

## THE ROLE OF SUPREME COURT IN SHAPING THE CAPITAL PUNISHMENT JURISPRUDENCE IN INDIA

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### **ABSTRACT**

The administration of capital punishment remains a contentious issue within the Indian criminal justice system, often invoking strong arguments on both legal and ethical grounds. The Supreme Court of India, as the final interpreter of the Constitution and the protector of fundamental rights, has played an instrumental role in shaping and refining the legal framework governing the death penalty. This research paper aims to critically examine the judicial trends, constitutional interpretation, and jurisprudential shifts brought about by the Supreme Court in the context of capital punishment.

Through an in-depth analysis of landmark judgments such as *Bachan Singh v. State of Punjab*, *Machhi Singh v. State of Punjab*, and *Shatrughan Chauhan v. Union of India*, the paper traces the development of the "rarest of rare" doctrine and explores how it has been used as a judicial standard to limit the arbitrary imposition of death sentences. The study also highlights the Court's efforts in evolving procedural safeguards, including the right to legal aid, timely disposal of mercy petitions, and protection against prolonged incarceration under the shadow of death.

Furthermore, the paper evaluates the broader human rights implications and considers whether the current jurisprudence aligns with international legal standards and the reformative goals of criminal law. It seeks to assess whether the Court's approach has sufficiently addressed the socio-economic and systemic disparities that influence capital sentencing in India. The research ultimately reflects on the need for judicial consistency, legislative clarity, and a potential re-evaluation of the death penalty's role in a modern constitutional democracy.

**Keywords** – Capital punishment, Supreme Court of India, rarest of rare doctrine, constitutional safeguards, death penalty jurisprudence, criminal justice, human rights, judicial discretion, fundamental rights, legal reform.

### **1. Introduction**

Capital punishment, also known as the death penalty, is the most severe and irreversible form of punishment sanctioned under the Indian legal system. It represents the State's ultimate penal response to crimes considered so heinous that they shock the collective

conscience of society. Despite being legally permitted, the imposition of the death penalty in India is subject to strict constitutional scrutiny, guided by the principles of justice, fairness, and the evolving standards of human dignity.

**The Indian Penal Code, 1860**, prescribes capital punishment for certain offences such as

murder, waging war against the State, terrorism-related crimes, and specific cases under special legislations like the Protection of Children from Sexual Offences (POCSO) Act and the Narcotic Drugs and Psychotropic Substances (NDPS) Act. However, the imposition of this extreme penalty is not automatic and must satisfy a rigorous judicial process that balances the crime's severity with the circumstances of the offender.

The Supreme Court of India, as the highest constitutional court and guardian of fundamental rights, has been instrumental in shaping the legal and moral contours of capital punishment jurisprudence. Over the decades, it has laid down essential doctrinal principles, including the seminal "rarest of rare" standard introduced in **Bachan Singh v. State of Punjab (1980)**, which serves as a guiding threshold for awarding the death penalty. The apex court has also developed a body of case law aimed at ensuring procedural fairness and safeguarding the rights of the accused at every stage—from trial and sentencing to mercy petitions and post-conviction remedies.

Furthermore, the judiciary has acknowledged the need to consider various mitigating factors such as the age, background, mental condition, and potential for reform of the accused. The approach adopted by the Supreme Court reflects a gradual shift from retributive to reformatory and restorative theories of justice, without completely ruling out the possibility of capital punishment for the gravest crimes.

This paper seeks to explore the dynamic role played by the Supreme Court in interpreting and limiting the scope of capital punishment in India. By critically analyzing key judgments, doctrinal developments, and human rights concerns, the research aims to assess whether the current judicial framework effectively balances the demands of justice with the constitutional commitment to life and dignity.

## 2. Constitutional Provisions and Capital Punishment

The Indian Constitution guarantees fundamental rights that serve as the cornerstone for all legislative and executive actions, including the imposition of punishments. Among these rights, the **right to life and personal liberty under Article 21** has been the most significant in guiding the jurisprudence around capital punishment. While the Constitution does not expressly prohibit the death penalty, it places strict conditions and procedural safeguards to prevent its arbitrary or excessive use.

