HIDDEN SUFFERERS: EXAMINING THE LEGAL INVISIBILITY AND REHABILITATION OF THE INNOCENT FAMILY MEMBERS OF DEATH ROW CONVICTS IN INDIA

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ABSTRACT

Capital punishment remains one of the most debated issue of the criminal justice system, yet its impact does not end with the execution of death row convicts but continues to affect the lives of their family members who suffers social isolation, economic hardships and emotional trauma. This research examines the issue of vicarious victimization and legal invisibility faced by the families of death row convicts in India. Criminal law mainly focuses on the rights and compensation of the victims and offenders, but the suffering experienced by the families of death row convicts still receives very limited legal recognition and is rarely addressed within the present legal and policy system. This research adopts a non- doctrinal research methodology and it is based on both primary and secondary data to analyse the exclusion faced by the families of death row convicts. Primary data for this research will be collected through a structured questionnaire. Respondents will be selected through Convenience sampling method. Secondary data will be collected from the law commission reports, government reports, Prison reform studies, NALSAR death penalty statistics, United Nations publications and scholarly writing related to victimology and human rights. The collected data will be analytically and comparatively examined to understand the common pattern of discrimination and institutional neglect faced by the families of death row convicts.The research attempts to highlight that the existing legal framework does not adequately address the indirect suffering faced by the families of death row convicts and emphasis the need for more humane and balanced approach in recognition of their rights within the criminal justice system.

Keywords: Hidden Sufferers, Vicarious Victimization, Legal Invisibilty, Rehabilitation, Innocent Family Members of Death Row Convicts

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1.1 Introduction

Capital punishment is imposed upon an individual offender, but its consequences may extend beyond the person sentenced to death and affect innocent members of the offender's family. Family members of death row convicts may experience psychological distress, emotional suffering, social stigma, economic hardship, disruption of family relationships and prolonged uncertainty, despite having no participation in or knowledge of the offence. These indirect experiences of harm may be examined through the conceptual lens of vicarious victimization., which recognises that individuals may experience the effects of crime or violence indirectly through their exposure to victimization occurring to persons within their family or social network.[2] In the context of death row families, however, the concept requires a distinct application because the death row convict is not being treated as the victim of the underlying offence; rather, the focus is on the innocent family members who experience adverse consequences because of their close relationship with a person accused, convicted and sentenced to death. Susan F. Sharp's study of families of death row prisoners demonstrates that the severity of the capital punishment process can extend to family members, who experience significant social, psychological and economic consequences and may consequently be understood as indirect victims of the initial crime.[3]

The Indian experience similarly demonstrates that the effects of capital punishment are not confined to the offender, with research documenting stigma, isolation and other hardships experienced by families of death row prisoners.[4] Despite these consequences, Indian criminal law does not specifically recognise innocent family members of death row convicts as a distinct category requiring rehabilitation. This creates a condition of legal invisibility, whereby persons experiencing vicarious victimization remain outside clearly defined statutory mechanisms of recognition and support. This study therefore uses the term Hidden sufferers to describe innocent family members of death row convicts who experience vicarious victimization but remain insufficiently recognised within the existing legal framework, and examines the need for a structured rehabilitation mechanism for them in India.

[2] Hartinger-Saunders et al., Family Level Predictors of Victimization and Offending Among Young Men, 37 J. Interpersonal Violence (2012)
[3] Susan F. Sharp, Hidden Victims: The Effects of the Death Penalty on Families of the Accused 17–23, 178 (Rutgers Univ. Press 2005)
[4] Project 39A, Deathworthy: A Mental Health Perspective of the Death Penalty (2021)

1.2 Need For the Study

The imposition of a death sentence may have consequences extending beyond the death row convict to innocent family members who experience indirect psychological, emotional, social and economic hardships. Although such experiences may be understood through the conceptual lens of vicarious victimization, these family members constitute a distinct and largely overlooked category within the criminal justice system. This study therefore conceptualises them as Hidden sufferers and examines their legal invisibility and need for rehabilitation in India

1.3 Significance of the Study

The study is significant in recognising the families of death row convicts as Hidden sufferers, who experience indirect consequences of capital punishment through vicarious victimization. It highlights the gap between their lived experiences and their limited recognition within the existing legal framework. The study also contributes to victimological and criminal justice scholarship by examining their legal invisibility and rehabilitation needs. Further, it seeks to suggest a rehabilitation framework that can address their psychological, educational, social and economic concerns

1.4 Background of the Study

The issue came to my attention while studying the broader consequences of the death penalty and its impact beyond the person sentenced to death. I observed that while the criminal justice system focuses primarily on the offence, offender and legally recognised victims, the innocent family members of death row convicts may also experience significant psychological, emotional, social and economic hardships. These family members may face stigma, isolation, financial difficulties and disruption of their everyday lives despite having no involvement in the offence. This raised the question of whether their experiences could be understood through vicarious victimization and whether they receive adequate recognition or support under the existing legal framework. This led me to examine these families as a distinct category of Hidden sufferers and to study their legal invisibility and rehabilitation needs in India.

1.5 Review of Literature

Sharp, S. F., Hidden Victims: The Effects of the Death Penalty on Families of the Accused

(2005) examines the experiences of family members of persons sentenced to death and highlights the psychological, social and economic consequences of capital punishment on families. The study shows that the effects of the death penalty may extend beyond the accused and affect innocent family members. It is relevant to the present study as it provides an important foundation for examining the families of death row convicts as Hidden sufferers and understanding their experiences of vicarious victimization. However, the study primarily focuses on the experiences of these families and does not specifically examine their legal invisibility or rehabilitation within the Indian legal framework.

King, R. & Norgard, K., What About Our Families? Using the Impact on Death Row Defendants' Family Members as a Mitigating Factor in Death Penalty Sentencing Hearings (1999) examines the impact of death sentences on the family members of death row defendants and consider whether the consequences suffered by these families should be taken into account as a mitigating factor during death penalty sentencing. The study is relevant to the present research as it demonstrates that the consequences of capital punishment may extend to innocent family members who are not responsible for the offence. However, it primarily examines the relevance of family impact in sentencing and does not focus on their independent legal recognition or rehabilitation after the death sentence.

Accumulated Suffering Under Relational Punishment: A Portrait of the Lives of Six Women on Death Row and Their Families(2024) examines the accumulated suffering experienced by women on death row and their families and highlights the continuing emotional and relational consequences associated with capital punishment. It is relevant to the present study as it demonstrates how the effects of a death sentence may extend into family relationships and affect persons who are indirectly connected with the punishment. However, it is based on a limited group of families and does not specifically examine the legal status or rehabilitation framework for innocent family members in India.

Bagheri, R., Family Dynamics and Death Row: A Dual-Theory Approach (2026) examines the relationship between death row incarceration and family dynamics through a dual-theory approach. The study is relevant to the present research as it contributes to understanding the effects of death row imprisonment on family relationships and the difficulties experienced by family members. However, it primarily focuses on family dynamics and does not specifically address the concept of Hidden sufferers, vicarious victimization, legal invisibility, or a statutory rehabilitation framework in India.

Quaker United Nations Office (QUNO), Children of Parents Sentenced to Death or Executed:

Forgotten Victims(2013) highlights the experiences of children whose parents have been sentenced to death or executed and draws attention to the psychological, social and developmental consequences faced by these children. It is relevant to the present study as it demonstrates that the consequences of capital punishment may extend to innocent dependent family members, particularly children. However, it focuses primarily on children of persons sentenced to death or executed and does not examine the broader legal recognition and rehabilitation of all innocent family members of death row convicts within the Indian legal framework.

