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Comparative Analysis of The Death Penalty: The Historical Perspective and The Methods of Execution

NIKHIL RAGHAV¹

ABSTRACT

This paper contends that the death sentence is a type of punishment that should be acknowledged by the society. This research paper analyses the position of death punishment in India, the United States of America, and the United Kingdom. It also describes the execution methods of the past as well as the present in the United States of America, the United Kingdom and the rest of the world. This research paper provides a thorough examination of the death penalty in India. Furthermore, this research paper discusses the constitutionality of the death penalty in the United States of America and, in particular, India. Moreover, It also examines the initial persons who were executed using different methods of death penalty. Lastly, It also examines the last death executions in the United Kingdom (UK).

Keywords: *Capital Punishment, Murder, Eighth Amendment, Constitutionality, Electrocution.*

I. INTRODUCTION

The death sentence is a word employed as a reference to capital punishment, in which a criminal is sentenced to death. Over the years, the death penalty has been a contentious issue in many countries around the world, with supporters and opponents having opposing viewpoints. Proponents of the death penalty say it is a critical tool inside any particular state for guaranteeing the upkeep of law and order. Another purpose that the capital punishment sentence plays in society is to deter criminal behaviour. In addition, advocates of the death sentence argue that vengeance honours the victim while also helping in offering consolation to the bereaved parties. While ensuring that the culprits of horrific atrocities do not have an opportunity to perpetrate catastrophes in the future. On the contrary, critics of the death penalty believe that it fails to dissuade crime rather it gives states the ability and authority to put an end to an individual's life. They essentially argue that a life sentence is a worse type of punishment. The death sentence has been instituted as a punishment for crimes since the Ancient Laws of China. The code of

¹ Author is a student at Lloyd Law College, India.

King Hammurabi of Babylon regulated the death punishment for twenty-five distinct crimes in the 18th century BC, but murder was not one of them. The earliest known death sentence happened in 16th century BC Egypt, when the culprit, a member of the aristocracy, was convicted of sorcery and forced to commit suicide. Non-nobility was generally slain with an axe during this period. The death sentence was likewise mandated by the Hittite Law in the 14th century BC. The 7th Century BC The Draconian Code of Athens imposed the death penalty for all crimes. The death sentence was legislated in the fifth century BC, and the Roman Law of the Twelve Tables was enacted... Likewise, the death penalty was distinct for nobles, freemen, and slaves and was punishment for crimes such as the printing of libels and insulting songs, the cutting or grazing of crops sown by a farmer, the burning of a home or a stack of grain near a dwelling, defrauding by a patron of his client, lying, raising disturbances at night in the city, wilful murder of a freeman or a parent, or stealing by a slave.

II. THE ANCIENT WORLD'S MOST SAVAGE PUNISHMENT APPROACH

(A) The Bronze Bull

Socrates (470-399 BC), undoubtedly the most renowned individual of Ancient Greece, was executed in old age by being ordered to swallow hemlock. This type of indirect killing was characteristic of Athenian people's lethal punishment. They may be sent into the woods and die of exposure, or they could be tossed down a chasm and succumb to their injuries. However, bond slaves were frequently assaulted to death with clubs).

(B) Killing caused by molten metal

Mosaic law in Ancient Israel rendered 36 offences punished by execution. Those found responsible for incest &

adultery with the wedded daughter of a clergy member was burned - but not from the outside. First, the perpetrator would be hanged with a cord by two crucial witnesses in the case. It was a delicate cord since it was seen as more compassionate not to create additional pain with rougher material. When the condemned strangling led him to start gasping for oxygen, molten lead was poured into his neck.

(C) Poena Cullei

Poena Cullei was a form of punishment related to the gruesome lethal sentence poena cullei ('penalty of the sack'). The guilty individual was whipped or assaulted before being sewn into a big sack and dumped into a river or sea. They would not, however, be solitary in the sack. They may be accompanied by a snake, a chicken, an ape, or a dog.

(D) Flaying

Flaying is the procedure of removing the perpetrator's skin, usually by creating cuts with a knife in the perpetrator's legs, buttocks, and torso and then pulling the skin as naturally as possible. Flaying an individual alive has been used as a means of killing for many years, notably in Ancient Rome, medieval the United Kingdom, and the Turkish Empire. The monarchs of the Assyrian Empire from 911 to 609 BC relished decapitating their adversaries, particularly rebel leaders. The practice, which represented the conquest of an adversary, was clearly an act of pleasure for the realm. The Rassam cylinder is a contemporaneous account of the military exploits of 7th-century BC monarch Ashurbanipal. 'The dead put on spikes, took off their skins, and decorated the city's walls with them,' it states in one portion.

