
DEATH PENALTY IN INDIA: CONSTITUTIONAL VALIDITY, THE RAREST OF RARE DOCTRINES, AND THE CASE FOR REFORM

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ABSTRACT

The death penalty occupies a contested and constitutionally fraught position in Indian law. As one of the few remaining democracies that continues to retain capital punishment, India has developed a sophisticated yet inconsistently applied judicial framework for its administration, centred on the landmark doctrine of the ‘rarest of rare cases’ formulated by the Supreme Court in *Bachan Singh v. State of Punjab* in 1980. This paper examines the death penalty in India across four principal dimensions. First, it traces the historical and legislative evolution of capital punishment in India, from the colonial-era Indian Penal Code through to the *Bharatiya Nyaya Sanhita* of 2023, which preserves the death penalty for a range of offences. Second, it analyses the constitutional framework governing the imposition and review of death sentences, including the foundational validity inquiry conducted in *Jagmohan Singh and Bachan Singh*, the procedural requirements flowing from Article 21, and the clemency jurisdiction of the President and Governors under Articles 72 and 161. Third, it critically examines the application of the rarest of rare doctrine in practice, focusing on the acknowledged problem of inconsistency in sentencing, the emergence of the *Macchi Singh* categories, and subsequent corrective decisions including *Bariyar*, *Swamy Shraddananda*, *Wasnik*, and *Shatrughan Chauhan*. Fourth, the paper considers the normative arguments for and against retention of the death penalty, drawing on the Law Commission’s 262nd Report of 2015, international human rights law including Article 6 of the International Covenant on Civil and Political Rights, empirical findings on the socio-economic profile of death row prisoners from Project 39A, and comparative experience from the United States and abolitionist jurisdictions. The paper concludes that while the death penalty is currently constitutional as a matter of positive law, the cumulative evidence of arbitrary application, irreversibility, and the absence of a demonstrated deterrent effect provides a compelling normative case for restricting capital punishment to the narrowest category of offences, consistent with the direction recommended by the Law Commission of India.

Keywords: Death Penalty; Capital Punishment; Rarest of Rare; *Bachan Singh*; Constitutional Validity; Sentencing Reform

I. INTRODUCTION

Capital punishment is simultaneously one of the most ancient and most contested instruments of the criminal law. In India, it has survived both independence and the adoption of a rights-centred Constitution, retained as an available sanction for a range of offences, most centrally murder under what was Section 302 of the Indian Penal Code, 1860 and is now Section 101 of the Bharatiya Nyaya Sanhita, 2023.¹ Its continued existence in a constitutional framework that guarantees the right to life under Article 21 has generated a body of jurisprudence that is at once doctrinally sophisticated and, as this paper argues, practically inconsistent. This paper examines the death penalty in India through the lens of its constitutional validity, the judicial doctrine governing its application, the procedural and clemency architecture surrounding it, and the normative debate over whether it should continue to be retained. It draws on the principal Supreme Court decisions, the reports of the Law Commission of India, and empirical evidence on the administration of capital punishment to assess whether the current framework adequately satisfies the requirements of justice, consistency, and constitutional morality.

II. HISTORICAL AND LEGISLATIVE EVOLUTION

Capital punishment in India has a long pre-colonial and colonial history. In its modern form, the death penalty entered Indian law through the Indian Penal Code of 1860, which prescribed death as an available punishment for murder, waging war against the State, and a handful of other offences. The Code of Criminal Procedure, in its successive iterations culminating in the 1973 Code, established procedural safeguards requiring the recording of special reasons when a court imposes death rather than the alternative sentence of life imprisonment, and mandating confirmation of every death sentence by the High Court.² India's first execution after independence was that of Nathuram Godse, convicted of the assassination of Mahatma Gandhi, in November 1949. Subsequent decades saw periodic legislative expansion of the category of offences attracting the death penalty, including kidnapping for ransom, drug trafficking involving large quantities, and, following the horrific events of December 2012, rape resulting in the death or persistent vegetative state of the victim.

¹ Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India), § 101 (prescribing death or imprisonment for life for murder); see also Indian Penal Code, 1860, § 302 (the predecessor provision).

