

DEATH PENALTY IN INDIA



PROJECT 39A
EQUAL JUSTICE
EQUAL OPPORTUNITY

Annual ■
Statistics ■
Report ■

2020

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FOREWORD

This is the fifth edition of the *Death Penalty in India: Annual Statistics Report* published by Project 39A at National Law University, Delhi. Over the course of five years, the law and the implementation of the death penalty in India have seen significant changes.

2020 saw the only execution in these five years, with the execution of Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar on 20th March 2020. They were convicted and sentenced to death for the gangrape and murder of a woman in Delhi in December 2012.

In 2018, the highest number of death sentences was imposed in a single year over two decades. 2019 and 2020 saw a decrease in the number of death sentences imposed, with 2020's drop a result of the pandemic's impact on court functioning. However, the proportion of cases of sexual violence has steadily increased over the years, now constituting 65% of cases in which death sentence was imposed by trial courts in 2020. This indicates that sexual violence is increasingly influencing the implementation of the death penalty in India.

Corresponding to this shift, these five years have seen the legislative expansion of the death penalty for non-homicide offences of sexual violence. Amendments to the Indian Penal Code in 2018 and to the Protection of Children from Sexual Offences Act in 2019 introduced the death penalty for non-homicide child sexual abuse. In addition, both Maharashtra and Andhra Pradesh introduced bills that imposed the death penalty for non-homicide rape of adult women.

Exceptional contributions by Ashna D (IV year law student at the National University of Advanced Legal Studies, Kochi) as well as Harjaap Singh Ahluwalia and Varsha Sharma and (II and V year law students at National Law University, Delhi respectively) were instrumental in the development of the new database and in compiling the statistics for the present report.

None of this would have been possible without the efforts of Varsha Sharma and Pritam Raman Giriya (V year law students at National Law University, Delhi) who were instrumental in the development of the directory and in the publication of annual statistics reports since it was first published in 2017. Lubhyathi Rangarajan, Peter John, Poornima Rajeshwar, Rahul Raman, Neetika Vishwanath and Preeti Pratishruti Dash have played key roles in authoring previous editions of the report.

METHODOLOGY

Over the course of five years, we have made significant improvements to our recordkeeping and analysis processes. In 2020, we developed a consolidated database to record and track death sentences imposed since 2016, along with a manual that would guide data entry and ensure uniformity in classification. This has resulted in changes in the statistics from previous editions, particularly relating to the nature of offence. A comprehensive list of changes made has been provided at the end of this report.

Our methodology for data collection has remained consistent across these five years. We track news reports of death sentences being imposed by trial courts across online news outlets in English and Hindi. These numbers are then verified against judgments uploaded on High Court and district court websites.

The High Court websites serve as a verification of the data, allowing us to track appeals filed against death sentences imposed by trial courts for which news coverage may not be available. The High Court websites remain the most accurate method of tracking, as every death sentence imposed by a trial court must be confirmed by the High Court under section 366 of the Code of Criminal Procedure, 1973. Nearly all websites are functional and allow the accurate tracking of death sentence matters.

We also send RTIs as a second level of verification. But in 2020, we only sent RTIs to Home Departments and High Courts of four states for which the High Court website proved unreliable in identifying the status of death sentence cases. We have consistently found that delayed responses and repeated transfers of applications to different departments prevent the extensive use of this data.

The lack of coordination between different official sources affects the accuracy of compiling even simple data like this, and speaks to larger concerns with data on the criminal justice system in India. Notwithstanding these limitations, we are confident that this report presents a fairly comprehensive dataset on the death penalty in India in 2020.

OVERVIEW OF LEGAL DEVELOPMENTS IN 2020

In response to the COVID-19 pandemic, courts all over the country were limited in their functioning. This resulted in a drop in the number of death sentences imposed in 2020, with 77 death sentences imposed by trial courts, involving 76 prisoners, compared to 103 sentences in 2019. However, this is not the lowest number of death sentences imposed in a year. As per available data, this took place in 2001 at 66 death sentences imposed.

About 62% of the death sentences this year were imposed before the lockdown was first announced. The 48 death sentences imposed in the first three months of 2020 were more than double the number of death sentences imposed in 2019 in the same period, which saw 20 death sentences imposed in that time. Even 2018, which saw the highest number of death sentences imposed in two decades, had far fewer death sentences imposed, with 27 imposed in the same time period.

Due to the impact of the pandemic, there was a significant drop in the number of death penalty cases decided by the appellate courts as well. High Courts across the country decided 30 cases, with the death sentence being confirmed in three cases and commuted in 17 cases. Five cases were remitted and five resulted in acquittals. The Supreme Court passed judgments in multiple proceedings in a total of five cases with one case resulting in the execution of four convicts. Two of these five cases involved the offence of rape and murder, two involved kidnapping with murder and one involved murder simpliciter.

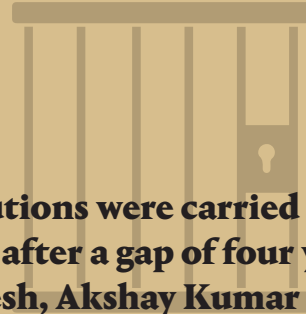
In 2020, the proportion of death sentences imposed by trial courts for crimes involving sexual offences was the highest in five years at 65%, an increase of 11.54% since 2019. In particular, in 48% of cases involving sexual violence, the victims were below the age of 12, with 18% of such cases having adult victims. It would appear that sexual violence, particularly child rape, is increasingly defining the enforcement of the death penalty in India.

Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar were executed on 20th March 2020 for the gangrape and murder of a woman in Delhi in December 2012. The last execution prior to this was the execution of Yakub Memon in July 2015.

The Maharashtra Cabinet approved a Bill to introduce death penalty for non-homicidal rape of adult women and acid attacks, which has been referred to a joint select committee of the Legislative Assembly. The Andhra Pradesh legislature passed an amended version of a similar bill, first introduced in December 2019, with the death penalty clause for such offences since excluded. The bill is now awaiting Presidential assent. These proposed laws represent the continued legislative expansion of the death penalty for non-homicide offences that began with amendments to the Indian Penal Code and the Protection of Children from Sexual Offences Act in 2018 and 2019 respectively.



2020 saw the highest proportion of sexual violence cases in five years, with 65% of the total death sentences imposed by trial courts involving cases of sexual violence.



Executions were carried out in India after a gap of four years. Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar were executed on 20th March 2020 in Tihar Jail for the gangrape and murder of a young woman in December 2012.

A Bill introducing the death penalty for the non-homicidal rape of adult women and acid attacks was approved by the Maharashtra Cabinet and is pending consideration by a joint select committee.

The Andhra Pradesh legislature passed a revised version of a similar bill with the death penalty clause for similar offences since excluded, now awaiting Presidential assent.

CUMULATIVE FIGURES ON PERSONS SENTENCED TO DEATH



404

Prisoners Sentenced to Death
as on **31st December 2020¹**



378

Prisoners Sentenced to Death
as on **31st December 2019**



426

Prisoners Sentenced to Death
as on **31st December 2018**



366

Prisoners Sentenced to Death
as on **31st December 2017**



400

Prisoners Sentenced to Death
as on **31st December 2016**

4 PERSONS WERE EXECUTED ON 20TH MARCH 2020.

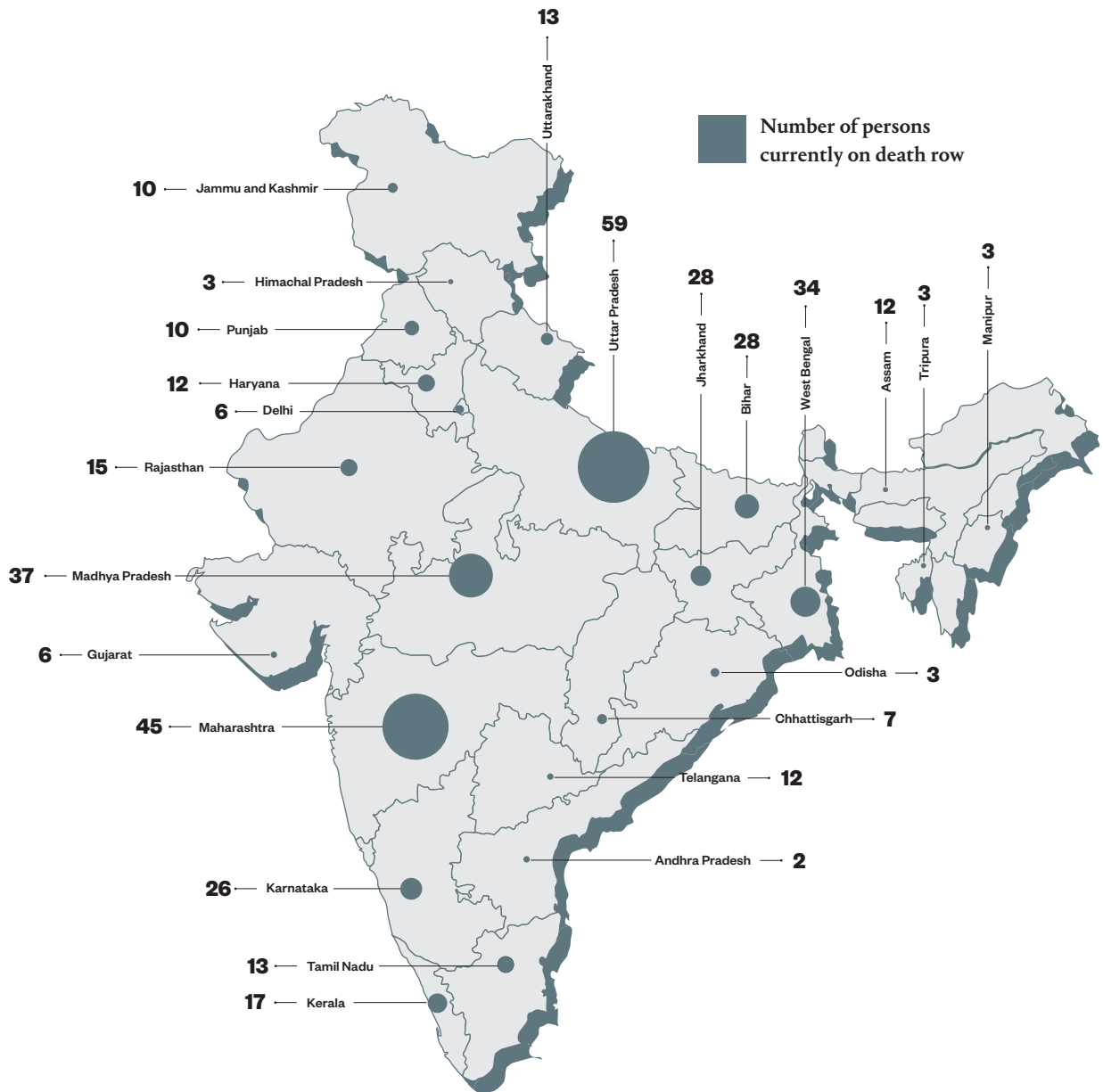
MUKESH, AKSHAY KUMAR SINGH,
VINAY SHARMA AND PAWAN KUMAR.

