CHAPTER - VI
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6.1 SUMMERY

The present researcher explains the subject in six chapters and tries to introduce all such types of death penalty to be abolished or retained and the favourable of against views impact of society.

6.2 CHAPTER - I

In the 1st chapter the researcher tries to introduce explanation. The introduction meaning, explanation the introduction weather capital punishments ethical or not and explains laws and provisions the land mark judgments from Supreme Court legislative parliament it further discusses the theories of punishment the pros and cons of it being retained or abolished. It provided, scope, object, hypothesis, of the subject of capital punishment.

6.3 CHAPTER - II

Review of literature and latest view of the author article, books and all discussed in this chapter

6.4 CHAPTER - III

In the IInd chapter in the thesis the work tries to discuss reactions and responses of the social views from all religions, death sentence in India referred in the latest case law and the Supreme court and high court interpretation of the law and the problems and controversies related to them.

6.5 CHAPTER - IV

In the IIIrd chapter of thesis the work tries to introduce weather the death sentence be abolished or retained with the background of historical mode of execution and till today and table of execution in death from 2001 to 2011 and the political disturbances in execution of capital punishments.
6.6 CHAPTER - V

In the VIth chapter the work tries to compare and contrast capital punishment on international global trends, movements in favors of capital punishment and against it discusses Afzal Guru’s and Ajmal kasab’s execution. What types of punishments are adopted in the western and the Islamic countries is also discussed.

In the work tries to introduce death sentence in India as defined cr.p.c. 1973, some section of case law procedure law in India and procedure of appeal in death sentence and arms act and I.P.C. 1986 penal laws section defined in their punishment and the S.C. & S.T. Act 1989, Indian navy act, prevention of Sati 1887, and N.D.P.S Act 1989, and Supreme court, High court case laws are discussed and the problems of M.P.D.A. and MISA, POTA and other present laws, are also thought over.

6.7 CHAPTER - VI

Future scope, Conclusion summery

6.8 CONCLUSION

A man should be out right not being kept upright. The law of life and challenge aim of life. Let us challenge, the changes and not change the challenges while thinking from third persons indifferent point of view which is an inseparable part of the judgment as well as judges point of view. The human power has no capacity to make a dead person alive, any death punishment is inhuman as well as cruel when life cannot be given life, it cannot proper to have right to end one’s life. If, by the limits of evidence, some innocent is punished, there is no possibility to rectify what is one declared in form of death punishment. There might be provision of appeal but there is no chance to re-open the case for the life is gone for once and ever.

From the above discussion can say the capital punishment is not perfect solution but still it has great role to play. One group of people in favors of capital punishment and other is against it. In India, execution of death penalty is very less when compared to China and other countries, Indian law is based on the principles of natural justice i.e. 1000 criminals may exempt but one innocent should not be punished. By this reason there
is no need to abolish capital punishment. The criminologists, reformists, penologists, sociologists etc. argue for abolition of capital punishment i.e. good to hear but it is not of any use in practice.

The country, like India, has great need of capital punishment by the bill of 1971 which was introduced in Lok Sabha, and it was clearly stated that there is no need to abolish capital punishment it further suggest that only a person under 19 years, should not be hanged till death.

In modern times in all most all countries capital punishment is imposed in rarest of the rare case that to imposition is less painful. Hence, until a suitable solution is discovered to prevent the crimes in the society, the capital punishments should be continued.

Capital punishment is unbeatably against the notion of modern rehabilitative processes of treating the offenders. It does not offer an opportunity to the offender to reform himself. And many innocent persons may suffer irredeemable harm, if they are wrongly hanged. But the State never justified except in extreme cases of dire necessity and self-preservation in war. Though it is concluded that keeping in mind the whole view of present situation, it cannot be abolished and time is not yet ripe when complete abolition of capital punishment can be strongly supported without endangering the social security. It serves reminder to everyone that in case of unpardonable crime, one has to forfeit his own right to life and survival.

