

**LAW, MORALITY, AND FAITH: AN ANALYSIS OF THE
JURISPRUDENTIAL AND RELIGIOUS JUSTIFIABILITY OF
CAPITAL PUNISHMENT**

- Sunny Diwaker & Tanya¹

1. Introduction

1.1. Background of Study

Punishment and the application of laws and justice have created the debate about what is acceptable when it comes to the use of punishments by the State. Capital Punishment, or the taking of a person's life in the name of justice, represents the ultimate expression of the State's authority to punish. Historically, Capital Punishment has been rationalized as a way to punish those who are undeserving; it serves as a mechanism of control and for maintaining social order. However, Capital Punishment also raises serious moral, legal, and spiritual questions. Can the state lawfully take away something that it did not provide-life itself? Is Capital Punishment an appropriate and proportional reaction to criminal behavior in a society that values the potential for moral redemption and human dignity?²

The debate over Capital Punishment has moved well beyond its legal acceptability and now includes the consideration of the moral implications, the role of faith, and the provisions of human rights.³ It is clear based upon the division of opinion among legal systems, religious beliefs, and societal opinions that there are many differing views regarding the legitimacy of Capital Punishment.⁴ There are some countries/jurisdictions that continue to use Capital Punishment as punishment for the most heinous crimes, whereas other countries/jurisdictions have abolished Capital Punishment because they view it as incompatible with changing

¹ Students at University of Allahabad

² Martha C Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Harvard University Press 2006); John Rawls, *A Theory of Justice* (rev edn, Harvard University Press 1999).

³ William A Schabas, *The Abolition of the Death Penalty in International Law* (4th edn, Cambridge University Press 2017).

⁴ Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, OUP 2015).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

standards of human dignity and justice. In addition to the world-wide trend toward abolishing Capital Punishment, increased recognition of the possibility of wrongful convictions and the limited ability of Capital Punishment to deter future crimes has led scholars to question if Capital Punishment can be rationally defended from both a legal and moral perspective.⁵

1.2. Research Objective

The paper will focus on the legal, moral and religious justifiability of capital punishment, in context of India and outside. It takes into account the social attitudes and the findings of empirical evidence to determine public perception regarding the effectiveness of capital punishment in its intended purposes. Finally, the research paper attempts to propose the issue of whether a more reformatory and restorative view of punishment can serve to enhance the sanctity of human life better.

The paper deals with following Research Questions:

1. What are the main jurisprudential and philosophical arguments for and against capital punishment?
2. How have constitutional courts and international legal instruments addressed the issue of the capital punishment?
3. In what ways do major world religions interpret the morality of taking life as a form of justice?
4. Does empirical evidence support the deterrent value of executions?

1.3. Review of Literature

The debate surrounding capital punishment has captivated jurists, philosophers, and theologians for centuries. *Cesare Beccaria* argued against the death penalty as being unjustified and against the social contract in his book "**On Crimes and Punishments**" in 1764;⁶ on the other hand, *Immanuel Kant* argued for it as a moral obligation for retribution. *Jeremy Bentham* questioned whether it would be an effective deterrent, with a focus on the idea that punishment should have a social value. Scholars later in history such as *H.L.A. Hart*,

⁵ Brandon L Garrett, *Convicting the Innocent: Where Criminal Prosecutions Go Wrong* (Harvard University Press 2011); Amnesty International, *Death Sentences and Executions 2024: Global Report* (Amnesty International 2024).

⁶ Cesare Beccaria, *On Crimes and Punishments* (H Paolucci tr, Bobbs-Merrill 1963).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

and *Herbert L. Packer* studied the moral justification of punishment and how the two (punishment) are morally justifiable.