### Article 21: Protection of Life and Personal Liberty

Article 21 of the Constitution states that "*No person shall be deprived of his life or personal liberty except according to procedure established by law.*" This provision acts as a substantive limitation on State power and mandates that any law depriving a person of life or liberty must be just, fair, and reasonable.<sup>957</sup> The Supreme Court, in **Maneka Gandhi v. Union of India**, expanded the interpretation of Article 21, holding that the "procedure established by law" must also satisfy principles of natural justice and due process.<sup>958</sup> In the context of the death penalty, this means that not only must there be a valid law authorizing such punishment, but its application must adhere to fairness at every stage—investigation, trial, sentencing, and execution.

### Articles 72 and 161: Clemency Powers

Articles 72 and 161 provide constitutional remedies against judicial errors or miscarriage of justice by empowering the **President and the Governor**, respectively, to grant pardons, reprieves, respites, or remissions of punishment, including in cases involving the death sentence.<sup>959</sup> These powers function as a humanitarian safeguard, allowing executive

<sup>957</sup> *The Constitution of India*, Article 21.

<sup>958</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597.

<sup>959</sup> *The Constitution of India*, Articles 72 & 161.

authorities to intervene in exceptional situations. The Supreme Court, in **Kehar Singh v. Union of India**, held that while the executive's clemency powers are not subject to judicial review on merits, they can be reviewed if exercised arbitrarily, malafidely, or without proper application of mind.<sup>960</sup>

### Section 354(3) of the Code of Criminal Procedure, 1973

Section 354(3) of the CrPC mandates that **"when the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life, the judgment shall state the reasons for the sentence awarded, and in the case of death sentence, special reasons shall be recorded."** This provision reflects a legislative intent to make the death penalty an exception rather than the rule. It was given constitutional legitimacy by the Supreme Court in **Bachan Singh v. State of Punjab**, where the Court read Section 354(3) in light of Article 21 to ensure that the death sentence is awarded only in the "rarest of rare" cases.

### Judicial Interpretation and Constitutional Morality

The Supreme Court has consistently interpreted these constitutional and statutory provisions to promote a **balanced approach between retributive justice and constitutional morality**. While acknowledging the authority of the legislature to prescribe capital punishment, the judiciary has ensured that such punishment must not violate the evolving standards of decency, human dignity, and fairness under the Constitution. In **Shatrughan Chauhan v. Union of India**, the Court went a step further by commuting several death sentences due to procedural lapses, delays in mercy petitions, and lack of mental health assessments.

Through such decisions, the Court has reaffirmed that **constitutional safeguards are not mere formalities** but essential prerequisites for the lawful and just imposition of the death penalty.

### 3. Evolution of Supreme Court Jurisprudence on Capital Punishment

The jurisprudence on capital punishment in India has undergone significant evolution over the decades, primarily driven by judicial interpretation by the Supreme Court. Through a series of landmark judgments, the apex court has moved towards narrowing the scope of the death penalty, ensuring that it is awarded only in exceptional cases, and only after strict procedural and substantive safeguards are met.

#### a) Jagmohan Singh v. State of Uttar Pradesh (1973)

This was the first major case in which the constitutional validity of the death penalty under Indian law was challenged. The petitioner argued that the absence of guidelines in sentencing under the Indian Penal Code and CrPC rendered capital punishment arbitrary and violative of **Articles 14, 19, and 21** of the Constitution. The Supreme Court upheld the validity of the death penalty, holding that the sentencing procedure allowed judges to consider all relevant circumstances, and hence it was consistent with the constitutional mandate of a fair procedure.<sup>961</sup>

This judgment laid the foundation for future death penalty jurisprudence by emphasizing the importance of a **fair and reasoned sentencing process**, even though it did not yet introduce any restrictive doctrine.

