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Life Imprisonment as the New Death Penalty: A Critical Analysis of India's Sentencing Trends

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ABSTRACT

Overuse of life imprisonment and rarity of death penalty has been a highly dubious issue. In Bachan Singh v. State of Punjab, 1980 the principle that death penalty should be imposed in rarest of rare cases was established. The question that crept in was that whether in future this would lead to the total abolishment of the capital punishment and give rise to overuse of life imprisonment. The issue evolves in various dimensions and that is what we are going to explore. The evolution of capital punishment and it is seen as a compensation in proportion to the crime committed towards the victim. It is seen as justice to the victim as in Mukesh and Another v. State for NCT of Delhi and others, 2012 four of the accused were hanged in 2020 in Tihar jail. Moving ahead we will look into the current situation regarding this issue. We will explore the reasons behind the declining and rarity of capital punishment and that there are also situations of wrongful convictions, deterrence and ethical implications of taking life. Further, potential consequences of overuse of life imprisonment and how it has deteriorated the living conditions in various jails in India and the possibility of rehabilitation being overlooked. We will explore a few points as to resort to consideration of alternative approaches.

I. CHILDHOOD DEATH PENALTY AND CAPITAL PUNISHMENT: EVOLUTION AND DETERRENCE

It is estimated that more than 55.8 percent in India are convicted under life imprisonment. It was also seen that the punishment of transportation in 1955 was replaced by life imprisonment. It is considered as more humane and less severe. The point we come across through the above few lines is that the concept of morality has been in our legal system. The importance to humanity or humanness is being given. We will not get into depths of the history but the overview of it, for which we will look at the recent development of life imprisonment. In Union of India vs Sriharan³ it was considered that death penalty is much harsher and life imprisonment as too narrow. It straddles between that and faces a conflict. The Supreme Court should apply

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³ Union of India vs. v. Sriharan @ Murugan & Ors, 2015 INSC 886

the rarest of rare principle.

The point Sriharan ventures is a sentence lesser than death penalty but also gives an opportunity of reformation. The High courts or the Supreme Court could extend the sentence beyond remission for a set amount of time as per the judgements. This punishment was only used when the death penalty seemed too severe and life in prison felt too lenient. The decisions of the Supreme Court and Amendment Acts of 2013 and 2018 meant that remainder life means remaining natural life. They want much harsher prison sentences and have been instilling their faiths into it. Life imprisonment even before replacing transportation did exist in the margins and is thought not to be an entirely a new concept for the world. Even in robust legislation this concept did survive and exist. Although today it faces a conflict with the death penalty due to not being able to find a middle way to it or we might say an alternative to both life imprisonment and death penalty.

Various constituent assembly debates raised questions on the judge centric view of death penalty. Pandit Thakur Das Bhargava pointed to the possibility of error. Riots were innocent and were implicated. Right to appeal a death sentence, Shibban Lal Saksena, SC should hear so that they feel they have been heard by highest authority. BR Ambedhkar in favor of abolition said it would end the controversy and that ancient tradition of this country is to follow non-violence and although many do not follow in actual practice many do as a moral mandate. Under the 1898 law judges had to state the reason for not giving death penalty which was reversed to judges now have to state reasons for giving death penalty in 1955. 35th Law Commission Report did hear the abolitionists and retentionists and decide to retain death penalty in India stating the following,” Having regard, however, to the conditions in India, to the variety of the social upbringing of its inhabitants, to the disparity in the level of morality and education in the country, to the vastness of its area, to the diversity of its population and to the paramount need for maintaining law and order in the country at the present juncture, India cannot risk the experiment of abolition of capital punishment.” The 35th Report restricted itself to three issues:

(a) the method of execution of death sentence, (b) the process of eliminating differences in judicial opinions among Judges of the apex Court in passing sentence of death penalty, and (c) the need to provide a right of appeal to the accused to the Supreme Court in death sentence matters. 187th report recommended introducing lethal injection as a method of execution to hang under section 354(5) of CrPC. Right to appeal to SC and heard by at least 5 judge bench. Over the years there were various cases which did not find the deterrence objective but the court cases kept on proving that the death penalty should be retained for various reasons. Finally in the