At present as many as 122 countries have retained the death penalty but they are continuously making renovations in the method of execution. Before awarding the death sentence the judge gives an opportunity to the condemned person to be heard on the point of sentence, satisfy the rule of natural justice and fair play. It seems that, whenever there is a crime there is ought to be a criminal. Undoubtedly, there are admirable principles which the Judges who have responsibility for passing sentence, should bear in mind while finalizing the sentence of the accused for criminal is tempted to commit the crime in a peculiar circumstance. The objectives of sentences and the range of sentences have widened over the years and this calls for properly previous observation of the results of similar sentences imposed in similar circumstances in the past The sentencing courts
should, therefore, keep themselves abreast of the penological developments, especially when the choice is between ‘death’ or ‘life imprisonment’.

In the ultimate analysis, it will be seen that considered from the angle of social justice and protection of society from hard core criminals, death sentences is not unreasonable or unwarranted or obsolete type of punishment. The noted Italian criminologist Graofalo, while disapproving the abolition of death sentence from the statute Book commented,

“When state abolishes the sentence of death, it authorizes murderer and says to the criminal the risk you run in killing a human being is a change of abode, the necessity of spending your days in my house instead of your own will it be proper to do so”? Graofalo

“Whenver there is a criminal, there is a victim. Whenever there is a victim there is a judicial system. And whenever there is a judicial system there is a punishment”. And before hanging the accused person, his case has been handled by the various authorities with due appreciation of mind. It is therefore not necessary to abolish the death penalty but improve the criminal behavior.

Historically speaking, India has never witnessed any strong movement for the abolition of death penalty. However, this does not mean that no attempt has been made for its abolition. In fact, a number of attempts have been made to get rid of this extreme penalty. The constitutional validity of death penalty has mainly been challenged on the ground that it violates the fundamental rights guaranteed in Articles, 14, 19 and 21. Further, this constitutional aspect has mainly been considered in the context of section 302 of Indian Penal Code.

It is abundantly clear that the Supreme Court in delivering its pronouncements, took into account a number of factors viz. the magnitude of the crime, the gruesome nature of the offence and brutal manner of this perpetration, the innocence and the helpless state of the victim, premeditation, religious, political or caste differences as the motive of murder anti social nature of crime and high political or social standing of the victim. In India, where the machinery of police as well as the magistracy is inadequate to
tackle the problems of criminality effectively, the continuance of capital punishment is inevitable and the present safeguards for the life and liberty of the individuals are more than sufficient.

Today, the need of the time is not for abolition of death sentence, but for prompt and effective enforcement of criminal laws to create better confidence and respect for law in the masses. Time is not yet ripe when complete abolition of capital punishment can be strongly supported without endangering the social security. It is no exaggeration to say, that in the present time the retention of capital punishment seems to be morally and legally justified.

It must also be noted that the essence of criminal jurisprudence has always been to provide protection, as also to contrive measures against the fears from within and without, for the individuals and also for the social order itself. Thus, the criminal jurisprudence while it provides protective devices through punitive sanctions, also aims at securing better social order by insulating against the unwarranted acts emanating from the individual. It is with this backdrop that the desirability or otherwise of the capital punishment has to be judged. As a note of caution Shri S venugopal Rao who chaired the session on capital punishment of International Congress of Criminal Law rightly pointed out that there is no objection to according a humane treatment to the offender but this should not mean’ that the victims be at the mercy of criminals who pose a danger to the society and deserve treatment through deterrent and preventive measures.

Therefore, there is a need for searching out a viable alternative native to deterrence, which has a vital protective function in society.

Shri S venugopal Rao

The death penalty is no doubt unconstitutional if imposed arbitrarily, capriciously, unreasonably, discriminatorily, freakishly or wantonly, but if it administered rationally, objectively and judiciously, it will enhance people’s confidence in criminal justice system.

The pertinent issue which emerges from the foregoing discussion and the case law is how far the present law relating to capital punishment answers the need of the time and
whether its scope needs to be extended, curtailed or it should be abolished altogether. Considered from this standpoint, the position as contemplated by Section 354(3) read with Section 235(2) of the Code of Criminal Procedure, 1973 appears to be sound in as much as it limits the use of capital punishment to a minimum without, however, abolishing it altogether. The removal of mandatory death sentence for murderers and allowing judicial discretion to commute it to life imprisonment in suitable cases is perhaps the most appropriate approach to the use of capital punishment. In view of the present deteriorating law and order situation in India total abolition of death sentence would mean giving a long rope to dangerous offenders to commit murders and heinous crimes with impunity.

