CHAPTER - III
THE SOCIETY TOWARD CRIME INVITING DEATH PENALTY

3.1 DIVINE LAW AND DEATH PUNISHMENT

In the cases of extra legal attempt to justify the permissibility or the necessity of death penalty it must be differentiated between religious and ideological argument on the one hand and ethical and philosophical argument on the other.

That's great religions take an ambiguous morality of the capital punishment. Religions often favoring the abolition of the capital punishment that can be understood in terms of a body of teachings and literature.

3.2 CHRISTIANITY

The Bibles ancient jurisprudence was often severe, with multiple instances of the perpetrators of the murder. Exacting understanding of the Christian gospel is the only wealth guilty or innocent of any party, as opposed to punishment, but revenge forbids human hands Beloved, your own revenge, but it is written, and disappear room for the anger of God 'God,' says 'vengeance is mine, I will repay' people.

a) CATHOLIC CHURCH

The Suppressed anger and violence from their lives to protect the legitimate avenger of crime, which is now the civil authority. A punishment, naturally, tends to this end. David So, 'I have these words of the Lord in the city that is cut off from the criminals, and put to death all the evil of the land in the morning'.

This teaching, post-secular power of mortal sin without the death penalty can carry out the saying "the karikke I karikke the two characters had become clear that it's hate, but judge to impose the penalty proceeds will be paid, not carelessly, but on September 14, 1952 presented on an address to cause concern. [FN Brugger, the Election Commission and the Roman Catholic moral tradition of the death penalty, made it clear that the Church, arguing that the State violated the right to life and the world did not consider the execution of criminals:
When it comes to the execution of a death row inmate, the State has no individual right to life. In this case, his crime, that he himself had already disposed of the right to live his life in exception of his crime to deprive the public authority is reserved for the enjoyment of the condemned person.

It questioned the criminal community to defend the same way, the absolute requirement except in cases criminal executing intense need to go to the penalty,"as if the need to avoid: in other words, it is otherwise not possible in the community to protect the Today however, the legal system of the system to steady improvements as a result, such belongings are very rare, If they are not practical. If the church's traditional teaching, the death penalty, the resources can not be avoided in 2004 when he wrote them effectively John Paul II presented the current situation assessment of the reality on the binding that unjust aggressor against the human live that was confirmed by protecting Cardinal Rat Zinger.

The use of the death sentence or the result to declare war on a Catholic is at probability with the Holy Father, he disqualified himself to obtain Holy Communion is considered the cause. Church of Peace, not war, for the watchfulness and mercy to sentence for criminal counsel to civil authorities during exercise, it's still the war, the death penalty among Catholics, even the idea of applying to be allowed to take up arms, except in the abortion, and euthanasia.

All Catholics, therefore, holdthe view and at the same time, "the death penalty, guilty of causing the advent of the Catholic Church's teaching authority of the state as an alternative or the execution of theological writings, exposure and more power is" the power of exercising 'purpose is, of course, a matter for other various recommendations. It is a conductor or a child killer asks, for help the painful agonizing and lack of facilities each year children will die and many thousands of people charged with murder to be indifferent when the "community of compassion went. Their innocent eyes, death already for them shining, angry golden god like asking, entreated forgiveness for human selfishness knows no bounds as some vague."

—Fidel Castro, History Will Absolve Me, p. 40 (1978)]
A number of Catholic writers such as Chicago Cardinal Joseph Pernatin, who takes a stand in opposition to the use of the capital punishment in the current era, has argued that "consistent life ethic" is named and 'womb to tomb' (the concept of natural death) "to protect the life of an individual and social level of responsibility. In this position, regardless of human merit or worthiness of God, each person "draws on the grounds that there is infinite love. [FN Bernardin, life J.Conitent another (Rowman & Littlefield, 1988), 66.] further Catholic writers such as Joseph Sobran and Matt Abbott, put on the issue of abortion but reduces it, contending that it did not consider this approach, that criticized the Church's internal disciplinary post-death as the level of punishment.

3.3 BUDDHISM

There is disagreement among the Buddhists Buddhists do not abolish the death penalty. Five acts (pancha-Sheila) should abstain all from the destruction. Saint Chapter 10 states: "Everyone penalty fears folks you like to perform, death fears.. Therefore, murder or murder do not cause" Chapter 26, a monk in the final chapter reads: "I will make him the weapons to put aside all the creatures to renounce violence, who is a Brahmin call he helps others to kill or not to kill .. "this might lead to the punishment of an injunction against supporting any legal action that the number of Buddhists (mainly modern humanistic West) description.

In the case of the understanding of the law, however, there is controversy in this case. Historically, the official religion is Buddhism that thinks the capital punishment to be obligatory for certain crimes in most states. They continue to be conduct as a form of revenge for the execution of private Manors with only one notable exception in death penalty, however, lasted until the 1165 abolition of the capital punishment sa$vng 818.( In Japan by Emperor Saga). Buddhist are their reason for citing a number of current justice ministers, who refuse to sign the death warrant, but Japan still imposes the death penalty for other than the Buddhists [FNJapan death (reference paragraph 11) and two stop]. Such as, Bhutan has abolished death sentence, but Thailand is still the official religion of Buddhism, which keeps the punishment.

