

Capital Punishment in South Asia: A Legal Analysis

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Abstract

This study considers at how Asian Countries handle the death penalty. The goal is to find flaws in the law, both substantive and technical, that lead to unfair death sentences. The governments of Asian Countries say that the death sentence is fair. But majority of Asian governments regularly kill people, which is against human rights and international law. Recent law commission reports and court decisions have discussed how law enforcement agencies use torture to get confessions, how poor people on death row don't get free legal help, and how special judges give unfair and random death sentences. The qualitative study has been used to draw the findings. Both the content and the process of each country's laws, court decisions, and law council papers are looked at. Even though courts and law panels have ruled against solitary imprisonment, one-third of people on death row around the world have legal and physical problems. The results suggest fixing the death sentence system's basic and procedural flaws to make it more fair and consistent. Free legal help for poor people on death row keeps them from being tortured. Changes to criminal juries make them more fair and reliable.

Key Words: Bangladesh, Capital punishment, Death penalty, India, Pakistan

Introduction

This study's topic is essential not just on a global scale but also on a regional scale and in terms of the researcher's career (Johnson & Zimring, 2006). However, it wasn't seen as a violation until the latter part of the twentieth century did human rights become a priority (On Crimes and Punishment). Johnson and Zimring (2006) says using the death penalty is cruel and useless. Jeremy Bentham and Samuel Romilly were well-known English jurists who supported the abolitionist movement in the 1800s. It helped the movement grow in popularity (Weber, 1959). Two of the most fundamental human rights are the liberty of life and the absence of harsh, inhuman, or humiliating punishment. Human rights on a global scale gained traction after WWII (Weber, 1959). It helped those trying to eliminate the death penalty based on these two fundamental human rights rules. The International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights are two of the most important international agreements about human rights. Both of these documents explain the above rights. The Universal Declaration of Human Rights was adopted in 1948, and the International Covenant on Civil and Political Rights was ratified in 1966. Each of these events marked pivotal moments in human rights (Deloria, 2021). There has been a global uptick in efforts to eradicate slavery in recent decades. According to Roger Hood, the increased momentum toward abolition in the previous years is due in massive part to the growing consensus that the death penalty is a violation of fundamental human rights. Global common manlaw's evolution and the political clout of European institutions' fight to end capital punishment (Donohue III & Wolfers, 2009). Abolition is on the rise for many reasons, including progress in international human rights law and the political weight provided to the movement headed by European institutions to abolish the death penalty. This legislation removes the punishment of death from the sentence list that the universal Criminal Court can hand out. The International Criminal Court has power over crimes against humanity, genocide, and war crimes (Grover, 2010). As per the Article 7 of the Statute, the court does not have the power to carry out a death penalty. The author says the recent event is "a key milestone in an obvious trend toward the elimination of the death penalty around the world," a trend that can't be denied. More than half, or more than 150, of the 193 UN Member States have officially abolished capital punishment or put a moratorium on it (Schabas, 2019). These results

claim that international society is heading toward the abolition of the death penalty. These resolutions were finally passed in 2007, 2008, 2010, 16, 2012, 17, and 2014.

The UN General Assembly voted overwhelmingly for a 6th resolution calling for a universal moratorium on executions, condemning the death sentence on November 19, 2016 (Wouters et al., 2012). One 115 countries voted for the answer, 38 countries voted against it, and 31 didn't vote. The death penalty has been abolished in 102 nations, as stated in the 2015 edition of Amnesty International's Death Sentences and Executions report. Only 16 countries had abolished capital punishment worldwide by 1974. In 1974, sixteen countries could say that they had done this. Unsurprisingly, the death penalty is not used in many countries worldwide (Sithole, 2016). This makes the discussion surrounding the death sentence in Asian countries very essential. In counties like Pakistan, Bangladesh and India, it is immobilelaw to use the death punishment. All people found guilty of certain crimes and sentenced to death in any of these three countries will be killed the same way. These nations have nonstopnegative veto resolutions in the General UN Assembly that want to stop using the hang till death punishment (Hood & Hoyle, 2009). Global Amnesty says Pakistan and Bangladesh had the largest amount of prisonerswho are given hang till death sentence for capital crimes in 2014. According to the research of Boateng & Dzordzormenyoh (2022), these three countries are three of the 22 countries enforce worldwide. There are no reliable estimates of casualties in the Indo-Pak.

