

IS DEATH PENALTY A TERROR DETTERENT? AN OVERVIEW OF DEATH PENALTY IN INDIA

**** PRAJWAL CHAUHAN AND BHAVYA CHOUDHARY**

Death Penalty can be defined as the lawful infliction of death as a punishment for a wrongful act or crime. In this article, the scope and validity of death penalty or capital punishment in the context of the Indian judiciary shall be discussed. Firstly we look at the advent of death as a punishment for crimes and how it has evolved in several other judicial systems all over the world. Then importance has been given to the Indian context and the various statutes in India dealing with Capital Punishment. This shall be followed by a brief of some of the most famous and important cases relating to the subject matter decided by the Indian Courts. The aim of this article is to give a clear understanding of the position of the Indian courts in regard with awarding of capital punishment.

The death penalty is a legal process whereby a person is put to death by the state as a punishment for a crime. The judicial decree to punish someone in such a manner is known as capital punishment or death penalty, while the actual process of killing the person is known as execution. There has been a trend towards the abolition of capital punishment globally; however, India has not adopted this position. This form of punishment is different and is graver in nature from the others because of the obvious element of irreversibility being attached to it. A man once executed for a crime can never be brought back to life. So if any error has been there while deciding on a matter, this error cannot be rectified at a later stage.

In the recent past, many western countries have abolished this practice, considering it grossly in violation with human rights requirements. The U.K. and France have both completely abolished the system, after various succeeding abolitionist movements. The US, however, due to a fragmented judiciary, has differing opinions on the issue, varying state-by-state. The Federal US government, however, does use the death penalty, although only in extraordinary cases.

In India, the Bachan Singh case laid down the “extraordinary circumstances” which define whether or not death sentence was required in the said case. The grievousness of the cause of murder in itself is not a sufficient ground to pass capital punishment. The writer has gone into detail on the various technicalities and safeguards applied before awarding a death sentence.