DEATH PENALTY IN INDIA

DELHI

PROJECT 39A
EQUAL JUSTICE
EQUAL OPPORTUNITY

ANNUAL STATISTICS REPORT 2022

PROJECT 39A
EQUAL JUSTICE
EQUAL OPPORTUNITY

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FOREWORD

This is the seventh edition of the *Death Penalty in India: Annual Statistics Report* published by Project 39A at National Law University, Delhi. 2022 represents a significant shift in death penalty adjudication, with the Supreme Court recognising the need to reconsider the capital sentencing framework for the first time since it was laid down in *Bachan Singh v. State of Punjab* in 1980.

In a momentous order, the Supreme Court noted the gaps in the death penalty sentencing framework and has sought to address these concerns through a Constitution Bench towards establishing the components of a real, meaningful and effective capital sentencing hearing. In another decision, the Court laid down guidelines for the collection of mitigating material by trial courts. However, in the same year that the Supreme Court cast grave doubts on the death penalty sentencing framework and its implementation by trial courts, it is of concern that 165 death sentences were imposed by Sessions Courts, the highest in a single year since 2000.

As with previous years, we relied on news reports to gather information and updates on death sentences, which were then verified using the e-courts platforms of trial courts and appellate courts. In addition, in light of the Supreme Court guidelines, we have begun tracking the nature of sentencing information considered by trial courts in India before the death sentence is imposed.

We would like to thank Sarah (IV Year, Gujarat National Law University) and Navami Krishnamurthy (IV Year, Jindal Global Law School) for their valuable efforts in compiling and verifying the data for this report.

This report would not have been possible without the efforts of Varsha Sharma, Pritam Raman Giriya and Ashna Devaprasad who were instrumental in developing the original directory and database on the death penalty in India. Lubhyathi Rangarajan, Peter John, Poornima Rajeshwar, Rahul Raman, Neetika Vishwanath, Preeti Pratishruti Dash, Gale Andrew, Aishwarya Mohanty, Hrishika Jain and Adrija Ghosh have played key roles in developing previous editions of this report.

OVERVIEW OF DEVELOPMENTS IN 2022

2022 represents a historic moment in death penalty jurisprudence, with the Supreme Court, under the tenure of the then Chief Justice of India Justice UU Lalit, reconsidering the death penalty sentencing framework for the first time since 1980. Through a *suo motu* writ, the Supreme Court specifically highlighted the lack of uniformity in the death penalty sentencing framework and referred issues in death penalty sentencing to a Constitution Bench towards ensuring 'real, effective and meaningful' sentencing hearing for a convict.[1]

May 2022 also saw a jurisprudentially significant three-judge bench Supreme Court decision in *Manoj v. State of Madhya Pradesh*, with the Court emphasising on the duty of the trial courts to elicit materials on mitigating circumstances.[2] Notably, this decision recognised the absence of a coherent legal and institutional framework for the collection and presentation of mitigating circumstances. Towards addressing this gap, the Court laid down guidelines for the compilation of such information.

With 165 death sentences at the end of 2022, this is the highest number of death sentences imposed in a year in over two decades (since 2000). This shift has been sharply influenced by the extraordinary sentencing of 38 persons to death in Ahmedabad in a single bomb blast case, representing the largest number of persons sentenced to death in a single case since 2016.

Notably, sexual violence continues to dominate the imposition of the death penalty in India, with cases involving sexual offences constituting the majority (51.28%) of cases in which the death penalty was imposed by trial courts in 2022. In light of the Supreme Court's directions in *Manoj v. State of Madhya Pradesh*, it is worth mentioning that trial courts imposed death sentences in 2022 in 98.3% death penalty cases without having any materials on mitigating circumstances of the accused and without any State led evidence on the question of reform.[3]

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1 *In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered While Imposing Death Sentences*, Suo Motu Writ Petition (Crl.) No 1 of 2022.

2 *Manoj v. State of Madhya Pradesh*, Criminal Appeal No. 248 of 2015.

3 Information is not available for 15 death sentences in 14 cases due to the unavailability of judgments.

At the end of 2022, 539 prisoners were on death row, the highest number of prisoners on death row since the first Annual Statistics Report published in 2016.[4] The population on death row has steadily increased over the years, with 2022 representing a 40% increase in the population since 2015. This increase can be attributed to the large number of death sentences imposed by trial courts and the accompanying low rate of disposal of death penalty cases by appellate courts. In the year 2022, High Courts across India decided 68 matters, while the Supreme Court decided 11 matters this year.

From the 68 decided cases by the High Courts involving 101 prisoners, 3 prisoners had their death sentences confirmed, 48 prisoners saw their death sentences commuted to life imprisonment, 43 were acquitted of all charges and 6 had their cases remitted to the trial court. The Bombay High Court also enhanced the sentence imposed by the trial court on one prisoner from life imprisonment to the death penalty in a dacoity and murder case. This case is the second High Court enhancement since we began compiling these statistics in 2016.

From the 11 cases decided by the Supreme Court, involving 15 prisoners, the Court acquitted 5 prisoners of all charges, commuted death sentences to life imprisonment for 8 prisoners and confirmed the death penalty for 2 prisoners. The acquittal decisions noted the improper nature of investigations and procedural failures by the police, prosecution and trial courts. Although the commutations in 2022 developed the law on sentencing, confirmation decisions took a markedly different approach, with the Court explicitly rejecting developments on the collection of sentencing materials in one decision[5], and remaining silent on such developments in the other.[6]

---

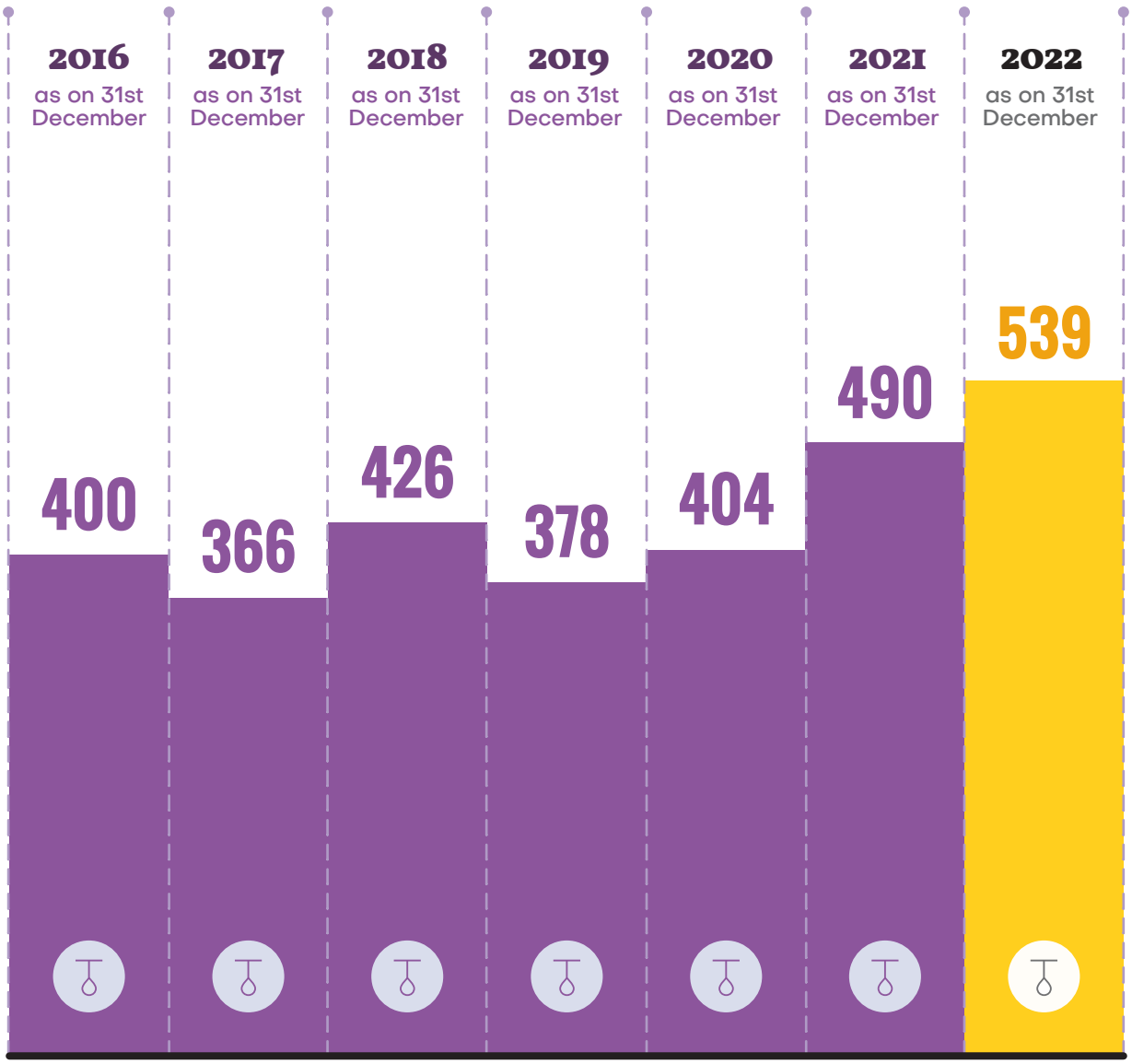
4 A trial court decision sentencing 38 persons to death in Ahmedabad has caused an uncommon and exceptional increase to this number.

5 *Manoj Pratap Singh v. State of Rajasthan*, Special Leave Petition (Crl.) No. 7899 of 2015.

6 *Mohd Arif @ Ashfaq v. State (NCT of Delhi)*, Review Petition (Crl.) No. 286 of 2012.

Although appellate courts have continued to commute the majority of death sentences decided in the year, worryingly, these commutations have increasingly resulted in the imposition of life imprisonment without remission. While the Supreme Court imposed life imprisonment without remission for all 8 prisoners whose death sentences were commuted, High Courts imposed the same for over 56.6% prisoners. Placing convict sentences beyond the scope of executive remission raises concerns with the focus of the prison system on reformation and rehabilitation.

