

YES, NO, IT’S COMPLICATED

# Is it time to abolish the death penalty?

YES



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The death penalty is error-ridden, arbitrarily imposed and unfairly targets the poor

As a punishment, the death penalty makes no sense: how does killing a person who has killed a person show that killing is wrong? Most of the civilised world has abolished it. India certainly does not need it as it serves no purpose. No study has shown that the death penalty deters murder more than life imprisonment. The evidence is all to the contrary. For deterrence to work, the severity of the punishment has to coexist with the certainty and swiftness of the punishment. The death penalty has not deterred terrorism, murder or even theft. For over a century, stealing attracted

the death penalty in England, where spectators at public hangings often had their pockets picked! **Problems with death penalty** The death penalty is error-ridden. Between January 1, 2000 and June 31, 2015, the Supreme Court imposed 60 death sentences. It subsequently admitted that it had erred in 15 of them (25%). Can this system be trusted to take a life? And that too based on evidence collected, or fabricated, by a police force not known for its probity or efficiency? The death penalty unfairly targets the poor and marginalised.

Those without capital get the punishment. Penurious prisoners on legal aid get it the most, while others with private lawyers remain untouched. The death penalty is impossible to administer fairly or rationally. The Supreme Court has repeatedly admitted that it has arbitrarily imposed this most extreme punishment. Executions occurred in 5.2 cases for every 1 lakh murders. Such a selection cannot but be freakish. It depends overwhelmingly on the adjudicator’s personal beliefs. Judges opposed to it never gave a death sentence; those in favour doled it out. Abolitionist Presidents (S. Radhakrishnan and A.P.J.



Abdul Kalam) refused to reject mercy petitions, while others, differently inclined, readily denied clemency. Should the killing of a human being depend on the philosophy of a particular individual? Abolishing the death penalty will ease, not enhance, the tax-payer’s burden. The annual cost of maintaining a prisoner is about ₹30,000. The hangman is paid more, and we also save on the protracted litigation that death cases involve. Constitutional, legal and policy issues cannot be determined by the victim’s understandable hunger for revenge without leading to a frenzy where the death penalty is de-

NO



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Life can only be seen to be protected if those who take it away are proportionately punished

The death penalty has been criticised for far too long without an understanding of its nuances. It is criticised mainly on three counts: arbitrariness, irreversibility and human rights. However, the punishment passes muster on all accounts. Its constitutionality has not only been upheld in India but also in the bastion of liberal democracy that is the U.S. The retention of the death penalty is not a reflection of “uncivilised” polity in theocratic states that have come to be defined by violence but a creation of the in-

dividual geopolitical circumstances of each state. **Geopolitical circumstances** The Law Commission of India has attempted to analyse the need for the death penalty on two separate occasions. While the 35th Report correctly called for its retention in order to see its impact on a new republic, the more recent 262nd Report could not recommend the punishment’s absolute abolition despite a rather desperate attempt to do the same for the first 240 pag-

es. The exception to abolition came in cases of terror. Herein comes the first defence of the death penalty: India’s neighbourhood is not peaceful, unlike Scandinavia, and it does not form a supranational conglomerate of nations that facilitate common growth, unlike the European Union. On the contrary, every day vested interests attempt to destabilise the very idea of our nation from across every border it shares. It is this peculiar nature of India’s polity that must inform any debate for abolition. As noted by the Commission itself, cases of violent terror



are constant reminders of the need to protect national stability by ensuring appropriate responses to such actions, and the death penalty forms part of the national response. It is in this idea that there exists a moral support for the death penalty. A punishment cannot be judged by its impact on criminals but by its impact on those who are still innocent. Those who defend the death penalty often do it on the basis of retributive justice. However, the retention of the death penalty is far more fundamental than an arrogant state interest to seek revenge.

IT’S COMPLICATED



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The SC will have to answer whether absence of political will is sufficient to override the right to life

The moral foundation of judicial killing has been questioned and it has been judged untenable in many countries. In 2007, the UN General Assembly passed a resolution calling for a moratorium on the administration of the death penalty by the 59 countries that still retained it. India is one of them, even if it does not employ it as frequently as countries such as Iran, China, Pakistan, Saudi Arabia, and the U.S. Only a few political parties have demanded the abolition of the death penalty in India, including the Communist parties and the