Of late, opinion is mobilizing in favour of extending the scope of capital punishment to economic offences such as profiteering, hoarding, smuggling, black-marketing and similar other anti-social acts which upset the solidarity of society. Although Russia and other communist countries prescribe capital punishment for such offences, the policy hardly seems expedient in context of Indian society. In fact, forfeiture and confiscation of property or imposition of heavy fines by way of penalty would perhaps be more effective punishment in such cases and the revenue so collected may be utilized for the welfare of the community as a whole.

Another pertinent question that needs consideration in regard to capital punishment is whether it is for the court or the legislature to decide about the retention or abolition of this sentence. Admittedly, legislatures represent the public opinion and the wishes of the people are truly expressed through legislative enactments. Further, it is an established rule of interpretation that the penal laws must be construed strictly and their application should not be extended beyond the scope of the provisions of law.

However, so far the question of punishing the offender is concerned; his personality, surroundings and circumstances which actuated him to commit the offence must be taken into consideration. Obviously, it is the Judge and not the legislator, who by virtue of his superior training, insight and experience can best decide according to the settled principles of law as to what punishment should be awarded to the accused in a particular case. The Judges have readily at hand a systematic scheme of law to be applied
to various offenders thus extending the offenders due protection against prejudices whatsoever.

It can, therefore, be emphatically stated that judiciary is perhaps the only competent institution to determine the cases of law violations and award of punishment to offenders. This function of the court cannot be effectively discharged by legislatures. At the most, legislatures can formulate general policy for the guidance of courts, but they must ultimately leave it for the court to apply those principles to individual cases.

News of the death penalty or logically or rationally justified, or human rights, or that would not be looking at it from the perspective of feminist perspective is loud and clear. Cold reason or compassion; It helps to stand. It is the value of human life Ultimate denial, the creation of human existence ultimately demeaning and an insult.

Reports from the United States to stir up hatred only put one to sleep by pressing the lever or people who want to witness the execution of the death penalty, saying deems. Worship of how low humanity? Inhumane and sadistic pleasure from the sight of the dead, how we can achieve? Fortunately, public opinion in India has reached the level of grossness. However, it is a basic respect for human life, we need to preserve, if not imperative, that we should do away with the penalty.

Many failed to abolish the death penalty law. Before independence, a private bill to abolish the death penalty in penal code offenses was introduced in the 1931 Legislature. British interior minister, however, rejected the motion. Rejected a similar bill introduced in the Lok Sabha, India’s first independent government. Resolutions 1958 and 1962, as introduced in the Rajya Sabha met in fate, but the government is reviewing the Penal Code and the Criminal Procedure Code, at the time, agreed to send copies of the Law Commission’s 1962 discussion at home. Law Commission, in 1971, the Government and the House of Commons in 1967, presented its 35th report, clemency, but gave examples such as the situation.

Scheduled to be appropriate grace, without which killed offender- mental abnormality. The abolition of the death penalty, death penalty, especially as the 1983 Lok Sabha national security law, legislative acts, such as the Indian Penal Code and sentenced rules, discussed included many penalties. Under the Indian Penal eleven offenses
punishable by death. The crimes of complicity in such a penalty occurs, provided that a capital offense by another person convicted protect an intent false evidence fabricated, armed forces members rebelled complicit government waging a war against, any death worthy crimes of complicity is a strong reason for a child to suicide or a crazy person, such as the execution of the military under the 1950 Act imposes a number of crimes committed by members of the armed forces, the Air Force Act 1950 and the Navy Act, 1956.

In 1989, S. C. and S. T. (P. of A.) Act, fabricating or scheduled tribe, a Scheduled Caste or a “naive” element to provide false evidence leading to conviction or punishment of the death penalty was introduced. In addition, further enhancements appear immediately.