² Constitution of India arts. 134, 136 (conferring appellate and special leave jurisdiction on the Supreme Court in criminal matters, including death sentence cases where confirmation by the High Court is mandatory under Section 366 of the Code of Criminal Procedure, 1973).

The Law Commission of India addressed capital punishment as early as 1967, recommending in its 35th Report its retention on grounds of deterrence and the absence of evidence that abolition would reduce violent crime.³ A second report in 2003 addressed the mode of execution, recommending the substitution of hanging with lethal injection.⁴ The most significant report, however, was the 262nd Report of 2015, which reversed the Commission's earlier position and recommended the abolition of the death penalty for all offences except terrorism-related offences involving multiple deaths, concluding that the evidence of arbitrary application, the irreversible nature of the punishment, and the absence of a demonstrated deterrent effect collectively undermine the justification for its retention.⁵ The Bharatiya Nyaya Sanhita, 2023, which replaced the Indian Penal Code with effect from July 2024, retains the death penalty for the same range of offences, without implementing the Commission's recommendations.

III. CONSTITUTIONAL FRAMEWORK

A. Validity under Articles 14, 19, and 21

The constitutionality of the death penalty was first examined by the Supreme Court in *Jagmohan Singh v. State of Uttar Pradesh*, where a Constitution Bench unanimously upheld Section 302 of the IPC, holding that the death penalty did not violate Articles 14, 19, or 21 of the Constitution.⁶ The decisive constitutional examination came, however, in *Bachan Singh v. State of Punjab*, decided in 1980 by a Constitution Bench of five judges, which confirmed the validity of the death penalty by a majority of four to one.⁷ The majority, in an opinion delivered by Justice Sarkaria, held that Article 21, which permits deprivation of life in accordance with a procedure established by law, does not prohibit the death penalty provided that the procedure is fair, just, and reasonable. The Court rejected the argument that the unfettered judicial discretion in sentencing rendered the provision void for arbitrariness under Article 14, holding

³ Law Commission of India, Report No. 35, Capital Punishment (1967).

⁴ Law Commission of India, Report No. 187, Mode of Execution of Death Sentence and Incidental Matters (2003).

⁵ Law Commission of India, Report No. 262, The Death Penalty (Aug. 2015) (recommending abolition of the death penalty for all offences other than terrorism-related offences involving multiple deaths, and noting that India's experience with capital punishment reflects persistent arbitrariness, irreversibility, and lack of evidence of a deterrent effect).

⁶ *Jagmohan Singh v. State of Uttar Pradesh*, (1973) 1 SCC 20, AIR 1973 SC 947 (first Supreme Court ruling upholding the constitutionality of the death penalty in independent India).

⁷ *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684, AIR 1980 SC 898 (Constitution Bench, 4:1, majority opinion by Sarkaria J., dissent by Bhagwati J.).

instead that the requirement under Section 354(3) of the Code of Criminal Procedure to record special reasons for imposing death provided a sufficient safeguard. Justice Bhagwati dissented, arguing that the arbitrary manner in which courts exercise sentencing discretion in practice renders the death penalty necessarily violative of Article 14.⁸

B. The Rarest of Rare Doctrine

The central legacy of Bachan Singh is the formulation of the 'rarest of rare' doctrine: that the death penalty should be imposed only in those cases where life imprisonment is 'unquestionably foreclosed' as an appropriate sentence.⁹ The Court directed sentencing judges to balance aggravating against mitigating circumstances, emphasising that the latter, including the accused's background, mental condition, age, and prospects for reformation, must be accorded genuine weight. In *Macchi Singh v. State of Punjab*, the Court elaborated this framework into five categories of cases where the death penalty may be considered appropriate: those involving the extreme brutality or manner of commission of the offence, the disproportionate motive, the anti-social nature of the crime, the exceptional magnitude of the crime, or the particularly vulnerable nature of the victim.¹⁰ The mandatory imposition of the death penalty was declared unconstitutional in *Mithu v. State of Punjab*, where the Court struck down Section 303 IPC for removing judicial discretion entirely.¹¹ The subsequent category of 'life imprisonment without remission' was introduced in *Swamy Shraddananda (2) v. State of Karnataka* as an intermediate sentence, applicable where the court is unable to resolve the doubt as to whether death is warranted.¹²

C. Procedural Protections, Appellate Review, and Clemency

The constitutional and statutory framework surrounding the death penalty includes several

⁸ *Bachan Singh*, supra note 3, at para. 102 (Bhagwati J., dissenting) (arguing that the death penalty as administered in India necessarily involves arbitrariness and is therefore violative of Article 14).

