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Capital Punishment: Should It Be Abolished?

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ABSTRACT

Capital punishment refers to the execution of an offender who has been sentenced to death by a court after conviction for a criminal offence. The debate surrounding capital punishment has existed for centuries, and even in modern law it remains controversial. While some believe that it is a necessary tool to punish heinous crimes and deter potential offenders, others contend that it violates fundamental rights and human rights, since every person, whether a good person or an offender, has a right to live. Capital punishment is a revenge-based punishment that creates a cycle of violence, fails to address the underlying causes of crime and does not contribute to the rehabilitation of offenders. In the Indian context, the Bharatiya Nyaya Sanhita, 2023 continues to allow the death penalty for certain grave offences. The death penalty rests on two major justifications: the doctrine of the “rarest of rare” case and the theory of deterrence. In developing the doctrine of the “rarest of rare” case, the Supreme Court acknowledged the irreversibility of the death penalty and stated the need for its exceptional and restricted use. It held that the death penalty should be imposed only in “the rarest of rare” cases and indicated certain criteria for imposing it. Despite these criteria and the significance of the doctrine, it has attracted criticism. The theory of deterrence is the other important justification given for capital punishment; to deter is to cause a person to abstain from wrongdoing. The theory aims to prevent future crimes by instilling fear in offenders and potential offenders through severe punishments such as capital punishment. It is essential, however, to examine critically whether capital punishment truly deters crime or whether its deterrent effect is a myth. Capital punishment also raises ethical problems. These include irreversibility, since wrongful convictions cannot be rectified and innocent individuals may be executed, and bias and disproportionality, since marginalised groups, such as the poor, caste minorities, religious minorities, racial minorities and individuals with limited access to legal resources, are disproportionately affected.

Keywords: Capital Punishment, Deterrence, Human Rights, Rarest of Rare

I. INTRODUCTION

The debate surrounding capital punishment remains one of the most controversial issues in contemporary criminal justice. Historically, the death penalty has been practised by different societies as the ultimate tool for punishing offenders who commit heinous crimes. In the modern

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era, however, the need for the practice is increasingly scrutinised through the lens of human rights. Although capital punishment has been justified as a deterrent to crimes such as murder and sexual assault, there has always been a disconnect between the severity of punishment and any reduction in crime rates. The sanctity of life is a foundational principle of modern democratic legal systems, yet the persistence of capital punishment presents a profound paradox. In the Indian constitutional framework, Article 21 guarantees the right to life and personal liberty, providing that no person shall be deprived of life or personal liberty except according to procedure established by law. Articles 14 and 15 further secure “equality before law” and the “prohibition of discrimination on grounds of religion, race, caste, sex or place of birth”.¹

These constitutional principles emphasise human dignity and equal protection, raising moral and legal questions about the legitimacy of state-imposed death. Despite these protections, the death penalty remains a legal reality, justified through the theory of deterrence and the doctrine of the “rarest of rare” case. This article evaluates the gap between capital punishment in theory and its practical outcomes, and argues that psychological factors, toxic social conditioning and the failure of the deterrent model necessitate a shift towards rehabilitation.

II. CAPITAL PUNISHMENT

Capital punishment is the putting to death, by the State and through the ordinary process of a criminal court, of a person convicted of an offence and sentenced to die; it is thus distinct from an extrajudicial killing carried out without due process.² The earliest known death penalty laws, from the Code of Hammurabi in Babylon to the Roman Twelve Tables, already made a range of offences capital, and executions were carried out by crucifixion, drowning, beating, burning alive or impalement; in ancient China the condemned might be flayed alive or boiled.³ Many countries still keep the death penalty for the gravest crimes. In India, the Bharatiya Nyaya Sanhita, 2023 allows it for murder, for rape that kills the victim or leaves her in a persistent vegetative state, and for a terrorist act that causes death.⁴ In some countries the penalty reaches even offences that involve no violence at all, such as drug offences, economic crimes, espionage

¹ INDIA CONST. arts. 14, 15, 21.

² Roger Hood, *Capital Punishment*, ENCYCLOPAEDIA BRITANNICA (Oct. 1, 2026), <https://www.britannica.com/topic/capital-punishment>.

³ *Id.*; *Early History of the Death Penalty*, DEATH PENALTY INFORMATION CENTER (Apr. 5, 2019, updated July 25, 2025), <https://deathpenaltyinfo.org/facts-and-research/background/history-of-the-death-penalty/early-history-of-the-death-penalty>.