#### b) Rajendra Prasad v. State of Uttar Pradesh (1979)

This case marked a shift towards a more rights-sensitive interpretation of the death penalty. Justice Krishna Iyer observed that **capital punishment must be guided by social necessity** and should not be imposed arbitrarily. The Court opined that the **emphasis must be placed on the circumstances of the criminal rather than merely the crime**. Although the ruling did not establish binding

<sup>960</sup> *Kehar Singh v. Union of India*, AIR 1989 SC 653.

<sup>961</sup> *Jagmohan Singh v. State of Uttar Pradesh*, AIR 1973 SC 947.

law, it advanced the debate by reinforcing the idea that the death penalty must be an exceptional response, proportionate to both the offence and the offender.<sup>962</sup>

### c) *Bachan Singh v. State of Punjab (1980)*

In this **constitutional bench judgment**, the Supreme Court upheld the constitutional validity of the death penalty under Section 302 of the IPC, but with a critical limitation. The Court formulated the **“rarest of rare”** doctrine, ruling that the death sentence should only be imposed when **“the alternative option is unquestionably foreclosed”**. It emphasized that the sentencing court must weigh both **aggravating and mitigating circumstances**, including the possibility of the offender’s reform.<sup>963</sup>

This judgment became the **cornerstone of Indian death penalty jurisprudence**, ensuring that the imposition of capital punishment is not arbitrary but rather the result of a balanced and individualized sentencing process.

### d) *Machhi Singh v. State of Punjab (1983)*

In this case, the Supreme Court elaborated on the “rarest of rare” doctrine by laying down **specific categories** under which the death penalty could be justified. These included:

- Manner of commission of murder
- Motive for the crime
- Anti-social or socially abhorrent nature of the crime
- Magnitude of the crime
- Personality of the victim (e.g., child, elderly, or disabled)<sup>964</sup>

The judgment provided **concrete guidelines for trial courts**, making the “rarest of rare” principle more practicable and judicially enforceable.

### e) *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra (2009)*

This case is significant for highlighting the **inconsistencies and arbitrariness** in the application of the death penalty in India. The Court emphasized that **mitigating factors must be thoroughly considered** and held that procedural lapses and lack of individualized sentencing had led to unconstitutional outcomes in several capital punishment cases. The Court also pointed out that the *Machhi Singh* categories were being applied mechanically without the sensitivity demanded by *Bachan Singh*.<sup>965</sup>

The judgment reflected growing judicial concern about **systemic flaws in the administration of capital punishment**, including inadequate legal representation and socio-economic biases.

### f) *Shatrughan Chauhan v. Union of India (2014)*

This case extended the procedural safeguards associated with the death penalty by ruling that **inordinate delay in executing a death sentence**—especially post-confirmation and during the pendency of mercy petitions—can amount to **cruel, inhuman, and degrading treatment** under Article 21. The Court commuted several death sentences to life imprisonment, recognizing the **psychological trauma** and suffering endured by prisoners living under prolonged uncertainty.<sup>966</sup>

The judgment marked a **turning point in humanizing death row jurisprudence**, stressing that the rights of convicts do not end with the pronouncement of the sentence.

### 4. Critical Analysis of the “Rarest of Rare” Doctrine

The “rarest of rare” doctrine, evolved by the Supreme Court in *Bachan Singh v. State of Punjab*, was intended to restrict the imposition of capital punishment only to the most exceptional cases. It mandated that the

<sup>962</sup> *Rajendra Prasad v. State of Uttar Pradesh*, AIR 1979 SC 916.

<sup>963</sup> *Bachan Singh v. State of Punjab*, AIR 1980 SC 898.

<sup>964</sup> *Machhi Singh v. State of Punjab*, AIR 1983 SC 957.

<sup>965</sup> *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, (2009) 6 SCC 498.

<sup>966</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1.

sentencing court must conclude that life imprisonment is wholly inadequate and that the alternative of death is the only appropriate punishment, after balancing **aggravating and mitigating circumstances**.<sup>967</sup> While this doctrine aimed to reduce arbitrariness and promote judicial consistency, its application over the years has drawn significant criticism.

