

A study of capital punishment with relevant case laws

Capital punishment, also referred to as the death penalty, constitutes the harshest form of state-imposed punishment and occupies a uniquely controversial position in criminal jurisprudence. In India, it has remained part of the penal system since colonial times and continues to be legally enforceable for the gravest offences. Its presence in the Indian Penal Code, procedural laws, and special statutes raises important questions about deterrence, retribution, human rights, societal needs, constitutional morality, and judicial discretion. While capital punishment is constitutionally permissible, its application is strictly circumscribed by judicial doctrines developed to balance the need for public justice with the rights and dignity of the accused.

Capital punishment is prescribed for offences such as murder in aggravated circumstances under Section 302 IPC, waging war against the government, certain categories of rape resulting in death or a persistent vegetative state, terrorist offences, and certain drug-related crimes under special statutes. The core rationale historically advanced for the death penalty involves deterrence and retribution. The deterrence argument claims that fear of death prevents heinous crimes, while the retribution argument asserts that certain acts are so morally reprehensible that the only adequate response is death. Modern penology, however, questions both assumptions, emphasizing reformatory justice, the fallibility of criminal justice institutions, and human rights standards.

The constitutional validity of the death penalty was challenged in *Jagmohan Singh v. State of Uttar Pradesh* (1973). The Supreme Court upheld capital punishment, holding that sentencing in India involves

judicial discretion guided by principles and evidence, not arbitrary executive action, and therefore does not violate Articles 14, 19, or 21. The Court emphasized that sentencing occurs in accordance with established procedure and that judges weigh aggravating and mitigating circumstances.

The next major case, *Rajendra Prasad v. State of Uttar Pradesh* (1979), narrowed the applicability of the death penalty by holding that it should be reserved for the most extreme circumstances involving threats to societal order. Justice Krishna Iyer's reform-oriented reasoning emphasized that the crime, not the criminal, should be the focal point of sentencing. Although this judgment attempted to limit death penalty imposition, its approach was soon reconsidered.

The landmark ruling in *Bachan Singh v. State of Punjab* (1980) remains the foundational precedent on capital sentencing in India. The Supreme Court upheld the constitutional validity of the death penalty but laid down the “rarest of rare cases” doctrine as a standard for its imposition. The Court clarified that the death penalty should only be awarded when life imprisonment is clearly inadequate. The principle requires a careful balancing of aggravating and mitigating circumstances. Factors such as the brutality of the offence, the social impact, and the nature of the victim are weighed against the mental state, age, background, possibility of reform, and socio-economic conditions of the accused. The rarity criterion aims to ensure that death sentences are not handed down casually or excessively, but only in exceptional cases.

Machhi Singh v. State of Punjab (1983) elaborated on the rarest of rare doctrine by classifying situations where death might be justified. The Court outlined circumstances involving extreme brutality, large-scale murders, killing of vulnerable victims, and crimes that shock the

societal conscience. Machhi Singh reframed the test as one of whether the collective conscience of the community is so deeply injured that a life sentence would be inadequate. However, critics argue that the idea of “collective conscience” is inherently subjective and can lead to inconsistent sentencing.

The procedural safeguards in capital punishment cases are significant. Under Section 354(3) CrPC, reasons for imposing the death penalty must be recorded in writing. Appeals to the High Court, Supreme Court, mercy petitions to the Governor under Article 161, and to the President under Article 72 constitute multiple layers of review intended to minimize errors. These safeguards acknowledge the irreversible nature of a death sentence and the possibility of judicial or investigative mistakes.

Judicial scrutiny has increasingly acknowledged concerns relating to arbitrariness. In *Santosh Kumar Bariyar v. State of Maharashtra* (2009), the Supreme Court criticized sentencing inconsistencies and emphasized that precedents should guide capital sentencing. The Court held that several earlier death sentences were incorrect and stressed the need for strict compliance with the Bachan Singh doctrine. The decision also reaffirmed the importance of investigating the possibility of the offender’s reform before imposing the death penalty.