1.6 Research Gap

The existing literature explains the psychological, social, and economic difficulties faced by the innocent family members of death row convicts. However, most studies focus only on these experiences from sociological, criminological, or human rights perspectives. The victimological dimension particularly concerning their legal recognition and rehabilitation as hidden sufferers has received limited scholarly attention. Hence, the present study seeks to address this gap in the Indian legal context.

1.7 Research Problem

The death penalty is imposed on the death row convict, but its consequences may extend to innocent family members who experience psychological, emotional, social and economic hardships through the lens of vicarious victimization. Despite these experiences, the families of death row convicts remain a largely unrecognised category within the Indian legal framework, with no specific mechanism addressing their legal invisibility and rehabilitation needs. This study therefore examines these families as Hidden sufferers and explores the need for appropriate legal recognition and rehabilitation measures in India.

1.8 Research Questions

1. Does the imposition of the death sentence in India contribute to the psychological, social, educational, and economic hardships experienced by the innocent family members of death row convicts?

2.Whether the existing legal framework in India adequately addresses the legal invisibility and rehabilitation needs of the innocent family members of death row convicts?

3.Whether a rehabilitation framework for the innocent family members of death row convicts

in India should primarily provide psychological support, legal aid, essential educational assistance for dependent children, and appropriate measures for social reintegration?

4.How can comparative legal frameworks strengthen the legal recognition and rehabilitation of the innocent family members of death row convicts in India?

1.9 Hypothesis

H1. The imposition of the death sentence contributes to the psychological, social, educational, and economic hardships experienced by the innocent family members of death row convicts in India.

H2. The existing legal framework in India is inadequate to address the legal invisibility and rehabilitation needs of the innocent family members of death row convicts.

1.10 Aim and objectives of the Study

Aim:To examine the vicarious victimization, legal invisibility and rehabilitation needs of innocent family members of death row convicts in India by conceptualising them as Hidden sufferers.

1. To examine the psychological, social, educational and economic hardships experienced by innocent family members of death row convicts.

2. To examine the adequacy of the existing Indian legal framework in addressing their legal invisibility and rehabilitation needs.

3. To identify the rehabilitation measures required to address the needs of innocent family members of death row convicts.

4. To examine comparative legal and support mechanisms and explore their relevance to developing a rehabilitation framework for Hidden Sufferers in India.

1.11 Research Methodology

The present study adopts a non-doctrinal research methodology to examine the vicarious victimization, legal invisibility and rehabilitation needs of innocent family members of death row convicts in India. The study is based on both primary and secondary data. Primary data were collected through a structured questionnaire circulated through Google Forms, with 85

respondents participating in the survey. The questionnaire collected demographic details including age, gender and occupation and consisted of 10 close ended questions with four response options: Strongly Agree, Agree, Disagree and Strongly Disagree. The respondents belonged to different occupational groups, including students, advocates, government employees, private employees and others. Secondary data were collected from books, journal articles, research papers, statutes, case laws, government reports and other authentic sources. The primary data were analysed using frequency and percentage analysis and presented through tables and graphical representations to understand the respondents' perceptions regarding the impact of the death penalty on innocent family members, their legal invisibility and the need for rehabilitation.

1.12 Scope and Limitation

The present study is confined to the innocent family members of death row convicts in India and examines the psychological, social, educational and economic consequences experienced by them through vicarious victimization. It critically analyses the existing legal framework relating to their recognition and rehabilitation and explores comparative legal approaches to identify appropriate measures for strengthening rehabilitation in India. The study is specifically focused on death-row cases and does not extend to the families of persons sentenced to life imprisonment or other forms of imprisonment. The empirical findings are based on responses from a limited sample of 85 respondents and therefore reflect the perceptions of the selected participants rather than the lived experiences of all affected families. The study does not examine the constitutional validity of the death penalty or the criminal liability of death row convicts, but focuses specifically on the vicarious victimization, legal invisibility and rehabilitation needs of their innocent family members.

CHAPTER 2

HIDDEN SUFFERERS: VICARIOUS VICTIMIZATION AND THE EXPERIENCES OF FAMILIES OF DEATH ROW CONVICTS

2.1 Concept of Hidden Sufferers

The term Hidden sufferers is proposed in this study to refer to innocent family members of death row convicts who experience indirect psychological, emotional, social, educational and economic consequences arising from the criminal justice and capital punishment process, despite having no involvement in the underlying offence. Susan F. Sharp's study demonstrates

that the effects of capital punishment extend beyond the person facing execution and affect closely connected family members through psychological, social and economic consequences.[5]

The present study uses Hidden Sufferers as a proposed conceptual category, and not as an existing legal classification. These family members are not treated as victims of the underlying crime. Their experiences are examined through the conceptual lens of vicarious victimization, as they may experience indirect consequences because a person closely connected to them is subjected to criminal proceedings, conviction and the death penalty. The concept therefore highlights the gap between the actual suffering experienced by these families and their limited recognition within existing legal structures.

2.2 Vicarious Victimization in the Context of Death Row Families

Vicarious victimization provides the conceptual lens for understanding how the consequences of criminal justice processes may extend to persons closely connected to the individual directly involved in those proceedings. In the context of this study, the death row convict is not considered a victim of the underlying offence. The focus is exclusively on innocent family members who experience indirect consequences because of the conviction and death sentence imposed upon their family member. Sharp's research describes family members of persons facing execution as experiencing indirect consequences and a socially isolating grief process.[6]

The application of vicarious victimization to death row families is therefore a conceptual application rather than an established legal classification. Research concerning families of death row prisoners has documented psychological distress, stigma, social isolation, economic difficulties and disruption of family life. Indian research has also identified significant psychological and social consequences associated with the death penalty and its impact on prisoners and their families.[3]

2.3 Major Experiences of Hidden Sufferers

The consequences experienced by innocent family members may include psychological, social, economic and educational difficulties. Families may experience anxiety, fear, grief, uncertainty and emotional distress during the prolonged death penalty process. They may also face stigma,

[5] Susan F. Sharp, Hidden Victims: The Effects of the Death Penalty on Families of the Accused 17, 23, 178 (Rutgers Univ. Press 2005)
[6] Id. at 17, 23

social isolation and difficulties in maintaining ordinary social relationships because of their association with a person sentenced to death. Research by Sharp identifies psychological, social and economic repercussions among families affected by capital punishment.[7]

The consequences may also affect economic stability and children's education. Loss of income, financial difficulties, disruption of family life and social stigma can place additional pressure on the household. Children may experience educational and social difficulties despite having no involvement in the offence. These consequences demonstrate why the family members concerned may remain hidden within the criminal justice framework despite experiencing significant indirect harm.

CHAPTER 3

INTERNATIONAL AND NATIONAL LEGAL FRAMEWORK FOR PROTECTION AND REHABILITATION

3.1 International Human Rights Framework

International human rights law does not expressly recognise the innocent family members of deathr ow convicts as a separate category of victims. However, several international instruments recognise the importance of human dignity, family life, children's rights, social protection and rehabilitation.