(E) The Waist Cut

Li Si (280-208 BC) was an early Imperial Chinese leader. He was an author, legislator, and philosopher who fell foul of influential political adviser Zhao Gao (d. 207 BC), who ordered his murder according to the traditional 'Five Pains'. Li Si's nose was taken first, then his foot, then his hand, he was emasculated (his penis and testicles were severed), and he was eventually chopped in two at the waist. According to the ancient Chinese practice of 'collective prosecution,' Gao had Li Si's whole extended family killed to the third degree. The 'waist chop' entailed an executioner employing a big, bladed weapon to slice the dissatisfied prisoner in half at the waist, bypassing critical organs and resulting in a long, excruciating death.

(F) An eye for an eye

The primary focus was on equilibrium during the initial phase of the Babylonian Empire (c. 1894 BC - c. 1595 BC) in modern-day Iraq. The talio concept - the law of vindication - was significant. The teeth of you would be smashed out if you smashed someone else's teeth out. Prevaricators would be castrated, and rapists would lose their tongues. It did not, however, extend to everyone evenly. A free man who strikes or even kills a slave usually is just chastised. This type of chastisement was also used in the death penalty. Anyone discovered stealing a house fire would be killed immediately by being flung into the blazing structure! Thieves would also be hung in the location where they had burgled. Carelessness could possibly end in death. Architects were executed if one of their structures fell and killed someone. The discrimination of slaves in the eyes of the law was also apparent here. Paragraph 218 of Hammurabi's Babylonian Code indicates that if a surgeon kills a slave due to negligence, he must only restore, i.e., replace the slave.

(G) The Boats

Mithridates (d. 401 BC) was a Persian (Achaemenid) Empire warrior who lived and battled in the First Persian (Achaemenid) Empire. Mithridates infringed on King Artaxerxes II's faith when inebriated at a royal supper. The monarch, humiliated and enraged, enacted perhaps the most famous punishment in ancient history: scaphism, or "the boats." Plutarch (46-119), describing many centuries later, described the punishment as commencing with the convicted being led to a body filled with water and put inside a boat. A second similar boat was sealed on top of it to form a shell, with the man's arms, legs, and head protruding from the sides.

He was later forced to eat honey and milk, which would coat his face, arms, and legs. After some time in the sun, his face and arms were fully covered with flies. While suffering from diarrhoea on the boat, rodents would gorge on the face and then begin to penetrate the man's body, feed on it, and devour him from the inside out. Mithridates succumbed after being confined to 'the boats' for 17 days.

III. MODES OF CAPITAL PUNISHMENT IN THE UNITED KINGDOM DURING THE MEDIEVAL PERIOD

Public torture and execution were frequent in the United Kingdom throughout the Middle Ages (also known as the Medieval period) and were viewed as socially acceptable forms of punishment.

Depending on the sort and seriousness of the crime they had committed, captives were subjected to varying degrees of agony and execution methods. Prisoners had no legal protections or rights, which allowed for frequent and unchecked killings and torture. Considering the gory nature of everything, executions were sometimes carried out in front of cheering audiences. These are some of the most typical styles of execution from the Middle Ages.

(A) Beheading

Beheading was looked upon as one of the most righteous, respected and least painful ways to be executed in the

Middle Ages. For example, with a sharp enough axe, a person may be beheaded with just a single swift strike, triggering instantaneous demise. For instance, Owing to this fact, the punishment of beheadings was frequently reserved for aristocrats, knights, and even monarchy.

(B) Hung, Strung and Quartered

Possibly the most vicious and barbaric of all execution methods are hung, strung and quartered. This was customarily given to anyone found guilty of high treason. Firstly, The accused would

be hanged Secondly, just seconds before death released then disembowelled and Lastly their organs were then hurled into a fire - all while still alive. Once they were dead, they would then be cut into four pieces and conventionally have their body parts sent to four different parts of a city. This was done to deter the public from committing the crimes.

(C) Burning

To be "burned at the stake" was a usual form of execution and was frequently given to people believed to be heretics or sorceresses. It involved being strapped onto a wooden stake and surrounded by branches, these were then ignited and would slowly and gradually burn alive.

In England and Wales, heresy for both sexes and for women found guilty of High Treason or Petty Treason was punishable by public stake burning. High treason convictions for males resulted in the execution by hanging, drawing, and quartering; however, this was not considered appropriate for women because it would have required nudity. High treason includes offences including colour-dating base metal coins, possessing coining equipment, counterfeiting cash, and "coining" (the clipping of coins for silver and gold bits that were melted down to manufacture counterfeit coins) (to pass them off as of higher value). Curiously, after being brought to the execution site on a hurdle, those who committed these same crimes only received a routine hanging. Petty treason is when a woman kills her husband or mistress because they are her legal superiors. Burning was used as a form of justice in Scotland for witches

(D) Crushing

Crushing was a type of punishment used for both execution and torment. In mediaeval times, the accused's head was placed in a contraption that slowly and progressively crushed it. Compressed the top and sides of the head together. Ultimately, the eyes would pop out, the skull would rupture and the neck would splinter.