In the event that the six-year sentence freeze was removed in December 2014, 332 persons have been put to death, according to data compiled by Reprieve, Amnesty International, The US Civil Rights Project and the Pakistani Public Standards Board. In 2015, 326 people were executed (Ahmad, 2015). Since then, a total of 332 people have been finished. In India and Bangladesh, on the other hand, 24 people were put to death by execution in 2015. The dream of getting rid of the death penalty everywhere will remain a dream until this happens. Second, when the problem is examined from a global perspective, it is found that almost 33 percent of the people on death row worldwide are in prisons in Asian nations. It is against the second paragraph of article six of the International Covenant on Civil and Political Rights. People shouldn't be killed for these reasons (Chowdhury, 2015).

In addition to the complex physical conditions of the prison, the fact that the state hasn't made a good way for inmates to get legal help makes the emotional suffering of people on death row locked up in overcrowded cells for a long time even worse. The state hasn't found an excellent way to help inmates with their legal problems. India, Pakistan, and Bangladesh all have similar constitutions and laws because they were once British colonies (Malhotra, 2020). They also all use the death penalty to fight terrorism and other terrible crimes. It is just one way in which the histories of these three countries are alike. Even though South Asia has many different countries and cultures, this is how things have turned out. In these nations, people are put to death in special courts set up by special laws to fight terrorism and other serious crimes (Malhotra, 2020). By doing this, they got around criminal justice systems that didn't have enough resources and didn't work. These executions have happened for security and the fight against terrorism.

On December 16, 2012, in the evening, a horrible group rape happened on the streets of Delhi while the victim was riding a bus. Because of these nationwide protests, the government was forced to pass a strong law against rape, making even nonfatal rape a capital crime punishable by death (Mannan et al., 2004). In 2002, the government of Bangladesh passed a law called the Acid Crime Prevention Act to try to stop women from being attacked with acid as often. According to the law, anyone suspected of being involved in the attacks can be taken before specialized courts and put to death (Mannan et al., 2004).

Literature Review

Capital Punishment in Ancient South Asia

In South Asian countries, capital punishment has been used for a long time and has a long and exciting history. From ancient times until the colonial period, the death penalty was a common way to

punish people in India. The criminal justice system on the Indian subcontinent has been linked to the idea of retribution, the idea of deterrence, and the terror calculus for as long as it has been around. India's traditional legal system was based on the holy texts of Hinduism (Chaney, 2022). According to this sacred text, Hindu society is split into four domains: the Brahmans, the warriors, the Vaishyas are also called merchants, and the Sudras (or enslaved people). In the past, the law was based on the idea that people born into different castes had different levels of inherent superiority and inferiority (Romano et al., 2013). Because of these rules, criminals from different castes were punished differently for the same crimes. At least, travelers from other countries and the Dharmasastra, also called the Laws of Manu, say that Brahmins did not have to worry about the death penalty. The researcher thinks that sparing people from the death penalty because they are from the Brahmin caste is wrong and makes no sense (Sen, 2000).

Siddhartha Gautama was born around 563 BCE in what is now Nepal. He was part of the royal family of Kapilavasto. Most people think he was the first person to start Buddhism. Historically, caste was an essential part of how people lived together. Buddha pushed for Nirvana but also spoke out against the discriminatory caste system that was in place during his time. Ashoka chose Buddhism as his religion 218 years after he died. Ashoka was a fratricide and serial killer who killed tens of thousands of people from his tribe. To promote peace, he tried to limit how often the death penalty could be used (ahimsa). As a direct result, his kingdom was one of the first places in the world to put strict limits on how the death penalty could be used to punish criminals (Sulaiman & Mohan, 2022). Because of this, no politician or philosopher in the area has ever called for the death penalty to be stopped. Ancient India, like many other ancient societies, had a lot of crimes that were punishable by death, and they were often for tiny things. So, they were found to have broken an old law called Jus talionis, which is well-known worldwide.