3.1.1 Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights provides the basic international foundation for examining the rights of families affected by criminal justice processes. Article 12 protects individuals against arbitrary interference with their privacy and family, while Article 16(3) recognises the family as the natural and fundamental group unit of society entitled to protection by society and the State. Article 25 further recognises the right to an adequate standard of living for oneself and one's family, including necessary social services.[8]

[7] Project 39A, Deathworthy: A Mental Health Perspective of the Death Penalty (2021)
[8] Universal Declaration of Human Rights arts. 12, 16(3), 25, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (1948)

3.1.2 International Covenant on Civil and Political Rights, 1966

The International Covenant on Civil and Political Rights is particularly relevant because it addresses both the right to life and the protection of family life. Article 6 deals with the right to life and places safeguards around the imposition and execution of the death penalty. Article 17 protects individuals against arbitrary or unlawful interference with their privacy and family, while Article 23 recognises the family as entitled to protection by society and the State. Article 24 provides special protection to children.[9]

For the present study, Article 17 and Article 23 are particularly significant because the consequences of prolonged death row incarceration and execution may affect the family relationships and social circumstances of persons who have themselves committed no offence.

3.1.3 Convention on the Rights of the Child, 1989

The Convention on the Rights of the Child is important where the family of a death-row convict includes dependent children. Article 2 requires non-discrimination, Article 3 requires the best interests of the child to be a primary consideration, Article 9 deals with separation from parents, and Article 28 recognises the child's right to education.[10]

The principle of the best interests of the child is particularly significant because children may experience consequences from the imprisonment or execution of a parent despite having no involvement in the offence. The Committee on the Rights of the Child has emphasised that the best interests of the child must be assessed and treated as a primary consideration in decisions affecting children.Therefore, educational assistance, psychological support and protection from social stigma may be considered important components of any future rehabilitation framework for children of death row convicts.

3.1.4 Nelson Mandela Rules, 2015

The United Nations Standard Minimum Rules for the Treatment of Prisoners, commonly known as the Nelson Mandela Rules, recognise the importance of maintaining prisoners' relationships with their families. Rule 58 provides for regular communication and visits with

[9] International Covenant on Civil and Political Rights arts. 6, 17, 23–24, Dec. 16, 1966, 999 U.N.T.S. 171
[10] Convention on the Rights of the Child arts. 2, 3, 9, 28, Nov. 20, 1989, 1577 U.N.T.S. 3.

family and friends, while Rule 106 emphasises the maintenance and improvement of relationships between prisoners and their families.[11]

These provisions are relevant because family relationships constitute an important aspect of the social consequences of imprisonment.

3.2 Constitutional Framework in India

The Constitution of India provides several principles that are relevant to examining the protection and rehabilitation of innocent family members of death-row convicts. Article 14 guarantees equality before law and equal protection of the laws, which may be considered in relation to equal access to welfare, legal assistance and rehabilitation measures. Article 21, which is central to this study, protects life and personal liberty and has been judicially interpreted to include the right to live with human dignity.[12] This principle is relevant to the psychological, social and economic hardships that may be experienced by family members as an indirect consequence of the death-penalty process. Article 21A guarantees free and compulsory education to children between six and fourteen years of age and is therefore relevant to dependent children who may experience educational disruption because of the family's circumstances.[13] Although the death sentence is imposed upon the convict and not upon the family, these constitutional principles provide a basis for examining whether the State should adopt measures that prevent innocent family members, particularly children, from suffering avoidable deprivation.

The Directive Principles of State Policy further strengthen the welfare-oriented dimension of the study. Article 38 directs the State to promote social justice and minimise inequalities, while Article 39(e) and (f) emphasise the protection of vulnerable persons and the healthy development of children in conditions of freedom and dignity.[14]Article 39A requires the State to promote equal justice and provide free legal aid so that access to justice is not denied because of economic or other disabilities.[15] These provisions do not expressly create a separate constitutional right to rehabilitation for families of death-row convicts; however, they provide

[11] G.A. Res. 70/175, annex, United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 58, 106, U.N. Doc. A/RES/70/175 (2015)
[12] INDIA CONST. arts. 14, 21; Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608
[13] INDIA CONST. art. 21A
[14] INDIA CONST. arts. 38, 39(e)–(f)
[15] INDIA CONST. art. 39A

important constitutional principles for evaluating whether existing welfare, educational, legal-aid and rehabilitation mechanisms adequately address their distinctive hardships. Accordingly, the present study examines whether these constitutional guarantees can provide indirect protection to the Hidden sufferers despite the absence of their express recognition as a separate statutory category.

3.3 Criminal Justice Framework – Bharatiya Nagarik Suraksha Sanhita, 2023

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) is particularly important because it provides the present statutory framework concerning victims, compensation and criminal procedure.

Section 2(1)(y) defines a "victim" as a person who has suffered loss or injury caused by the act or omission for which the accused has been charged and includes the guardian or legal heir of such victim.[16] This definition is important to the present study because it raises the question whether innocent family members of a death-row convict can fall within the statutory concept of victim merely because of the consequences experienced by them.

The BNSS also contains provisions relating to compensation and treatment of victims. Section 396 provides for a Victim Compensation Scheme, while Section 397 deals with the treatment of victims in specified offences.[17]

However, the present study must distinguish between families of victims of the underlying offence and families of the person convicted of the offence. The latter are not automatically included merely because they experience psychological or economic hardship. This distinction is central to the argument concerning their legal invisibility.

The BNSS also contains provisions relating to death sentences and mercy petitions. Section 472 deals with the procedure relating to mercy petitions in death sentence cases.[18] These provisions are relevant because the death penalty process may continue over a considerable period and may affect the lives of innocent family members.

Thus, the BNSS provides several mechanisms concerning victims, compensation, legal

[16] Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023, Sec. 2(1)(y), India Code (2023)
[17] Id. Secs. 396–397
[18] Id. Sec. 472

procedure and death sentences, but it does not expressly create a separate statutory category of innocent family members of death row convicts requiring rehabilitation.

3.4 Prison and Correctional Framework

Prison administration in India is primarily a State responsibility because "prisons" and "persons detained therein" fall within the State List. The Ministry of Home Affairs nevertheless provides model frameworks and guidance to States and Union Territories, including the Model Prison Manual, 2016 and the Model Prisons and Correctional Services Act, 2023.[19]

3.4.1 Prisons Act, 1894

The Prisons Act, 1894 constitutes the traditional statutory framework for prison administration. Its primary focus is the regulation and administration of prisons and prisoners. Therefore, it does not establish a comprehensive rehabilitation framework specifically for innocent family members of death row convicts.

3.4.2 Model Prison Manual, 2016

The Model Prison Manual, 2016 provides guidance concerning prison administration, prisoner welfare, communication, visits, legal assistance and rehabilitation. It is relevant to this research because maintaining family contact can reduce the social isolation associated with imprisonment.

3.4.3 Model Prisons and Correctional Services Act, 2023

The Model Prisons and Correctional Services Act, 2023 adopts a broader correctional approach to prison administration and rehabilitation. However, it is a model framework rather than a centrally enacted law applicable automatically throughout India. The Ministry of Home Affairs circulated it to States and Union Territories for adoption with necessary modifications.[20]

3.4.4 Tamil Nadu Prison Rules, 2024

The Tamil Nadu Prison Rules, 2024 specifically assign duties to the Welfare Officer, including

[19] Ministry of Home Affairs, Government of India, Prison Reforms
[20] Ministry of Home Affairs, Government of India, Model Prisons and Correctional Services Act, 2023

maintaining prisoners' family relationships, arranging correspondence and helping and protecting the family of every prisoner during the period of imprisonment or detention. The Rules also provide for assistance concerning mercy petitions for prisoners sentenced to death and liaison with legal aid authorities.[21]

3.6 Judicial Approach

1. Aliboeva v. Tajikistan[22]

The Human Rights Committee considered the complaint of the wife of an executed prisoner and found that the failure of the authorities to inform her about the execution and the location of the burial caused serious mental suffering. The Committee held that the treatment amounted to a violation of Article 7 of the ICCPR. The case demonstrates that the consequences of capital punishment may extend beyond the condemned person to family members.

