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## MERCY PETITIONS AND CONSTITUTIONAL ACCOUNTABILITY IN CAPITAL PUNISHMENTS

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Disha, LL.M., University School of Law and Legal Studies, GGSIPU<sup>1</sup>

### ABSTRACT

In India, the death penalty provision is a complicated constitutional framework that attempts to balance the power of the state to carry out capital punishment with Article 21 of the constitution, which guarantees the right to life and personal liberty. Many research has been conducted to examine the manner in which capital punishment should be carried out, but less attention has been paid to the procedures that have been followed post-sentencing, particularly the power of the President and the Governor under Articles 72 and 161 to grant mercy to the convict. Even after the confirmation of the death penalty by the judicial system, death row convicts are subjected to prolonged incarceration, which leads to continuous mental and psychological suffering, thus raising serious concerns about human dignity and procedural fairness.<sup>2</sup>

This research paper demonstrates that excessive and unexplained delays in the processing and disposal of mercy petitions amount to a violation of Article 21 by making the death penalty a cruel, inhuman, and degrading punishment. The study points to the flaws and inefficiencies in the executive machinery by conducting a doctrinal analysis of constitutional provisions, statutory frameworks, and landmark court rulings, especially *State of Maharashtra v. Pradeep Yashwanth Kokade*. Moreover, this paper looks into the evolving judicial viewpoint regarding the executive's accountability to the death penalty.

The paper argues that the constitutional validity of capital punishment is contingent not only on judicial scrutiny at the sentencing stage but also on the fairness and timeliness of executive action thereafter. It concludes with a proposal for the reforms of the policy and institutions that would ensure transparency, accountability, and the humane treatment of the post-sentencing process so that delay would not be a factor diminishing the constitutional promise of dignity under Article 21.

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<sup>1</sup> LL.M Student at University School of Law and Legal Studies, GGSIPU

<sup>2</sup> *Shatrughan Chauhan v Union of India*, (2014) 3 SCC 1.

## INTRODUCTION

Death penalty or capital punishment, refers to the most severe punishment that one might receive in any part of the world. Before India became independent, the British Government had the provision of the death penalty, under which many Indians were hanged, mass executed, or blown from cannons for crimes like murder and treason.<sup>3</sup> Even after independence, the Indian government keeps the death penalty as a possible punishment in India under different laws such as the Indian Penal Code (IPC), now Bharatiya Nyaya Sanhita, Narcotics Drugs Psychotropic Substances Act, Army Act, Navy Act, etc. However, the question of whether the death penalty should be abolished or retained has been the subject of legal and constitutional debates for a long time.

The issue of capital punishment can hardly be addressed without a reference to Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty. While Indian laws provide the framework through which a death penalty can be executed by a procedure established by law, it has been observed in many cases that there is a delay in executing the death penalty post sentencing, as the case has to pass through multiple stages of executive and judicial scrutiny, involving different departments and authorities.

A study found that people whose cases were still pending before the Supreme Court had already spent more than six years in prison on average after receiving the death sentence.<sup>4</sup> For prisoners whose mercy petitions were rejected by the President, the average time spent in prison was almost 17 years.<sup>5</sup> In some cases, prisoners remained on death row for as long as 25 years before a final decision was taken.<sup>6</sup> Therefore, the convict remains in a state of suspense and fear when there is inordinate delay, which may cause great suffering to the convict, both mentally and physically.<sup>7</sup>

When a convict has exhausted all judicial remedies and the capital punishment is confirmed, the hope for acquittal fades and the fear of death begins to haunt him.<sup>8</sup> This uncertainty kills him every day, and this mental and physical suffering, which is not even a part of the convict's

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<sup>3</sup> Mudita Tiwari, "Capital Punishment/Death Punishment in India", Record of Law (2025)

<sup>4</sup> Prison Insider, available at: <https://www.prison-insider.com/en/articles/inde-conditions-de-detention-descondamnes-a-mort> (last visited on Jan 01, 2025)

