

## ON DEATH PENALTY ABOLITION AND PARLIAMENTARY PANEL REPORT

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Paper - II  
(Indian Polity)

It is disappointing that the parliamentary committee that examined the Bharatiya Nyaya Sanhita (BNS), the proposed criminal statute likely to replace the IPC, has not made a recommendation to abolish the death penalty. Instead, the standing committee on Home Affairs, despite submissions from experts and jurists on abolition, chose to make a bland recommendation “that the matter may be left for the government to consider”. Its observation is limited to a remark that it “has understood that the reason for a passionate argument against the death penalty is that the judicial system can be fallible and to prevent an innocent person from being wrongly sentenced to death”. However, domain experts had made some persuasive submissions before the panel: that instances of trial courts awarding death were on the rise, whereas statistical trends showed that the Supreme Court of India was leaning away from capital punishment; that social scientists had demonstrated it had no deterrent effect and that global opinion was in favour of its abolition. The Court awarded the death penalty to only seven people from 2007 to 2022, while all death sentences were either set aside or commuted to life in 2023, as they did not fall under the “rarest of rare cases”.

Members who added notes of dissent to the report also highlighted the argument that capital punishment has been shown to be no deterrent; that imprisonment for the remainder of the convict’s natural life will be a more rigorous punishment and provide scope for reform; and that most of those on death row came from under-

### Death Penalty in India Report:

- ❖ According to the ‘Death Penalty in India: Annual Statistics’ Report for the year 2022, the Trial Courts sentenced 165 people to death in 2022.
- ❖ Death Penalty in India Report is published by Project 39A.
- ❖ Project 39A is a criminal law reforms advocacy group at the National Law University, Delhi.
- ❖ It is inspired by Article 39A of the Constitution of India.
- ❖ Article 39A of the Constitution of India provides for free legal aid to the poor and weaker sections of the society and ensures justice for all.
- ❖ The article was inserted by the 42nd Amendment Act of 1976.
- ❖ The highest number of people on death row were in the states of Uttar Pradesh (100), Gujarat (61), Jharkhand (46), Maharashtra (39) and Madhya Pradesh (31), the report said.

### How is death penalty executed in India?

- ❖ Executions are carried out by hanging as the primary method of execution as given under Section 354(5) of the Criminal Code of Procedure, 1973 is "Hanging by the neck until dead", and is awarded only in the 'rarest of cases

privileged backgrounds. They have also made the point that the three Bills proposing a new body of criminal law are substantially the same as the existing IPC, Code of Criminal Procedure and Evidence Act. If at all, Parliament moves to enact the draft Bills, with changes suggested by the parliamentary panel, it will be in the fitness of things if it is used as an occasion to reconsider the need to retain the death penalty. The BNS has defined ‘life imprisonment’ as a term for the remainder of one’s natural life, and this should be the default alternative to death sentences. The case for abolition will gain strength if the trend of seeking premature release of life convicts on political grounds is arrested and life terms without remission become more common. Remission should be a humanitarian act and never a source of political controversy. Removing capital punishment from the statute book and introducing a rational and universal remission policy will be a substantive reform in the justice system.

### Important Judgements on Death Penalty

- ❖ **Ediga Anamma v/s State of Andhra Pradesh (1974)** : The Supreme Court laid down the principle that life imprisonment for the offence of murder is the rule and capital sentence is the exception in certain cases. The Court also stated that a special reason should be given if the court decides to impose a death sentence.
- ❖ **Bachan Singh v/s State of Punjab (1980)**: The Supreme Court held that only in rarest of rare cases that are brutal, the death penalty should be imposed.

### Expected Question for Prelims

**Que. Consider the following statements in the context of Death Penalty in India Report, 2022:**

1. The state of Uttar Pradesh is at the top in the entire country in terms of pending death sentences.
2. There are 539 death row prisoners in India by the end of 2022.

Which of the statements given above is/are correct?

- |                  |                     |
|------------------|---------------------|
| (a) Only 1       | (b) Only 2          |
| (c) Both 1 and 2 | (d) Neither 1 nor 2 |

**Answer : c**

### Mains Expected Question & Format

**Que.: What is the logic given behind maintaining death penalty in India? Discuss its pros and cons.**

**Answer's Approach:**

- ❖ In the first part of the answer, discuss the reasoning behind maintaining the death penalty in India.
- ❖ In the second part, discuss the pros and cons of death penalty.
- ❖ Finally give a conclusion indicating the way forward.

**Note:** - The question of the main examination given for practice is designed keeping in mind the upcoming UPSC mains examination. Therefore, to get an answer to this question, you can take the help of this source as well as other sources related to this topic.