Bachan Singh case it was stated that the penological purpose of deterrence remained unproven, retribution was not an acceptable basis of punishment, and that it was reformation and rehabilitation which were the purposes of punishment. In Bachan Singh, the Court adopted the 'rarest of rare' guideline for the imposition of the death penalty, saying that reasons to impose or not impose the death penalty must include the circumstances of the crime and the criminal. The assumption behind deterrence theory is that all persons are rational individuals, and will commit a crime only if they perceive that the gain they will derive from the criminal act will be greater than the pain they will suffer from its penal consequences. In *Bachan Singh v. State of Punjab*,²⁶⁴ the Supreme Court observed that in most countries of the world, including in India, a "large segment of the population, including notable penologists, judges, jurists, legislators, and other enlightened people" still believe that the death penalty serves as a greater deterrent than life imprisonment. While imposing the death sentence in *Mahesh v. State of Madhya Pradesh*,⁴ the Court noted that "[the common man] understands and appreciates the language of deterrence more than the reformatory jargon." After many years of research and debate among statisticians, practitioners, and theorists, a worldwide consensus has now emerged that there is no evidence to suggest that the death penalty has a deterrent effect over and above its alternative – life imprisonment. Incapacitation is when a person cannot reoffend. Death is the extreme form of it, but cannot be determined whether the person will reoffend or not. Life imprisonment can be done in its place as it does not give offenders the chance to reoffend and if death penalty is given no chance of reform given. Recently, the retribution theory was declared to have no constitutional value in the case of *Shatrughan Chauhan vs Union of India*. The theory of reformation strives to transform all offenders into peaceful, productive and capable citizens of society. Reformation assumes that offenders are capable of change, and once the reasons for the commission of the crime are removed, they can lead ordinary and fulfilling lives. (Andrew Ashworth, *Sentencing and Criminal Justice* 82 (2005)). In *Sunil Batra v. Delhi Administration*⁵ the Court held that rehabilitation and reformation are very much a part of sentencing policy in our criminal justice system, and tried to align current prison practices with constitutional norms which demand the rehabilitation of prisoners. In focusing on the death penalty as the ultimate measure of justice to victims, the restorative and rehabilitative aspects of justice are lost sight of. Reliance on the death penalty diverts attention from other problems ailing the criminal justice system such as poor investigation, crime prevention and rights of victims of crime. A major development in the late-twentieth century was the focus on the rights

⁴ *Mahesh & Anr vs State Of Madhya Pradesh*, AIR 2012 SUPREME COURT 2172

⁵ *Sunil Batra vs. Delhi administration*, 1979 INSC 271

and needs of victims of crime. Restorative theories of criminal justice also emerged during that time. Life Imprisonment is considered so as to serve the actual deterrent effect of actually punishing the person and if possible, reforming the person. Many nations consider the death penalty is inhumane and that

there is no scope for reformation and that the accused is too covered by human rights. The UN and other welfare groups oppose the death penalty since it gives the offender a free pass from all of his wrongdoings through the straightforward and painless punishment of death, rather than serving the intended purpose of punishing him.

II. PRESENT SCENARIO: DEATH PENALTY AND LIFE IMPRISONMENT

It is argued presently by many that capital punishment should be retained as if it is totally abolished then it provides a damaged form of the society. People will start underestimating the law and they will not value our legal system. It is believed by many that people might lose trust and the legitimacy of our system. Additionally, the ongoing Bollywood threats such penalties make sense and that their total abolishment would create a situation of perpetual warfare. It also creates fair and just opportunities for the backward classes in our society. The cherry on top of cake being that the death penalty cannot be sentenced until and unless there is evidence proving the absolute necessity of the sentence and the establishment of rarest of rare cases doctrine in the Bachan Singh case. In its 262nd Report (August 2015), India's Law Commission proposed that the death penalty be abolished for all crimes excluding terrorism-related offenses and war. The report's full recommendations are as follows:

- The Commission urged that the government should implement measures such as police reforms, witness protection schemes, and victim compensation schemes as soon as possible.
- The path of our own jurisprudence: From 1955, when no special reasons were required for imposing life imprisonment instead of death, to 1973, when special reasons were required for imposing the death penalty, to 1980, when the death penalty was limited to the rarest of rare cases by the Supreme Court – demonstrates the path we must take.
- The Commission felt that the time had come for India to move towards abolition of the death penalty, informed by the expanded and deepened contents and horizons
- of the Right to Life, strengthened due process requirements in interactions between the state and the individual, prevailing standards of constitutional morality and human dignity.