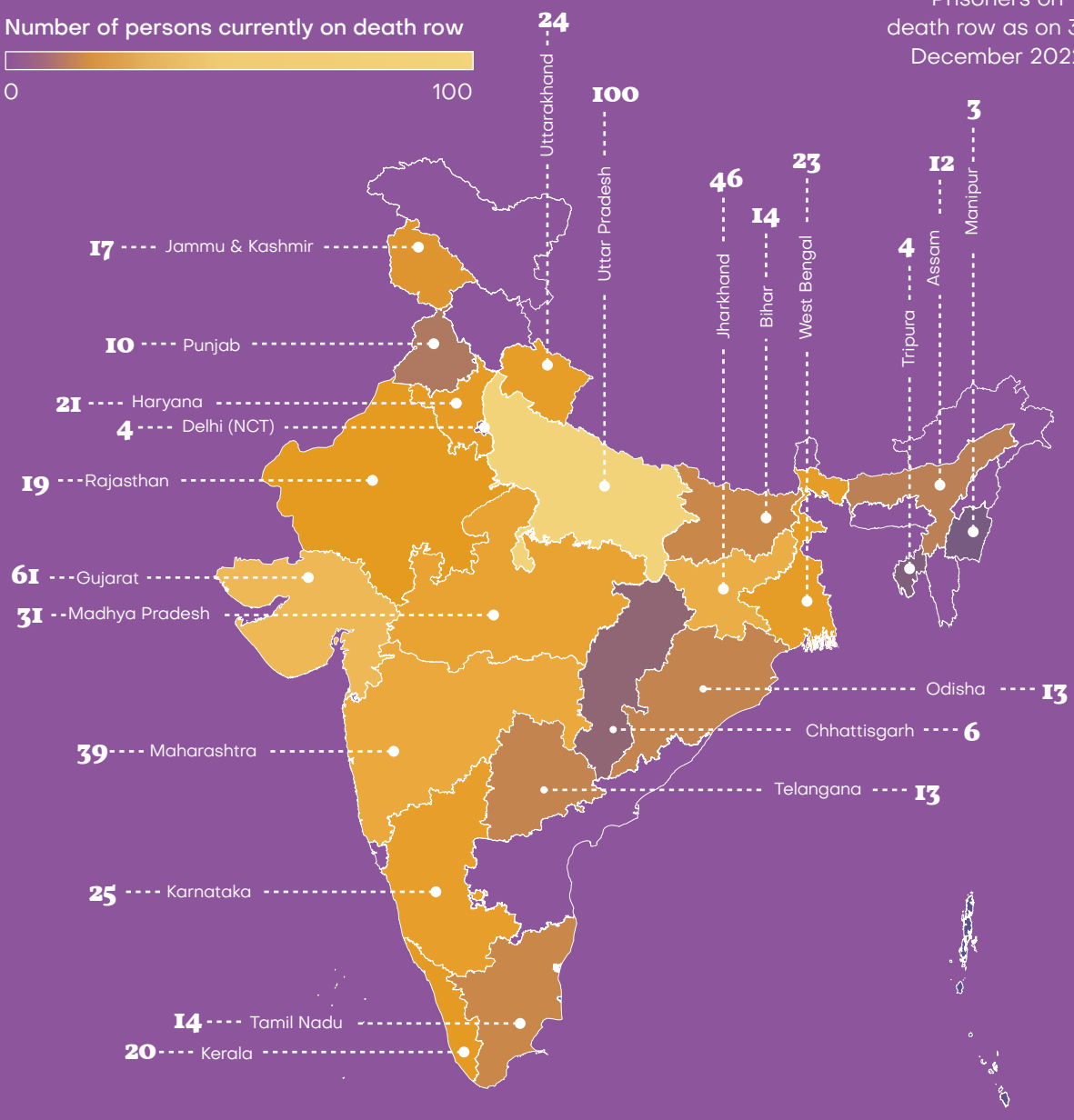
PRISONERS ON DEATH ROW



STATE WISE DISTRIBUTION OF PERSONS ON DEATH ROW

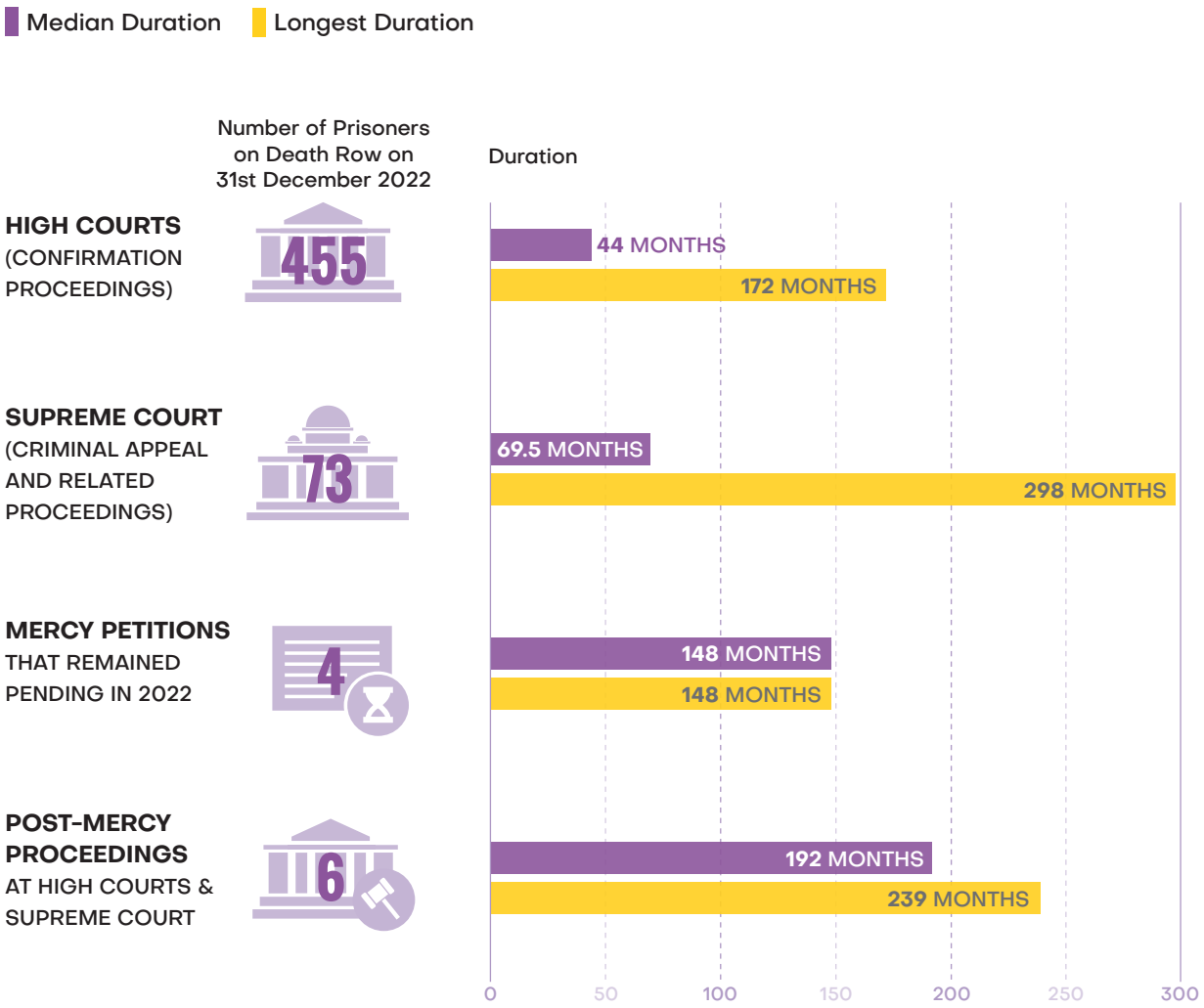
539

Prisoners on death row as on 31st December 2022



State wise distribution of women on death row				
	Gujarat **1**	Karnataka **1**	Tripura **1**	Chhattisgarh **1**
	Haryana **1**	Madhya Pradesh **1**	Uttar Pradesh **3**	
	Jharkhand **2**	Maharashtra **2**	West Bengal **1**	

DURATION ON DEATH ROW



DEATH PENALTY CASES 2022

Prisoners (Cases)

- Death Sentences
- Confirmations
- Commutations
- Enhancements
- Acquittals
- Remitted

SUPREME COURT

Death Sentences	Confirmations	Commutations	Enhancements	Acquittals	Remitted
2	8	0	5	0	
(2)	(6)	(0)	(3)	(0)	

HIGH COURTS

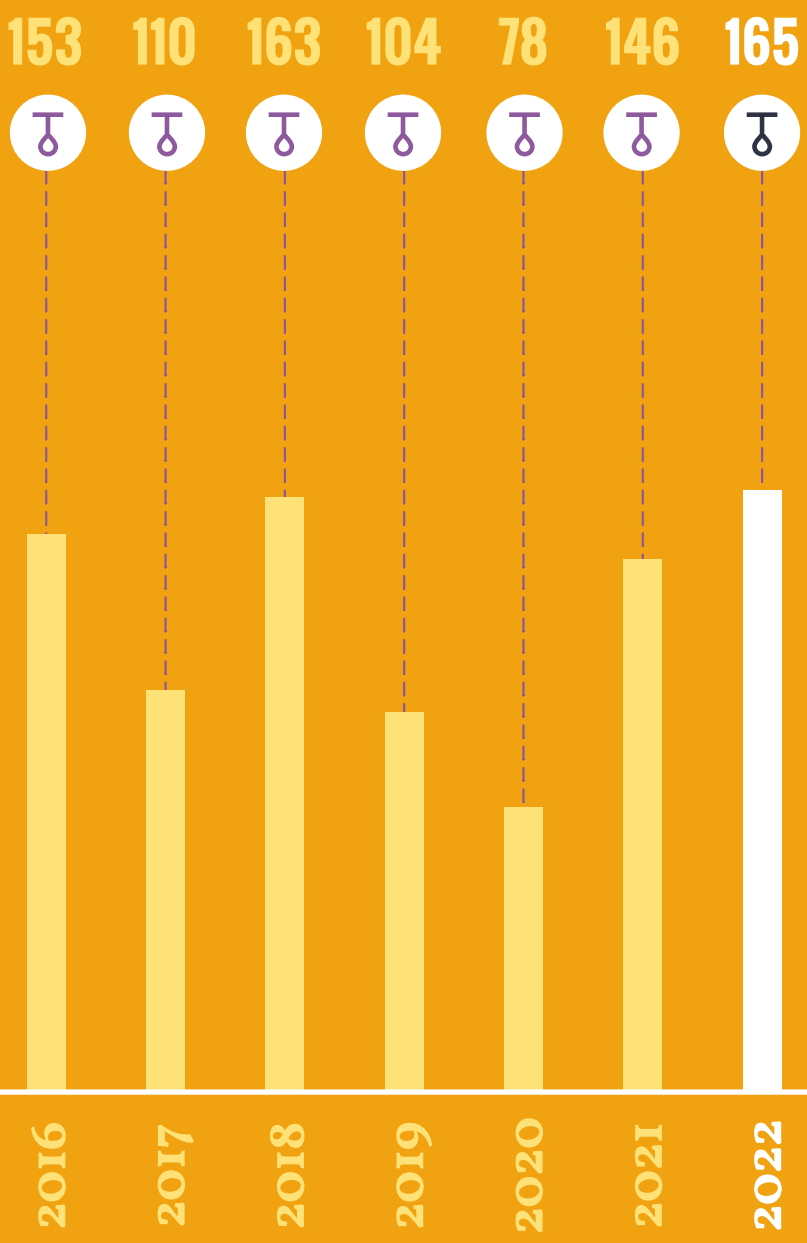
Death Sentences	Confirmations	Commutations	Enhancements	Acquittals	Remitted
3	51	1	40	6	
(3)	(39)	(1)	(19)	(6)	

SESSIONS COURTS

Death Sentences	Confirmations	Commutations	Enhancements	Acquittals	Remitted
165					

SESSIONS COURTS IN 2022

Number of Death Sentences Imposed by Sessions Courts



A Sessions Court in Ahmedabad sentenced 38 persons to death in one case for their involvement in a series of bomb blasts in Ahmedabad in 2008. This is the highest number of persons sentenced to death in a single case since 2016.

In a first instance of its kind, a prisoner was resentenced to death this year by a POCSO court[7] in Madhya Pradesh after the case was remanded by the Supreme Court to the trial court for fair trial violations in 2019.[8] The conviction and sentence were reimposed by the trial court with no mention of the procedural failures raised by the Supreme Court.[9]

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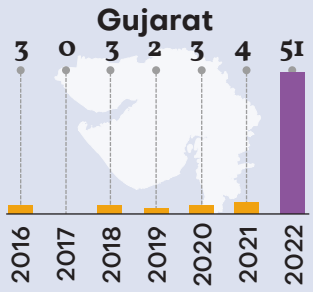
7 *Anokhilal v. State of Madhya Pradesh*, Sessions Case No. 100053/2013 (Special Judge, POCSO Act), Khandwa, Madhya Pradesh.

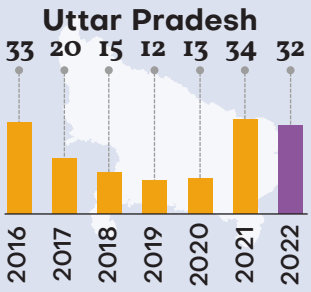
8 *Anokhilal v. The State of Madhya Pradesh*, Criminal Appeal No. 62 of 2014.

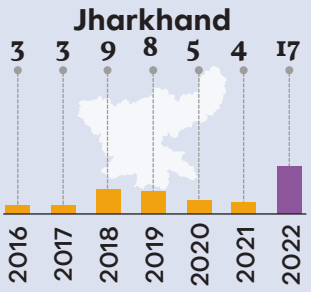
9 See Lakshmi Menon & Snehal Dhote, 'Back on Death Row: Anokhilal's Experience with a Broken Justice System' (The P39A Criminal Law Blog, 6 December 2022) accessed 11 January 2022 <https://p39ablog.com/2022/12/back-on-death-row-anokhilals-experience-with-a-broken-justice-system/>.

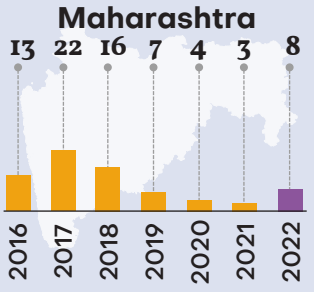
WOMEN SENTENCED TO DEATH IN 2022 (PID) **2**