⁴ The Bharatiya Nyaya Sanhita, 2023, §§ 66, 103(1), 113(2)(a), No. 45, Acts of Parliament, 2023 (India).

and treason.⁵ Methods of execution in use today include lethal injection, electrocution, hanging, shooting and beheading.⁶

III. CAPITAL PUNISHMENT AS A VIOLATION OF HUMAN RIGHTS

Capital punishment violates human rights and the fundamental right to life, and it is inherently arbitrary and discriminatory. International human rights law declares that “[e]very human being has the inherent right to life”. This right, set out in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), adopted by the United Nations General Assembly in 1966, is accompanied by the guarantee that “[n]o one shall be arbitrarily deprived of his life”.⁷ Article 6 further states that “[i]n countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime”.⁸ The ICCPR prohibits the death sentence “for crimes committed by persons below eighteen years of age” and bars its execution on pregnant women.⁹ Article 7 declares that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”.¹⁰ Although Article 6 permits the death penalty in limited circumstances, it also provides that “[n]othing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant”.¹¹ Most countries that retain capital punishment are reluctant to impose it on persons under eighteen, who are treated as juveniles and as less able than adults to understand the nature of their acts. Even so, since 1990 Amnesty International has documented 149 executions of child offenders in ten countries: China, the Democratic Republic of the Congo, Iran, Nigeria, Pakistan, Saudi Arabia, South Sudan, Sudan, the United States and Yemen, several of which have since changed their laws to exclude the practice.¹²

The case of *State of South Carolina v. George Stinney, Jr.* shows how prone the judiciary is to error, how large a part race can play, and how ruthlessly a justice system can treat juveniles. Stinney, a fourteen-year-old Black boy, was executed in 1944; in 2014 a South Carolina court

⁵ *Death Penalty Issues*, THE ADVOCATES FOR HUMAN RIGHTS, <https://www.theadvocatesforhumanrights.org/Death-Penalty/Issues> (last visited Oct. 4, 2026).

⁶ Katie Young, *Death Penalty: Methods of Execution Used Around the World*, AMNESTY INTERNATIONAL AUSTRALIA (Aug. 10, 2015), <https://www.amnesty.org.au/death-penalty-methods-of-execution-used-around-the-world/>.

⁷ International Covenant on Civil and Political Rights art. 6(1), Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁸ *Id.* art. 6(2).

⁹ *Id.* art. 6(5).

¹⁰ *Id.* art. 7.

¹¹ *Id.* art. 6(6).

¹² AMNESTY INTERNATIONAL, *Executions of Juveniles Since 1990 as of November 2019*, at 1, AI Index ACT 50/0233/2019 (Nov. 2019), <https://www.amnesty.org/en/documents/act50/0233/2019/en/>.

vacated his conviction, finding fundamental violations of due process.¹³ Sexual minorities are exposed as well: in some countries consensual same-sex relations can themselves carry the death penalty, and ILGA World records six UN Member States where death is the legally prescribed punishment for such acts and five more where it may be imposed.¹⁴ More generally, the death penalty falls hardest on people who are poor or who belong to groups already facing entrenched discrimination,¹⁵ and India is no exception: a study of the 373 prisoners under sentence of death whom its researchers could reach found that 74.1% were economically vulnerable and that 76% came from backward classes or religious minorities, although the authors expressly disclaim any suggestion of a causal link or of direct discrimination.¹⁶ On racial discrimination in particular, the United States Supreme Court in *Miller-El v. Dretke* restated that “[f]or more than a century, this Court consistently and repeatedly has reaffirmed that racial discrimination by the State in jury selection offends the Equal Protection Clause”.¹⁷

Later evidence has shown that some of those put to death were innocent, and their cases show how defective trials and unreliable forensic evidence can cost innocent lives. The death penalty is defended as the ultimate sanction for the gravest crimes, yet the historical record includes people hanged, electrocuted or put to death by lethal injection for crimes they did not commit.¹⁸ Three such cases, from England, Wales and Texas, show how fallible justice can be.