During the Middle Ages (1206-1806), Islamic law and punishment were in place in India, but the country kept its monarchical structure. In medieval Europe, for example, no legislature or constitutional system ensured that the people's voices were heard when laws were made. It was because, at the time, there was no written constitution. So, the Indian state in the Middle Ages was always a dictatorship. It was similar to the Western idea of "L'tat'estmoi," which was first set up by French rulers (Ebury, 2022). If this hypothetical situation happened, the many Indian tribes would be grateful to the King for being a source of justice and taking the proper steps. Some Mughal emperors tried to stop the death penalty from being too random by making it illegal for regional officials to carry it out without first getting permission from the royal court. Even so, the methods used to kill the people were horrible and cruel.

The British government wrote the Civil Code of India in the progressivism of eliminating old unwanted power as well as unfair differences in rank (Malik, 1996). They did this to improve the rule of law in a country with many alternative cultural norms (Lavery, 2010). It set up a complete criminal justice system with standardized laws, an appeals process, a statewide hierarchy of courts, and the state's sole power to prosecute and pardon criminals. Because of this rule, cruel native punishments like putting a criminal on the back of an animal, cutting them up, or leaving them for elephants to crush were no longer allowed. It was the usual way to do things and was always done. It became known as the most compassionate way to kill someone because it ensured that all executions could be done without fear of failure or miscarriage (Krishna Kumari, 2007). The practical objective of contemporary universal law reformation would always have to take a back seat to the necessity for British sovereignty as the gap between colonisers and colonised. It is because some colonizers and people have been occupied (Humd et al., 2022). They said the death penalty could only be used for murder and treason. The English utilitarians influenced this course of action. The colonial rulers tried to scare the people by giving them life sentences, hitting them, and making them do hard labor. Because of this, prisons are considered the main form of punishment. At the time were often used to scare criminals by making them do hard work or being locked up alone.

In the same way, the native people who lived in colonial India were given harsh punishments like being flogged in public and being forced to leave their homes. To gain power over the locals,

participating in these activities was necessary. These words are used to argue that harsh Islamic punishments should be replaced with a more civilized and civilizing system of discipline (Kling, 2016). It is hard to believe that anyone with even a little decency could say that amputation is more inhumane than either being locked up or dying. Caning as a form of punishment is horrible. In any fair and civilized criminal justice system, it should be avoided at all costs (Johnson, 2019).

Multilateral Judicial Structure for South Asian Nations

The capital penalty is controversial in international law and human rights because it goes against two fundamental rights. The right to life comes first, and the right not to be subjected to torture or other cruel, inhuman, or degrading treatment comes second. The Universal Declaration of Human Rights (U.D.H.R.) and the International Covenant on Civil and Political Rights (ICCPR) are foundational international human rights instruments (Chaney, 2022). The U.D.H.R. and the ICCPR, as well as all regional civil laws treaties like the European Convention on Human Rights, the African Charter on Human and Peoples' Rights, the American Convention on Human Rights, and the Arab Charter on Human and Peoples' Rights, enshrine these two foundational documents. During World War II, the idea of human rights started to catch on (Seifi, 2021). Based on these two rights, the United Nations and local courts worldwide began to look at the death penalty as a possible violation of fundamental rights. International and European laws on human rights ban the death penalty because it goes against the right to life and is a cruel and inhumane way to punish someone (Seifi, 2021).