DMK. B.R. Ambedkar, in the Constituent Assembly debates, opposed it on the principle of non-violence. The Congress opposed it in 1931, after Bhagat Singh, Sukhdev and Rajguru were executed, but has not moved for its abolition during its multiple terms as a ruling party. **Constitutional scepticism** An eye for an eye has ancient appeal. Following the gang rape of a young woman in Delhi in December 2012, amendments were made to the Indian Penal Code adding the death penalty for certain categories

of rapes and repeat offenders. This year India introduced the death penalty for those who rape minors. The polarised debate that surrounded Yakub Menon’s execution in 2015 was yet another reminder of the pervasive popularity of the idea. In 1962, the Law Commission supported the death penalty stating that India’s particular circumstances were such that it could not “experiment” with its abolition. In 1991, the Supreme Court cited its use in defending law and order as the reason for its continuance. Its alleged usefulness extends from being a potential deterrent to serving



as a primordial need for retribution. That said, India has looked to the judicial administration of death with greater constitutional scepticism. In 1980, in *Bachan Singh v. State of Punjab*, a Constitution Bench articulated the “rarest of rare” threshold stating that “judges should never be bloodthirsty”. Death must only be imposed where the alternative option is unquestionably foreclosed. The question is, under what circumstances are the retributive and deterrent effects of a life in prison so certainly insufficient that death is the only answer? And can such an answer be delivered with-

SINGLE FILE

## Idyllic no more

The pursuit of solitude has led to the decline of Goa

SAMIR NAZARETH



A poet who recently spoke of the need for solitude as a precondition for writing said that solitude made life simple, for example in terms of how much cooking was needed to sustain the person. She added that only the very rich or those willing to shed all their accoutrements are able to access solitude and its

corollary, simplicity. Consider the case of Goa, which drew the hippy set in the 1960s. Goa was attractive because of its picturesqueness, unspoilt beaches, the simplicity of the local populace, the slow pace of life, and low costs. The secret of Goa spread farther each year and people began purchasing property, buying into what the hippies had discovered. Soon, the construction industry boomed, and an idyllic pace of life transformed into something far more frenetic. The Goans fought against the transmogrification of the landscape. The war was eventually lost but the skirmishes continue between the government and the people.

Why was this Pandora’s Box opened? Through the latter half of the 20th century, the professional lives of Indians became far busier. Many dreamt of walking away from a nine-to-five routine. A life that was cheap, unaffected by regimentation and unblemished by needless interactions was alluring. Early Goa was coveted because it offered this and more. Some moved to Goa, others invested in property giving them an assured place on visits. Ergo, the image of Goa shifted from an idyllic getaway to a party town where beach, booze and boisterousness converged. Many prospered in this transformation, but the environment and Goan society suffered. Much to the dismay of those enjoying the good life that early Goa offered, their tranquil space shrank and was soon overrun. Assuming everyone has within them a craving for some measure of solitude, it is inevitable that crowds will follow the early discoveries of new places of solitude. Yet what many perhaps forget is that their very presence vitiates that ecosystem. With an increasing population and incomes, very few places have escaped the human footprint. Today, this pursuit threatens the last vestiges of mostly untouched nature. Goa is an example of the aftermath of finding this seclusion. Goa’s simple, idyllic life of the early years that drew the adventurous, jaded and those looking for a reboot has vanished. The desire for solitude and simplicity and its discovery has culminated in rancour and bitterness. Goa’s decline proves that no frontier can remain an untouched outpost of nature. Solitude and simplicity do not spring from a place but from a state of mind and deliberate choices. The sooner we realise this, the better it will be for India’s villages, mountains, forests and for us too.

The writer is the author of 1400 Bananas, 76 Towns & 1 Million People



DATA POINT

| Bellwethers  |      |      |      |      |      |      |      |      |      |      |  |
|--|------|------|------|------|------|------|------|------|------|------|--|
| Only a few seats in Rajasthan and Madhya Pradesh voted consecutively in the last five Assembly elections or more for the party that went on to win the State |      |      |      |      |      |      |      |      |      |      |  |
| Begun and Mandal in Rajasthan set the tone for 10 elections by voting for parties that triumphed at the State level  |      |      |      |      |      |      |      |      |      |      |  |
| SEAT NAME  | 1977 | 1980 | 1985 | 1990 | 1993 | 1998 | 2003 | 2008 | 2013 | 2018 |  |
| BEGUN  | JNP  | INC  | INC  | BJP  | BJP  | INC  | BJP  | INC  | BJP  | INC  |  |
| MANDAL   | JNP  | INC  | INC  | BJP  | BJP  | INC  | BJP  | INC  | BJP  | INC  |  |
| TONK   |      |      | INC  | BJP  | BJP  | INC  | BJP  | INC  | BJP  | INC  |  |
| KEKRI  |      |      |      |      | BJP  | INC  | BJP  | INC  | BJP  | INC  |  |
| SHEO   |      |      |      |      | BJP  | INC  | BJP  | INC  | BJP  | INC  |  |
| SUJANGARH  |      |      |      |      | BJP  | INC  | BJP  | INC  | BJP  | INC  |  |
| BANSWARA   |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| CHOHTAN  |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| DEEDWANA   |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| JAYAL  |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| KAMAN  |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| KHERWARA   |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| NIWAI  |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| OSIAN  |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| PIPALDA  |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| SAWAI MADHOPUR   |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |
| SIKAR  |      |      |      |      |      | INC  | BJP  | INC  | BJP  | INC  |  |