The only question is different enough political support for the death penalty for a crime to pass new legislation that could be mustered at a specific time. Significantly, Mithu v Punjab. A bench in the state Constitution, a career criminal who unanimously issued a mandatory death penalty for murder IPC, Section 303 is invalid.

For special reasons, it is not necessary to impose a death penalty state crime, but held that the criminal should relate. Protection of the state and society, public interest, public order, unless of course that must be given.

Jagmohan Singh, V. Bachchan three developments continue to justice. Punjab State Government has prompted a new challenge. Cr.P.C. of 1973 was enacted into law. (3) The penalty for 354 special reasons to be recorded the death penalty as punishment for a guilty verdict. The second reason to abolish the death penalty in India is a significant step in the international arena, the International Covenant on Civil and Political Rights was signed. Convicted and sentenced to death for the murder so far as concerns became an exception to the rule. Thirdly, India’s Maneka Gandhi v. In the end each of its practical and legal custody of the standard features of the two sentences Articles 19, 14 and 21 that commanded a joint reading to pass the test of reasonableness.

As states increasingly international community to reduce and, eventually, to avoid the use of the death penalty. Although the death penalty is prohibited under international law Act, various United Nations human rights bodies, in many cases, the abolition of the
death penalty in favor of the growing international consensus that has been confirmed again.

Contemporary human rights law as the basis of Article 3 of the Universal Declaration of Human Rights at the end of the study 10 December 1948 the United Nations General Assembly adopted the Universal Declaration of Human Rights is the non-respect of the fact that human life –negotiable. The drafters of the Charter right to life, but go far beyond the material, not just the right to not be deprived of life except for due process developed an original protocol. When negotiations going on, the death penalty can not be justified by the existence of a necessary evil in philosophical or scientific basis, was seen as an almost unanimous. There are chartered related articles:

A) All of life, liberty, security of person is right. The dramatically evolved from India, wrote in his politics. At the end of the Second World War, the Nuremberg and Tokyo trials of those accused of the death penalty laws were included in a sentencing option. At the time, the prevailing sentiment at the time that is necessary to punish the perpetrators of the most heinous crime.

In the 1994 law establishing the 1993 law,. International adoption of the Treaty of Rome of the International Criminal Court in a sense the real test came in 1998. After considering the demands raised by some states, the international community, only seven of the world’s 120 countries signing the final act, the decision to reject the use of the death penalty, the International Criminal Court, the international rules of the law reflects a modern expression of the use of the death penalty.

Death penalty abolition later severely 8 December 1997 Resolution 32/61 in 1977 from the United Nations, have been nominated, the General Assembly, said: “The main purpose of the death penalty in the field continued, is that over the course of the execution of this sentence was to eliminate the option of a vision charged with any crimes member of the controlling.”

In 1997, the first time the UN on human rights The council, which would have imposed the death penalty to progressively restrict the number of crimes that have not abolished the death penalty, adopted a resolution calling on all states. Commission on Human Rights passed a resolution consecutive years each. Since 1998, commission’s
resolutions with a view to remove the death penalty from the law, to establish a moratorium on executions retentionist states urged.

The end of the agreement with a view stressed the need to control the use of the death penalty. People of the African Charter of Human Rights, the abolition of the death penalty goes a long way. Human beings are inviolable: Article 4 states. Every man and his life and the integrity of his person entitled to respect. No one is arbitrarily deprived of his rights.

The first main argument is based on the removal of religious and moral. Theology, that is, it creates only one life goes, “God”. For the simple reason that they can not afford not to take life, power, or just have a moral prism, looking at things from the state or society. Social contract theory to the public, come together to form a community, giving them some of the rights and agreed to rule a state. But, they are one of the most important being the right to life, giving some basic and not rights.

The basic premise is that we were wrong to kill the resolution of the Government of the killer really is: a clear logical argument suffers due to the very existence of the death penalty. (!) – The reason for its existence is to kill the murderer, if a person maintain justice, clearly state its reasoning for the murder lost. It can not be one rule, or in the community that is its fundamental reform or a change of mind is not healthy enough to carry the good.