⁹ *Id.* at para. 209 (formulating the 'rarest of rare' doctrine and holding that life imprisonment is the rule and death the exception, to be imposed only where 'the alternative option is unquestionably foreclosed').

¹⁰ *Macchi Singh v. State of Punjab*, (1983) 3 SCC 470, AIR 1983 SC 957 (elaborating the *Bachan Singh* framework into five categories of cases warranting the death penalty: manner of commission, motive, anti-social nature of the crime, magnitude of the crime, and personality of the victim).

¹¹ *Mithu v. State of Punjab*, (1983) 2 SCC 277, AIR 1983 SC 473 (striking down Section 303 of the Indian Penal Code, which mandated a death sentence for murder committed by a person under a sentence of life imprisonment, as unconstitutional for denying judicial discretion).

¹² *Swamy Shraddananda (2) v. State of Karnataka*, (2008) 13 SCC 767 (introducing the category of 'life imprisonment without remission' as an intermediate sentence between ordinary life imprisonment and the death penalty, applicable where the court is unable to resolve the doubt whether to impose death).

procedural safeguards. Every death sentence must be confirmed by the High Court and is subject to further appellate or special leave review by the Supreme Court. The convict may thereafter petition the President under Article 72 or the Governor under Article 161 of the Constitution for mercy, commutation, or pardon, a power that is executive in nature but subject to judicial review on grounds of arbitrariness or inordinate delay.¹³ In *Shatrughan Chauhan v. Union of India*, the Supreme Court held that unexplained and inordinate delay in the disposal of mercy petitions constitutes a ground for commutation of the death sentence to life imprisonment, and directed the commutation of the sentences of fifteen death row convicts on this ground.¹⁴ The manner of execution, hanging, was upheld in *Deena v. Union of India* as not constituting cruel or unusual punishment violating Article 21.¹⁵

IV. THE INCONSISTENCY PROBLEM: CRITIQUING THE RAREST OF RARE IN PRACTICE

Despite its elaborate doctrinal architecture, the application of the rarest of rare doctrine has been marked by significant inconsistency that has been acknowledged by the Supreme Court itself. In *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, the Court, while setting aside a death sentence, identified a systemic failure: sentencing courts routinely imposed death without independently examining the evidence relevant to mitigating circumstances or recording reasons for concluding that life imprisonment was foreclosed.¹⁶ In *Rajendra Prahladrao Wasnik v. State of Maharashtra*, a three-judge bench reaffirmed the mandatory duty to seek and consider a probation officer's report and other material on the probability of rehabilitation before imposing death,¹⁷ while *Mofil Khan v. State of Jharkhand* reiterated these requirements and criticised the failure of lower courts to comply with the *Bariyar* framework.¹⁸ *Md. Mannan v. State of Bihar* exemplified the remedial exercise the

13 Constitution of India arts. 72, 161 (conferring the power to grant pardons, reprieves, respites, or remissions of punishment on the President and Governors respectively).

14 *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1 (holding that undue, inordinate, and unexplained delay in the disposal of a mercy petition by the President or Governor under Articles 72 and 161 of the Constitution is a ground for commutation of the death sentence to life imprisonment).

15 *Deena v. Union of India*, (1983) 4 SCC 645, AIR 1983 SC 1155 (holding that execution by hanging, as prescribed by the Jail Manuals, does not constitute cruel or unusual punishment in violation of Article 21).

16 *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, (2009) 6 SCC 498 (holding that the death penalty cannot be imposed without first recording reasons for the rejection of the option of life imprisonment, and criticising the inconsistency in the application of the *Bachan Singh* framework).

17 *Rajendra Prahladrao Wasnik v. State of Maharashtra*, (2019) 12 SCC 460 (reaffirming that the sentencing court must seek and consider a probation officer's report and other material on the possibility of reformation before imposing death).