2. Shatrughan Chauhan v. Union of India[23]

The Supreme Court examined the constitutional consequences of prolonged delay in the execution of death sentences and held that undue delay could justify commutation of the death sentence under Article 21.The Court recognised the severe human consequences associated with prolonged death-row incarceration and the execution process. Although the judgment primarily concerns the rights of death row prisoners, it provides an important constitutional foundation for examining the wider human consequences of capital punishment.

3. Sunil Batra v. Delhi Administration[24]

The Supreme Court examined the treatment of prisoners, including a prisoner under sentence of death, and emphasised that imprisonment does not completely extinguish constitutional rights. The Court recognised the importance of allowing prisoners reasonable visits from family members and close friends as part of their rights, subject to security requirements.This case is connected to the present research because maintaining family relationships during

[21] Tamil Nadu Prison Rules, 2024, r. 127(b)–(k), Tamil Nadu Gazette (2024)
[22] Aliboeva v. Tajikistan, Communication No. 985/2001, ¶ 7.9, U.N. Doc. CCPR/C/85/D/985/2001 (Human Rights Comm. 2005)
[23] Shatrughan Chauhan v. Union of India, (2014) 3 SCC 1
[24] Sunil Batra v. Delhi Administration, (1978) 4 SCC 494

imprisonment is an important aspect of the welfare of both prisoners and their families.

4. Francis Coralie Mullin v. Administrator, Union Territory of Delhi[25]

The Supreme Court held that the right to live with human dignity forms part of Article 21 and that reasonable opportunities for a detained person to meet family members and friends are connected with personal liberty.The Court found restrictions that unnecessarily limited family interviews to be inconsistent with Articles 14 and 21. This case is relevant to the present study because it establishes the constitutional importance of family contact and human dignity within detention.

CHAPTER 4

GOVERNMENT SCHEMES AND INSTITUTIONAL SUPPORT FOR PRISONERS' FAMILIES

4.1 Central Government Mechanisms

At the Central level, support relating to prisoners is provided through specific welfare and legal assistance mechanisms rather than through a single comprehensive scheme for prisoners' families. The Ministry of Home Affairs implements the Support to Poor Prisoners Scheme, which provides financial assistance in appropriate cases to poor prisoners who are unable to secure release because of financial difficulties relating to bail or fines.[26]Although the scheme primarily benefits prisoners, it is relevant to the present study because financial difficulties arising from incarceration may also affect the family.

A more directly relevant measure is the National Legal Services Authority Campaign for Legal Assistance to Family Members of Prisoners. The campaign provides free legal assistance and facilitates access to welfare schemes, identity documents, counselling and legal awareness for eligible family members of prisoners.[27]This represents an important institutional recognition that incarceration can create legal, social and economic difficulties for family members. However, it is a general support mechanism and does not specifically address the distinctive

[25] Francis Coralie Mullin v. Administrator, Union Territory of Delhi, (1981) 1 SCC 608
[26] Ministry of Home Affairs, Government of India, Support to Poor Prisoners Scheme (2025)
[27] National Legal Services Authority, A Campaign for Legal Assistance to Family Members of Prisoners (2025)

psychological and rehabilitative needs of families of death row convicts.

4.2 State Government Schemes for Prisoners Families

State Governments have introduced different welfare measures to address the financial, educational and livelihood difficulties faced by prisoners and their dependants.

4.2.1 Gujarat: Financial Assistance to Families of Prisoners

Gujarat has been reported as providing financial assistance to eligible families of prisoners, particularly where the prisoner is serving a substantial sentence and is a major or sole earning member of the household. The assistance is intended to reduce the financial hardship faced by dependent family members.[28] This is relevant to the present study because it reflects recognition of the economic consequences of imprisonment on innocent family members. However, it does not specifically address the psychological, social and rehabilitative consequences associated with a death sentence

4.2.2 Kerala: Welfare Schemes for Prisoners' Families

Kerala provides several welfare measures for prisoners' families through its Department of Social Justice. The Self Employment Scheme for Dependants of Prisoners provides financial assistance to eligible dependants to undertake income generating activities. The State also provides Educational Assistance to Children of Prisoners, including support for school and higher education, and Marriage Assistance to Daughters of Prisoners subject to the prescribed eligibility conditions.[29] These schemes address important economic and educational difficulties that may arise for family members because of imprisonment. However, they are general welfare measures and do not specifically provide comprehensive psychological, social or rehabilitative support to families of death row convicts

4.3 Critical Assessment

The existing Central and State mechanisms demonstrate that prisoners' families are not completely excluded from government assistance. Financial, educational, livelihood and legal

[28] Tata Institute of Social Sciences, A Study on Social Work with Children of Prisoners (2024)
[29] Department of Social Justice, Government of Kerala, Self Employment Scheme for Dependents of Prisoners; Educational Assistance to Children of Prisoners; Marriage Assistance to Daughters of Prisoners.

support are available through different schemes and institutions. However, these mechanisms generally address specific welfare needs of prisoners' families and do not constitute a specialised rehabilitation framework for innocent family members of death row convicts.

The principal gap identified by this study is therefore not the complete absence of assistance, but the absence of a coordinated framework addressing the psychological, social, educational, economic and legal consequences experienced by Hidden sufferers.

CHAPTER 5

COMPARATIVE ANALYSIS OF SUPPORT MECHANISMS FOR FAMILIES OF DEATH ROW CONVICTS

5.1 Malaysia

In Malaysia, Pertubuhan Kebajikan Keluarga Kasih, established by family members of death row prisoners with support from the Anti Death Penalty Asia Network, provides a collective platform for affected families. Its activities include emotional support, legal awareness and assistance in understanding mercy petition proceedings.[30] The Malaysian experience demonstrates the value of family led support and legal awareness, although it does not constitute a specific statutory rehabilitation framework.

5.2 Indonesia

In Indonesia, LBH Masyarakat, a community legal aid organisation, provides legal assistance and advocacy in death penalty matters. Its work has documented the wider social and economic consequences associated with death penalty cases and advocates stronger legal and policy safeguards.[31] This approach demonstrates the importance of legal assistance, documentation and policy advocacy in addressing the difficulties experienced by families affected by capital punishment.

5.3 United States

In the United States, Murder Victims' Families for Human Rights brings together families

[30] Anti Death Penalty Asia Network, Pertubuhan Kebajikan Keluarga Kasih, available at ADPAN
[31] LBH Masyarakat et al., Joint Stakeholders' Report on the 4th UPR of Indonesia on Issues Relating to the Death Penalty (2022)

affected by murder and families of persons facing the death penalty and promotes human rights, education and advocacy. The organisation highlights the emotional and psychological consequences experienced by families affected by capital punishment.[32]The United States experience demonstrates the importance of emotional support, public awareness and family participation, although there is no single nationwide statutory rehabilitation framework specifically for innocent families of death row prisoners.

5.4 England and Wales

In England and Wales, the Prison Advice and Care Trust provides support to prisoners and their families, including emotional support, practical assistance and services for children affected by parental imprisonment.[33] Government information also identifies PACT among the organisations providing support to families of prisoners.[34]Although these services are not specific to death row cases, they demonstrate the value of family counselling, child focused assistance, maintaining family relationships and practical support.