- Despite the fact that there is no acceptable penological reason for treating terrorism differently from other crimes, there is often concern that abolishing the death sentence for terrorism-related offenses and war will have an impact on national security.
- Given the legislators' concerns, the Commission saw no reason to wait any longer to take the first step toward abolishing the death sentence for all offenses other than terrorism-related offenses.

The main debate around the death penalty is whether life imprisonment is enough punishment. Additionally, some argue that there are exceptional cases where only the death penalty can achieve justice. Instead of mentioning the Ministry of Home Affairs and its procedure, we can simply say "India has guidelines" for handling mercy petitions from death row inmates.

In the case of *Shatrughan Chauhan v. Union of India* (1947)⁶, India's Supreme Court outlined key points for the Home Ministry to review when deciding on death penalty appeals. These include:

- Characteristics of the convict: Age, mental state, or gender are taken into account.
- Uncertainties in the case: If the appeals court questioned the evidence used for conviction, it's reviewed.
- New evidence: Claims of new evidence are assessed to see if a new investigation is needed.
- Reversed acquittals: Cases where a lower court's acquittal was overturned are examined closely.
- Disagreements among judges: If high court judges have differing opinions, the case might be reconsidered by a larger panel.
- Gang murders: How responsibility is assigned in such cases is scrutinized.
- Lengthy legal proceedings: Unusually long trials can be a factor.

When the actual actions of the Ministry of Home Affairs (on whose recommendations mercy petitions are considered) are examined,

- There are doubts about whether the Home Ministry always follows the guidelines set for reviewing mercy petitions.
- Evidence suggests they may not be following the established procedures in all cases. This is because courts (Writ Courts) have had to intervene and review how the Ministry

⁶ *Shatrughan Chauhan & Anr. vs. Union of India & Ors*, 2014 INSC 46

has handled some mercy requests.

The Supreme Court itself has had to consider challenges to the Ministry's decisions in at least 11 cases related to the Shatrughan Chauhan judgment. These challenges likely arose because someone felt the Ministry wrongly denied a mercy petition.

The United Nations called for a worldwide ban on the death penalty in 2007, but this proposal wasn't accepted by all countries. India, along with several others like the United States, decided not to abolish capital punishment.

Every year on October 10th from 2003, organizations like the UN, European Union, and Amnesty International come together to mark International Day Against the Death Penalty. This day raises awareness about the issue and highlights factors that can be linked to capital punishment, such as poverty, mental health struggles, and drug use.

Life imprisonment is a preferable punishment for several reasons. From a humanitarian perspective, it avoids taking another life. From a retributivist standpoint, it allows the perpetrator to face the consequences of their actions for an extended period. While heinous crimes leave a devastating impact on victims' families, the death penalty simply replicates that violence. Life imprisonment offers a chance for the criminal to reflect on their mistakes and potentially seek redemption. This approach prioritizes long-term accountability over swift vengeance.

Proponents of life imprisonment argue it offers several benefits. Rehabilitation programs allow some inmates to work and contribute financially, potentially aiding their families. This, along with opportunities for self-reflection, creates a chance for them to transform their lives. Furthermore, life sentences guarantee the offender won't re-offend, providing peace of mind for the public. Finally, life imprisonment serves as the ultimate punishment, allowing authorities to proportionally increase sentences for lesser crimes. In this way, a thief stealing money faces a penalty directly reflecting the severity of their act.

However, concerns exist regarding the effectiveness of rehabilitation within prisons. Some argue that spending a lifetime behind bars hinders genuine remorse and understanding of the crime's impact. Additionally, exposure to hardened criminals might worsen an inmate's character, chipping away at any potential for positive change. Life imprisonment raises significant financial burdens for taxpayers. Housing, feeding, and providing medical care for inmates throughout their lives is expensive. While some might be comfortable shouldering these costs, it disproportionately impacts others. Furthermore, as the number of life sentences rises, the need for additional prisons creates a double financial strain. Taxpayers not only fund the ongoing operational costs of incarceration, but also the construction of new facilities to house

this growing population.

