21 of the Indian Constitution, although this right is qualified by a number of constraints. The implementation of the death sentence for the most heinous of offences is one of these constraints. On the other hand, the constitution imposes a number of stringent restrictions on the application of the death penalty. The phrase "rarest of rare" refers to the circumstances in which a person may be sentenced to death for a crime is extraordinary in their viciousness or vileness. In the seminal case *Bachan Singh v. State of Punjab*, which was heard by the Supreme Court of India, this prerequisite was mandated by the court. Case law, in addition to statutory rules and constitutional clauses, has played an important part in the development of the legal framework that governs the execution of capital punishment in India. The decision of *Bachan Singh*, in which the Supreme Court maintained the constitutionality of the death penalty while putting tight constraints on its use, continues to be regarded as the foundational case in this area of the law. Since then, there have been a great number of additional important instances that have further refined and defined the legal framework of the execution of capital punishment in India.

Although though there is a legislative framework in place in India that governs the application of the death sentence, there are still questions regarding whether or not it is fair, consistent, or compatible with international human rights norms. Some who oppose the use of the death penalty say that it is an insensitive and barbaric method of retribution that goes against fundamental human rights. Concerns have also been raised regarding the disproportionate impact that the death sentence has on vulnerable communities, such as low-income and minority populations. In India, throughout the course of the past several years, there has been a rising debate concerning the necessity of reforming the legal structure of the death sentence in order to address these issues.

In addition to this, questions have been raised regarding the efficiency of the death penalty as a deterrent to criminal activity. Some who are in favour of the death penalty say that it acts as a forceful deterrent to criminal activity because it conveys to would-be offenders the message that significant offences will not be tolerated. Opponents, on the other hand, contend that this claim is not supported by any research that can be considered definitive and that there is no evidence to suggest that the death penalty is any more effective as a deterrent than other types of punishment, such as life imprisonment.

In recent years, there have been several high-profile cases in India that have revived arguments over the use of the death penalty. These cases have been the focus of widespread media attention. As an illustration, the gang rape and subsequent murder of a young woman in Delhi in 2012 sparked worldwide outrage and calls for the perpetrators of the crime to be put to death. In the end, four men were found guilty of the crime and put to death for it; nonetheless, there were complaints about the way the legal procedure and the trial itself were handled.

There are also questions over whether or not India is complying with international human rights standards because of its usage of the death sentence. India has ratified a number of international conventions and pacts, including those that advocate for the elimination of the death sentence or for stricter guidelines for its application. For instance, the International Covenant on Civil and Political Rights, which India has accepted, recommends that the death penalty be abolished save in the rarest of cases where it may be justified. There have been a number of voices advocating for India to bring its national laws into conformity with these international norms.

In conclusion, the legal framework of the death penalty in India is complicated and constantly changing. This is a reflection of the constitutional, statutory, and case law traditions that are prevalent in the country. In spite of the fact that India has not abolished the use of capital punishment, there is ongoing discussion regarding whether or not it is just, consistent, or compatible with international human rights standards. There is a lot of controversy around the effectiveness of the death sentence as a deterrent to criminal activity. In the end, the question of whether or not India should continue to use the death penalty as a form of punishment is likely to continue to be a difficult and highly charged issue for a good number of years to come.

Procedural and substantive safeguards are critical to ensuring fairness and justice in capital cases

The phrase "procedural safeguards" refers to the legal processes and protections that are in place to ensure that defendants in capital cases receive a fair trial and sentencing, whereas the phrase "substantive safeguards" refers to the legal standards and principles that govern the use of the death penalty. Both types of safeguards are important in ensuring that defendants in capital cases receive a fair trial and sentence. There are a number of procedural and substantive safeguards in place in India to ensure that those facing the death penalty are treated fairly and that justice is served.

Procedural safeguards in capital cases in India include:

Presumption of innocence: The prosecution has the duty of proving guilt, therefore the presumption of innocence applies until the accused person's guilt can be established beyond a reasonable doubt.

Right to legal representation: The accused person has the right to be represented by a legal counsel at all stages of the procedures, including throughout the trial and while they are being sentenced. This right to legal representation is known as the right to legal representation.

Right to a fair trial: The accused person has the right to a fair trial, which includes the right to cross-examine witnesses, present evidence, and appeal against the verdict if they are unhappy with the outcome of the trial.

