

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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AN EXAMINATION OF DEATH PENALTY FROM A HUMAN RIGHTS PROSPECTIVE

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ABSTRACT:

This work looks into how India's laws and human rights concerns shape the use of execution. Laws tied to the constitution set boundaries, while rules in the Indian Penal Code outline when such a penalty applies. Following new procedures laid out in the Bharatiya Nagarik Suraksha Sanhita, 2023 helps control how sentences are carried forward. Courts have stepped in over time, narrowing application by using the idea of "rarest of rare" cases. Power to reduce sentences still exists, built into the nation's founding document.

Life behind bars awaiting execution carries deep mental scars. Questions arise about fairness when courts hand down sentences unevenly across races or regions. Taking a person's life through state order clashes with basic dignity for many observers. International norms now push harder against lethal justice than before. Whether today's values still allow room for executions becomes harder to answer.

CHAPTER 1:

HUMAN RIGHTS ISSUES IN THE APPLICATION OF THE DEATH PENALTY INTRODUCTION

Execution, sometimes called the death penalty, stands among the harshest penalties within criminal justice systems. A person found guilty of extreme offenses - like mass killing, terrorist actions, or attacks on national stability - may face state-ordered termination. Over hundreds of years, courts across nations applied execution as a response to heinous conduct, viewing it as essential for social control. Those backing this approach say its presence discourages violent behavior because consequences feel real and weighty. Removal of dangerous people happens without chance of return when sentences are carried out fully. The belief persists: some deeds demand ultimate accountability.¹

¹ General criminal law literature discussing the justification of capital punishment and deterrence theory.

Even now, the death penalty keeps stirring argument and disapproval. Some researchers, defenders of personal freedoms, and court specialists wonder if governments ought to end lives as retribution. Doubts come up about innocent people being found guilty, laws hitting some harder than others, and how you can't undo killing someone. A flaw in the trial means there is no fixing it afterward. Such doubts push more talk on whether putting people to death fits today's ideas about fair treatment, balance, and basic dignity. Life grows more valued when courts start doubting old ways of ending it. Not every nation moves at once, yet shifts appear where laws once stood still. ²Change creeps in through court rulings that question past certainty. Talk across borders now includes doubt about final punishments. Once accepted tools face scrutiny under newer moral light. Judges weigh history while voices rise against irreversible acts. Rights discussions stretch beyond single cases into broader ground. Legal paths twist as beliefs shift about justice and fairness. Some places pause executions without fully removing them. Global conversations grow quieter on support, louder on concern nalty.³

Life and Dignity Protected

Life itself holds deep value under today's laws. Everyone gets to exist unless law allows otherwise. Big global papers like the Universal Declaration name this right straight up. So does the treaty about civil and political freedoms. Protection of people matters everywhere. Where capital punishment lingers, its use must shrink. Rules demand tight control over taking lives by state order. Out there, some question whether ending a life should ever be the government's choice. Not long ago, thinkers began saying such acts clash with what we call human worth. Worth here isn't earned - it just exists in everyone. No matter how harsh the crime, that inner value does not vanish. Courts might pass sentences. Still, certain rights stick around, quietly demanding attention.⁴

Most people overlook why we punish at all within courts and laws. Today's view leans toward change rather than payback when handling crime. Ending a person's life shuts every door to growth - no second thoughts, no new choices. But locking someone away forever? That leaves room to face what they've done, maybe even shift who they become - all without risking others outside those walls.⁵

Execution can't be undone, which raises deep ethical questions. If new facts emerge showing

² Human rights studies on wrongful convictions and fairness concerns in death penalty cases.

³ International discussions on the abolition and restriction of capital punishment in modern legal systems.

⁴ Universal Declaration of Human Rights, 1948, Art. 1 & 3.