III. STATE OF HARYANA V. RAJ KUMAR AND BITTU (2021)⁷

- The Supreme Court clarified the authority to grant remission to prisoners serving life sentences. For those who have served at least 14 years, the governor and state government can directly decide on remission under specific legal provisions (CrPC Sections 432, 433, and 433A). However, for prisoners who haven't served 14 years, the governor's power comes with a requirement: they must act on the advice of the state government.

- Life sentences for crimes punishable by death come with a stricter policy on early release (remission) in India. Prisoners must serve at least 14 years without any reduction in their sentence before they can be considered for remission programs created by the government (Section 432). However, there are exceptions. The governor's power to shorten sentences or pardon prisoners entirely isn't limited by these rules (Article 161). Additionally, state governments can still design their own remission policies following specific guidelines (Section 432). So, while there's a mandatory minimum time served for serious crimes before early release is considered, there's also some flexibility for the governor and state governments in specific cases.

- A recent court decision clarifies the division of power between the state government and the governor when it comes to remission for life sentences with the possibility of death penalty. A key part of the law (Section 433A of the CrPC) includes a clause that overrides other rules. This clause ensures that nobody receives early release (remission) for such crimes until they've served at least 14 years. This effectively prevents the state government from suspending the sentence prematurely. However, there's a shift in power after 14 years. At that point, the state government gains the authority to release the prisoner according to their own remission policies. In essence, a mandatory minimum time is served first, followed by the possibility of release based on the state government's discretion.

The governor's authority on remission differs from the state government's. The governor's power isn't limited by a minimum time served, although they consult with the state government. This means the governor can potentially release someone even before 14 years are served, but only through mechanisms like pardons or sentence commutations. However, after 14 years, the power to grant early release shifts to the state government, allowing them to release the prisoner based on their remission policies. In essence, the governor has more flexibility for early release

⁷ The State of Haryana & Ors vs. Raj Kumar @ Bittu, 2021 INSC 377

before 14 years, while the state government takes over after that mark. It's important to note that the governor's power is ultimately derived from the state's sovereign authority, but they must still consider the state government's advice.

IV. SAHIB HUSSAIN AND SAHIB JAN V. STATE OF RAJASTHAN (2013)⁸

- The court case we're discussing, Sahib Hussain and Sahib Jan v. State of Rajasthan (2013), decided by India's Supreme Court, is a significant example of a death sentence being reduced to life imprisonment.
- The effectiveness of life imprisonment in India is debatable. In some cases, life sentences for serious crimes like murder might only result in an actual incarceration of around twelve years. This raises questions about whether life imprisonment serves as a strong enough alternative to the death penalty. The concern is further highlighted by the addition of Section 433A to the CrPC in 1973, just five years after a relevant court judgment. This section restricts the power to grant early release (remission or commutation) for such sentences.

Even after introducing Section 433A which mandated a minimum 14 years served for life sentences with death penalty as an option, the Supreme Court revisited the issue in the Bachan Singh case (1980). They acknowledged that this section only increased the mandatory minimum time served from 12 years to 14 years. This raises concerns about whether life imprisonment, even with the stricter policy, truly serves as a sufficient alternative to the death penalty, as argued in the earlier Jagmohan case (1972)⁹.

- The core question the court debated was this: is there any existing law that automatically converts a life sentence, without any official reduction from the government, into a set number of years served? In other words, does a life sentence inherently mean the person will only be imprisoned for a specific amount of time, even if the government doesn't formally shorten it?
- The Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, and the Prisons Act, 1894 do now no longer include one of these clauses. Prima facie, a sentence of existence in jail or existence in transportation should be interpreted as a sentence of existence in transportation or existence in jail for everything of the offender's last herbal existence. However, the Prisons Act of 1894 completely addresses the law of prisons

⁸ Sahib Hussain and Sahib Jan v. State of Rajasthan (2013), [2013] 2 S.C.R. 1019

⁹ Jagmohan Singh v. State of U.P., [1973] 1 SCC 20

and

the care of convicts housed there; it does now no longer furnish any authority the jurisdiction to go back and forth or remit sentences. The country authorities is given the authority to undertake regulations, consisting of the ones relating awards for accurate behavior, below Section fifty nine of the Prisons Act, 1894. As a result, the regulations promulgated below the Act ought to be interpreted according with its purview.