In India, the case of *Bachan Singh v. State of Punjab* (1980) developed the "rarest of rare" doctrine as regards the death penalty.⁷ Critics however, such as *Upendra Baxi*, claim that this allows for random and non-scientifically based decision-making, and that there is no scientifically based evidence for the deterrent effects of capital punishment.⁸ As far as international trends go, research by *Roger Hood*, and **David Garland** shows that worldwide, the capital punishment is becoming less acceptable to societies, due to concerns over human rights, and the questionability of the argument that it serves as a deterrent to crime. Scholars such as *John Cottingham*, *Damien Keown*, and *Tariq Ramadan* from a religious viewpoint, also note that most faith traditions now favor forgiveness, or moral reform over retribution. The 2018 revisions to the Catholic Catechism were another step toward a broader moral movement against capital punishment, as they declared it inadmissible. While current studies reveal many of the moral and empirical problems surrounding the use of capital punishment, few studies combine the viewpoints of law, morality, and faith — a void that this study attempts to fill.

1.4. Research Methodology

The paper adopts a mixed-method approach combining both doctrinal and non-doctrinal research methods:

1. **Doctrinal Analysis:** Examination of constitutional provisions, statutes, and judicial precedents in India and other jurisdictions (e.g., *Bachan Singh v. State of Punjab*, *Gregg v. Georgia*, *S v. Makwanyane*), alongside international legal standards such as the ICCPR and UN resolutions.
2. **Non-Doctrinal Analysis:** Incorporation of empirical and comparative insights drawn from reports, case studies. Primarily non-doctrinal data collected via google forms in October 2025.

2. The Jurisprudence of Punishment- Law and Morality

⁷ *Bachan Singh v State of Punjab* (1980) 2 SCC 684.

⁸ Upendra Baxi, *The Future of Human Rights* (3rd edn, Oxford University Press 2012).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

Having established the background, objectives and research framework above, the study now turns to theoretical foundations of punishments. *Danda* in Ancient India and now Punishment has always been one of the most controversial topics of legal philosophy.⁹ It is not only the power of State but also highlights morality and justice of society. Punishment has been a response to wrongdoing in all civilization as a way of defending order, condemning and finding moral balance. The notion that the State is able to deprive one of life by capital punishment creates severe philosophical and moral issues and raises an important question that the State is entitled to kill what the State is expected to preserve?

2.1. Concept and Purpose of Punishment in Legal Philosophy

Punishment simply refers to the legal application of pain to an individual that is convicted of a crime. According to jurists such as *H.L.A. Hart* and *Herbert Packer*, there should be a legal foundation and a moral intent of the punishment; it is not a revenge act.¹⁰ *Cesare Beccaria*, in “*On Crimes and Punishments (1764)*,” argued that punishment must be used to deter crime in future, and not to inflict cruelty.¹¹ It is not meant to destroy the offender, however, but to bring justice and to restore law and order in the society. Punishment is significant when it is part of the moral conscience of society and not an expression of anger.

2.2. Theories of Punishments: Retributive, Deterrent, Reformative, and Restorative

Different theories have been developed in order to justify punishment throughout history. One theory is the Retributive Theory which was first advocated for by *Immanuel Kant*.¹² This theory suggests that punishment is a moral obligation and when someone commits a crime they should receive a similar penalty in order to maintain balance. Critics of this theory such as *Cesare Beccaria*, however, argued that this theory is too severe and does not align with the value of all life.¹³ Another theory is the Deterrent Theory which advocates for punishing offenders in order to deter other people from committing crimes. This theory was developed based upon *Jeremy Bentham's* utilitarianism; however many studies conducted over the last

⁹ Ashika Ranjan, ‘Evolution of the Process of Punishment in India’ (2021) 4(2) *International Journal of Law Management & Humanities* 2999 <http://doi.org/10.1732/IJLMH.26685>

¹⁰ H L A Hart, *Punishment and Responsibility: Essays in the Philosophy of Law* (2nd edn, Oxford University Press 2008).

¹¹ Cesare Beccaria, *On Crimes and Punishments* (H Paolucci tr, Bobbs-Merrill 1963).

¹² Immanuel Kant, *The Metaphysical Elements of Justice: Part I of the Metaphysics of Morals* (John Ladd tr, 2nd edn, Hackett Publishing Co 1999).

¹³ Cesare Beccaria, *On Crimes and Punishments* (H Paolucci tr, Bobbs-Merrill 1963).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

several years have shown very little evidence to support the idea that capital punishments actually decrease crime rates.¹⁴ A third theory is the Reformatory Theory. Advocates of this theory believe that punishment can be used as a means of changing the offender into a productive member of society through moral education and rehabilitation. Finally, there is the Restorative Theory. This theory advocates for the idea of reconciliation between the community, the offender and the victim. Scholars such as *Antony Duff* advocate for the restorative theory because it views justice as a process of healing and restoration instead of one of punishment.