⁵ Andrew Ashworth, Principles of Criminal Law (Oxford University Press).

innocence, it will be too late to act. Mistakes happen - flawed proof, weak investigations, courtroom missteps - all capable of sending someone to their end unjustly. Life taken by error crosses a line no justice system should cross⁶

For these reasons, numerous rights groups and lawyers say the death penalty clashes with today's views on human rights. This leads more nations to talk about scaling back or ending execution methods to uphold basic respect and core freedoms to life⁷

UNFAIR DIFFERENCES IN PUNISHMENT

What worries people too is how unevenly death sentences get handed out. Judges often decide alone whether someone gets executed. That means two nearly identical crimes might end up with totally different outcomes. One offender could spend life behind bars. Someone else, doing the exact same thing, might face execution. When results swing so wildly, it makes you wonder if everyone truly stands equal before the law.⁸

Unequal treatment shows up clearly when it comes to capital punishment. Studies point out those from poorer backgrounds or sidelined groups often get hit hardest by severe sentences. Without solid legal help, outcomes tilt unfairly - access to skilled attorneys isn't evenly spread. Some defendants struggle to pay for seasoned advocates, making it harder to collect vital proof supporting their side. When courtroom chances depend on wealth, fairness starts to slip away.⁹

This unevenness keeps alive a troubling truth: the death penalty often falls unfairly, landing harder on some than others, which shadows it with ongoing ethical weight nalty.¹⁰

RISK OF WRONGFUL CONVICTIONS AND IRREVERSIBLE OUTCOMES:

False proof could mislead investigators; shaky witness accounts add risk. Poor defense counsel often plays its part too. Errors behind bars leave room for fixes down the line via court reviews. But execution leaves no path back - even truth arriving years late changes nothing.

Execution cannot be undone, which turns any mistaken verdict into something far worse. When

⁶ Amnesty International, Reports on wrongful convictions and capital punishment.

⁷ United Nations, Human Rights Committee Reports on the death penalty

⁸ Bachan Singh v. State of Punjab, (1980) 2 SCC 684.

⁹ Death Penalty Information Center, Studies on economic and social bias in death penalty cases

¹⁰ United Nations Human Rights Council, Reports on global trends toward abolition of capital punishment.

someone is put to death, mistakes stay permanent. Some individuals marked guilty in past trials walked free only after proof emerged they did not do it. That kind of truth arriving too late reveals flaws hiding inside legal processes. Tragedy follows when those missteps meet capital sentences.

Wrongful convictions often tie back to missing legal help for people without money or support. Those struggling financially usually can't hire skilled attorneys or pay for solid investigative work. Without these tools, building a firm courtroom case becomes nearly impossible. Fairness in trials tends to slip when one side lacks resources. A balanced hearing grows harder when basic defense needs go unmet.

Wrongfully ending someone's life can never be fixed, which is why numerous lawyers and rights defenders see it as a core flaw in capital punishment. Fairness crumbles when even one innocent might face execution, making trust in courts harder to maintain justice

HARSH AND INHUMANE NATURE OF THE DEATH PENALTY:

It matters how governments treat those they punish, always needing to recognize each person's worth. Core global rules - like the Universal Declaration of Human Rights and the ICCPR - draw clear lines against torture and harsh penalties. These agreements insist nobody faces treatment stripping them of dignity. That belief leads many observers to question if ending someone's life fits within civilized justice at all. Waiting years for an execution takes a heavy toll on the mind. Though appeals drag on, those condemned sit trapped in limbo. Fear becomes routine. The weight of never knowing breaks some completely. Experts call this slow unraveling the "death row phenomenon." Threat of dying shapes every thought. Time stretches without relief. Mental pain grows sharper over months, even years.

Execution techniques stir debate across nations. Hanging, electric chairs, injected drugs, or squads with rifles - each approach carries weight. Pain emerges, sometimes prolonged, despite claims of control. Critics say avoiding agony proves nearly impossible, no matter the method chosen. Dignity fades when bodies are handled without care. A line blurs between punishment and cruelty. Humane ideals crumble if suffering lingers too long. Because of this, numerous researchers along with advocacy groups feel capital punishment fails to honor the worth of every person. Their view is that penalties within today's legal frameworks must balance fairness

with upholding personal value. That's why debate continues worldwide over if execution counts as harsh or humiliating treatment - still a key issue in human rights talks debate.