The Buddhist idea of self-protection, non-linear and more suffering and death subtle criterion is based on prevention.
If it is difficult to prevent Shantideva (8th century), the Bodhicaryavatara, recognizes violence. "There will always fight for the benefit of others who also happen to benefit with grace is a permission is prohibited.", "I do not have guards that might be a security guard"; And "many difficulties, because a distress disappears, then a compassionate person should induce others. [FN Wallace & Wallace, for the sake of the victim" santideva introduction, "Life Bodhisattva way a manual.] Upāya -. Kashalya Sutra (efficient material) [in, FN Jeffrey L.Richey, religion and war encyclopedia Zen, Premodern, 465] other Mahayana scriptures says that, a murderous thief who killed hundreds of people was rescued washed the story of such a self-defense killing himself for bad karma with the killer, prevents, and defenders compassion spirit acts provided that, defender of the good karma that creates presentations [FN Richard D. McBride, II, Buddhism :. China, this]

At 39, Religion and the encyclopedia stated that as there is a "skillful means" is an expression, "many (innocent) lead to a (aggressor) murder ", also known as Japanese Buddhist tradition. aging non-considering, forget that -" generous "towards violence linear approach to Buddhism, blue - eyed Buddha Bodhi Dharma, according to universal tradition, only 520 AD China, India with Zen Buddhism, but was also a marriage of art and founder of Kung Fu. [Ehpen "that gives life (ideally) the one who kills with the sword against sword: Michael Maliszewski, (Japanese Bushido reflected) the mystical martial art of Zen Buddhism 43, 1998] Spiritual dimensions, is a traditional expression".

Therefore, Buddhism being the soldiers, police officers, or even farmers, some Buddhist groups issue blanket orders (Buddhist life at the cost of a professional advertising), and some of it if the death penalty is permissible to argue that prevention purposes are used. There is a strong political influence of Buddhism in Thailand, Sri Lanka, and Bhutan, while the opposite is true, the death penalty sentence - generally, Japan, Korea, Taiwan Buddhist groups such as anti-secular countries tend to take.

3.4 HINDUISM

It is Based on the teachings of the Hindu religion and can be seen in two to allow the capital punishment ban. Hinduism preaches non-violence (or Ahinsa, peacefulness) but cannot kill the spirit and teaches physical death. On the death of the soul is reborn in another body (Moksha ), the human variable is similar clothes. Hindus, the spiritual, civil
and criminal law Dharmasastras and determined in Arthashastra. Dharmasastras many crimes are their punishments and killing, caste combination, the righteous for many events, including war, the death penalty is describes for those who are from lower castes.

In contention against the use of the capital punishment, however, the Mahabharata contains passages. King Dyumatsena is an example and a number of men to carry out the command of the King, where his son Prince Satyavan (Santiparva Section 257) has a conversation with the king his father.

It is possible that individuals can be destructive. King Dyumatsena answer: those who wanted to kill the robbers left the economical, if you want to be good, Satyavan, who does not care for the difference between virtue and subordinate Responds: guilty without destroy as body, to punish him for kings as ordained by the scriptures. On crime and moral science reflects on the role of the king who ignores it, otherwise it will not function. In some cases, a bad guy is a pious man who imbibe good behavior. It is considered to be good for children to kill bad people.

The difficult destruction of the wicked honest, talented and caste duty is commended to meet: "Equal pleasure and pain, gain and loss, success and failure, war, take Gird yourself; (. Second verse 38), and thus the water" will not incur sin.

"When justice is crushed, when evil wins, I'm evil, destruction, and come back with good security - the wrong-doers, and for the establishment of dharma, I am born after the age of time." (VI, verses 7-8).

In spite of the liberal sense, conscienceless murderers and sexual deviants of the death penalty is one of the part of Hindu dharma Santayana. The Indian author Prabhaupada "righteous violence" and "disconnected violence" express his opinions. ".... And so is the use of violence, and the violent person has knowledge of how to apply it.

At times with prejudices the death sentence is awarded to a man of peace and, justice, Peace and justice can not obstacles to the orders of another person because of his violence, crime code or justice. Manu Smriti, human Lawbook, thinks his next life, will be sinful, and has to suffer as a murderer. The death penalty would be supported. As
certain advices and encourages at the time of war of kurukshetra that (Bhagwadgita recited).

Therefore, a murderer hanging king in it the benefit Similarly, Krishna orders , it's like the violence of the Supreme Court and thus Arjuna is violent knowing the procedure to be followed to decide;. Krishna compiles him for action, all, not because violence is not the justice administration, therefor the violence is allowed. [FN Brugger, the Election Commission of the death penalty . the Roman Catholic moral tradition (Notre Dane university Press, 2003), 104] – violence, death, murder, killing is accepted in war, but never in the peaceful social life.

3.5 ISLAM

Everyone has the right of life, based on the holy Quran and Islamic scholars and prominent appearance in court at the same time when it is demanding, indicates that this policy allows an exception. Their teaching, "Allah has made sacred, except by due process of law, do not kill a soul". This exception recognizes that Islamic law dictates the death penalty administration. This is the main principle of Islam that is the state religion or the tax in most states. The family of a murder victim part has right to excuse or execute the guilty the killer has to face a particular characteristic of sharia.