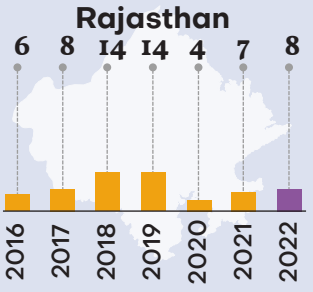
STATE-WISE DISTRIBUTION OF DEATH SENTENCES IMPOSED BY SESSIONS COURTS

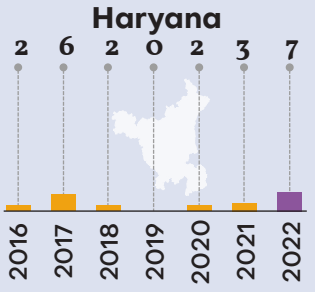


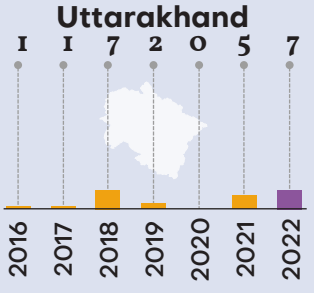


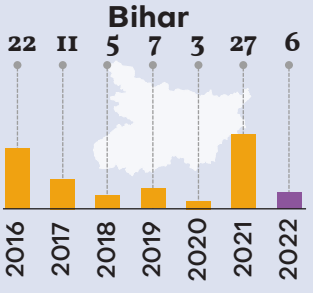


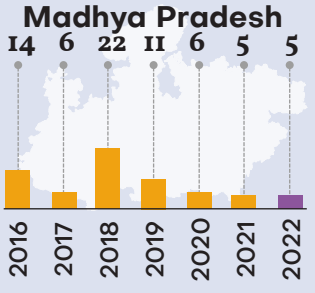


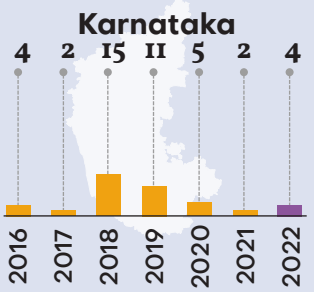


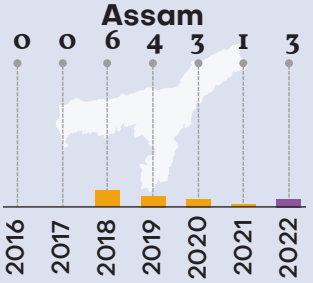


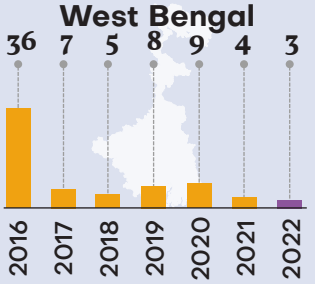










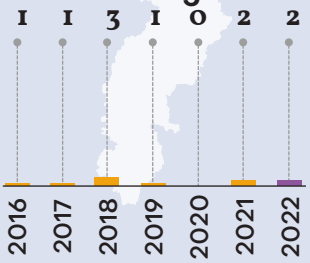


State Wise Distribution Of Death Sentences Imposed On Women In 2022

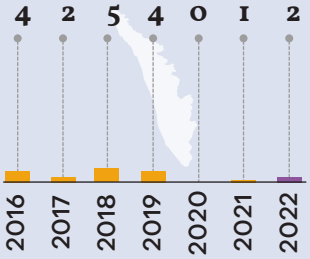
Maharashtra **1**

Uttar Pradesh **1**

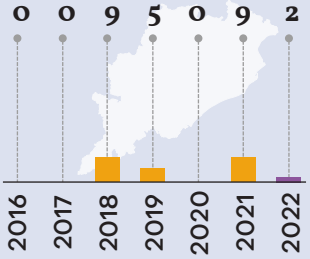
Chhattisgarh



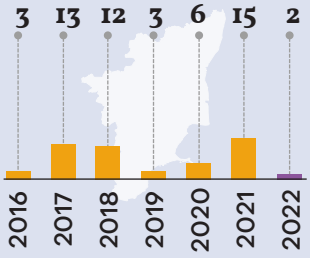
Kerala



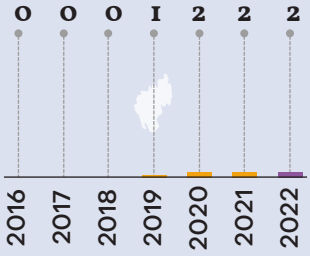
Odisha



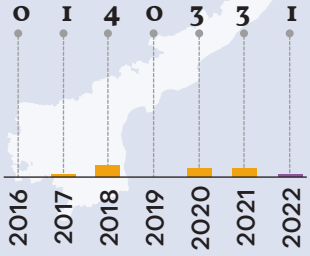
Tamil Nadu



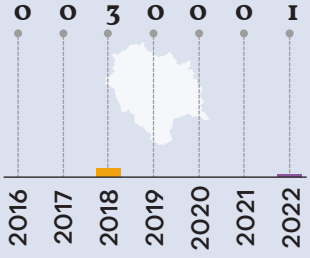
Tripura



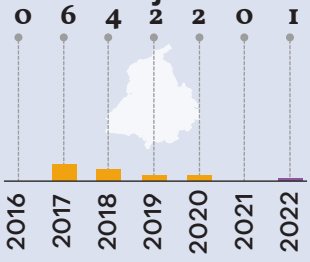
Andhra Pradesh



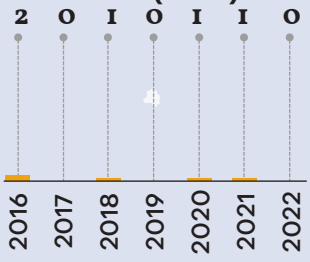
Himachal Pradesh



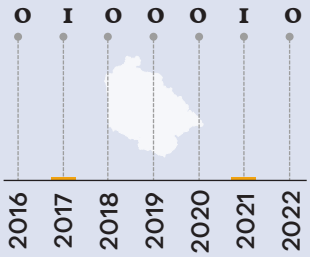
Punjab



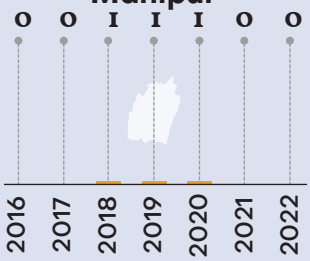
Delhi (NCT)



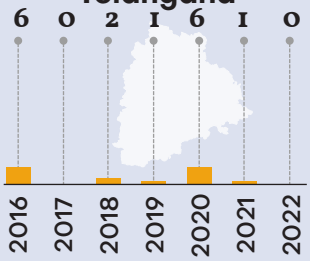
Jammu & Kashmir



Manipur



Telangana



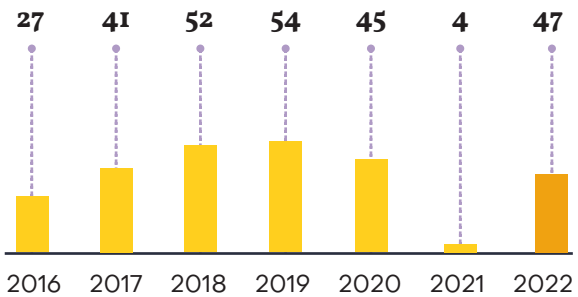
NATURE OF OFFENCE FOR THOSE SENTENCED TO DEATH BY SESSIONS COURTS IN 2022 [10]

Number of death sentences

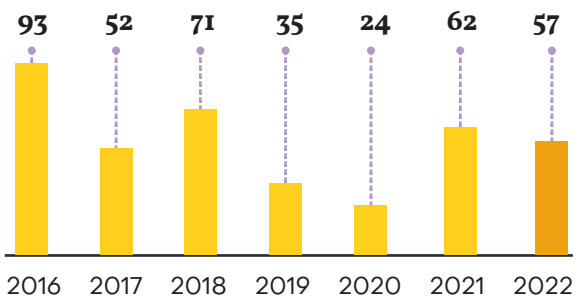
Nature Of Offence For Women Sentenced To Death In 2022

Murder simpliciter **2**

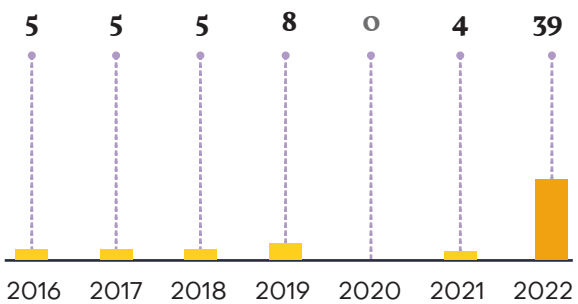
Murder involving Sexual Offences



Murder Simpliciter



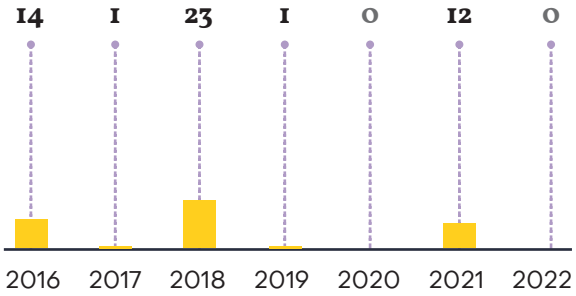
Terror Offences



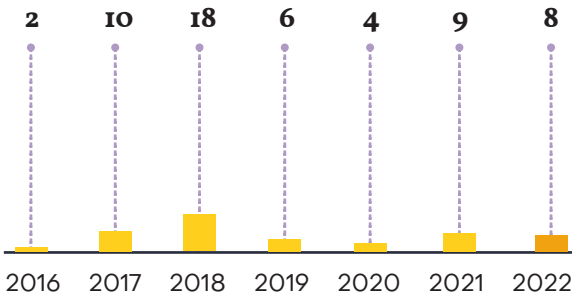
10 Includes 9 death sentences for which no information regarding the nature of offence is unavailable.

NATURE OF OFFENCE FOR THOSE SENTENCED TO DEATH BY SESSIONS COURTS

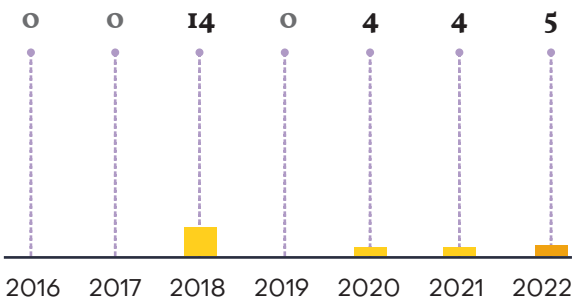
Dacoity with Murder



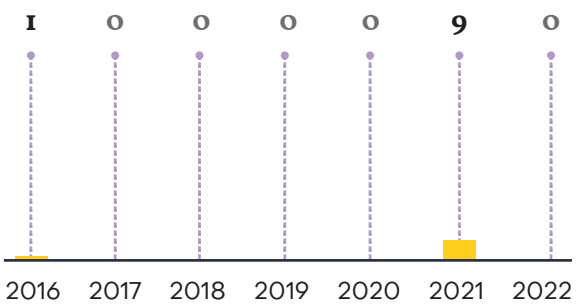
Kidnapping with Murder



Child Rape without Murder



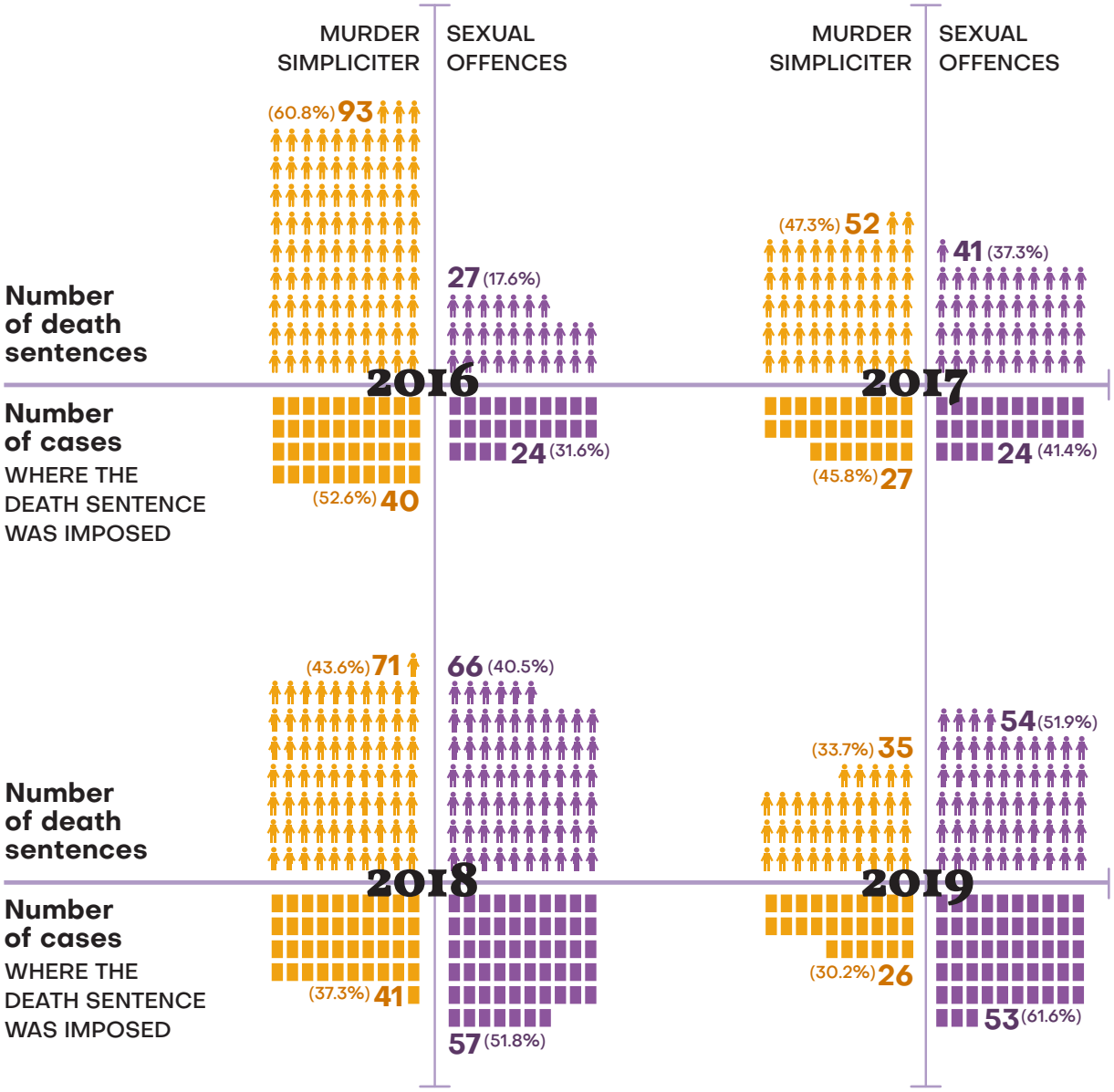
Other[11]



11 Includes offences for which no death sentence was imposed this year. In 2021, these include drug offences and a case that involved the sale of spurious liquor which resulted in the deaths of multiple persons.