2.3.The Relationship between Law and Morality in Criminal Justice

Law and morality are very closely associated with each other; however, this association does not mean they will always be identical with one another. A prime example of this relationship between law and morality can be seen in the *Hart-Devlin Debate* (Hart 1961).¹⁵ In essence, while *Devlin* believed the law needed to support morality,¹⁶ *Hart* believed the law should never support or enforce morality, but should observe freedom and rights. Moral values are proposed to be the basis of meanings of legal rights in contemporary times by jurists such as *Ronald Dworkin* and *John Rawls*.¹⁷ By extension, this implies that the legality itself is insufficient in justifying the capital punishment in cases of capital punishment unless it is in line with moral and human principles like dignity and fairness.

2.4.Human Dignity and the Sanctity of Life as Moral Foundations of Law

The principle of human dignity stands at the centre of all legal and moral thought. *John Rawls* and *Martha Nussbaum* describe dignity as the recognition of every individual's worth.¹⁸ Judicial systems around the world have echoed this idea. In *S v. Makwanyane* (1995), the Constitutional Court of South Africa held that the right to life and dignity is

¹⁴ Jeremy Bentham, *The Rationale of Punishment* (Richard Smith ed, T & J Swords 1830).

¹⁵ H L A Hart, *Law, Liberty and Morality* (Oxford University Press 1963).

¹⁶ Patrick Devlin, *The Enforcement of Morals* (Oxford University Press 1965).

¹⁷ Ronald Dworkin, *Taking Rights Seriously* (Harvard University Press 1977).

¹⁸ John Rawls, *A Theory of Justice* (Harvard University Press 1971).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

violated by capital punishment.¹⁹ Similarly, Indian courts under **Article 21** of the Constitution which talks about right to life and liberty also protect the right to live life with dignity.²⁰ If law exists to protect life, then taking life through punishment appears morally inconsistent.

2.5.The Jurisprudential Debate: Can the State Take a Life Justly?

The most difficult question in the philosophy of punishment is whether the State, as a moral and legal authority, can ever justly take a human life. The proponents of capital punishment especially *Immanuel Kant* and *John Stuart Mill*, retribution theorists state that it is not just legal, but morally obligatory.²¹ Justice according to *Kant* requires proportionality that is, in the case of the intentional killing of a person; no other thing can be given to restore the moral balance than forfeiture of that of the individual who has committed the crime. Punishment in this perspective is a means of upholding the dignity of the law and the law breaker since it acknowledges the individual responsibility and moral accountability.

Critics such as *Cesare Beccaria* had challenged the logic behind the capital punishment, arguing that the intentional killing of a person by the state cannot serve as a moral lesson. *Beccaria* contended that the capital punishment is neither useful nor necessary; it brutalizes society and contradicts the primary purpose of law, which is to preserve life.²² Later moral philosophers, including *John Rawls* and *Martha Nussbaum*, have further emphasized the belief that human dignity is inviolable and cannot be measured by retributive justice.

In India, the Supreme Court addressed the issue of capital punishment in the case of *Bachan Singh v. State of Punjab (1980)* by establishing the "rarest of rare" doctrine.²³ This principle allows for the imposition of the capital punishment only in cases where life imprisonment is deemed inadequate. However, this criterion remains subjective and inconsistent. As a result, many scholars, including *Upendra Baxi*; and report of the Law Commission of India (2015),²⁴ have raised concerns about whether any legal process can fairly determine who

¹⁹ *S v Makwanyane and Another* (1995) (3) SA 391 (CC).

²⁰ Constitution of India 1950, art 21.

²¹ John Stuart Mill, 'Speech in Favor of Capital Punishment' (1868) in *The Collected Works of John Stuart Mill*, vol 28 (University of Toronto Press 1984).

²² Cesare Beccaria, *On Crimes and Punishments* (H Paolucci tr, Bobbs-Merrill 1963).