Because of these two reasons, the international community has passed four Protocols (States can join international agreements through either acceding to or ratifying a treaty. The act of signing a document is indicative of a willingness to ratify and become a party at a later period. Under international law, states must abide by the terms of any treaties to which they are parties and must not take action that would undermine the treaties' intended effect) that require state parties to get rid of the death penalty. One is on a global scale, and the other three are on a regional scale. The goal of the Second Optional Protocol to the International Covenant on Civil and Political Rights is to eliminate the death penalty everywhere in the world. Eighty-one countries have signed the Protocol as of now (Harriss-White & Michelutti, 2019). The CRC says that people younger than 18 who break the law can't get the capital sentence. The agreement needs to be signed and ratified by 194 member states of the United Nations. Also, not a single global criminal jury set up after 90's has provisions for the death penalty (Rahmita, 2017). The International Criminal Court, the International Criminal Tribunal for Rwanda, and the global Criminal Tribunal for the Former Yugoslavia are all involved. In 2007, 2008, 2010, 2012, and 2014, the General Assembly voted on five resolutions that called for a stop to all executions worldwide. As of December 2014, 117 countries favored the resolution, while 38 countries were against it (Singh & Harriss-White, 2019).

India, Pakistan, and Bangladesh voted against resolutions calling for a moratorium in the United Nations General Assembly. There is a sort of moral consensus that the death penalty should be abolished as a result of international conventions, protocols, regional treaties, the development of a new global criminal justice system, and decisions made by the United Nations General Assembly (Pascoe & Bae, 2021). Regarding international efforts to abolish the death sentence, only Nepal in South Asia has signed the ICCPR's Second Optional Protocol. The Vienna Convention on the Law of Treaties requires all parties to a treaty to do so in good faith, as stated in Article 26 (Rehman & Iqbal, 2017). It includes the idea that a treaty party can't back out of its duties because of a state's laws as members of the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, south Asian countries are required to follow specific rules about how the death punishment is used in their own countries. Article 6 of the International Covenant on Civil and Political Rights (ICCPR) is essential to a treaty concerning the death penalty in South Asian countries. It is because it limits the use of the death penalty and sets rules for when it can be used legally instead of just outlawing it (Schwarzenberger, 1968). In the last 20 years, different sources of international law have been able to shed light on the question of whether or not certain crimes can be called "the most serious." The U.N. Human Rights Committee has clarified that "most serious crimes" means "actions done on purpose and lead to death." Crimes that aren't as bad as most serious crimes, like kidnapping without killing,

avoiding military duty, railway property damage, prostitution, treason, blasphemy, and drug trade are over-criminalized in these countries. Pakistan is the only country in the area that has said this about Article 6 of the ICCPR: "The provision will be implemented to the extent that it does not contradict Islamic law." Yet, the current list of 32 crimes in Pakistan that are punishable by death goes against Shariah law (International).

Article 6:1 of the ICCPR says that it is against the law to take someone's life without a good reason. When judging the idea of arbitrariness, the standards and protections set out in Articles 6, 14, and 15 of the ICCPR must be used. It means denying a person's right to life is unfair if it goes against natural justice, the law, or a fair trial (Winchell, 2003). In their reports, U.N. civil rights treaties authorities like the Human Rights Committee, the Committee on the Rights of the Child, and the authority Against Torture have pointed out significant problems with South Asian countries' modern criminal justice systems. So, people in these countries are highly likely to be killed for no apparent reason. Even though many South Asian countries have signed the ICCPR and accepted the Convention on Child Rights, young criminals are still put to death. The U.N. Civil Rights Council, the Authority on the Rights of the Child, and the Civil Rights Authority have all expressed concern about how well these countries follow international treaty law (Ruggie, 2011). The United Nations Convention on the Rights of the Child has international agreements. 16- to 18-year-olds who kill or rape someone in India can now be tried as adults. Concerned about Pakistan's decision to put AftabBahadur to death, the European Union has asked the country's government to follow international human rights rules about the death penalty (Rehman & Iqbal, 2017).