DEATH PENALTY IN CASES OF SEXUAL OFFENCES

Number of Death Sentences and Cases involving Murder Simpliciter and Sexual Offences

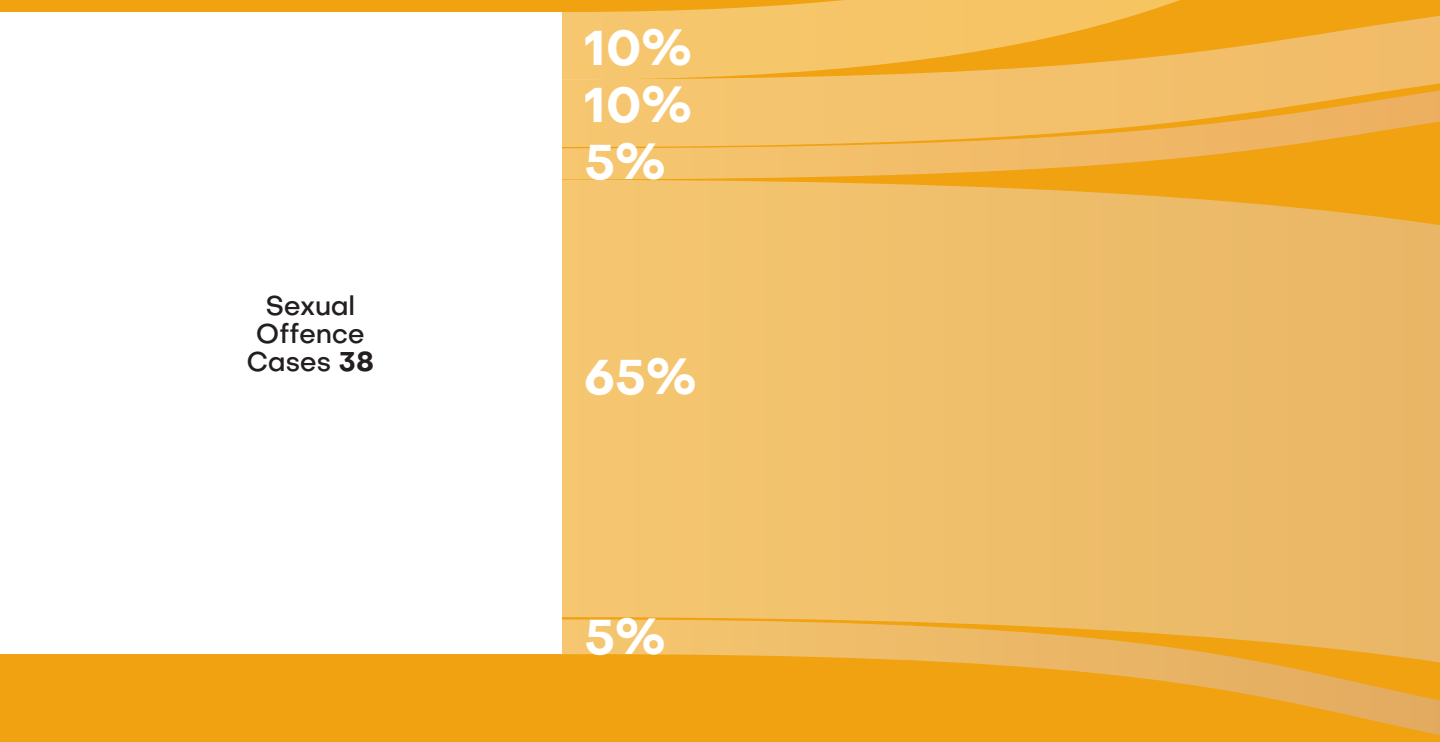


In 2022, a majority of the cases for which the death penalty was imposed involved sexual offences. Murder simpliciter comprised the majority of death sentences (and not cases) as these cases often involve multiple persons sentenced to death in a single case

12 The two proportions presented here represent when the outlier sessions court case in Ahmedabad sentencing 38 persons to death is included and when it is excluded respectively.

AGE OF VICTIM IN SEXUAL OFFENCE CASES IN WHICH A DEATH SENTENCE WAS IMPOSED IN 2022

NUMBER OF CASES [13]



13 In 2 cases involving sexual offences, the age of the victims is unclear.

AGE OF VICTIM

ADULT (ABOVE 18) **4**

4 Homicide rape

MINOR (12–18) **6**

4 Homicide rape

2 Non-homicide rape

BELOW 12 YEARS **28**

26 Homicide rape

2 Non-homicide rape

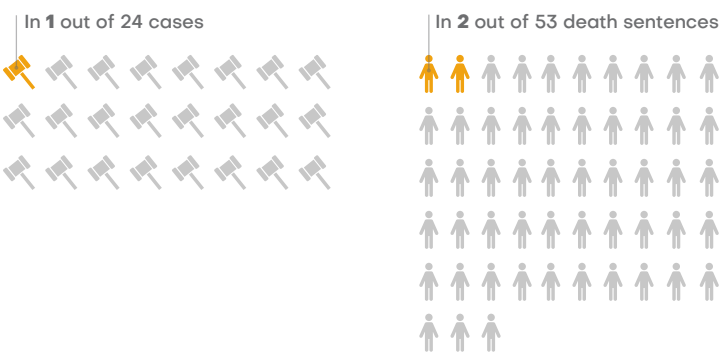
SENTENCING MATERIAL

In *Manoj v. State of Madhya Pradesh*, a three judge bench of the Supreme Court held that it was the duty of the trial courts to proactively elicit materials on mitigating circumstances while sentencing in death penalty cases, and issued guidelines for the collection of such information.[14] It further reiterated the State's duty to lead evidence addressing the improbability of reform, whenever capital punishment was sought.

Cases Where The Trial Court Elicited/Sought Materials On Sentencing

Prior to *Manoj*

Post *Manoj*

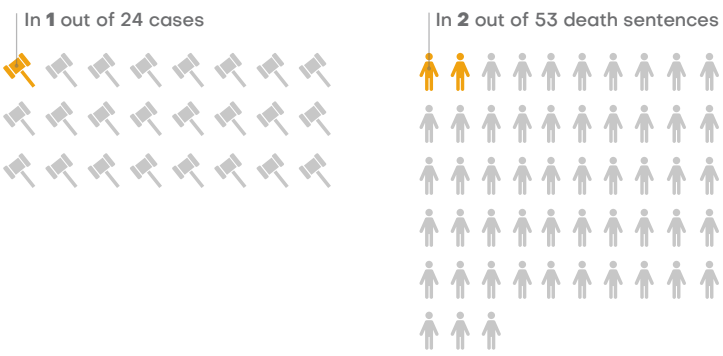


14 *Manoj v. State of Madhya Pradesh*, Criminal Appeal No. 248 of 2015.

Whether The the State Led Materials on Reform

Prior to *Manoj*

Post *Manoj*



Materials Placed On Record At Sentencing

Cases (Death sentences)

1. Probation officer's report

2 (2)

2. Psychiatric and psychological evaluation

1 (2)

DURATION BETWEEN CONVICTION AND SENTENCING IN SESSIONS COURT DEATH PENALTY CASES

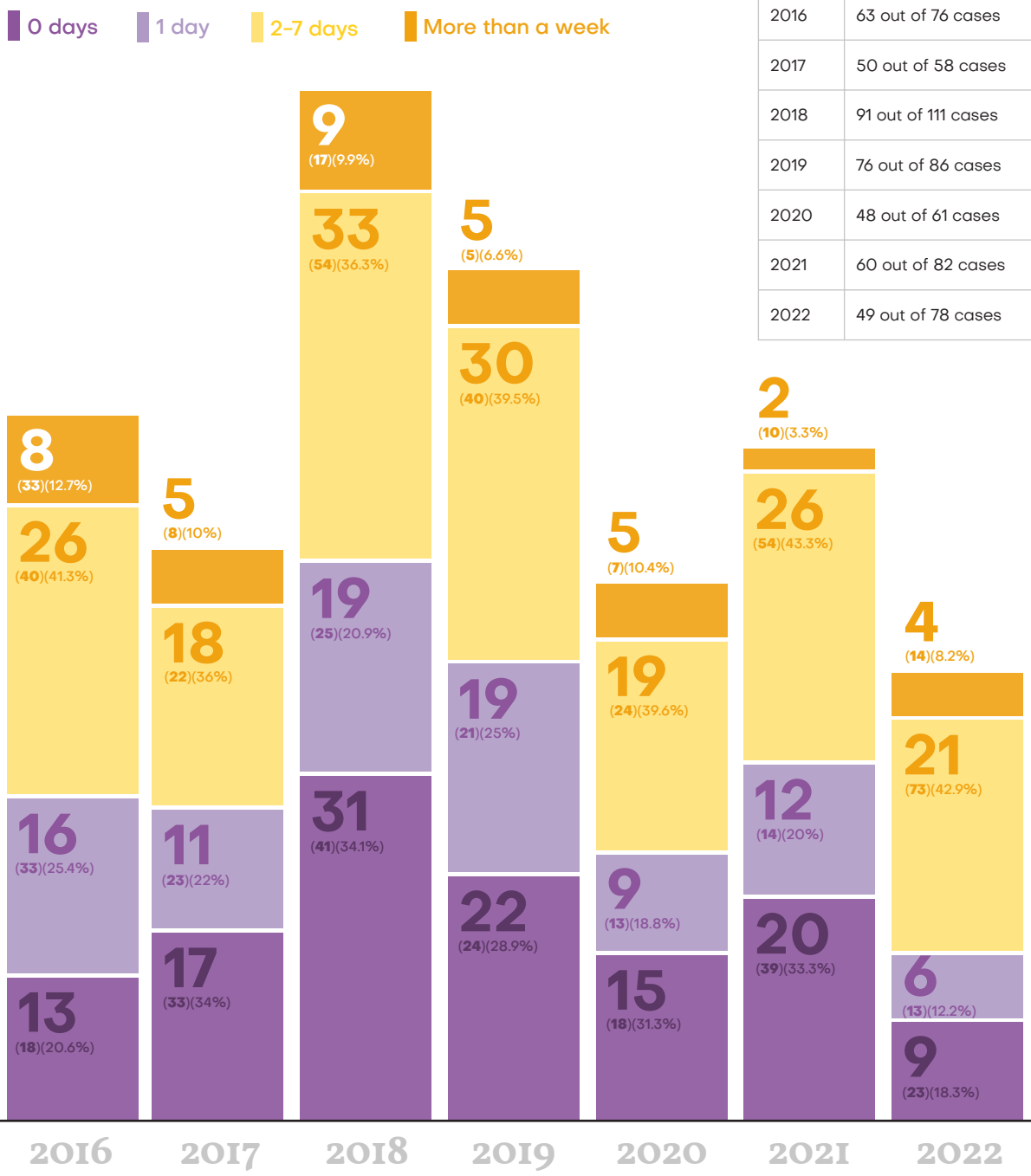
The law bifurcates a criminal trial into conviction and sentencing stages.[15] In death penalty cases, the judge must consider both mitigating circumstances of both the accused and crime as well as aggravating circumstances before deciding on the sentence. Consequently, it is important that the defence be given sufficient time, after conviction, to collect information on the life history of the accused towards facilitating an individualised sentencing process. However, the law so far has remained silent on what constitutes sufficient time, with sentencing on the same day as conviction not deemed a fair trial violation.[16] This year, a three-judge bench has referred the question of the time that must be given for sentencing in death penalty cases, among other aspects of sentencing law, to a Constitution Bench.

15 Section 235(2) of the Criminal Procedure Code

16 *In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered While Imposing Death Sentences*, Suo Motu Writ Petition (Crl.) No 1 of 2022, para 21.

Number of Cases

Days (**Prisoners**)(Proportion of cases with information available)



Year	Availability of information on dates
2016	63 out of 76 cases
2017	50 out of 58 cases
2018	91 out of 111 cases
2019	76 out of 86 cases
2020	48 out of 61 cases
2021	60 out of 82 cases
2022	49 out of 78 cases

HIGH COURTS IN 2022

Prisoners (**Cases**) (Proportion of prisoners)[17]

	2016	2017	2018	2019
High Court Confirmations	16 (**11**)[18] (14.7%)	11 (**10**) (10.8%)	23 (**18**) (20.2%)	26 (**15**) (20%)
High Court Commutations	58 (**38**) (56.9%)	58 (**39**) (56.9%)	53 (**35**) (46.5%)	59 (**38**) (45.4%)
High Court Acquittals	18 (**12**) (17.6%)	35 (**23**) (34.3%)	27 (**12**) (23.7%)	31 (**17**) (23.8%)
Remitted to Trial Courts by High Courts	11 (**1**) (10.7%)	10 (**5**) (9.8%)	10 (**6**) (8.7%)	15 (**7**) (11.5%)

17 Proportions have been calculated against the total number of prisoners whose cases were decided in each calendar year.

18 Includes 1 case involving 1 prisoner, in which the High Court enhanced the sentence from life imprisonment to death penalty.

2020	2021	2022	
3 (3) (7.7%)	5 (6) (8.2%)	4 (4) (4%)[19]	High Court Confirmations
22 (17) (56.4%)	23 (20)[20](37.7%)	51 (39) (50.5%)	High Court Commutations
5 (5) (12.8%)	30 (16) (48.2%)	40 (19) (42.6%)	High Court Acquittals
9 (6) (23.1%)	2 (2) (3.3%)	6 (6) (5.9%)	Remitted to Trial Courts by High Courts

19 Includes 1 case involving 1 prisoner, in which the High Court enhanced the sentence from life imprisonment to death penalty.
20 In 1 case involving 1 prisoner, the High Court dismissed the writ petition challenging the rejection of the mercy petition by the President of India.

REASONS FOR REMITTING CASES TO SESSIONS COURTS

Cause Title	Prisoners	Nature of Offence	Reason For Remitting Case
Gobind Singhal v. State of Assam & Anr.	01	Murder simpliciter	Failure of the court to properly conduct the accused's examination under section 313 CrPC, which prevented the accused from sufficiently understanding the evidence against him and violated the accused's right to be heard.
The State of Bihar v. Balram Singh @ Baliram Singh	01	Murder involving sexual offences	Failure to provide the defence counsel with the case documents necessary for preparing the defence and the opportunity to speak to the prisoner, which prevented the counsel from providing effective legal representation.
Md. Major @ Mejar v. The State of Bihar	01	Child rape without murder	Failure to provide case documents to the prisoner and to allow the prisoner to hear the incriminating evidence against him.
Sanjay Singh v. State of Uttarakhand	01	Murder simpliciter	Failure to consider the accused's fitness to stand trial.
Najeeruddin v. State of Uttar Pradesh	01	Murder involving sexual offences	Failure to record forensic evidence before the accused's examination under section 313 CrPC, which did not allow the accused to be heard on all incriminating evidence against him.
The State of Bihar v. Lamboo Sharma & Ors.	01	Murder simpliciter	Failure to adequately prove the accused's previous conviction, which was the basis for imposing the death sentence.