5.5 Comparative Assessment

The four examples demonstrate different forms of support for families affected by imprisonment and capital punishment. Malaysia illustrates family led emotional and legal support, Indonesia demonstrates legal aid and policy advocacy, the United States demonstrates family awareness and human rights advocacy, and England and Wales provide structured family and child support services.

However, none of these examples establishes a comprehensive statutory framework specifically recognising innocent family members of death row convicts as a separate rehabilitation category. Their relevance to India therefore lies in identifying practical components that may strengthen the proposed framework for Hidden sufferers, particularly psychological support, legal assistance, child focused assistance, family support and social reintegration.

[32] Murder Victims' Families for Human Rights, About MVFHR (website)
[33] Prison Advice and Care Trust, Supporting Children with Parents in Prison (website)
[34] UK Government, Support for Families and Friends of Prisoners (website)

CHAPTER 6

FIELD STUDY

6.1 Research Methodology

The present study adopts a non doctrinal empirical research design. Primary data were collected through a structured questionnaire circulated using Google Forms, with 85 respondents participating in the survey. The questionnaire consisted of 10 close ended questions with four response options: Strongly Agree, Agree, Disagree and Strongly Disagree. The collected data were analysed using frequency and percentage analysis and presented through tables and graphs.

6.2 Demographic Profile of Respondents

1. Age

Options:

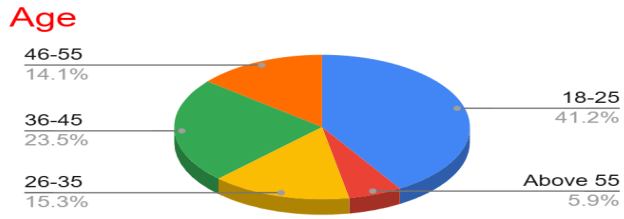
18 to 25

26 to 35

36 to 45

46 to 55

Above 55

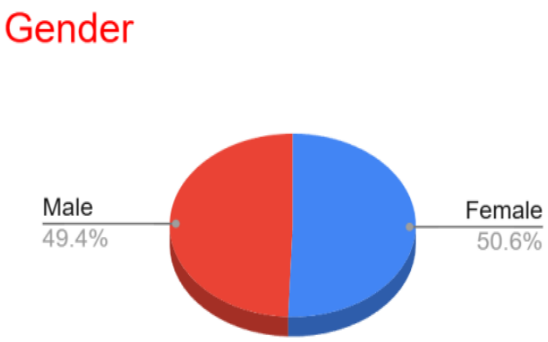


2.Gender

Options:

Male

Female



3.Occupation

Options:

Student

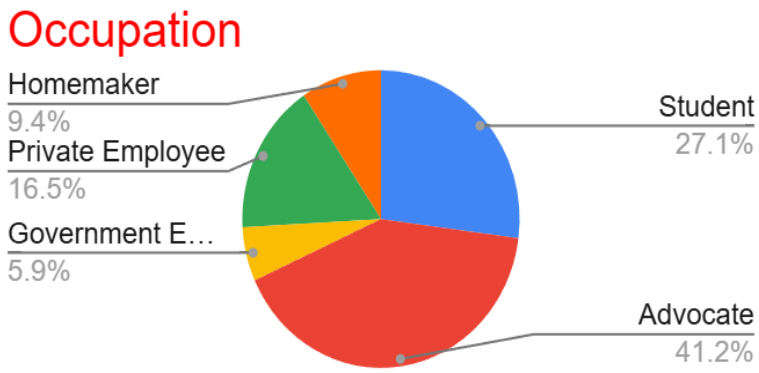
Advocate

Government Employee

Private Employee

Homemaker

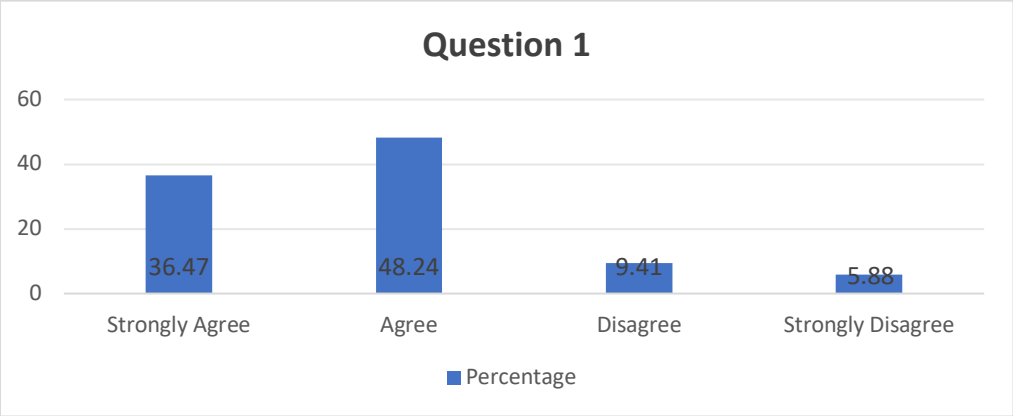
Other



6.3 Analysis of Research Questions

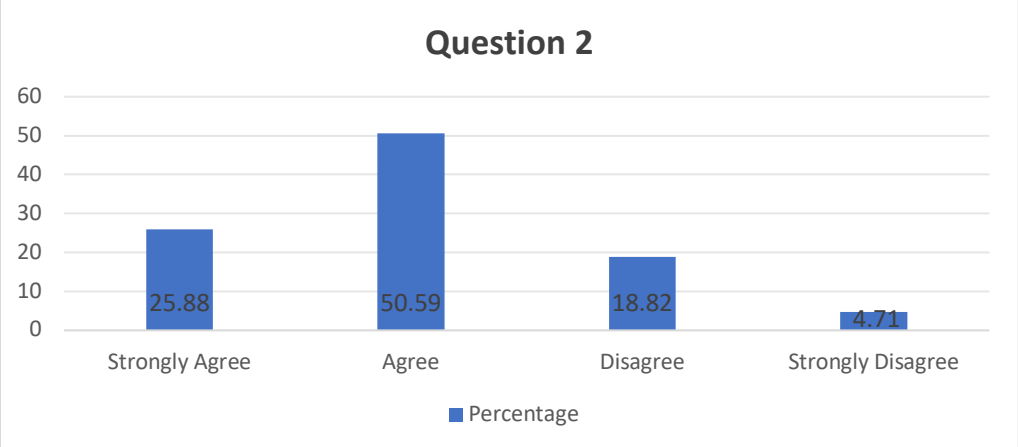
1. Do you think that the consequences of a death sentence affect not only the offender but also the innocent family members of death row convicts?

