Report on Death Penalty in India

Why in news?

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The number of death sentences awarded by trial courts in India saw a sharp rise in 2018, as per a report on death penalty in India.

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What are the highlights of the report?

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- The 'Death Penalty in India: Annual Statistics Report 2018' was prepared by the National Law University, Delhi.
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- The 162 death sentences by trial courts in 2018 are the highest in a calendar year since 2000.
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- In 2017, capital punishment was accorded to 108 persons.
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- No death sentences were pronounced in 8 states (Arunachal Pradesh, Goa, J&K, Meghalaya, Mizoram, Nagaland, Sikkim, and Tripura).
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- Last year, the Supreme Court commuted death sentences to life imprisonment in 11 of the 12 cases it heard.
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- It upheld the sentence for 3 persons convicted in the December 16 Delhi gangrape case.
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- The number of people on death row in India as of December 2018 stands at 426; it was 366 for the corresponding month in 2017 and 400 in 2016.
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What is the possible reason for the rise?

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- The increase in the number of death sentences could be the result of the recent legislative intervention.
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- It extended capital punishment to non-homicide crimes (homicide - murder).
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- The Parliament amended the Indian Penal Code (IPC) to provide for death as a possible punishment in cases of rape and gangrape of girls below the age of 12.
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- Notably, after stricter law on child rape, death sentences hit two-decade high.
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What is the case with Madhya Pradesh?

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- Among states that invoked the IPC amendment, Madhya Pradesh did so in the highest number of cases involving child sexual assault.
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- This resulted in death sentences to 22 people in 2018, of whom 7 were sentenced in cases concerning sexual assault of girls below 12 years not involving murder.
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- In contrast, only 6 had been accorded the death penalty by sessions courts in MP in 2017.
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- The MP government has also introduced a rewards scheme for public prosecutors who seek the death penalty.
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- A points system is now in place wherein 100 to 200 points is awarded for maximum punishment at lower courts, 500 for a life sentence and 1,000 for obtaining a death sentence.
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- Accordingly, titles like “Best Prosecutor of the Month” and “Pride of Prosecution” are bestowed on those earning more than 2,000 points.
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- Those who make less than 500 are issued a warning.
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How has judiciary approached death penalty?

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- The Supreme Court upheld the constitutionality of capital punishment in Bachan Singh case (1980).
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- But since then, there have been demands for re-examining the need for death penalty.
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- The Court could previously dismiss the Special Leave Petitions (SLPs) without giving any reasons (‘in limine’ dismissals) and not admitting them to be heard as appeals.
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- But such dismissals became constitutionally untenable after the ruling in Mohd Arif v The Registrar, Supreme Court.
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- The SC's judgment in Babasaheb Kamble v State of Maharashtra is another significant development in the death penalty jurisprudence.
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- The Court through its judgment in Kamble in November 2018 finally did away with ‘in limine’ dismissals of SLPs in death penalty cases.
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- The Court held that review petitions in death sentence cases will mandatorily be heard in open court.
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- The SC also recognised the right of death row prisoners for meeting mental health professionals at a reasonable frequency and for reasonable lengths of time.
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What is the government's stance?

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- There is an enthusiasm in the government for legislative expansion of capital punishment, in contrast to the apex court’s approach.
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- Besides legislating for death in child sex assault cases, the POCSO Act was also amended.
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- It introduced death penalty for penetrative aggravated sexual assault on children below the age of 18.

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- Also, in August 2018, a Bill was introduced, providing for the death penalty or life imprisonment for crimes involving piracy at sea.
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- India also voted against the UN General Assembly's draft resolution proposing a ban on the death penalty.
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What does the report call for?

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- The circumstances of the convicted individual are to be viewed in the context of their entire lives and location in society.
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- It is in this complex undertaking of contextualising an individual that assistance from a mental health professional becomes crucial.
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- It can offer significant insights during the sentencing process.
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Source: Indian Express

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