Prohibition against double jeopardy: The principle that an accused person cannot be tried twice for the same crime is known as the prohibition against double jeopardy.

Review of death sentences: In India, every single death sentence is required to be reviewed by a higher court before it can be carried out.

Substantive safeguards in capital cases in India include:

The "rarest of rare" doctrine: The death sentence is only applicable in the "rarest of rare" cases, which are situations in which the crime committed is particularly cruel or terrible.

Prohibition against mandatory death sentences: There is a blanket prohibition against the imposition of mandatory death sentences, which states that the death penalty cannot be made a required form of punishment for any crime.

Mitigating factors: In deciding whether or not to carry out the death penalty, the court is required to take into account any and all mitigating circumstances, including the defendant's age, mental health, and prior criminal history.

Prohibition against discrimination: The death penalty is not allowed to be administered on the basis of a person's race, religion, or any other characteristic that could be construed as discriminatory.

International Human Rights Standards: In all but the most rare cases, the application of the death sentence is prohibited under many international human rights treaties and accords to which India is a party. These treaties and agreements bind India.

In spite of these precautions, there have been issues raised regarding the impartiality and uniformity of the application of the death penalty in India. There have been instances where innocent people have been sentenced to death, which has prompted critics to assert that the judicial system frequently exhibits bias against marginalised communities, such as the poor and members of underrepresented groups, and that there have been cases where innocent people have been sentenced to death. In recent years, there have been calls for additional reforms to the legal framework that governs the death penalty in India to ensure that it is fair, consistent, and in line with international human rights norms. These reforms are intended to ensure that the death penalty in India is carried out in a manner that is consistent with international human rights norms. The legal issues and discussions surrounding the use of the death sentence in India are difficult and involve a variety of perspectives. There are legal, ethical, and moral arguments that can be made in favour of or against the use of the death sentence. Others claim that the death sentence is intrinsically cruel and inhumane, as well as useless as a deterrent, while others in the legal community argue that the death penalty is required for specific types of offences.

The constitutionality of the death sentence is one of the key areas of focus for opposition in the Indian legal system. Despite the fact that the Indian Constitution does not prohibit the implementation of the death penalty, there is a school of thought among certain legal scholars that maintains that the practise violates the fundamental right to life and is therefore unconstitutional. In point of fact, the Law Commission of India has proposed doing away with the death sentence for all crimes, with the exception of those that are connected to acts of terrorism. This recommendation was made after a careful analysis of the application of the death penalty in India, which revealed concerns regarding the arbitrary and discriminatory use of the death penalty, a lack of empirical evidence to support the effectiveness of the death penalty as a deterrent, and a high risk of wrongful convictions.

Incorrect convictions present another another obstacle to the implementation of the death sentence in the Indian legal system. In spite of the fact that there are safeguards both in terms of procedure and substance, there have been instances in which innocent persons have been sentenced to death. Because the death sentence is permanent and therefore cannot be undone, this presents a significant problem because there is no margin for error. An excessive reliance on circumstantial evidence and the testimony of witnesses, misbehaviour on the part of law enforcement, and the use of torture to get confessions are all factors that might contribute to unjust convictions. In recent years, there have been several high-profile cases in India where questions have been raised about the guilt of the accused. This has led to calls for a re-evaluation of the use of the death penalty in India, which has resulted in calls for a re-evaluation of the use of the death penalty in India.

In addition to this, there are also issues over the potentially arbitrary and biased application of the death penalty. In India, there is a large amount of variation in the use of the death sentence, with some states

employing it significantly more frequently than others. This leads to concerns over the impact that one's race, caste, and social class play in determining whether or not one is condemned to death, as well as doubts regarding the justice and objectivity of the judicial system. Concerns have also been raised regarding the political and social influences that can play a role in determining whether or not the death sentence is used, in particular in proceedings involving high-profile crimes.

