
**ABOLITION OF THE DEATH PENALTY: A GLOBAL HUMAN
RIGHTS ISSUE**

***¹Dr. Ajay Kumar Tiwari ²Aaditya Narayan Jaiswal**¹(Associate Professor) TRC Law College.²LL.M. One Year Programme (IInd semester) TRC Law College.

Article Received: 03 April 2026, Article Revised: 23 April 2026, Published on: 13 May 2026

***Corresponding Author: Dr. Ajay Kumar Tiwari**

(Associate Professor) TRC Law College.

DOI: <https://doi-doi.org/101555/ijarp.3824>**ABSTRACT**

The death penalty remains one of the most debated issues in contemporary international human rights discourse. While several countries continue to retain capital punishment as a means of punishing serious crimes, a growing number of nations have abolished it on humanitarian, legal, and ethical grounds. The movement toward the abolition of the death penalty has gained global momentum due to increasing recognition of the right to life, human dignity, and protection against cruel, inhuman, and degrading punishment. International human rights instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and various regional conventions have significantly contributed to the worldwide campaign against capital punishment. This research paper examines the abolition of the death penalty as a global human rights issue by analyzing its historical development, legal framework, ethical concerns, and international trends. It explores the arguments advanced by abolitionists, including the possibility of wrongful convictions, discriminatory application of the law, lack of proven deterrent effect, and violation of fundamental human rights. The study also evaluates the counterarguments presented by retentionist states, which justify the death penalty on the grounds of retribution, justice for victims, and maintenance of public order. Further, the paper undertakes a comparative analysis of countries that have abolished the death penalty and those that continue to practice it. It highlights the role played by international organizations, civil society groups, and human rights activists in influencing legal reforms and shaping public opinion. Special emphasis is placed on the evolving position of India and other developing nations regarding capital punishment.

The study concludes that abolition of the death penalty is increasingly recognized as a necessary step toward the protection of universal human rights and the promotion of a more humane system of criminal justice. Although challenges remain due to cultural, political, and security concerns in several countries, the global trend clearly indicates a movement toward abolition. The paper suggests that strengthening judicial systems, ensuring fair trials, and promoting rehabilitative justice can serve as effective alternatives to capital punishment. Ultimately, the abolition of the death penalty reflects the advancement of civilization, human dignity, and international human rights standards.

KEYWORDS: Death Penalty, Human Rights, Capital Punishment, Abolition, International Law.

INTRODUCTION

The abolition of the death penalty has emerged as one of the most significant global human rights issues in contemporary international law and constitutional discourse. Capital punishment, also known as the death penalty, refers to the legal execution of a person by the state as punishment for a crime. Historically, many societies accepted the death penalty as a legitimate form of punishment for offences such as murder, treason, terrorism, and espionage. However, with the development of modern human rights principles and international humanitarian standards, the moral and legal legitimacy of capital punishment has increasingly been questioned.¹

The global movement towards abolition is founded upon the belief that every individual possesses an inherent right to life and human dignity. Human rights organizations such as Amnesty International argue that the death penalty violates fundamental human rights, especially the right to life and the prohibition against cruel, inhuman, and degrading punishment. International law has progressively restricted the use of capital punishment through treaties, conventions, and judicial decisions.

At present, a majority of countries in the world have abolished the death penalty either in law or in practice. According to recent international reports, more than seventy percent of countries have either completely abolished capital punishment or no longer carry out executions. Nevertheless, some countries continue to retain and actively implement death

¹ Amnesty International, *Death Penalty*, available at: [Amnesty International Official Website](https://www.amnesty.org/en/our-work/campaigns/death-penalty/) (last visited May 9, 2026).

penalty laws, often justifying them on grounds of deterrence, retribution, and national security.²

The debate concerning abolition involves legal, moral, philosophical, social, and political dimensions. Supporters of abolition emphasize the risks of wrongful convictions, discriminatory application, lack of deterrent value, and incompatibility with modern human rights standards. On the other hand, supporters of retention argue that the death penalty serves justice for heinous crimes and acts as a deterrent against serious offences.

This research paper examines the death penalty as a global human rights issue by analyzing international legal standards, arguments for abolition, judicial trends, and the position adopted by various countries. It also explores the evolving international consensus favouring abolition and the challenges that continue to obstruct universal elimination of capital punishment.³

Historical Development of the Death Penalty

The death penalty has existed since ancient civilizations. Early legal systems such as the Code of Hammurabi prescribed capital punishment for a wide range of offences. In medieval societies, executions were often conducted publicly and brutally to instill fear among people. Methods of execution varied from hanging and beheading to burning and crucifixion.