(E) Boiling to Death

Boiling to death punishment was often given to poisoners, coin forgers and counterfeiters. It involved being tossed into a cauldron of boiling water or oil and the accused would slowly scorch to death.

(F) Impalement

Mediaeval impalement meant to be pierced (or stuck through) a large sharp object, such as a metal spear or pole and left to die. This was regarded as one of the more dreadful public sanctions and was usually administered to accused enchanters, women found guilty of murdering an infant, and those who abused children

(G) Hanging

Conventional hanging, which was still prevalent throughout the Middle Ages, was one of the oldest and most renowned means of punishment. There can be several reasons for hanging someone ranging from a petty thief to a prestigious Nobleman. When hung with a trap door the neck would break down letting for a fast demise but just being hung might take minutes (sometimes longer) to breathe your last breath.

(H) The Wheel

Another form of Capital Punishment was The wheel also known as the Catherine wheel, in which the victim's limbs were gradually broken while strapped onto a wheel and were left to die. Agonising, this mode of execution could take days to die

(I) Sawing

Sawing in simple words means cutting something with a saw. The victim would be hanging upside down and gradually sliced in halves. This involved two situations. Firstly, If sawn They would die, but mostly the sufferer was only sawn up to the stomach and left to die, which could take several days.

(J) Crucifixion

Crucifixion has been employed in Mediaeval Europe from the days of the Bible. Crucifixion involved nailing a person to a cross with their hands and feet and leaving them there until they died. It was an extremely prolonged and, of course, terrible method of dying; death may take days or even up to a week.

IV. MODES OF CAPITAL PUNISHMENT IN THE UNITED STATES OF AMERICA**(A) Lethal Injection**

Consequently, the United States of America (USA) adopted lethal injection as a method of capital punishment for the first time in Oklahoma in 1977. Despite this, it took another five years for Charles Brooks to become the first person to get the procedure in Texas on December 2, 1982. Lethal injection executions are currently permitted in every state that carries the death sentence.

(B) PROCESS of Execution

A member of the execution squad places multiple cardiac monitors on the skin of the condemned individual, who is often tied to a gurney throughout this procedure. Afterwards, two needles are placed (one is a backup) into the prisoner's arms or other usable veins. Long tubes link the

intravenous drips to the needle that is inserted through a hole in a cement block wall. The first is a saline solution, which is begun right away and is very safe. At that point, the prisoner is made visible to the witnesses in the next room when a curtain is raised at the warden's signal. Thus, the procedure varies depending on whether the state follows a multi-drug regimen or a single-drug methodology.

Pentobarbital is given to the prisoner in overdoses during one-drug executions. States begin the multi-drug executions with a sedative that is meant to put the prisoner to sleep, traditionally sodium thiopental but more recently medicines like midazolam. After that, an injection of a paralytic medication, usually vecuronium bromide or pancuronium bromide, paralyzes the whole muscular system and stops the breathing of the prisoner. Ultimately, the heart is stopped by the passage of potassium chloride. As the condemned individual is unconscious, an overdose of anaesthetics and respiratory and cardiac arrest cause death. Doctors are prohibited from taking part in executions under medical ethics. Nevertheless, a medical professional will declare the prisoner dead. Because injections are frequently administered by unskilled technicians or orderlies, this absence of physician involvement might be problematic. Extreme agony may happen if an execution team member injects the medicines into a muscle rather than a vein or if the needle gets blocked. As many inmates have damaged veins from using intravenous drugs, finding a usable vein can occasionally be challenging. This causes lengthy delays while the prisoner is still tied to the gurney

(C) The Electric Chair

Before 1890, hanging was the most common form of execution in America, an inheritance from Great Britain. Several inmates passed away slowly through strangling and, on rare occasions, decapitation if the descent was too lengthy. County sheriffs were in charge of enforcing the death penalty, but they had little hands-on experience performing hangings.

In the 19th century, New York State employed the "jerker" technique of hanging, in which the prisoner was propelled into the air by a falling weight attached to the other end of the rope; nevertheless, this method rarely produced a speedy or painless demise. Governor of the State David B. Hill was driven to search for a more legal method of execution as a result. At a time when there was a lot of interest in and experimentation with electricity, as well as deaths from electric shock as a result of people coming into contact with early poorly insulated and unguarded high voltage devices, he established a legislative committee in 1886 that included a dentist, Dr Alfred Southwick, to examine alternative methods

In 1888, the first electric chair was created as a more merciful way to put someone to death.

Electricity was a brand-new and innovative power source in the 1880s. The two main participants in the conflict for the ownership of electrical utilities were Thomas Edison and George Westinghouse. When Westinghouse invented alternating current (AC), Edison promoted direct current (DC) (AC). For home and industrial uses, alternating current is preferable to direct current due to technical and financial factors. The alternating current quickly became the norm for electrical transmission all across the world. Edison was happy when New York State introduced the electric chair, which required alternating current and despite his efforts to persuade everyone that Westinghouse's AC electricity was harmful.