1. The status of two prisoners sentenced to death in previous years remains unclear from publicly available records.

STATE-WISE DISTRIBUTION OF PERSONS ON DEATH ROW

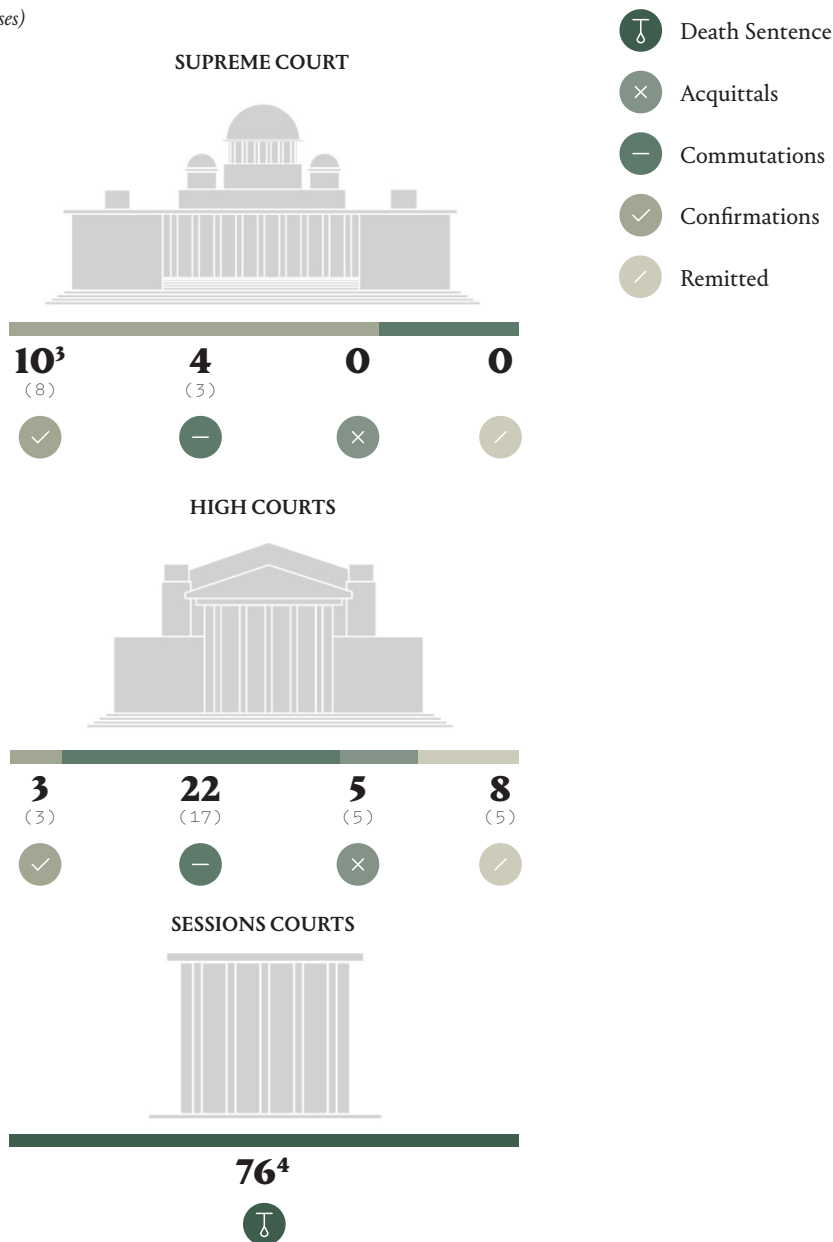
404

Prisoners Sentenced
to Death as on
31st December 2020



DEATH PENALTY CASES 2020²

**Data represented in the form of prisoners (cases)*



2. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

3. This includes three separate curative and four post-mercy proceedings for the four prisoners who were ultimately executed in 2020.