18 *Mofil Khan v. State of Jharkhand*, (2021) 16 SCC 173 (reiterating the mandatory duty to consider the probability of reformation as a mitigating factor before imposing the death penalty, and criticising the failure of

Supreme Court is periodically required to perform: setting aside a death sentence and substituting life imprisonment on the ground that neither the trial court nor the High Court had adequately examined mitigating circumstances.¹⁹

The empirical dimension of this inconsistency was illuminated by the Project 39A Death Penalty India Report of 2016, published by the National Law University Delhi, which found that the vast majority of persons on India's death row came from marginalised socio-economic backgrounds, had inadequate legal representation at trial, and were disproportionately drawn from religious and ethnic minorities.²⁰ These findings raise a serious concern that the arbitrariness identified by Justice Bhagwati in his Bachan Singh dissent²¹ is not a theoretical abstraction but a structural feature of capital sentencing as actually administered.

V. INTERNATIONAL FRAMEWORK AND COMPARATIVE PERSPECTIVES

The international human rights framework does not prohibit the death penalty absolutely, but imposes significant constraints on its application. Article 6 of the International Covenant on Civil and Political Rights, to which India is a party, provides that in countries that have not abolished the death penalty, it may be imposed only for the most serious crimes, may not be imposed for offences committed by persons below the age of eighteen, and must be carried out pursuant to a final judgment rendered by a competent court.²² India has not ratified the Second Optional Protocol to the ICCPR, which requires ratifying States to abolish the death penalty entirely.²³ As of 2023, over one hundred and twelve countries have abolished the death penalty in law or in practice, with Amnesty International recording India as retaining the penalty in law but classifying it as abolitionist in practice for ordinary crimes given the rarity of executions.²⁴

lower courts to follow the Bariyar framework).

19 Md. Mannan @ Abdul Mannan v. State of Bihar, (2019) 16 SCC 584 (the Supreme Court setting aside a death sentence and substituting life imprisonment on the ground, inter alia, that the trial court and the High Court had failed to adequately consider mitigating circumstances).

20 Project 39A, National Law University Delhi, Death Penalty India Report (2016) (finding that the majority of persons on death row in India are from marginalised socio-economic backgrounds, have inadequate legal representation, and are disproportionately drawn from minority communities).

21 V.R. Krishna Iyer, The Death Penalty: A Cruel and Unusual Punishment, in Perspectives on Punishment 112 (ed. Rajeev Dhavan, 1982); see also P.N. Bhagwati J., dissenting in Bachan Singh v. State of Punjab, (1980) 2 SCC 684.

22 International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171 (requiring that in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes and may not be imposed for crimes committed by persons below eighteen years of age).

23 Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, Dec. 15, 1989, 1642 U.N.T.S. 414 (India is not a party).

24 Amnesty International, Death Sentences and Executions 2023 (Apr. 2024) (recording that 55 countries

The comparative experience of the United States is instructive. In *Furman v. Georgia*, the United States Supreme Court effectively invalidated existing death penalty statutes as constituting cruel and unusual punishment due to the arbitrary manner in which they were administered, before the penalty was reinstated in *Gregg v. Georgia* following the introduction of structured sentencing guidelines.²⁵ The trajectory of Indian jurisprudence, moving from an initially permissive regime toward the structured but inconsistently applied rarest of rare framework, and now facing pressure from the Law Commission and civil society for further restriction or abolition, broadly mirrors the American experience, though without yet producing the decisive constitutional break represented by *Furman*.

VI. THE NORMATIVE DEBATE: ARGUMENTS FOR AND AGAINST RETENTION

The principal arguments traditionally advanced in favour of retaining the death penalty are deterrence, retribution, and the protection of society from those who have demonstrated an extreme capacity for violence. The deterrence argument, long prominent in Indian jurisprudence including the 35th Law Commission Report, has been substantially weakened by the absence of empirical evidence establishing a causal relationship between the availability of the death penalty and a reduction in the rates of the relevant offences; the 262nd Report concluded that the evidence simply does not support the deterrence rationale. The retributive argument, which underlies the ‘collective conscience of society’ formula periodically invoked by courts in capital cases, has been criticised as introducing an element of popular sentiment into what should be a principled constitutional inquiry governed by the objective standards set out in *Bachan Singh*.