²³ *Bachan Singh v State of Punjab* (1980) 2 SCC 684.

²⁴ Law Commission of India, *Report No 262: The Death Penalty* (Law Commission of India 2015).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

truly deserves the capital punishment.²⁵ Similarly, the Constitutional Court of South Africa, in the case of *S v. Makwanyane* (1995), abolished the capital punishment, asserting that it violates the right to life and human dignity as defined in the Constitution.

The concept of redemption undermines the finality of death by challenging it on both moral and religious levels. Every person, regardless of his or her past wrongdoings, possesses the capacity to experience remorse and become transformed. When an execution occurs, the State not only takes away the life, but also the opportunity for that person to be morally rehabilitated; which reflects the failure of society to accept that people can change.

Therefore, from the perspectives of morality, human rights and faith, the States authority to terminate life is highly questionable. If true justice was concerned with rehabilitation and restoration, as opposed to punishment through annihilation, then the legal system would be humane and reflective of compassion and forgiveness, embodying the highest possible moral standards that it purports to uphold.

3. Legal Perspective on Capital Punishment

Building upon the philosophical and moral foundations of punishment, now this paper examines how these ideas are reflected in contemporary legal systems. Capital Punishment is a legal reality that suits the power of the State to take away life whereas its moral suitability rests on justice, fairness, and human dignity. The world has over the years shifted its views on the capital punishment as a common sanction to an exceptional or even intolerable practice. This chapter looks into the legal evolution of capital punishment in India and contrasts it with the global and international strategies.

3.1. Evolution of the capital punishment in Criminal Jurisprudence

In the past, the capital punishment was regarded as an important measure towards the preservation of law and order. The capital punishment was stipulated in ancient laws like the Code of Hammurabi and in early English laws in crimes like murder, treason and theft.²⁶ But, when modern legal thought came into existence, the ethical validity of such punishment slowly started to diminish. Philosophers such as *Cesare Beccaria*,²⁷ and *Jeremy Bentham*,

²⁵ Upendra Baxi, *The Future of Human Rights* (3rd edn, Oxford University Press 2012).

²⁶ Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015).

²⁷ Cesare Beccaria, *On Crimes and Punishments* (H Paolucci tr, Bobbs-Merrill 1963).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

claimed that capital punishment fails to stop crime and is not consistent with justice and humanity.²⁸

In India, Capital Punishment is a legacy of British colonial rule. Upon gaining independence, the people who drafted the Constitution had a choice to leave it as it was but added considerable protection against its abuse. Article 21 of the Constitution of India guarantees the fundamental right to life and personal liberty, which can be deprived only in accordance with such a procedure that is set in the law.²⁹ The judicial system has been constantly broadening the application of this provision to cover fairness, justice and dignity in any legal proceedings.

3.2. Constitutional Framework and Judicial Trends in India

In the landmark case of *Bachan Singh v. State of Punjab (1980)*,³⁰ the Supreme Court of India supported the constitutional validity of the capital punishment but restricted it to the highest cases of rare cases. Thus, the Court held that the capital punishment is not unconstitutional, but it was necessary to apply the capital punishment only in cases when life imprisonment has been deemed inadequate. This doctrine aims at fulfilling a balance between the rights of accused and the need of the society to avenge justice. Nevertheless, the term of the rarest of rare is ambiguous and can be interpreted by the courts on a case-by-case basis, which in many cases results in lack of consistency.

Although the “rarest of rare” doctrine was established after *Bachan Singh v. State of Punjab (1980)*,³¹ since then Courts have found it difficult to use this doctrine uniformly. The Court further defined the term “rarest of rare” in the *Machhi Singh v. State of Punjab (1983)* decision, based upon the type of crime committed, the motivation for committing that crime, and how that crime has affected society.³² In addition, more recently, decisions such as *Shatrughan Chauhan v. Union of India (2014)* have emphasized human rights issues, such as time for an execution to be carried out, the mental status of a prisoner, and the need for

²⁸ Jeremy Bentham, *The Rationale of Punishment* (Richard Smith ed, T & J Swords 1830).

²⁹ Constitution of India 1950, art 21.

