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No. 27/RN/Ref./October/2015

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CAPITAL PUNISHMENT IN INDIA

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CAPITAL PUNISHMENT IN INDIA

INTRODUCTION

All punishments are based on the same proposition *i.e.* there must be a penalty for wrongdoing. There are two main reasons for inflicting the punishment. One is the belief that it is both right and just that a person who has done wrong should suffer for it; the other is the belief that inflicting punishment on wrongdoers discourages other from doing wrong. The capital punishment also rests on the same proposition as other punishments¹.

The capital punishment debate is the most generally relevant debate, keeping in mind the situation that has been brought about by today. Capital punishment is an integral part of the Indian criminal justice system. Increasing strength of the human rights movement in India, the existence of capital punishment is questioned as immoral. However this is an odd argument as keeping one person alive at the cost of the lives of numerous members or potential victims in the society is unbelievable and in fact, that is morally wrong².

MEANING OF CAPITAL PUNISHMENT

Capital punishment, also called death penalty, execution of an offender sentenced to death after conviction by a court of law for a criminal offense. Capital punishment should be distinguished from extrajudicial executions carried out without due process of law. The term death penalty is sometimes used interchangeably with capital punishment, though imposition of the penalty is not always followed by execution (even when it is upheld on appeal), because of the possibility of commutation to life imprisonment³.

The term "Capital Punishment" stands for most severe form of punishment. It is the punishment which is to be awarded for the most heinous, grievous and detestable crimes against humanity. While the definition and extent of such crimes vary from country to country, state to state, age to age, the implication of capital punishment has always been

¹ <http://newindialaw.blogspot.in/2012/11/constitutional-validity-of-capital.html>

² <http://www.allsubjectjournal.com/archives/2015/vol2issue4/PartK/62.pdf>

³ <http://www.britannica.com/topic/capital-punishment>

the death sentence. By common usage in jurisprudence, criminology and penology, capital sentence means a sentence of death⁴.

HISTORICAL BACKGROUND

Capital punishment is an ancient sanction. There is practically no country in the world where the death penalty has never existed. History of human civilization reveals that during no period of time capital punishment has been discarded as a mode of punishment⁵. Capital punishment for murder, treason, arson, and rape was widely employed in ancient Greece under the laws of Draco (fl. 7th century BCE), though Plato argued that it should be used only for the incorrigible. The Romans also used it for a wide range of offenses, though citizens were exempted for a short time during the republic⁶.

This finds support in the observation made by Sir Henry Maine who stated that "Roman Republic did not abolish death sentence though its non-use was primarily directed by the practice of punishment or exile and the procedure of questions"⁷.

CAPITAL PUNISHMENT IN INDIA

A careful scrutiny of the debates in British India's Legislative Assembly reveals that no issue was raised about capital punishment in the Assembly until 1931, when one of the Members from Bihar, Shri Gaya Prasad Singh sought to introduce a Bill to abolish the punishment of death for the offences under the Indian Penal Code. However, the motion was negated after the then Home Minister replied to the motion.

The Government's policy on capital punishment in British India prior to Independence was clearly stated twice in 1946 by the then Home Minister, Sir John Thorne, in the debates of the Legislative Assembly. "The Government does not think it wise to abolish capital punishment for any type of crime for which that punishment is now provided"⁸.

⁴ Capital Punishment in India by Dr. Subhash C. Gupta, 2000, p. 1

⁵ *Op.cit.* Capital Punishment by Dr. Subhash C. Gupta, 2000, p. 1

⁶ <http://www.britannica.com/topic/capital-punishment>

⁷ *Op.cit.* Capital Punishment in India by Dr. Subhash C. Gupta, 2000, p. 1

⁸ *Ibid.* pp. 104-105.

At independence, India retained several laws put in place by the British colonial government, which included the Code of Criminal Procedure, 1898 ('Cr.P.C. 1898'), and the Indian Penal Code, 1860 ('IPC'). The IPC prescribed six punishments that could be imposed under the law, including death.

For offences where the death penalty was an option, Section 367(5) of the CrPC 1898 required courts to record reasons where the court decided not to impose a sentence of death:

If the accused is convicted of an offence punishable with death, and the court sentences him to any punishment other than death, the court shall in its judgment state the reason why sentence of death was not passed.