A. *R v. Timothy John Evans*

Timothy Evans was hanged in 1950 for the murder of his infant daughter. One account of the case argues that in the class-bound, deferential Britain of the post-war years a young working-class Welshman with little schooling was all too easily disbelieved.¹⁹ The chief prosecution witness against him, his neighbour John Christie, was later unmasked as a serial murderer and admitted to having killed Evans’s wife. Evans, a suggestible man of limited intelligence, had been convicted on a confession that he afterwards withdrew, and police statements that cast serious doubt on it were never disclosed to his defence. He received a posthumous free pardon

¹³ *State v. Stinney*, Order Granting Writ of Coram Nobis (S.C. Ct. Gen. Sess., Clarendon Cnty. Dec. 16, 2014); 5 *Cases Where the Wrong Person Was Executed*, GUYHADLEIGH.COM (Sept. 8, 2025), <https://www.guyhadleigh.com/blog/5-wrongful-executions>.

¹⁴ Lucas Ramón Mendos et al., ILGA WORLD, *State-Sponsored Homophobia 2020: Global Legislation Overview Update* 25 (Dec. 2020), https://ilga.org/wp-content/uploads/2023/11/ILGA_World_State_Sponsored_Homophobia_report_global_legislation_overview_update_December_2020.pdf.

¹⁵ AMNESTY INTERNATIONAL AOTEAROA NEW ZEALAND, *Five Reasons We Should All Oppose the Death Penalty*, <https://amnesty.org.nz/five-reasons-we-should-all-oppose-the-death-penalty/> (last visited Oct. 2, 2026).

¹⁶ NATIONAL LAW UNIVERSITY, DELHI, *Death Penalty India Report*, vol. I, at 16, 101, 109 (2016), <https://images.assettype.com/barandbench/import/2016/05/Death-Penalty-India-Report-Volume-1.pdf>.

¹⁷ *Miller-El v. Dretke*, 545 U.S. 231, 238 (2005) (quoting *Georgia v. McCollum*, 505 U.S. 42, 44 (1992)).

¹⁸ 5 *Cases Where the Wrong Person Was Executed*, *supra* note 13.

¹⁹ 5 *Cases Where the Wrong Person Was Executed*, *supra* note 13.

in 1966, and in *Westlake v. Criminal Cases Review Commission* the High Court accepted that he had committed neither the murder of his wife nor that of his daughter.²⁰

B. *Willingham v. State*

Cameron Todd Willingham was convicted in Texas of the capital murder of his three daughters, who died in a house fire in 1991, and his conviction and death sentence were affirmed on appeal.²¹ One account of the case observes that Texas prosecutors of the period routinely attacked a defendant's character and leaned on outdated forensic techniques in the expectation that juries would back the State, and that a poor and rebellious young working man such as Willingham was judged on his morals as much as on the evidence. He was executed in 2004. Independent fire scientists, and later the Texas Forensic Science Commission, concluded that the finding of arson rested on discredited fire science, but Texas has not formally exonerated him. The case is a warning of what follows when courts accept expert opinion that has never been tested against sound science.²²

C. *R v. Mattan*

Mahmood Hussein Mattan, a Somali seaman, was hanged in Cardiff in 1952. The same account sets the case against the hostility that Somali, Yemeni and Caribbean residents of Britain's post-war dockland communities met with in housing, work and the courts, and argues that Mattan's race and foreign origin were in effect treated as proof of his guilt.²³ His widow and sons spent decades trying to clear his name, and they succeeded in 1998, when, on a reference by the newly created Criminal Cases Review Commission, the Court of Appeal quashed his conviction as unsafe. Statements made to the police that undermined the evidence identifying Mattan had never been disclosed to his defence, and the Court observed that "[c]apital punishment was not perhaps a prudent culmination for a criminal justice system which is human and therefore fallible".²⁴

These cases show how decisively race and class can influence judicial decisions. Capital punishment in general violates human rights; when discrimination on these grounds is added, it calls into question both the justice system and the legitimacy of capital punishment, which may not even reach the true offender.

²⁰ *Westlake v. Criminal Cases Review Commission* [2004] EWHC 2779 (Admin) [4], [7], [11], [35]–[36] (Eng.), <https://caselaw.nationalarchives.gov.uk/ewhc/admin/2004/2779>.

²¹ *Willingham v. State*, 897 S.W.2d 351 (Tex. Crim. App. 1995).

²² 5 *Cases Where the Wrong Person Was Executed*, *supra* note 13; see also MONTANA INNOCENCE PROJECT, 5 *Innocent People Who [Were] Executed or Exonerated on Death Row* (Feb. 12, 2021), <https://mtinnocenceproject.org/5-innocent-people-who-were-executed-or-exonerated-on-death-row/>.