³⁰ *Bachan Singh v State of Punjab* (1980) 2 SCC 684.

³¹ *ibid*

³² *Machhi Singh v State of Punjab* (1983) 3 SCC 470.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

clemency.³³ The development of these cases illustrates a trend among Judges from a punishment mentality toward a reformatory and compassionate mentality.

3.3. Comparative Legal Analysis- United States, Europe, and South Africa

The U.S.A. is among the few democracies where the government still uses capital punishment. The Supreme Court of U.S.A. held that the capital punishment was not unconstitutional in the case of *Gregg v. Georgia* (1976), but critics of the process say it has problems with race-based sentencing, wrongly convicting people and long waits for those on death row.³⁴ Several states have eliminated the use of the capital punishment to show a growing rift nationally between the moral value of life and the use of legal precedent.

The European countries (led by the ECHR) have banned capital punishment entirely.³⁵ Protocols 6 and 13 of the Council of Europe (which represents all member states) also completely ban capital punishment under all conditions – even during wartime.³⁶ As a result of this ban, capital punishment is seen as being inconsistent with both the right to life and human dignity – two of the core tenets of modern human rights law.³⁷

In the case of *S v. Makwanyane* (1995), Constitutional Court of South Africa held the death penalty as unconstitutional, citing the violation of the right to life and dignity;³⁸ further, the decision stated that a constitutional democracy is based upon principles of forgiveness and reconciliation rather than vengeance; many other countries such as Canada and Australia have also followed this line of reasoning in abolishing the death penalty.

3.4. International Human Rights Standards and Global Abolition Trends

A person's right to life is considered to be a primary right by **The International Covenant on Civil and Political Rights (ICCPR)**, which also provides that the right to life can be taken through execution provided it is done in very restricted circumstances.³⁹ In recent

³³ *Shatrughan Chauhan and Another v Union of India and Others* (2014) 3 SCC 1.

³⁴ *Gregg v Georgia* (1976) 428 US 153.

³⁵ European Convention on Human Rights 1950, arts 2 and 3.

³⁶ Protocol No 13 (entered into force 1 July 2003).

³⁷ Protocol No 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (entered into force 1 Mar 1985).

³⁸ Constitution of the Republic of South Africa 1996, s 11 (right to life).

³⁹ International Covenant on Civil and Political Rights (entered into force 23 March 1976) 999 UNTS 171, art 6.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

years, the **U.N. General Assembly** has called upon member states to place a moratorium on executions and to work toward abolishing the death penalty.⁴⁰ Additionally, both **Amnesty International** and the **U.N. Human Rights Committee** have consistently maintained that the application of the death penalty violates human dignity and is therefore an act of cruel,⁴¹ inhuman, or degrading treatment.⁴² Today, more than two thirds of all countries of the world have either prohibited the use of the death penalty in law or in fact. This trend reflects a growing recognition that justice can be achieved without taking life. Nations are realizing that deterrence is better served by certainty of punishment rather than its severity, and that moral strength lies in rehabilitation, not retribution.

4. Religious and Ethical Perspective- Faith, Forgiveness, and Justice

While legal reasoning provides a structural framework for punishment, it cannot be understood in isolation from the moral and spiritual dimensions of human life. Religion has been a major key driver in the formation of moral and legal opinions towards punishment. All significant religious traditions are aimed at finding a golden mean between justice and mercy, revenge, and salvation. Capital punishment thus is not just a juridical issue, but a deep spiritual and religious one, whether mankind is morally entitled to kill that which in most religions is considered a sacred thing. This chapter discusses the approaches of world major religions to the issue of capital punishment and the impact of their teachings on the contemporary debate about justice and forgiveness.

4.1.Hinduism: Karma, Dharma, and the Concept of Forgiveness

In Hindu philosophy, life is considered sacred and interconnected. **Dharma** (righteous duty) is an idea that informs moral behavior and **karma** (action and its outcome) is an idea that every action has its own moral outcome.⁴³ Though ancient Hindu literature like *Manusmriti* refers to the capital punishment as a way to keep order these references should be viewed in a

⁴⁰ United Nations General Assembly, *Moratorium on the Use of the Death Penalty*, UN GA Res 77/222 (2022).