(D) Gas Chamber

The use of Cyanide gas was first used in Nevada in 1924 as the state looked for a more merciful manner to put its condemned convicts to death. Gee Jon was the first to be gassed to death. As Jon was sleeping, the state attempted to inject cyanide gas into his cell. The gas escaped from his cage, making this impossible, therefore a gas chamber was built. Currently, five jurisdictions permit the use of fatal gas as a means of execution, although all also provide lethal injection as a substitute. This type of punishment was deemed to be cruel and unusual by a federal court in California. The convicted prisoner is fastened to a chair in an airtight room for execution using this procedure. A bucket of sulphuric acid is set down below the chair. The prisoner is generally fitted with a lengthy stethoscope so that a physician outside the room may pronounce them dead. The chamber is shut after everyone has exited. The executioner pulls a lever that causes sodium cyanide crystals to fall into the bucket after receiving the signal from the warden to do so. As a result, hydrogen cyanide gas is released due to a chemical reaction. To hasten the procedure, the prisoner is told to breathe deeply. While some inmates fight, the majority of captives attempt to hold their breath. The prisoner doesn't instantly go unconscious.

Clifton Duffy, a former warden of the San Quentin State Prison in California, said, "At first there is evidence of terrible anguish, suffering, and strangulation. The eyes sparkle. The sufferer drools and their skin gets purple. Before he passed away in a gas chamber in California in 1960, Caryl Chessman told reporters he would nod his head if it hurt. He appeared to nod his head for a while, according to witnesses.

The inmate passes away from hypoxia after being cut off. Brain with oxygen. The post-mortem procedure involves spraying the corpse with ammonia to remove any lingering cyanide residues and sucking the poisonous air out of the chamber using an exhaust fan. A little while later, orderlies dressed in gas masks and rubber gloves enter the chamber. Before removing the body, they are instructed in their instruction handbook to ruffle the victim's hair to release any

contained cyanide gas

(E) Firing Squad

On May 14, 1913, Nevada executed one person using an "execution machine" when Andrija Mircovich chose this method of punishment for murder. This contraption consisted of a steel frame with three rifles attached to it, one of which was loaded with a blank bullet. The guns had Maxim silencers and a coiled spring firing mechanism that was activated by cutting three strings. During World War I, the machine was never again used and was transferred for scrap. The US Army had a detailed plan for "death by musketry," as it phrased it, and occasionally utilised shooting instead of its usual method of hanging. During World War II, two soldiers were shot in the Shepton Mallet jail in Somerset, England. On May 30, 1944, an eight-man firing squad executed Alex Miranda for murder, while Benjamin Pyegate was executed on November 28, 1944.

Ronnie Gardner was the most recent victim of this type of execution. On June 17, 2010, Gardner chose to be killed by a firing squad in Utah.

V. METHOD OF EXECUTION

The prisoner is often strapped to a chair with leather straps around his head and waist before being executed this way in front of an oval-shaped canvas wall. Sandbags are placed all around the chair to catch the prisoner's blood. The inmate's head is covered with a black hood. Using a stethoscope, a doctor locates the prisoner's heart and places a white cloth target over it. Five shooters are armed. 30-calibre rifles that are loaded with single bullets and are standing in an enclosure 20 feet away. Blank shots are thrown at one of the shooters. The execution procedure in South Carolina stipulates the employment of three shooters, each of whom is given live ammunition. Each shooter uses a slot in the canvas to aim and discharge his firearm. at the detainee. The prisoner passes away from blood loss brought on by a ruptured heart, massive blood vessels, or torn lungs. When the blood flow to the brain is reduced due to shock, the individual who was shot loses consciousness. By accident or design, the prisoner bleeds to death if the shooters miss the heart.

(A) Hanging

The main method of execution in the US up until the 1890s was hanging. Before Delaware and Washington abolished the death penalty in 2016 and 2018, hanging was still a legal method of execution in those states, however lethal injection remained an option as well.

The procedure The day before a hanging execution, the prisoner may be weighed, and a

practice of hanging using a sandbag the same weight as the prisoner is conducted. This will decide how long of a "drop" is required to ensure a rapid demise. The prisoner may be beheaded if the rope is too long, and it might take up to 45 minutes to strangle them if the rope is too short. The diameter of the rope should range from 3/4 inch to 1 1/4 inch. To get rid of any coiling or springing, the material must be boiled. The 1969 U.S. Army handbook advises using wax or soap to "promote a smooth sliding motion" on the knot. The inmate's hands and legs are tied, he or she is blindfolded, and a cord is tied around the neck behind the left ear. just before the execution. When a trap door is opened and the prisoner falls through, the execution occurs. The prisoner's weight ought to quickly fracture and dislocate the neck. Yet, sudden demise is uncommon. The fracture-dislocation is not immediate and death comes from delayed bleeding if the prisoner has strong neck muscles, is very light, if the "drop" is too short, or if the noose has been placed incorrectly. Asphyxiation. If this happens, the face swells up, the tongue sticks out, the eyes bulge, the body urinates, and the limbs twitch violently.