In *Swamy Shraddananda v. State of Karnataka* (2008), the Supreme Court created the “special category” of life imprisonment without remission to balance concerns between public outrage and the reluctance to award the death penalty. This innovation allowed courts to avoid sentencing an offender to death while still ensuring long-term societal protection. It illustrates how capital sentencing in India

continues to evolve within the boundaries of constitutional permissibility.

Human rights concerns have been central to debates surrounding the death penalty. The irreversible nature of execution raises the risk that innocent individuals may be put to death due to errors in investigation, prosecution, or judicial reasoning. Psychological suffering during long periods on death row, commonly known as the “death row phenomenon”, was addressed in *Triveniben v. State of Gujarat* (1989), where the Court ruled that undue delay in disposing of mercy petitions may be grounds for commuting the death sentence. The Court emphasized that prolonged delays violate Article 21 and undermine human dignity.

Another major human rights development occurred in *Shatrughan Chauhan v. Union of India* (2014), where the Supreme Court held that factors such as mental illness, solitary confinement, delay in mercy petitions, and failure to consider relevant materials may constitute valid grounds for commutation. The Court emphasized humane treatment even in cases involving the most serious offences, reinforcing the constitutional commitment to dignity.

Notably, *Mithu v. State of Punjab* (1983) struck down mandatory death penalties. Section 303 IPC, which required death for life convicts committing murder, was held unconstitutional because it eliminated judicial discretion, violated the right to fair trial, and ignored mitigating circumstances. This case affirmed that capital sentencing must be individualized and proportionate.

In recent years, the death penalty for sexual offences has gained renewed attention. Following high-profile rape cases, including the 2012 Delhi gang rape, legislative amendments introduced the death penalty for certain categories of rape, particularly those resulting in

death or involving minors. The 2018 Criminal Law (Amendment) Act expanded capital punishment provisions for child rape under Section 376AB and Section 376DB IPC. While intended to deter sexual violence, critics argue that these measures risk shifting focus from preventive reforms and may even discourage reporting, especially in cases where the perpetrator is a family member.

Case laws in sexual offences illustrate how courts balance deterrence with constitutional principles. For example, in the 2012 Delhi gang rape case, *Mukesh v. State (NCT of Delhi)* (2017), the Supreme Court upheld the death sentence, emphasizing the brutality of the crime and its severe societal impact. The judgment invoked the rarest of rare doctrine to justify the penalty. Yet, critics contend that societal outrage can influence judicial reasoning despite attempts to maintain objectivity.

Capital punishment in terrorism cases has also shaped jurisprudence. In *Mohd. Ajmal Amir Kasab v. State of Maharashtra* (2012), the Supreme Court upheld the death penalty for Kasab, the lone surviving gunman of the 26/11 attacks. The Court reasoned that the magnitude of the offence, premeditation, and impact on national security justified the extreme penalty. Similarly, in *Yakub Abdul Aziz Memon v. State of Maharashtra* (2015), the execution of Yakub Memon for the 1993 Bombay blasts reflected the perceived need to uphold national security interests. In such cases, the courts have emphasized that the death penalty should reinforce public confidence in the justice system when offences gravely threaten the nation.

However, statistical analyses reveal that judicial discretion in imposing the death penalty has not always been consistent. Studies by legal research organizations have demonstrated significant disparities based on region, socio-economic background, quality of legal

representation, and subjective perceptions of brutality. The lack of uniform standards in interpreting the rarest of rare doctrine remains a persistent challenge.

Arguments for retaining the death penalty include deterrence, incapacitation of dangerous offenders, symbolic justice, protection of societal morality, and the need to affirm the value of victims' lives. Proponents maintain that the death penalty is necessary for crimes that shock collective conscience, and that its removal would embolden criminals.

Arguments against capital punishment emphasize the absence of conclusive evidence of deterrence, the risk of wrongful conviction, arbitrariness in sentencing, the disproportionate impact on the marginalized, and evolving global human rights norms. India has not abolished the death penalty, but it increasingly restricts its application, reflecting global trends. Several countries have moved toward abolition, either in law or in practice, arguing that the state should not take life even for the worst crimes.