Response	Frequency	Percentage
Strongly Agree	31	36.47
Agree	41	48.24
Disagree	8	9.41
Strongly Disagree	5	5.88
Total	85	100



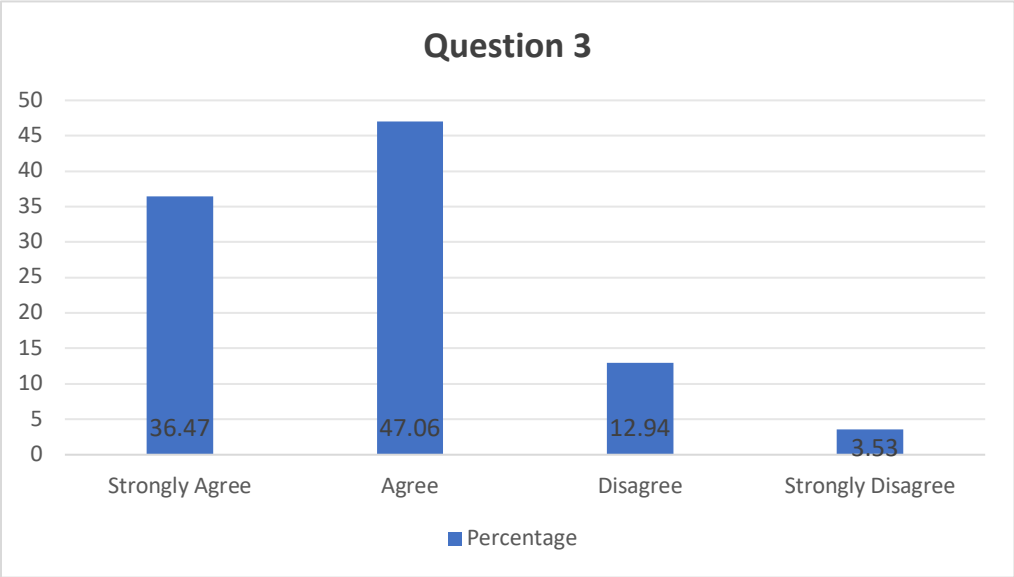
2.Do you think that innocent family members of death row convicts experience psychological and emotional suffering due to the consequences of the death sentence?

Response	Frequency	Percentage
Strongly Agree	22	25.88
Agree	43	50.59
Disagree	16	18.82
Strongly Disagree	4	4.71
Total	85	100



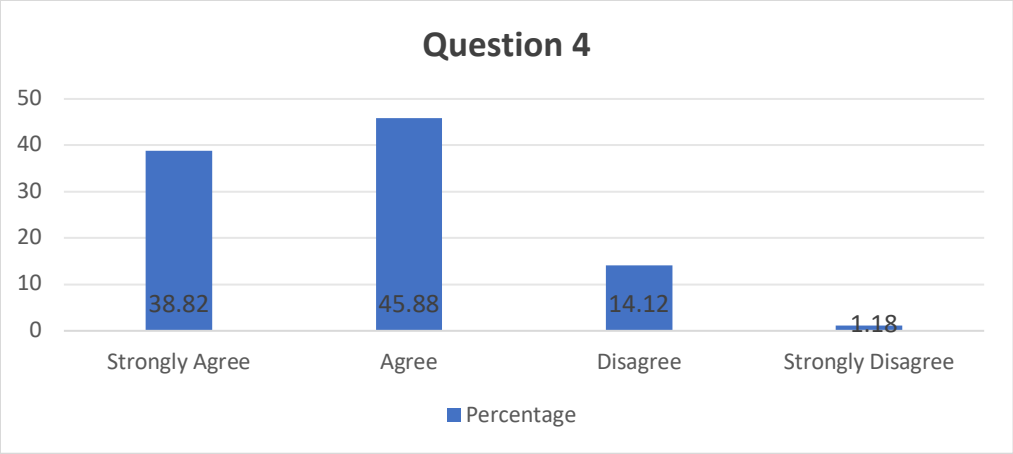
3.Do you think that the families of death row convicts experience social isolation and financial hardship because of the death sentence?

Response	Frequency	Percentage
Strongly Agree	31	36.47
Agree	40	47.06
Disagree	11	12.94
Strongly Disagree	3	3.53
Total	85	100



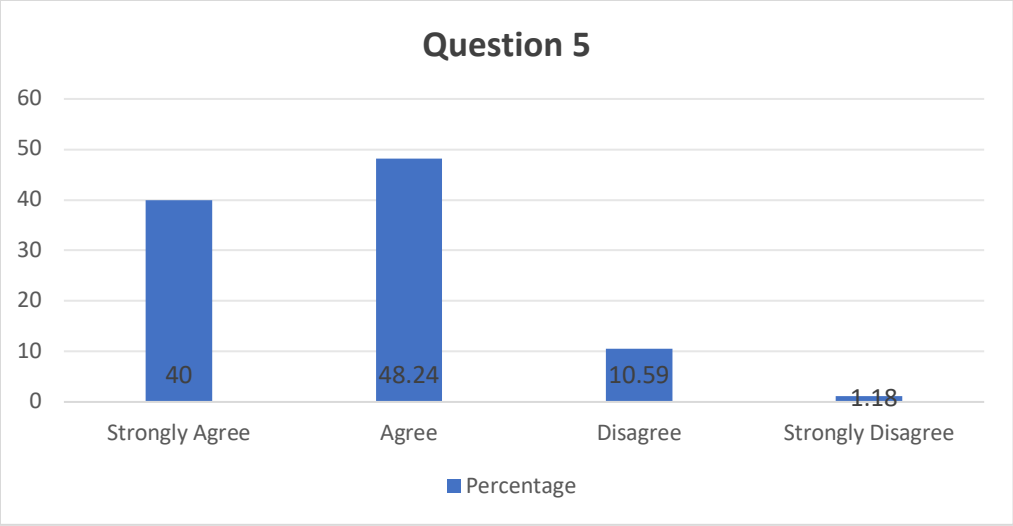
4.Do you think that children of death row convicts face barriers to education because of the consequences of the death sentence?

Response	Frequency	Percentage
Strongly Agree	33	38.82
Agree	39	45.88
Disagree	12	14.12
Strongly Disagree	1	1.18
Total	85	100



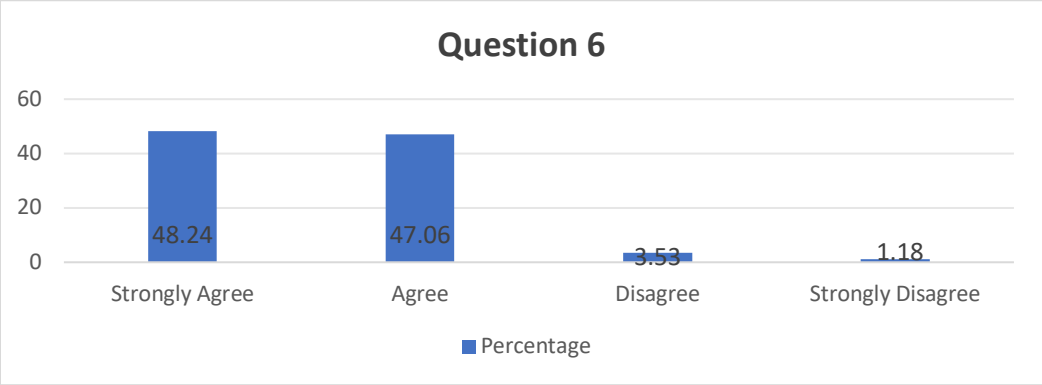
5.Do you think that the innocent family members of death row convicts require appropriate care, protection and support?

Response	Frequency	Percentage
Strongly Agree	34	40
Agree	41	48.24
Disagree	9	10.59
Strongly Disagree	1	1.18
Total	85	100



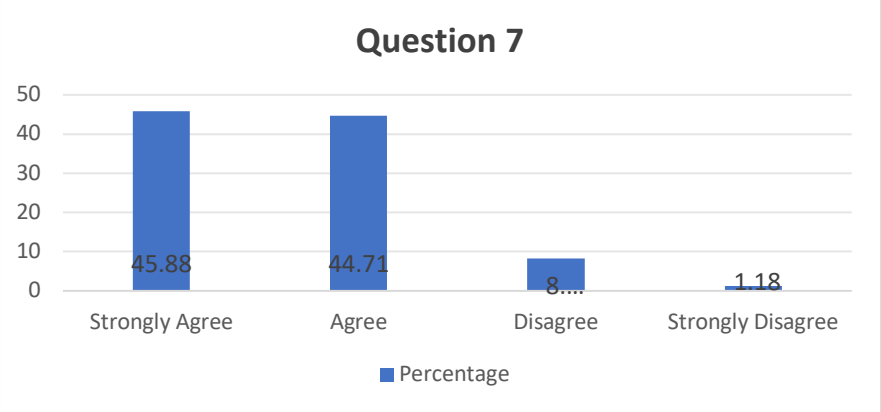
6.Do you think that the State should provide counselling and rehabilitation support to the innocent family members of death row convicts?

