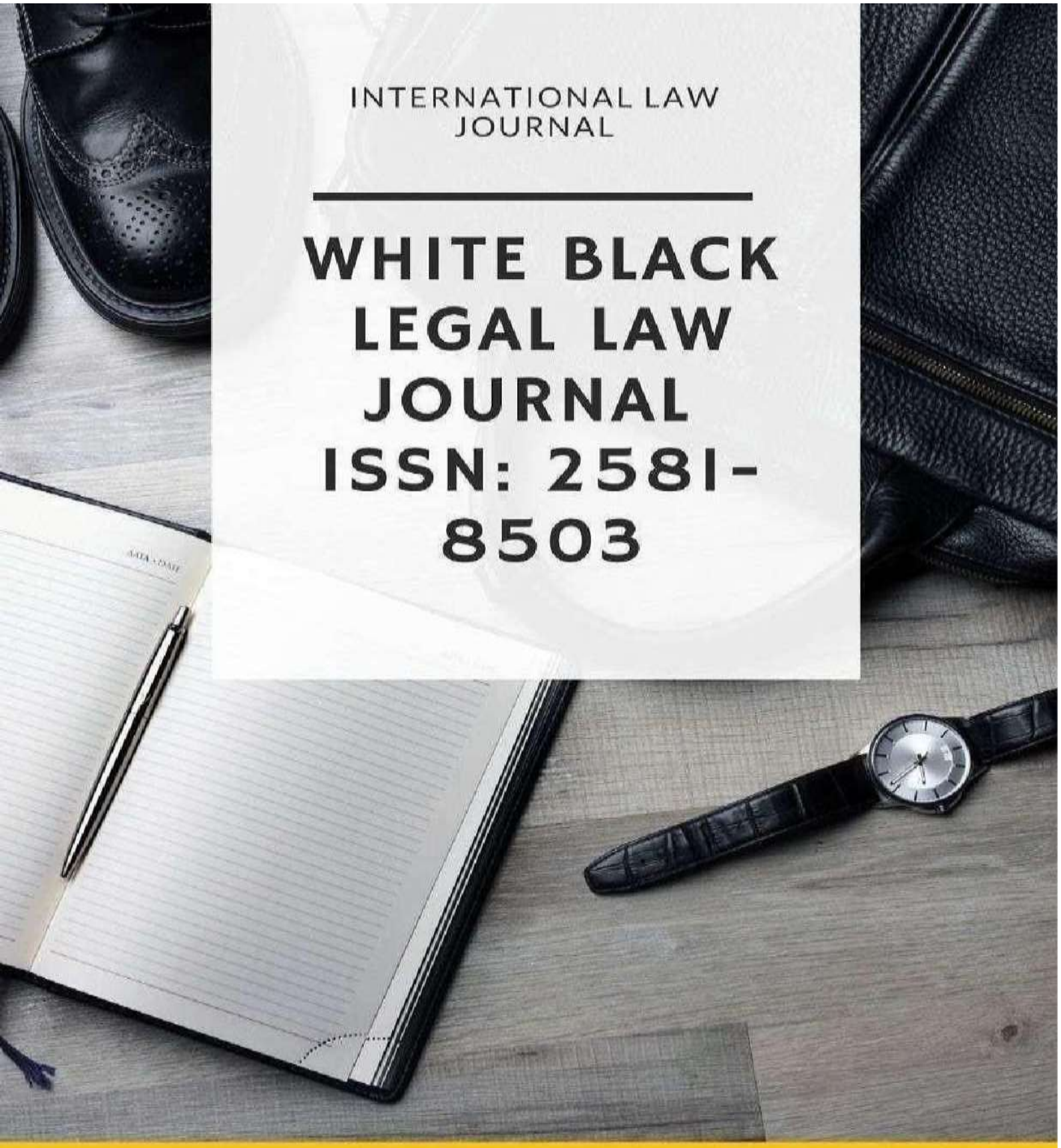

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REVISITING THE RAREST OF RARE DOCTRINE.

AUTHORED BY – TANYA BANSAL
Designation – 4th year B.A.LL.B. (Hons.) student.

ABSTRACT

There's no statutory description of' rarest of rare'. It depends upon data and circumstances of a particular case, brutality of the crime, conduct of the lawbreaker, former history of his/ her involvement in crime and chances of perfecting and combining him her into the death penalty has always been a disputable issue each over the world. still, there can't be any disagreement as to the fact that the global tendency is towards the invalidation of extreme penalty. But Indian law still keeps on the capital discipline for a number of offences. The decision of **Bachan Singh v. State of Punjab, 1980** is significant in this respect. In which the supreme court affirmed the indigenous validity of the death penalty. Maintaining the indigenous validity of the death judgment, the court set down the norms and morals to be followed in awarding death penalty. The proffers expressed in this case that the death penalty can only be awarded where the court is gratified that it's' a rarest of rare' case, has time and again been repeated by the after benches. The star of laid down by the court was farther described in the decision of **Machhi Singh case**. This proposition embarks upon that the person who has committed such a heinous offence he must also suffer the same issue. Death penalty is awarded to produce a truculent effect on society so that the people sweat the consequences of the offence. In this exploration paper, the author will bandy about' the doctrine of rarest of rare' cases.