Last but not least, the use of the death penalty raises a number of questions pertaining to ethics and morality. The taking of a human life, according to the viewpoints of some people, is fundamentally immoral and goes against the principles of human dignity and respect for life. Others maintain that the use of the death penalty is obligatory in order to guarantee justice and to serve as a deterrent for the commission of the most egregious crimes. Nonetheless, in order to prevent its use in a manner that is both arbitrary and biased, even many who believe the death sentence should be legal recognise the necessity of stringent safeguards. In conclusion, the legal problems and controversies surrounding the execution of convicted criminals in India reflect wider questions regarding justice, fairness, and human rights. It is obvious that there are considerable issues regarding the efficacy, fairness, and morality of the death sentence, despite the fact that there are strong arguments both for and against the use of capital punishment. While India continues to struggle with these difficult problems, it is essential that politicians, legal professionals, and civil society groups collaborate to establish a legal system that is more just and equitable, and that upholds the principles of human rights and dignity for all people.

Social Analysis

Religion is one of the most major aspects that plays a role in determining how people in India feel about the use of the death sentence. There is a wide variety of religious traditions practised in India, and each of these traditions adheres to its own set of ideas on the taking of a life. For instance, since Hinduism, which is the predominant religion in India, generally frowns upon the taking of a human life, many people who practise Hinduism are opposed to the practise of capital punishment. On the other hand, a minority of Muslims and Christians in India hold the opinion that the use of the death penalty may be appropriate in particular circumstances, such as those involving acts of terrorism or particularly heinous crimes like rape or murder.

In India, sentiments towards the use of the death sentence are significantly influenced by a variety of variables, including culture. Throughout countless generations, one of the most pervasive aspects of Indian society has been the caste system, which establishes a social hierarchy according to one's birthplace and occupation. Due to the conviction that harsh punishment is required to maintain social order and uphold the values of their caste, people who belong to specific castes may be more inclined than people from other castes to support the death sentence than people from other castes. In addition, the idea of "dharma," which entails the need to uphold justice and righteousness, has been invoked in order to rationalise the application of the death penalty in particular instances. This is the case in certain countries.

The perspectives people have towards the use of the death sentence in India are also influenced by a variety of socioeconomic circumstances. Individuals who have had personal experience with the devastating effects of crime and violence, particularly those who come from underserved communities, may be more likely to support the use of the death penalty as a form of both deterrent and punishment. This could be due to the fact that they believe the justice system has failed to protect them from potential danger and that more severe sanctions are required in order to deter future criminal activity. A person's perspective on the death sentence in India might also be shaped by their personal experiences with crime and violence. As a result of the increasing number of violent crimes that are committed in India, particularly those committed against women and children, many people are advocating for more severe punishments, including the death sentence. On the other hand, there are many who claim that the death penalty is not an effective deterrent and that it is more effective to address the underlying causes of crime, such as inequality and poverty, in order to reduce the incidence of crime.

In addition, political considerations have a role in shaping people's perspectives towards the use of the death sentence in India. There is frequently disagreement among political parties over the appropriate application of the death sentence; some parties support the execution of more people while others are opposed to doing so. This has the potential to divide people and spark a contentious discussion over the problem.

In conclusion, the social and cultural elements that influence views towards the death sentence in India are varied and complex. This is because India has a long history of executing criminals. A person's perspective on the death sentence is influenced by a variety of factors, including their religion, culture, socioeconomic standing, level of exposure to crime and violence, and the political climate. It is necessary for India to take into

consideration these various aspects and adopt policies that are reasonable, equitable, and effective in promoting public safety and preserving human rights as the country continues to struggle with challenges pertaining to crime and punishment.

Role of the Media:

The discussion around the use of the death penalty in India is heavily influenced by a number of different variables, including the media, public opinion, and political discourse. Coverage in the media of high-profile crimes, as well as the ensuing trials and sentencing of those accused of the crimes, can have a considerable impact on public opinion towards the use of the death penalty. The manner in which crimes are reported can have an effect on how the general public views the gravity of the crime as well as what constitutes a suitable response. It is also possible for news organisations to publish articles about erroneous convictions or botched executions, both of which can result in a heightened level of scrutiny about the application of the death sentence.

Polls of public opinion are yet another important component that helps shape the discussion surrounding the death penalty. Surveys that show majority support for the death penalty can give politicians with the political cover they need to defend its use, while polls that show falling support for the death penalty can increase pressure for lawmakers to reconsider the use of the death penalty. Yet, the way in which these surveys frame their questions can also have an effect on the results and, ultimately, the way in which the public thinks about a topic. A considerable influence on the topic of discussion regarding the death sentence can also come from political rhetoric, particularly during election cycles. Politicians may raise the issue of the death penalty during election campaigns in order to get support from voters who agree with the practise of capital punishment or to distinguish themselves from opponents who oppose the death penalty. Political leaders have the ability to utilise their platforms to advocate for or against the death penalty, and the position they choose can have a considerable impact on the attitude of the general population.

