PREFACE

Capital Punishment was once accepted as necessary and inevitable by the rulers and the ruled alike. For centuries, nobody questioned either its power to reduce crime or its impact on the society in general and on the persons involved in the process in particular. But, now it has been questioned and challenged by the present day society in the changed context of the social order in the welfare society, where rational and sophisticated thinking, human dignity, liberty and equality are considered more important than ever before. Capital Punishment is used as a tool of political repression. This irrevocable punishment is imposed arbitrarily and capriciously against the poor and minorities.

Article 21 of the Indian Constitution provides that, “The State shall not deprive a person’s right to life and personal liberty except in accordance with the procedure established by law.” In other words, the Indian Constitution provides for deprivation of right to life in accordance with the fair, just and reasonable procedure prescribed under a valid law. The Indian Penal Code which is the substantive criminal law prescribes Capital Punishment and the Criminal Procedure Code provides the procedure for the execution of the Capital Punishment. In the case of Capital Punishment the violation is committed by none other than the State itself. Capital Punishment is premeditated and cold-blooded killing of a human being by the State.

Capital Punishment existed all over the world since times immemorial. With an exception of few countries all the other nations of the world are implementing this barbarous penalty over their citizens by various modes such as gassing, shooting, hanging, electrocution etc., Organisations like United Nations Organisation, Amnesty International etc., are striving hard to make this practice obsolete. Article 3 of Universal Declaration of Human Rights envisages that, “Every one has the right to life, liberty and security of person.” Article 6 of the International Covenant on Civil and Political Rights observes that,”Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” As the Human Rights Committee set up under the International Covenant on Civil and Political Rights has recognised “The right to life enunciated in Article 6 of the Covenant is the su-
preme right from which no derogation is permitted even in times of public emergency which threatens the life of the nation. It is a right which should not be interpreted narrowly.” It is to be noted that, inspite of being the members of this Covenant, the penal laws of the various countries prescribed Capital Punishment for certain offences.

The validity of Capital Punishment is challenged both in developed and developing countries as uniquely cruel, inhuman and degrading punishment. The approach of judiciary in India in respect of Capital Punishment is not clear. A review of judicial decisions on Capital Punishment in India clearly indicates the cleavage of opinion among the judges.

On the global front, the movement for the abolition of Capital Punishment is gaining ground throughout the world. The Human Rights Activists and Organisations are demanding the abolition of Capital Punishment. In the light of these new challenges the present study is undertaken to examine the relevance of Capital Punishment in the light of changed socio - economic conditions and newly emerged human rights jurisprudence. The scholar has made a modest attempt to trace out the origin of Capital Punishment, its retention in the statutes of various countries and judicial approach towards Capital Punishment. The scholar has highlighted the necessity to abolish Capital Punishment from the statutes of various countries.

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