The court made it clear that following existing rules:

1. Release after a life sentence requires a formal order from the government (Section 401 of CrPC).
2. There are no known regulations granting automatic release after a set period, even with good behavior (remissions).
3. Prison rules cannot simply replace a life sentence with a shorter punishment.

In simpler terms, early release from life imprisonment requires government approval, and good behavior alone doesn't guarantee automatic freedom after a certain time.

The court acknowledged that the government took some steps towards early release under Section 401 of the CrPC, but they didn't grant a complete commutation of the sentence (full release). Since the prisoner hasn't legally earned the right to be freed yet, the court decided to uphold the life sentence.

V. SWAMY SHRADDANANDA AND MURALI V. THE STATE OF KARNATAKA (2008)¹⁰

1. The Supreme Court of India, in the case of Swamy Shraddananda Murali v. the State of Karnataka (2008), grappled with the following key questions:

- The Reality of Life Imprisonment: How does a life sentence actually translate into practice? Is the intended punishment truly reflected in the reality of the incarceration experience?
- Guaranteeing the Sentence: What safeguards exist to ensure that a sentence, meticulously decided upon by the court, is actually served in its entirety? Is there a risk that the sentence might not be fully carried out?
- Life Imprisonment vs. Death Penalty: If life imprisonment is presented as an alternative to the death penalty, how does it differ from a standard life sentence imposed as the primary punishment? Are there clear distinctions between these two types of life

¹⁰ Swamy Shraddananda and Murali v. the State of Karnataka (2008), 2008 INSC 853

sentences?

2. The court, considering the specifics of this case, believed a life sentence under Section 45 of the IPC was a more fitting punishment than the death penalty originally imposed. They argued for replacing the death sentence with a sentence that reflects a true "life in prison" or at least a significantly longer term than the minimum 14 years often associated with life sentences. The court's ideal sentence could range from imprisonment until the convict's natural death to a fixed term of no less than 20, 25, or 30 years. However, the court acknowledged that after sentencing, the executive branch (government) is responsible for carrying out the punishment according to other legal regulations. This can include various remission programs that might reduce the actual time served, meaning "life imprisonment" might not translate to the intended full lifespan behind bars.

3. The core issue for the court was the gap between the intended severity of a life sentence replacing the death penalty and the reality of early release through remission programs. In essence, a standard minimum sentence of 14 years didn't reflect the gravity the court intended. Therefore, the Supreme Court felt it necessary to establish a strong legal foundation for a new approach. Their solution? They aimed to eliminate the standardization of life sentences that effectively reduced them to 14 years. Instead, they wanted to make it clear that a life sentence replacing the death penalty would be strictly enforced, reflecting the court's original intention. This stricter enforcement would ideally become a consistent policy across both the Supreme Court and high courts throughout India.

4. It's important to clarify that Section 57 of the IPC doesn't secretly limit a life sentence to a maximum of 20 years. This section is solely used to determine how to handle fractional sentences, and in that context, it treats a life sentence as equivalent to 20 years. In other words, Section 57 doesn't impact the actual length of a life sentence.

5. The court expressed concern that if their only two choices were the death penalty or a sentence that realistically amounted to 14 years due to remission, they might be swayed towards supporting capital punishment. They felt this was an inadequate range of options. The court argued for a more just and reasonable approach: expanding the available sentences to encompass the significant period between 14 years and execution. Taking responsibility for this middle ground would rightfully belong to the court. This broader range of sentencing options stemmed partly from the specific case at hand, where a mere 14-year sentence wouldn't be an effective punishment.

VI. RECENT DEVELOPMENTS IN THE LAW OF LIFE IMPRISONMENT IN INDIA

Recent changes in law, including the Criminal Law Amendment Acts of 2013 and 2018, along with a key Supreme Court decision in 2016 (*Union of India v. V. Sriharan*), have specifically impacted sentencing for two categories of offenders referred to as "lifeters."