Response	Frequency	Percentage
Strongly Agree	41	48.24
Agree	40	47.06
Disagree	3	3.53
Strongly Disagree	1	1.18
Total	85	100



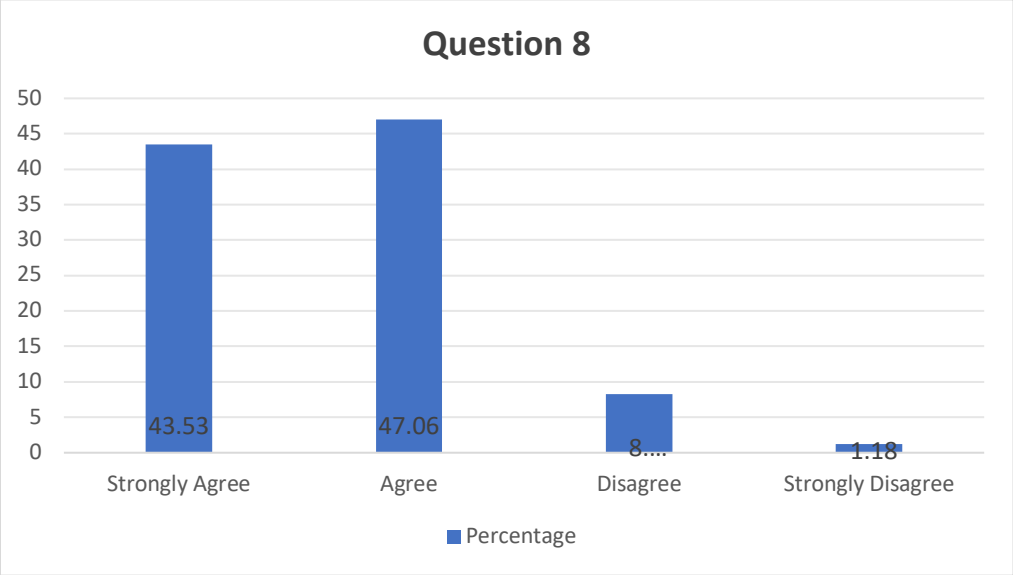
7.Do you think that rehabilitation should include counselling, educational assistance, livelihood support and social support rather than only financial assistance?

Response	Frequency	Percentage
Strongly Agree	39	45.88
Agree	38	44.71
Disagree	7	8.24
Strongly Disagree	1	1.18
Total	85	100



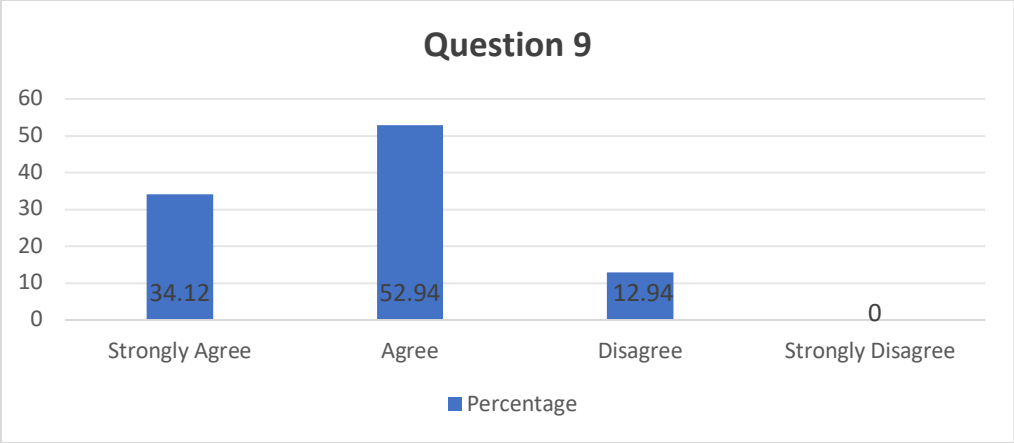
8.Do you think that the hardships faced by innocent family members of death row convicts should receive legal recognition within the Indian criminal justice system?

Response	Frequency	Percentage
Strongly Agree	37	43.53
Agree	40	47.06
Disagree	7	8.24
Strongly Disagree	1	1.18
Total	85	100



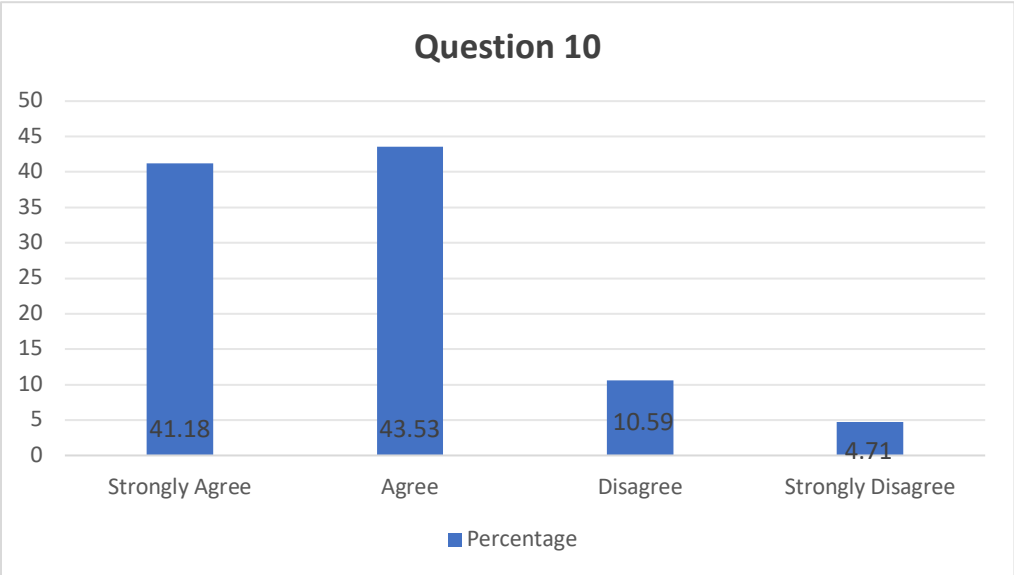
9.Do you think that innocent family members affected by the death penalty process can be conceptualised as “Hidden Sufferers” requiring specific rehabilitation measures?