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> Shatrughan Chauhan v. Union of India, (2014) 3 SCC 1.

actual sentence, continues. This dehumanizing suffering takes away the convict's life in an unjust, unfair, and unreasonable manner, thereby violating Article 21 of the Indian Constitution.<sup>9</sup>

In this regard, the present research is a step in comprehending the extent of impact of the right to life and personal liberty under Article 21 on the interplay between the execution of death sentences and the delays in the mercy petition process. This study aims to highlight the systemic problems in the administration of capital punishment and examine whether the process through which it is carried out in India is fair. Lastly, this paper suggests institutional reforms to prevent the transformation of capital punishment into cruel, inhuman, and degrading punishment.

## STATEMENT OF PROBLEM

In the case of *Bachan Singh v. State of Punjab*, the Supreme Court recognised that capital punishment is an exceptional punishment and can be awarded only in the “rarest of rare” cases.<sup>10</sup> The Court also laid down procedural safeguards to ensure that there remains no possibility of error. It has further been observed in *State of Maharashtra v. Pradeep Yashwanth Kokade* that when a convict exhausts all judicial remedies and the mercy petition is pending before the Governor or the President, it causes severe agony and psychological stress to a convict under a sentence of death.<sup>11</sup> It has also been emphasised that no time limit can be fixed for the Governor or the President; however, it is the duty of the executive to expedite the matter at every stage, including calling for records, orders, and documents filed in court; the preparation of the note by the concerned minister; and the ultimate decision of the constitutional authorities.<sup>12</sup> This gap between constitutional safeguards and executive practice raises serious concerns regarding the fairness, reasonableness, and dignity of the procedure of capital punishment vis-à-vis Article 21 of the Constitution of India.

## RESEARCH OBJECTIVE

- To investigate how executive delays in death penalty cases affect the right under

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<sup>9</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1

<sup>10</sup> *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684.

<sup>11</sup> *Yashwant Kokade v. State of Maharashtra*, (2018) 3 SCC 770

<sup>12</sup> *Ibid.*

### Article 21.

- To assess how long-term incarceration on death row affects human dignity.
- To examine what steps have been taken to speed up the process of mercy petition after the judgement of *State of Maharashtra v. Pradeep Yashwanth Kokade*.
- To recommend reforms at both institutional and legal levels for the administration of the death penalty.

## RESEARCH METHODOLOGY

The study adopts a mixed methodology approach to examine the executive delay in the execution of the death penalty in India and whether inordinate delay in mercy petitions by the executive undervalues the right to life and personal liberty guaranteed by Article 21 of the Indian Constitution. The primary method is doctrinal legal research, which includes in-depth analysis of constitutional provisions, statutory frameworks, and judicial precedents. Judgments of the Supreme Court and the High Courts will be examined to understand the evolution of judicial response to executive delay in death penalty cases.

The researcher further relies on secondary empirical data of different organisations to understand the gap between legal safeguards and their implementation in practice. The method of analysis employed in this research is critical and thematic. Judgments of different courts are examined to identify the effectiveness of the existing frameworks.

The scope of this research is limited to death penalty jurisprudence in India and post-sentencing stages that include the mercy petition by the Governor or the President. This study does not involve fieldwork or interviews and relies completely on doctrinal sources and secondary data. Irrespective of these limitations, the chosen research methodology aims to exhaustively examine the current death penalty administration and to suggest institutional reforms to prevent delay from becoming a hurdle in the constitutional rights of individuals.

## RESEARCH QUESTIONS

- How has the Supreme Court of India interpreted the scope of Article 21 in relation to post-sentencing delay in death penalty cases?

- How the decision in *State of Maharashtra v. Pradeep Yashwanth Kokade* represents a doctrinal shift from assessing mere duration of delay to examining institutional accountability?
- What changes need to be made so that the use of the power of mercy by the executive will be in line with the constitutional requirements of human dignity, fairness, and non-arbitrariness?