WORLD SHIFTS AWAY FROM DEATH PENALTY:

Nowadays, governments across the globe are stepping back from using execution as a legal penalty. Shaped heavily by stronger emphasis on personal freedoms, the idea that discipline must honor basic human worth plays a big role here. Plenty of states no longer include death sentences in legislation - or simply pause putting them into effect. Slowly but surely, how people understand fairness and consequences appears to be shifting.¹¹

Instead of allowing broad use, these rules set firm boundaries. On top of that, another step forward came through the Second Optional Protocol aiming entirely to end state killings. Countries signing it agree to stop carrying out the death penalty, revealing a shared belief in preserving life.¹²

Nowhere is the shift more clear than in Europe, where laws changed to drop capital punishment completely. Some nations across Latin America moved the same way, replacing execution policies with lasting pauses or full removal. Rights advocates stood behind these choices, pushing quietly but firmly for change. Across Africa too, a number of states stepped back from the practice, letting it fade without fanfare. Regional bodies lent weight to this path, aligning decisions with broader fairness goals.¹³

Mistakes happen in courtrooms, that much more people now understand. When a life ends by state order, there is no undoing it if later proven wrong. Some faces show up on death row far too often - poor, minority, without strong lawyers. These patterns make the system look less like justice, more like chance. Groups like Amnesty International point at those facts year after year, saying quiet cruelty lives in these laws. Their voice joins others calling for prison terms instead of lethal injections.¹⁴ Fewer see killing as settling anything anymore.

¹¹ United Nations, Capital Punishment and Human Rights, UN Reports on global trends toward abolition of the death penalty.

¹² Second Optional Protocol to the International Covenant on Civil and Political Rights, 1989, aiming at the abolition of the death penalty.

¹³ European Union, EU Human Rights Policy on the abolition of capital punishment

¹⁴ Amnesty International, Global Report on Death Sentences and Executions.

CONCLUSION

Life taken by law still sparks tough debates about fairness and basic freedoms. Though some courts hand out this verdict for extreme offenses, how often it's applied makes people worry about safety of core liberties. Everyone deserves to live, they say, and be treated with worth - ideas that sit at the heart of today's laws. Taking a person's life on purpose challenges those very beliefs.

Wrongful convictions happen. Still, the death penalty stays forever once carried out. Unfair sentences pop up across courts. Yet bias shapes who faces execution more than others. Prisoners wait years under threat of execution. In those moments, fear eats at their daily thoughts. Mistakes in court cannot be undone later. So a broken process risks ending innocent lives. Legal minds debate this often now. Human rights groups point to lasting harm. Justice systems claim fairness but show gaps. Can killing ever fit within protection of dignity? The answer slips further away each time an error appears.

Even now, nations across the planet are shifting away from executing people. Justice feels different these days - less about revenge, more about holding space for dignity. Where killing remains legal for extreme crimes, it stands out against a wider shift. More places choose penalties that do not take breath away.

Truth sits uneasy when lives hang on verdicts. Justice claims balance, yet often leans too hard one way. Lives shattered by violence demand answers, though answers need not mean endings. Courts carry weight, meant to measure facts without losing sight of humanity. Punishment shows society's line, but crossing it risks becoming what we condemn. Dignity slips away each time a state decides who stays and who does not. Laws built on fear forget their purpose fast. Rights matter most when everyone holds them, especially those judged worst. Fairness fades if process favors power. Consequences follow long after gavels fall. What justice protects today might shield any tomorrow individual.

CHAPTER 2:

LEGAL FRAMEWORK GOVERNING THE DEATH PENALTY:

INTRODUCTION:

Execution ranks among the harshest penalties within criminal law. A court-ordered killing follows conviction for grave offenses. India allows such punishments under specific statutes. Yet constitutional checks, along with written rules and court principles, tightly control how they're applied. Since taking a life touches fundamental rights, harsh sentences come wrapped in firm legal protections.¹⁵

India's Constitution stands firm in shielding basic human freedoms. Life and personal freedom find protection under Article 21, which insists that no one loses their life without lawful procedure. Fairness matters here - execution can't happen on impulse but only through proper judicial steps. Equal treatment under law adds another layer of defense for every individual.¹⁶ Besides courts, relief may come from presidential or gubernatorial mercy powers when justice demands it.¹⁷

Besides what's written in the constitution, laws like the Indian Penal Code of 1860 set out when someone may face execution for especially grave crimes. Nowhere else is restraint seen more clearly than in how courts handle execution rulings. A turning point came with a ruling known as Bachan Singh against the State of Punjab. That moment reshaped thinking - judges began treating executions as something allowed only when nearly unimaginable circumstances exist. Such steps taken through law show weight given to each person's life, even amid demands for fairness. How balance shifts depends on choices made behind closed courtroom doors.