In 1955, the Parliament repealed Section 367(5), CrPC 1898, significantly altering the position of the death sentence. The death penalty was no longer the norm, and courts did not need special reasons for why they were not imposing the death penalty in cases where it was a prescribed punishment.

The Code of Criminal Procedure was re-enacted in 1973 ('CrPC'), and several changes were made, notably to Section 354(3):

When the conviction is for an offence punishable with death or, in the alternative, with imprisonment for life or imprisonment for a term of years, the judgment shall state the reasons for the sentence awarded, and, in the case of sentence of death, the special reasons for such sentence.

This was a significant modification from the situation following the 1955 amendment (where terms of imprisonment and the death penalty were equal possibilities in a capital case), and a reversal of the position under the 1898 law (where death sentence was the norm and reasons had to be recorded if any other punishment was imposed). Now, judges needed to provide special reasons for why they imposed the death sentence.

These amendments also introduced the possibility of a post-conviction hearing on sentence, including the death sentence, in Section 235(2), which states:

If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 360, hear the accused on the question of sentence, and then pass sentence on him according to law⁹.

⁹ India. Law Commission of India, Report No.262 on Death Penalty, August 2015, pp. 17-18.

Various laws under which death penalty can be prescribed as a possible punishment in India are given at ***Annexure-I***

INTERNATIONAL SCENARIO

The international landscape regarding the death penalty – both in terms of international law and state practice – has evolved in the past decades. Internationally, countries are classified on their death penalty status, based on the following categories:

- Abolitionist for all crimes
- Abolitionist for ordinary crimes
- Abolitionist *de facto*
- Retentionist

At the end of 2014, 98 countries were abolitionist for all crimes, 7 countries were abolitionist for ordinary crimes only, and 35 were abolitionist in practice, making 140 countries in the world abolitionist in law or practice. 58 countries are regarded as retentionist, who still have the death penalty on their statute book, and have used it in the recent past¹⁰. While only a minority of countries retain and use the death penalty, this list includes some of the most populous nations in the world, including India, China, Indonesia and the United States, making a majority of population in the world potentially subject to this punishment. Country wise list of these four categories is given at ***Annexure-II***.

CAPITAL PUNISHMENT IN INTERNATIONAL HUMAN RIGHTS TREATIES

- ❖ The International Covenant on Civil and Political Rights ('ICCPR') is one of the key documents discussing the imposition of death penalty in international human rights law. The ICCPR does not abolish the use of the death penalty, but Article 6 contains guarantees regarding the right to life, and contains important safeguards to be followed by signatories who retain the death penalty¹¹.
- ❖ The Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty is the only treaty directly concerned with abolishing the death penalty, which is open to signatures from all countries in the world. It came into force in 1991, and has 81 states parties and 3 signatories¹².

¹⁰ India. Law Commission of India, Report No.262 on Death Penalty, August 2015, pp.38-39

¹¹ *Ibid.* p.40-41

¹² *Ibid.* p.43

- ❖ Similar to the ICCPR, Article 37(a) of the Convention on the Rights of the Child ('CRC') explicitly prohibits the use of the death penalty against persons under the age of 18. As of July 2015, 195 countries had ratified the CRC¹³.
- ❖ The Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment ('the Torture Convention') and the UN Committee against Torture have been sources of jurisprudence for limitations on the death penalty as well as necessary safeguards. The Torture Convention does not regard the imposition of death penalty *per se* as a form of torture or cruel, inhuman or degrading treatment or punishment ('CIDT'). However, some methods of execution and the phenomenon of death row have been seen as forms of CIDT by UN bodies¹⁴.
- ❖ In the evolution of international criminal law, the death penalty was a permissible punishment in the Nuremberg and Tokyo tribunals, both of which were established following World War II. Since then, however, international criminal courts exclude the death penalty as a permissible punishment¹⁵.

Of the treaties mentioned above, India has ratified the ICCPR and the CRC, and is signatory to the Torture Convention but has not ratified it. Under international law, treaty obligations are binding on states once they have ratified the treaty. Even where a treaty has been signed but not ratified, the state is bound to "refrain from acts which would defeat the object and purpose of a treaty"¹⁶.