### **Constitutional and Legal Framework of the Death Penalty**

Capital punishment is the gravest type of punishment that is implemented worldwide.<sup>13</sup> In India, capital punishment existed during the time of the British government and to date continues to be observed as a part of the criminal justice system of independent India.<sup>14</sup> The legal framework for capital punishment comprises the Constitution of India, statutory laws, and judicial precedents along with interpretations that have been evolved. Article 21 of the Constitution guarantees the right to life and personal liberty and states that no person shall be deprived of life or personal liberty except by the procedure established by law. The Supreme Court has broadly interpreted this article in a number of judgments to include protection against arbitrariness, inhuman treatment, and unjust procedures that may arise due to prolonged and unexplained delay in sentencing in death row cases. Simultaneously, under Articles 72 and 161, the President and the Governors, respectively, also have the executive authority to grant mercy to the convicts. The Supreme Court in *Kehar Singh v. Union of India* (1989 SCR (1) 20) recognized that the President's power to pardon is not a mere formality but an act of justice, mercy, and public policy.<sup>15</sup>

Statutory laws such as the *Bharatiya Nyaya Sanhita*, the *Narcotic Drugs and Psychotropic Substances Act*, and military statutes like the *Army and Navy Acts* mention the provision of the death penalty for specific crimes. Besides the substantive provisions, India has elaborated procedural laws.<sup>16</sup> Section 407 of the *Bharatiya Nagrik Suraksha Sanhita* (BNSS) provides for the detailed procedure to impose and execute the death penalty.<sup>17</sup> Once the Court of

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<sup>13</sup> Law Commission of India, "Report No. 262 on The Death Penalty (Government of India, 2015).

<sup>14</sup> Legal Service India, *Capital Punishment in India* (2025), Available at: <https://www.legalserviceindia.com/legal/article-5896-capital-punishment.html> (last visited on 6 Jan 2026)

<sup>15</sup> *Kehar Singh v. Union of India*, (1989) 1 SCR 20.

<sup>16</sup> Law Commission of India, *262nd Report on the Death Penalty* (2015)

<sup>17</sup> BNSS, § 407, No. 46, Acts of Parliament, 2023 (India)

Session awards the death penalty, it is mandatory for the High Court to confirm it.<sup>18</sup> The trial court is obliged to send the case records in full, including the evidence and the court's opinion, without any delay so that the High Court can independently examine the legality, propriety, and correctness of the conviction and sentence.<sup>19</sup> The purpose of this additional judicial check is to eliminate the risk of a wrongful conviction resulting from a mistake at the trial court level.

According to Section 455 of the BNSS, the convict whose death sentence is confirmed by the High Court may file an appeal before the Supreme Court.<sup>20</sup> Article 134 of the Constitution confers appellate jurisdiction on the Supreme Court in criminal cases, including death sentences, and Article 132 allows an appeal if it involves any substantial question of law.<sup>21,22</sup> These constitutional provisions ensure the highest level of judicial scrutiny before the finality of the penalty.

After the dismissal of the appeal, the convict may further file a review petition under Article 137 before the Supreme Court to seek reconsideration of the judgment.<sup>23</sup> In exceptional circumstances, the convict may file a curative petition for the prevention of miscarriage of justice. These judicial remedies are available to protect convicted persons against any error in capital punishment.

Once the court of law passes the capital punishment and the convict exhausts all the judicial remedies mentioned above, the convict may seek mercy from the President or the Governor of the State under Articles 72 or 161 of the Constitution. Section 472 of the BNSS explains the procedure regarding the filing of a mercy petition and sets timelines for the timely disposal of mercy petitions.

### **Death Penalty and Article 21 of the Indian Constitution**

In India, the subject of the death penalty automatically attracts Article 21 of the Indian Constitution, which guarantees the right to life and personal liberty and requires that no one shall be deprived of life except through a just, fair, and reasonable procedure established by

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<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> BNSS, § 455, No. 46, Acts of Parliament, 2023 (India).

