

A Study of Legal Framework and Capital Punishment in India

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ABSTRACT

Over the last decade, India has witnessed a fluctuating but consistently high number of death sentences awarded by session courts, reflecting ongoing tensions between retributive justice and judicial restraint. Between 2016 and 2023, trial courts imposed capital punishment in significant numbers: 153 in 2016, 110 in 2017, 163 in 2018, 104 in 2019, 78 in 2020, 146 in 2021, peaking at 167 in 2022, and dropping slightly to 120 in 2023. Despite this high frequency at the trial level, higher judiciary particularly the Supreme Court has shown increasing reluctance to confirm such sentences. The appellate courts have emphasized the "rarest of rare" doctrine, reinforcing the need for individualized sentencing and consideration of mitigating factors. This reflects India's cautious, evolving approach to capital punishment, grounded in constitutional morality, procedural fairness, and human rights jurisprudence. This paper aims to study the legal framework having punishment of death sentences and also the crimes for which death penalty awarded in India.

Keywords: Death Penalty, Supreme Court, Indian Penal Code, Rape, Murder, Dacoit.

Introduction

Over the last five years, India has seen a significant rise in the number of death sentences handed down by trial courts, alongside a marked reluctance by higher courts to confirm them. In 2022, Indian courts imposed 165 death sentences—the highest in two decades—primarily driven by a mass sentencing of 38 individuals in the 2008 Ahmedabad bomb blasts case. Though this number dropped to 120 in 2023, the total number of prisoners on death row rose to 561, the highest in nearly 20 years. In 2024, 139 more death sentences were issued, yet the Supreme Court did not confirm any and instead commuted five to life imprisonment while acquitting one. This reflects a cautious approach at the appellate level, with High Courts confirming only one death sentence in 2023—the lowest since 2000.

A shift has also been observed in the nature of crimes attracting capital punishment. In 2024, about 62.6% of death sentences were for murder cases, while sexual offences accounted for 26.6%, indicating a decline from previous years when sexual crimes dominated the statistics. Despite this uptick in sentencing, executions remain rare. The last carried out was in 2020, when four men convicted in the 2012 Nirbhaya gang rape and murder case were hanged. This suggests that while Indian trial courts continue to impose capital punishment, higher courts and the justice system are moving towards greater restraint and scrutiny, especially under the "rarest of rare" doctrine.

Research Methodology

This study adopts a doctrinal and empirical mixed-method research design.

Objectives of the Research

The main objective of this research is to critically examine the evolution, current legal framework, judicial trends, and societal perspectives surrounding capital punishment in India.

Data Sources

Supreme Court and High Court judgments Indian Penal Code (IPC), Code of Criminal Procedure (CrPC), and Constitutional provisions, NCRB Reports, Reports of the Law Commission of India.

Data Analysis and Discussion

Table 1: Number of Death Sentences by Session Courts

Year	Number of Death Sentences by Session Courts
2016	153
2017	110
2018	163
2019	104
2020	78
2021	146
2022	167
2023	120

Source: <https://www.project39a.com/annual-statistics-report-2023>

Between 2016 and 2023, the number of death sentences awarded annually by Sessions Courts in India fluctuated significantly, reflecting varying judicial practices, case types, and possibly social and political influences. The figures ranged from a high of 167 in 2022 to a low of 78 in 2020, indicating no consistent upward or downward trend, but rather a cyclical pattern.

High Incidence of Death Penalty Cases in Uttar Pradesh, Jharkhand, Madhya Pradesh, Rajasthan, and Bihar

As shown in the figure above In recent years, certain states in India—namely Uttar Pradesh, Jharkhand, Madhya Pradesh, Rajasthan, and Bihar—have exhibited a noticeably higher number of death penalty cases compared to other regions. This pattern raises important questions about the socio-economic, legal, and institutional factors that contribute to such an alarming trend. Understanding why these states have a disproportionate share of capital punishment cases requires a multi-dimensional analysis that goes beyond mere statistics and delves into the underlying causes related to crime rates, law enforcement practices, judicial efficiency, and societal dynamics.

Table 2: Types of Crimes and Death Penalties

Year	Murder involving Sexual Offences	Murder Simpliciter	Terror Offences	Dacoity with Murder	Kidnapping with Murder	Child Rape without Murder	Other
2016	27	93	5	2	2	0	1
2017	41	52	5	10	10	0	0
2018	54	71	5	18	18	14	0
2019	45	35	8	6	6	4	0
2020	44	24	0	4	4	4	0
2021	48	62	4	9	9	5	9
2022	64	59	39	8	8	0	0
2023	—	42	10	4	4	—	0

Source: <https://www.project39a.com/annual-statistics-report-2023>

Types of Crimes and Death Penalties (2016–2023) provides a detailed and insightful overview of how different categories of serious crimes have contributed to the imposition of death sentences in India over an eight-year period. The data categorizes death penalty cases based on the nature of the crime, including murder involving sexual offences, murder simpliciter, terror offences, dacoity with murder, kidnapping with murder, child rape without murder, and other crimes. Analyzing this data helps us understand shifts in criminal behavior, judicial trends, and the overall application of capital punishment across years in the Indian justice system.