### Subjectivity and Inconsistency in Application

One of the primary criticisms of the “rarest of rare” doctrine is its **inherent subjectivity**. There is no clear, codified standard to define what exactly constitutes a “rarest of rare” case. As a result, the **application of the doctrine varies widely from judge to judge and case to case**. A crime considered “rarest of rare” by one bench may be seen as warranting life imprisonment by another, leading to **judicial arbitrariness**.

This concern was acknowledged by the Supreme Court in *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, where it observed that **inconsistent application of sentencing principles compromises the fairness of the criminal justice system**.<sup>968</sup> The Court noted that several past decisions had ignored the obligation to consider mitigating circumstances and had failed to engage in a principled analysis.

### Concerns of Arbitrariness and Discrimination

In *Swamy Shraddananda v. State of Karnataka*, the Court expressed a preference for **life imprisonment without remission** over the death penalty, as a middle path that ensures punishment without taking away the possibility of human reform.<sup>969</sup> The judgment indirectly criticized the “rarest of rare” doctrine for being **too rigid** and for **placing too much discretion in the hands of judges**, which could lead to unequal treatment of similarly placed convicts.

Moreover, empirical studies, including those by the National Law University, Delhi (Death Penalty Research Project), have shown that **socio-**

**economic status, legal representation, and regional biases** often influence who gets sentenced to death. This further highlights the **structural inequality and arbitrariness** embedded in the actual practice of the doctrine.

### Shift Toward Reformatory Justice

The Supreme Court in *Union of India v. V. Sriharan* (2016), while upholding the power of courts to impose life imprisonment without remission, emphasized the **importance of the reformatory theory** of punishment.<sup>970</sup> The Court stressed that **rehabilitation and the potential for reform must always be considered**, and that the death penalty should not be used as a default punishment for heinous crimes.

Similarly, in *Mofil Khan v. State of Jharkhand* (2021), the Court commuted a death sentence, highlighting the need for a **balanced sentencing process** that takes into account the **individual characteristics** of the convict and not merely the brutality of the crime.<sup>971</sup>

### Conclusion of the Critique

While the “rarest of rare” doctrine was a landmark step in curbing arbitrary capital punishment, it **fails to offer a consistent or objective sentencing framework**. Its reliance on judicial discretion, coupled with the lack of clear sentencing guidelines, has led to **inconsistencies and potential miscarriages of justice**. There is a growing judicial and academic consensus that **capital punishment, under this doctrine, has not been implemented uniformly**, and that the emphasis must shift further toward **reform, rehabilitation, and human dignity**.

### 5. Death Penalty and Human Rights Concerns

The death penalty has been a persistent subject of human rights debate across jurisdictions, and India is no exception. While it continues to be constitutionally valid, its **compatibility with fundamental human rights**, especially those

<sup>967</sup> *Bachan Singh v. State of Punjab*, AIR 1980 SC 898.

<sup>968</sup> *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, (2009) 6 SCC 498.

<sup>969</sup> *Swamy Shraddananda v. State of Karnataka*, (2008) 13 SCC 767.

<sup>970</sup> *Union of India v. V. Sriharan alias Murrigan*, (2016) 7 SCC 1.

<sup>971</sup> *Mofil Khan v. State of Jharkhand*, (2021) 2 SCC 540.

enshrined under Article 21 of the Constitution, has been increasingly scrutinized by the Indian judiciary. The **Supreme Court has adopted a progressive and rights-centric approach**, aiming to humanize death penalty jurisprudence and ensure procedural and substantive fairness.

#### A. Inhuman and Cruel Nature of Death Penalty

Opponents of capital punishment argue that it violates the **right to life with dignity** and amounts to **cruel, inhuman, and degrading treatment**, especially when executed after prolonged delays or in solitary conditions. The **Supreme Court in Jagdish v. State of Madhya Pradesh** emphasized that the right to life includes the **right to live with human dignity till the last breath**, and that no procedure, even if established by law, should be arbitrary or oppressive.<sup>972</sup>

This interpretation aligns with India's obligations under **international human rights instruments**, including the **International Covenant on Civil and Political Rights (ICCPR)**, which India has ratified and which discourages the death penalty.

