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Death Penalty in India –

Judicial Safeguards & Due Process

Death Penalty in India Latest News

Recent Supreme Court decisions have reinforced procedural safeguards in death penalty cases, particularly the requirement to assess the possibility of reformation and provide meaningful opportunities for the accused to present mitigating circumstances during sentencing.

Constitutional and Legal Framework of the Death Penalty

The death penalty is the highest form of criminal punishment in India. Although constitutionally permissible, its imposition is subject to strict judicial safeguards and procedural requirements.

The Supreme Court's landmark judgment in Bachan Singh v. State of Punjab (1980) upheld the constitutional validity of capital punishment while establishing that it should be imposed only in exceptional circumstances.

The legislative framework for sentencing also provides that courts must record special reasons for imposing a death sentence. This requirement was earlier contained in Section 354(3) of the Code of Criminal Procedure (CrPC) and is now reflected in Section 393(3) of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

The constitutional framework is particularly influenced by:

- *Article 14: Guarantees equality before the law and protection against arbitrary state action.*
- *Article 21: Protects life and personal liberty, requiring any deprivation of life to follow a fair, just and reasonable procedure.*

The Bachan Singh Judgment and the 'Rarest of Rare' Principle

In Bachan Singh v. State of Punjab, a Constitution Bench upheld the death penalty but laid down guidelines to regulate judicial discretion.

The judgment established that:

- *Life imprisonment must remain the rule, while the death penalty should be an exception.*
- *Courts must record special reasons before imposing capital punishment.*
- *Both the circumstances of the crime and those of the accused must be considered.*
- *Death should be imposed only when life imprisonment is unquestionably foreclosed.*

Individualised Sentencing and Reformation

Individualised sentencing requires courts to consider the personal, social, psychological and structural circumstances of the accused before determining punishment.

The objective is to assess the individual's moral culpability and whether the possibility of reformation has genuinely been eliminated.

Importantly, the State bears the burden of establishing through evidence that there is no reasonable possibility of the accused being reformed.

This approach ensures that the death penalty is not imposed solely because of the gravity or brutality of the crime.

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Judicial Developments and the Erosion of Safeguards

Subsequent judgments initially weakened the individualised sentencing framework established in Bachan Singh.

Machhi Singh v. State of Punjab (1983)

The judgment shifted the focus towards the nature and circumstances of the crime. As subsequently recognised in Sangeet v. State of Haryana (2013), this approach risked reversing the original inquiry by effectively asking whether there were reasons to impose life imprisonment rather than whether special reasons existed to impose death.

Ravji v. State of Rajasthan (1995)

In Ravji v. State of Rajasthan, a two-judge Bench held that the nature and gravity of the offence, rather than the circumstances of the accused, were decisive in determining punishment.

The Supreme Court subsequently held that this approach was contrary to the binding principles established in Bachan Singh.

Two individuals, Ravji and Surja Ram, were executed in 1996 and 1997 respectively under this erroneous principle.

Santosh Kumar Bariyar v. State of Maharashtra (2009)

The Supreme Court held that Ravji had been decided in ignorance of Bachan Singh. It also noted that the erroneous principle had been followed in several other cases resulting in death sentences.

The judgment clarified that life imprisonment could be considered unquestionably foreclosed only when the objective of reformation was unachievable.

Reformation as a Central Principle of Sentencing

The importance of reformation was subsequently reinforced through judicial decisions and the 262nd Report of the Law Commission of India (2015).

However, sentencing practices at the trial-court level continued to reveal serious procedural shortcomings.

A nationwide study of 306 death sentences imposed between 2018 and 2020 found that:

- *36.1% of death sentences were pronounced on the same day as conviction.*
- *Another 18.4% were pronounced on the following day.*

In most cases, the defence neither presented arguments nor submitted evidence relating to mitigating circumstances.

In 2025, trial courts sentenced 128 individuals to death.

These findings highlighted the gap between constitutional principles and their implementation during sentencing proceedings.

Reliability of Criminal Investigations and the Risk of Judicial Error

The concerns surrounding capital punishment extend beyond sentencing procedures to the reliability of criminal investigations and prosecutions.

Over the preceding decade, nearly one-third of death sentences considered by the High Courts and Supreme Court had ultimately resulted in acquittals.

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Topic For Group Discussion (GD) And Lecturette For SSB Interview

In 2025 alone, the Supreme Court acquitted the accused in 10 of the 19 death penalty cases it decided, repeatedly identifying serious flaws in investigations and prosecutions.

In Dupare, the Court acknowledged concerns regarding confessions obtained without transparency and forensic evidence of questionable reliability.

These findings are particularly significant because the death penalty is irreversible. A criminal justice system vulnerable to investigative and prosecutorial errors must maintain rigorous safeguards before imposing capital punishment.



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