

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper is partially shown, and a black leather watch with a silver dial is resting on the desk. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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# **“A STUDY ON DELAY IN EXECUTION OF DEATH SENTENCE IN INDIA: LEGAL AND CONSTITUTIONAL PERSPECTIVES”**

AUTHORED BY - H. MOHAMMED HAZZALI

Student of III LLB, School of Law, VISTAS

CO-AUTHOR - MS.A.BHUVANESWARI

Assistant Professor and Research Supervisor VISTAS

## **CHAPTER I – INTRODUCTION**

The death penalty remains one of the most debated aspects of criminal jurisprudence in India. While it is constitutionally valid, its application is restricted to the “rarest of rare” cases as laid down by judicial precedent. However, even after final confirmation by the Supreme Court, significant delays occur in the execution of death sentences. These delays raise serious constitutional, human rights, and procedural concerns.

The phenomenon of delay in execution is not merely administrative but has deep implications on the rights of convicts under Article 21 of the Constitution of India, which guarantees the right to life and personal liberty. Prolonged uncertainty on death row leads to mental agony and psychological trauma, often referred to as “death row phenomenon.”

This study examines the legal and constitutional framework governing death penalty execution in India and analyzes the causes, consequences, and judicial responses to delays. It also explores comparative international perspectives and suggests reforms for a more humane and efficient system.

## **CHAPTER II – CONCEPT AND EVOLUTION OF DEATH SENTENCE IN INDIA**

The death penalty, or capital punishment, is the highest form of punishment awarded under criminal law. In India, it is primarily imposed under the Bharatiya Nyaya Sanhita (earlier IPC provisions) for offenses such as murder, terrorism, and certain aggravated crimes.

Historically, capital punishment existed in ancient legal systems and was widely used during colonial rule. Post-independence, India retained the death penalty but adopted a cautious approach.

The landmark judgment in *Bachan Singh v. State of Punjab* introduced the “rarest of rare doctrine,” limiting death penalty to exceptional cases. This marked a significant evolution towards restrictive application.

Subsequent judicial interpretations have emphasized that life imprisonment is the rule, and death penalty is an exception.

## **CHAPTER III – LEGAL AND CONSTITUTIONAL FRAMEWORK**

### **GOVERNING DEATH SENTENCE**

The constitutional validity of the death penalty has been upheld under Article 21 of the Constitution, provided it is imposed with due process of law.

Key provisions include:

- Article 21 – Right to life and personal liberty
- Article 72 – Power of the President to grant pardon
- Article 161 – Power of the Governor to grant pardon

Statutory framework includes provisions under criminal law that prescribe capital punishment for specific offenses.

The judiciary plays a central role in ensuring procedural fairness. In *Jagmohan Singh v. State of Uttar Pradesh*, the Supreme Court upheld the constitutional validity of the death penalty, provided it follows due process.

Further, in *Shatrughan Chauhan v. Union of India*, the Court held that undue delay in execution of death sentence can be a valid ground for commutation.

## **CHAPTER IV – CAUSES AND CONSEQUENCES OF DELAY IN**

### **EXECUTION**

#### **Causes**

##### **1. Judicial Review and Appeals**

Multiple levels of appeal and review petitions contribute to delays.

##### **2. Mercy Petition Process**

Exercise of constitutional clemency powers under Articles 72 and 161 often leads to prolonged waiting periods.

3. **Administrative Inefficiency**

Delay in processing files between judiciary, executive, and prison authorities.

4. **Political and Social Sensitivity**

Death penalty cases often attract public and political scrutiny.

5. **Legal Complexity**

Procedural safeguards increase time before execution.

**Consequences**

- Severe psychological trauma to convicts
- Violation of dignity under Article 21
- Increased international criticism
- Questioning of deterrent value of death penalty
- Administrative burden on the justice system

**CHAPTER V – JUDICIAL APPROACH AND CASE LAW ANALYSIS**

The Indian judiciary has played a pivotal and evolving role in addressing delays in the execution of death sentences, particularly by balancing the constitutional validity of capital punishment with the fundamental rights of convicts under Article 21. Over time, the courts have developed a jurisprudence that recognizes delay as a significant mitigating factor that may warrant commutation of death sentences into life imprisonment.

In *Triveniben v. State of Gujarat*, the Supreme Court held that undue delay in the execution of a death sentence is relevant for consideration of commutation, particularly where such delay causes mental agony and psychological suffering to the convict. The Court clarified that while delay alone is not an automatic ground for commutation, it becomes significant when it violates the right to life with dignity under Article 21.

In *T.V. Vatheeswaran v. State of Tamil Nadu*, the Supreme Court initially laid down a broad principle that delay exceeding two years in the execution of a death sentence could be considered as a valid ground for commutation. Although this rigid timeline was later refined and not strictly followed in subsequent judgments, the case remains significant for recognizing delay as a constitutional concern.

A more refined and authoritative approach was adopted in *Shatrughan Chauhan v. Union of India*, where the Supreme Court commuted the death sentences of several convicts on the ground of inordinate delay in the disposal of mercy petitions. The Court explicitly recognized that prolonged uncertainty and mental torture caused by such delay violate Article 21 and

amount to cruel, inhuman, and degrading treatment. This judgment also strengthened procedural safeguards in the clemency process.

The judiciary has also emphasized that the execution of death sentences must not be arbitrary, capricious, or unreasonably delayed, as such delay undermines the constitutional guarantee of dignity and fair procedure. The courts have consistently maintained that the “rarest of rare” doctrine must be complemented by procedural fairness at every stage, including post-conviction remedies.