⁴¹ Amnesty International, *Death Sentences and Executions 2024: Global Report* (Amnesty International Publications 2024).

⁴² Universal Declaration of Human Rights (UN GA Res 217 A (III), 10 December 1948) art 3.

⁴³ Radhakrishnan S, *The Hindu View of Life* (Allen & Unwin 1927).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

historical and social perspective.⁴⁴ The *Bhagavad Gita* only underlines how justice is not revenge and instead it is the completion of rightful duty by one without hatred or desire.⁴⁵ Forgiveness (*kshama*) is regarded as divine virtue,⁴⁶ and non-violence (*ahimsa*) a highest moral value. So, Hinduism recognizes the necessity of the justice, however, it is also able to teach that the purpose of punishment is to mend moral harmony, not to kill.⁴⁷ Contemporary Hindu thinkers tend to take this to refer to reformative, but not retributive justice.⁴⁸

4.2. Islam: Hudud, Qisas, and the Balance between Justice and Mercy

The Islamic law (Sharia) provides detailed principles on justice and punishment. In hudud offences, some crimes have a prescribed penalty, such as the capital punishment.⁴⁹ But Islamic jurisprudence is very insistent on justice, kindness and remorse.⁵⁰ The idea of **qisas** (retribution) permits the family of the victim to insist on equal punishment but gives it the right to pardon, or accept **diyat** (compensation).⁵¹

The Qur'an consistently teaches that forgiveness is superior to revenge. For example, it states, "But if anyone remits the retaliation by way of charity, it is an act of atonement for himself" (Qur'an 5:45).⁵² The focus of Islam is on mercy and reconciliation. Most modern Islamic thinkers say that someone should only be executed in extraordinary situations when the principle of justice and due process is involved. The Islamic ethics is therefore founded on the ability to create a balance between justice and mercy.⁵³

4.3. Christianity: From Old Testament Retribution to New Testament Grace

In Christianity, early Biblical law in the Old Testament adhered to the principle of "an eye for an eye" (Exodus 21:24),⁵⁴ representing a strict form of retributive justice. However, with the

⁴⁴ Patrick Olivelle (tr), *Manu's Code of Law: A Critical Edition and Translation of the Mānava-Dharmaśāstra* (Oxford University Press 2005).

⁴⁵ *Bhagavad Gita* 2:47–49.

⁴⁶ *Mahabharata*, Book 12 (Shanti Parva) Ch 260.

⁴⁷ Klaus K Klostermaier, *A Survey of Hinduism* (3rd edn, State University of New York Press 2007).

⁴⁸ Werner Menski, *Hindu Law: Beyond Tradition and Modernity* (Oxford University Press 2003).

⁴⁹ The Holy *Qur'an*, Surah Al-Baqarah 2:178–179.

⁵⁰ Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Islamic Texts Society 2003).

⁵¹ Abdullahi Ahmed An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights, and International Law* (Syracuse University Press 1990).

⁵² The Holy *Qur'an*, Surah Al-Ma'idah 5:45; Surah Az-Zumar 39:53.

⁵³ Tariq Ramadan, *The Messenger: The Meanings of the Life of Muhammad* (Penguin 2007).

⁵⁴ *Exodus* 21:23–25 ("eye for an eye...").

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

teachings of Jesus in the New Testament, there was a significant shift from retribution to forgiveness.⁵⁵ Christ's message, "Let him who is without sin cast the first stone" (John 8:7), challenges the moral authority of humans to condemn others to death.

Christian theology therefore shifted towards mercy and redemption. Capital punishment has been strongly opposed by the Church particularly in the contemporary days. In 2018, Pope Francis said that the capital punishment was not admissible in any case,⁵⁶ stating that a person, regardless of guilt, has the dignity and the possibility of repentance.⁵⁷ The teaching of Christianity about morality is thus a strong case to stop the capital punishment and adopt restorative justice.