Response	Frequency	Percentage
Strongly Agree	29	34.12
Agree	45	52.94
Disagree	11	12.94
Strongly Disagree	0	0
Total	85	100



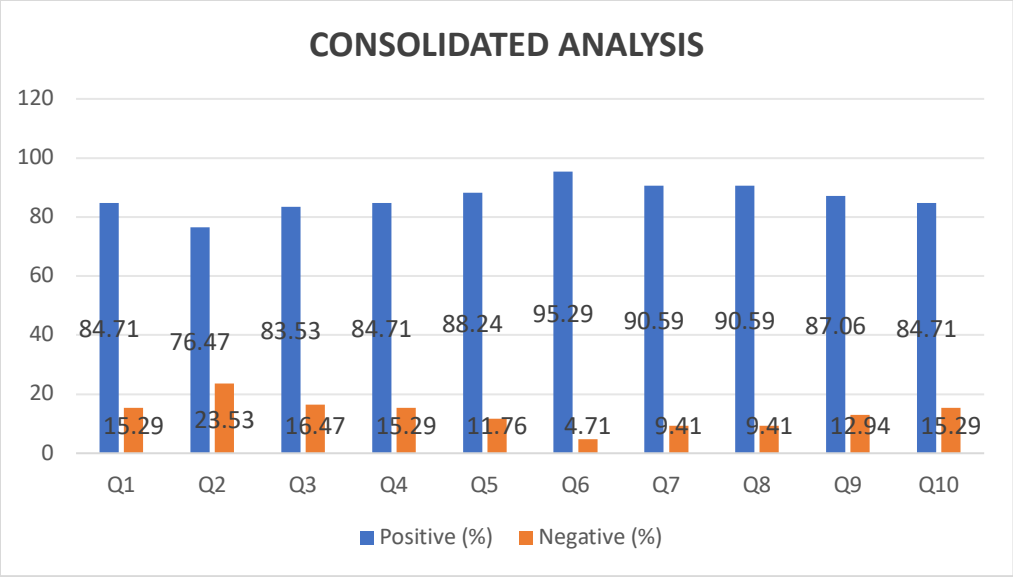
10.Do you think that the existing legal framework in India should be improved to better recognise and support the innocent family members of death row convicts?

Response	Frequency	Percentage
Strongly Agree	35	41.18
Agree	37	43.53
Disagree	9	10.59
Strongly Disagree	4	4.71
Total	85	100



6.4 Consolidated Analysis

Questions	Positive Responses (SA+A)	Positive (%)	Negative Responses (D+SD)	Negative (%)
Q1	72	84.71	13	15.29
Q2	65	76.47	20	23.53
Q3	71	83.53	14	16.47
Q4	72	84.71	13	15.29
Q5	75	88.24	10	11.76
Q6	81	95.29	4	4.71
Q7	77	90.59	8	9.41
Q8	77	90.59	8	9.41
Q9	74	87.06	11	12.94
Q10	72	84.71	13	15.29



6.5 Major Findings

- 72 out of 85 respondents (84.7%) agreed that the impact of the death sentence extends beyond the offender and affects innocent family members.
- 65 out of 85 respondents (76.5%) believed that the existing legal framework does not adequately address the legal invisibility and rehabilitation needs of the innocent family members of death row convicts.

- 81 out of 85 respondents (95.3%) agreed that the State should provide counselling and rehabilitation measures for the innocent family members of death row convicts.

- 77 out of 85 respondents (90.6%) believed that a rehabilitation framework should include psychological support, educational assistance, legal aid and measures for social reintegration.

CHAPTER 7

FINDINGS, CHALLENGES, CONCLUSON AND SUGGESTION

7.1 Findings

The study reveals that the consequences of the death penalty may extend to innocent family members through psychological, social, educational and economic hardships. The concept of vicarious victimization provides a framework for understanding these indirect consequences, while Hidden Sufferers is proposed as a conceptual category for such family members.

The doctrinal analysis finds that the existing Indian legal framework does not specifically provide a coordinated rehabilitation mechanism for innocent family members of death row convicts. Existing welfare and legal assistance measures address certain needs but do not comprehensively address their specific circumstances.

The comparative analysis identifies useful support mechanisms such as psychological support, legal assistance, educational assistance, family support and social reintegration, but no comprehensive statutory framework specifically addressing this category.

The field study of 85 respondents shows substantial support for State intervention and rehabilitation. 95.29% supported counselling and rehabilitation, 90.59% supported comprehensive rehabilitation measures, 90.59% supported legal recognition of their hardships, and 84.71% supported improvement of the existing legal framework.

Overall, the study identifies the need for a coordinated rehabilitation framework addressing the psychological, educational, economic, legal and social needs of innocent family members of death row convicts.

7.2 Challenges

The study identifies the following challenges in developing a rehabilitation framework for innocent family members of death row convicts:

1. Absence of a specific legal framework addressing their rehabilitation needs.

2. Difficulty in identifying eligible beneficiaries and verifying their innocence and dependency.

3. Limited institutional coordination between legal, welfare, psychological and social support services.

4. Financial and administrative constraints in providing long term rehabilitation.

5. Social stigma and privacy concerns that may discourage affected families from seeking assistance.

6. Risk of misuse of rehabilitation benefits in the absence of clear eligibility criteria and monitoring mechanisms.

7.3 CONCLUSION

The present study aimed to examine the vicarious victimization, legal invisibility and rehabilitation needs of innocent family members of death row convicts in India by conceptualising them as Hidden Sufferers. The aim and objectives of the study have been fulfilled through doctrinal analysis, comparative analysis and field study. The study examined the psychological, social, educational and economic consequences faced by innocent family members, analysed the existing Indian legal framework, examined comparative support mechanisms and identified appropriate rehabilitation measures.

The first hypothesis is partly proved. The doctrinal and secondary research establishes that innocent family members may experience psychological, social, educational and economic hardships. The field study also reflects substantial respondent agreement regarding these consequences. However, since the respondents were not necessarily actual family members of death row convicts, the empirical findings represent perceptions rather than direct lived experiences.

The second hypothesis is proved. The study establishes that although existing Indian laws and welfare mechanisms provide certain indirect forms of protection and assistance, there is no specific and coordinated rehabilitation framework addressing the distinctive needs of innocent family members of death row convicts. The field study also demonstrates strong support for improving the existing legal framework.

The study concludes that innocent family members of death row convicts remain insufficiently recognised despite experiencing indirect consequences of the death penalty process. The concept of Hidden Sufferers provides a basis for addressing this legal invisibility for rehabilitation purposes, without treating these family members as victims of the underlying offence. A coordinated framework incorporating psychological support, educational assistance, livelihood support, legal assistance and social reintegration is therefore required.

7.4 Suggestions

1. Statutory Recognition of Hidden Sufferers for the Purpose of Rehabilitation

The Bharatiya Nagarik Suraksha Sanhita, 2023 may be amended to provide statutory recognition to Hidden sufferer that shall include the innocent family member of death row convicts. Such recognition shall be limited to providing rehabilitation and shall not grant the status of a victim under criminal law.

2. Strict Eligibility Criteria

The proposed rehabilitation framework should apply only to innocent, verified dependants who are citizens of India. Family members who participated in, assisted, financed, concealed, or benefited from the offence, or who are accused or convicted in the same case, should not be eligible. The eligibility of the dependants should be verified by a competent authority before any assistance is provided.

3. Limited Rehabilitation Measures

- Psychological counselling for innocent dependants from the imposition of the death sentence and continuing throughout the appeal, review, mercy proceedings, and after the execution of the sentence, as required.

- Educational assistance for dependent children to ensure that their education is not interrupted due to the conviction and execution of a parent.

- Specialised Legal Aid and Legal Assistance shall be established to provide the innocent family members of death row convicts with continuous legal assistance throughout the criminal justice process.

- Measures for social reintegration to help innocent dependants overcome stigma and reintegrate into society without discrimination.

(Social reintegration include Confidentiality and Privacy Protection, ensuring equal access to existing public services, Family Counselling and Community Based Support)

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