<sup>21</sup> INDIA CONSTI. art. 134

<sup>22</sup> INDIA CONSTI. art. 132

<sup>23</sup> *Rupa Ashok Hurra v Ashok Hurra*, (2002) 4 SCC 388

law.<sup>24</sup> When an inordinate and unexplained delay occurs in executing the death sentence after all the judicial remedies available to the convicted person have been exhausted, he is forced to live in a state of prolonged agony and uncertainty. This suffering goes beyond the punishment intended by law and becomes a form of cruel, inhuman, and degrading treatment. The delay may arise because of delayed procedures, pendency of mercy petitions, and administrative inefficiency on the part of the executive, and such delays undervalue the core principles of Article 21, namely fairness and reasonableness of the procedure.

### **Executive Mercy Powers**

After all the judicial remedies get exhausted including, appeal, review petition, and curative petition, the death penalty procedure moves to the executive branch. Usually a mercy petition is considered as a last resort after exhausting all the remedies before the court of law. The superintendent of the jail informs the convict about the dismissal of the appeal, review, or special leave to appeal before the Supreme Court.<sup>25</sup> Then accordingly, the convict files a mercy petition before the President or the Governor under Article 72 and Article 161 of the Indian Constitution. If the mercy petition has been filed before the Governor, on rejection or disposal by the Governor, the petition shall be made to the President within a period of sixty days from the date of rejection or disposal of such petition.<sup>26</sup>

Under mercy the petition, the President or the Governor is empowered to grant pardons, reprieves, respites, or commutations of sentences to the convicted person. While considering the death penalty, factors such as the health, physical or mental fitness of the convict, and the family's financial situation, including whether the convict is the sole provider, are taken into consideration.<sup>27,28</sup>

However, there have been concerns around the inordinate delay in the disposal of the mercy petition by the executive. The Supreme Court has emphasised in many of its judgments that prolonged and unexplained delay in deciding the mercy petitions can cause severe mental agony, physical and psychological suffering that amounts to inhumane treatment that is also

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<sup>24</sup> INDIA CONSTI. art. 21

<sup>25</sup> BNSS, § 472(1), No. 46, Acts of Parliament, 2023 (India).

<sup>26</sup> BNSS, § 472(2), No. 46, Acts of Parliament, 2023 (India).

<sup>27</sup> INDIA CONSTI. art. 72

<sup>28</sup> INDIA CONSTI. art. 161

not a part of actual punishment.<sup>29</sup> This death row phenomenon is against the right to life and personal liberty mentioned in Article 21 of the Indian Constitution.

### **Process of Executive in Mercy Petition**

Article 72 of the Constitution explains that the President has the power related to mercy petitions in cases of death sentences, but in practice, there are multiple levels through which mercy petitions pass. Section 472 explains in detail about how a mercy petition is filed and timelines that different departments have to follow.

These are the stages mentioned in Section 472 of BNSS:

#### **Step 1: Who can file a mercy petition and when?**

Convict, their legal heir or close relative can file a mercy petition if one has not already been filed. This petition can be made to the President (under Article 72) or the Governor (under Article 161) within 30 days from the date the jail authorities inform the convict that:

- The Supreme Court has dismissed the appeal, review, or special leave petition, or
- The High Court has confirmed the death sentence, and the time to approach the Supreme Court has expired.

#### **Step 2: Filing first with the Governor, then the President**

If a mercy petition is initially filed before the Governor and is either rejected or disposed of, a new mercy petition has to be filed before the President within 60 days from the date of such rejection or disposal.

#### **Step 3: Role of the jail authorities**

The Superintendent or officer in charge of the jail must ensure that all convicts in the same case file their mercy petitions within 60 days.

If some convicts do not file their petitions, the jail authorities must still forward their details, case records, and other relevant information to the Central or State Government along with

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<sup>29</sup> T.V. Vatheeswaran v. State of Tamil Nadu, (1983) 2 SCC 68.



the mercy petition.