Against retention, the arguments centre on irreversibility and the risk of executing the innocent, the demonstrated arbitrariness and socio-economic bias in application, the absence of evidence of deterrence, and the global trend toward abolition as reflecting an evolving standard of constitutional morality. The dissent of Justice Bhagwati in *Bachan Singh* and the subsequent critique by Justice V.R. Krishna Iyer encapsulate the abolitionist position within the Indian constitutional tradition. The *Vikram Singh* decision upholding the death penalty for kidnapping for ransom²⁶ illustrates the continuing legislative and judicial commitment to capital

retained the death penalty in law as of 2023, with India listed as an abolitionist in practice for ordinary crimes).

²⁵ *Furman v. Georgia*, 408 U.S. 238 (1972); *Gregg v. Georgia*, 428 U.S. 153 (1976) (U.S. Supreme Court decisions temporarily abolishing and subsequently reinstating the death penalty under structured sentencing guidelines).

²⁶ *Vikram Singh v. Union of India*, (2015) 9 SCC 502 (upholding the constitutionality of Section 364A of the

punishment for offences beyond murder, even as the 262nd Report recommended restricting its application significantly.

VII. CONCLUSION

The death penalty in India occupies a constitutionally valid but normatively precarious position. The rarest of rare doctrine, as conceived in *Bachan Singh*, represented a genuine effort to cabin the discretion of sentencing courts through a principled framework that balanced aggravating and mitigating circumstances and required the individualised assessment of each offender's capacity for reformation. The evidence accumulated over the four decades since that judgment suggests, however, that the doctrine has not achieved consistency in practice: sentencing courts at all levels continue to impose or affirm death sentences without adequate examination of mitigating circumstances, and the demographic profile of death row inmates reveals a disproportionate concentration of the poor, the under-represented, and the marginalised. The 262nd Report of the Law Commission of India has provided a carefully reasoned, evidence-based case for restricting the death penalty to terrorism-related offences, at a minimum, and the international consensus has continued to move in the direction of abolition. The challenge for Indian constitutional law is to translate the normative insights of that report and the corrective impulses of the Supreme Court's own post-Bariyar jurisprudence into a more consistent and constitutionally coherent framework for the administration of what remains, by reason of its irreversibility, the most consequential sanction available to the State.

Indian Penal Code, prescribing death for kidnapping for ransom).

BIBLIOGRAPHY:

1. Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India), § 101 (prescribing death or imprisonment for life for murder); see also Indian Penal Code, 1860, § 302 (the predecessor provision).
2. Jagmohan Singh v. State of Uttar Pradesh, (1973) 1 SCC 20, AIR 1973 SC 947 (first Supreme Court ruling upholding the constitutionality of the death penalty in independent India).
3. Bachan Singh v. State of Punjab, (1980) 2 SCC 684, AIR 1980 SC 898 (Constitution Bench, 4:1, majority opinion by Sarkaria J., dissent by Bhagwati J.).
4. Id. at para. 209 (formulating the 'rarest of rare' doctrine and holding that life imprisonment is the rule and death the exception, to be imposed only where 'the alternative option is unquestionably foreclosed').
5. Macchi Singh v. State of Punjab, (1983) 3 SCC 470, AIR 1983 SC 957 (elaborating the Bachan Singh framework into five categories of cases warranting the death penalty: manner of commission, motive, anti-social nature of the crime, magnitude of the crime, and personality of the victim).
6. Mithu v. State of Punjab, (1983) 2 SCC 277, AIR 1983 SC 473 (striking down Section 303 of the Indian Penal Code, which mandated a death sentence for murder committed by a person under a sentence of life imprisonment, as unconstitutional for denying judicial discretion).
7. Shatrughan Chauhan v. Union of India, (2014) 3 SCC 1 (holding that undue, inordinate, and unexplained delay in the disposal of a mercy petition by the President or Governor under Articles 72 and 161 of the Constitution is a ground for commutation of the death sentence to life imprisonment).
8. Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra, (2009) 6 SCC 498 (holding that the death penalty cannot be imposed without first recording reasons for the rejection of the option of life imprisonment, and criticising the inconsistency in the application of the Bachan Singh framework).
9. Vikram Singh v. Union of India, (2015) 9 SCC 502 (upholding the constitutionality of Section 364A of the Indian Penal Code, prescribing death for kidnapping for ransom).
10. Swamy Shraddananda (2) v. State of Karnataka, (2008) 13 SCC 767 (introducing the category of 'life imprisonment without remission' as an intermediate sentence between ordinary life imprisonment and the death penalty, applicable where the court is unable to resolve the doubt whether to impose death).
11. Rajendra Prahladrao Wasnik v. State of Maharashtra, (2019) 12 SCC 460 (reaffirming that the sentencing court must seek and consider a probation officer's report and other material on the