#### B. Right to Legal Aid

Access to **effective legal representation** has been recognized as an essential component of fair trial rights under Article 21 and Article 39A. In *Mohd. Hussain alias Julfikar Ali v. State (Govt. of NCT of Delhi)*, the Court held that **denial of legal aid at a crucial stage of the trial violates the accused's fundamental rights**, and such a trial stands vitiated.<sup>973</sup> This is particularly relevant in capital cases, where the quality of representation can literally determine life or death.

Many studies have revealed that a large percentage of death row prisoners belong to economically and socially disadvantaged backgrounds, often lacking the means to

engage competent legal counsel.<sup>974</sup>

#### C. Right to Clemency and Mercy Petitions

Articles **72 and 161** of the Constitution vest the President and Governors with the power to grant mercy or commute death sentences. While these are executive functions, the **Supreme Court has subjected them to judicial review**, especially in cases of **undue delay or non-application of mind**.

In *Shatrughan Chauhan v. Union of India*, the Court held that **prolonged delay in disposal of mercy petitions** amounts to torture and a violation of Article 21, and can be a valid ground for commuting a death sentence to life imprisonment.<sup>975</sup>

This ruling emphasized that **death row prisoners retain their basic human rights**, and that the clemency power is not absolute or arbitrary.

#### D. Right to Dignity Even in Death

The notion that even a convict sentenced to death is entitled to **dignity and humane treatment until execution** has been a key theme in recent jurisprudence. In *Common Cause (A Regd. Society) v. Union of India*, the Court stressed the **constitutional sanctity of dignity**, extending it to the end of life, including those sentenced to death.<sup>976</sup>

This understanding has led to procedural safeguards in the manner of execution and the treatment of prisoners during the period before execution.

#### E. Right Against Solitary Confinement

The **practice of placing death row convicts in solitary confinement**, sometimes for years, was deemed unconstitutional in *Sunil Batra v. Delhi Administration*. The Court held that solitary confinement is **not permissible unless expressly sanctioned by law**, and even then, must be subject to humane limitations.<sup>977</sup>

<sup>972</sup> *Jagdish v. State of Madhya Pradesh*, (2020) 11 SCC 623.

<sup>973</sup> *Mohd. Hussain alias Julfikar Ali v. State (Govt. of NCT of Delhi)*, (2012) 2 SCC 584.

<sup>974</sup> Death Penalty India Report, National Law University, Delhi, 2016.

<sup>975</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1.

<sup>976</sup> *Common Cause v. Union of India*, (2018) 5 SCC 1.

<sup>977</sup> *Sunil Batra v. Delhi Administration*, (1978) 4 SCC 494.

Justice Krishna Iyer noted that such confinement causes **psychological trauma and violates the essence of human dignity**, thereby breaching Article 21.

## 6. Judicial Safeguards and Procedural Fairness

In its commitment to uphold constitutional morality and protect the rights of individuals, especially in capital punishment cases, the **Supreme Court of India has developed a set of judicial safeguards to ensure procedural fairness and just sentencing**. These safeguards are grounded in the **principle of fairness under Article 21**, which requires that **no person shall be deprived of life or personal liberty except according to the procedure established by law**, and that such procedure must be just, fair, and reasonable.

### A. Bifurcated Trial System: Separating Conviction and Sentencing

One of the most important procedural safeguards developed by the judiciary is the **requirement of bifurcated trials**, where the **trial is divided into two distinct stages: the conviction stage and the sentencing stage**. This principle was formally recognized in *Bachan Singh v. State of Punjab*, where the Court held that sentencing must be based on an **individualized assessment of the crime and the criminal**.<sup>978</sup>

Section 235(2) of the Code of Criminal Procedure (CrPC) mandates that once the accused is convicted, the judge must give the convict an opportunity to be heard on the question of sentence. This provides room for consideration of **mitigating circumstances** before deciding on the imposition of capital punishment.