#### **Step 4: Role of the Central Government**

Once the mercy petition is received, the Central Government:

- Seeks comments from the concerned State Government,
- Examines the petition along with the case records, and
- Sends its recommendations to the President

This process must be completed within 60 days from receiving the State Government's comments and the jail records.

#### **Step 5: Decision by the President**

The President considers and decides the mercy petition. If there is more than one convict in the same case, the President must decide all the petitions together in the interest of justice.

#### **Step 6: Communication of the decision**

After the President passes an order on the mercy petition, the Central Government must inform:

- the Home Department of the concerned State Government, and
- the jail authorities

This must be done within 48 hours.

#### **Step 7: Finality of the decision**

The decision of the President or the Governor on a mercy petition is final. No appeal can be filed in any court against this decision, and courts cannot examine how the decision was reached.

The Supreme Court in *Maru Ram v. Union of India* (1981) interpreted that the President's

power under Article 72 is not personal or absolute.<sup>30</sup> The President, and similarly the Governor under Article 161, must ordinarily act in accordance with the aid and advice of the Council of Ministers, though the President may once return the advice for reconsideration under Article 74(1), after which the reconsidered advice is binding.<sup>31</sup>

Once the mercy petition is decided by the President or the Governor under Article 72 or Article 161, the order is subject to limited judicial review. The Supreme Court in *Epuru Sudhakar v. Government of Andhra Pradesh* (2006) and *Shatrughan Chauhan v. Union of India* (2014) laid down the grounds on which a mercy order can be reviewed, which include non-application of mind, mala fide exercise of power, consideration of extraneous or wholly irrelevant factors, failure to consider relevant materials, arbitrariness or irrationality, and inordinate or unexplained delay.<sup>32</sup>

Section 472(7) of the BNSS explains that no appeal shall lie against the order of the President or the Governor under Articles 72 or 161. This provision contradicts the judicial precedents mentioned above, where the Supreme Court has interpreted that mercy orders can be reviewed on certain grounds. Since the BNSS is very recent, there has been no judicial scrutiny of this provision.

### **Delay in Processing and Disposal of Mercy Petition in the Light of Kokade Case**

In the case of *State of Maharashtra v. Pradeep Yashwanth Kokade*, the Supreme Court highlighted the issue of delay in processing and disposal of the mercy petition. In this case, the Supreme Court addressed the delay at three different levels. The first two levels of the delay were for the order of mercy petition from the executive. The first part explained the delay for the order of mercy petition from the Governor, as a lot of time was wasted on correspondence made by various officers.<sup>33</sup> After receiving the mercy petition, the Home Ministry could have asked for all the required documents and information, but this was not done. The officers of the Home Ministry showed a lack of sensitivity to the gravity of the matter concerned. The delay of five months was unexplained and unjustified.<sup>34</sup>

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<sup>30</sup> *Maru Ram v Union of India*, (1981) 1 SCC 107.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1.

<sup>33</sup> *Yashwant Kokade v State of Maharashtra*, (2018) 3 SCC 770

<sup>34</sup> *Ibid.*

The second part of the delay happened when the mercy petition was filed before the President. Three month time was taken by the Hon'ble President to decide the mercy petition, which cannot amount to cruelty, but almost nine months and three weeks were taken by different departments for providing different documents and details like antecedents, economic conditions of the family of convicts, and whether the convicts have filed the review petition before the Supreme Court or not.<sup>35</sup>

The third part of the delay happened at the level of session court. When the mercy petitions were rejected by the Governor and the President, several letters from the prison and notices from the State Government were sent for issuing the warrants for executing the death sentence. Therefore, there was an inordinate delay in executing warrants by the courts of session.