NATURE OF OFFENCE IN THE HIGH COURT IN 2022

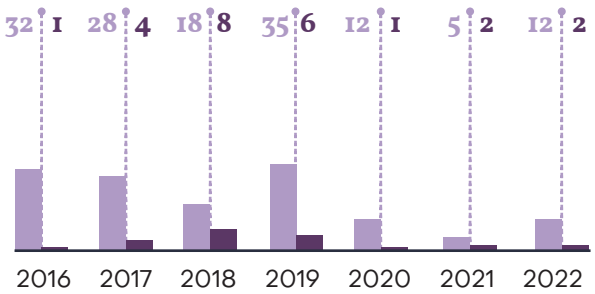
34 Commutations | **04** Confirmations

Number of Prisoners

Murder Simpliciter

COMMUTED 12

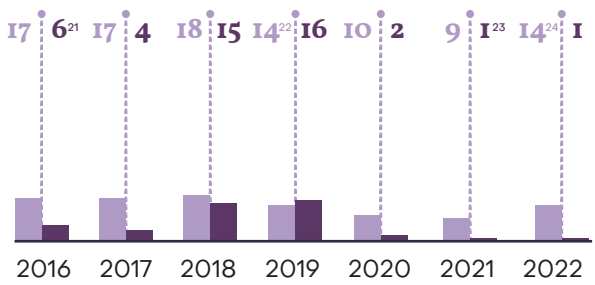
CONFIRMED 2



Murder involving Sexual Offences

COMMUTED 14

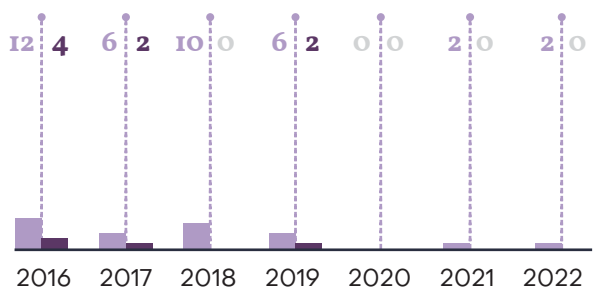
CONFIRMED 1



Kidnapping with Murder

COMMUTED 2

CONFIRMED 0



21 In 1 case, involving 1 prisoner, the High Court enhanced the sentence of life imprisonment to death sentence.

22 This data excludes 1 case involving 2 prisoners in which the High Court commuted the death sentence in a writ petition challenging the rejection of the mercy petition by the President of India.

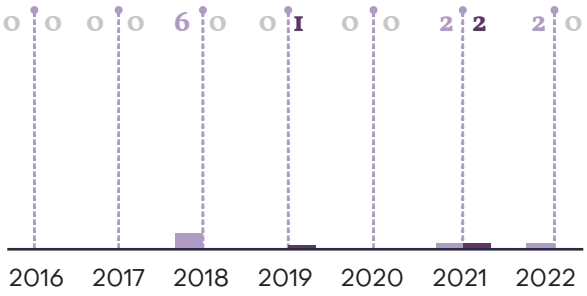
23 This data excludes 1 case involving 1 prisoner in which the High Court dismissed the writ petition challenging the rejection of the mercy petition by the President of India.

24 In 1 case, involving 1 prisoner, the High Court acquitted the prisoner of the charge carrying the death penalty, which resulted in a reduced sentence for the prisoner.

Child Rape without Murder

COMMUTED 2

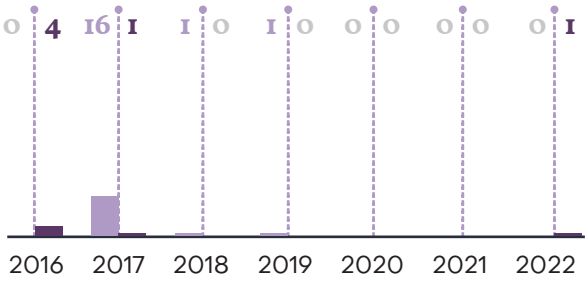
CONFIRMED 0



Dacoity with Murder

COMMUTED 0

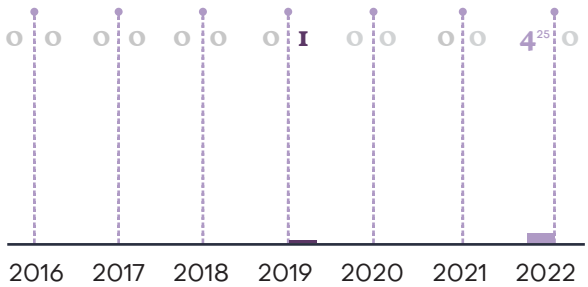
CONFIRMED 1



Terror Offences

COMMUTED 4

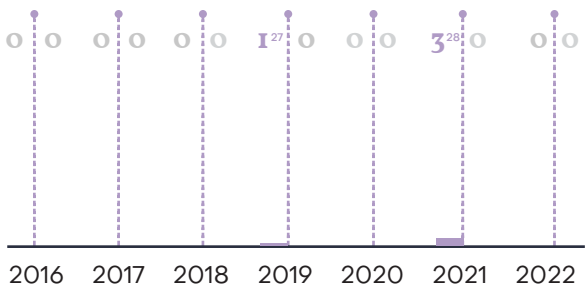
CONFIRMED 0



Others[26]

COMMUTED 0

CONFIRMED 0



25 Includes 1 case, involving 3 prisoners, in which the High Court acquitted the prisoners of the charge carrying the death penalty, which resulted in a reduced sentence for the prisoners.

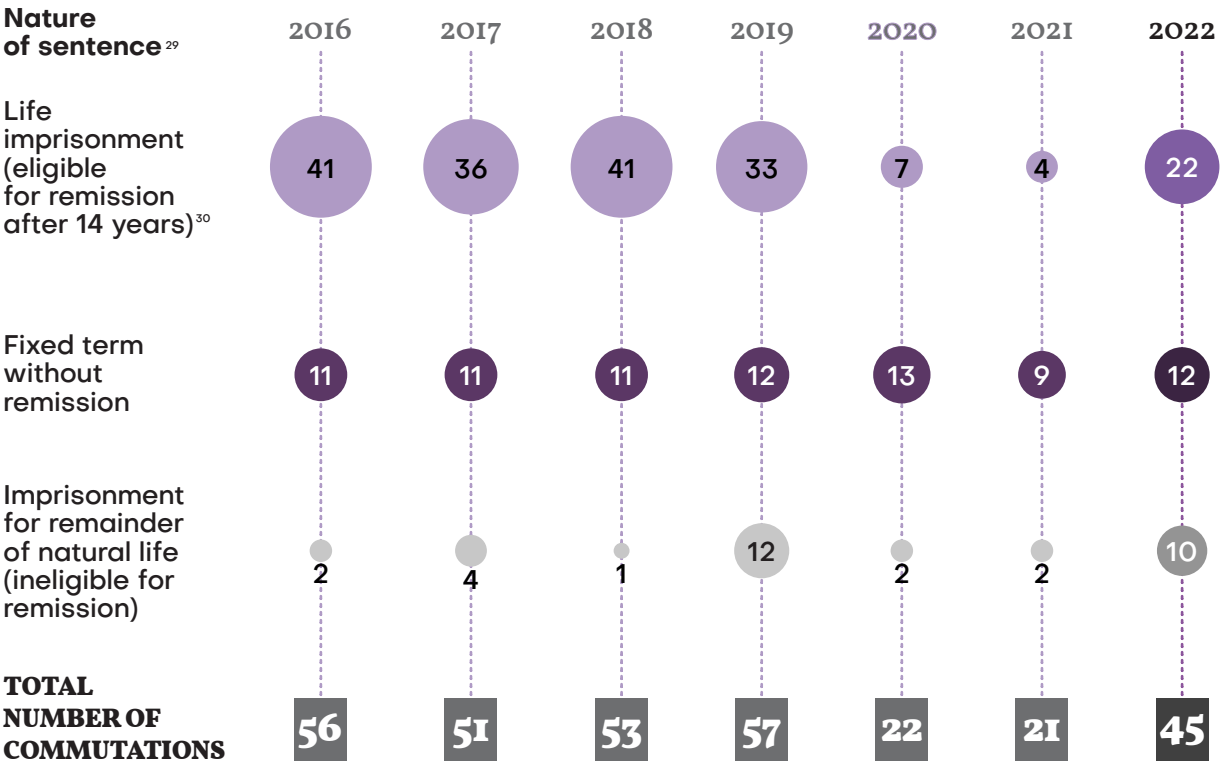
26 Includes offences for which no appeal of a death sentence was decided by the High Court this year, involving drug offences, 376E (for multiple convictions of sexual offences).

27 Includes 1 case, involving 1 prisoner, who was sentenced to death in a drug offence case.

28 Includes 3 cases, involving 3 prisoners, who were sentenced to death under 376E IPC (for multiple convictions of sexual offences)

SENTENCES IMPOSED BY HIGH COURTS ON COMMUTATION OF DEATH SENTENCE

Number of Prisoners



29 Information on the sentence upon commutation is unavailable for 1 case involving 1 prisoner.

30 Unless a judgment explicitly excludes remission or bars the state government from ordering early release, commutation to life imprisonment is classified as 'Life Imprisonment (eligible for remission after 14 years)'.

HIGH COURT ACQUITTALS IN 2022

40 No. of persons | **19** No. of cases

Coram | Nature of Offence

BIHAR

No. of persons

No. of cases

12.01.2022 Prisoners – 1

Justices Ashwani Kumar Singh & Arvind Srivastava
The State of Bihar v. Ram Lal Mahto

Murder involving sexual offences

13.07.2022 Prisoners – 9

Justices Ashwani Kumar Singh & Harish Kumar
The State of Bihar v. Chattu Pasi and Ors.

Sale of spurious liquor which resulted in the death of multiple individuals.

17.08.2022 Prisoners – 7

Justices Ashwani Kumar Singh & Harish Kumar
State of Bihar v. Babli Miyan and Ors.

Murder simpliciter

17.08.2022 Prisoners – 3

Justices Ashwani Kumar Singh & Harish Kumar
State of Bihar v. Samsher Miyan and Ors.

Murder simpliciter

Coram Nature of Offence

07.04.2022 Prisoners – 3

Justices Rajeev Ranjan Prasad & Ashwani Kumar Singh
State of Bihar v. Md. Irshad and Ors.

Murder simpliciter

JHARKHAND

No. of persons

No. of cases

02.05.2022 Prisoners – 1

Justices Rongon Mukhopadhyay & Rajesh Kumar
State of Jharkhand v. Md. Sayub Akhtar @ Md. Sayub

Murder simpliciter

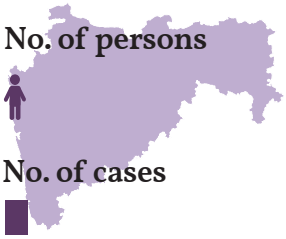
06.05.2022 Prisoners – 1

Justices Rongon Mukhopadhyay & Sanjay Prasad
State of Jharkhand v. Durga Soren @ Bhota

Murder involving sexual offences

MAHARASHTRA

No. of persons



No. of cases

06.05.2022 Prisoners – 1

Justices Sadhana S Jadhav & Milind N Jadhav
State of Maharashtra v. Guddu Krish Yadav

Murder simpliciter

Coram Nature of Offence

TAMIL NADU

No. of persons

No. of cases

22.09.2022

Prisoners - 2

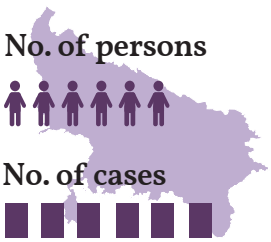
Justices PN Prakash & RMT Teekaa Raman

State v. Govardhanan and Anr.

Murder simpliciter

UTTAR PRADESH

No. of persons



No. of cases

08.02.2022

Prisoners - 1

Justices Manoj Misra & Sameer Jain

Virendra Baghel v. State of Uttar Pradesh

Murder involving sexual offences

04.03.2022

Prisoners - 1

Justices Manoj Misra & Sameer Jain

Monu Thakur v. State of Uttar Pradesh

Murder simpliciter

07.03.2022

Prisoners - 1

Justices Saroj Yadav & Ramesh Sinha

State of Uttar Pradesh v. Rahul Singh @ Govind Singh

Murder simpliciter

Coram Nature of Offence

16.03.2022 Prisoners – 1

Justices Manoj Misra & Sameer Jain
Upendra v. State of Uttar Pradesh

Murder involving sexual offences

08.07.2022 Prisoners – 1

Justices Manoj Misra & Sameer Jain
Ram Pratap @ Tillu v. State of Uttar Pradesh

Murder simpliciter

19.12.2022 Prisoners – 1

Justices Manoj Misra & Sameer Jain
Chandan v. State of Uttar Pradesh

Murder involving sexual offences

HIGH COURT COMMUTATIONS IN 2022

51 No. of persons | **39** No. of cases

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

ASSAM

No. of persons

No. of cases

16.12.2022 — Prisoners – 1

Justices N Kotiswar Singh & Arun Dev Choudhury
Gauri Shankar Nath @ Banka v. The State of Assam

Murder involving sexual offences

Fixed term imprisonment of 30 years without remission

22.12.2022 — Prisoners – 1

Justices N Kotiswar Singh & Arun Dev Choudhury
Moinul Haque @ Monu v. The State of Assam[31]

Murder involving sexual offences

BIHAR

No. of persons

No. of cases

19.10.2022 — Prisoners – 1

Justices Ashwani Kumar Singh & Rajeev Ranjan Prasad
State of Bihar v. Arvind Kumar @ Raj Singhania

Child Rape without Murder

Life imprisonment
(eligible for remission after 14 years)

---

31 1 case, involving 1 prisoner, in which the High Court acquitted the prisoners of the charge carrying the death penalty, which resulted in a reduced sentence for the prisoners.