| SEAT NAME | 1967 | 1972 | 1977 | 1980 | 1985 | 1990 | 1993 | 1998 | 2003 | 2008 | 2013 | 2018 |  |
|-----------|------|------|------|------|------|------|------|------|------|------|------|------|--|
| KHARGONE  | INC  | INC  | JNP  | INC  | INC  | BJP  | INC  | INC  | BJP  | BJP  | BJP  | INC  |  |
| NEPANAGAR |      |      | JNP  | INC  | INC  | BJP  | INC  | INC  | BJP  | BJP  | BJP  | INC  |  |
| NIWAS     |      |      | JNP  | INC  | INC  | BJP  | INC  | INC  | BJP  | BJP  | BJP  | INC  |  |
| MANAWAR   |      |      |      | INC  | INC  | BJP  | INC  | INC  | BJP  | BJP  | BJP  | INC  |  |
| BADNAGAR  |      |      |      |      | INC  | BJP  | INC  | INC  | BJP  | BJP  | BJP  | INC  |  |
| BETUL     |      |      |      |      | INC  | BJP  | INC  | INC  | BJP  | BJP  | BJP  | INC  |  |
| ALIRAJPUR |      |      |      |      |      | INC  | INC  | INC  | BJP  | BJP  | BJP  | INC  |  |
| SATNA     |      |      |      |      |      |      |      | INC  | BJP  | BJP  | BJP  | INC  |  |
| TARANA    |      |      |      |      |      |      |      | INC  | BJP  | BJP  | BJP  | INC  |  |

The party that won in Khargone in southern Madhya Pradesh has gone on to win the State in the last 12 elections

Data compiled from Election Commission of India by Pratap Vardhan, Graminer Inc.

INC - Indian National Congress; BJP - Bharatiya Janata Party; JNP - Janata Party

FROM The Hindu. ARCHIVES

FIFTY YEARS AGO DECEMBER 14, 1968

Anti-Ayub riots in East Pakistan

Pakistan police to-day [December 13] opened fire at two places in Chittagong in East Pakistan, injuring 12 persons, according to a Radio Pakistan broadcast monitored here [New Delhi] tonight. A violent crowd attacked a food train during the Opposition-sponsored province-wide hartal to-day. When the police interfered, the crowd attacked them. The police then opened fire, injuring three persons. Police also opened fire on a crowd which indulged in setting fire to transport buses and public vehicles. Six persons were injured in this firing. Police were reported to have rounded up a large number of “suspects” in major cities throughout East Pakistan where the strike call appeared to have been obeyed by the majority of workers. One of the men arrested in Dacca was Colonel Mukhtar Husain, Private Secretary to Independent Opposition leader Air Marshal Asghar Khan. The Colonel was arrested outside a mosque as he and Air Marshal were talking to newsmen. Air Marshal Asghar Khan protested against the arrest and asked to be detained himself, but the police refused.

A HUNDRED YEARS AGO DECEMBER 14, 1918.

Bombay Engineering Congress.

The fourth meeting of the Bombay Engineering Congress was opened yesterday [in Bombay on December 12] in the Board Room of the G.I.P. Railway. Over one hundred members were present from all parts of the presidency including Sind and representing different branches of Engineering. The president, Mr. F.J. Preston, delivered his address, which was illustrated by various samples of bricks and tiles made from local materials and produced with the idea of finding cheap and good materials for the construction of houses. Referring to Indian Railways he said the first Railway to open in India was the Great Indian Peninsula Railway in 1853 and the present mileage of railways of all kinds in India was about 47,500. This was not very rapid progress.

CONCEPTUAL

Returning soldier effect

SOCIOLOGY

This refers to the social phenomenon wherein soldiers who return from wars are more likely to father sons rather than daughters when compared to other men. The returning soldier effect was first observed in 1954 among American soldiers who were returning home after the Second World War and also among the soldiers of other nations that took part in the war. Various theories have been proposed by social scientists to explain this phenomenon. Some evolutionary psychologists believe that wars may favour the survival chances of men who are more likely to have sons, thus leading to the birth of more sons in the years after the end of a major war.

MORE ON THE WEB

Video: India gets submarine rescue system

http://bit.ly/SubmarineSystem