### **The Supreme Court and Executive Delay in Deciding Mercy Petition**

In *T.V. Vatheeswaran v. State of Tamil Nadu* (1983), the Court observed that inordinate delay, illustratively of more than two years, in the execution of a death sentence may be considered sufficient to commute the death sentence by invoking Article 21.<sup>36</sup> Therefore, in this case, the court quashed the death sentence and replaced it with imprisonment for life.<sup>37</sup> In *Triveniben v. State of Gujarat* (1989), the Court observed that the disposal of a mercy petition depends upon the nature of the case and the scope of the inquiry to be made. It also depends upon the number of mercy petitions that may be submitted on behalf of the accused.<sup>38</sup> Therefore, the Court held that no fixed time limit can be prescribed for the disposal of a mercy petition, though unreasonable delay attributable to the executive may be a relevant factor. The Supreme Court also expressly rejected the idea of a fixed time limit (such as two years) for commuting a death sentence due to delay. The Court held that delay must be examined on a case-by-case basis.<sup>39</sup>

In *Sher Singh v. State of Punjab* (1983), the Court observed that both the Central and the State Governments must dispose of mercy petitions expeditiously.<sup>40</sup> It further noted that the

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<sup>35</sup> *Ibid.*

<sup>36</sup> *T.V. Vatheeswaran v. State of Tamil Nadu*, (1983) 2 SCC 68.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Triveniben v. State of Gujarat*, (1989) 1 SCC 678.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Sher Singh v. State of Punjab*, (1983) 2 SCC 344.

executive authorities should follow a self-imposed rule whereby every mercy petition shall be decided within a period of three months from the date of its receipt.<sup>41</sup> The Court emphasised that long delays in the disposal of mercy petitions put a question on the justice system and undermine public confidence in it.<sup>42</sup>

In *Shatrughan Chauhan v. Union of India* (2014), the Court observed that despite the high status of the office, the constitutional framers did not stipulate any time limit for disposing of mercy petitions, which means they should be decided within a reasonable time.<sup>43</sup> However, when the delay caused in disposing of mercy petitions is seen to be unreasonable, it is the duty of this Court to step in and consider this aspect. The right to seek mercy under Articles 72 and 161 of the Constitution is a constitutional right to fair consideration and not to be exercised arbitrarily by the executive. Every constitutional duty must be fulfilled with due care; otherwise, the judiciary has to intervene to uphold the values of the Constitution.

### **Doctrinal Significance of *State of Maharashtra v. Pradeep Yashwanth Kokade***

The judgment in *State of Maharashtra v. Pradeep Yashwanth Kokade* represents a major doctrinal shift in the Supreme Court's treatment of executive delay in death penalty cases.

Whereas earlier cases had focused on the length of the delay as the main factor in deciding whether to commute the sentence, Kokade shifts the focus of the investigation to the issue of administrative accountability. The Court not only timed the intervals between filing the mercy petitions and deciding them but also analysed in great detail the manner and place of the delay with a view to revealing the inefficiencies of the executive machinery that were of a systemic nature.<sup>44</sup>

More significantly, Kokade reveals how institutional irresponsibility is quite a prominent feature of the mercy petition process. The Court's criticism of routine correspondence, lack of urgency, and failure to promptly call for relevant records reflects a broader concern that no authority within the executive system is held accountable for delays that have irreversible consequences on a convict's life and dignity.<sup>45</sup> By describing such delay as a lack of

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<sup>41</sup> *Sher Singh v. State of Punjab*, (1983) 2 SCC 344.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Shatrughan Chauhan v. Union of India*, (2014) 3 SCC 1.

<sup>44</sup> *Yashwant Kokade v State of Maharashtra*, (2018) 3 SCC 770.

<sup>45</sup> *Ibid.*

sensitivity to the seriousness of the death penalty, the judgment very much changes the administrative inaction from just another failure of governance to a constitutional violation of Article 21. As a result, Kokade moves the executive delay from being a mere peripheral mitigating factor to becoming a central constitutional issue, thus increasing the scope of judicial scrutiny of the post-sentencing stage of the death penalty. This doctrinal shift makes Kokade an analytical anchor for comprehending the procedural fairness requirement of Article 21, which must, necessarily, be respected not only in the court but in the executive branch as well.

