

Life over death: Abolition of death penalty

Posted at: 16/11/2023

Context:

Abolition of death penalty should form the core of any reform in justice system.

Abolition of death penalty:

1. It is disappointing that the parliamentary committee that examined the Bharatiya Nyaya Sanhita (BNS), the proposed criminal statute likely to replace the IPC, has not made a recommendation to abolish the death penalty.
2. Instead, the standing committee on Home Affairs, despite submissions from experts and jurists on abolition, chose to make a bland recommendation that the matter may be left for the government to consider.
3. Its observation is limited to a remark that it has understood that the reason for a passionate argument against the death penalty is that the judicial system can be fallible and to prevent an innocent person from being wrongly sentenced to death.
4. However, domain experts had made some persuasive submissions before the panel: that instances of trial courts awarding death were on the rise, whereas statistical trends showed that the Supreme Court of India was leaning away from capital punishment.
5. And that social scientists had demonstrated it had no deterrent effect and that global opinion was in favour of its abolition.
6. The Court awarded the death penalty to only seven people from 2007 to 2022, while all death sentences were either set aside or commuted to life in 2023, as they did not fall under the "rarest of rare cases".

Capital punishment over life:

1. Members who added notes of dissent to the report also highlighted the argument that capital punishment has been shown to be no deterrent; that imprisonment for the remainder of the convict's natural life will be a more rigorous punishment and provide scope for reform; and that most of those on death row came from underprivileged backgrounds.
2. The BNS has defined 'life imprisonment' as a term for the remainder of one's natural life, and this should be the default alternative to death sentences.
The case for abolition will gain strength if the trend of seeking premature release of life convicts on political grounds is arrested and life terms without remission become more common.
3. They have also made the point that the three Bills proposing a new body of criminal law are substantially the same as the existing IPC, Code of Criminal Procedure and Evidence Act.
4. If at all, Parliament moves to enact the draft Bills, with changes suggested by the parliamentary panel, it will be in the fitness of things if it is used as an occasion to reconsider the need to retain the death penalty.

Way forward

Remission should be a humanitarian act and never a source of political controversy. Removing capital punishment from the statute book and introducing a rational and universal remission policy will be a substantive reform in the justice system.

Dr. Shivakumar's



AKKA IAS ACADEMY
www.akkaias.com