

Capital Punishment and its Alternatives

Why in news?

Recently Supreme Court asked union government data of death by hanging and a possible alternative mode of execution

What is capital punishment?

- Capital punishment, also called death penalty is execution of an offender sentenced to death by hanging after conviction by a court of law of a criminal offense.
- **Status** - Death Penalty in India: Annual Statistics 2022 is a report of Project 39A of National Law University (NLU) Delhi.
- The project is inspired by Article 39A of the Indian constitution, which says the state should further the values of equal justice and equal opportunity by removing economic and social barriers.
 - In 2022, Sessions Courts in India imposed 165 death sentence penalties
 - The State of Uttar Pradesh had the highest number of convicts on death row, of which 32 sentences were imposed in 2022.
 - This was followed by Gujarat (61) and Jharkhand (46)
 - Cases involving sexual offences constituting the majority (51.28%) of cases in which the death penalty was imposed by trial courts in 2022



What are the provisions of capital punishment?

- According to Section 302 of the Indian penal code, 1860, an individual who commits murder shall be given the death penalty
- Section 194 of the IPC mentions about capital punishment
- Section 354(5) in The Code of Criminal Procedure, 1973 states that when any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.
- Crimes punishable under capital punishment are
 - Exacerbated murder
 - Offences performing in death
 - Disloyalty, spying
 - Terrorism related crimes, resulting in death
 - Military offences, not resulting in death

What is the constitutionality of capital punishment?

- In Deena Vs. Union Of India the court held that section 354(5) of the Indian penal code prescribed hanging as mode of execution as fair, just and reasonable procedure

within the meaning of Art- 21 and hence is constitutional.

- In '**Bachan Singh v State of Punjab**', Supreme Court upheld the constitutional validity of the death sentence and laid down that death penalty must be surrounded only in the "*rarest of rare cases*".
- **Machhi Singh Vs. State of Punjab** case provided exceptions to the rarest of rare rule and death penalty can be invoked when
 - Murder is committed in extremely brutal manner so as to arouse extreme indignation of the community
 - Murder is committed by a motive which shows total depravity and meanness
 - The crime is enormous in proportion

In India, The Air Force Act, 1950, The Army Act 1950, and The Navy Act 1957 say that execution has to be carried out either by hanging by the neck until death or by being shot to death.

What is the protection conferred under the Constitution?

- **Article 72** - The President shall have the commute the sentence of any person convicted of any offence where the sentence is a sentence of death.
- **Article 161** - Empowers the governor of a state to commute the sentence of any person convicted of any offence against a state law.
- **Article 21** - No person shall be deprived of his life or personal liberty except according to procedure established by law.

Click on the link to know more about [death penalty](#)

What are alternative methods to capital punishment?

Alternative methods	Provisions
Electrocution	A method of execution in which the condemned person is subjected to a heavy charge of electric current
Lethal Gas	A method of executing condemned prisoners by lethal gas.
Lethal injection	A method of executing condemned prisoners through the administration of one or more chemicals that induce death
Firing squad	A group of soldiers who are ordered to shoot and kill a person who has been found guilty of committing a crime

What is the issue?

- **Stance of supreme court** - The Supreme Court (SC) asked the Union government the data for the capital punishment
- **Stance of union government** - The capital punishment is not cruel or inhuman so should be practiced.
- The capital punishment accounts for the least number of botched-up executions.
- In its 187th report in 2003, the Law Commission of India recommended that -

- Section 354 (5) of the CrPC should be amended by providing an alternative mode of execution of death sentence by “lethal injection until the accused is dead.
- The *35th Report of the Law Commission (1967)* had noted that while electrocution, use of a gas chamber and lethal injection were considered by some to be less painful.
- In 2018 the union government had argued that death by hanging was the *only viable option* to execute a death warrant.

References

1. [The Hindu | Capital Punishment](#)
2. [The Hindu | Abolition Of Capital Punishment](#)
3. [The Indian Express | Centre's Stand For Capital Punishment](#)
4. [The Hindu | Death Penalty In India: Annual Statistics 2022](#)