It is clearly defined in verse no.532 it's murder or mischief on earth to be spread up - not any one person killed if the Israelites Church, it would be his entire lives if any one saved if life, it is, most of them extravagantly in the land continue, even after that, they came, however, after he was saved the life of the people as a whole messengers with clear signs, there should be more. "for example, in the case of the murder of the other verses, such as the victim's family a chance to end the death penalty as punishment, to reinforce the idea. 5:32 comments that the word compassion is the best selection. (Eg treason), "corruption on earth" is punishable by death. Verse 2: 178 and in the case of murder, the death penalty debates; "O ye who believe! Retaliation for free, and the slave for the slave, and the female, free, hitting you in case it is recommended, but no remission, he (the victim's) brother, prosecution of any one done if (bloodwit five) application made, and the fee is a good time for him to be done; This is an mitigation from your Lord and a mercy; So whoever transgresseth after this painful punishment for him."
Here, it is also clarified that the death penalty is the equality rule (etc. salve slave, a man to death for killing a female cannot be punished justly), and the thought of a paid assassin for the victim's family life is provided. The money, as per some Muslim thinkers, to becomes a father, being a case of constructive murder - the murder of her father's family for the benefit of the cash compensation to a death sentence, while leaving them without money, if not Sopravivenza without him is a good chance.

In the case of the well-established Shariah opinions show that they have been traitors in the list as.

- Murder
- Fasaad fi al-ardh (spreading mischief in the land)

This is sedition, violence, piracy and rape, and in some cases prostitution can not hide.

Crimes that fell under this explanation it is incorporated:

1) Treason, when one helps an enemy of the Muslim community;
2) Apostasy, when one leaves the faith;
3) Land, sea or air piracy;
4) Rape;
5) Adultery;
6) Homosexual behavior.

However, other part of the holy Quran: "Let there be no compulsion in religion", says the point. (2: 256), which is also about the religion and the capital punishment does not agree with the official teachings of the followers of a religion as it is complicated by the fact that common.

3.6 JUDAISM
The administrator tradition in situations posses a death sentence, making it impossible to effectively eliminated several talmud results and hypothetical. AD In 30 AD 70, in the Temple of Jerusalem, "forty years before the destruction" of the Sanhedrin effectively, appropriate in definiteness for God alone to use, a theoretical higher limit on the severity of the sentence, can not blame the people who abolished the death penalty. Death penalty - therefore, is argued as anti-Semitism. While some imaginary scenario allows the death penalty in the modern world, in practice, a wide range of Jewish scholars are conflicting for the death sentence.

In contrast to the Jewish understanding of biblical law leans Jewish oral law, the Bible is based on a direct reading. The oral law, the Mishnah and Babylonian Talmud, after 200 CE and 600 CE were recorded.

Rabbinic tradition to prevent the execution of an innocent describes a comprehensive system of checks and balances. This effectively rules out the penalty for being too restrictive, such as the implementation of the law. The law requires: There are two witnesses to the crime, and the need to comply with the terms of a recommended list. Rabbinical law is a matter of time gamblers are excluded - for example, when full, and close relatives of criminal women, according to biblical law pre included from being witnesses. Secondly before the person who witnesses an act of verbally warning that they were legally responsible for the capital punishment.

He has warned and admits it, and still goes ahead regardless of the sin. Any individual is not permissible. Jewish legal scholar Maimonides 12th- famous for "death of a single innocent one to make it better and release more than a thousand guilty persons is satisfactory,". Maimonides argued that it would lead to nothing less than a defendant categorically that one is runing the 'criminals simply, have to judge according to the Caprice of proof. "Maimonides retains its majesty, honor and protects people, public opinion was concerned about the need for legislation to protect himself. [Ehpen Moses Maimonides, namely, 269-271 (Charles B.chavel trans.1967) in Neg.comm.290]

Today, Israel uses the capital punishment only for special crimes. Convicted Nazi war criminal Adolf Eichmann had always been against the death penalty, wa executed in Israel in 1962.
In Orthodox Judaism, the theory of the death penalty as punishment for certain crimes was a correct and fair. one turn attention to the death penalty, which, in absolute terms is, morally wrong and is not the death of a killer ... However, things are different there as this seemingly draconian law and practical realization are ambiguous. You practice, it was very hard to be aware of, the Jewish community of execution ... I Jewish jurisprudence with regard to the death penalty that was outlined clearly think of the written and oral Torah, and (needless to say, humility and humanity and the only scholarship paragons ) people in the midst of the greatest sages conducted remotely, like modern America (or Texas), the death penalty does not look like, theory, the death penalty in kosher the Torah eyes, morally right, but not the major concern of the Torah law said that it was found out that, the great sages have some feelings in relation to its practice.

Torah crime protects witnesses and other safety rules, the severity of the mark, especially the fact that all but the impossible, posses the quality of the Jewish people, the Sanhedrin in the midage declined during the high morality and piety. the court sentenced setting up a managed environment can become cruel and barbaric. (Jewish thought, Part II, p. 170-71 Rabbi Aryeh Kaplan's Guide to FN) fine, "The abolished . Jewish Law and Standards of the Conservative Jewish death penalty group were the subject, of a response:

"The Talmud is a capital offense for any cases of circumstantial evidence include rejected. Two witnesses in their eyes, their action with the saw should witness., A man in his own confession or by means of a capital crime could be found. They insisted no specific test criminal offense to be warned, and his family immediate members by the testimony of the rabbis, they were sentenced to death before the criminal act of cold-planned to a level demanded by his actions fully they know, but he needs to go to that is sure, alarm response indicated criminal that. effect. death penalty application did away with the rabbis of the I know, they are advocating the closing down of the capital punishment, which is another reason why the death penalty does not apply to them.