### B. Right to Be Heard Before Sentencing

The principle of **audi alteram partem**—the right to be heard—is fundamental in death penalty cases. In *Santa Singh v. State of Punjab*, the Supreme Court emphasized that hearing the accused on sentencing is not a formality, but a

**mandatory procedural safeguard**, ensuring that the accused is given an opportunity to present mitigating factors such as age, background, mental state, and potential for reform.<sup>979</sup>

This procedural fairness is necessary to ensure that sentencing is **not mechanical or solely based on the brutality of the crime**, but considers the holistic context of the accused's life.

### C. Consideration of Mental Health and Personal Background

In several cases, the Court has stressed the need to consider the **mental health, upbringing, psychological state, and socio-economic background** of the accused before awarding the death sentence. In *Navneet Kaur v. State of NCT of Delhi*, the Supreme Court commuted the death sentence of the accused on the ground of **mental illness**, stating that executing a person suffering from mental disorder would be **unconstitutional and inhumane**.<sup>980</sup>

Moreover, the Court in *Santosh Kumar Satishbhusan Bariyar v. State of Maharashtra* noted that sentencing must go beyond the crime and delve into the **background, potential for reform, and mitigating circumstances** of the accused.<sup>981</sup>

### D. Right to Proper Legal Representation

Effective legal aid is **not a privilege but a constitutional right**, especially in capital cases. In *Hussainara Khatoon v. State of Bihar*, the Court held that **free legal aid is an essential ingredient of reasonable, fair, and just procedure** under Article 21.<sup>982</sup> This is particularly critical in death penalty cases where **lack of competent legal representation can lead to wrongful convictions or arbitrary sentencing**.

<sup>979</sup> *Santa Singh v. State of Punjab*, AIR 1976 SC 2386.

<sup>980</sup> *Navneet Kaur v. State (NCT of Delhi)*, Review Petition (Crl.) D No. 16039/2014.

<sup>981</sup> *Santosh Kumar Satishbhusan Bariyar v. State of Maharashtra*, (2009) 6 SCC 498.

<sup>982</sup> *Hussainara Khatoon & Ors. v. Home Secretary, State of Bihar*, AIR 1979 SC 1360.

<sup>978</sup> *Bachan Singh v. State of Punjab*, AIR 1980 SC 898.

## 7. Global Trends and India's Position

Over the last several decades, the global trend has largely moved away from the use of the **death penalty**, with more than **140 countries either abolishing it in law or practice**. This shift reflects a growing **global consensus against capital punishment**, driven by human rights concerns, the potential for wrongful convictions, and the belief that such punishments are irreversible and inhumane. **International human rights organizations**, such as Amnesty International and Human Rights Watch, have actively advocated for the worldwide abolition of the death penalty, emphasizing that its use contradicts fundamental principles of human dignity.

### A. Abolition of the Death Penalty Worldwide

As of recent statistics, over **two-thirds of the world's nations have abolished the death penalty** for all crimes. The trend toward abolition is particularly noticeable in **Europe**, where **every country has abolished capital punishment**, and in **Latin America**, where the death penalty is largely seen as a violation of human rights. The **United Nations** has taken a strong stance against the death penalty, with its General Assembly passing resolutions calling for a global moratorium on executions. Despite these developments, some countries, particularly in **Asia, the Middle East, and parts of Africa**, continue to retain and practice the death penalty.

### B. India's Position on the Death Penalty

India stands among a small group of countries that continue to retain the death penalty as a legal form of punishment. However, its **use is highly restricted** and has become more **infrequent in recent years**. While the death penalty is still prescribed for certain offenses such as murder, terrorism-related crimes, and drug trafficking, it is typically imposed only in the **"rarest of rare" cases**, as set out by the Supreme Court in *Bachan Singh v. State of Punjab*.