In India, the debate over capital punishment remains deeply intertwined with societal expectations, moral considerations, and demands for justice. The judiciary continues to navigate these tensions through evolving interpretations of the rarest of rare doctrine. Although the death penalty persists in law, the number of actual executions remains low, indicating judicial caution.

Capital punishment occupies a delicate position between the demands for justice and the constitutional commitment to human dignity. It remains legally sanctioned, yet its scope is continually narrowing due to judicial interpretation and human rights considerations. Case laws reveal a pattern: while the courts rarely hesitate to impose the death penalty in cases involving terrorism, extreme brutality, or crimes that

profoundly disturb public conscience, they consistently emphasize the need for individualized sentencing, careful evaluation of mitigating factors, and procedural safeguards.

Ultimately, the study of capital punishment in India highlights the complex balance between retributive justice and constitutional values. While the death penalty remains in force, the jurisprudence developed by the Supreme Court ensures that it is imposed sparingly and only when absolutely necessary. The tension between societal demands for harsh punishment and constitutional protections for the accused ensures that the debate remains active, evolving along with the broader understanding of justice, human rights, and the role of the state in punishing crime.

Relevant Case Laws on Exceptions / Limitations to Capital Punishment

- **Bachan Singh v. State of Punjab (1980)** – Introduced the “*rarest of rare*” doctrine as a restriction on awarding the death penalty.
- **Machhi Singh v. State of Punjab (1983)** – Clarified when a case qualifies as *rarest of rare*, laying down categories and exceptions.
- **Mithu v. State of Punjab (1983)** – Struck down **mandatory death penalty** under Section 303 IPC as unconstitutional; affirmed that the death penalty must never be automatic.
- **Triveniben v. State of Gujarat (1989)** – Held that **excessive delay in execution** can be a ground for commutation of death sentence.
- **Shatrughan Chauhan v. Union of India (2014)** – Recognized **mental illness, solitary confinement, procedural lapses, and delay** as exceptions permitting commutation of death sentences.

- **Santosh Kumar Bariyar v. State of Maharashtra (2009)** – Declared that several previous death penalties were wrongly imposed; emphasized strict compliance with *Bachan Singh* safeguards.
- **Swamy Shraddananda v. State of Karnataka (2008)** – Created an **intermediate category**: life imprisonment without remission as an alternative to death penalty.
- **Jagmohan Singh v. State of Uttar Pradesh (1973)** – Early case upholding constitutionality but recognized the need for judicial discretion as an essential safeguard.
- **Rajendra Prasad v. State of Uttar Pradesh (1979)** – Limited death penalty to cases involving *special reasons* (later clarified by Bachan Singh).
- **V.R. Krishna Iyer in Ediga Anamma v. State of Andhra Pradesh (1974)** – Emphasized **mitigating circumstances** such as age, sex, and socio-economic factors as exceptions to awarding death.

The evolution of capital punishment in India reflects the tension between the demands of justice, societal expectations, and the constitutional commitment to human dignity. From the early acceptance of the death penalty as a routine punitive measure, Indian jurisprudence has gradually narrowed its scope through landmark judicial decisions, legislative reforms, and growing sensitivity toward human rights. The adoption of the “rarest of rare” doctrine in *Bachan Singh* marked a decisive shift from retributive severity to principled restraint, reshaping the very grounds on which capital punishment may be imposed. Subsequent rulings, such as *Mithu*, *Santosh Bariyar*, *Shatrughan Chauhan*, and *Swamy Shraddananda*, further strengthened the framework of exceptions by recognizing the

importance of mitigating factors, procedural fairness, mental health, delay, and the individual circumstances of offenders. As society confronts new forms of violence, heightened awareness of wrongful convictions, and rapid changes in morality and penology, the grounds justifying capital punishment continue to evolve. This trajectory reveals an unmistakable judicial effort to balance collective conscience with constitutional safeguards, ensuring that the death penalty remains an exceptional measure rather than a norm. In essence, the evolution of capital punishment in India illustrates the legal system's ongoing journey toward a more humane, cautious, and principled approach to the administration of the ultimate penalty.