One of the most significant trends visible in this table is the sharp increase in **murder involving sexual offences**, especially after 2016. In 2016, there were 27 such cases, but this figure rose significantly in the subsequent years, reaching a peak of 64 in 2022. The rise can be attributed to the

growing public and judicial sensitivity around crimes of sexual violence following several high-profile incidents that shocked the national conscience, such as the 2012 Delhi gang rape case. In response, both the legislature and the judiciary began treating sexual crimes, particularly those involving minors or coupled with murder, with the utmost severity. The increase also reflects amendments in the law, such as the *Criminal Law (Amendment) Act, 2018*, which introduced the death penalty for the rape of girls under 12 years of age. This category's data indicates a societal and legal shift where crimes of this nature are increasingly seen as among the "rarest of rare," warranting the harshest punishment.

The second category, **murder simpliciter** — referring to murders without accompanying sexual assault, terrorism, or other aggravating circumstances — shows considerable fluctuation across the years. In 2016, it stood at a high of 93 cases, the highest for any year in this table. However, there was a steady decline in the following years, dropping to just 24 in 2020. While 2021 and 2022 saw a slight rise again (62 and 59, respectively), 2023 saw the number fall to 42. This trend suggests a more cautious approach by the judiciary in awarding death sentences for murders that do not involve additional aggravating factors. Courts may have increasingly preferred life imprisonment in such cases, aligning with the Supreme Court's emphasis on the "rarest of rare" doctrine and the principle of proportionality in sentencing.

The category of **terror offences** presents another important aspect of capital punishment. From 2016 to 2018, the number of death penalty cases for terror-related crimes remained steady at 5. This changed in 2019, with an increase to 8 cases, and peaked dramatically in 2022 with 39 cases — an unusually high number that indicates a spike in capital punishment for terrorism during that year. This increase may be linked to intensified crackdowns on terrorism-related activities, possibly due to geopolitical tensions, security operations, or enhanced counter-terrorism laws like the *Unlawful Activities (Prevention) Act (UAPA)*. In 2023, this number reduced to 10, still higher than earlier years but suggesting the spike in 2022 may have been exceptional. This category highlights how capital punishment is used as a tool for national security and deterrence in response to threats against the state.

Dacoity with murder, a category representing violent group crimes involving robbery and murder, shows lower numbers overall but with noteworthy spikes. In 2016, there were only 2 such cases, but this rose significantly to 18 in 2018, indicating a possible rise in gang-related violent crimes during that period. Afterward, the numbers declined gradually, falling to just 4 cases in 2023. The initial rise and subsequent fall suggest that either such crimes became less frequent or that the courts became less inclined to award the death penalty unless there were exceptionally aggravating circumstances.

A similar pattern is visible in the **kidnapping with murder** category, which exactly mirrors the figures for dacoity with murder in every year. This suggests a data overlap or perhaps a classification method where the same cases were treated under both crime types if they involved multiple charges. From 2 cases in 2016, the number peaked at 18 in 2018 and gradually declined to 4 in 2023. This again suggests a heightened sensitivity during the late 2010s toward crimes involving abduction and fatal violence, especially when children or vulnerable victims were involved.

One of the most sensitive categories in the table is **child rape without murder**, which reflects cases where minors were sexually assaulted but not killed. This category is of particular importance in understanding the evolving legal landscape. From zero cases in 2016 and 2017, there was a sudden spike to 14 cases in 2018. Although the numbers declined in subsequent years, this sudden rise corresponds to the passage of stricter laws under the POCSO Act and the 2018 Criminal Law Amendment. The inclusion of the death penalty for non-homicidal child rape raised serious legal and ethical debates, particularly about whether such harsh sentencing could deter reporting or lead to unintended consequences like the killing of the victim to eliminate witnesses. The reduction of such cases in 2022 and the absence of data for 2023 may indicate a judicial recalibration or a legislative rethinking in the implementation of this provision.

The **"other"** category shows very minimal activity, with the only notable spike occurring in 2021, with 9 cases. In most other years, this number remained either 0 or 1. While the table does not specify what crimes are included under "other," it could cover rare and extreme cases such as repeat offenders, custodial deaths, or crimes that defy easy categorization. The unusual spike in 2021 suggests that several atypical cases that year were seen as deserving of the death penalty, but without further disaggregation of the data, a detailed analysis remains speculative.

Another point of interest is the overall pattern of the total number of death penalty cases, which saw notable shifts year to year. While 2016 had a high number of death sentences (mostly from murder

simpliciter), later years, especially from 2018 onward, saw an increase in more complex and aggravated categories of crimes being punished with capital sentences. This indicates a shift in the legal approach — from punishing simple murder more frequently with death sentences to reserving the death penalty for compound crimes with multiple aggravating factors.

