

Report

Sentencing Trends in Death Penalty

Mar Gregorios College of Law has been conducting an array of webinars series regarding relevant topics for both faculty and students alike. On 1 July 2021, MGCL conducted another webinar series and the topic discussed was, “Sentencing trends in death penalty”. The speaker whose expertise was brought in to address and enlighten students was Mr. Renjith Thomas, Assistant Professor & Executive Director of the Centre for Criminal Law Studies at National Law University, Jodhpur.

Capital punishment for a long time has generated and stimulated considerable debate about its morality and its effect on criminal behavior. The formal execution of criminals for deterrence and punishment has been implemented and justified in all types of societies and many major religions since the being of recorded history. The debate concerning capital punishment is fairly simple and straightforward considering other legal conundrums which arise in the perusal of law. Those who support death penalty believe that some crimes are so heinous that the commission of the crime eliminates that person’s right to life. Those who oppose believe that no one, not even the state has the power to take another person’s life whatever the justification may be, and living in contemplation of one’s crime is the worst punishment.

Mr. Renjit Thomas was invited to address the disparities and irregular trends that can be seen in the sentencing of death penalty by the Indian courts. The erudite speaker urged the participants to rethink the concept and justification of death penalty as a punishment for crimes. Sir briefly touched upon and explained the two broad punishment theories; consequentialist and non-consequentialist and also commented that the philosophical debate and justification of death penalty is problematic. We shouldn’t analyze the act and action together and the imposition of punishment by the judges and the court should be based on set guidelines as given in *Bachan Singh v State of Punjab*, and rationality. These punishments shouldn’t be given out because of the emotional stance of the bench or the public’s cry and distress. Mr. Thomas observed that more often than not, judges are prescribing pills worse than the disease itself and even though humans err and disparities arise; unwarranted disparities shouldn’t arise and should be avoided. The speaker nudged the participants in the right direction by mentioning many relevant cases to the topic at hand so that participants may research and learn more.

He provided the audience with a foundation to build on through the 2-hour long session. The speaker patiently and diligently heard and suitably addressed all queries and clarifications raised during the session.

My notes

Death penalty as an punishment

don't analysis act and action together. Philosophical debate on death penalty and justification is problematic,

two board punishment theory, consequential and non- consequential

problem arises which cases are the apt cases to award death penalty. Bachan singh v state of Punjab case majority judgement is problematic because the court did not state the reason why they didn't follow Gregg v Georgia. Bagwati case . Guidelines laid out

1) aggravating and mitigating circumstances of the crime and the accused

2) imposed on the rarest of rare case where the alternative was

3) the burden was on the state to prove that the accused will pose a threat to society and incapable of rehabilitation and there was no alternative to impose other punishment like live imprisonment

Dhananjay chatterjee@ dhana v state of west Bengal doesn't satisfy the requirements laid out in bachan singh

Imposition of punishment should be on set guidelines and rationality not because of emotional stance and not because of society's cry

In ravji v state of rajasthan it goes against bachan singh and says nature and gravity of the crime not the criminal which are germane for consideration of appropriate punishment in a criminal trial. Discrepancy and disparities are there everywhere and not following the original GUIDELINES.

Shouldn't be because of the whims and fancies of the judges, the ways we award death penalty is problematic

Judges are prescribing pills worser than the disease itself.

Unwarranted disparities should not arise.

Society is being sadistic by not following due process and too much are being sacrificed at the alter of Indian constitution.