Crucial words statutory, the' rarest of rare' doctrine, brutality, significant, death penalty, awarded, gratified.

The Case that Reignited the Debate

The operation of the death penalty has been queried in India for a long time. As a result, courts have tried to balance justice with the development of mortal rights norms. The current issue being stressed then's the case of **RG KAR Medical College in Kolkata**. In this case, a postgraduate croaker was ravished and boggled in the forum room during her 36- hour shift on August 8, 2024. Her father filed a complaint under the Bharatiya Nyaya Sanhita, 2023, which introduces stricter vittles for crimes against women and children under Chapter V. Following

this, the Calcutta High Court transferred the case to the CBI and on January 20, communal levy Sanjay Roy was set up shamefaced grounded on forensic substantiation. The court ruled that the crime didn't qualify as being the rarest of rare and doomed him to life imprisonment with a forfeiture.

This decision has reignited debate on the death penalty's connection and evolving felonious justice frame, particularly under the Bharatiya Nyaya Sanhita, 2023, and its counteraccusations for judicial decision- making in violent crimes against women. therefore, the following piece aims to punctuate the legal development around the rarest of rare doctrines, as well as look at internal justice girding the death penalty as a discipline.

- *The Indian Express*, "Kolkata Hospital Rape-Murder: CBI Arrests Suspect After Forensic Evidence Links Him to Crime" (20 January 2025).

Understanding the ' Rarest of Rare' Doctrine

The death penalty remains a contentious issue, with courts navigating its necessary and moral counteraccusations. The primary end of the rarest of the rare doctrine is to help arbitrary capital discipline and put it only when life imprisonment is shy. This debate on judicial discretion dates back to **Jagmohan Singh v. State of U.P.(1972)**, where the Supreme Court upheld capital discipline's constitutionality, ruling that trials consider all applicable factors. It was **Bachan Singh v. State of Punjab (1980)** that introduced the rarest of the rare doctrine, confining the death penalty to exceptional cases without defining clear criteria.

latterly, the Supreme Court in **Machhi Singh v. State of Punjab(1983)** outlined five crucial factors brutality, demoralized motive, social impact, scale of crime, and victim vulnerability to determine the connection of the death penalty.

likewise, **Santosh Kumar Bariyar v. State of Maharashtra (2009)** emphasized balancing aggravating circumstances (i.e., those circumstances that could make a violation or offense more similar as legal or correctional conduct, in felonious trials or situations involving academic misconduct) and mitigating circumstances (i.e., circumstances that reduce the inflexibility of a crime, similar as the defendant's age, internal state, felonious history of the lawbreaker, etc.).

also, in **Shraddananda v. State of Karnataka(2008)**, the Court advised against the duty of capital discipline unless absolutely essential. The current case of RG Kar Hospital highlights the doctrine's continued applicability, as courts must balance the death penalty with judicial caution in addressing violent crimes against women under evolving legal norms.

- Jagmohan Singh v State of U.P., (1973) 1 SCC 20.
- Bachan Singh v State of Punjab, (1980) 2 SCC 684.
- Machhi Singh v State of Punjab, (1983) 3 SCC 470.
- Santosh Kumar Bariyar v State of Maharashtra, (2009) 6 SCC 498.
- Shraddananda v State of Karnataka, (2008) 13 SCC 767.

Legal Elaboration of the Rarest of Rare Doctrine in India

Crucial Judicial Precedents Following the establishment of this doctrine, several cases have shaped its elaboration. In **Mithu v. State of Punjab (1983)**, the Supreme Court abolished Section 303 of the IPC, which made the death penalty obligatory for life- term cons committing murder, holding it unconstitutional under Articles 14 and 21 which guarantee the Right to Equality and the Right to Life and particular Liberty, independently.

At the same time, the corner case of **Mukesh v. State of NCT Delhi (Nirbhaya Case)(2017)** reaffirmed the rarest of rare doctrine, with the Court sentencing four cons to death while the juvenile indicted entered a three- time corrective term. The Court cited the "brutality and casualness for mortal quality" as defense for capital discipline.

Again, in **Ramnaresh v. State of Chhattisgarh (2012)**, life imprisonment was granted for gang rape and murder, considering the youthful age of the cons and implicit for reform.