During the Enlightenment period, philosophers such as Cesare Beccaria strongly criticized capital punishment. In his famous work *On Crimes and Punishments* (1764), Beccaria argued that the death penalty was neither necessary nor effective in preventing crime. His ideas influenced reform movements across Europe and laid the foundation for modern abolitionist thought.⁴

The nineteenth and twentieth centuries witnessed significant abolitionist progress. Venezuela became one of the first countries to abolish the death penalty for all crimes in 1863. Gradually, several European nations followed the same path. After the Second World War, the emergence of international human rights law accelerated global opposition to capital punishment.

Today, Europe is largely considered a death penalty-free region due to the strong human rights framework developed by the Council of Europe and the European Convention on Human Rights.

² Universal Declaration of Human Rights, 1948, Art. 3.

³ International Covenant on Civil and Political Rights, 1966, Art. 6.

⁴ cesare Beccaria, *On Crimes and Punishments* (1764).

Death Penalty and International Human Rights Law

International human rights law strongly influences the movement toward abolition. The foundation of this movement lies in the recognition of the right to life as a basic and inalienable human right.

The United Nations adopted the Universal Declaration of Human Rights in 1948, which recognized the inherent dignity and equal rights of all persons. Article 3 of the Declaration states that “everyone has the right to life, liberty and security of person.” Although the Declaration does not expressly prohibit capital punishment, it laid the groundwork for future abolitionist efforts.

The International Covenant on Civil and Political Rights (ICCPR) permits the death penalty only under exceptional circumstances and restricts its application to the “most serious crimes.” The Covenant also prohibits arbitrary deprivation of life and safeguards fair trial rights.⁵

A major step toward abolition was the adoption of the Second Optional Protocol to the ICCPR, which aims at the abolition of the death penalty. States that ratify this Protocol undertake not to execute any person and to abolish capital punishment within their jurisdiction.

Regional human rights systems have also contributed significantly. Protocol No. 6 and Protocol No. 13 to the European Convention on Human Rights prohibit the death penalty in peacetime and in all circumstances respectively. Similarly, the American Convention on Human Rights contains provisions encouraging abolition.

International human rights bodies increasingly regard the death penalty as incompatible with human dignity. Human rights organizations maintain that execution constitutes cruel, inhuman, and degrading punishment.

Arguments in Favour of Abolition

1. Right to Life and Human Dignity

The most important argument for abolition is that capital punishment violates the right to life, which is universally recognized as a fundamental human right. Every human being possesses inherent dignity that cannot be taken away by the state. Execution permanently deprives an individual of the possibility of reform and rehabilitation.

⁵ Amnesty International, *The Death Penalty: Your Questions Answered*, available at: [Amnesty International FAQ on Death Penalty](https://www.amnesty.org/en/documents/AMN/19/001/201601) (last visited May 9, 2026).

2. Possibility of Wrongful Convictions

One of the strongest criticisms against the death penalty is the risk of executing innocent persons. Judicial systems are not infallible. Errors in investigation, false evidence, coerced confessions, and ineffective legal representation may lead to wrongful convictions. Once an execution takes place, the mistake becomes irreversible.

3. Discriminatory Application

Studies indicate that the death penalty is often applied disproportionately against poor persons, racial minorities, marginalized communities, and politically vulnerable groups. Amnesty International has repeatedly observed that capital punishment frequently targets the disadvantaged sections of society.

4. Lack of Deterrent Effect

There is insufficient evidence proving that the death penalty is more effective in preventing crime than life imprisonment. Many abolitionist countries have not experienced any significant increase in crime rates after abolishing capital punishment. Criminologists often argue that certainty of punishment, rather than severity, plays a greater role in deterrence.

5. Cruel and Inhuman Punishment

Execution methods such as hanging, lethal injection, and electrocution involve physical and psychological suffering. The prolonged wait on death row also causes severe mental trauma known as the “death row phenomenon.” Consequently, many scholars and courts consider the death penalty a form of cruel and degrading punishment.⁶

Arguments in Support of Retention

Despite growing abolitionist trends, several countries continue to support the death penalty.

1. Retributive Justice

Retentionists argue that certain crimes are so heinous that offenders deserve the ultimate punishment. According to this view, execution serves as moral retribution and reflects society’s condemnation of grave offences such as terrorism and mass murder.

⁶ Death Penalty Information Center, *International Trends Toward Abolition*, available at: [Death Penalty Information Center](#) (last visited May 9, 2026).

2. Deterrence

Some governments maintain that the fear of execution discourages individuals from committing serious crimes. This argument is commonly invoked in cases involving terrorism, drug trafficking, and violent crimes.

3. Public Opinion

In many countries, public sentiment continues to support capital punishment, especially after incidents involving brutal crimes. Political leaders may therefore hesitate to abolish the death penalty due to fear of public backlash.