4. One prisoner was sentenced to death in two different cases this year.

SESSIONS COURTS IN 2020

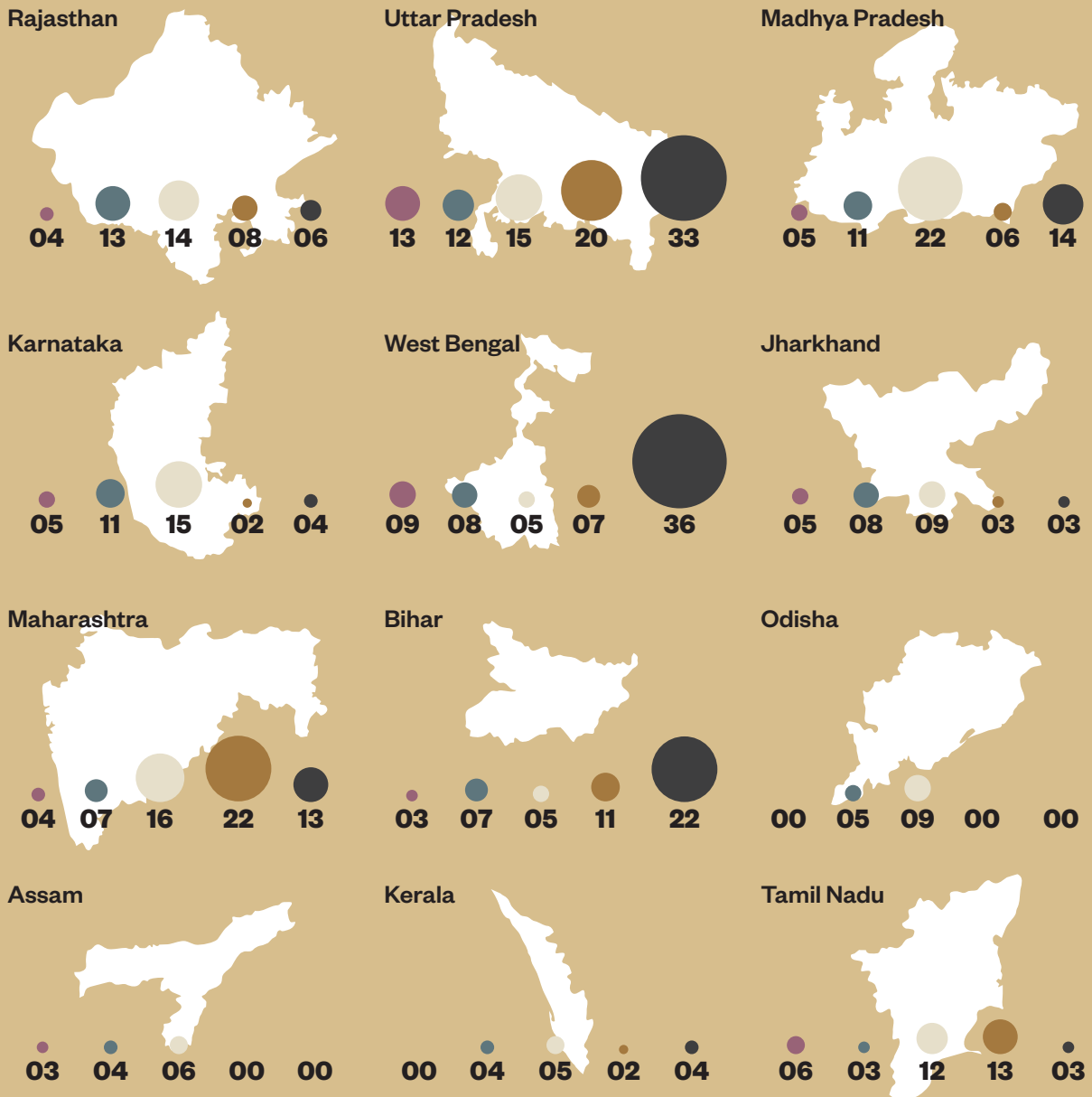
NUMBER OF DEATH SENTENCES IMPOSED BY SESSIONS COURTS⁵



5. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

STATE-WISE DISTRIBUTION OF DEATH SENTENCES IMPOSED BY SESSIONS COURTS⁶

2020 2019 2018 2017 2016



6. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

77 | 103 | 163 | 110 | 153

Uttarakhand

00 02 07 01 01

Punjab

02 02 04 06 00

Gujarat

03 02 03 00 03

Chhattisgarh

00 01 03 01 01

Telangana

06 01 02 00 06

Manipur

01 01 01 00 00

Tripura

02 01 00 00 00

Andhra Pradesh

03 00 04 01 00

Himachal Pradesh

00 00 03 00 00

Haryana

02 00 02 06 02

Delhi

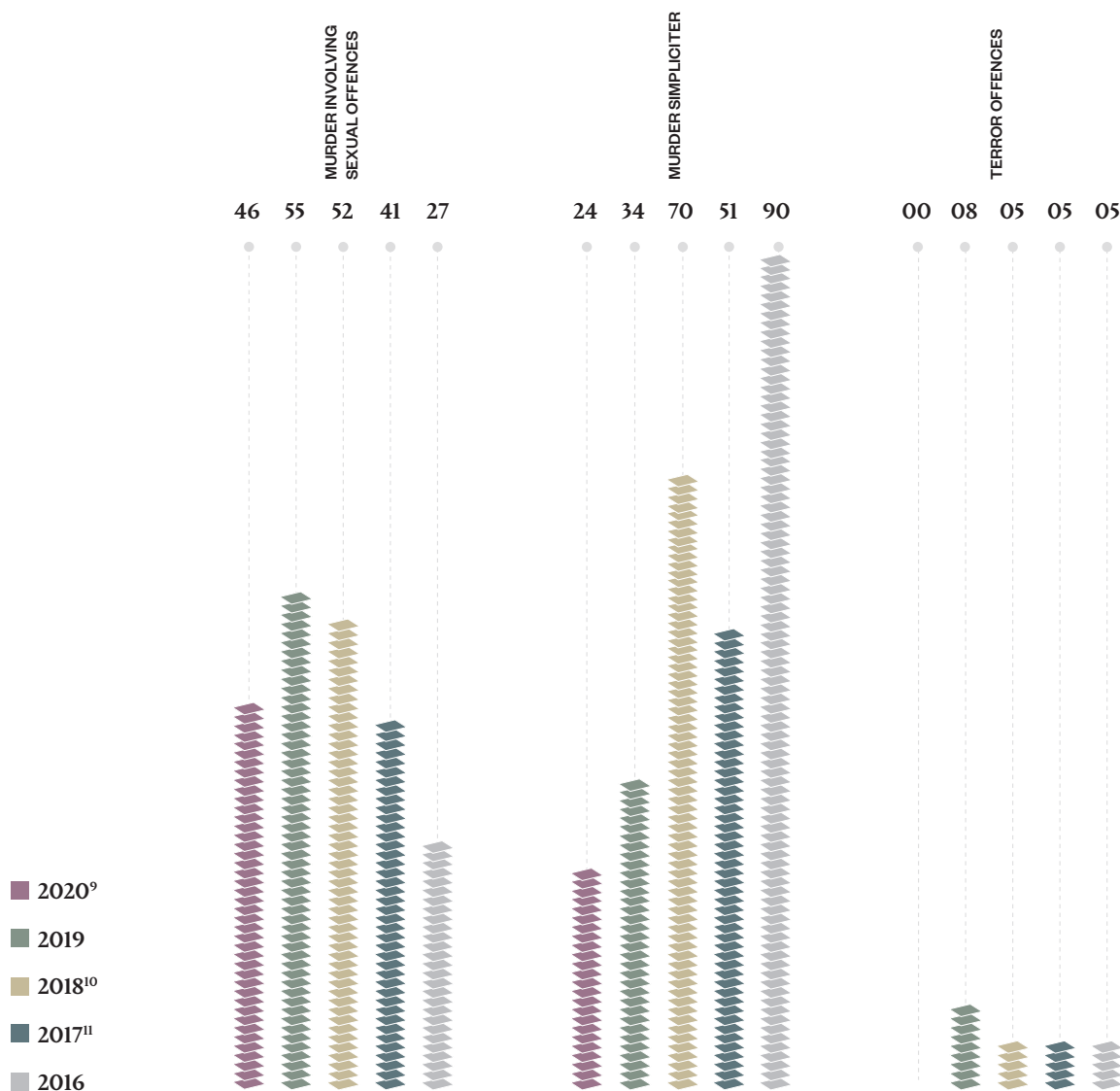
01 00 01 00 02

Jammu and Kashmir

00 00 00 01 00

NATURE OF OFFENCES FOR THOSE SENTENCED TO DEATH BY SESSIONS COURTS⁷

NUMBER OF DEATH SENTENCES IMPOSED BY SESSIONS COURTS IN 2020⁸



7. Due to several changes in the process of classification of cases based on the nature of offence, the numbers differ significantly from previous years. We have specified the changes at the end of the report.

8. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

9. In one case involving one prisoner, the details of the nature of offence is unavailable.

10. In one case involving one prisoner, the details of the nature of offence is unavailable.

11. In one case involving one prisoner, the details of the nature of offence is unavailable.

77

2020

103

2019

163

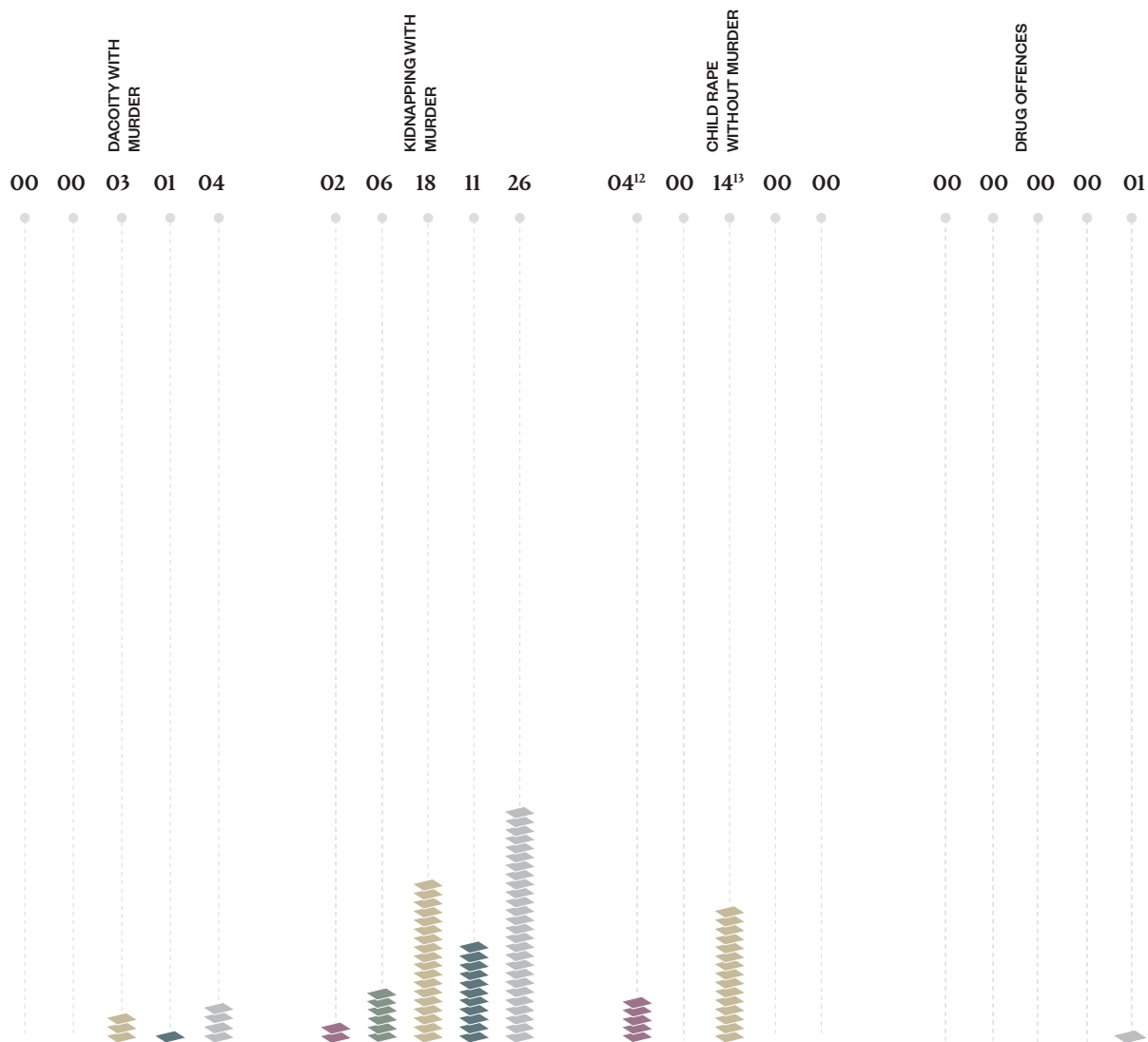
2018

110

2017

153

2016



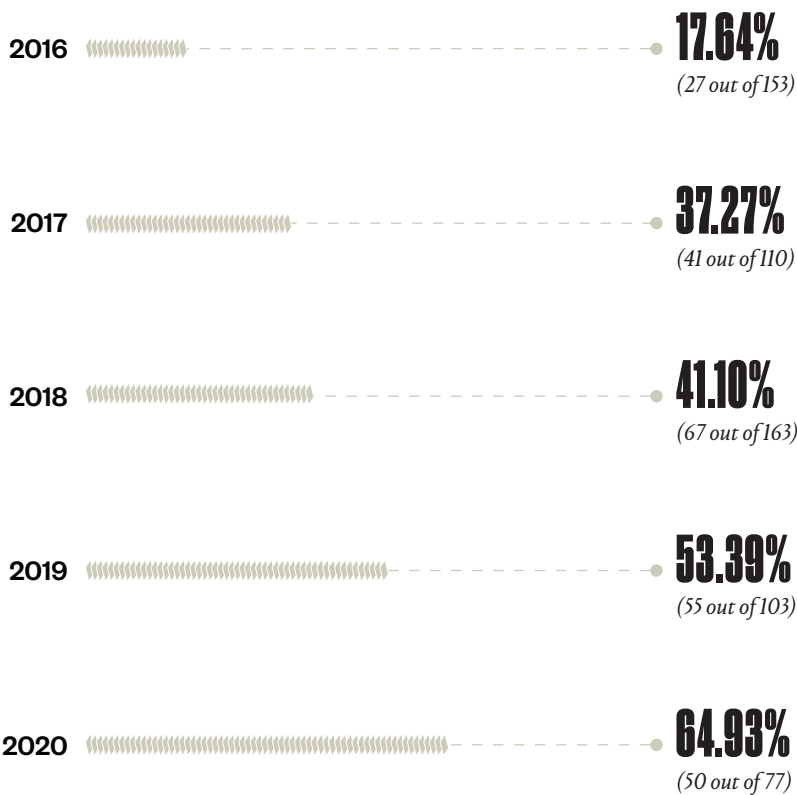
12. In one case involving one prisoner, the death sentence was erroneously imposed under section 376(d) of the Indian Penal Code for the rape of a minor aged 12 years old. This provision does not allow the imposition of the death penalty.