So begins the system: India's rules around capital punishment rest on a mix of constitution, law books, court rulings - each piece holding the others in check. Rare cases only pass through this web, where every thread tightens under weight of finality.

Death Penalty and Constitutional Rules:

Life cannot be taken without due process, says India's Constitution. Though executions exist legally, they must follow strict court procedures. Each person holds basic rights, with survival

¹⁵ Constitution of India, Art. 21 – Protection of Life and Personal Liberty

¹⁶ Constitution of India, Art. 14 – Equality Before Law.

¹⁷ Constitution of India, Arts. 72 & 161 – Power of President and Governor to grant pardon or commute sentence.

being central. Found in Article 21, this principle blocks arbitrary loss of life. Only when laws are fully honored may the state proceed. Fair trials shape whether capital punishment stands. Judicial steps must remain unbroken, transparent. A conviction leading to death needs more than rule citation - it demands justice in motion.

Everyone stands equal under the law because of what Article 14 guarantees.

Being forced to testify against oneself finds no place within these protections. A chance to face trial fairly becomes part of the shield those charged can rely on. Besides these protections, the power to show mercy rests with the executive branch. In line with Article 72, India's President may cancel, delay, reduce, or alter a death penalty. The Governor of any state holds comparable rights under Article 161. When human concerns outweigh strict justice, such rules step in as the last check.

Laws on the Death Penalty:

Hanging around since 1860, the Indian Penal Code holds the key to death sentences in India. Only crimes seen as deeply damaging to public order earn such a harsh response. Judges often stand at a crossroads - ending a life or locking it away forever. One path ends everything. The other stretches into uncertainty.¹⁸

Death or life behind bars - that's what Section 302 brings, based on how severe a murder case turns out. ¹⁹Hanging onto power isn't the point; overthrowing India's government under Section 121 can lead to execution too.²⁰ Kidnapping someone just for money? That path, spelled out in Section 364A, might also end at the gallows.²¹

Judicial and International Limits on Capital Punishment:

Nowhere has the restraint been clearer than in India's court decisions on capital punishment. A turning point came with Bachan Singh versus State of Punjab, where judges set a strict new standard. ²²Only when no alternative seems possible - life behind bars failing to match the crime - is execution allowed. This idea, called the rarest of rare, reshaped how sentences are weighed.

Later on, in Machhi Singh v. State of Punjab, judges spelled out when taking a life through law

¹⁸ Indian Penal Code, 1860.

¹⁹ Ibid., Sec. 302 – Punishment for Murder.

²⁰ Ibid., Sec. 121 – Waging War against the Government of India.

²¹ Ibid., Sec. 364A – Kidnapping for Ransom.

²² Bachan Singh v. State of Punjab, (1980) 2 SCC 684.

could fit the crime. ²³With that case setting markers, rulings now follow those points when weighing execution. What came from those decisions still shapes how verdicts take form.

CONCLUSION:

How courts interpret fairness shapes how strictly the punishment gets applied. The Indian Penal Code of 1860 sets capital punishment strictly for a few grave crimes, yet leaves room only where severity matches the act. Higher courts take charge later - double-checking each case before any sentence moves forward, thanks to rules woven into the 2023 legal process overhaul. Should flaws appear, mercy options open up through constitutional authority held by the President and state Governors alike. These steps stack one after another - not automatic, but deliberate - to block wrongful outcomes. Nowhere has the shift been clearer than in court decisions shaping how often execution is used. From a key ruling - Bachan Singh against the Punjab government - came a strict idea: death fits only when almost nothing else compares. Only then may it stand. So while India still has the death penalty, it shows up only in rare cases where courts take extra care. Constitutional checks mix with laws and court rules that together try to honor both justice .

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