That's publicly announced., it is often the people we know and who were convicted of crimes. Human Unreliable actually uncovered new facts which are then established their innocence. In such cases we can remove a certain injustice and the open prison doors. The dead back to life. We FN [.... The death penalty is barbaric and
obslutly rejects all forms of punishment Rabbi Ben Zion Bokser, sentenced to death in 1960 by Jewish law and standards committee of 1927-1970, Volume III, pg.1537-1538 Report]

3.7 STUDY OF INDIAN DEATH PENALTY

India is a country where death penalty was never a usual punishment for petty crimes. There are countries like China where death penalty is awarded for petty crimes. However it is seen that in some Acts of India the death penalty is mandatory. But Death penalty is awarded in by applying the principle of the rarest of the rare test. Abolition of death penalty is highly recommended for countries who executes for every ordinary crimes. India was never practicing Death penalty for any ordinary crime as in China where people are executed for Tax Evasion. India has been specific about the extend of crime for which death penalty should be awarded. In such extend, heinous extent of crime to test the rarest of the rare is applied for controlling arbitrariness and recurrent use of Death penalty in System. Therefore though the death penalty is retained in India, it has lower incidences of death punishment.

India is a developing country with comparison to the developed countries, India has fewer resources available. Poverty is an integral part of many villages and particular area of even metropolitan societies. Less or no education is also there in few areas. Less employment, etc. Insecurity may result in higher crime rates.

3.8 DIFFERENT STYLES OF UPBRINGING & VALUES MORALITY

Every group of even small people possesses different values of different social activities, traditions and Mode of conduct. India has a historical background of many different values that those which have been followed in countries where death penalty is abolished. It is bound do be different in different countries of such great population with huge distinct approach of living habits.

3.9 INDISPENSABILITY OF CAPITAL PUNISHMENT IN INDIA
"Every serious a companion”. Aristotle, the capital punishment is part of the Indian Act and until it is changed by statute or constitutional amendment, whenever it involves a law, it should apply to each judge for each Indian court - Virtue "is in the middle of passing the test.

Indian jurisprudence blends the expression and inhibition theories. When the fine was imposed to prevent offenders, it would have to be given the chance to reform offenders in part of the Indian criminal jurisprudence. Bearing in mind these basic principles, the Registrar depicts Assembly. 354 (3) CR a. PCI Special reasons for imposing capital punishment for capital crimes sub-base, they would have to register the Court that has laid down. The process thus, Cr.P.C. After the Act of 1973 when the capital punishment should be compulsory only in special cases, the general rule was that of a life sentence.

Earlier, in any form other than the ordinary man sentenced to death penalty as a deterrent is likely to have a strong effect. Some crimes in which the criminals deserve the truth, irrespective of weather or not an obstacle, the sentence turns in to a socially acceptable activity. The intuitive nature of man is betrayed to be a part of it. They are the ultimate goals of the convergence of a merge. In the death penalty a killer gets rid of the but enemy, it's a sick society, without a kind of grace. Such selfish greed, envy or anger erupts right when it should be rewarded because it is surely social constructive.

[F.N. An article by Shantanu Jugawat & Hirdesh Singh- National Law Institute University,Bhopal] Examples of Higher crime rate with greater magnitude of its effect on lives of people in India According To Reliable e - News Portals India, the major crime incidence in India, are the agitations and bombs attacks such as

- Gujrat unrest (2008)
- Kulgam massacre (2006)
- Doda massacre (2006)
- The noida assassinate (2006)
- And above all srinagar bombing (2006)
- India has been victim of terrorism in spite of her progress attacked bombay and Chennai with bombs (2013)

- Again there were bomb attack in coimbature (1998)

- Mumbai train blast (2000)

There are other types of killing like that of Chambal ghati decoits Bodos and Naxalites, virruppans threats well planned attacks of terrorism on red fort parliament kidnapping of tourists for ransom but the most dangerous had been the actual attack via sea on Taj, Oberai, CST, in Mumbai.

On background of such high rate of crime and nature of crime in India while considering other factors responsible for death penalty, the 35th Law Commission is opined to retain the Death Penalty in India. Also In 187th Execution Matters between the death penalty and the Indian Law Commission’s Report in October, 2003 speaks about different scientific mode of executions and yet it does not speak about complete abolition of Death penalty in India. The problem lies in dealing with terrorist activities.

In Inauguration of union minister the Law and Justice, Mr. Arun Jaitley, mentioned changing times and needs and technologies. In the light of the execution time stress the need for a discussion. Actually he is not related, and emphasized the need to change the archaic laws. The criminal will be hanged in a more humane method of execution from present system, he also said, "We have been on the getting end cross-border terrorism" in the debate over the closing down of the capital punishment, he said that lost its bite. Take the time to death has become a painful process and anachronic guilty hanging up.