Furthermore, judicial reasoning reflects an increasing sensitivity towards international human rights norms and comparative constitutional practices. The Supreme Court has gradually moved towards a more humanitarian interpretation of death penalty jurisprudence, ensuring that state power in taking life is exercised with utmost caution, fairness, and constitutional discipline.

Overall, Indian judicial approach demonstrates a clear shift from a purely retributive framework to a rights-based and humanitarian approach, where delay in execution is not merely procedural inefficiency but a constitutional issue impacting the very essence of human dignity.

## **CHAPTER VI – COMPARATIVE AND HUMAN RIGHTS**

### **PERSPECTIVE**

Globally, there is a growing and consistent trend towards the abolition or severe restriction of the death penalty. Many countries, particularly in Europe, have abolished capital punishment entirely under regional human rights frameworks such as the European Convention on Human Rights. Other jurisdictions, such as the United States, retain the death penalty but apply it with highly stringent procedural safeguards, extensive appellate review, and state-specific limitations.

International human rights instruments, including the International Covenant on Civil and Political Rights (ICCPR), advocate for the restriction of capital punishment to the “most serious crimes” and emphasize strict adherence to due process, fair trial guarantees, and humane treatment of prisoners. The United Nations Human Rights Committee has repeatedly stressed that the death penalty must not be imposed in a manner that is arbitrary, discriminatory, or excessively prolonged.

The concept of the “death row phenomenon” has been widely recognized in international jurisprudence as a violation of human dignity. It refers to the psychological trauma, anxiety, and mental suffering caused by prolonged incarceration under a sentence of death, often

exacerbated by delays in execution and uncertainty regarding the final outcome. International courts and human rights bodies have, in several instances, held that excessive delay may itself amount to cruel, inhuman, or degrading treatment.

Comparative constitutional analysis reveals that several jurisdictions have either abolished the death penalty entirely or significantly narrowed its application through statutory and judicial reforms. This reflects an evolving global consensus towards prioritizing rehabilitation, restorative justice, and the protection of fundamental human rights over retributive punishment. India, while retaining capital punishment within its constitutional framework, continues to face increasing scrutiny from the international community regarding its application and procedural delays. The Indian judiciary has attempted to balance constitutional validity with human rights concerns by introducing safeguards such as the “rarest of rare” doctrine and recognizing delay as a mitigating factor for commutation.

However, despite these judicial safeguards, India remains under growing pressure to align its practices with global human rights standards. Ensuring that procedural delays do not undermine constitutional protections under Article 21 is essential to maintaining the legitimacy of the criminal justice system. A progressive interpretation of constitutional morality may eventually lead to further restrictions or reforms in the application of the death penalty.

## **CHAPTER VII – CONCLUSION AND SUGGESTIONS**

The delay in execution of death sentences in India reflects a complex interplay of legal, constitutional, administrative, and procedural factors. While the judiciary has consistently upheld the importance of procedural safeguards and due process, prolonged delays have raised serious constitutional concerns under Article 21 of the Constitution of India, particularly in relation to the right to life with dignity. Such delays often result in psychological trauma, uncertainty, and what has been described in judicial discourse as the “death row phenomenon,” thereby raising questions about the fairness and humanity of the criminal justice system.

Moreover, inconsistent timelines in deciding mercy petitions under Articles 72 and 161, coupled with administrative inefficiencies, further aggravate the problem. The absence of a uniform statutory framework governing post-conviction procedures contributes to unpredictability and delay, undermining both deterrence and retributive objectives of capital punishment.

**Suggestions:**

- Establish strict and mandatory timelines for the disposal of mercy petitions under Articles 72 and 161 of the Constitution
- Improve institutional coordination between the judiciary, executive, and prison authorities to ensure procedural efficiency
- Strengthen procedural clarity in death penalty cases through codified guidelines and standardized processes
- Consider comprehensive reforms in clemency procedures to prevent unnecessary delays and ensure accountability
- Promote greater transparency in execution-related processes to enhance public trust in the justice system
- Introduce periodic review mechanisms for death row convicts to assess prolonged detention periods
- Re-evaluate the necessity and proportionality of the death penalty in the context of evolving constitutional morality and global human rights standards
- Encourage judicial consistency in interpreting delay as a mitigating factor for commutation

A balanced and reform-oriented approach is required that ensures justice to victims while simultaneously safeguarding the dignity, rights, and humane treatment of convicts. The objective should not only be the imposition of lawful punishment but also the assurance that the process of justice itself adheres to constitutional values and human rights principles.

**BIBLIOGRAPHY**

**Books**

- V.N. Shukla, *Constitution of India*
- Ratanlal & Dhirajlal, *Indian Penal Code*
- Gaur K.D., *Criminal Law Cases and Materials*

**Statutes**

- Constitution of India, 1950
- Bharatiya Nyaya Sanhita / IPC (relevant provisions)
- Code of Criminal Procedure, 1973

### **Case Laws**

- *Bachan Singh v. State of Punjab*
- *Jagmohan Singh v. State of U.P.*
- *Shatrughan Chauhan v. Union of India*
- *Triveniben v. State of Gujarat*
- *T.V. Vatheeswaran v. State of Tamil Nadu*

### **WEBLIOGRAPHY**

- Supreme Court of India judgments database
- Indian Kanoon
- LiveLaw
- Bar & Bench
- Ministry of Law and Justice, Government of India website
- National Judicial Data Grid (NJDG)



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