## RECOMMENDATIONS

### I. Policy Reforms

a. It was directed in the *Pradeep Yashwanth Kokde* case that a dedicated cell shall be constituted by the Home Department or the Prison Department of the State Governments/Union Territories for dealing with mercy petitions.<sup>46</sup> The dedicated cell shall be responsible for the prompt processing of mercy petitions within the time frame laid down by the respective governments.<sup>47</sup> These cells can track timelines and ensure complete documentation, enabling smooth and timely functioning.

It is important to examine whether every state and union territory has established such a cell and whether it is functioning in accordance with the guidelines prescribed in the *Pradeep Yashwanth Kokde* case. However, no official or verified public list is available indicating whether this directive has been complied with by all States and Union Territories.

b. Mandatory and periodic mental health evaluations of death row prisoners should be conducted at key stages, including after confirmation of the death sentence, during the pendency of mercy petitions, and prior to the issuance of execution warrants. Judicial recognition of mental illness, intellectual disability, and psychological deterioration as relevant factors must be translated into executive practice, particularly during the consideration of mercy petitions.

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<sup>46</sup> *Yashwant Kokade v State of Maharashtra*, (2018) 3 SCC 770.

<sup>47</sup> *Ibid.*

## II. Institutional Reforms

It is necessary to create a centrally monitored online portal through which prison departments and specialised mercy petition cells can exchange documents, records, and all kinds of information related to mercy petitions in a safe way.

At present, the absence of a standardised digital system leads to delays, loss of records, duplication of work, and lack of coordination between authorities. A centrally managed digital platform would not only allow the officials concerned to have timely access but also ensure that all the necessary documents are available in one place and facilitate communication.

Besides that, it would become feasible to check the progress of mercy petitions at each moment, which, in turn, would help officials to meet their deadlines and reduce the likelihood of administrative errors.

## CONCLUSION

The administration of the death penalty in India does not end with judicial sentencing; rather, it extends into the executive domain, where mercy petitions form a crucial safeguard against irreversible injustice. This study demonstrates that prolonged and unexplained delays in the processing of mercy petitions and execution of death sentences have serious constitutional implications, particularly in relation to Article 21 of the Constitution. While the death penalty has been constitutionally upheld in the rarest of rare cases, its continued validity is premised on the assurance that the procedure leading to the deprivation of life remains just, fair, reasonable, and humane at every stage.

Judicial pronouncements over the years have consistently recognised that inordinate executive delay causes intense mental, emotional, and psychological suffering to death row prisoners, a suffering that is neither sanctioned by law nor inherent in the sentence itself. The jurisprudence developed through cases such as *T.V. Vatheeswaran*, *Triveniben*, *Sher Singh*, and *Shatrughan Chauhan* reflects the court's attempt to balance executive discretion with constitutional accountability. However, the decision in *State of Maharashtra v. Pradeep Yashwanth Kokade* marks a significant shift by exposing how systemic inefficiencies, administrative apathy, and lack of institutional responsibility contribute to prolonged death

row incarceration.

The Kokade ruling emphasizes that executive delay should not be considered simply a procedural error but rather a substantive constitutional failure that is in conflict with human dignity and the rule of law. It reaffirms the proposition that the powers granted by the Constitution under Articles 72 and 161 imply corresponding constitutional obligations that must be exercised with urgency, empathy, and accountability. The period after the announcement of the sentence, in the absence of necessary institutional arrangements like a mercy petition cell, digital coordination platforms, and mental health safeguards, is liable to turn the execution of the death sentence into a form of cruel, inhuman, and degrading treatment.

If India decides to keep the death penalty, the first and foremost duty is to see that its implementation does not conflict with the very constitutional values it aims to protect. Reforms that effectively address issues of executive functioning, transparency, and institutional coordination are indispensable if delay is to be prevented from being the cause that fairness and legitimacy of the criminal justice system erode. The guarantee of Article 21 must, therefore, not be limited to judicial pronouncements but be evident in executive action, thus ensuring that justice is not only pronounced but also delivered in a way that is consistent with human dignity and constitutional morality.