The modern Commission, pointed out the meaningful advice. He was hanging a condemned prisoner is a chronic condition and some have debated the merits of the alternative methods,". This refers to no nearby complete abolition of Death penalty in India as it is indicated. [F.N. 187th Law commission Report & 35th Law Commission Report Of India]

3.10 **LATEST ATTITUDE OF COURTS IN INDIA ABOUT CAPITAL PUNISHMENT**
The attitude of the Supreme Court of India regarding the capital punishment can be understood from the decision of case of Bachan Singh case, (F.N. A.I.R.1982,S.C.1325) the appeal against the order awarding capital punishment of the accused by various High Courts was also heard by the Supreme Court along with the case. The names of other cases were Pal Singh and other Delhi Administration, Sher Singh and others Vs. State of Haryana,(F.N.A.I.R. S.C.1325) and Ujagar Singh and others vs. State of Bengal.(F.N. A.I.R.1973 S.C.967)

The decision in above cases was a landmark in the history of Indian Courts. This teargas creating treas is a decision about awarding capital punishment, it prescribes specific guidelines to the courts for awarding the capital punishment.
3.11 MINORITY OPINION

Justice P.N. Bhagwati (Ex. Chief Justice), on behalf of the majority, delivered his judgment. He said that the capital punishment contained in u/s 302 of I.P.C. is in infringement to the provisions of Art. 21, 14 constitution of India. The punishment of death neither fulfills any social object nor follows any statutory provision. It is rather a very cruel, inhuman or barbarous act. He was of the opinion Reform of the capital punishment as a criminal punishment for all future climax which ends up. As a preventive measure, but it is simply on immature reattribute. It appears that a jury; Government in serious effect is probably the tool, after considering all aspects of the United States for, the abolition of the capital punishment.

The government and courts in India should also adopt in constructive views about it Probably due to this reason the modern trend of the courts in India is to wards life imprisonment rather than capital punishment so that a criminal may have an opportunity to reform himself by realizing his own guilt at any stage. The legislature has of course, not prescribed any yardstick according to which a court may decide in what cases the capital punishment and in what cases life imprisonment can be awarded. In view of this fact the powers of courts of awarding death sentence is their unguided discretion.

Capital punishment is such a step which once taken can not be taken back. It is rather and un-rectifiable mistake; for instance a person is sentenced to life imprisonment, and later on it is proved that he was innocent, he can be released from Jail. On the contrary, if a person is sentenced to death and thereafter it is found that he was innocent or that there was mistake on the part of court in awarding such punishment, such mistake cannot be rectified later on. Justice P.N. Bhagwati said though every precaution is taken by courts in awarding death punishment, any mistake is passive because the judges are also human beings. Therefore, a person is put to death due to any error, omission or carelessness on their part, who will be responsible for such innocents death.

In early stage of society the capital punishment was the appropriate method to punish criminals. It was also used to deter others from committing crimes. This position is somewhat different in these days. The heinous and serious crimes like murders are generally got done by the people belonging to rich and high social status, through the professional criminals. Therefore, they are never caught red handed while the poor and
meanness person if they commit such offence are punished by courts. The capital punishment is abolished in India now and in stead of that the life imprisonment should be given so that the accused persons may have a chance to reform themselves.

3.12 MAJORITY OPINION

Justice Sarkaria on behalf of the majority delivered his judgment and said that capital punishments necessary in India hence it can not be abolished.

He said that the death sentence cannot be totally abolished in India. It can however be restricted only for the rarest of the rare. For instance, Dowry death and Harijan's Killings etc. are treated as the term the rarest of the rare, and indicates about those exceptional cases in which the cruelty and intention of the criminal to cause death is proved, and no other suitable alternative is left before the court except awarding capital punishment.

In other words, such categorization is simply a guideline for the courts. Sri Chandrachud C.J. in this connection said that the guidelines given in Bachan Singh's case regarding the rarest of the rare case deserves capital punishment. The decision regarding rarest of rare can be taken only after having consideration into the facts, causes and affect and to the circumstances of each particular case. Some of the examples of those cases are as follows.


   The accused was a police constable at District Chandrapur (Mah.) He committed murder of his wife in a very cruel manner. Then he reported the case in police station. The intentional and cruel murder was proved from the a) statement of accused b) Blood spots on the land c) availability of blood mixed water in a pot in the house and d) improvement of dead body of the deceased wife of the accused in various pieces. It was clear from seeing the body of the deceased that she was brutally murdered; hence it was the rarest case, the grant of capital punishment in this case was proper.

The accused committed murder of his wife for dowry. He wanted a motor cycle in his marriage which could not be made available to him from his in laws. He then started cruelty in the form of beating his wife. The family members of deceased called Panchyat, but the accused threatened Panchyat not to interfere in his personal matter. Next day he murdered his wife and concealed her body in store room of fodder and then set fire in that room. The half burned body of the deceased was found by police. It was a very cruel intention and inhuman act on the part of accused. Therefore he was rightly awarded capital punishment.


In this case the accused killed an innocent girl of 5 years, the accused was of only 17 years of age. He did so only to get golden ear rings of that child. After committing murder of the child, he concealed her body near a pond. It was later on recovered by police. It was a very cruel act covered under rarest of the rare category.


In this case the accused killed his wife because of his poverty. He was fed up due to her prolonged treatment. He thereafter murdered his children. After death of his wife because there was nobody to look after them. In that case it was proved the accused committed murder under the frustration and under his compelling circumstance. Therefore, it was not the rarest of the rare case. He was rightly punished with life imprisonment.