VI. CONSTITUTIONAL VALIDITY OF THE DEATH PENALTY/CAPITAL PUNISHMENT IN INDIA

*Jagmohan Singh v. U.P.*² The case concerned Section 302 of the Indian Criminal Code, 1960, which established the death penalty for murder. The primary arguments made before the Supreme Court were that it violates numerous fundamental rights that citizens should be permitted, even in contravention of Article 14, on the basis that in two identical circumstances, the penalty for murder is life in prison and, in some circumstances, the death penalty. The Supreme Court denied the argument and said that it was up to the governor to decide whether to impose the death penalty or life in prison. Judges must consider the case's merits, including the crime's circumstances; hence Section 302 of the Indian Criminal Code, 1860 was not upheld unconstitutional

(A) Doctrine of rarest of rare

*Bachan Singh vs. Punjab State*³

The question of the constitutionality of capital punishment was revisited by the Supreme Court's five-judge bench, which overturned their previous decision in Rajendra Prasad by a majority of four judges. It held that capital punishment as a substitute method for the crime of murder isn't irrational and it does not contradict Indian Constitution articles 14, 19, and 21. because "public order," as defined by clauses (2) and (4) of Article 19, differs from "law and order," and it also

² Jagmohan Singh v. U.P 1973 AIR 947, 1973 SCR (2) 541.

³ Bachan Singh vs. Punjab State(1982) 3 SCC 24, 1983 1 SCR 145.

declared the principle of imposing the death penalty only in "the rarest of rare cases."

Machhi Singh vs. State of Punjab⁴ the Supreme Court established the circumstances under which the death penalty should be imposed." Speaking for the Court, Justice Thakkar stated that five categories of cases should be considered the rarest of rare cases, deserving of the most severe penalty. Judge M.P Thakkar provided the following examples:

1. Manner of Commission of Murder

When a murder is conducted in such a cruel, hideous, devilish, repulsive, or despicable manner that it arouses the community's acute and severe wrath. As an example, When the victim's home is set on fire to roast him alive within. (ii) When the victim is exposed to cruel or inhuman conduct to cause his or her death. (iii) When the victim's body is mutilated or devilishly sliced into pieces.

2. The Motive for Commission of Murder

When the murder is performed for a reason that demonstrates absolute depravity and meanness.

3. Anti-Social or Socially abhorrent nature of the crime

When someone from a Scheduled Caste or a minority population is murdered, for example, it is not done for revenge. personal reasons but under circumstances that incite social resentment. For example, when such a crime is done to scare such folks and frighten them into departing a location, or to deprive or force them to redress previous injustices and restore societal balance. In situations of 'bride burning' and 'dowry-deaths,' or when murder is done to remarry to extract dowry again, or marry another lady out of infatuation.

4. Magnitude of Crime

When the scale of the crime is huge. For example, when several murders are committed, say, of all or almost all of the members of a family or a huge number of people from a specific caste, group, or location.

5. The personality of the Victim of murder

When the murder victim is (a) an innocent child who could not have or has not provided even an excuse, let alone a provocation, for murder, (b) a helpless woman or a person rendered helpless by old age or infirmity, (c) a person over whom the murderer has dominion or trust, (d) a public figure generally loved He has a reputation in society for the services he provides, and the murder is motivated by political motives/reasons.

⁴ Machhi Singh vs. State of Punjab 1983 AIR 957, 1983 SCR (3) 413.

Rajendra Prasad vs. State of Uttar Pradesh⁵ The death sentence, according to Justice Krishna Iyer, breaches articles 14, 19, and 21. He went on to say that to impose the death penalty, two conditions must be met: The special reason for imposing the death penalty in a case should be documented. Only in exceptional circumstances should the death penalty be applied.

The constitutional validity of section 354(5) I.P.C. 1973 was challenged in **Deena vs. Union of India**⁶ because using rope as prescribed by this section was barbarous, inhuman, and degrading, and thus violated Art. 21. The court held that section 354(5) of the I.P.C that prescribed hanging as a mode of execution, is a just, equitable, and reasonable process under Art. 21 and thus constitutional.

Sher Singh vs. State of Punjab⁷ Chandrachud C.J., speaking for the three Supreme Court judges, held that the death penalty is constitutionally valid and permissible within the constraints of the Bachan Singh rule. This must be regarded as the rule of law.

Triveniben vs. the State of Gujarat⁸ The Supreme Court said categorically in the case that the death sentence is not forbidden by the constitution.