²³ 5 *Cases Where the Wrong Person Was Executed*, *supra* note 13.

²⁴ *R v. Mattan* [1998] EWCA Crim 676 (Eng.).

IV. ARGUMENTS IN FAVOUR OF ABOLITION

Punishment, in general theory, serves two purposes: to deter potential offenders, and to punish and reform the offender. Considered rationally, however, punishment can operate only after a crime has been committed. It can punish the offender or attempt to rehabilitate them, but it cannot prevent the formation of criminal intent. Capital punishment nonetheless rests on justifications such as deterrence, the belief that severe punishment creates fear in potential offenders and so prevents future crimes, and the doctrine of the “rarest of rare” case. Deterrence is the primary justification, but the assumption requires careful scrutiny, because statistical data challenge it. According to the National Crime Records Bureau (NCRB), India recorded 28,522 cases of murder in 2022,²⁵ an average of 78 murders a day, or more than three every hour. A total of 4,45,256 cases of crime against women were registered in 2022, an increase of 4% over 2021.²⁶

According to the NCRB’s report for 2023, the crime rate per lakh population rose from 422.2 in 2022 to 448.3 in 2023. Cases of crime against women rose to 4,48,211 in 2023, an increase of 0.7% over 2022 (4,45,256 cases); of these, 66,232 cases (14.8%) were registered under the Protection of Children from Sexual Offences Act (POCSO).²⁷ If the death penalty truly deterred potential offenders, such alarming figures would not persist. The continued prevalence of heinous crimes suggests that capital punishment does not effectively prevent crime. Whether the death penalty deters at all is therefore the central question. Addressing a United Nations panel on that very question in Geneva on 23 February 2021, the High Commissioner for Human Rights, Michelle Bachelet, observed that deterrence is often invoked by those who resist abolition, and stated that “there is no evidence that it deters crime more effectively than any other punishment”.²⁸

Further, the death penalty is in retreat across the world. More than eighty-five countries have abolished it for all crimes since 1976, among them Denmark (1978), France (1981), the Netherlands (1982), Cambodia and New Zealand (1989), Poland (1997), and Bulgaria and Canada (1998).²⁹ A study published in December 2018 by the Abdorrahman Boroumand Center,

²⁵ NATIONAL CRIME RECORDS BUREAU, *Crime in India 2022: Statistics*, vol. I, at xi (2023), <https://ruralindiaonline.org/pa/library/resource/crime-in-india-2022-volume-i/>.

²⁶ *Id.* at xii.

²⁷ NATIONAL CRIME RECORDS BUREAU, *Crime in India 2023: Statistics*, vol. I, at xi–xii (2025), <https://www.ncrb.gov.in/uploads/files/1CrimeinIndia2023PartI1.pdf>.

²⁸ Michelle Bachelet, U.N. High Comm’r for Hum. Rts., Statement at the Biennial High-Level Panel Discussion on the Question of the Death Penalty, 46th Session of the Human Rights Council (Feb. 23, 2021), <https://www.ohchr.org/en/statements-and-speeches/2021/02/46th-session-human-rights-councilbiennial-high-level-panel>.

²⁹ *Countries That Have Abolished the Death Penalty Since 1976*, DEATH PENALTY INFORMATION CENTER (Feb. 5, 2019, updated May 9, 2025), <https://deathpenaltyinfo.org/policy-issues/policy/international/countries-that-have>

a Washington-based organisation working for human rights and democracy in Iran, found that abolition tends to be followed by falling murder rates: of the eleven abolitionist countries it studied, ten saw their murder rates fall over the ten years after abolition. A country qualified for the study only if it had abolished the death penalty at least a decade earlier, had imposed or carried out a death sentence in the ten years before abolition, and had murder-rate data available. Eleven countries qualified: Albania, Azerbaijan, Bulgaria, Estonia, Georgia, Kyrgyzstan, Latvia, Poland, Serbia, South Africa and Ukraine.³⁰ These data raise the question whether capital punishment is needed at all, since countries without it have seen murder rates fall, and they suggest that capital punishment may merely take certain people's lives rather than actually stopping crime.