Human rights and constitutionality, the abolition of the death penalty in recent years, religious or moral argument increasingly vocal in terms of human rights. Still, the basic understanding of a man’s life is his inability to human rights, so that the same is not negotiable. The importance of this argument is that it is arguably the death penalty to achieve a big goal retentionists shown too, is the fact that individual human rights can not be sacrificed to the good of society. In chaos theory when it comes to basic human rights has been given a go. It may be beneficial to society, because to put it in simple words, one can not just kill an individual.

If a law prescribes a sentence is disproportionate to the crime he is liable to be struck by it, the principle according to articles 14, 19 and 21, when embedded rate policy,
Justice Bhagwati stressed this point. There is no view of the usefulness of deterrence rate. Moreover, Article 21 implicitly torture and cruel, inhuman safety measures.

In 1990, the Hungarian Constitutional Court, the country’s constitution provided the death penalty “of life and human dignity,” declared that violates inherent rights.

Political touchstone execution while testing, Bachchan Singh majority it is a fitting gave the Justice Bhagwati Articles 21, 72 and 169. Language is implicit that the very constitution by the makers felt that the political volatility of the document, but rather a long time helps, because it’s a future Granted there was a gap that needs to answer when waking up. Moreover, even if the intentions otherwise, without prejudice to the constitutional concept of enlightened producers, it is humbly submitted that they can not continue to rule from the grave.

However, the Supreme Court, in the case of Bachan Singh, speaking by majority, decided to think otherwise. Reform of the justice system to do away with the death penalty, said that there is an argument. Speaking again from the fanciful world of make-believe, the Honorable Court that the Indian legal system is too complicated to eliminate the risk of leading to himself. In his dissent, Justice Bhagwati rightly acknowledges the limitations of human infallibility.

Recently a leader has said on record that hanging should be avoided in rape cases for it is the age rather than the person to be blamed such statement create more questions death sentence has the same fate.

A trial court awarded death penalty to ensure that the High Court does not have the automatic right to appeal to the Supreme Court does. Sixty days after receipt of the certified copy of the order is the only remedy is to file a special leave petition. It involves a death sentence to the Supreme Court immediately for a special leave petition can not ignore that there is a common practice, however, is a recent example of the true potential. Very recently one criminal being a glamorous hero was frequently released on bail which also created a problem like or wells ‘some are more equal than others.

Of course, we deny that life is precious for everyone and what we have been saying that the death penalty has no deterrent. But, but, we can say that prevention is
better than a death sentence to life imprisonment, there is no way one can show that in real terms. In most countries have abolished the death penalty, the crime rate, which is substantiated by the fact that he did not see a perceptible increase in importance. In any case, leaving the responsibility to prove otherwise to justify taking a life, which is the state.

Painfully long death penalty cases is not unique to the judiciary alone. What makes it stand apart from others of course, he or she will wait for the offense to have to end up hanging out, is to go. Knowledge of the possibility of murder does not take place, even before the actual hanging man kills a thousand times. Minutes before the scheduled time of execution to be reconsidered later when we stayed, there are times.

Lastly, the concluding part of it is clear that the various methods of execution of death sentence in ancient time though they are in not existence now a day it becomes and develops day by day. Out of the various methods of the execution of death sentence Lethal injection is one of the best optional in before the Govt. but human rights protection totally go against of death penalty they protect the right of human being though human who is also a criminal or culprits.

Death penalty is a global issue, Some Arabic countries are totally against the death penalty and some countries are protecting the death penalty issue why because they think that tit for tat policy and the applicable the theory of deterrent. In this chapter concerned to the affect on death penalty is regarding various laws death penalty should be given but it depends upon the facts and circumstances of that particular case and it is to be given in, only the rarest of rare case laws.

In India there is need of death penalty on background of inhuman frequent criminal records and terrorist attacks. In such Case India is unable to abolish the death Penalty. However the rarest of the rare test must be taken seriously to minimize number of executions in India. The retentionist Mode may be transformed with changing norms of society, nature of crime and hence the amendment and modification of laws are bound to happen with such steady change.