Criminal procedure in South Asian Countries

The conditions in Articles 9, 14, and 15 of the International Covenant on Civil and Political Rights (ICCPR) for gathering proofs against the criminals and holding a legal trial are unmet. In that case, any life taken by the state apparatus or the courts is an arbitrary deprivation of life. In this way, the U.N. Human Rights Committee has often said that violating Article 14 of the International Covenant on Civil and Political Rights during a trial violates Article 6 of the ICCPR (Lee, 2007). All of the U.N.'s Special Rapporteurs agree with what the Human Rights Committee says in their reports. According to United Nations, when a government imposes the death penalty but does not follow the procedural safeguards provided in international law, it has broken international law and illegally taken a person's life. In reality, stricter rules and more due process in death penalty cases are meant to keep innocent people from being wrongly convicted and put to death. It examines ratified human rights treaties, customary international law norms, constitutional protections, and criminal statutes. From these steps, it's clear that criminal trials involving the death penalty don't follow international and domestic law protections. They gathered reliable evidence, gave free legal advice, and protected eyewitnesses (Tomuschat, 2008).

Torture by investigators to get a guilty plea is a severe violation of death row inmates' right to due process before their trials start. From the time of the Vedas to the time when the British ruled India as a colony, suspects have been tortured by the police. Torture is a part of the past that people still don't know much about. Previous judicial, legal, and police tribunals condemned the widespread use of torture based on inaccurate assessments of suspects and the actions of those investigating. The highest courts in India, Pakistan, and Bangladesh have all said that suspects in police custody and being questioned must always be treated with dignity and respect (Hearn & Eastman, 2000). Human rights groups on international and national levels and the U.N. Human Rights Council have condemned torture by law enforcement in their annual reviews of these states. Investigators like the police often use torture to get to the bottom of a case because they don't have enough money or skills. In countries with limited access to forensics, torture can be used to obtain confessions at a low cost (Mayerfeld, 2007).

There is a lack of education among the staff (Neumayer, 2005). When jail torture is only used occasionally, police work is seen as necessary and justifiable. The death penalty is still used, even though the accused must be proven guilty beyond a reasonable question. It also makes it more likely that a wrongly accused person will be set free. It also makes it more likely that an innocent person will

be brought to justice. Even though these South Asian countries have signed the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (C.A.T.), none have defined torture or made it illegal under their laws. Even though international, local, constitutional, and legal requirements exist, the three states (Pakistan, India and Bangladesh) have not set up a way to ensure that all stages of a capital trial have enough legal help (Hill Jr, 2010). Since majority of people in these countries (Pakistan, India and Bangladesh) can't afford a lawyer, it is essential to respect the accused's right to be represented by a competent and qualified lawyer of their choice. The Indian Constitution's Article 39-A set up the Legal Services Authority Act in 1987. Still, the government didn't use it until November 1995 (Jain & Yadav, 2023).

In 2010, the Indian government passed a law (Legal Aid System) saying people must get free, high-quality legal help. But two main problems keep poor people accused of capital crimes from getting the support they need from the legal aid system. First, the state's fee for the attorney isn't enough to compete with private practice (Singh, 2020). Second, the government's efforts are hampered by a growing backlog of cases at all levels of court. It doesn't matter if the government has hired fewer lawyers than the number of issues that need help with the law. Pakistan has no comprehensive set of laws to help people get legal help. Legal aid is controlled by many laws and rules that aren't unified under one body. High Court Legal Aid is governed by the High Court Rules and the Destitute Litigant Fund Rules (Singh, 2020). Article 37(d) of the Constitution lists a small amount that the three independent legal aid systems could not function without. The Pakistani Government passed the Public Defender and Legal Aid Office Act 2009, but it hasn't gone into effect yet. This law made it easier for people to get free, high-quality legal help (Moeckli et al., 2014).