Conclusion

This study explores the implementation and challenges of the death penalty in India, focusing on its legal, moral, and procedural aspects. Despite being a rare punishment, capital sentencing remains highly debated due to concerns about fairness, consistency, and human rights. The paper examines key judgments, including *Bachan Singh v. State of Punjab*, which laid down the "rarest of rare" doctrine, and analyzes how courts have applied or deviated from this principle over time. The research highlights issues such as lack of clear guidelines, judicial discretion, and unequal application at various levels of the judiciary. It also discusses recent reform efforts that emphasize procedural safeguards but overlook deeper questions about the purpose and principles behind capital punishment. The study concludes by suggesting a need for both procedural improvements and a stronger focus on the substantive values guiding death penalty decisions in India.

The death penalty continues to be one of the most debated and emotionally charged aspects of criminal justice in India. The comprehensive analysis of data from 2016 to 2023, alongside the specific trends in states such as Uttar Pradesh, Jharkhand, Madhya Pradesh, Rajasthan, and Bihar, reveals that the imposition of capital punishment is neither uniform nor random—it is shaped by a matrix of socio-political, legal, and institutional factors.

The rising number of death sentences in these northern and central Indian states can be attributed to various factors such as high crime rates, socio-economic disparities, law enforcement responses, political pressure, and judicial tendencies. These states have consistently reported a higher incidence of heinous crimes, including murders, sexual assaults, terrorism, and child-related offences. Consequently, courts in these regions are more likely to encounter cases that fall within the legal framework for capital punishment. However, the raw figures alone do not offer a full picture. It is the nature of the crimes, the context of their occurrence, and the public and legal responses to them that determine sentencing patterns.

One of the most striking trends observed is the increasing use of the death penalty in cases involving sexual violence, particularly when the crime also involves murder or minor victims. The increase from 27 cases in 2016 to 64 cases in 2022 under "murder involving sexual offences" demonstrates not only the gravity of the crimes being committed but also a societal and legal shift in how such acts are perceived and punished. This shift was catalyzed by the public outrage after incidents like the 2012 Nirbhaya case and subsequent high-profile cases, which led to legislative changes such as the Criminal Law (Amendment) Act, 2013, and 2018, expanding the scope of the death penalty in rape cases. Courts, under the weight of public expectation and legislative reform, have increasingly viewed these crimes as falling within the "rarest of rare" doctrine.

At the same time, murder simpliciter, once the leading cause for death sentences, has shown a declining trend. This can be seen as a reflection of the judiciary's growing alignment with the constitutional philosophy that life imprisonment should be the rule and the death penalty the exception. The Supreme Court of India has consistently emphasized restraint in awarding capital punishment, often commuting death sentences to life imprisonment unless aggravating circumstances clearly outweigh the mitigating ones. This decline from 93 cases in 2016 to just 42 in 2023 suggests a maturing judicial attitude, one that seeks proportionality and fairness even in the face of public outrage.

The judiciary's approach reflects a deep recognition of the irreversible and ultimate nature of the death penalty. The Supreme Court's seminal ruling in *Bachan Singh v. State of Punjab* (1980) marked a watershed moment by upholding the constitutionality of capital punishment under Article 21 (Right to Life) but simultaneously establishing the critical safeguard of the "rarest of rare" doctrine. This principle ensures that capital punishment is not the norm but an exception reserved for crimes marked by exceptional depravity, cruelty, or societal harm, where no lesser punishment can meet the ends of justice.

The courts have demonstrated a balanced approach by weighing aggravating factors such as the brutality of the offense, the motive behind it, the manner of its commission, and the vulnerability of the victims, against mitigating circumstances including the accused's age, mental health, possibility of rehabilitation, and procedural delays. This nuanced balancing act underscores the judiciary's commitment to both justice and humanity.

Over the decades, the Supreme Court has increasingly incorporated humanitarian considerations in its capital punishment jurisprudence. It has frequently commuted death sentences to life imprisonment when mitigating factors outweigh the reasons for the death penalty, reinforcing the view that the preservation of human dignity remains paramount even in cases of heinous crimes. Procedural safeguards, including the right to a fair trial, effective legal representation, and the consideration of mercy petitions, form a core part of this jurisprudence, ensuring that the administration of the death penalty is neither arbitrary nor disproportionate.

Furthermore, the Court's rulings reflect a keen awareness of the broader societal objectives of deterrence and public protection. In cases involving terrorism, repeated sexual violence, or acts threatening national security, the Supreme Court has affirmed that the death penalty can serve as a necessary deterrent and a means to uphold societal order and confidence in the justice system.

At the same time, the judiciary remains cautious about the death penalty's limitations and challenges, including wrongful convictions, systemic delays, and ethical debates surrounding state-sanctioned killing. This caution is evident in the Court's strict adherence to procedural fairness and the need for conclusive evidence before imposing such an irreversible punishment.

In sum, India's capital punishment jurisprudence, as shaped by the Supreme Court, embodies a delicate balance between retributive justice and constitutional morality. It preserves the death penalty as a tool for addressing the gravest offenses, yet vigilantly protects against its misuse by embedding stringent judicial review, compassion, and respect for fundamental rights. This dual approach reflects the judiciary's overarching commitment to administering justice that is not only firm and effective but also fair, humane, and reflective of the constitutional ethos of dignity and life.

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