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

CHHATTISGARH

No. of persons

No. of cases

12.05.2022 — Prisoners – 1

Justices Sanjay K Agrawal & Rajani Dubey
In Reference State of Chhattisgarh v. Dolalal

Murder simpliciter

Imprisonment for the rest of natural life
(ineligible for remission)

13.06.2022 — Prisoners – 1

Justices Sanjay K Agrawal & Rajani Dubey
Shekhar Korram v. State of Chhattisgarh

Murder involving sexual offences

Life imprisonment
(eligible for remission after 14 years)

HIMACHAL PRADESH

No. of persons

No. of cases

30.12.2022 — Prisoners – 1

Justices Sabina & Sushil Kukreja
State of Himachal Pradesh v. Akash

Murder involving sexual offences

Imprisonment for the rest of natural life
(ineligible for remission)

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

JAMMU & KASHMIR

No. of persons

No. of cases

27.09.2022

Prisoners – 1

Justices Ali Mohammed Magrey & Md Akram Chowdhary

Sonam Dorjay @ Jamwang Tashi v. State of Jammu & Kashmir (now UT of Ladakh)

Murder involving sexual offences

Life imprisonment
(eligible for remission after 14 years)

KARNATAKA

No. of persons

No. of cases

15.07.2022

Prisoners – 1

Justices KS Mudagal & GS Kamal

The State v. Ramesh @ Rama Laxman Jadhav

Murder involving sexual offences

Imprisonment for the rest of natural life without remission

19.07.2022

Prisoners – 1

Justices KS Mudagal & GS Kamal

The State of Karnataka v. Sri Ravi S/o Gangappa Pujar

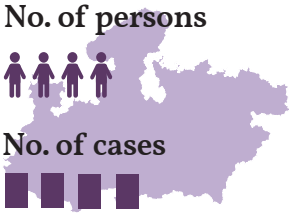
Murder simpliciter

Fixed term imprisonment of 30 years without remission

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

MADHYA PRADESH

No. of persons



No. of cases

15.06.2022

Prisoners – 1

Justices Subodh Abhyankar & Satyendvra Kumar Singh
In Reference v. Ankit Vijayvargiya

Murder involving sexual offences

Fixed term imprisonment of 20 years without remission

29.07.2022

Prisoners – 1

Justices Sujoy Paul & Prakash Chandra Gupta
In Reference v. Ramnath Kewat @ Bhursoo Kewat

Murder involving sexual offences

Fixed term imprisonment of 35 years without remission

05.09.2022

Prisoners – 1

Justices Prakash Chandra Gupta & Sujoy Paul
In Reference v. Santosh Markam

Child rape without murder

Imprisonment for the rest of natural life
(ineligible for remission)

08.09.2022

Prisoners – 1

Justices Sujoy Paul & Prakash Chandra Gupta
In Reference v. Anand Kol

Murder involving sexual offences

Fixed term imprisonment of 35 years without remission

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

MAHARASHTRA

No. of persons

No. of cases

08.02.2022

Prisoners – 1

Justices Sadhana S Jadhav & Prithviraj K Chavan
State of Maharashtra v. Mohammad Aabed Mohammad Ajmir Shaikh

Murder involving sexual offences

Life imprisonment
(eligible for remission after 14 years)

23.02.2022

Prisoners – 1

Justices Sadhana S Jadhav and Prithviraj K Chavan
State of Maharashtra v. Ashok Baban Mukane[32]

Murder involving sexual offences

27.07.2022

Prisoners – 1

Justices Sunil B Shukre and GA Sanap
State of Maharashtra v. Santosh Ramdas Kalwe

Kidnapping with Murder

Life imprisonment
(eligible for remission after 14 years)

---

32 1 case, involving 1 prisoner, in which the High Court acquitted the prisoner of the charge carrying the death penalty, which resulted in a reduced sentence for the prisoner.

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

RAJASTHAN

01.04.2022

Prisoners – 4

Justices Sandeep Mehta & Vinod Kumar Bharwani
State v. Aatma Ram and Ors.

Murder simpliciter

Imprisonment for the rest of natural life
(ineligible for remission)

31.01.2022

Prisoners – 1

Justices Pankaj Bhandari & Chandra Kumar Songara
State of Rajasthan v. Shakir Hussain

Murder simpliciter

Life imprisonment
(eligible for remission after 14 years)

TAMIL NADU

08.06.2022

Prisoners – 1

Justices PN Prakash & AA Nakkiran
The Deputy Commissioner of Police v. D Marudhupandiyan

Murder simpliciter

Life imprisonment
(eligible for remission after 14 years)

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

30.08.2022 Prisoners – 1

Justices PN Prakash & R Hemalatha
State v. Kattai Raja @ Raja

Kidnapping with murder

Fixed term imprisonment of 25 years without remission

TRIPURA

No. of persons

No. of cases

14.09.2022 Prisoners – 2

Justices Amarnath Goud & Arindam Lodh
State of Tripura v. Kastarai Tripura and Anr.

Murder involving Sexual Offences

Life imprisonment
(eligible for remission after 14 years)

UTTAR PRADESH

No. of persons

No. of cases

28.04.2022 Prisoners – 2

Justices Ramesh Sinha & Saroj Yadav
State of Uttar Pradesh v. Santosh Kumar Nat and Anr.

Murder involving Sexual Offences

Imprisonment for the rest of natural life without remission

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

09.05.2022 — Prisoners – 1

Justices Ramesh Sinha & Brij Raj Singh
State of Uttar Pradesh v. Buddha

Murder simpliciter

Life imprisonment
(eligible for remission after 14 years)

31.05.2022 — Prisoners – 1

Justices Rajan Roy & Saroj Yadav
State of Uttar Pradesh v. Guddu @ Gubbu

Murder involving sexual offences

Imprisonment for the rest of natural life without remission

08.07.2022 — Prisoners – 1

Justices Manoj Misra & Sameer Jain
Harendra v. State of Uttar Pradesh

Murder involving sexual offences

Life imprisonment
(eligible for remission after 14 years)

18.10.2022 — Prisoners – 1

Justices Ramesh Sinha & Renu Agarwal
State of Uttar Pradesh v. Govind Pasi

Murder involving sexual offences

Imprisonment for the rest of natural life without remission

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

UTTARAKHAND

No. of persons

No. of cases

19.05.2022

Prisoners – 1

Justices SK Mishra & NS Dhanik
Digar Singh v. State of Uttarakhand

Murder simpliciter

Life imprisonment
(eligible for remission after 14 years)

WEST BENGAL

No. of persons

No. of cases

02.08.2022

Prisoners – 3

Justices Joymala Bagchi & Ananya Bandhopadhyay
State of West Bengal v. Sujit Dhali and Ors.

Murder simpliciter

1 prisoner sentenced to fixed term imprisonment of 30 years without remission & 2 sentenced to life imprisonment (eligible for remission after 14 years)

25.08.2022

Prisoners – 2

Justices Devanshu Basak & Vivasaranjan Dey
State of West Bengal v. Sanatan Goswami and Anr.

Murder simpliciter

Life imprisonment (eligible for remission after 14 years) (1) and fixed term imprisonment of 30 years without remission

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

25.08.2022 — Prisoners – 1

Justices Devanshu Basak & Vivasaranjan Dey
Saju Sk @ Sahajur v. The State of West Bengal

Murder simpliciter

Imprisonment for the rest of natural life
(ineligible for remission)

09.09.2022 — Prisoners – 2

Justices Devanshu Basak & Vivasaranjan Dey
Palan Ali Laskar & Sabir Ali Laskar v. The State of West Bengal

Kidnapping with murder

Life imprisonment
(eligible for remission after 14 years)

13.09.2022 — Prisoners – 1

Justices Joymala Bagchi & Bivas Pattanayak
State of West Bengal v. Md Raees Qureshi @ Hadi Qureshi

Murder simpliciter

Fixed term imprisonment of 25 years without remission

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

28.11.2022 — Prisoners – **1**

Justices Devanshu Basak & Shabbar Rashidi
Kamrujjaman Sarkar v. State of West Bengal

Murder involving sexual offences

Fixed term imprisonment of 25 years without remission

14.11.2022 — Prisoners – **4**

Justices Joymala Bagchi & Ananya Bandhopadhyay
State of West Bengal v. Muzaffar Ahamed Rather @ Abu Rafa[33]

Terror offences

12.12.2022 — Prisoners – **1**

Justices Devanshu Basak & Shabbar Rashidi
Asgar Chowdhury v. State of West Bengal

Murder involving sexual offences

Life imprisonment
(eligible for remission after 14 years)

---

33 1 case, involving 4 prisoners, in which the High Court acquitted the prisoners of the charge carrying the death penalty, which resulted in a reduced sentence for the prisoners.

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

13.12.2022 Prisoners - 2

Justices Joymala Bagchi & Ajay Kumar Gupta
Nemai Sasmal & Purnima Sasmal v. The State of West Bengal

Murder simpliciter

Life imprisonment
(eligible for remission after 14 years)

HIGH COURT CONFIRMATIONS IN 2022

03 No. of persons | **03** No. of cases

Coram | Nature of Offence

TAMIL NADU

12.01.2022 — Prisoners – 1

Justices S Vaidyanathan & G Jayachandran
The Deputy Superintendent of Police v. Samivel @ Raja

Murder involving sexual offences

UTTAR PRADESH

09.05.2022 — Prisoners – 1

Justices Ramesh Sinha & Brij Raj Singh
State of Uttar Pradesh v. Deen Dayal Tiwari

Murder simpliciter

06.09.2022 — Prisoners – 1

Justices Saroj Yadav & Ramesh Sinha
State of Uttar Pradesh v. Sarvan

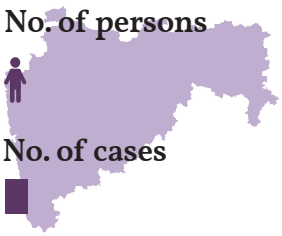
Murder simpliciter

HIGH COURT ENHANCEMENTS IN 2022

01 No. of persons | **01** No. of cases

Coram | Nature of Offence

MAHARASHTRA



08.04.2022 Prisoners – 1

Justices Shrikant D. Kulkarni & V. K. Jadhav
Shivkumar Ramsundar Saket and Ors. v. State of Maharashtra

Dacoity with murder

HIGH COURT REMITTED CASES IN 2022

06 No. of persons | **06** No. of cases

Coram | Nature of Offence

ASSAM

No. of persons

No. of cases

■

08.04.2022 — Prisoners – 1

Justices Suman Shyam & Malasari Nandi
The State of Assam v. Sri Gobind Singhal

Murder simpliciter

BHAR

No. of persons

No. of cases

■ ■ ■

23.03.2022 — Prisoners – 1

Justices Ashwani Kumar Singh & Arvind Srivastava
The State of Bihar and Ors. v. Lamboo Sharma and Ors.

Murder simpliciter

09.05.2022 — Prisoners – 1

Justices Ashwani Kumar Singh & Harish Kumar
The State of Bihar v. Balram Singh @ Baliram Singh @ Munna

Murder involving sexual offences

16.08.2022 — Prisoners – 1

Justices A M Badar & Rajesh Kumar Verma
Md. Major @ Mejar v. The State of Bihar

Child rape without murder

Coram Nature of Offence

UTTAR PRADESH

21.10.2022

Prisoners – **1**

Justices Manoj Misra & Sameer Jain
Najeeruddin v. State of Uttar Pradesh

Murder involving sexual offences

UTTARAKHAND

10.05.2022

Prisoners – **1**

Justices Sanjaya Kumar Mishra & Ramesh Chandra Khulbe
Najeeruddin v. State of Uttar Pradesh

Murder simpliciter

SUPREME COURT IN 2022

Prisoners (**Cases**) (Proportion of prisoners)

Criminal Appeal And Related Proceedings In 2022[34]

	2016	2017	2018	2019
Supreme Court Commutations	10 (**8**) (83.3%)	0 (**0**) (0%)	11 (**11**) (78.6%)	16 (**16**) (45.7%)
Supreme Court Confirmations	1 (**1**) (8.3%)	8 (**4**) (100%)	3 (**1**) (21.4%)	6 (**6**) (17.1%)
Supreme Court Acquittals	1 (**1**) (8.3%)	0 (**0**) (0%)	0 (**0**) (0%)	11 (**3**) (31.4%)
Supreme Court Remitted Cases	0 (**0**) (0%)	0 (**0**) (0%)	0 (**0**) (0%)	2 (**2**) (5.7%)

34 Including Criminal Appeals, Review Petitions or Curative Petitions connected to the original Criminal Appeal.

2020	2021	2022	
4 (3) (28.6%)	5 (4) (55.5%)	7 (5) (53.3%)	Supreme Court Commutations
6 (4) (42.9%)	0 (0) (0%)	2 (2) (13.3%)	Supreme Court Confirmations
0 (0) (0%)	4 (2) (44.4%)	5 (3) (33.3%)	Supreme Court Acquittals
0 (0) (0%)	0 (0) (0%)	0 (0) (0%)	Supreme Court Remitted Cases

SUPREME COURT IN 2022

Prisoners (**Cases**)

Other Death Sentence Proceedings[35]

	2016	2017	2018	2019
Dismissal	0 (0)	0 (0)	0 (0)	0 (0)
Commutation	0 (0)	0 (0)	0 (0)	1 (1)

35 Including proceedings at the Supreme Court level that relate to the death penalty, which are unconnected to the original Criminal Appeal. The present data only includes Writ Petitions challenging the rejection of the mercy petition by the President of India.

