



## Criminal Justice and Death Penalty

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### Abstract

This paper covers the major issues of the death penalty in the twenty first century, some of the more difficult moral issues that the death penalty presents, not the question of whether should have it or not, but a few others. There are only twelve states in the union now that do not have the death penalty. There are some things we can agree on, and I want to mention those, and then talk about some other things on which I think there might be an agreement, even between those who are for and those who are against the death penalty. Our society and our government has to do something about violence in society and about the fear that people have about it, where there may be some disagreement is, how best we deal with that problem. One area of disagreement is the role of punishment, where punishment comes into play and how punishment best accomplishes the purpose of protecting the community.

**Key words:** Death Penalty, Violent Crime, Punishment.

### Introduction:

This is an important subject that we cover here, whether the death penalty could be continued in the twenty first century. And I want to reflect with you on some of the more difficult moral issues that the death penalty presents, not the question of whether we should have it or not, but a few others. There are only twelve states in the union now that do not have the death penalty.

### Narration

There are some things we can agree on, and I want to mention those, and then talk about some other things on which I think there might be agreement, even between those who are for and those who are against the death penalty. We can agree that we are opposed to crime and to violent crime in our society.

We are all against crime, and all of us could join that coalition because there is nothing more unfair, nothing more arbitrary, nothing more outrageous than for innocent persons to lose their lives or to be put at fear or lose their property.

Our society and our government has to do something about violence in society and about the fear that people have about it, where there may be some disagreement is, how we best deal with that problem. One area of disagreement is the role of punishment, where punishment comes into play and how punishment best accomplishes the purpose of protecting the community.

I want to tell you about four principal ingredients of justice in our court systems that are in today. First of all we all agree that our legal system depends upon a judge who is fair,



impartial and follows the law and the constitution of India.

Second one is that we agree is the prosecution of a case, any case but particularly a case involving the loss of human life must be based upon the law and a responsible exercise of discretion, and not on politics and other factors.

Third one that we agree is adversary system to work; the person accused of a crime must be represented by competent counsel who has the resources and the ability to make the trial a reliable adversary testing process.

Finally we agree that it is absolutely essential with regard to the death penalty that we eliminate the role of case in influencing who is executed. We must realize that we are, to some extent, still captives of a history where the death penalty and lynching have been used against people India.

India's law commission released a report recommending that the country move towards abolishing the death penalty, except in terrorism cases to safeguard national security. The commission feels that the time has come for India to move towards abolition of the death penalty. At the moment, judges in India can impose the death penalty in the "rarest of rare" of cases, including treason, mutiny, abetment of suicide and kidnapping for money.

### ***Why India just executed Yakub Memon,***

According to law commission report, recent executions have been few and far between. The latest was the execution of Yakub Memon in July. He was found guilty of being behind a series

of explosions that rocked Mumbai in 1993, killing more than 250 people. On average 129 people are sentenced to death row in India every year. According to my opinion the punishment given to Yakub is right.

India has retained capital punishment while 140 countries have abolished it in law or in practice, people sentenced to death by Indian courts face long delays in trials and appeals. During this time, the prisoner on death row suffers from extreme agony, anxiety and debilitating fear arising out of an imminent yet uncertain execution. The solitary confinement and harsh conditions imposed on prisoners were degrading and oppressive and that the Supreme Court had acknowledged that the circumstances of being on death row in India amount to "near torture" for the convict.

The law commission today recommended "swift" abolition of death penalty except in terror related cases, noting it does not serve the penological goal of difference any more than life imprisonment.

I will tell you some examples of similar crime, but different punishment. Certain kinds of crime have invariably been looked upon with severity and have unfailingly invited the maximum sentences – these include rape and murder of minor girls, the kidnapping and murder of a male child or the merciless killing of a sister-in-law and her children-there are several instances where a similar crime need not invite the same punishment. The best incident is Harbans Singh V state of U.P.

### **Arbitrariness of laws and procedures**



The following are the arbitrariness of laws and procedures.

**a) Hanging an innocent person:**

Balbir Singh was totally acquitted by the Supreme Court despite being found guilty and sentenced to death by the trial court as well as High Court in Indira Gandhi assassination case.

**b) No right of appeal:**

The recent case of Shaik Meeran, Selvam and Radha Krishnan were sentenced to death by the session's court at Tamilnadu, after being found guilty of the murder of an under trial in the Court hall of the Judicial Magistrate.

**c) Uncertainly of the Mercy Jurisdiction:**

In Gentela Vijayavardhana Rao V State of Andhra Pradesh the two applicants were dalit boys who set fire to a bus for the purpose of robbery. This resulted in the death of 23 passengers and serious burns to a number of other passengers. In this case the Mercy Jurisdiction does not really offer a reliable answer to the charge that the arbitrary application of the rarest of rare test by the Judiciary does not really have a corrective mechanism.

**Conclusion:**

In this way I conclude my paper by saying that various innovative and effective interventions have been developed to prevent youth minimizing the risk factors and maximizing protective factors throughout the developmental cycle from birth through adolescence can give all youth a better chance to lead productive crime-free lives.

**References**

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