Parmanand Katara v. Union of India⁹ -The Court held that allowing the body to dangle past the stage of death was permissible. According to the Punjab Jail Manual, the body must be left hanging. for half an hour after death.- was a violation of the person's dignity and thus unconstitutional.

VII. CONSTITUTIONALITY OF CAPITAL PUNISHMENT IN THE UNITED STATES AMERICA (USA)

1. In *Wilkerson v. Utah*¹⁰

Facts

Wallace Wilkerson was charged with the offence of murder for shooting and killing one William Baxter. On December 14, 1877, he was given a death sentence by Justice P. H. Emerson. Wallace Wilkerson was given

an option for selecting the mode of execution between Decapitation, Hanging Or Firing squad Wilkerson chose to be executed by the Fire Squad. But later he filed an appeal in the Supreme

⁵ Rajendra Prasad vs. State of Uttar Pradesh 1979 AIR 916, 1979 SCR (3) 78.

⁶ Deena vs. Union of India 1983 AIR 1155, 1984 SCR (1).

⁷ Sher Singh vs. State of Punjab 1983 AIR 465, 1983 SCR (2) 582.

⁸ Triveniben vs. State of Gujarat 1989 AIR 1335, 1989 SCR (1) 509.

⁹ Parmanand Katara v. Union of India (1995) 3 SCC 248.

¹⁰ Wilkerson v. Utah, 99 U.S. 130, 25 L.Ed. 345 (1878).

Court of Utah State of USA because it was violatate of his right to protection from cruel and unusual punishment which was enshrined in the 8th Amendment of the American Constitution.

Judgement Justice Clifford Upheld the judgement delivered by the First Court of Utah. The Supreme Court gave the verdict that public shooting (firing squad) was a common means of execution, as it had been used for many years in the military to punish deserters. The majority said that severe punishment is not cruel and unusual if it was ordinary and usual in the past.

2. In Re Kemmler case¹¹

Facts

William Kemmler was accused of murdering his common-law wife Matilda "Tillie" Ziegler, with a hatchet because of a quarrel that started between them in which Kemmler accused his girlfriend of stealing things from him this Case the petitioner Kemmler Challenged his sentence of execution by electrocution on the grounds of being violative of the 8th Amendment of the American Constitution as it was a cruel and unusual punishment. The constitutionality was challenged by the electric chair as a method of execution.

Judgement

The Court said an execution method is not cruel and unusual if a legislature decides it is more humane than the alternative method

3. Ralph Baze and Thomas C. Bowling v. John Dewitt Rees, Commissioner, Kentucky Department of Corrections¹²

Facts of the Case

The two accused namely Ralph Baze and Thomas Bowling were given death sentences for the offence of double murder in Kentucky. The contention of the accused was executing them by lethal injection would be violative of the 8th Amendment of the American Constitution which keeps a restriction on cruel and unusual punishment. Another argument of the accused was that the lethal chemicals would carry an unnecessary risk of pain at the time of execution. The Chemical combination used at that time for execution included 3 chemicals namely Sodium Thiopental, Pancuronium Bromide and Potassium Chloride

Judgement

¹¹ Re Kemmler, 136 U.S. 436, 10 S.Ct. 930, 34 L.Ed. 519 (1890).

¹² Ralph Baze and Thomas C. Bowling v. John Dewitt Rees, Commissioner, Kentucky Department of Corrections 553 U.S. 35 128 S. Ct. 1520; 170 L. Ed. 2d 420.

The Supreme Court upheld the constitutionality of Kentucky's method of lethal injection and gave a verdict of 7–2.

4. *Daryl Renard Atkins v. Virginia*¹³ In this Case it was held that executing an individual who was mentally handicapped would be unconstitutional

5. *Ford v. Wainwright*¹⁴ It was held that if an inmate becomes insane while awaiting his execution, it would be cruel to proceed with the sentence

6. *State of Nevada v. Gee Jon*¹⁵

In this case, Gee Jon was accused of shooting Tom Quong Kee, a 74-year-old laundry owner who was a member of Bing Kong Tong in Mina, Nevada. On August 27, 1921, Gee fatally shot Tom Quong Kee with a Colt 38 Revolver. The Supreme Court of Nevada gave a death sentence to Gee Jon. On February 8, 1924, at 9:40 am. The pump sprayed four pounds of Hydrocyanic Acid into the chamber. Within Ten Minutes he became immobile. Gee was just 29 years old when he died

7. *Furman v. Georgia*,¹⁶ The Court rejected existing death penalty legislation in *Furman v. Georgia*, on the grounds they breached the Eighth Amendment by creating unreasonable and cruel punishment. The Court held that the statute resulted in an excessive usage of the death penalty, particularly against minority and impoverished communities. The Court also argued that the statutes in place effectively traded human life for insignificant societal benefits.

8. *Gregg v. Georgia*¹⁷ The Court declined to broaden *Furman* in *Gregg v. Georgia*. The Supreme Court ruled that the death sentence might serve the societal goals of retribution and deterrence, hence it was not inherently unconstitutional. The Court specifically supported Georgia's new capital sentence guidelines, finding that they mitigated the issue of arbitrary application that was present in prior legislation.