India's approach reflects a **balanced stance**,

acknowledging both the legal retention of capital punishment and the evolving emphasis on **judicial safeguards** and **human rights considerations**. The Supreme Court, while affirming the constitutionality of the death penalty, has consistently emphasized the need for **fair trial procedures, proportionality in sentencing**, and **consideration of mitigating factors**, including the age and mental health of the accused.

### C. India's International Obligations and the Role of the Supreme Court

India's position on the death penalty is shaped by its **international obligations**, particularly under treaties such as the **International Covenant on Civil and Political Rights (ICCPR)**, to which it is a signatory. **Article 6** of the ICCPR provides for the abolition of the death penalty, while allowing its retention under specific conditions, provided it is not arbitrarily applied. India, however, has taken the position that the **abolition of the death penalty** is a matter for the **legislature** rather than the judiciary, leaving this decision to **democratic processes**.

In recent judgments, the **Supreme Court has acknowledged India's international obligations** concerning the death penalty, including the **UN Human Rights Committee's** stance on **arbitrary executions**. Despite this, the Court has refrained from directly advocating for abolition, reasoning that **capital punishment is still constitutionally permissible** in India, provided it is imposed in the rarest and most exceptional cases.

### D. The Role of the Legislature in Abolition

The Court has often pointed out that **the ultimate decision on the abolition of the death penalty rests with Parliament**. The judiciary has repeatedly **declined to strike down the death penalty** in its entirety, considering it a **legislative function** to determine whether capital punishment should be retained or abolished. This position reflects the **democratic principle** that the **legislative body**, representing the people's will, has the authority to make such

decisions, even as the judiciary ensures procedural safeguards to prevent arbitrariness in its application.

The **debate on abolition** remains a live issue within Indian society. Advocates for abolition point to the global trend and the **possibility of wrongful convictions** and **discriminatory application** of the death penalty, while proponents argue that it remains a necessary deterrent in certain heinous cases

## 8. Conclusion

The **Supreme Court of India** has played a **crucial role** in shaping the **jurisprudence of capital punishment** in the country, ensuring that its application aligns with constitutional principles, human rights, and evolving societal values. Through a series of landmark judgments, the Court has significantly influenced the use of the death penalty, limiting its scope and ensuring that it is applied in the most exceptional and extreme cases.

- Key points highlighted in the paper include:
- **Upholding Constitutional Rights:** The Supreme Court has consistently emphasized the **protection of life and personal liberty** under **Article 21** of the Constitution, ensuring that capital punishment is not arbitrary or capricious, but is subject to strict judicial scrutiny and fairness.
- **“Rarest of Rare” Doctrine:** The Court introduced the **“rarest of rare” doctrine**, which ensures that the death penalty is applied only in cases of the most heinous crimes, where life imprisonment would be inadequate. This doctrine requires a detailed examination of both **aggravating** and **mitigating** factors before imposing the death penalty.
- **Human Rights-Based Approach:** The Court has increasingly adopted a **human rights-based approach** to capital punishment, emphasizing the **right to dignity, effective legal**

**representation**, and consideration of **mental health** and other personal factors during sentencing. This approach ensures that the death penalty is applied with compassion and fairness.

- **Limited Role in Abolition:** While the Court has refined the application of the death penalty, it has refrained from abolishing it, leaving this decision to the **legislature**. The Court maintains that **capital punishment** is a matter of **policy**, and its abolition or reform lies within the domain of **Parliament**.
- **Global Trends and India’s Position:** Despite the global trend towards **abolition**, India continues to retain the death penalty. However, the **Indian judiciary** has acknowledged **international human rights standards** and narrowed the scope of its use in line with evolving human rights concerns.
- **The Need for Legislative Action:** The future of capital punishment in India ultimately depends on **legislative reform**. The Court has suggested that the decision to abolish or reform the death penalty is best left to **Parliament**, which must take into account both **human rights** and the judicial safeguards established by the Court.

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