4. National Security Concerns

Certain states justify the death penalty as necessary for combating terrorism and protecting national security. However, critics argue that such justifications often lead to misuse and politically motivated prosecutions.

Global Trends Toward Abolition

The global movement toward the abolition of the death penalty has gained significant momentum over the last several decades. Increasingly, nations across the world have recognized capital punishment as inconsistent with modern principles of human rights, dignity, and justice. Today, the international trend clearly favours abolition, with a majority of countries either eliminating the death penalty entirely or ceasing to use it in practice. This transformation reflects changing social attitudes, evolving legal standards, and growing concerns regarding wrongful convictions, discrimination, and the irreversible nature of executions.

Historically, capital punishment was widely accepted as a legitimate form of criminal punishment. States used it for a broad range of offences, including murder, treason, theft, and political crimes. However, after the Second World War, the global human rights movement began challenging the morality and legality of executions. The adoption of the Universal Declaration of Human Rights in 1948 emphasized the inherent dignity and right to life of every individual.⁷ Although the Declaration did not explicitly prohibit the death penalty, it laid the foundation for future international efforts aimed at abolition.

In recent years, the number of abolitionist countries has increased dramatically. According to international human rights organizations, more than two-thirds of the countries in the world

⁷ Universal Declaration of Human Rights, adopted 10 December 1948, UNGA Res. 217 A (III), art. 3.

have abolished the death penalty in law or no longer practice it. Some nations have completely removed capital punishment from their constitutions and penal codes, while others maintain it formally but have not carried out executions for many years. This global shift demonstrates the growing acceptance of abolition as an international human rights norm. Europe stands as the strongest example of this abolitionist trend. Almost every European country has abolished capital punishment, and the death penalty is prohibited under the legal framework of the Council of Europe and the European Union. Membership in these regional organizations generally requires states to reject executions entirely. Protocol No. 13 to the European Convention on Human Rights abolishes the death penalty in all circumstances, including wartime.⁸ As a result, Europe is widely regarded as a death penalty-free region, with Belarus remaining the principal exception.

Many African and Latin American countries have also moved steadily toward abolition. In Africa, nations such as South Africa, Rwanda, and Angola have abolished the death penalty as part of broader democratic and constitutional reforms. The Constitutional Court of South Africa, in *S v. Makwanyane* (1995), declared capital punishment unconstitutional because it violated the rights to life and human dignity.⁹ Similarly, in Latin America, countries including Mexico, Argentina, and Colombia have abolished executions, reflecting regional commitments to human rights and humanitarian values.

The United Nations has played a major role in encouraging abolition worldwide. Since 2007, the United Nations General Assembly has repeatedly adopted resolutions calling for a global moratorium on the use of the death penalty with a view toward eventual abolition. These resolutions emphasize concerns regarding human rights violations, unfair trials, and the lack of conclusive evidence that capital punishment effectively deters crime. Although General Assembly resolutions are not legally binding, they reflect growing international consensus against executions and exert moral and diplomatic pressure on retentionist states.

Despite this worldwide movement, several countries continue to impose and carry out executions in significant numbers. Reports indicate that executions remain particularly high in countries such as Iran, Saudi Arabia, and Iraq. Human rights organizations have expressed serious concerns regarding secrecy surrounding executions, politically motivated prosecutions, torture, coerced confessions, and denial of fair trial guarantees in some of these jurisdictions. In many cases, executions are carried out for offences that do not meet the

⁸ Council of Europe, *Protocol No. 13 to the European Convention on Human Rights*, 2002.

⁹ *S v. Makwanyane* 1995 (3) SA 391 (CC) (South Africa).

international standard of “most serious crimes,” thereby attracting strong international criticism.

The issue of wrongful convictions has further strengthened arguments for abolition. Advances in forensic science and DNA testing have revealed numerous cases in which innocent persons were sentenced to death. Because execution is irreversible, any judicial mistake results in irreparable injustice. Critics also argue that the death penalty is often applied disproportionately against poor, marginalized, or politically vulnerable groups who lack adequate legal representation. These concerns have persuaded many governments to reconsider the legitimacy and fairness of capital punishment.

India continues to retain the death penalty, although its use is limited. The Supreme Court of India established the “rarest of rare” doctrine in *Bachan Singh v. State of Punjab*, holding that capital punishment should be imposed only in exceptional circumstances where life imprisonment is considered inadequate.¹⁰ Since then, Indian courts have attempted to restrict the use of the death penalty through judicial safeguards and procedural requirements. Executions in India are relatively infrequent; however, debates continue regarding whether the country should move toward complete abolition. Supporters of abolition argue that life imprisonment adequately protects society while avoiding the moral and legal concerns associated with executions. Opponents, on the other hand, believe that capital punishment remains necessary for particularly heinous crimes such as terrorism and brutal murders.