3.13 THE LEGISLATURE OF INDIA CAN ABOLISH THE CAPITAL PUNISHMENT

It is only within reach of the Government of India on the global community's concerns about the death penalty and inhumanity Justice Bhagwati, Justice of the Supreme Court judges reviewed the concerns that are raised in the course of the announcements but they did not start any research. In contrast, the Indian government, and other organizations, including the National Human Rights Commission figure on the use of the capital punishment to cover the material, preferably something cool or being ambivalent. Preparing a report on the capital punishment in 1967 suggested its retention -
India - Law Commission of executing prisoners to death some forty years most 'humane' way, preferring in stead to focus on the research problem.

Some of the pre-independence India, a long history stretching back to the anti-death penalty sentiment know. War in 1937, Mahatma Gandhi, and non-violence, but rather the relation of the death penalty. All punishment are passivly applicable. The State under the non-violence, therefore, a killer prison for reform. Their mental condition, is sufficiently useful, constructive solution to improve it eventually upsets and hurts and that life and human approach with respect to a question,. Yet in humanitarian such charges, settlement and removal are the normal environments of the concerned criminal psychopath, he treated.'I m kill a great deal on their path to the citizens to maintain hope.

Cases a minority, this is impossible to go. they may put it up to them die a natural death in prison houses. This is of heavy profitable burden on society than hanging may act. But a murderer, even a humane treatment to enhance the dignity of man and society have no doubt the human will. "[F.N. The Harijan, 19th march1937, referred to ,in Dalbir Singh case.]

The need to retain the capital punishment to enter into an open dialogue with the establishment of the house, with large sections of the political class is calculated to display their 'unconcern'. Political parties take a clear stand on the retention of the capital punishment except for the figure books, much less to see the abolition of the need to set them to refuse to be drawn into the debate, there are numerous others. His campaign against the death 'iron curtain' has to go out, both deny the death penalty the 'political' debate faces a challenging task that requires the use of language. For courts, apart from the abolition campaign convincingly death penalty is within reach, and mistakes are likely to occur, to show common citizen to convince the political class to find friends and new methods to discover its ability to focus on the judicial concerns first in Bachchan Singh case, 27 years ago, the Supreme Court (when he was , it's high energy, if there is real).[F.N. ‘Judicial Activism is a misnomer’, Interviewed by J. Venkatesan. The Hindu,25th October 2005.]

Justice YK legislature to address the urgent need to be Highlighted that in 2005 the Indian Supreme Court's 36th chief justice was sworn in as Sabharwal, in a discussion
earlier, he said, "when it (capital punishment), a community is - the question is, in the end, it continued not to have the Indian Parliament" to be taken by a resolution.

The Judge is required by law to implement it. Clearly target the removal of his successor, Chief Justice KG had stressed the legislature on 13 January 2007, Chief Justice Balakrishnan, Justice Krishna Iyer made a similar statement in his retirement, "the death penalty" when parliamentary movement observed. It with no real point of view.

Death penalty should be abolished in free India from 1947 in 1949 several members of the humanitarian ideal figure of members of the meeting during the drafting Constitution of India, had clearly retained the death penalty to worry about the potential reach of what vagaries satisfied unique subjective judges in the state court hearing the of the cases. Interestingly, several members of the practical nature think, there is no foolproof method to eliminate error that is what is referred to their experience as lawyer practicing criminal law. On 3 June 1949, the debate on the need for obligatory appeal to the S.C., Pandit T. D. B. many criminal cases had superimposed action argued that there was a real possibility of innocence, in his experience as a legal practitioner.

He spoke. Another member, Frank Anthony, had many criminal murder trials experience in handling criminal cases, particularly any person who has handled murder cases, miscarriage of justice of his personal knowledge the details wrong can testify", argued that the legal description in the case of conflict as is the biggest difference.

In India, the High Court, two citizens died and another in which the high court, while one may be convicted of murder while the other two, will be sentenced to death penalty for having committed ("a fatal injury hurting the simple injury.")) [F.N. No confrontation, says CJI designate,’ The Tribune, 3rd January 2007]

He was sentenced to death for the innocent people and the possibility of capital punishment in cases that do not seem to support the view of lawyers practice that is known as Pandit Thakuradas. In circumstances, where the members of a high court handed down a death penalty in all cases where as the Supreme Court itself has argued in favor of the appeal. The death penalty was abolished until such time as deemed as a security arrangement.
Assembly member, Professor Shibbanlal Saksena, was a death convict himself. The 1942 capital punishment for his role in the liberation association, a destined cell he occupied for 26 months. Assembly as he explain, was at this time 37 persons, among whom some were being hanged, he pointed out, had seen; Seven persons were executed for their crimes, he had reason to believe that they were completely innocent. In death penalty cases, the Supreme Court imposed an inherent right to speak during the debate on a constitutional provision to offer, he can not have seen very poor people “can not point out that the suggestion they have a request think that article 112 of the Supreme Court judgment setting appeal anumatiyutaiyavar, but the Supreme Court judgment setting appeal anumatiyutaiyavar it can go to heaven, rich people will be looking at the earth, but the money holders and the general public in this area benefits can loot of the poor.

This article or any subsequent article ought to be there so that those who organized the protest against the death penalty and those executed with the participation of innocent persons in the name of and the House S. C. of the death of appeal to the inherent right.