POLITICAL COMMITMENTS REGARDING CAPITAL PUNISHMENT GLOBALLY

- ❖ Several resolutions of the UN General Assembly (UNGA) have called for a moratorium on the use of the death penalty. In 2007, the UNGA called on states to "progressively restrict the use of the death penalty, reduce the number of offences for which it may be imposed" and "establish a moratorium on executions with a view to abolishing the death penalty." In 2008, the GA reaffirmed this resolution, which was reinforced in subsequent resolutions in 2010, 2012, and 2014. Many of these resolutions noted that, "a moratorium on the use of the death penalty contributes to respect for human dignity and to the enhancement and progressive development of human rights." In 2014, 117 States had voted in favour of the most recent resolution. India has not voted in favour of these resolutions¹⁷.
- ❖ In a 2013 resolution, the UN Human Rights Council acknowledged "the negative impact of a parent's death sentence and his or her execution on his or her children,"

¹³ *Ibid.* pp.43-44

¹⁴ India. Law Commission of India, Report No.262 on Death Penalty, August 2015, pp.44-45

¹⁵ *Ibid.* pp.45-46

¹⁶ *Ibid.* p.46

¹⁷ *Ibid.* pp.51-52

and urged “States to provide those children with the protection and assistance they may require,” Human Rights Council resolution, 2014 noted that “States with different legal systems, traditions, cultures and religious backgrounds have abolished the death penalty or are applying a moratorium on its use” and deplored the fact that “the use of the death penalty leads to violations of the human rights of those facing the death penalty and of other affected persons.” The Human Rights Council urged states to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.

- ❖ The law of extradition has been another tool for countries pushing for the abolition of the death penalty. Several abolitionist countries either require assurances that retentionist-extraditing countries not impose the death penalty, or have included such a clause in bilateral extradition treaties¹⁸.

CAPITAL PUNISHMENT : THE CURRENT STATUS

Supreme Court on Validity of Capital Punishment in India

Article 21 of the Indian Constitution ensures the Fundamental Right to life and liberty for all persons. It adds no person shall be deprived of his life or personal liberty except according to procedure established by law. This has been legally construed to mean if there is a procedure, which is fair and valid, then the state by framing a law can deprive a person of his life. While the central government has consistently maintained it would keep the death penalty in the statute books to act as a deterrent, and for those who are a threat to society, the Supreme Court too has upheld the constitutional validity of capital punishment in “rarest of rare” cases. In *Jagmohan Singh vs State of Uttar Pradesh* (1973), then in *Rajendra Prasad vs State of Uttar Pradesh* (1979), and finally in *Bachan Singh vs State of Punjab* (1980), the Supreme Court affirmed the constitutional validity of the death penalty. It said that if capital punishment is provided in the law and the procedure is a fair, just and reasonable one, the death sentence can be awarded to a convict. This will, however, only be in the “rarest of rare” cases, and the courts should render “special reasons” while sending a person to the gallows¹⁹.

Criteria for Rarest of Rare

The principles as to what would constitute the “rarest of rare” has been laid down by the top Court in the landmark judgment in *Bachan Singh vs State of Punjab* (1980).

¹⁸ India. Law Commission of India, Report No.262 on Death Penalty, August 2015, pp.52-53.

¹⁹ Indian Express, New Delhi, dated 27.5.2015

Supreme Court formulated certain broad illustrative guidelines and said it should be given only when the option of awarding the sentence of life imprisonment is “unquestionably foreclosed”. It was left completely upon the court’s discretion to reach this conclusion. However, the apex court also laid down the principle of weighing, aggravating and mitigating circumstances. A balance-sheet of aggravating and mitigating circumstances in a particular case has to be drawn to ascertain whether justice will not be done if any punishment less than the death sentence is awarded. Two prime questions, the top court held, may be asked and answered. First, is there something uncommon about the crime which renders the sentence of imprisonment for life inadequate and calls for a death sentence? Second, are there circumstances of the crime such that there is no alternative but to impose the death sentence even after according maximum weightage to the mitigating circumstances which speak in favour of the offenders²⁰?