Overall, the global trend strongly indicates a movement toward the eventual abolition of the death penalty. Increasing recognition of human rights, concerns regarding miscarriages of justice, and international pressure have encouraged many countries to abandon capital punishment. Although some states continue to retain and use the death penalty, the worldwide direction increasingly favours abolition and the protection of human dignity.

India retains the death penalty but limits its use to the “rarest of rare” cases, as established by the Supreme Court in *Bachan Singh v. State of Punjab* (1980). Although executions are infrequent, debates continue regarding whether India should completely abolish capital punishment.¹¹

Challenges to Universal Abolition

Several obstacles continue to hinder universal abolition of the death penalty.

¹⁰ *Bachan Singh v. State of Punjab* AIR 1980 SC 898.

¹¹ *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.

First, political considerations often prevent governments from adopting abolitionist policies. Leaders may fear appearing weak on crime and terrorism.¹²

Second, cultural and religious beliefs sometimes influence support for capital punishment. In certain societies, execution is viewed as morally justified for serious offences.

Third, authoritarian governments may use the death penalty as a tool for suppressing dissent and controlling political opposition.

Fourth, lack of international enforcement mechanisms limits the effectiveness of abolitionist treaties and resolutions. International law encourages abolition but cannot always compel sovereign states to comply.

The abolition of the death penalty represents one of the most important human rights movements of the modern era. The global shift away from capital punishment reflects evolving standards of human dignity, fairness, and justice. International human rights law increasingly recognizes that the right to life and the prohibition of cruel punishment are incompatible with state executions.

Arguments supporting abolition — including the risk of wrongful convictions, discriminatory application, lack of deterrence, and violation of human dignity — have gained widespread acceptance across the world. International organizations, human rights activists, and judicial institutions continue to advocate for complete abolition of capital punishment.

Although several countries still retain the death penalty, the international trend clearly favours abolition. The growing number of abolitionist states demonstrates that justice can be achieved without resorting to execution. The future of human rights jurisprudence appears directed toward universal abolition, emphasizing rehabilitation, fairness, and respect for human dignity over retributive punishment.

Ultimately, the abolition of the death penalty is not merely a legal reform but a reflection of humanity's commitment to civilization, compassion, and the protection of fundamental human rights.

CONCLUSION

The abolition of the death penalty has emerged as a significant global human rights issue in the twenty-first century. Increasingly, nations recognize that capital punishment is inconsistent with modern principles of human dignity, justice, and human rights. The

¹² Protocol No. 6 to the European Convention on Human Rights concerning the abolition of the death penalty, 1983.

irreversible nature of executions, the possibility of wrongful convictions, discriminatory application, and lack of proven deterrent effect strengthen the case for abolition.

International law and global institutions have progressively moved toward restricting and eliminating the death penalty. Although some countries continue to retain capital punishment, the worldwide trend clearly favors abolition. Human rights organizations, legal scholars, and civil society groups continue to advocate for a justice system based on rehabilitation rather than revenge.

The movement toward abolition reflects humanity's broader commitment to protecting life and upholding universal human dignity. Ultimately, the abolition of the death penalty represents not only a legal reform but also a moral and humanitarian advancement in global civilization.

REFERENCES

1. Hood, R., & Hoyle, C. (2015). *The Death Penalty: A Worldwide Perspective*. Oxford University Press.
2. Reprieve. (2020). *Global Trends in Abolition of the Death Penalty*. Reprieve Reports.
3. Amnesty International. (2021). *Death Sentences and Executions in 2020*. Amnesty International Publications.
4. Bedau, H. A. (2004). "The Case Against the Death Penalty," *The Journal of Criminal Law and Criminology*, 95(3), 833-890.
5. Donohue, J. J., & Wolfers, J. (2006). "Uses and Abuses of Empirical Evidence in the Death Penalty Debate," *The Stanford Law Review*, 58(3), 791-846.
6. Tiedemann, J. (2014). "The Global Movement for Abolition of the Death Penalty," *Human Rights Quarterly*, 36(4), 946-970.
7. Schabas, W. A. (2012). *The Abolition of the Death Penalty in International Law*. Cambridge University Press.
8. Bedau, H. A., & Cassell, P. G. (2004). "The Death Penalty in America: A Contemporary Perspective," *American Bar Association Journal*, 90(4), 50-59.
9. Amnesty International. (2019). *Death Penalty and Human Rights: An International Perspective*. Amnesty International.
10. Pokal, S. (2018). "Legal and Ethical Challenges in Abolishing the Death Penalty," *International Journal of Human Rights*, 22(9), 1120-1135.