Dr. Ambedkar on death penalty cases appeals, I would much rather the death penalty abolition would support the S. C. of Appeal granted a conditional than not ", that's his personal opinion highlighting the debate ended as.. itself that I am, after all, in this country, this dispute to an end that comes up, follow the right course and the largest non-policy hopes -. violence and its ancient heritage, and there may be people, however, a moral support that the violence they are by far their potential and I think this fact in relation to, this country is a legitimate thing to think that the need to monitor - in effect following that, they positively stick to the principle of non-completely abolished the death penalty. [F.N. Constituent Assembly Of India, vol.8, 3rd June 1949]

Dr. Ambedkar, however, the S. C. in criminal cases involving the capital punishment and other issues that should be a mandatory appeal to the finer details of a future parliament to pass legislation that would leave. Members about the need to abolish the capital punishment completely, but that is a clear personal opinion - - Dr. Ambedkar was nominated jointly by the constitution, the law and decided to leave the issue of the abolition of the implementation for future parliament. This position is double, but presumably the death penalty in criminal law is not something that can be validated.
it is consciously decided, not blocked, in any way, providing the death penalty, the death penalty is linked to political morality, honor and gave an aura of legitimacy.

Various efforts to abolish the capital punishment, private members bills were introduced in both houses of parliament later. The member of Parliament, Rajya Sabha, Prithvi Raj Kapoor - once introduced in the Lok Sabha, Mukand Lal Agarwal 1956, another in 1958 and added to the cast was introduced in 1961 and 1962 respectively Savitri a couple followed. However, the voice of Mahatma Gandhi, Nehru or the Congress or the Congress government positions against the capital punishment to any official position were change, under the pressure of the parliament, government.

Execution of the Law Commission's 35th report at the end (of the fixed and sound research based on a death penalty protest) is accepted, even though November 1971 and tabled in parliament, the Law Commission and finally to the Indian "conditions" including the "moral and educational level" and "law and order crucial demand imbalance .... India "could not risk the death penalty to be abolished.

(Law Commission's report on the death penalty). The result, combined with that of the Constitution and the Law Commission to put an end to the capital punishment, and applies to the fact that the courts Indian Act, the punishment became one of the most essential moral practicalities.

In fact, it is much less than the Indian government, to abolish the death penalty requirements of the Indian Act in order to deny the need to re-examine regard, the Supreme Court as unconstitutional due to the fact that the death penalty should not to be broken. Legislature and the judiciary, the abolition of the two pillars featuring an interlocking block. The way to the Supreme Court's judgment highlighted by Jagmohan Singh V. ‘If you decide legislature’, which noted that Uttar Pradesh, the state court and sentenced to death in the absence of objective evidence to question the wisdom of retaining the legislature, the owner will be difficult to retain capital punishment for murder. Court, bills in the Lok Sabha and Rajya Sabha went to all the representatives of the people of the death penalty should be abolished in the opportunity do not welcome "to show that took the position that.
This state of affairs was for various occasions we have such unfair or public interest is something that the death penalty can not prepared for.

The moral and legal response to the interests of retaining the death penalty for breaking all those who believe in the death penalty is immoral and it is one of the important tasks.

3.14 Theories of punishment

Present five characters, theories of penalty. 1) Retributive theory 2) Deterrent theory 3) Reformative theory 4) Preventive theory 5) Compensation of theory. The punishment intend is further end. The evil should return to evil, it means death of a human being never comes again. Tooth for a tooth and an eye for an eye it is self and sufficient rule to maintain social peace of natural justice. If the criminal commits wrong be must pay for his wrong doing society desires it necessary for the health of community and effectiveness of the law. Society wants neither anger nor revenge can enjoy an effective system of law.

All these theories have purpose to punish the wrongdoer. It means the end of erroneous justice to care for and add to the welfare of the state and society. The offender suffers for the wrong committed by him.
A) **Reformative theory**:

The main object of this theory is to reform the criminal. Secondly the object of the loving treatment of the offenders, sympathetic, tactful and the revolutionary change in their behavior characters the hardened prisons can never be reformed the converting his character behavior will be helpful friends good words used by other has near and dear ones.

According to Salman theory suggest that if the criminal is send to the prison their character made in to good citizen by physical intellectual and moral training. It is the treatment of the young and insane persons reformatory theory is a system of probation for first time offenders and juvenile offenders the reformatory school act was made as The Bombay children act 1948 and many laws enacted in India which is applicable to the union territories.

One more provision u/s 27 of the Cr. Pro. Code provides that age of 16 remanded homes for underage criminal’s law provides the behavior guidance treatment of young offenders.

And one more u/s 360 of the Code of Cri. Pro. code 1973 the court ordered the release of person which is probation of good conduct. The reformative theory defined to punish the criminal as little as possible and improve him as much as possible.

The habitual offender in the case of persons concerned with reformative theory is a failure the theory creates conflict between the motives and characters of criminals this theory is curative like the function of a medicine the first offenders young offender than in the case of habitual offenders.