6.9 FUTURE SCOPE
Mahatma Gandhi used the phrase ‘An eye for an eye’ and as the result the whole world would be blind it means that looked the criminal is not looked as human favour of reformative theory of punishment it is the correction of first time offenders and the juveniles.

**Following are some suggestions for as to why death penalty is not abolished.**

1. Death penalty is mostly awarded in the rarest of the rare cases, and hence there is no need to abolish it.

2. Death penalty is prescribed only to the hardened criminals and for the recidivist.

3. Death penalty modes can be change by way of the operation of law.

4. After execution of the death penalty the compensation is awarded by the court to the accused person, if he is Karta (house – holder) of his own family and other family member depend on the accused person. That compensation some parts are recovered by accused person or his family.

5. Offence for which death penalty is provided should be disposed of speedily,

6. Only one appeal can be allowed.

7. Death Penalty should be given under the Narcotic Drugs and Psychotropic substances Act.

8. Death Penalty executed by appeal period is over and implementation can be done quickly.

**In the immediate interim, it is believe that there are a number of steps that can and should be taken:**

1. Apply ‘the rarest of the rare’ test Very strictly.

2. Anyone sentenced to death or suffering from a mood that is not carried out –
3. Juveniles who have been at the time of the suspected crime lab confirmed the death without further delay. All provisions of the legislation will provide for the removal of the mandatory death penalty.

4. And to provide compensation to victims of miscarriages of justice in capital cases, found that anxiety.

5. The death penalty and the use of publicly available information regarding the use of the death penalty in secret, and the total number of persons to death to present the details of the case there.

6. Having made available such statistical information and having carried out an independent study of capital cases and their conformity to national and international law, initiate a parliamentary debate on abolition of the death penalty.

Improve Procedural Safeguards

7. Before the Law Commission of India recommended the death penalty (including any military court) granted a mandatory appeal to the Supreme Court in all cases provide.

8. Bench of five judges, the Supreme Court decided that the Law Commission's recommendation to implement any capital case;

9. Recognize there requiremento funanimity of judges as a procedural safeguard in the award of the death penalty;

10. Disallow the award of the punishment of death or enhancement of a sentence to death by the High Court or Supreme Court; in any case where a trial court has directed an acquittal out, awarded any other type of sentence.

Who are sufferers, the killer and the killed families, long delay is denial itself, the fast track courts are essential, what if the evidences (investigative circumstantial or other types are not clear – is there any provision of 50-50 in case of typical cases and how should they be decided, the sufferings of the families of the victims of crime as well as the victims of law – are financially as psychologically
suffering families they are looked down as upon murderers kids and society humiliates result harasses them.

11. With all Above Corrective suggestion arbitrariness may be controlled and checked with almost nullifying the probability of sentence to any Innocent with minimizing unnecessary number of executions.

The present work has cast light upon various aspects related to death punishment allover the world. Thinking over the advent of mder n crulty and prejudiced revengful attitueds ones wonders if all are really civilized so as to cancel the total mannersand methods of the capital punishment.

The man’s rapes in capital of india the stoning tp death in some countries following the process of jungle laws, captivating and controlling women as if they are from the B.C. before Christ, period, the war clips seat to threaten opposite countries by shooting the beheading people or crushing their as if they are mud and not human lives. The manners in which the wounds are inflicted and salt is spread and after that trampling kicking are shown on T.V. mobiles and lap top.

In such circumstances the abolishment of death punishment will appear completely thoughtless and foolish in the present work the problems as well as the solutions are thought over objectively and the question of ’Death Penalty’ to be retained or abolished is part before all to think over it from a third persons points of view.

6.10 LIMITATION

The research deals with basis as execution of death penalty in Indian penal system. For the sake of brevity and specificity, the researcher limits his research to contemporary cause of retention on the revolutionary background of globe for abolition. As already mentioned, limited by the information that the researcher mightily believes in the carrying out of death penalty. Wide delay in the execution of a judgment of capital punishment and is sufficient to invoke U/A.21constitution of India and difficulty its substitution by the death sentence or life-imprisonment.