9. *Coker v. Georgia*¹⁸ The U.S. Supreme Court ruled in *Coker v. Georgia*, that a punishment must be appropriate for the offence it is meant to punish; otherwise, it violates the Eighth Amendment's ban on cruel and unusual punishment. The Supreme Court takes into consideration the following three things while conducting its proportionality analysis: These include the seriousness of the offence and the severity of the punishment; the method in which

¹³ *Daryl Renard Atkins v. Virginia* 536 U.S. 304, 122 S.Ct. 2242, 153 L.Ed.2d 335 (2002).

¹⁴ *Ford v. Wainwright* 477 U.S. 399, 106 S.Ct. 2595, 91 L.Ed.2d 335 (1986).

¹⁵ *State of Nevada v. Gee Jon*, 46 Nev. 418, 211 P. 676 (1923).

¹⁶ *Furman v. Georgia*, 408 U.S. 238 (1972).

¹⁷ *Gregg v. Georgia* 428 U.S. 153 (1976).

¹⁸ *Coker v. Georgia* 433 U.S. 584 (1977).

the jurisdiction sanctions its other criminals, as well as how other jurisdictions penalise the same offence.

10. *Kennedy v. Louisiana*¹⁹- the Supreme Court expanded upon its decision in *Coker* by stating that the punishment is categorically inapplicable not instances of child rape where the victim resides. The Supreme Court determined that the death sentence was excessive in these instances since just six states in the nation allowed the death penalty as a punishment for child rape.

11. *Ring v. Arizona*²⁰- The Supreme Court ruled that it is unconstitutional for "a sentencing judge, acting without a jury, to identify an aggravating factor essential for the imposition of the death penalty"

12. *Kansas v. Marsh*²¹- The court provided another explanation of the idea of personalised sentencing. According to *Marsh*, states may apply the death sentence without going against the idea of personalised sentencing when the jury determines that any aggravating and mitigating elements are equally weighted.

13. *Roper v. Simmon*²²-The Supreme Court declared that all juvenile offenders are ineligible for the death punishment. Teens' absence of adulthood and obligation, higher susceptibility to bad influences, and inadequate character development were given as factors. The Court concluded that adolescent criminals bear less responsibility for their offences.

14. *Hall v. Florida*²³-The Supreme Court ruled in *Hall v. Florida* 572 U.S. (2014), that a person's intellectual/developmental disabilities cannot be determined by employing a bright-line IQ threshold to determine eligibility for the death penalty.

15. *Weems v. United States*²⁴-The Court ruled that while it had not been resolved what constitutes cruel and unusual punishment, it should not be limited to the "forms of evil" encountered by the writers of the Bill of Rights. As an outcome, descriptions of "unusual and cruel" are subjective...

16. *Resweber v. Louisiana ex rel. Francis*²⁵ - Willie Francis, a seventeen-year-old convicted criminal, was placed in the electric chair on May 3, 1946, and the switch was thrown. He survived (despite being badly shocked) due to malfunctioning equipment, was taken from

¹⁹ *Kennedy v. Louisiana* 554 U.S. 407 (2008).

²⁰ *Ring v. Arizona* 536 U.S. 584 (2002).

²¹ *Kansas v. Marsh* 548 U.S. 163 (2006).

²² *Roper v. Simmon* 543 U.S. 551 (2005).

²³ *Hall v. Florida* 572 U.S. (2014).

²⁴ *Weems v. United States* 217 U.S. 349 (1910).

²⁵ *Resweber v. Louisiana ex rel. Francis* 329 U.S. 459 (1947).

the chair, and returned to his cell. Six days later, a second death warrant was issued. The Court concluded 5-4 that finishing the sentence was not "cruel and unusual" since the state-operated in good faith in the first attempt. "The brutality against which a convicted person is shielded by the United States Constitution is cruelly inherent in the manner of punishment rather than the vital pain associated with punishment," the Court concluded. in any method adopted to extinguish life humanely." He was then put to death.

17. *Dulles v. Tropp*²⁶-The Court ruled that punishment would be considered "cruel and unusual" if it was of "tormenting harshness," cruel in its excess, or uncommon in punishment, and that punishment "must take its meaning from the growing norms of decency that distinguish the evolution of a mature society."

18. *Penry v. Lynaugh*²⁷ -The Court ruled that those who are mentally handicapped but legally competent might face the death penalty. It was not cruel and unusual punishment under the Eighth Amendment if justices were given the chance to examine mitigating circumstances. In this instance, the accused had the mental capacity of a six-year-old toddler.