The punishment is the information of criminals instilling in them a fear of repatriation of punishment and formal especially if the penalty is a long period of imprisonment which gives the prisoner no opportunity for improvement the circumstances under which he committed. The crime may not occur again therefore Gandhiji said an sentenced “Hate the sin but not sinner”

B) **The Deterrent theory**:
The Deterrent theory defines to teach a lesson to others the object of these theory crime not to be profitable to the criminals it is a costly way of achieving an end. The deterrent theory is purely applicable to capital punishment the main object of the theory is not revenge but it is to create terror in the society if the punishment given to one criminal other member of the society or criminals learn a lesson from him.

According to Salmond Prevention and criminal law led him to the end of all things that are like-minded evildoer an example and a warning to all the pre-sentence.

**Criticism**

Deterrent theory has its application everywhere due to certain basic characteristics in it. It however has faced various criticisms due to certain difficulties in its practical application. Some of the criticisms are as under.

i) The implication of severe punishment is against humanity. Sometimes some adverse effort of the application of this theory are seen when a person becomes very cruel and revengeful only when he suffers severe punishment due to the criminal act done by him in innocence or under sudden provocation or under some compelling circumstances without any criminal intention. Such persons generally become the hardened criminals due to feeling of revenge against the state and society.

ii) The implication of severe punishment generally has no effect on the habitual offenders. The reason being that they become habitual of suffering physical and mental tortures.

iii) This theory has practically been failed in its application.
C) **Preventive theory**:

The preventive theory of punishment defines the preventing or disabling the criminal is disable from repeat the offences such type of sentence as imprisonment death exile forfeiture of office etc.

In that theory the law provides certain pain to the criminal with certain things to give motive of not do the crime. The preventive theory in all inspiring all prospective wrong doers with the fear of punishment disabling the wrong doer from immediately committing crime lastly transfer the criminal wrong doer to reformation re education he will not commit another crime.

If A has committed theft then according to this theory his hand should be cut off

**Criticism**

i) This theory is not practicable.

ii) This theory has no practical utility.

iii) The habitual offenders never leave their criminal habits and the jail life becomes their normal life.

iv) The offender can be removed from society by giving death punishment but further offence cannot be stopped by doing so.

v) This theory cannot be applied on every case. Some people commit criminal acts in sentiments. Therefore infliction of severe punishment without considering this aspect will be against justice and morality.
D) **Retributive theory:-**

The retributive theory of punishment An eye for an eye and tooth for a tooth and guilt plus punishment is equal to innocence the purpose of this theory is to substitute justice for injustice another view of this theory is an end in itself apart from going to society and victim. The criticism on this theory the critics says that retribution punishment is barbaric and brutal.

If A beats B and cause injury to one eye of B then according to this theory one eye of A should be broken.

**Criticism**

1. Retributive theory of punishment is not only cruel but also inhuman.

2. The inflictions of punishment, according to this theory create the felling of revenge or revolt against society in the hearts of offenders who suffer it.

3. This theory might have been useful in the primitive stage of society but now it has no place in the modern times.

4. The theory is opposed to the beneficial approach. According to therapeutic approach a offender is considered as a mentally sick person who requires sympathy and treatment and not the serve punishment.

5. This theory is base on the feeling of revenge.

The capital punishment has occupied in an important place society as well as of the middle ages. Death sentence was a very common punishment in the past.

In India there are two ways legislative and judicial the legislative thinks to change of criminal procedure code, The Criminal Procedure Code1955. Amendment, awarding death sentence in the case of murder. This amendment liberalized in fexus of the guilty persons.

The murderer would repeat murder again he committed heinous crime of murder if the law kills that man prevented a crime which is possible not to have been committed.
Prof. Henting points the capital punishment is neither effective nor just it is better to save nine murderers capital punishment to execute one who may in fact be innocent operative and relevant it is the end of crime. There are two different rules of punishment one reducing of criminal behavior by protecting the society. The punishment makes a society peaceful i-e by deterring potential criminals and secondly turning him to how binding person in the society.

In conclusion it will not be completely improper to suggest that except some rare cases death punishment should be abolished. In the earlier part of this chapter all types of religious procedures regarding punishment are discussed. Nextly the researcher has expressed the opinions of great judges regarding their views on death penalty, various aspects are taken in to objective considerations. A list of controversial cases is also provided with the drawbacks and loopholes, and different opinions of the learned judges regarding the term.

There are opposite views in legislature and judiciary and even Dr. Ambedkar left it to the future parliament and as the discretion of the concerned judges to evaluate the situation and think over death penalty to be awarded in that particular case. The element of subjectivity creates problems in deciding whether death penalty is to be retained or to be abolished. Justice Bhagwati, Sarkaria, Krishna Iyer and Dr. Ambedkar had expressed their own views. There are some MPs who raised the problem in the parliament however even after discussions they could not arrive at a fixed decision regarding retention or abolished of death penalty.

In the last part the theories of punishment are classified along with their assets and drawbacks. In spite of strong and clear-cut opinions of the judges even after 65 years after independence, the problems of retentions or abolishment has remained as complex and challenging as before.

The position of India is in between the developed and non-developed countries. The percentage of crime is even non-increasing in spite of good position of law and order hence capital punishment like the developed nations should be abolished. However, even now there are crimes that might have been appropriate in the Judge world and these crimes, their percentage and deep gravity show that the Capital punishment must be retained. Who knows how many years will be required to educate and civilize people to
create an atmosphere to abolish death penalty for ever, with strong decisions of legislature and judiciary for ‘One and for all and forever’.