2020	2021	2022	
4 (4)	0 (0)	0 (0)	Dismissal
0 (0)	0 (0)	1 (1)[36]	Commutation

36 Includes an appeal from the dismissal of a post-mercy writ petition by the Karnataka High Court.

NATURE OF OFFENCE AT THE SUPREME COURT IN 2022

Criminal Appeal & Related Proceedings

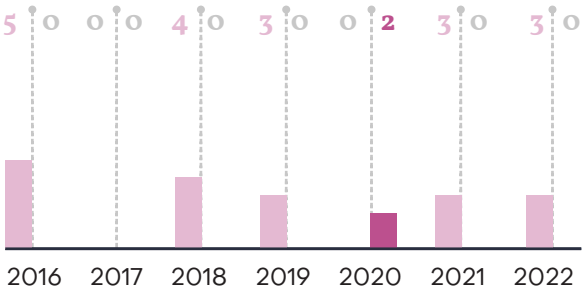
07 Commutations | **02** Confirmations

Number of Prisoners (proportion of prisoners)

Murder Simpliciter

COMMUTED 3

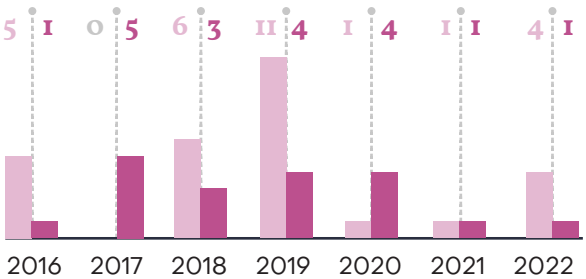
CONFIRMED 0



Murder involving Sexual Offences

COMMUTED 4

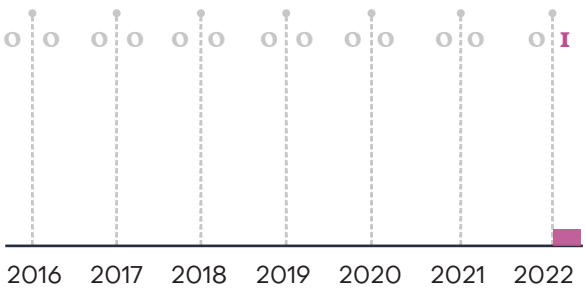
CONFIRMED 1



Terror Offences

COMMUTED 0

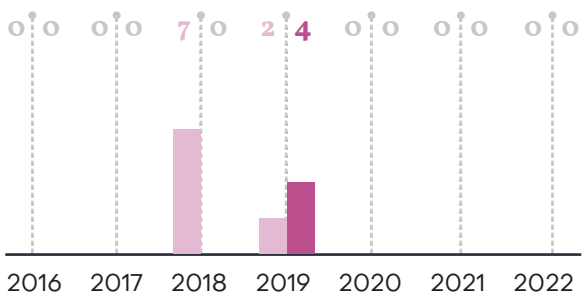
CONFIRMED 1



Others[37]

COMMUTED 0

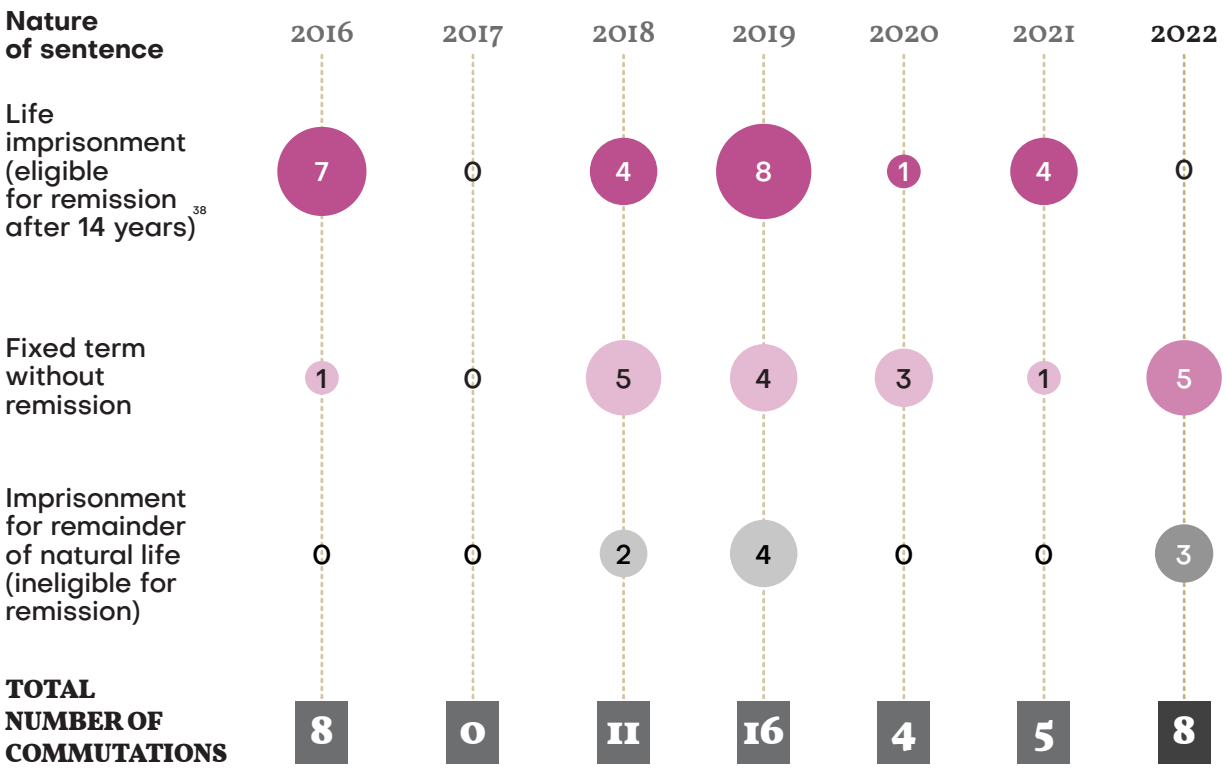
CONFIRMED 0



37 Includes offences for which no appeal of a death sentence was decided by the Supreme Court this year, involving drug offences, 376E/death sentence for multiple convictions of sexual offences, kidnapping with murder and child rape without murder.

SUPREME COURT SENTENCES IMPOSED UPON COMMUTATION OF DEATH SENTENCE IN 2022

Number of Prisoners



38 Unless a judgment explicitly excludes remission or bars the state government from ordering early release, commutation to life imprisonment is classified as 'Life Imprisonment (eligible for remission after 14 years)'.

SUPREME COURT ACQUITTALS IN 2022

05 No. of persons | **03** No. of cases

Coram | Nature of Offence

DELHI

No. of persons

No. of cases

07.11.2022 — Prisoners – 4

Justices UU Lalit, Ravindra Bhat & Bela M Trivedi

Rahul v. State of Delhi Ministry of Home Affairs & Anr.
Criminal Appeal No. 611 of 2022

Murder involving sexual offences

UTTAR PRADESH

No. of persons

No. of cases

28.09.2022 — Prisoners – 1

Justices Abdul Nazeer, AS Bopanna & V Ramasubramaniam

Chotkau v. State of Uttar Pradesh
Criminal Appeal No. 361 of 2018

Murder involving sexual offences

13.10.2022 — Prisoners – 1

Justices UU Lalit, Ravindra Bhat & JB Pardiwala

Ramanand @ Nandlal Bharti v. State of Uttar Pradesh
Criminal Appeal No. 64- 65 of 2022

Murder simpliciter

SUPREME COURT COMMUTATIONS IN 2022

07 No. of persons | **05** No. of cases

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

MADHYA PRADESH

No. of persons

No. of cases

18.01.2022

Prisoners – 1

Justices L Nageswara Rao, BR Gavai, BV Nagarathna
Bhagwani v. State of Madhya Pradesh
Criminal Appeal No. 101 of 2022

Murder involving sexual offences

Fixed term imprisonment of 30 years without remission

19.04.2022

Prisoners – 1

Justices UU Lalit, Ravindra Bhat & Bela M Trivedi
Mohd. Firoz v. State of Madhya Pradesh
Criminal Appeal No. 612 of 2019

Murder involving sexual offences

Fixed term imprisonment of 20 years without remission

13.05.2022

Prisoners – 1

Justices AM Khanwilkar, Dinesh Maheshwari, CT Ravikumar
Veerendra v. State of Madhya Pradesh
Criminal Appeal No. 5 of 2018

Murder involving sexual offences

Fixed term imprisonment of 30 years without remission

Coram | Nature of Offence | Sentence Imposed on Commutation of Death Sentence

20.05.2022 Prisoners – 3

Justices UU Lalit, Ravindra Bhat & Bela M Trivedi
Manoj v. State of Madhya Pradesh
Criminal Appeal No. 248 of 2015

Murder simpliciter

Imprisonment for the rest of natural life (ineligible for remission)

UTTAR PRADESH

No. of persons

No. of cases

09.02.2022 Prisoners – 1

Justices AM Khanwilkar, Dinesh Maheshwari, CT Ravikumar
Pappu v. State of Uttar Pradesh
Criminal Appeal No. 1097 of 2018

Murder involving sexual offences

Fixed term imprisonment of 30 years without remission

SUPREME COURT CONFIRMATIONS IN 2022

02 No. of persons | **02** No. of cases

Coram | Nature of Offence

DELHI

No. of persons

No. of cases

03.11.2022 Prisoners – 1

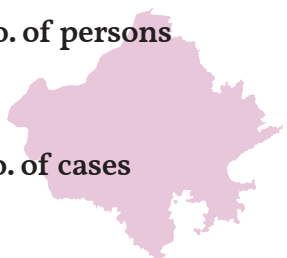
Justices UU Lalit, Ravindra Bhat and Bela M Trivedi

Mohd Arif @ Ashfaq v. State (NCT of Delhi)
Review Petition (Criminal) No. 286 of 2012

Terror offences

RAJASTHAN

No. of persons



No. of cases

24.06.2022 Prisoners – 1

Justices AM Khanwilkar, Dinesh Maheshwari, CT Ravikumar

Manoj Pratap Singh v. State of Rajasthan
Special Leave Petition (Criminal) Nos. 7899-7900 of 2015

Murder involving sexual offences

POST MERCY LITIGATION IN 2022

01 No. of persons | **01** No. of cases

COMMUTATIONS

Coram | Nature of Offence

KARNATAKA

No. of persons

No. of cases

04.11.2022 Prisoners – 1

Justices U U Lalit, Ravindra Bhat & P S Narasimha

B A Umesh v. Union of India and Ors.
Criminal Appeal No. 1892 of 2022

Murder involving sexual offences

ANALYSIS OF SUPREME COURT DECISIONS IN 2022

In 2022, the Supreme Court acquitted 5 prisoners in 3 cases, commuted the death sentences of 8 prisoners in 6 cases and confirmed the death sentences of 2 prisoners in 2 cases. The decisions commuting the death sentences introduced important changes in the framework of death penalty sentencing as well as in post-mercy adjudication. The acquittal orders noted the abysmal investigative processes, lack of fair investigation, and the lack of consideration of procedural failures by the Sessions courts in these cases. The cases that confirmed the death penalty significantly diverged from the commutations in the approach to mitigation and death penalty sentencing more generally.

COMMUTATIONS

The Supreme Court commuted the death sentences of 7 prisoners in 5 cases, four cases involving sexual offences[39] and one case of murder simpliciter[40]. In particular, *Manoj v. State of Madhya Pradesh* introduced significant changes to the death penalty sentencing framework in India.

Across all 5 cases, the Court emphasised the probability of reform of the prisoner while commuting the death sentence.[41] The Court repeatedly found that the Sessions Courts had imposed the death penalty despite evidence suggesting the probability of reform or the lack of material on record to prove its improbability. In all 5 cases, the Court had called for access to reports on jail conduct, while specifically recording a psychiatric assessment in *Firoz*. All 5 cases cited good prison conduct (among other factors) to demonstrate reform, while young age was cited in 3 cases as a factor demonstrating the probability of reform.[42]

Two of these decisions, *Bhagwani* and *Veerendra*, differed on the validity of imposing the death penalty on the same day as conviction.[43] The Court in *Manoj* also recognised the deficit in the sentencing process at the trial court level in death penalty cases and issued practical guidelines that required the trial court and the State to adduce evidence of mitigating circumstances. The Court also emphasised the importance of considering the evidence of mitigating circumstances in the context of the prisoner and their background. Reiterating the State's burden to disprove the probability of reform, the Court in *Manoj* held that the failure to discharge this burden would be a mitigating circumstance in and of itself.

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39 *Pappu v. State of Uttar Pradesh*, Criminal Appeal No. 1097 of 2018; *Bhagwani v. State of Madhya Pradesh*, Criminal Appeal No. 101 of 2022; *Veerendra v. State of Madhya Pradesh*, Criminal Appeal No. 5 of 2018; *Mohd. Firoz v. State of Madhya Pradesh*, Criminal Appeal No. 612 of 2019.

40 *Manoj v. State of Madhya Pradesh*, Criminal Appeal No. 248 of 2015.

41 2 out of the 5 commutation cases were decided by a bench of Justices U. U. Lalit, Ravindra Bhat and Bela M. Trivedi (including Manoj v. State of Madhya Pradesh).

42 *Pappu v. State of Uttar Pradesh*, Criminal Appeal No. 1097 of 2018; *Manoj v. State of Madhya Pradesh*, Criminal Appeal No. 248 of 2015; *Veerendra v. State of Madhya Pradesh*, Criminal Appeal No. 5 of 2018.

43 *Bhagwani v. State of Madhya Pradesh*, Criminal Appeal No. 101 of 2022; *Veerendra v. State of Madhya Pradesh*, Criminal Appeal No. 5 of 2018.

