

Constitutional Validity of Hanging

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Why in news?

The Supreme Court recently upheld the constitutional validity of hanging as a mode of executing the death penalty answering a public Interest Litigation (PIL).

- **Context** - The Court held that hanging, when properly administered, does not violate the right to dignity under Article 21.
- **Issue** - The filed PIL raised questions on
 - Deena v. Union of India (1983)
 - Parliament retention on hanging while enacting the BNSS

Constitutional & Legal Provisions -

- **Article 21** - Right to life and personal liberty, includes the principle of living and dying with dignity.
- **Gian Kaur v. State of Punjab (1996)** - Recognised the concept of the right to die with dignity in the context of the right to life.
- **Section 393(5), BNSS** - Provides that a death sentence shall direct that the person "be hanged by the neck till he is dead."
- The provision has its roots in the CrPC, 1861 and has continued through subsequent legal changes.
- **Key Precedent** — In Deena v. Union of India (1983), A three-judge Bench upheld hanging as constitutionally valid.
- Held that properly administered long-drop hanging is intended to cause rapid unconsciousness through cervical injury.
- It was considered compatible with Article 21 and the requirement of execution with decency and dignity.
- **Arguments Against Hanging** -
 - Hanging may cause physical pain and suffering.
 - The outcome can be unpredictable.
 - A short drop may result in asphyxiation, while an excessive drop may cause severe injury.
 - A study of 34 historical executions in England (1882-1945) was cited to challenge the reliability of the method.
- **Law Commission of India** - 187th Report (2003) recommended introducing lethal injection as an alternative method of execution.
 - Its recommendations are recommendatory, not binding.

- **Supreme Court's Reasoning -**

- No alternative method (lethal injection, electrocution, lethal gas or shooting) was established to be clearly superior.
- Parliament's decision to retain hanging in the BNSS was considered significant.
- The Court held that execution must be carried out with decency, dignity and without degradation or brutality.

Reference

[The Indian Express| Constitutional Validity of Hanging](#)