This group consists of individuals sentenced to life imprisonment under the revised Criminal Law Amendment Acts of 2013 and 2018. The new wording in these acts states that a life sentence means "imprisonment for the balance of that person's natural life." However, there's a legal ambiguity with the phrase "which shall constitute imprisonment for the remainder of that person's natural life." This lack of clarity creates some uncertainty. The new wording in the law ("imprisonment for life, which shall mean imprisonment for the balance of that person's natural life") creates confusion. Here's why:

- **Unclear Purpose:** If it's simply meant to clarify the existing understanding of life sentences (as per the Supreme Court), why isn't it used consistently throughout the 2013 and 2018 amendments? This inconsistency makes the law unevenly applied.
- **Harsher Sentence Ambiguity:** If the new wording intends to create a harsher punishment than a regular "life sentence," there's a legal problem. The change doesn't actually modify the core definition of life imprisonment as established in Section 53 of the IPC.

The new wording ("life imprisonment means imprisonment for the remainder of that person's natural life") creates further complications. Here's why:

1. **Uncertain Fate of Sentence Reduction:** The law doesn't clarify how this new wording affects existing provisions that allow for reductions in life sentences. While legalities might still permit such reductions, governments or prisons might be hesitant due to the new phrasing. This ambiguity could lead to unnecessary lawsuits.
2. **Clarity Needed for Early Release:** To avoid these legal battles, it would be beneficial to explicitly state that life sentences imposed under these amendments are still subject to remission programs or other early release mechanisms.

The second group affected by recent legal changes includes those whose death sentences were reduced to life imprisonment by a court. In some cases, judges felt the death penalty was too harsh and opted for life in prison instead. However, courts have also established the authority, in certain situations, to restrict the ability to shorten these life sentences through existing remission programs or regulations for a set period. This power of courts to limit sentence

reductions was upheld by a narrow 3:2 majority by a Supreme Court panel in 2015 (Union of India v. V. Sriharan). However, dissenting judges argued that restricting remission amounted to creating a new, unauthorized punishment.

Recent changes in law, including the Criminal Law Amendment Acts and the Supreme Court's decision in Sriharan (2016), have reignited concerns about life imprisonment. While the aim seems to be a harsher, longer form of life imprisonment, it comes at a price: less consistency and predictability in sentencing.

It's understandable that there might not be much public sympathy for those convicted under these new laws or facing sentences influenced by Sriharan. However, the ambiguity in these sentencing guidelines creates a risk: the potential for overlooking the rights of this group of prisoners.

Past court cases (Pandit Kishori Lal (1952), Gopal Vinayak Godse (1961), Maru Ram (1981), Ratan Singh (1979), and Shri Bhagwan (2001)) and the unclear way remission (early release) is applied in life sentences raise concerns.

Based on these issues, the passage proposes a unique category for exceptional situations where the death penalty is replaced with either life imprisonment or a sentence exceeding 14 years. This special category would be exempt from remission programs, ensuring the full sentence is served.

The issue of justice comes into question when considering remission (early release) for life sentences. This is particularly true in heinous crimes where the offender(s) may seem undeserving of any leniency. The recent case of Bilkis Bano (2022) exemplifies this concern. The brutality of the crime sparked outrage over the release of the convicts even though they were sentenced to life imprisonment.

A special CBI court in Mumbai convicted the accused of life imprisonment for the gang rape and murder of seven members of Bilkis Bano's family in 2008. This conviction was upheld by the Bombay High Court. The horrific crime occurred during the 2002 Gujarat riots. Bilkis Bano was gang-raped, and tragically, fourteen members of her family, including her three-year-old daughter, were murdered in a communal attack. Bilkis was the sole survivor. The case was transferred to the Central Bureau of Investigation (CBI), and the Supreme Court ordered the trial to be held in Maharashtra instead of Gujarat.

The Bilkis Bano¹¹ case sparked outrage in 2022 when all the convicts, sentenced to life

¹¹ Bilkis Yakub Rasool v. Union of India & Others, [2024] 1 S.C.R. 743 : 2024 INSC 24

imprisonment for the brutal gang rape and killings, were released early due to remission granted by the Gujarat government. The Supreme Court had earlier confirmed Gujarat as the appropriate authority to decide on remission requests, setting a two-month deadline for a decision. This early release sparked public outcry, raising questions about the true purpose of remission and the need for it to be applied thoughtfully and with proper judgment. The case highlights the ongoing debate about whether remission serves justice, especially in heinous crimes where genuine remorse might be questionable.