In **Bhagwan Das v. State (2011)**, the Court ruled that honour killings fall under the rarest of rare orders, justifying the death penalty. still, inconsistencies surfaced when earlier, in **State of Maharashtra v. Damu(2003),** the murder of three children as a mortal immolation led to life imprisonment, as the case was outside the horizon of ' rarest of rare'.

Meanwhile, preliminarily in **Sushil Murmu v. State of Jharkhand (2000)**, the Court assessed the death penalty for a analogous act, emphasising the brutality and lack of reformation eventuality. These contradictions show judicial inconsistencies in applying the rarest of rare

doctrine, pressing enterprises about discretion and uniformity of courts.

The RG Kar Medical College case underscores the need for judicial clarity in applying this doctrine, as a invariant approach wo n't only uphold victims' rights and societal deterrence but also insure that the doctrine serves its willed purpose when no druthers are available.

- Mithu v State of Punjab, (1983) 2 SCC 277.
- Mukesh v State (NCT of Delhi), (2017) 6 SCC 1.
- Ramnaresh v State of Chhattisgarh, (2012) 4 SCC 257.
- Bhagwan Dass v State (NCT of Delhi), (2011) 6 SCC 396.
- State of Maharashtra v Damu, (2000) 6 SCC 269.
- Sushil Murmu v State of Jharkhand, (2004) 2 SCC 338.

Two Clashing Verdicts Renew the Death Penalty Debate reconsidering the 'Rarest of Rare' Doctrine

India's Uneven Use of Capital discipline In January 2025, two high- profile murder trials drew public attention to India's evolving yet inconsistent approach to the death penalty. In one case, a communal levy condemned of rape and murder entered a life judgment. In a separate trial, a woman indicted of poisoning her mate was handed a death judgment. These differing issues have reignited conversations around the 'rarest of rare' doctrine, pressing the judicial inconsistencies in capital sentencing.

Tracing the Roots of the Doctrine

Reconsidering the 'Rarest of Rare' Doctrine India's Uneven Use of Capital discipline The conception of awarding the death penalty only in exceptional cases began from the **Bachan Singh vs State of Punjab(1980)** verdict. The Supreme Court declared that capital discipline should only be used in the 'rarest of rare' cases, but failed to define the expression precisely. As a result, interpretation was left to judicial discretion, making thickness across cases delicate to maintain. The Ongoing Problem of Inconsistent Application Despite these rulings, capital sentencing in India remains private. Judges frequently differ in what they consider brutal or exceptional. To address this, the Supreme Court in 2022 began drafting new procedural morals for assessing mollifying circumstances before awarding death rulings. This reform aims to ameliorate fairness but has not yet completely resolved the unpredictability.

Moral Questions and Public Sentiment

There remains a deep division in public opinion. While some view the death penalty as essential for crimes like sexual assault or terrorism, others see it as a defective and unrecoverable discipline, especially in a system prone to judicial error. As India continues to upgrade its justice system, the challenge is to insure that inflexibility of discipline aligns with both legal norms and ethical principles.

Huge gap between death judgment and factual prosecution

According to data, there's a significant distinction between death rulings handed down and prosecutions carried out. Between 2001 and 2011, according to an ACHR analysis grounded on **National Crime Records Bureau (NCRB)** data, multiple death rulings were issued, but only a many were carried out. Indian courts awarded death penalty to 1,455 cons from 2001-11, an normal of around 132 cons per time. But an inviting number of death rulings were changed to life imprisonment during this period. Dhananjoy Chatterjee (2004), who was hanged for the murder and rape of a 14- time-old girl in Kolkata, was the only felonious executed during this time. This was the country's first prosecution since bus Shankar, a periodical killer, was executed in Salem, Tamil Nadu, on April 27, 1995. From 2001 to 2011, Indian courts doomed 1,455 culprits to death, an normal of 132 per time. During this time, still, a large number of death rulings were changed to life imprisonment Following also, only three people have been executed Ajmal Kasab, a suspect in the **Mumbai terror attack case, in 2012**, Afzal Guru, a suspect in the **Parliament attack case, in 2013**, and Yakub Memon, a suspect in the Mumbai periodical explosions case, in 2015.

International conventions on Death Penalty

No mortal being shall be arbitrarily deprived of his or her life, according to Composition 6 of the ICCPR. It also states that in countries that haven't abolished the death penalty, it may be assessed only for the most serious crimes, in agreement with the law in force at the time of the crime and not in violation of the vittles' of the present Covenant and the Convention on the Prevention and discipline of Genocide. States should gradationally reduce " the number of offences for which capital discipline may be assessed, with a view to the advisability of rescinding this discipline in all countries, " according to Composition 3 of the Universal Declaration of Human Rights.

Composition 4 (4) of the **American Convention on Human Rights** states that the death penalty shall not be foisted "for political offences or affiliated common crimes."