The doctrine of the “rarest of rare” case is one of the tools the Indian justice system uses to justify capital punishment for certain grave offences, and then only in exceptional cases. The doctrine traces back to the landmark judgment of the Supreme Court in *Bachan Singh v. State of Punjab*.³¹ In that case the Court took note of the irreversibility of the death penalty and stressed the need for its exceptional and restricted use. It held that, for murder, life imprisonment is the rule and the death sentence an exception, to be imposed only “in the rarest of rare cases when the alternative option is unquestionably foreclosed”, and it required courts to weigh the aggravating circumstances of the crime against the mitigating circumstances of the criminal, including the probability of reform and rehabilitation.³² In *Machhi Singh v. State of Punjab*, the Court later set out the considerations that bring a case within this category: the manner in which the crime was committed, its motive, its anti-social or abhorrent nature, its magnitude and the personality of the victim.³³ These criteria aim to ensure that the death penalty is reserved for cases where no other punishment is sufficient to address the enormity of the crime. Despite these criteria and the significance of the doctrine, it has attracted criticism: judicial fallibility, the disproportionate impact of the death penalty on marginalised groups, and false evidence or a lack of evidence for the defence can lead to an innocent person being sentenced to death. The Indian judiciary has seen such mistakes, with individuals held under sentence of death for years, and in some cases decades, before obtaining relief from the Supreme Court, as the following cases show.

[-abolished-the-death-penalty-since-1976.](#)

³⁰ *Study: International Data Shows Declining Murder Rates After Abolition of Death Penalty*, DEATH PENALTY INFORMATION CENTER (Jan. 3, 2019, updated Mar. 14, 2025), <https://deathpenaltyinfo.org/study-international-data-shows-declining-murder-rates-after-abolition-of-death-penalty>.

³¹ *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684 (India).

³² *Id.* ¶ 209.

³³ *Machhi Singh v. State of Punjab*, (1983) 3 SCC 470 (India).

In *Jaikam Khan v. State of Uttar Pradesh*, the Supreme Court in December 2021 acquitted three men whom the trial court had sentenced to death in 2016, holding that the prosecution had “utterly failed to prove the case beyond reasonable doubt”.³⁴ In *Ankush Maruti Shinde v. State of Maharashtra*, six men from nomadic tribes, all of whom had at one stage been sentenced to death, were acquitted in 2019 after some sixteen years in custody, the Court finding that the investigation had been unfair and that they had been falsely implicated.³⁵ In *Narayan Chetanram Chaudhary v. State of Maharashtra*, the Supreme Court had confirmed the death sentence in 2000; in 2023 it found that he had been a juvenile on the date of the offence, held the death sentence invalid and ordered his release after more than twenty-eight years in custody, although his conviction itself was not set aside.³⁶ There are also cases in which individuals have been executed despite serious doubts about their guilt. One such case is that of Dhananjay Chatterjee.³⁷

Dhananjay Chatterjee was hanged on 14 August 2004 for the rape and murder of an eighteen-year-old girl in Kolkata on 5 March 1990. His conviction, which rested on circumstantial evidence, and his death sentence were upheld by the Calcutta High Court and by the Supreme Court. He protested his innocence to the end; according to one account of the case, he went to the gallows composed, and his parting request to a police officer was that future investigations be conducted with greater care.³⁸ Those who have since re-examined the record argue that an alternative hypothesis, consistent with his innocence, was overlooked by all the courts.³⁹ In *Shankar Kisanrao Khade v. State of Maharashtra*, the Supreme Court itself observed that in confirming Chatterjee’s death sentence the Court had been “more on crime test, not on criminal test” and that, *prima facie*, the “criminal test” had not been satisfied, since there was not much discussion of the mitigating circumstances; that test looks to such factors as the age of the convict, any past record of conviction and the possibility of reform; all of these factors, it has been argued, would have weighed in his favour.⁴⁰ The case shows how fallible sentencing can be, even where a life is at stake.

³⁴ *Jaikam Khan v. State of Uttar Pradesh*, Criminal Appeal Nos. 434–436 of 2020, ¶¶ 83–84 (S.C. Dec. 15, 2021) (India).

³⁵ *Ankush Maruti Shinde v. State of Maharashtra*, AIR 2019 SC 1457, ¶¶ 12, 14 (India).

³⁶ *Narayan Chetanram Chaudhary v. State of Maharashtra*, (2000) 8 SCC 457 (India); *Narayan Chetanram Chaudhary v. State of Maharashtra*, Criminal Miscellaneous Petition No. 157334 of 2018 in Review Petition (Crl.) Nos. 1139–1140 of 2000 (S.C. Mar. 27, 2023) (India).