13. In one case involving four prisoners, the death sentence was erroneously imposed under section 376(d) of the Indian Penal Code for the rape of a minor aged 15 years old. This provision does not allow the imposition of the death penalty. Due to this error, the High Court subsequently remitted the matter to the trial court to reconsider the sentence.

DEATH PENALTY IN CASES OF SEXUAL OFFENCES

In 2019, while the number of death sentences imposed were lower than the previous year, the proportion of these cases involving sexual offences had increased considerably from previous years. This trend continues in 2020, with 65% or 50 out of 77 cases in which the death sentence was imposed in 2020 involving sexual offences.

The proportion of cases of involving sexual offences out of the total death sentences imposed¹⁴

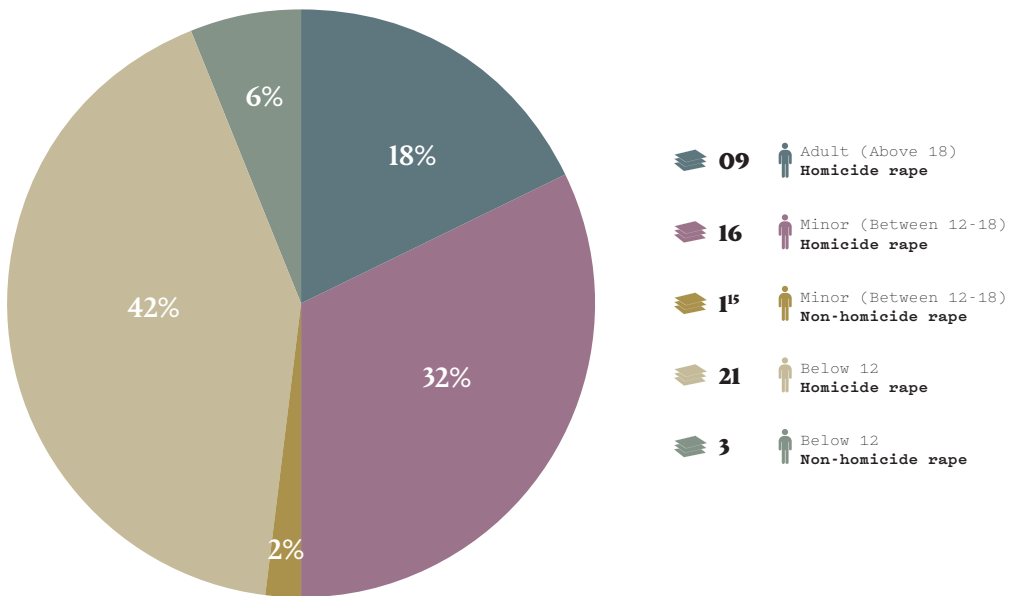


14. This data includes cases involving non-homicide rape of minors where the death sentence was imposed. If excluded, the percentages change to 17.64%, 37.27%, 32.51%, 53.39% and 59.74% for 2016, 2017, 2018, 2019 and 2020 respectively.

Age of Victim in Sexual Offences Cases where
Death Sentences were imposed in 2020

50

 Age of Victim  Number of Cases



15. In one case involving one prisoner, the death sentence was erroneously imposed under section 376(d) of the Indian Penal Code for the rape of a minor aged 12 years old. This provision does not allow the imposition of the death penalty.

HIGH COURTS IN 2020¹⁶

	2020	2019
HIGH COURT CONFIRMATIONS	3 (3)	26 (15)
HIGH COURT COMMUTATIONS	22 (17)	58 (37) ¹⁷
HIGH COURT ACQUITTALS	5 (5)	31 (17) ¹⁸
REMITTED TO TRIAL COURTS BY HIGH COURTS	8 (5)	15 (7)

**Data represented in form of prisoners (cases)*

16. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

17. Includes one case involving two 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.

18. One prisoner died before his case was confirmed by the High Court. One prisoner was declared a juvenile.

2018

2017

2016

23 (18)

11 (10)

16 (11)¹⁹

53 (35)

57 (38)²⁰

57 (37)

28 (13)

36 (24)

19 (13)

10 (6)

10 (5)

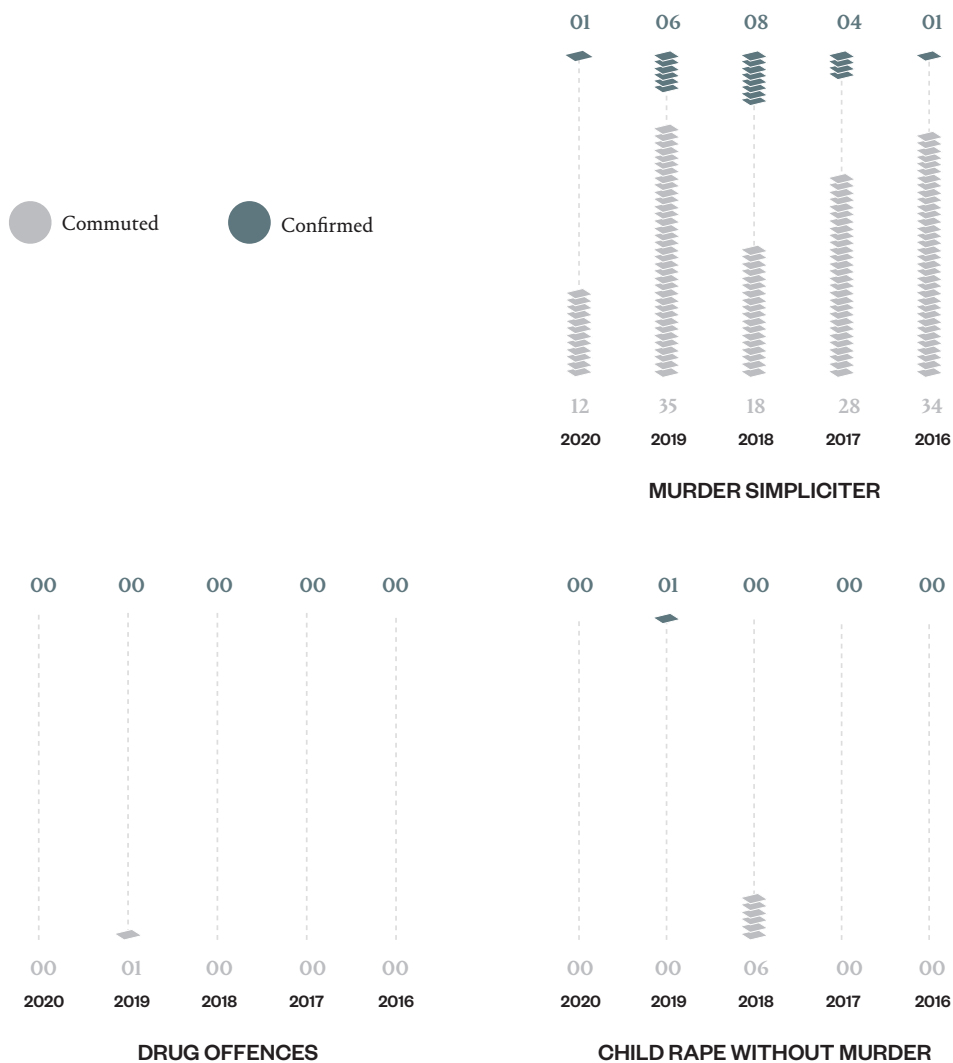
11 (1)

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

20. In five cases, involving five prisoners, the High Court acquitted the prisoners of the charge carrying the death penalty, which resulted in a reduced sentence for the prisoners.