EMERGENCE OF ALTERNATIVE PUNISHMENT TO CAPITAL PUNISHMENT

In the last few years, Supreme Court has entrenched the punishment of “full life” or life sentence of determinate number of years as a response to challenges presented in death cases. The Supreme Court speaking through a three-judge bench decision in *Swamy Shraddhanand [2]* case laid the foundation of this emerging penal option in following terms:

“The matter may be looked at from a slightly different angle. The issue of sentencing has two aspects. A sentence may be excessive and unduly harsh or it may be highly disproportionately inadequate. When an appellant comes to this Court carrying a death sentence awarded by the trial court and confirmed by the High Court, this Court may find, as in the present appeal, that the case just falls short of the rarest of the rare category and may feel somewhat reluctant in endorsing the death sentence. But at the same time, having regard to the nature of the crime, the Court may strongly feel that a sentence of life imprisonment subject to remission normally works out to a term of 14 years would be grossly disproportionate and inadequate. What then should the Court do? If the Court's option is limited only to two punishments, one a sentence of imprisonment, for all intents and purposes, of not more than 14 years and the other death, the Court may feel tempted and find itself nudged into endorsing the death penalty. Such a course would indeed be disastrous. A far more just, reasonable and proper course would be to expand the options and to take over what, as a matter of fact, lawfully belongs to the Court i.e. the vast hiatus between 14 years' imprisonment and

²⁰ Indian Express, New Delhi, dated 27.5.2015

death. It needs to be emphasised that the Court would take recourse to the expanded option primarily because in the facts of the case, the sentence of 14 years' imprisonment would amount to no punishment at all.

Further, the formalisation of a special category of sentence, though for an extremely few number of cases, shall have the great advantage of having the death penalty on the statute book but to actually use it as little as possible, really in the rarest of rare cases"

The observations in Swamy Shraddhanand [2] case have been followed by the Court in a multitude of cases such as *Haru Ghosh v. State of West Bengal*, *State of Uttar Pradesh v. Sanjay Kumar*, *Sebastian v. State of Kerala*, *Gurvail Singh v. State of Punjab* where full life or sentence of determinate number of years has been awarded as opposed to death penalty²¹.

CLEMENCY POWERS

If the Supreme Court turns down the appeal against capital punishment, a condemned prisoner can submit a mercy petition to the President of India and the Governor of the State. Under Articles 72 and 161 of the Constitution, the President and Governors, respectively have the power "to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence"²².

Neither of these powers are personal to the holders of the Office, but are to be exercised (under Articles 74 and 163, respectively) on the aid and advice of the Council of Ministers.

Clemency powers, while exercisable for a wide range of considerations and on protean occasions, also function as the final safeguard against possibility of judicial error or miscarriage of justice. This casts a heavy responsibility on those wielding this power and necessitates a full application of mind, scrutiny of judicial records, and wide ranging inquiries in adjudicating a clemency petition, especially one from a prisoner under a judicially confirmed death sentence who is on the very verge of execution.

²¹ India. Law Commission of India. Consultation Paper on Capital Punishment, May 2014, pp.26-27

²² Indian Express, New Delhi, dated 27.5.2015

The Ministry of Home Affairs, Government of India, has drafted the “Procedure Regarding Petitions for Mercy in Death Sentence Cases” to guide State Governments and the prison authorities in dealing with mercy petitions submitted by death sentence prisoners²³. Details of mercy petitions decided by the President in India are given at ***Annexure-III***.

JUDICIAL REVIEW OF EXERCISE OF MERCY POWERS

The Supreme Court in Shatrughan Chauhan case has recorded that the Home Ministry considers the following factors while deciding mercy petitions:

- a) Personality of the accused (such as age, sex or mental deficiency) or circumstances of the case (such as provocation or similar justification);
- b) Cases in which the appellate Court expressed doubt as to the reliability of evidence but has nevertheless decided on conviction;
- c) Cases where it is alleged that fresh evidence is obtainable mainly with a view to see whether fresh enquiry is justified;
- d) Where the High Court on appeal reversed acquittal or on an appeal enhanced the sentence;
- e) Is there any difference of opinion in the Bench of High Court Judges necessitating reference to a larger Bench;
- f) Consideration of evidence in fixation of responsibility in gang murder case;
- g) Long delays in investigation and trial etc.

However, when the actual exercise of the Ministry of Home Affairs (on whose recommendations mercy petitions are decided) is analysed, it is seen that many times these guidelines have not been adhered to. Writ Courts in numerous cases have examined the manner in which the Executive has considered mercy petitions. In fact, the Supreme Court as part of the batch matter Shatrughan Chauhan case heard 11 writ petitions challenging the rejection of the mercy petition by the Executive²⁴. Supreme Court, last year

²³ India. Law Commission of India, Report No.262 on Death Penalty, August 2015, pp.176, 179

²⁴ India. Law Commission of India, Report no.262 on Death Penalty, August 2015, pp.190-191

held that judicial clemency could be granted on the ground of inordinate delay even after a mercy petition is rejected²⁵.