ACQUITTALS

The Supreme Court in 2022, acquitted 5 death row prisoners across three criminal appeal cases, two involving rape and murder[44], and the third involving multiple murders[45].

Across the three cases, the Court noted the abysmal nature in which the investigation had been carried out, despite the fact that these involved serious offences that carried the maximum punishment prescribed by law. In *Ramanand*, the Court raised the possibility of fabrication of evidence during investigation with a falsified extrajudicial confession placed on record merely to bolster the case of the prosecution. Similarly, in *Chotkau*, the Supreme Court raised the possibility of manipulation of the FIR on noting the delay in forwarding it.

In cases of sexual offences, the Court emphasised the need to prove medical and forensic evidence according to the principles of science and law. In *Chotkau*, the Supreme Court criticised the investigating authorities for failing to adduce any medical or forensic evidence. On the other hand, in *Rahul*, forensic evidence pointing towards the accused's guilt was rejected in light of concerns with the chain of custody as well as the unreliable techniques applied in generating and analysing the DNA profile.

The Supreme Court also criticised the trial courts for their failure to appreciate the evidence in accordance with established legal principles and statutory provisions. For instance, in *Chotkau* the courts below failed to consider that there were material contradictions in the testimonies of key witnesses. In *Rahul*, the Supreme Court criticised the unlawful admission of entire disclosure statements in evidence. In *Ramanand*, the Court noted that the trial court and High Court committed serious errors in relying on the alleged discovery at the behest of the accused, which was not in accordance with the established law.

The Supreme Court has also recognised that in all three cases, the courts below failed to ensure quality legal representation, which played in a major role in the accused persons being unable to

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44 *Chotkau v. State of Uttar Pradesh*, Criminal Appeal nos. 361-362 of 2018 and Rahul and Ors. v State of NCT of Delhi Criminal Appeal nos. 611-615 of 2022

45 *Ramanand @ Nandlal Bharti v. State of Uttar Pradesh*, Criminal Appeal nos. 64-65 of 2022

defend their case and assail the case of the prosecution. In *Rahul* it has been noted that material witnesses had not been adequately cross examined, or in some cases, not cross examined at all by the defence counsel. In *Ramanand*, the Court observed that the presence of a counsel on record means effective, genuine and faithful presence, not a farcical or perfunctory one. Further, in *Chotkau*, the Supreme Court noted that the appellant was so poor that he could not engage a lawyer even before the Sessions Court, and that the responsibility of the courts is even more onerous in cases of such nature.

CONFIRMATIONS

The Court confirmed the death sentences of 2 prisoners in 1 case of terror offence and in 1 case of murder involving sexual offences.[46] *Arif* ignored the legal developments in *Manoj* and the referral to the Constitution Bench, while *Manoj Pratap Singh* characterised the processes laid out in *Manoj* as "unrealistic" and "unwarranted".[47] Both cases relied heavily on the 'heinous' nature of crime to confirm the sentence, while evidence on the offender's circumstances were not elicited or rejected.

In *Manoj Pratap Singh*, the Court characterised the process of compiling mitigation evidence at the appellate stage, recognised by *Manoj v. State of Madhya Pradesh*, as a method to circumvent death penalty and refused to elicit information pertaining to the offender. The Court did not contextualise the mitigating circumstances in the context of the prisoner and their background.

In *Arif*, the Court relied on the gravity of the offence to justify its confirmation of the death penalty. It held that there was no material on record to demonstrate a probability of reform. The Court did not actively elicit information on the offender's circumstances. Developments in the law on the sentencing process for death penalty cases (which were laid down by the same bench) were not acknowledged in the judgment.

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46 *Manoj Pratap Singh v. State of Rajasthan*, Special Leave Petition No. 7899 of 2015; *Mohd Arif @ Ashfaq v. State (NCT of Delhi)*, Review Petition No. 286 of 2012.

47 *Manoj Pratap Singh v. State of Rajasthan*, Special Leave Petition No. 7899 of 2015, p. 54.

POST MERCY CASES

The Supreme Court decided one writ (in appeal from the Karnataka High Court) to commute the death sentence subsequent to rejection of the mercy petition by the President of India.[48] *B A Umesh* expanded the scope of supervening grounds to commute a death sentence in such matters, by recognising the impact of prolonged solitary confinement on a prisoner's mental health (in this case, 11 years) as a supervening ground to commute the death sentence. Notably, the decision recognises the impact of solitary confinement, and not such confinement itself, as the ground for commutation.

48 *B A Umesh v. Union of India*, Criminal Appeal No. 1892 of 2022.

DEVELOPMENTS IN THE LAW

2022 involved significant developments to the sentencing framework for death penalty cases as laid down by the Supreme Court.

01 Recognition Of Gaps In Death Penalty Sentencing Law

In September 2022, the Supreme Court acknowledged the inherent gaps within the current sentencing framework.[49] In light of this, the Court referred the matter of determining the components of a meaningful, real and effective sentencing hearing in death penalty cases to a Constitution Bench. In *Manoj v. State of Madhya Pradesh*, the Supreme Court acknowledged the lack of an institutional framework to guide the process of compiling mitigating circumstances before considering the sentence in death penalty cases, and laid down guidelines for the collection of materials relevant to the sentencing process.[50] The Court noted that contextualising the offender's background using mitigating circumstances was crucial while assessing the probability of reform of the prisoner.

02 Reconsideration Of Same Day Sentencing

In its referral order, the Supreme Court noted the confusion in the law on the time that must be provided before the death sentence could be imposed by the trial court, particularly whether sentencing someone on the same day as their conviction could be permitted.[51] The Court referred the matter to a Constitution Bench in order to resolve the nature of meaningful opportunity that must be provided before a person can be sentenced to death.

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49 *In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered While Imposing Death Sentences*, Suo Motu Writ Petition (Criminal) No. 1 of 2022.

50 *Manoj v. State of Madhya Pradesh*, Criminal Appeal No. 248 of 2015.

51 *In re: Framing Guidelines Regarding Potential Mitigating Circumstances to be Considered While Imposing Death Sentences*, Suo Motu Writ Petition (Criminal) No. 1 of 2022.

03 Reformation In Death Penalty Sentencing

In Manoj, the Supreme Court highlighted the centrality of reform to the death penalty sentencing framework, emphasising the duty of the state to present evidence of the 'improbability of reform' before any person can be sentenced to death.[52] The Court noted that the failure to do so would be considered a mitigating circumstance that could result in the commutation of the death sentence.[53] Furthermore, the Court observed that eliciting such information at the appellate stage serves to compensate for the failure of trial courts to collect relevant information at the sentencing stage, which further influenced its decision to lay down guidelines for the collection of such information.[54]

04 Collection Of Mitigation Information

In 10 orders of the Supreme Court, the Court called for reports from jails on conduct of prisoners, a psychological evaluation of the prisoner as well as providing access to personnel from the defence team to undertake such a mitigation exercise and submit a report to the Court.[55]

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52 *Manoj v. State of Madhya Pradesh*, Criminal Appeal No. 248 of 2015.

53 *Manoj v. State of Madhya Pradesh*, Criminal Appeal No. 248 of 2015.

54 Manoj v. State of Madhya Pradesh, Criminal Appeal No. 248 of 2015.

55 *Rajesh and Anr. v. State of Madhya Pradesh*, Special Leave to Appeal (Crl.) No 9578/2017 (Supreme Court) in order dated 06.05.2022; *Ramanand @ Nandlal Bharti v. State of Uttar Pradesh*, Special Leave to Appeal (Crl.) No. 6587/2021 (Supreme Court) in order dated 10.01.2022; *Irfan @ Naka v. State of Uttar Pradesh*, Special Leave to Appeal (Crl.) No. 5007/2018 (Supreme Court) in order dated 17/05.2022; *Irfan @ Bhayu Mevati v. State of Madhya Pradesh*, Criminal Appeal No. 1667 of 2021 (Supreme Court) in order dated 29.03.2022; *Ganesh @ Pravin Popat Darandale v. The State of Maharashtra*, Criminal Appeal No. 450/2021 (Supreme Court) in order dated 19.10.2022; *Naveen @ Ajay v. The State of Madhya Pradesh*, Criminal Appeal No. 489/2019 (Supreme Court) in order dated 03.11.2022; *Prakash Vishwanath Darandale v. The State of Maharashtra*, Criminal Appeal No. 425/2020 (Supreme Court) in order dated 19.10.2022 ; *Ramkirat Munilal Goud v. The State of Maharashtra*, Special Leave to Appeal (Crl.) No. 5928/2022 (Supreme Court) in order dated 10.11.2022; *Samivel @ Raja v. The State of Tamil Nadu*, Special Leave Petition (Criminal) Diary No. 26241/2022 (Supreme Court) in order dated 08.12.2022; *Karan @ Fatiya v. State of Madhya Pradesh*, Criminal Appeal No. 572/2019 (Supreme Court) in order dated 20.05.2022.

05

Supervening Grounds In Post-Mercy Death Penalty Cases

The Supreme Court recognised the impact of prolonged solitary confinement on the mental health of the prisoner as a supervening ground for commutation in cases subsequent to the rejection of the mercy petition by the President. Notably, the Court recognised the mental health impact of solitary confinement, and not such confinement itself, as a supervening ground.

INTERNATIONAL DEVELOPMENTS

PAPUA NEW GUINEA

Abolished The Death Penalty

On January 20, 2022, the National Parliament of Papua New Guinea amended its Criminal Code Act 1974 to abolish the death penalty. This is the second time that Papua New Guinea has abolished the death penalty, having abolished it in 1974 and then reintroduced it in 1991. The country's last execution was carried out in 1954.

CENTRAL AFRICAN REPUBLIC

Abolished The Death Penalty

On 27 May 2022, the National Assembly of the Central African Republic passed a bill to abolish the death penalty. The abolition came into force on 27 June 2022 after the promulgation by the President of the Central African Republic, making it the 24th African State to abolish the death penalty.

EQUATORIAL GUINEA

Abolished The Death Penalty

On 19 September 2022, Equatorial Guinea's President signed the new criminal code abolishing the death penalty, with its last official execution in 2014. This makes it the 25th country to abolish capital punishment in Africa.

ZAMBIA

Began The Process For Abolition Of Death Penalty

In May 2022, the President of Zambia declared that capital punishment would be abolished by the government. On 10th October 2022, the government approved the review of its criminal codes towards the abolition of the death penalty. The country has had an unofficial moratorium on executions since 1997.

MALAYSIA

Tabled A Bill To Abolish The Death Penalty

On 6 October 2022, the Malaysian government tabled a bill to abolish the death penalty in the country. The bill is yet to be passed in parliament, which was dissolved on 10 October 2022.

UNITED NATIONS GENERAL ASSEMBLY

Vote On A Moratorium On The Death Penalty

125 countries voted in favour of a moratorium on the death penalty at the United Nations General Assembly on 15 December 2022, with India as one of the 37 countries that voted against the resolution.

FINAL OBSERVATIONS

In sharp contrast to the Supreme Court's doubts about the ability of the death penalty sentencing framework to meaningfully guide judges to decide between a life and death sentence, the year 2022 saw the trial courts impose the highest number of death sentences since 2000. In addition, at the end of 2022, the number of prisoners on death row was the highest since we began the compilation of these records. The number of prisoners living under a death sentence has increased by 40% since 2015.

Highest imposition of death sentences by trial courts in over two decades is influenced by the unprecedented imposition of the death sentence on 38 people in one bomb blast case in Ahmedabad. The large death row population signals the continued imposition of a high number of death sentences by trial courts with a low rate of disposal by appellate courts. Sexual offences have continued to dominate the death penalty trends in 2022, with such crimes constituting a majority of cases in which the death penalty was imposed this year. In addition, for the second time since 2016, a High Court enhanced the sentence of one person in a case of dacoity with murder from life imprisonment to the death penalty.

As previously stated, this year represents a historic shift in death penalty jurisprudence, with a Supreme Court Constitution Bench reconsidering the sentencing process for the first time since *Bachan Singh* in 1980. The Supreme Court laid down guidelines to ensure the collection and presentation of mitigating circumstances at the trial court stage. The Court also emphasised the centrality of reform to the sentencing process and laid the duty on the state to present evidence on the same.

While the Supreme Court has insisted on the importance of mitigation and the duty of the state to present evidence on convict's probability of reform, trial courts imposed death sentences without seeking sentencing materials, and in spite of the absence of State led evidence disproving the probability of reform in 98.33% of the cases.

Contradictory positions on same-day sentencing and sentencing process requirements between Supreme Court judgements in this year, demonstrate the continuing gap in the death penalty sentencing framework. In this context, the reference to the Constitution Bench that will reconsider the sentencing process assumes utmost importance. However, it remains to be seen how this wide gap between the formal law and practice will be plugged towards ensuring effective reform.

CORRECTIONS TO ANNUAL STATISTICS

- Subsequent access to court records reveal that the number of death sentences imposed in 2021 is 146 (not 144 as was reported in the previous edition). The 2 additional death sentences were imposed for murder involving sexual offences, and kidnapping with murder and were imposed in Uttar Pradesh and Jharkhand respectively. In light of this update, the number of prisoners on death row at the end of 2021 was 490 and not 488.

- 4 additional High Court cases involving 3 prisoners in 2021 were subsequently identified and have been included in this report. As a result, the number of prisoners acquitted by High Courts in 2021 is 30 and not 29.

- One High Court acquittal in 2021 was erroneously counted as a commutation, which has since been corrected.

- Due to revisions made in the methodology of computing cases, offences with zero death penalty cases in 2022 for each stage of the process have been categorised under 'Others'. As a result, death penalty cases under these offences for previous years have been reclassified under 'Others'.

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