

AS INTRODUCED IN THE RAJYA SABHA
ON THE 18TH DECEMBER, 2015

Bill No. LI of 2015

THE DEATH PENALTY (ABOLITION) BILL, 2015

A

BILL

*to abolish Capital Punishment under the laws in relation to which the
powers of the Union extends.*

BE it enacted by Parliament in the Sixty-Sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Death Penalty (Abolition) Act, 2015.

Short title,
extant and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification
5 in the Official Gazette, appoint.

2. No person shall be liable to be punished with death for an offence under any Act
enacted by the Parliament.

Abolition of
Death Penalty.

Substitution of
Imprisonment
for Life.

3. Where by any law referred to in the Schedule (including a provision that would, but for this Act, have effect by virtue of such a law) it is provided that a person is liable to be punished with death, the reference to the punishment of death shall be read, construed and applied as if the penalty of imprisonment for life were substituted for that punishment.

State
Governments
to abolish
death penalty
under their
Acts.

4. The State Governments shall pass legislations to abolish death penalty for offences under their respective State Acts within six months after the commencement of this Act. 5

Application of
this Act.

5. This Act applies in relation to offences referred to in the Acts mentioned in the Schedule, committed before, on or after the commencement of this Act.

SCHEDULE

1. The Indian Penal Code, 1860
2. The Explosive Substances Act, 1908
3. The Air Force Act, 1950
4. The Army Act, 1950
5. The Navy Act, 1950
6. The Arms Act, 1950
7. The Geneva Conventions Act, 1960
8. The Petroleum and Minerals Pipeline Act, 1962
9. The Unlawful Activities Prevention Act, 1967
10. The Border Security Force Act, 1968
11. The Defence of India Act, 1971
12. The Coast Guard Act, 1978
13. The Narcotics, Drugs and Psychotropic Substances Act, 1985
14. The Commission of Sati (Prevention) Act, 1987
15. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
16. The Indo-Tibetan Border Police Force Act, 1992
17. The Maharashtra Control of Organised Crime Act, 1999
18. The Karnataka Control of Organised Crime Act, 2000
19. The Andhra Pradesh Control of Organised Crime Act, 2001
20. The Assam Rifles Act, 2006
21. The Sahashtra Seema Bal Act, 2007
22. The Bombay Prohibition Act (Gujarat Amendment) Act, 2009

STATEMENT OF OBJECTS AND REASONS

The Indian Criminal Laws retain capital punishment for a number of serious offences. However, death penalty is not only unjust and inhuman but also inconsistent with the fundamental human rights and the dignity and worth of the human person.

The opposition to the continuation of capital punishment has been existent from as early as the 1950s. Many of the founding fathers of India were firmly opposed to the death penalty. The architect of the Constitution, Babasaheb Ambedkar, himself admitted in the Constituent Assembly that people may not follow non-violence in practice but “they certainly adhere to the principle of non-violence as a moral mandate which they ought to observe as far as they possibly can”. With this in mind, he said, “the proper thing for this country to do is to abolish the death sentence altogether”.

Miscarriage of justice is one of the biggest concerns about death penalty. There have been and always will be cases of executions of innocent people. No matter how developed a justice system is, it will always remain susceptible to human failure. Unlike prison sentences, the death penalty is irreversible and irreparable. The Supreme Court has itself admitted on several occasions that there is confusion and contradiction in the application of the death penalty. Last year, 14 eminent retired judges wrote to the President, pointing out that the Supreme Court had erroneously given the death penalty to 15 people since 1996, of whom two were hanged. The judges called this “the gravest known miscarriage of justice in the history of crime and punishment in independent India”.

The death penalty lacks the deterrent effect which is commonly referred to by its advocates. As recently stated by the General Assembly of the United Nations, “there is no conclusive evidence of the deterrent value of the death penalty” (UNGA Resolution 65/206). Capital punishment is merely revenge masquerading as justice. When the Government is trying to create a just society where there is less violence and murder, it cannot be allowed to commit the same crime against its citizens in the name of justice.

The world is moving away from using the death penalty. The European Union has made “abolition of death penalty” a prerequisite for membership. In November 2012, the United Nations adopted a resolution to establish a moratorium on executions and abolition of death penalty for the fourth time. Amnesty International reports that 140 countries have abolished death penalty either in law or in practice. This accounts for more than two thirds of the countries of the world.

The Law Commission of India, in its 243rd Report, has recommended the abolition of death penalty in all but two instances—crimes of terrorism and waging war against the state. However, the Parliament should go one step further and abolish death penalty once and for all.

The continuation of death penalty is a stain on our society built on the values of non violence, love and justice. Hence, in this land of Mahatma Gandhi and Gautama Buddha it is necessary to abolish this barbaric punishment in order to be in consonance with our own inherent morals and the global trend.

Hence, this Bill.

SMT. KANIMOZHI

RAJYA SABHA

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(Smt. Kanimozhi, M.P.)