LAW COMMISSION OF INDIA'S REPORT ON DEATH PENALTY

The Law Commission of India in its 262nd Report (August 2015) recommended that death penalty be abolished for all crimes other than terrorism related offences and waging war. Complete recommendations of the Report are as follows:

- The Commission recommended that measures suggested that police reforms, witness protection scheme and victim compensation scheme should be taken up expeditiously by the government.
- The march of our own jurisprudence -- from removing the requirement of giving special reasons for imposing life imprisonment instead of death in 1955; to requiring special reasons for imposing the death penalty in 1973; to 1980 when the death penalty was restricted by the Supreme Court to the rarest of rare cases – shows the direction in which we have to head. Informed also by the expanded and deepened contents and horizons of the Right to life and strengthened due process requirements in the interactions between the State and the individual, prevailing standards of constitutional morality and human dignity, the Commission felt that time has come for India to move towards abolition of the death penalty.
- Although there is no valid penological justification for treating terrorism differently from other crimes, concern is often raised that abolition of death penalty for terrorism-related offences and waging war, will affect national security. However, given the concerns raised by the law makers, the Commission did not see any reason to wait any longer to take the first step towards abolition of the death penalty for all offences other than terrorism related offences.
- The Commission accordingly recommended that the death penalty be abolished for all crimes other than terrorism related offences and waging war.
- Further, the Commission sincerely hopes that the movement towards absolute abolition will be swift and irreversible²⁶.

²⁵ Indian Express, New Delhi, dated 27.5.2015

²⁶ India. Law Commission of India, Report no.262 on Death Penalty, August 2015, pp.217-218

Annexure-I**Capital Offences in IPC**

Sl. No.	Section Number	Description
1.	Section 121	Treason, for waging war against the Government of India
2.	Section 132	Abetment of mutiny actually committed
3.	Section 194	Perjury resulting in the conviction and death of an innocent person
4.	Section 195A	Threatening or inducing any person to give false evidence resulting in the conviction and death of an innocent person
5.	Section 302	Murder
6.	Section 305	Abetment of a suicide by a minor, insane person or intoxicated person
7.	Section 307 (2)	Attempted murder by a serving life convict
8.	Section 364A	Kidnapping for ransom
9.	Section 376A	Rape and injury which causes death or leaves the woman in a persistent vegetative state
10.	Section 376E	Certain repeat offenders in the context of rape
11.	Section 396	Dacoity with murder

Capital Offences in other laws

Sl. No.	Section Number	Description
1.	Sections 34, 37, and 38(1)	The Air Force Act, 1950
2.	Section 3(1)(i)	The Andhra Pradesh Control of Organised Crime Act, 2001
3.	Section 27(3)	The Arms Act, 1959 (repealed)
4.	Sections 34, 37, and 38(1)	The Army Act, 1950
5.	Sections 21, 24, 25(1)(a), and 55	The Assam Rifles Act, 2006
6.	Section 65A(2)	The Bombay Prohibition (Gujarat Amendment) Act, 2009
7.	Sections 14, 17, 18(1)(a), and 46	The Border Security Force Act, 1968
8.	Sections 17 and 49	The Coast Guard Act, 1978
9.	Section 4(1)	The Commission of Sati (Prevention) Act, 1987
10.	Section 5	The Defence of India Act, 1971
11.	Section 3	The Geneva Conventions Act, 1960
12.	Section 3 (b)	The Explosive Substances Act, 1908
13.	Sections 16, 19, 20(1)(a), and 49	The Indo-Tibetan Border Police Force Act, 1992
14.	Section 3(1)(i)	The Karnataka Control of Organised Crime Act, 2000
15.	Section 3(1)(i)	The Maharashtra Control of Organised Crime Act, 1999
16.	Section 31A(1)	The Narcotics Drugs and Psychotropic Substances Act, 1985
17.	Sections 34, 35, 36, 37, 38, 39, 43, 44, 49(2)(a), 56(2), and 59	The Navy Act, 1957
18.	Section 15(4)	The Petroleum and Minerals Pipelines (Acquisition of rights of user in land) Act, 1962
19.	Sections 16, 19, 20(1)(a), and 49	The Sashtra Seema Bal Act, 2007
20.	Section 3(2)(i)	The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
21.	Section 3(1)(i)	The Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002;
22.	Sections 10(b)(i) and Section 16(1)(a)	The Unlawful Activities Prevention Act, 1967

Source: India. Law Commission of India, Report no.262 on Death Penalty, August 2015, pp.31-32

ABOLITIONIST AND RETENTIONIST COUNTRIES AS OF 31 DECEMBER 2014

The following are lists of countries in the four categories: abolitionist for all crimes, abolitionist for ordinary crimes only, abolitionist in practice and retentionist.