possibility of reformation before imposing death).

12. Law Commission of India, Report No. 35, Capital Punishment (1967).
13. Law Commission of India, Report No. 187, Mode of Execution of Death Sentence and Incidental Matters (2003).
14. Law Commission of India, Report No. 262, The Death Penalty (Aug. 2015) (recommending abolition of the death penalty for all offences other than terrorism-related offences involving multiple deaths, and noting that India's experience with capital punishment reflects persistent arbitrariness, irreversibility, and lack of evidence of a deterrent effect). Available at: <https://lawcommissionofindia.nic.in/reports/Report262.pdf>.
15. Constitution of India arts. 72, 161 (conferring the power to grant pardons, reprieves, respites, or remissions of punishment on the President and Governors respectively).
16. Constitution of India art. 21.
17. *Maneka Gandhi v. Union of India*, AIR 1978 SC 597, (1978) 1 SCC 248.
18. *Deena v. Union of India*, (1983) 4 SCC 645, AIR 1983 SC 1155 (holding that execution by hanging, as prescribed by the Jail Manuals, does not constitute cruel or unusual punishment in violation of Article 21).
19. International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171 (requiring that in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes and may not be imposed for crimes committed by persons below eighteen years of age).
20. Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, Dec. 15, 1989, 1642 U.N.T.S. 414 (India is not a party).
21. Amnesty International, *Death Sentences and Executions 2023* (Apr. 2024) (recording that 55 countries retained the death penalty in law as of 2023, with India listed as an abolitionist in practice for ordinary crimes). Available at: <https://www.amnesty.org/en/documents/act50/7952/2024/en/>.
22. *Furman v. Georgia*, 408 U.S. 238 (1972); *Gregg v. Georgia*, 428 U.S. 153 (1976) (U.S. Supreme Court decisions temporarily abolishing and subsequently reinstating the death penalty under structured sentencing guidelines).
23. *Attorney General for England and Wales v. Robb*, [1995] Fam 127 (illustrating the comparative dimension of the right to life and bodily autonomy in capital punishment discourse).

24. V.R. Krishna Iyer, *The Death Penalty: A Cruel and Unusual Punishment*, in *Perspectives on Punishment* 112 (ed. Rajeev Dhavan, 1982); see also P.N. Bhagwati J., dissenting in *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.
25. *Bachan Singh*, supra note 3, at para. 102 (Bhagwati J., dissenting) (arguing that the death penalty as administered in India necessarily involves arbitrariness and is therefore violative of Article 14).
26. Project 39A, National Law University Delhi, *Death Penalty India Report* (2016) (finding that the majority of persons on death row in India are from marginalised socio-economic backgrounds, have inadequate legal representation, and are disproportionately drawn from minority communities). Available at: <https://project39a.com/death-penalty-india-report/>.
27. *Md. Mannan @ Abdul Mannan v. State of Bihar*, (2019) 16 SCC 584 (the Supreme Court setting aside a death sentence and substituting life imprisonment on the ground, inter alia, that the trial court and the High Court had failed to adequately consider mitigating circumstances).
28. *Mofil Khan v. State of Jharkhand*, (2021) 16 SCC 173 (reiterating the mandatory duty to consider the probability of reformation as a mitigating factor before imposing the death penalty, and criticising the failure of lower courts to follow the Bariyar framework).
29. Constitution of India arts. 134, 136 (conferring appellate and special leave jurisdiction on the Supreme Court in criminal matters, including death sentence cases where confirmation by the High Court is mandatory under Section 366 of the Code of Criminal Procedure, 1973).