VII. ABOLITIONISTS & RETENTIONISTS VIEW

Abolitionists and retentionists still proceed to contend back and forward on the subject of passing punishment. The debate in India about whether to keep the penalty in place or abolish it has presented its own set of difficulties. The argument has come up in a number of murder cases and horrific crime cases, but it never seems to find a middle ground, with both retention and abolishing having solid, rational arguments.

Whereas a few contend for the discouragement hypothesis, others raise moral and ethical concerns. But for presently, there is still no agreement on this contention. Whereas articles 14 and 21 of the Indian structure ensure individuals the "right to correspondence" and the "right to life and individual freedom," separately, individuals are too inquired to confront such unrefined discipline in arrange to for all time pull back from society beneath the affection of "strategy set up by law" for wrongdoing.

Firstly, according to abolitionists, the essential right to life, as ensured by a few universal human rights traditions, is supposedly abused by the passing sentence. For them, the passing punishment is an uncaring, brutal, and mortifying frame of punishment. Retentionists fight that the passing punishment, which gives casualties and their families a sense of vindication, is a reasonable discipline for the most appalling violations. They think that in arrangement to express society's dissatisfaction, a few offenses ought to be rebuffed to death.

Secondly, Abolitionists habitually claim that there is deficient confirmation to bolster the thought that the passing punishment discourages wrongdoing. They contend that other elements—like financial status, instructive fulfillment, and law enforcement—have a more prominent effect on bringing down wrongdoing rates. Retentionists contend that since it makes potential offenders startled, the passing punishment discourages serious wrongdoings. They fight that individuals may be prevented from committing kill or other capital violations if they fear they may be executed.

Also, abolitionists draw consideration to the plausibility that the legal system's

shortcomings—such as off base feelings, inadequately lawful direct, and partialities based on a person's ethnicity, course, or religion—will result in the execution of guiltless people. Some retentionists think that the plausibility of murdering blameless individuals may be decreased by sanctioning strict measures to avoid untrue feelings, ensuring reasonable trials, and giving superior legitimate direct for defendants.

India is among the 78 nations that support the death penalty, arguing that it should only be applied in the "rarest of rare cases" and for "special reasons." Though neither the legislature nor the Supreme Court have determined what qualifies as a "rarest of rare case" or "special reasons."

Previous legislative attempts to abolish the punishment of death penalty have failed in India. the first private bill to abolish death penalty in India was introduced in 1931 in the legislative assembly but was rejected. Again, a similar bill was rejected in the first Lok Sabha. Efforts were also made in Rajya Sabha to move resolution for abolition of death sentence in 1958 and 1962 but were withdrawn after some debate.

In *Jagmohan Singh v. State of U.P.*[1973] 1 SCC 20 it was found that the death penalty serves as a deterrence and a symbol of the society's strong disapproval of crimes where the murder is cruelly committed and has a diabolical motive. Murderers of this nature cannot be easily wish away by citing their social adjustment issues as an excuse.

VIII. ALTERNATIVE APPROACHES & REFORMS

Promoting justice, human rights, and public safety involves alternative strategies and solutions for the issues associated with the death penalty and life in prison. When discussing what several take to be evidence-based policy ideas that focus on prevention, rehabilitation, and reintegration rather than retribution such as the death sentence or life imprisonment, consideration should be given to suggesting to policymakers to do the following:

- **Restorative Justice:** The goal of restorative justice is to repair the injury caused by crime through dialogue, negotiation, and service to the community. This approach promotes responsibility, recovery, or rehabilitation by victims and perpetrators. Restorative justice may decrease the frequency of reoffending by creating meaningful linkages between individuals harmed by crimes.

- **Sentencing Reform:** These provide greater discretion or flexibility to judges and can help in curtailing the severity of mandatory minimum sentences and bringing about fairer and individualized justice. In addition, alternatives to time in prison like community service, treatment in rehabilitation facilities, and faith-based or restorative justice programs are effective

ways of addressing criminal behavior that will retain offenders responsible while assisting to handle the underlying reasons that contribute to the crime. Diversion programs would enable non-violent offenders to bypass imprisonment by taking part in community-based programs such as drug treatment, mental health counseling, or employment training. These programs can help in addressing criminal behavior's root cause and making it easier for sufferers to cope with particular funds which will further decrease stress on the criminal justice process and reduce recidivism.

