



Climb the escalator of reason-Our politicians and courts must avoid the language of retribution

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Highlights

- The Supreme Court's recent order on mob lynching adjudicates as well as educates on India's promise of secularism and the need for effective prevention in law and order.
- In his judgment, Chief Justice of India Dipak Misra condemns "a reactionary retributive attitude transforming itself into dehumanisation of human beings".
- Dehumanisation is layered with de-individuation, or the inability to see the other beyond the wrong he or she may have committed, and the use of pejorative caricatures to refer to the other.
- When viewed in such a framework, dehumanisation explains how India's expanding death penalty regime has moulded people's perception of justice.
- The political class has shown increasing affinity for the death penalty. Earlier this month, Punjab Chief Minister Amarinder Singh suggested the death penalty for first-time drug offenders
- More prominently, a Presidential ordinance was introduced by the Union government to impose the death penalty for the rape of girls under 12 years of age
- The constant introduction of the same method to deal with a wide range of policy challenges has created a 'perception of justice' that equates retribution with respect for victims.
- Unfortunately, courts have often joined the chorus and actively sought and encouraged harsher punishments. This January, for instance, the Uttarakhand High Court recommended that the State introduce the death penalty for cases of child rape.

Issues

- Fear of law: Even for crimes as heinous as child rape which require serious policy interventions, neither the court nor the Union government has defended the punishment of death beyond the simplistic 'fear of the law'.
- Symbolism: The introduction of death penalty for non-homicidal crimes, unchecked by the court, inspires the state to enter into an unhealthy competition of symbolism, at the cost of regressing notions of justice in the public.
- Justice: As the court increases its reliance on retribution, societal standards and definitions of justice also change, making the demand of the collective a self-fulfilling prophecy.
- Rationality: Justice Bhagwati, the lone dissenter in the Bachan Singh case (1980), which upheld the constitutionality of the death penalty, opined that the right to life could not

tolerate an infringement without demonstrable rationality. Rationality seems to suffer at the hands of retribution.

Eradicating the evil-doer provides seductive comfort to the mob and the state. The court must resist being the avenger for society in favour of nurturing a culture where justice and retribution are not the same.

Source: [The Hindu](#)