4.4. Buddhism and Jainism: Ahimsa and Compassion, and Sanctity of Life

Buddhism and Jainism are so entrenched in the concept of **ahimsa**, or non-violence.⁵⁸ The two religions consider all living things as deserving compassion and moral respect. Buddhism regards killing as one of the most severe sins of morality since it causes negative karma and retards spiritual advancement.⁵⁹ It focuses on changing the mind by knowing, but not punishing the body.⁶⁰

Similarly, non-violence is the ultimate religious obligation of Jainism.⁶¹ The intention to harm is also impure to the soul as per Jain philosophy. In such a manner, the very concept of the execution approved by the state is a complete opposite of the Jain ethics. Both traditions advocate for reform, repentance, and moral education as the true path to justice.

4.5. Sikhism: Reformatory Justice and the Equality of Souls

Sikhism provides the doctrine that all humans are equal in the eyes of God and that all can change through repentance and self realization. According to the **Guru Granth Sahib**,

⁵⁵ John Finnis, *Natural Law and Natural Rights* (2nd edn, Oxford University Press 2011).

⁵⁶ Pope Francis, 'Address to Participants in the Meeting Organized by the Pontifical Council for the Promotion of the New Evangelization' (Vatican, 11 October 2017).

⁵⁷ Catechism of the Catholic Church (2nd edn, Libreria Editrice Vaticana 2018) para 2267.

⁵⁸ *Dhammapada* (Max Müller tr, Oxford University Press 1881) verses 129–131.

⁵⁹ Damien Keown, *Buddhism and Bioethics* (Macmillan 1995).

⁶⁰ Peter Harvey, *An Introduction to Buddhist Ethics: Foundations, Values and Issues* (Cambridge University Press 2000).

⁶¹ Padmanabh S Jaini, *The Jaina Path of Purification* (University of California Press 1979).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

compassion, forgiveness, and service are the tools that will help a person clean his soul.⁶² Although Sikhism acknowledges the necessity to punish society in case of evil, it does not encourage retaliation and brutality.⁶³ Justice in Sikh philosophy should not take away a life but it should elevate the offender and bring moral equilibrium. The focus on humanity and god equality are close to the new reformative view on criminal justice.⁶⁴

4.6. Comparative Religious Insights on Retribution and Redemption

All the major religions, when viewed as a whole, indicate one specific moral rope: life is sacred, and justice should be made to show mildness. Although there are certain conditions when the capital punishment is acceptable in accordance with some traditions, none of them celebrates the killing as a virtuous act. Both religions acknowledge that forgiveness, repentance and compassion results into a superior justice.⁶⁵

In this regard, the religious doctrines serve as an ethical control to the law system, and that justice should not hurt but heal the society. Integrating faith with the law encourages the faith that even the ones who go wrong can be redeemed. The moral lesson that we can draw out of these customs is obvious — punishment must reform the heart, not extinguish life.⁶⁶

5. Empirical Perspective on the capital punishment

The moral and religious philosophies discussed earlier find their real-world reflection in public attitudes. This part of paper moves from scriptural ethics to empirical evidence, to complement doctrinal analysis, this study conducted a non-doctrinal survey titled “*Public Opinion on Capital Punishment and Moral Justice.*” The survey Public Opinion on Capital Punishment involved different participants, the majority of whom are young (94.1% aged between 18-25) and students (94.1%). Male constituted 64.7 percent of the respondents and

⁶² *Sri Guru Granth Sahib*, Shabad Ang 473.

⁶³ Harbans Singh, *The Encyclopedia of Sikhism* (Punjabi University 1992).

⁶⁴ Arvind-Pal Singh Mandair, *Religion and the Specter of the West: Sikhism, India, Postcoloniality, and the Politics of Translation* (Columbia University Press 2009).

⁶⁵ Harold G Coward (ed), *Religious Responses to Violence: Human Rights in Religious Traditions* (State University of New York Press 2003).

⁶⁶ M S S Elmi, ‘Forgiveness and Justice: A Comparative Religious Perspective’ (2015) *Journal of Religious Ethics* 43(3) 501.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

females constituted 35.3%.⁶⁷ Education wise, 73.5% had a lower level of education than graduation, 14.7% had the education of graduates and 8.8 were postgraduates. The majority of the respondents (85.3%), were Hindu with some of the other religions. Generally, the survey primarily reflects the opinions of the young, educated Hindu students with an abundance of the male population.

