

ISSUE OF DEATH PENALTY

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Context- There has been a long ongoing debate on capital punishment or death penalty in India as the execution process being painful, cruel and barbaric many call for its abolition for restoring human dignity .

Introduction- The courts of India can impose death penalty on crimes like murder, terrorism and sexual violence against children. It is the punishment awarded for the most grievous and heinous crimes. Death punishment continues to be carried out in 79 countries around the world. Today apart from India countries like China, Iran ,Japan, U.S,Saudi Arabia and Iraq still continue with death penalty. As per the **Death penalty in India: annual statistics report 2022**, India has 539 people on death row.

As per the **Indian penal code**, offenders can be awarded death penalty in cases like:

- Waging or attempting war against government of india- (section 121)
- Abatement of mutiny-(section 132)
- Criminal conspiracy-(section 120B)
- Murder-(302)
- Dacoity with murder -(section 396)

The term death sentence/ penalty and capital punishment are often used interchangeably.

Judgemnets and legal provisions:

- **Bachan Singh vs. state of Punjab** (1980)- a landmark judgement that upheld death penalty and limited it to ‘ **rarest of rare cases** ’ called for judicial review of the constitutionality of death sentence laying down guidelines and framework on its imposition only in exceptional cases. Taking into consideration the age, mental health, socioeconomic status and family

background.

- **Deena dayal vs. union of india and others (1983)** – on the method of execution.
- **Mithu vs. state of Punjab** (1982) – struck down mandatory death sentence providing right of the accused to be heard before being sentenced.
- **35th Report on law commission (1967)** noted that electrocution, lethal injection and use of gas chambers are some painless methods and called for its abolition its impositions only in terrorist cases
- The **article 72** of the Indian constitution allows pardoning power of the **president** to commute **death sentence into life imprisonment**. However The governor **does not** possess such powers.

Death penalty the debate-

- It is seen as be violating the fundamental right of the criminal **art 14** – (right to equality before law) and **art 21**-(right to life).Debate has been to do away with death penalty and go for restorative and rehabilitative aspects of justice .
- In December 2022 India voted against the **united nations general assembly** moratorium on death penalty and in 2021 at the **united nations human rights council** India opposed a draft on moratorium on death penalty

Way forward -

Death penalty and execution in any form is cruel, inhumane and painful . Crafted or engineered death is indeed painful. Penalty or punishment of death is to make the convict feel the similar pain inflicted by the crime committed. The anticipation of death and experiencing death is the punishment in itself . If painless death is the question abolition is the answer. The very goal of punishment should look into the larger picture of the betterment of the society in establishing law and order and provide justice preventing crime and balancing the rights of criminal and the victims.