In the justice system of the criminals in south Asian countries, neither witnesses for the defense nor the prosecution can do their jobs without being scared. To delay proceedings indefinitely and give the power a free pass, unreliable witnesses, witnesses who refuse to appear out of fear of retaliation, and witnesses who become hostile in response to threats, intimidation, or enticement all work against the interests of justice. A big part of the problem is that no law protects witnesses from being forced, scared, or offered money to lie or turn against the government (Jha, 2018). The Indian Evidence Act of 1872's Sections 151 and 152 don't do much to protect witnesses from being mistreated during examination and cross-examination. The government uses special anti-terrorism laws to protect witnesses, prosecutors, and judges in these places. Defense witnesses, who face the same risk of police intimidation and harassment and may not want to come to court because of it, are not protected by the special anti-terror legislation's witness protection clause (Jha, 2018). This lack of protection for witnesses makes it hard to defend vigorously. Lastly, it shows that the offender's justice systems of these countries looked at do not have enough laws to protect prosecution and defense witnesses, an ineffective method of publicly funded legal aid, and the use of torture and confessions in investigations. These three significant flaws make it hard to believe that the criminal justice system is fair, especially regarding capital punishment (Mahaseth & Bansal, 2022).

The Shariah and the Capital Penalty in Pakistan

The ideas and goals for justice in the Quran align with modern standards of treating people with respect. These principles are the basis of a moral argument against the strict rules that Muslims and their leaders uphold and enforce. The Quran and the Prophet stress the importance of human life, innocence, repentance (tawbah), and being born again (P.B.U.H). The Prophet's way of giving out punishments helped the people who did wrong the most (Jainah & Handayani, 2018). It was decided that saving the life of an innocent person was better than going after a criminal. The punishments in the Quran are not meant to be given out randomly or on the spot. The part of the Quran about laws is not meant to be taken as a complete set of rules but as a model for future laws. In the sixth and seventh centuries, Muslim jurists developed what is now called Islamic law. This framework recognized three types of punishments: Hudoods, Qisas, and Tazir. In the Hudood list, made by early Muslim jurists, adultery and leaving Islam were given death sentences.

Since neither crime is mentioned directly in the Quran, the death penalty's constitutionality could be questioned. Based on this reading of the Quran, the death penalty for adultery is changed to a hundred lashes instead (Peters, 2005). The Quran says that those who leave Islam will be punished when divine justice is done in the afterlife. The part of the Pakistan Hudood Ordinance that displays the death penalty can be carried out with stones has never been used because it requires a lot of proof. Section 295C of the Pakistani penal code punishes anyone who says something wrong about the Prophet Muhammad (P.B.U.H). This law is used to silence people who say or do things against Islam, even though no law in Pakistan says apostasy is illegal. Pakistan's Constitution states that rules must align with the Quran and Sunnah. If the death penalty for sex and religious crimes is changed to meet international standards, this could go against the Constitution (Deloria, 2021). It goes against the part of the Constitution that says laws should be in line with the Quran and Sunnah. In Qisas, killing someone purposefully is a capital crime punishable by death. The Quran says that people who plan to kill someone should be put to death (qisas) (Okon, 2014). The third kind of murder happens by accident. According to Sharia law, qisas will be the same for all women and men, no matter how much money or schooling they have. The Quran says it is against the law for any system to take a person's life if it doesn't give that person a fair trial first. Some examples of procedural guarantees are that the evidence presented at trial is reliable, that the preliminary inquiry is accurate, and that there is enough time to make changes after the test. In this case, the heirs of the person killed on purpose can give a Qisas pardon in exchange for diyat or without compensation. Most Muslim legal experts agree that other punishments can be used instead of Qisas without going against Islamic law. The Quran verse that tells to do Qisas ends with the promise that people will be forgiven and made right with God. The main idea is to improve life and justice for more people (Muhyidin et al., 2022).