Position in England

The duty of the death judgment, in general, has been abolished by the Murder (invalidation of Death Penalty) Act, 1965 other than four offences videlicet-

- **Disloyalty**
- **Capital and repeated murder**
- **Pirating with violence**
- **Setting fire to her Majesty's vessels**

The Judge has no choice but to put the death discipline for the first two types of offences. The remaining two offences have been left to the Judge's discretion. A minor or a pregnant woman can not be hanged to death, according to the acid rule.

Position in United States

In the case of a death judgment, the United States makes an intriguing divergence from the global tendency. It was abolished for four times, from 1972 to 1976, when the United States Supreme Court ruled in Furman v Georgia. still, in 1976, the Supreme Court overruled its earlier decision in **Gregg v Georgia**, reaffirming the death penalty's constitutionality. As a result, 35 of the 50 countries have greeted the death penalty in their separate countries.

Position in South Africa

Makwanyane v Muhunu, one of the earlier rulings, banned the death penalty under section 277 of the Criminal Procedure Act, 1927, as it was inharmonious with the country's new interim Constitutions. When the solicitation was granted, each of the Court's eleven judges wrote distinct reasons to back their amicable opinions.

The death judgment is cruel, inhuman, or demeaning treatment or discipline, according to ten of the eleven judges.

The UDHR defines an existent's right to life protection and declares that no bone shall be subordinated to demeaning or cruel discipline. The United Nations General Assembly has determined that capital discipline violates two core mortal rights.

- NCRB, *Crime in India* (Annual Issues 2001–2011).

- Asian Centre for Human Rights, *India: Death Penalty – A Report on the Death Penalty in India* (2013).
- ICCPR, Article 6, adopted by UNGA Res 2200A (XXI), 1966.
- UDHR, Articles 3 & 5, adopted by UNGA Res 217A (III), 1948.
- American Convention on Human Rights, Article 4(4), 1969.
- Murder (Abolition of Death Penalty) Act 1965 (UK).
- *Furman v Georgia*, 408 U.S. 238 (1972); *Gregg v Georgia*, 428 U.S. 153 (1976).
- *S v Makwanyane*, 1995 (3) SA 391 (CC).

Should the Doctrine of Rarest of Rare be abolished in India?

The problem arises each time the Court subventions the death penalty because there's no statutory description of what Rarest of Rare entails. There have been occasions where the indicted has committed both rape and murder and been doomed to death; nonetheless, there have been other cases where the data and circumstances are analogous but the indicted has not been doomed to death. It's delicate to pinpoint the variation that has redounded in these difference in sentencing "Is it the crime? Or the felonious? Or is it the Judge? According to the pens, entirely rescinding the death penalty would put the country in jeopardy. India has not yet developed to the point where it's able of passing similar harsh conditions. The doctrine was supposed to be society- centric but it has, rather, come judge- centric. However, they need to ascertain specific rudiments on the base of which the fog gets cleared, If the Judiciary wants to keep this doctrine.

Conclusion

Some of the conclusions and recommendations for this issue are as follows –

1. **It's necessary to establish standardized guidelines** – A invariant guideline should be established that includes the criteria by which cases can be classified as the rarest of the rare. This may help to remove the fog that has accumulated in the minds of different justices, performing in confusion.
2. **The decision must be made with care and reason** – While the indicted has committed a heinous act, it must be kept in mind that, indeed if the indicted has committed a heinous act, if there's any chance that the indicted won't beget farther detriment to society, the indicted shouldn't be doomed to death.

3. **The death penalty shouldn't be laid over after it has been assessed** – The Supreme Court ruled in **Triveni Bai v. State of Gujarat** that the prosecution process must be laid over for reasonable grounds so that the indicted might admit a fair trial. still, it's recommended that no time be wasted when the death penalty has been assessed. This isn't to say that the indicted shouldn't have the right to appeal, but it should only be available for a limited time.
4. **The death penalty must not be assessed in haste** – Before assessing capital discipline, the indigenous bench must completely examine all aspects of the case and guarantee that it is not assessed in hurry.
5. **The penalty should be commensurate to the offence** – The inflexibility of the crime committed must be taken into account while applying the death penalty. Petty offences shouldn't be penalized with the death penalty. It must be commensurable to the inflexibility of the deed in order to inseminate dread in unborn perpetrators, acting as a interference and precluding them from committing such a horrible crime.

The RG Kar case reignites the ongoing debate between the duty of capital discipline and evolving mortal rights considerations. While courts continue to put the death penalty in the rarest of rare cases, the absence of a invariant frame leads to inconsistencies in sentencing. At the same time, case- by- case assessment allows for individualised justice, precluding rigid operation of the doctrine. Striking a balance between retributive justice and reformation remains a challenge, and moving forward, India must work towards a more structured yet flexible legal approach, icing that capital discipline is applied only in the most exceptional cases, while maintaining certainty, fairness, and respect for mortal rights.