- **Rehabilitation and Re-entry Support:** Providing funds for rehabilitation programs, vocational training, and education projects in prisons helps prepare individuals for re-entry. Offering released individuals re-entry assistance, a post-prison home, employment opportunities, and business development, as well as access to healthcare, reduces reoffending and supports long-term rehabilitation.

- **Risk Assessment and Supervision:** Implementing evidence-based risk assessment to recognize high-rate offenders allows for more precise supervision. This likewise concentrates money and effort where it is most required, with the majority of criminal rehabilitation resources directed to those in actual need. Additionally, it increases public safety.

- Another alternative way can be social welfare where the offender must get involved in community welfare works. This helps in a way to allow the offender to work for the society while serving their punishment period. For example, some women convicts in Tamil Nadu were operating a petrol pump outlet during their imprisonment period.

IX. CONCLUSION

The debate over capital punishment and life imprisonment in India remains complex and multifaceted, shaped by legal precedents, ethical considerations, and evolving societal perspectives. While the Supreme Court's "rarest of rare" doctrine seeks to limit the application of the death penalty, concerns persist regarding its arbitrariness and the risk of wrongful convictions. The gradual shift toward life imprisonment as an alternative punishment reflects an increasing emphasis on human rights, reformation, and justice. However, the implementation of life sentences, particularly their duration and remission policies, continues to raise critical questions about their effectiveness in delivering justice and maintaining public confidence in the legal system.

One of the primary challenges in the discourse on life imprisonment is the ambiguity surrounding its execution. Legal amendments, such as the Criminal Law Amendment Acts of 2013 and 2018, have attempted to define life imprisonment as "imprisonment for the balance

of the offender's natural life," yet inconsistencies remain in its application. Courts have, at times, imposed life sentences without remission, creating a middle ground between the death penalty and standard life imprisonment. However, the absence of clear, uniform guidelines on remission and early release has led to concerns over the predictability and fairness of sentencing. The case of Bilkis Bano, where convicts sentenced to life imprisonment were prematurely released, underscores the urgent need for stricter and more transparent remission policies.

From a legal standpoint, the deterrent effect of the death penalty remains debatable. While some argue that capital punishment instills fear and upholds the rule of law, empirical evidence suggests that it does not necessarily deter crime more effectively than life imprisonment. Theories of reformation and rehabilitation emphasize the potential for convicts to reintegrate into society, challenging the notion of absolute retributive justice. The Indian judiciary, in landmark cases such as *Sunil Batra v. Delhi Administration* and *Shatrughan Chauhan v. Union of India*, has reinforced the constitutional mandate for humane treatment and rehabilitation of prisoners, further supporting the case against the death penalty.

International perspectives also influence India's legal stance on capital punishment. Global human rights organizations, including the United Nations and Amnesty International, advocate for its abolition, citing ethical concerns and the potential for judicial errors. Many countries have moved toward alternative forms of punishment, focusing on rehabilitation rather than retribution. India, however, continues to retain the death penalty, particularly for cases involving terrorism and heinous crimes, reflecting a cautious approach rather than outright abolition.

While life imprisonment appears to be a more humane alternative, it is not without its challenges. Overcrowding in prisons, lack of proper rehabilitation programs, and the financial burden of sustaining long-term incarceration pose significant issues. Additionally, the psychological impact of prolonged imprisonment on convicts raises concerns about the effectiveness of such sentences in achieving true reformation. The need for prison reforms, improved legal frameworks, and alternative sentencing models, such as restorative justice, remains crucial in ensuring that punishment serves both justice and rehabilitation.

In conclusion, the transition from capital punishment to life imprisonment signifies an evolving legal and moral landscape. However, the justice system must address inconsistencies in sentencing, ensure fair and transparent remission policies, and strengthen rehabilitation mechanisms. Striking a balance between deterrence, retribution, and reformation is essential for a more effective and humane criminal justice system in India. Ultimately, the goal should be to

create a framework that upholds constitutional values, prioritizes human rights, and delivers justice without resorting to irreversible and extreme measures like death penalty.