1. ABOLITIONIST FOR ALL CRIMES Countries whose laws do not provide for the death penalty for any crime: Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bhutan, Bolivia, Bosnia and Herzegovina, Bulgaria, Burundi, Cambodia, Canada, Cabo Verde, Colombia, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Haiti, Holy See, Honduras, Hungary, Iceland, Ireland, Italy, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niue, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Senegal, Serbia (including Kosovo), Seychelles, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sweden, Switzerland, Timor-Leste, Togo, Turkey, Turkmenistan, Tuvalu, Ukraine, UK, Uruguay, Uzbekistan, Vanuatu, Venezuela.

2. ABOLITIONIST FOR ORDINARY CRIMES ONLY Countries whose laws provide for the death penalty only for exceptional crimes such as crimes under military law or crimes committed in exceptional circumstances: Brazil, Chile, El Salvador, Fiji, Israel, Kazakhstan, Peru.

3. ABOLITIONIST IN PRACTICE Countries which retain the death penalty for ordinary crimes such as murder but can be considered abolitionist in practice in that they have not executed anyone during the last 10 years and are believed to have a policy or established practice of not carrying out executions: Algeria, Benin, Brunei Darussalam, Burkina Faso, Cameroon, Central African Republic, Congo (Republic of), Eritrea, Ghana, Grenada, Kenya, Laos, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mongolia, Morocco, Myanmar, Nauru, Niger, Papua New Guinea, Russian Federation, Sierra Leone, South Korea, Sri Lanka, Suriname, Swaziland, Tajikistan, Tanzania, Tonga, Tunisia, Zambia.

4. RETENTIONIST Countries that retain the death penalty for ordinary crimes: Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Chad, China, Comoros, Democratic Republic of the Congo, Cuba, Dominica, Egypt, Equatorial Guinea, Ethiopia, Gambia, Guatemala, Guinea, Guyana, India, Indonesia, Iran, Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Lesotho, Libya, Malaysia, Nigeria, North Korea, Oman, Pakistan, Palestine (State of), Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Somalia, South Sudan, Sudan, Syria, Taiwan, Thailand, Trinidad and Tobago, Uganda, United Arab Emirates, USA, Viet Nam, Yemen, Zimbabwe.

Annexure -III

Mercy Petitions Decided by the President of India

Sl. No.	Name of the President	Tenure	Number of Mercy Petitions Accepted	Number of Mercy Petitions Rejected	Total
1.	Dr. Rajendra Prasad	26.1.1950 – 3.5.1962	180	1	181
2.	Dr. Sarvapalli Radhakrishnan	13.5.1962 - 13.5.1967	57	0	57
3.	Dr. Zakir Hussain	13.5.1967 – 3.5.1969	22	0	22
4.	Shri V.V. Giri	3.5.1969 – 20.7.1969; 24.8.1969 – 24.8.1974	3	0	3
5.	Dr. Fakrudhin Ali Ahmed	24.8.1974 – 11.2.1977	NA	NA	0
6.	Shri N Sanjeeva Reddy	25.7.1977 – 5.7.1982	NA	NA	0
7.	Giani Zail Singh	25.7.1982 – 25.7.1987	2	30	32
8.	Shri R. Venkatraman	25.7.1987 – 25.7.1992	5	45	50
9.	Dr. Shankar Dayal Sharma	25.7.1992 – 25.7.1997	0	18	18
10.	Shri K.R. Narayanan	25.7.1997 – 25.7.2002	0	0	0
11.	Dr. A.P.J. Abul Kalam	25.7.2002 - 25.7.2007	1	1	2
12.	Smt. Pratibha Devisingh Patil	25.7.2007 – 25.7.2012	34	5	39
13.	Shri Pranab Mukherjee	25.7.2012 --	2	31	33
	Total		306	131	437

Source: India. Law Commission of India, Report no.262 on Death Penalty, August 2015, pp.188-189