NATURE OF OFFENCE AT THE HIGH COURT IN 2020²¹

NATURE OF OFFENCE IN CONFIRMATIONS AND COMMUTATIONS BY THE HIGH COURT IN CRIMINAL APPEAL AND RELATED PROCEEDINGS IN 2020

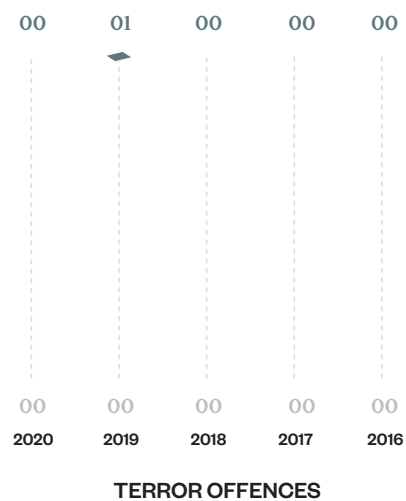
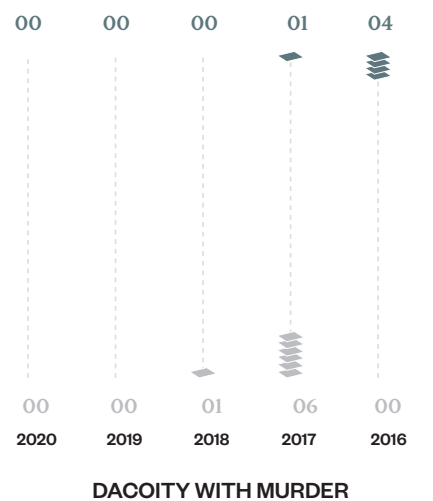
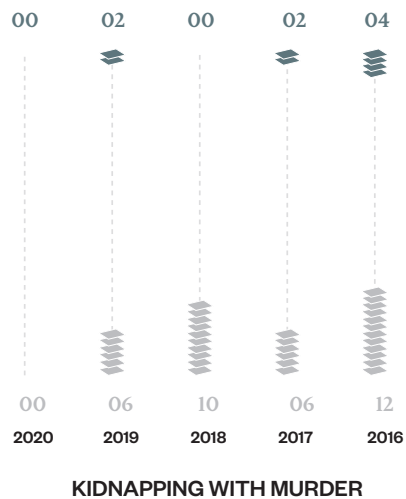
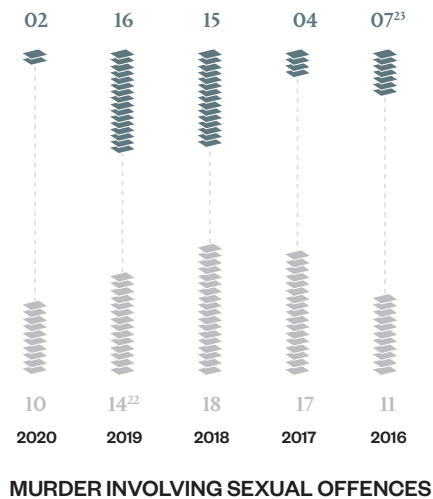


**Data represented in form of prisoners (cases)*

21. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

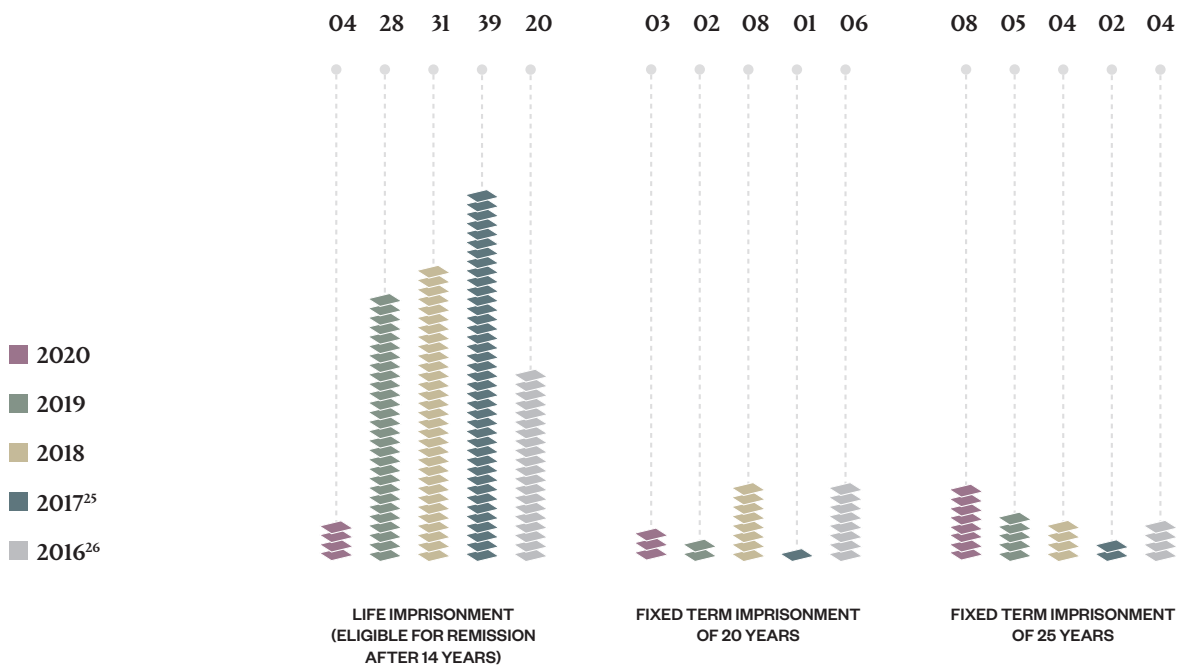
245
Commuted

79
Confirmed



22. This data excludes one case involving two 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. Includes one case of the High Court enhancing the sentence from life imprisonment to death penalty.

SENTENCE IMPOSED BY HIGH COURTS ON COMMUTATION OF THE DEATH SENTENCE²⁴



²⁴. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

²⁵. In two cases, involving two prisoners, the High Court acquitted the prisoners of the charge carrying the death penalty, which therefore resulted in a reduced sentence for the prisoners. They have been excluded from this data.

²⁶. Information is not available in two cases due to the unavailability of judgments.

22

2020

58

2019

53

2018

57

2017

57

2016

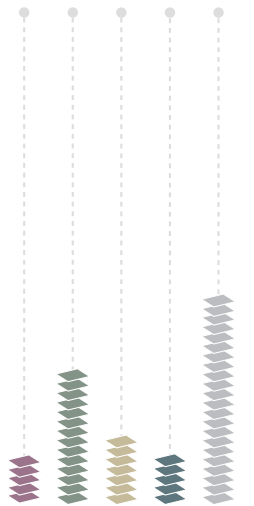
01 06 03 05 03

FIXED TERM IMPRISONMENT
OF 30 YEARS01 03²⁷ 00 02 00FIXED TERM IMPRISONMENT
OF 35 YEARS

00 00 00 01 00

FIXED TERM IMPRISONMENT
OF 40 YEARS

05 14 07 05 22

IMPRISONMENT FOR THE REST OF
NATURAL LIFE (INELIGIBLE FOR
REMISSION)

27. This data includes one case involving two prisoners where the High Court commuted the death sentence in a writ petition challenging the rejection of the mercy petition by the President of India.

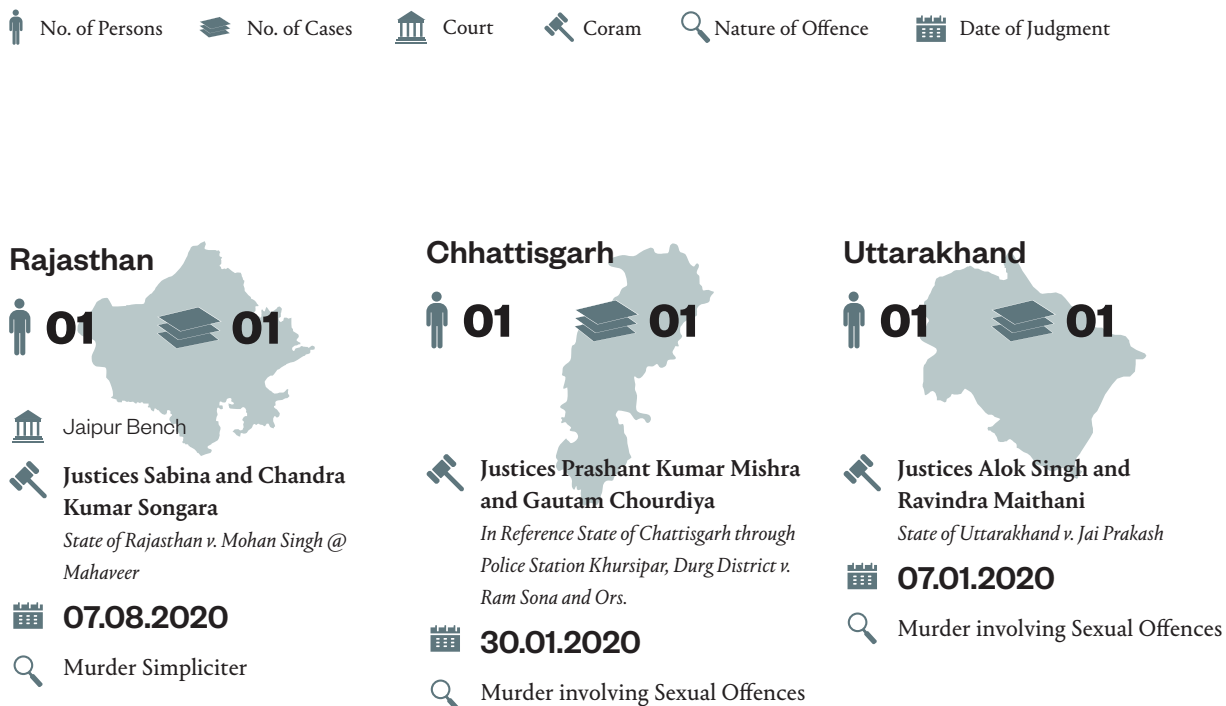
HIGH COURT CONFIRMATIONS IN 2020

03

No. of Persons

03

No. of Cases



HIGH COURT COMMUTATIONS IN 2020

22

No. of Persons

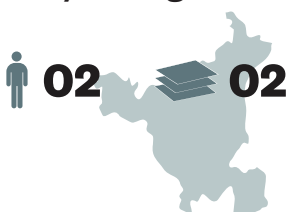
17

No. of Cases

 No. of Persons  No. of Cases  Court  Coram  Nature of Offence  Date of Judgment

 Sentence Imposed on Commutation of the Death Sentence

Haryana (Punjab and Haryana High Court)



 Justices Daya Chaudhary and Surinder Gupta
State of Haryana v. Pushpa

 **13.02.2020**


 Murder Simpliciter

 Life imprisonment (eligible for remission after 14 years)