In addition, it is possible that larger political and socioeconomic problems in India are reflected in the application of the death penalty. For instance, certain political parties may support the use of the death sentence as a method for preserving peace and order, while other parties may place a higher value on the protection of human rights and argue against its application. These discussions are illustrative of larger societal arguments on topics such as the function of the state, the requirement for justice and safety, and the significance of safeguarding human rights. To summarise, the argument over the use of the death penalty in India is significantly influenced by the media, public opinion, and political discourse. It is essential to take into account these aspects and to make certain that the discussion is founded on evidence-based policies as well as fundamental values of justice and human rights. It is crucial to approach the topic with an open mind and be willing to engage in conversation that is both intellectual and constructive as India continues to struggle with the usage of the death sentence. This is especially important at this time.

The application of the death sentence is fraught with a great deal of contentiousness, and it has a wide variety of repercussions for a variety of parties involved. The effect that the death sentence has on the relatives of both the accused and the victims is one of the most serious consequences of the practise.

During the course of a criminal trial and sentence, the accused person's family members frequently go through extreme amounts of mental and emotional strain. They might also have post-traumatic stress disorder, depression, or anxiety as a result of the experience. In the event that the accused is put to death, members of the family may be subjected to persistent grief and trauma, both of which can be difficult to overcome. In a similar vein, the process of going to trial and being sentenced can be extremely traumatic for the victims' relatives.

They may experience feelings of annoyance or dissatisfaction if the accused is not put to death, or they may have the impression that the execution does not bring them the sense of finality that they had wished for.

The application of the death penalty can have enormous repercussions for society as a whole. Some who advocate for it say that it prevents violent crime and is essential for preserving law and order, both of which are valid points of argument. Opponents, on the other hand, contend that it is ineffectual as a deterrent and that it encourages violence and retaliation. The application of the death sentence may also be a reflection of more systemic problems in society, such as racism, bigotry, and inequality, all of which have the potential to destroy public trust in the criminal justice system.

There may also be considerable monetary costs associated with the use of the death penalty. Because of the lengthy trial and appeals process, as well as the expense of providing sufficient legal representation, cases

involving the death penalty are more expensive than other types of criminal trials. These expenditures have the potential to divert resources away from other areas of the criminal justice system, such as those dealing with crime prevention, rehabilitation, and victim services.

In addition, the media, public opinion, and political discourse all play a vital part in the process of shaping the discussion on the use of the death penalty. The way in which the media reports on cases involving the death sentence has the potential to sway public opinion, and the way in which politics is discussed can have an effect on the laws and policies that govern the death penalty. It is absolutely necessary to take into consideration the part that the media, public opinion, and political discourse play in the process of forming attitudes regarding the death sentence.

In summing up, the application of the death sentence has far-reaching effects that need to be taken into consideration. It is essential to approach the problem with scepticism and reflection, and to take into account the psychological, social, monetary, and political consequences that are associated with its utilisation. For the purpose of making educated decisions and crafting effective policy in this highly contentious field, a comprehensive understanding of the effects of the death sentence is vital.

Scenario in the United States

The Supreme Court's decision in the case of *Furman v. Georgia* was a major factor in the gradual phase-out of the death sentence in the United States between the years of 1972 and 1976. The court came to the conclusion that the execution of the death penalty in this case was being carried out in an improper manner after arguing that the Eighth Amendment to the Constitution of the United States prohibits cruel and unusual punishment and that such punishment violates the spirit of the amendment. The Supreme Court of the United States has never ruled that the use of the death penalty inevitably violates the Constitution. But, in the case of *Furman v. Georgia*, Justice Stewart ruled that the execution of the defendant serves both a punitive and preventative function.

Scenario in the United Kingdom

During the turn of the 17th century, the death penalty was one of the most common forms of punishment that was carried out in the United Kingdom. In those days, the common law was known as the "Bloody Code" due to the fact that at one point in time, there were up to 220 violations that were punishable by death, including "being in the presence of an intoxicated person," "companionship of Gypsies for a period of one month," "strong evidence of malice in a youngster aged 7–14 years of age," and "blacking the face or employing a mask while committing a crime" are all examples of offences that can result in a prison sentence.