19. *Thompson v. Oklahoma*²⁸ -The Court reviewed whether juveniles under the age of 16 at the time of the murder should be executed. The perpetrator was his brother-in-law, whom he suspected of assaulting his sister. He and three others beat the victim, shot him twice, slit his neck, chest, and abdomen, shackled him to a concrete block, and dumped his body in a river for four weeks. Each of the four participants was prosecuted individually and condemned to death. Thompson's execution sentence was deemed cruel and unusual by four Justices in a 5-3 vote. The fifth, O'Connor, agreed but emphasised that a state must designate a minimum age and hinted that if a state reduces the minimum death sentence age by legislation under sixteen, she might approve it.

VIII. OFFENCES FOR WHICH CAPITAL PUNISHMENT CAN BE AWARDED IN THE UNITED STATES OF AMERICA (USA)

S.no	Offences
1.	Treason

²⁶ *Dulles v. Tropp* 356 U.S. 86 (1958).

²⁷ *Penry v. Lynaugh* 492 U.S. [sic] (1989).

²⁸ *Thompson v. Oklahoma* (1987), 108 S. Ct. 2687.

2.	Aggravated Kidnapping
3.	Drug Trafficking
4.	Aircraft Hijacking
5.	Placing a Bomb near a Terminal
6.	Aggravated assault by incarcerated, persistent felony or murderers
7.	Espionage
8.	In situations involving an ongoing criminal organisation, attempting, authorising, or recommending the death of any officer, juror, or witness, no matter whether such homicide happens

OFFENCES for which Capital Punishment can be awarded in India

S.No	Section under IPC	Offence
1.	120B	Participation in a criminal conspiracy to commit a capital crime
2.	121	Waging, attempt to wage, or abetting in the waging of war against the Government of India
3.	132	Abetting a mutiny in the armed services (if a mutiny develops), and acting in mutiny
4.	194	Giving or fabricating false evidence with the goal of obtaining a death

		conviction
5.	195A	Threatening or coercing somebody into providing false evidence, which results in the imprisonment and death of an innocent individual
6.	302,303	Murder
7.	305	Abetting a minor's suicide
8.	307(2)	Attempted murder by serving life convict
9.	364A	Kidnapping, in which the victim is kept for coercive or ransom motives
10.	376A	Rape if the perpetrator inflicts injuries resulting in the victim's death or incapacitation in a prolonged vegetative state, or when the perpetrator is a repeat offender.
11.	376AB	Rape of a child under the age of 12
12.	376 DB	Gang rape of a child under the age of 12
13.	376 E	Certain rape-related reoccurring offences
14.	396	Dacoity with Murder- When a group of five or more people conducts dacoity if one of them commits murder as part of that act, all members of the group face the death sentence.

First Execution in the countries of the the United States of America and India

INDIA

Rasha alias Raghuraj Singh, who was executed in Jabalpur Central Jail on September 9, 1947, is said to be the initial individual to be hanged in India after independence.

USA

Captain George Kendall is the first reported execution in the American colonies in 1608.

Last Executions in the UNITED KINGDOM (UK) before the abolition of Capital Punishment

England: On 13 August 1964, Peter Anthony Allen, at Walton Prison in Liverpool, and Gwynne Owen Evans, at Strangeways Prison in Manchester, were executed for the murder of John Alan West on 7 April that year. In 1955 Ruth Ellis was the last woman to be executed by hanging in Britain for the murder of her lover David Blakely

Scotland: Henry John Burnett, 21, on 15 August 1963 was executed in Craiginches Prison, Aberdeen, for the murder of seaman Thomas Guyan.

Northern Ireland: Robert McGladdery who was 26 years old was executed on 20th December 1961 in Crumlin Road Gaol, Belfast, for the murder of Pearl Gamble.

Wales: On 6 May 1958, Vivian Teed, 24, was executed in Swansea for the killing of William Williams, sub-postmaster at Fforestfach Post Office.

IX. CONCLUSION

As proclaimed by Ujjwal Nikam, (Indian Special Public Prosecutor) “I am in favour of capital punishment if the execution of the sentence is immediate . The purpose of Death Sentence is to send out a message to the society”.

Capital Punishment in my opinion should continue to exist as it acts as a deterrent for the offenders. If the death penalty would cease to exist then the citizens would feel as if justice has not been served or administered to them. Further, the malefactor would have no fear and trepidation at the time of committing the crime if the death penalty is abolished. Eliminating the perpetrator by giving him the death penalty is the only realistic method of safeguarding the public. Various transgressions have serious consequences for society's attitude. A terrorist strike that kills many innocent people, and incidents of rape in which the victim suffers physical and psychological anguish. If the death penalty is not imposed for such heinous and bestial conduct, society would lose faith in the judicial system. Every capital punishment is awarded for the sake of society's safety and security when the public's tranquillity is jeopardised. *Lastly, as quoted by former President of the United States of America George Bush ``I favour capital punishment as I think that if carried out promptly and justly, capital punishment serves as a deterrence to future violence and it safeguards innocent lives.``*