In 1990, Pakistan changed its laws about murder and assault based on Islamic law. It was done to set up Sharia courts that would give justice based on the Quran and Sunnah and to ensure that the country's criminal laws were also based on these texts. The Qisas and Diyat Law in Pakistan was enacted due to its perceived political use, not because of careful study, analysis, systematic research, or even modern thought. Pakistan just passed this law. Because of this, the law promotes discrimination and inequality between men and women (Trahan et al., 2019). Honor killings go against Islamic principles and Pakistan's Constitution's goals. Still, the measure made it seem like they were okay. The investigation process has been slowed down by the fact that legal heirs can make a deal at any time, from the start of the process (the investigation) to the end (the execution). It has given powerful and wealthy people plenty of chances to threaten legal heirs into making a deal. It has slowed the investigation and provided the rich and powerful enough time to pressure the estate's heirs into giving up some of their rights. Ultimately, neither the Quran nor Sunni doctrine goes against Article 6 of the ICCPR which says that Pakistan can only use the death penalty for the worst crimes. The Quran says killing an innocent is terrible, but planned murder should be punished with death. For an ideal Muslim community run by fair leaders, the hudood and qisas punishments are meant to put strict safeguards for evidence and procedure in place. Since society is often unfair and the justice system of the criminas has flaws, it is essential that the death penalty for planned murder as a hadd or Tazir not be used here (Gottesman, 1991).

Conclusion

This research paper suggests that giving capital punishment to people in South Asian countries goes against international human rights laws and their own Constitution, which protects the right to life and a fair trial. Each of the three points below supports this conclusion:

- India, Pakistan, and Bangladesh do not follow the rules of international treaties when they put people to death. India, Pakistan, and Bangladesh can all use this as well.
- Some executions don't follow the rules for a fair trial and the safeguards of due process. It makes the taking of life seem random.

- The harsh and degrading nature of the execution process is made worse by the existence of death row and how it is done now.

In the introduction, the criminal justice system and the death penalty in Ancient India are looked at from a historical point of view. The study continues by examining the fundamental problems with the substantive and procedural legislation of these nations and how they breach the prohibition on harsh and humiliating punishment and the right to life. This group includes Ancient India, the Middle Ages, and Colonial India. During these times, India was ruled by the British. The overview not only shows why the criminal justice systems of the countries that used to be British colonies on the Indian subcontinent are so similar, but it also shows where the problems started. The death penalty was standard in the history of Bharat. It was also linked to caste and religion, as demonstrated by the sacred books of India and the writings of several medieval travelers.

Second, the idea of danda as a "rod of punishment" comes from an old sacred text called the Laws of Manu. This idea is linked to the belief that a man must endure physical and mental pain to be clean and righteous. If one believes in the danda ideology supported by law enforcement, it is morally okay to torture people. Lastly, it explains why the British banned the two most essential parts of the Muslim code of murder in the Indian subcontinent in the 1800s. These were Qisas (retaliation) and Diyyat (blood money). The specific reasons for this change are looked at. The idea that legal heirs could buy forgiveness by paying "blood money," or diyyat, caused many problems in society and the law. For example, the law had several loopholes that let the rich and powerful get away with breaking the law. The British left behind a prison system on the Indian subcontinent. In this system, the primary forms of punishment, whether in a maximum-security facility or a cell prison, are prison work, physical restrictions, and being locked up alone. All of these techniques are meant to make the criminal feel bad.

Recommendations

The author wants to suggest where more research should be done. On the whole of the Indian subcontinent, there isn't enough money for research on the mental health of prisoners, especially those on death row. Experiments should be done on the mental health of Pakistani prisoners on death row to learn how the death penalty affects this group. The empirical research would help the legal system and the people in charge of prisons treat inmates more humanely. It would also look into the problematic parts of the system that decide whether a person is eligible for the death penalty. Empirical research should be done on how well these measures work has been asked for to stop suicide terrorism in Pakistan. People have also asked for the use of executions as a way to prevent human bombing in Pakistan. The investigation would help figure out if putting people to death has anything to do with fighting terrorism or not. The proposed study's results could give the Pakistani government information that could help them develop plans to fight terrorism.

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