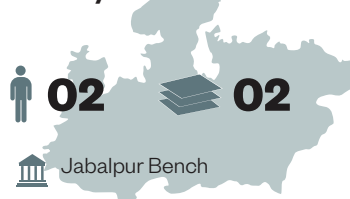
 Justices Rajiv Sharma and Gurvinder Gill
State of Haryana v. Sunny


 **03.02.2020**


 Murder involving Sexual Offences

 Fixed term imprisonment of 20 years

Madhya Pradesh




 Jabalpur Bench


 Justices Sujoy Paul and Mohd. Fahim Anwar
State of Madhya Pradesh v. Deepak @ Nanhu Kirar

 **20.02.2020**

 Murder involving Sexual Offences


 Fixed term imprisonment of 35 years

 Indore Bench

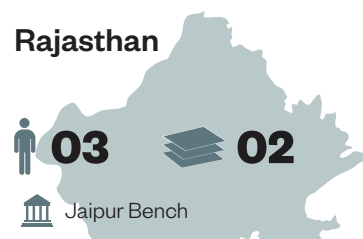
 Justices SC Sharma and Shailendra Shukla
State of Madhya Pradesh v. Honey @ Kaku

 **03.03.2020**


 Murder involving Sexual Offences

 Imprisonment for rest of natural life (ineligible for remission)

Rajasthan




 Jaipur Bench

 Justices Sabina and Chandra Kumar Songara
State of Rajasthan v. Jagdish Chand Mali S/o Pyar Chand @ Pyare Lal

 **20.07.2020**

 Murder Simpliciter

 Life imprisonment (eligible for remission after 14 years)

 Justices Sabina and Prakash Gupta
State of Rajasthan v. Mastram @ Sallu S/o Prabhulal, Lokesh S/o Babulal Meena

 **28.07.2020**

 Murder involving Sexual Offences

 Life imprisonment (eligible for remission after 14 years)

Uttar Pradesh

 **02**  **02**



Allahabad Bench



Justices Pritinker Diwaker and Raj Beer Singh

Najeem Miyan v. State of Uttar Pradesh



06.03.2020



Murder involving Sexual Offences



Imprisonment for rest of natural life (ineligible for remission)



Justices Pankaj Mithal and Pradeep Kumar Srivastava

Mouni v. State of U.P.



14.05.2020



Murder involving Sexual Offences



Fixed term imprisonment of 25 years

Andhra Pradesh

 **01**  **01**



Justices C. Praveen Kumar and K. Suresh Reddy

Patan Mohammad Rafi v. State of Andhra Pradesh



29.05.2020



Murder involving Sexual Offences



Imprisonment for rest of natural life (ineligible for remission)

Karnataka

 **01**  **01**



Dharwad Bench



Justices BA Patil and MG Uma
Hanif Sab S/o Hazarath Sab Kulmi v. State of Karnataka



24.07.2020



Murder Simpliciter



Imprisonment for rest of natural life (ineligible for remission)

Assam (Gauhati High Court)

 **01**  **01**



Justices Suman Shyam and Hitesh Kumar Sarma

Noliram Kro v. State of Assam



22.04.2020



Murder Simpliciter



Imprisonment for rest of natural life (ineligible for remission)

Odisha

 **01**  **01**



Justices SK Mishra and AK Mishra

State of Odisha v. Laba @ Kalia Manna



02.11.2020




Murder involving Sexual Offences



Life imprisonment (eligible for remission after 14 years)


Tripura

 **01**   **01**

 **The Chief Justice Akil Kureshi and Justice Arindam Lodh**
Special Judge (POCSO), North Tripura, Dharamnagar v. State of Tripura and Sanjoy Tanti @ Sanju



 **25.02.2020**

 Murder involving Sexual Offences


 Fixed term imprisonment of 25 years


Tamil Nadu

 **05**   **01**

 Madras Bench
 **Justices M. Sathyanarayanan and M. Nirmal Kumar**
Chinnaswamy and Ors. v. The Deputy Superintendent of Police

 **22.06.2020**

 Murder Simpliciter

 Fixed term imprisonment of 25 years


West Bengal

 **01**   **01**

 Kolkata Bench
 **Justices Joymalya Bagchi and Suvra Ghosh**
State of West Bengal v. Ustab Ali

 **06.03.2020**

 Murder Simpliciter

 Fixed term imprisonment of 30 years

Maharashtra (Bombay High Court)

 **01**   **01**

 Aurangabad Bench
 **Justices Ravindra V. Ghuge and BU Debadwar**
State of Maharashtra v. Krishna Sitaram Pawar

 **22.12.2020**

 Murder Simpliciter

 Life imprisonment (eligible for remission after 14 years)


Kerala

 **01**   **01**

 **Justices A. Hariprasad and MR Anitha**
State of Kerala v. Rajesh S/o Unnikrishnan Nair

 **17.09.2020**

 Murder Simpliciter

 Fixed term imprisonment of 25 years

HIGH COURT ACQUITTALS IN 2020

05

No. of Persons

05

No. of Cases



No. of Persons



No. of Cases



Court



Coram



Nature of Offence



Date of Judgment

Bihar



02



02



Chief Justice Sanjay Karol and Justice S. Kumar

The State of Bihar v. Niranjan @ Alakh Deo Kumar



11.11.2020



Murder Simpliciter



Chief Justice Sanjay Karol and Justice S. Kumar

The State of Bihar v. Ajit Kumar, S/o Gautam Prasad



20.10.2020



Murder involving Sexual Offences

Rajasthan



01



01



Jaipur Bench



Justices Sabina and Chandra Kumar Songara

State of Rajasthan v. Rajkumar @ Dharmendra S/o Abhay Singh



20.07.2020



Murder involving Sexual Offences

Tamil Nadu



01



01



Madras Bench



Justices M. Sathyanarayanan and M. Nirmal Kumar

Chinnaswamy and Ors. v. The Deputy Superintendent of Police



22.06.2020



Murder Simpliciter

Uttar Pradesh



01



01



Justices Ritu Raj Awasthi and Vikas Kunvar Srivastav

State of Uttar Pradesh v. Ram Gopal Saini



02.06.2020



Murder Simpliciter

HIGH COURT REMITTED CASES IN 2020

08

No. of Persons

05

No. of Cases



No. of Persons



No. of Cases



Court



Coram



Nature of Offence



Date of Judgment

Bihar



01

01



Chief Justice Amreshwar Pratap Sahi and Anil Kumar Upadhyay
State of Bihar v. Onkar Nath Singh @ Sheru Singh



07.02.2020



Murder Simpliciter

Rajasthan



01

01



Jaipur Bench



Justices Sabina and Chandra Kumar Songara

State of Rajasthan v. Hariom Sharma S/o Shri Kailash Chand Sharma



21.07.2020



Murder involving Sexual Offences

Karnataka



05

02



Justices Ravi Malimath and MI Arun

The Registrar General, High Court of Karnataka v. Munikrishna and Ors.



30.01.2020



Child Rape without Murder

Odisha



01

01



Justices SK Mishra and BP Routray

Shrinibash @ Anama Dehury v. State of Odisha



23.12.2020



Murder involving Sexual Offences



Justices BM Shyam Prasad and V. Srishnanda

Sharanabasava @ Sharanu v. State of Karnataka



12.08.2020



Kidnapping with Murder

SUPREME COURT IN 2020²⁸

CRIMINAL APPEAL AND RELATED PROCEEDINGS²⁹

	2020	2019
SUPREME COURT CONFIRMATIONS ³⁰	6 (4)	6 (6) ³¹
SUPREME COURT COMMUTATIONS	4 (3)	16 (16)
SUPREME COURT ACQUITTALS	0	11 (3) ³²
SUPREME COURT REMITTED CASES	0	2 (2)

**Data represented in form of prisoners (cases)*

28. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

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

30. Includes multiple proceedings of the same case and set of prisoners across the five years, that is,

2018

2017

2016

3 (1)

8 (4)³³

1 (1)

11 (11)

0

10 (8)³⁴

0

0

1 (1)

0

0

0

the four prisoners who were ultimately executed in 2020. It includes one Criminal Appeal, involving four prisoners in 2017; one Review Petition, involving three prisoners in 2018; one Review Petition involving one prisoner in 2019, one common Curative Petition involving two prisoners, and two separate Curative Petitions involving the two other prisoners in 2020, all of which were dismissed by the Supreme Court. For this matter, the data counts each proceeding as a separate case.

31. Including one case, involving one prisoner, where the Criminal Appeal and Review Petition were dismissed in the same year.

32. In one case involving six prisoners, five were acquitted and one was found to be a juvenile.

33. Includes one case of the Supreme Court enhancing the sentence from life imprisonment to death penalty.

34. In two cases, involving two prisoners, the Supreme Court acquitted the prisoners of the charge carrying the death penalty, which therefore resulted in a reduced sentence for the prisoners.

OTHER DEATH SENTENCE PROCEEDINGS³⁵

	2020	2019
SUPREME COURT DISMISSALS	4 (4) ³⁶	0
SUPREME COURT COMMUTATIONS	0	1 (1) ³⁷

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.

³⁶. Includes four separate writ proceedings challenging the rejection of the mercy petition for each of the four prisoners executed in 2020.

³⁷. For one prisoner, the Writ Petition challenging the rejection of the mercy petition by the President of India was heard along with the Review Petition, with both decided by the same judgment.