³⁷ *Dhananjay Chatterjee v. State of W.B.*, (1994) 2 SCC 220 (India).

³⁸ *How India Might Have Hanged an Innocent Person*, INDIA HANGED INNOCENT (Aug. 13, 2020), <https://www.india-hanged-innocent.org/how>.

³⁹ *Id.*

⁴⁰ *Shankar Kisanrao Khade v. State of Maharashtra*, (2013) 5 SCC 546, ¶ 22 (India); see also *How India Might Have Hanged an Innocent Person*, *supra* note 38.

Capital punishment thus bears most heavily on innocent people who are sentenced to death. The irreversibility of the punishment and the risk of wrongful conviction raise serious concern.

V. ALTERNATIVES

Alternative measures are needed, such as rehabilitating offenders and making them fit to live in society. Even if the law cannot rehabilitate an offender who goes on to reoffend, that does not mean the offender is unfit to live; it means only that the offender is unfit to live in society. Such offenders could be punished with life imprisonment without parole. Capital punishment cannot deter offenders, because crimes such as murder and sexual assault are often committed under emotional distress, rage, psychological instability, intoxication or deep-rooted social conditioning. While committing such crimes, offenders are not calculating the consequences of their actions or considering the punishment for their offence. In the 1970s the US clinical psychologist Samuel D. Smithyman interviewed, anonymously, fifty men who admitted to having committed rape, and was struck by their indifference when they spoke of it.⁴¹ Sherry Hamby, a psychologist and research professor at Tennessee's University of the South, told DW that "sexual assault is not about sexual gratification or sexual interest, but more about dominating people". Explaining how toxic masculinity feeds a culture of rape, she pointed out that many sex offenders are young men, and that among male peers social standing often depends on appearing sexually experienced, while sexual inexperience invites contempt.⁴² On this view, some cultures, and often the media, push young men to prove a counterfeit masculinity by dominating women, while shaming those who have little sexual experience. The same report observes that rapists commonly regard women as objects for male gratification, and Hamby explains that where patriarchy works through a kind of "dehumanization" that casts women as inferior, women become easier targets of aggression.⁴³ In these states of mind, fear of legal consequences does not play a decisive role. This does not mean that punishment is useless; it indicates only that severe punishments do not necessarily deter potential offenders, and that they punish only those already convicted. The belief that harsher punishments automatically reduce crime rates must therefore be reconsidered. Instead of relying solely on fear-based punishment, society must address the root causes of crime. Rather than merely threatening severe punishment for sexual offences, for example, greater emphasis should be placed on moral education, gender equality and proper sex education. Children should be taught

⁴¹ Farah Aqel & Fred Schwaller, *The Pelicot Case: The Psychology of a Rapist*, DW (Sept. 7, 2020, updated Dec. 19, 2024), <https://www.dw.com/en/the-pelicot-case-the-psychology-of-a-rapist/a-54814540>.

⁴² *Id.*

⁴³ *Id.*

respect, equality and the value of dignity.⁴⁴ Long-term prevention lies in social reform, not in execution. If deterrence fails as a justification, capital punishment becomes morally questionable.

VI. CONCLUSION

Capital punishment does not eliminate crime; it merely eliminates the offender. It does not address the psychological, social or structural causes of criminal behaviour. The suffering of the victim cannot be ignored and demands a response from the law, but that response should not extend to taking a life when other alternatives exist. Moreover, the death penalty affects not only the offender but also the offender's innocent family, emotionally, socially and economically. The offender may be guilty, but the family is not. If the offender remains alive and contributes through prison labour, the earnings may at least provide minimal support to the family; execution destroys that possibility entirely. Families who have lost loved ones to brutal crimes deserve justice through a fair and lawful trial, but justice does not necessarily mean imposing the death penalty.⁴⁵ Opposing the death penalty does not mean neglecting the seriousness of a crime or justifying it. Even when a death sentence is carried out, it may deliver a legal judgment, but it does not restore justice to the victim, who cannot be brought back in cases of murder or of rape and murder; instead, it creates further suffering for another innocent family. Capital punishment should therefore be abolished.

⁴⁴ UN WOMEN, *16 Ways You Can Stand Against Rape Culture*, MEDIUM (Nov. 18, 2019), <https://un-women.medium.com/16-ways-you-can-stand-against-rape-culture-88bf12638f12>.

⁴⁵ AMNESTY INTERNATIONAL AOTEAROA NEW ZEALAND, *supra* note 15.