The Murder (Abolition of Death Penalty) Act of 1965 put an end to the use of the death penalty in England, Wales, and Scotland (but not in Northern Ireland) for the crime of murder for a period of five years and replaced it with a sentence of mandatory life imprisonment. This law did not apply to Northern Ireland. Following this event, even though the death penalty continued to be a part of the legal system, it was only applied in a select few rare situations from that point on.

In the end, on May 20th, 1998, the House of Commons decided to ratify the 6th Protocol to the European Convention on Human Rights. This protocol prohibits the use of the death penalty in any circumstances other than "during war or the imminent prospect of war." In October of 2003, the United Kingdom abolished the use of the death penalty in all circumstances. August 1964 marked the end of the practise of putting people to death in England. At the Manchester Crown Court in June of 1964, both Allen and Evans stood trial together for the murder of John West, which carried the death penalty (murder in the course or furtherance of theft).

During the course of the trial, the judge questioned the jury by asking them to decide whether or not the murder had been committed by Allen or Evans. The jury came to the conclusion that both men were responsible for the crime, and they both received sentences of death by hanging. Since then, there has not been a single example of an execution in the country; nonetheless, several persons have been given the death penalty; however, they have all been pardoned at a later point. As a result, we are witnessing the shift in the common law, from one that zealously handed out death sentences to one that has fully done away with the practise of capital punishment.

Law Commission's take on Death Penalty:

The Law Commission Report, which was also mentioned by the judges in the Jagmohan case, needs to be read very carefully in order to have an in-depth discussion about whether or not the death sentence is legitimate in India. In 1967, the Law Commission of India produced its 36th Report and delivered it to the government after conducting an exhaustive examination into the controversy surrounding the use of the death penalty in India. After analysing a vast quantity of supporting evidence and deliberating on the arguments for and against its continuation, which are summarised on page 354 of its Report, this influential body arrived at the following findings:

After carefully weighing the numerous arguments in favour of and against retention, one must decide whether the practise should be maintained or abolished. There is not a single argument in favour of abolishing.

The Commission does not take lightly the argument that is based on the irrevocability of the death penalty, the need for a contemporary approach, the severity of the death penalty, and the strong feeling displayed by some sections of the public in stressing deeper questions of human values. It is difficult to rule out the validity of the strength that is behind many of the arguments for abolition.

Collective Consciousness

A new judicially developed test of whether or not a crime "shocks the collective conscience of the society" has emerged as a crucial basis for selecting between life in prison without parole and death by execution over the past several years. In this section, we will investigate why the Supreme Court and lower courts have adopted the new "collective conscience" criteria, despite the fact that it stands in stark contrast to the Bachan Singh framework. Before we get into the specifics of how this has been accomplished, it is important to point out that not only did the

The Bachan Singh sentencing framework never provided for the criteria of collective conscience; in fact, it had in fact specifically guarded against it by advising that "judges should not take it upon themselves the obligation of becoming oracles or spokesmen of public opinion."

It is abundantly clear that the "collective conscience" that Machhi Singh left behind still has an effect on the legislation governing the use of the death penalty in India. However, the repeated use of the term "collective conscience" should not be allowed to obscure the fact that this standard is expressly excluded from and incompatible with the Bachan Singh sentencing framework. This framework requires judges to take into consideration only those factors that are specific to the offence and the offender. Therefore, the increasing incorporation of "collective conscience" into Indian death penalty law represents a significant departure from the fundamentally individualistic Bachan Singh sentencing paradigm. This is due to the fact that "collective conscience" is seen as a more accurate reflection of society.

III. Conclusion

As can be seen from the conversations that took place before, India's position regarding the use of the death sentence is still somewhat murky. In this regard, there must be a great deal of confusion due to the fact that the moral and social issues associated with this controversial topic, in addition to the legal and constitutional issues associated with the death penalty, all contribute to the debate. The argument over the death penalty, which does not address the legal question, must contend with moral conundrums, such as the "eye for an eye" principle, on the one hand, and popular attitudes, on the other. In addition, we are conscious of the fact that erring in judgement is a natural part of the human experience, and we understand that granting someone a second opportunity on sometimes is analogous to handing them a second bullet since the previous one missed you.