2018

2017

2016

0

0

0

0

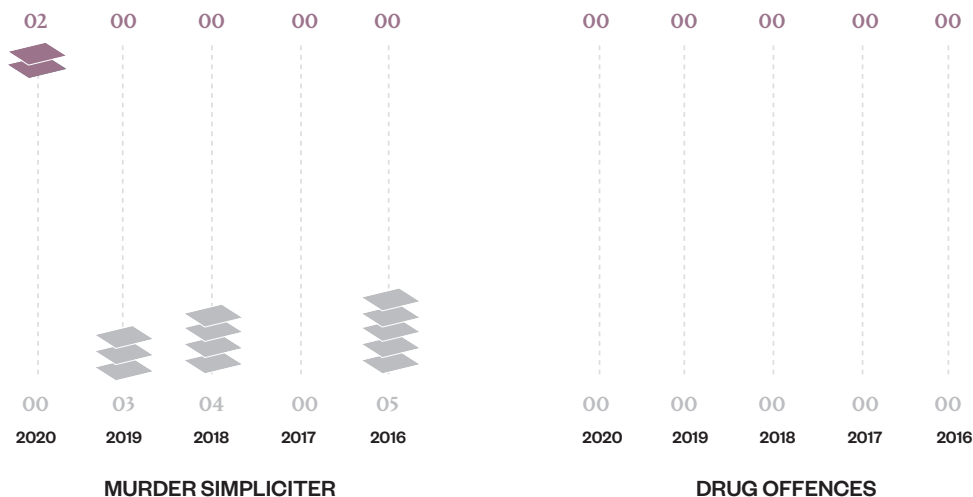
0

0

NATURE OF OFFENCE AT THE SUPREME COURT IN 2020^{38,39,40}

NATURE OF OFFENCE IN CONFIRMATIONS AND COMMUTATIONS BY THE SUPREME COURT IN CRIMINAL APPEAL AND RELATED PROCEEDINGS IN 2020

Commuted
 Confirmed



38. Data is presented in terms of prisoners. The data counts each prisoner in each proceeding as well as the same prisoner across multiple proceedings separately.

39. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

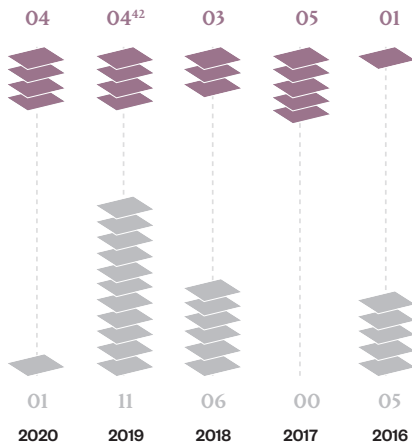
40. Including Criminal Appeals, Review Petitions or Curative Petitions connected to the original Criminal Appeal.

41

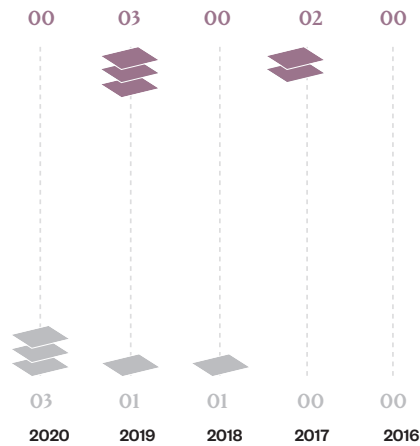
Commuted

24

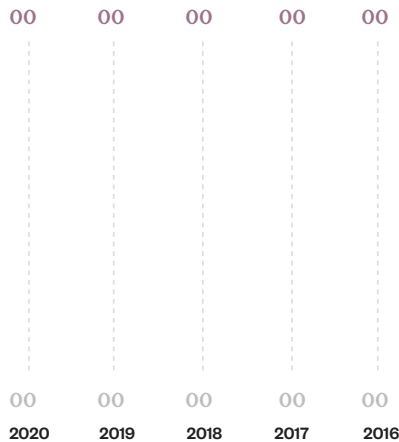
Confirmed



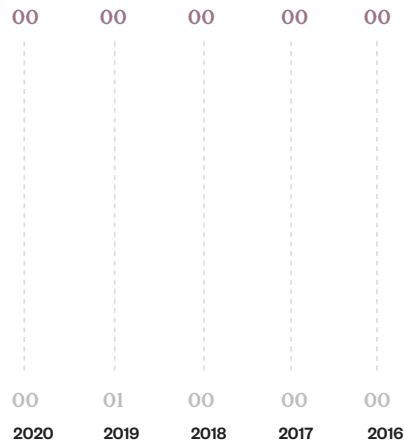
MURDER INVOLVING SEXUAL OFFENCES⁴¹



KIDNAPPING WITH MURDER



CHILD RAPE WITHOUT MURDER



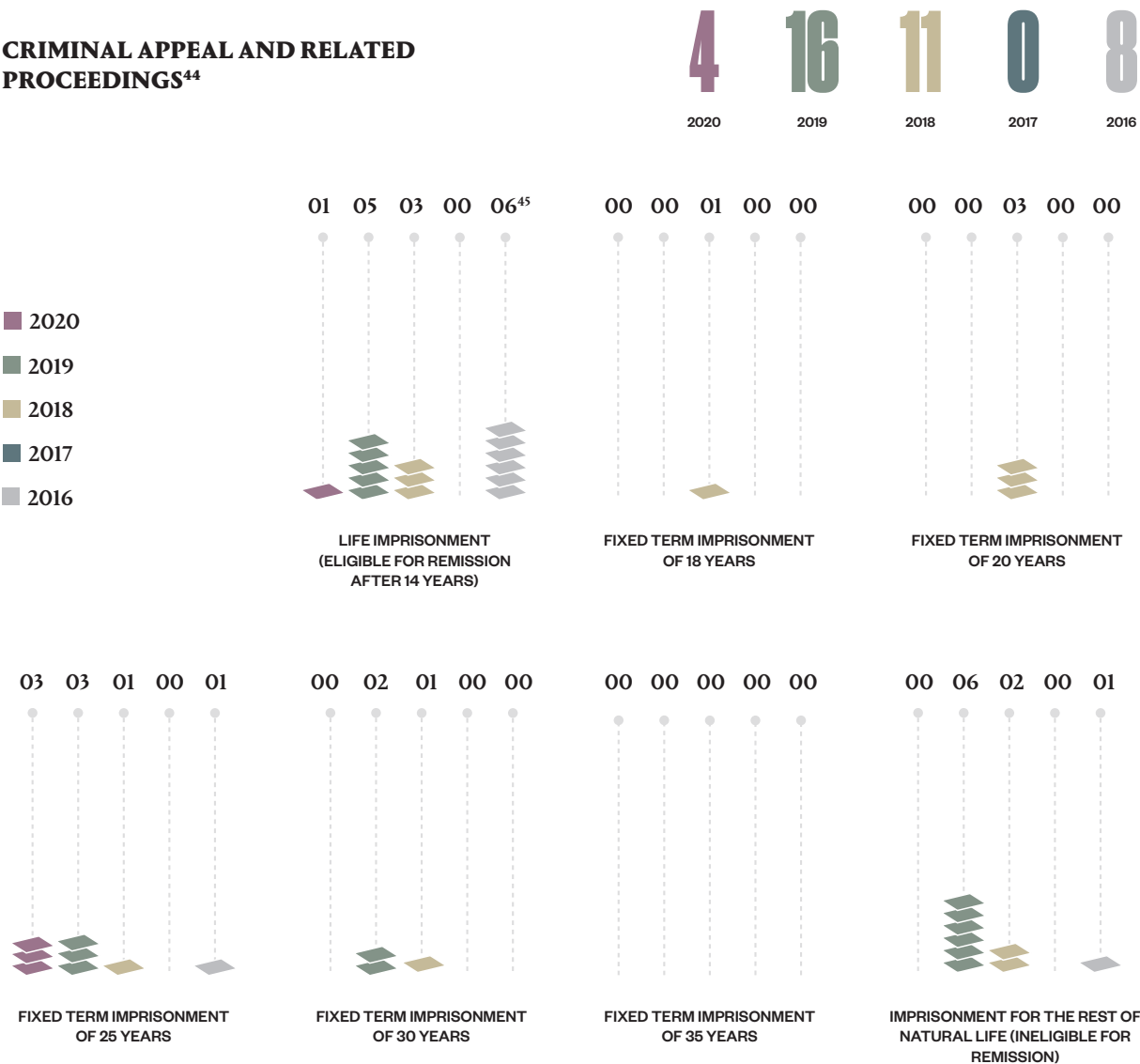
DACOITY WITH MURDER

41. Includes multiple proceedings of the same case and set of prisoners across the five years, that is, the four prisoners who were ultimately executed in 2020. It includes one Criminal Appeal, involving four prisoners in 2017; one Review Petition, involving three prisoners in 2018; one Review Petition involving one prisoner in 2019 and four Curative Petitions involving four prisoners in 2020, all of which were dismissed by the Supreme Court.

42. This data includes one case, involving one prisoner, where the Criminal Appeal and Review Petition were dismissed in 2019.