The survey indicates that the majority of the respondents know well that India still has the capital punishment on serious crimes like murder, rape, terrorism, and treason and most are well acquainted with the “rarest of rare” principle as applied in *Bachan Singh v. State of Punjab (1980)*.⁶⁸ This is an indication of high level of legal awareness among the young and highly educated participants who are mostly young.

There are a high majority (85.33%) who think that capital punishment is the best way of keeping law and order and deterrence (61.83%) is the primary objective of the punishment. The assessments of its effect in crime reduction were divided 35.3% believed that it reduces serious crimes, 32.4% did not believe so, and 32.4% were not sure. On replacement of it with life imprisonment, 58.8% would have adopted the case based approach indicating that a majority of people would have preferred retention of death sentence to the most atrocious crimes.

The vast majority of the respondents (52.9% of the respondents) consider that the State does not have a moral right to take a life whereas 35.3% of the respondents believe that it does. Most of them (70.6%) reported that they do not consider religion when their opinions about the capital punishment. Majority believed that faith is a balance of forgiveness and punishment and is a manifestation of harmony between mercy and justice. More than 55.9 per cent was against the idea of public emotion overriding decisions of the capital punishment, and there was a split on whether the offenders deserve an opportunity to be rehabilitated.

Majority of the respondents were in support of the death penalty, with the majority 35.3% supporting it strongly and 41.2% supporting it. They defended it in terms of deterrence, revenge to victims, and moral responsibility particularly in atrocious offences such as rape, terrorism and murder, which would qualify as the rarest of the rare. There were those who saw it as retributive justice and those who were against it owing to human rights and reform

⁶⁷ Author’s own survey, ‘Public Opinion on Capital Punishment and Moral Justice’ (2025) unpublished dataset (on file with the author).

⁶⁸ *Bachan Singh v State of Punjab* (1980) 2 SCC 684.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

issues. All in all, most of them believe it should be continued in upholding law, order, and moral decency.

6. Conclusion

The preceding discussion have shown that law, morality, and faith converge on a single ethical truth: justice must protect, not destroy, life. The capital punishment discussion shows a deep conflict between the rule of law, morality and religion. This study reveals that the justification of the capital punishment is highly debated through the study of legal, philosophical, religious, and the opinion of the people. The law pursues order and deterrence, morality pursues fairness and proportionality and faith reminds the humankind of compassion and redemption. These three areas together are indicative of a justice system that values lives over vengeance.⁶⁹

In fact the empirical evidence provided by the survey shows while the majority of people still believe capital punishment to be a viable option for the enforcement of the law and order they are also likely to agree with those who do not believe that capital punishment can be used to restore or reform the moral fabric. This two-sidedness is indicative of a society caught between two worlds: the world that needs to be safe by being visited by punishment, but is now slowly realizing a certain moral price to be paid with taking life. The results also indicate that the religious and moral assumptions, even when not explicitly appealed to, still shape the interpretation of the concepts of justice and forgiveness by people. In a jurisprudential perspective, death penalty is becoming illegitimate. The human dignity doctrine and the right to life, as they are maintained by the constitutional and international jurisprudence, question the very principles of the killing sanctioned by the state. In this same manner, the world religions all meet at the conviction that forgiveness, repentance and reform are more moral values than retribution. A combination of these views demands dehumanization of criminal law.⁷⁰

Finally, the study comes to a conclusion that the only way that justice can be attained is through the transformation and not through ending life. A system that is convinced that change is possible recognizes the value that exists in each and every human being, including

⁶⁹ Martha Nussbaum, *Hiding from Humanity: Disgust, Shame and the Law* (Princeton University Press 2004).

⁷⁰ Harold G Coward (ed), *Religious Responses to Violence: Human Rights in Religious Traditions* (State University of New York Press 2003).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

those who have gone wrong. In the future, India-or indeed the entire world, should work towards a legal philosophy that governs by restoring rather than by punishing, by inspiring fear instead of inspiring belief and by instilling morality instead of enforcing it. This would not undermine justice; but render it to its most humane and dignified realization, the one which admires the sanctity of life as the supreme law, moral, and even religious.



For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>