SENTENCES IMPOSED BY THE SUPREME COURT ON COMMUTATION OF DEATH SENTENCE⁴³

CRIMINAL APPEAL AND RELATED PROCEEDINGS⁴⁴

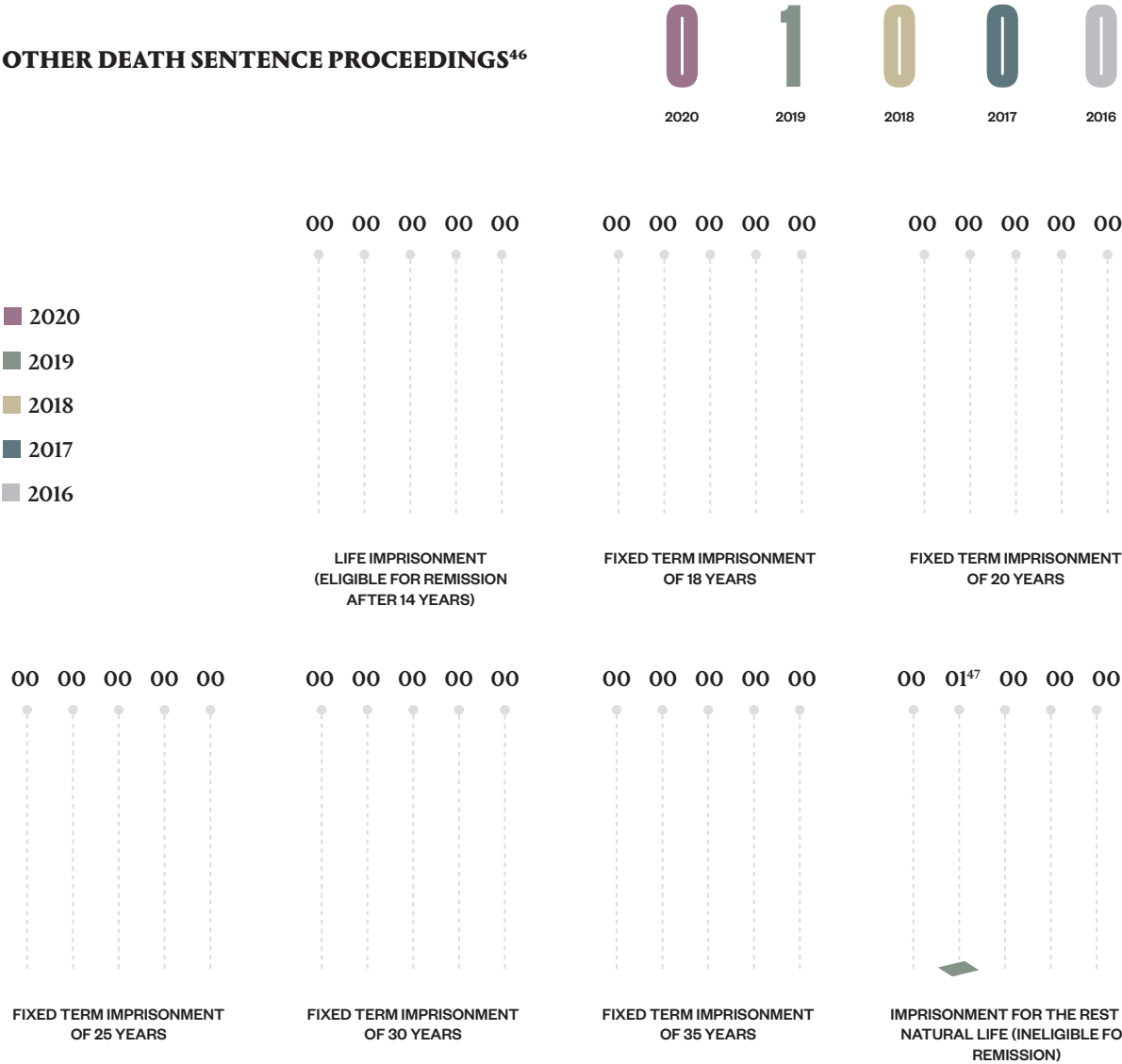


⁴³. Courts were severely limited in functioning in 2020 because of the the COVID-19 pandemic, which impacted the number of cases decided in the year.

⁴⁴. Including Criminal Appeals, Review Petitions or Curative Petitions connected to the original Criminal Appeal.

⁴⁵. In two cases, involving two prisoners, the Supreme Court acquitted the prisoners of the charge carrying the death penalty, which therefore resulted in a reduced sentence for the prisoner. They have been excluded from this data.

OTHER DEATH SENTENCE PROCEEDINGS⁴⁶



46. 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.

47. For one prisoner, the Writ Petition challenging the rejection of the mercy petition by the President of India was heard along with the Review Petition, with both decided in the same judgment.

SUPREME COURT CONFIRMATIONS IN 2020


06

No. of Persons

04


No. of Cases

CRIMINAL APPEAL AND RELATED PROCEEDINGS⁴⁸


 No. of Convicts

 Case No.


 Coram

 Nature of Offence


Delhi 14.01.2020

 *Curative Petition (Criminal) No. 6 of 2020 in Review Petition (Criminal) No. 570 of 2017 with Curative Petition (Criminal) Nos. 7-8 of 2020 in Review Petition (Criminal) Nos. 672-673 of 2017*


 **02**

 Justices NV Ramana, Arun Mishra, Rohinton Fali Nariman, R. Banumathi and Ashok Bhushan


Mukesh v. State of NCT of Delhi with Vinay Sharma v. State of NCT of Delhi

 Murder involving Sexual Offences

Uttar Pradesh 23.01.2020

 *Review Petition (Criminal) Nos. 632-633 of 2015 in Criminal Appeal Nos. 804-805 of 2015 with Review Petition (Criminal) Nos. 635-636 of 2015 in Criminal Appeal Nos. 802-803 of 2015*


 **02**

 Chief Justice SA Bobde, Justices S. Abdul Nazeer and Sanjiv Khanna


Saleem v. State of Uttar Pradesh with Shabnam v. State of Uttar Pradesh

 Murder Simpliciter


Delhi 30.01.2020

 *Curative Petition (Criminal) Nos. 10-11 of 2020 in Review Petition (Criminal) Nos. 602-603 of 2019*


 **01**

 Justices NV Ramana, Arun Mishra, Rohinton Fali Nariman, R. Banumathi and Ashok Bhushan


Akshay Kumar Singh v. State of NCT of Delhi

 Murder involving Sexual Offences


Delhi 03.02.2020

 *Curative Petition (Criminal) D.No. 8243 of 2020 in Review Petition (Criminal) No. 671 of 2017*

 **01**

 Justices NV Ramana, Arun Mishra, Rohinton Fali Nariman, R. Banumathi and Ashok Bhushan

Pawan Kumar Gupta v. State of NCT of Delhi

 Murder involving Sexual Offences

⁴⁸. Including Criminal Appeals, Review Petitions or Curative Petitions connected to the original Criminal Appeal.





04












No. of Persons

04

No. of Cases

OTHER DEATH SENTENCE PROCEEDINGS⁴⁹

-  No. of Convicts
-  Case No.
-  Coram
-  Nature of Offence

Delhi **19.03.2020** *Writ Petition (Criminal) No. 121 of 2020* **01** **Justices R. Banumathi, AS
Bopanna and Ashok Bhushan**
*Akshay Kumar Singh v. State of NCT of
Delhi* **Murder involving Sexual
Offences****Delhi** **29.01.2020** *Writ Petition (Criminal) D. No. 3334 of 2020* **01** **Justices AS Bopanna, R.
Banumathi and Ashok Bhushan**
Mukesh v. State of NCT of Delhi **Murder involving Sexual
Offences****Delhi** **20.03.2020** *Writ Petition (Criminal) No. 122 of 2020* **01** **Justices AS Bopanna, R.
Banumathi and Ashok Bhushan**
*Pawan Kumar Gupta v. State of NCT
Delhi* **Murder involving Sexual
Offences****Delhi** **14.02.2020** *Writ Petition (Criminal) No. 65 of 2020* **01** **Justices AS Bopanna, R.
Banumathi and Ashok Bhushan**
Vinay Sharma v. Union of India and Ors. **Murder involving Sexual
Offences**

⁴⁹. 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.

SUPREME COURT COMMUTATIONS IN 2020

04

No. of Persons

03

No. of Cases

CRIMINAL APPEAL AND RELATED PROCEEDINGS⁵⁰


 No. of Convicts  Case No.  Coram  Nature of Offence

 Sentence Imposed on Commutation of the Death Sentence

Chhattisgarh 05.03.2020

 *Special Leave Petition (Criminal) No. 8682 of 2014; arising out of Criminal Appeal No. 550 of 2013*

 **01**

 Justices UU Lalit, Indira Banerjee and MR Shah
Manoj Suryavanshi v. State of Chhattisgarh

 Kidnapping with Murder


 Fixed term imprisonment of 25 years

Maharashtra 02.11.2020

 *Criminal Appeal Nos. 763-764 of 2016*


 **01**

 Justices UU Lalit, Indu Malhotra and Krishna Murari
Shatrughna Baban Meshram v. State of Maharashtra


 Murder involving Sexual Offences

 Life imprisonment (eligible for remission after 14 years)


Maharashtra 24.04.2020

 *Criminal Appeal Nos. 640-641 of 2016; Criminal Appeal Nos. 1515-1516 of 2017*

 **02**

 Justices Hemant Gupta, Indu Malhotra and UU Lalit
Arvind Singh v. State of Maharashtra

 Kidnapping with Murder

 Fixed term imprisonment of 25 Years

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

ANALYSIS OF SUPREME COURT DECISIONS IN 2020

In 2020, the Supreme Court passed orders in five death penalty cases. In three cases, death sentences imposed on Manoj Suryavanshi, Arvind Singh, Rajesh Daware and Shatrughna Baban Meshram were commuted to life imprisonment of varying terms.⁵¹ Death sentences imposed in two cases on Mukesh, Vinay Sharma, Pawan Kumar and Akshay Kumar Singh as well as Shabnam and Saleem were confirmed in 2020. One of the two cases resulted in the execution of Mukesh, Vinay Sharma, Pawan Kumar and Akshay Kumar Singh on 20th March 2020.

CONFIRMATIONS

Uttar Pradesh 23.01.2020



Review Petition (Crl.) Nos. 632-633 in Criminal Appeal Nos. 802-803 of 2015 with Review Petition (Crl.) Nos. 635-636 in Criminal Appeal Nos. 804-805 of 2015



Chief Justice SA Bobde and Justices S Abdul Nazeer and Sanjiv Khanna

Saleem v. State of Uttar Pradesh with Shabnam v. State of Uttar Pradesh

Case History

Shabnam and Saleem were convicted by the Sessions Judge, Amroha for the murder of seven persons of Shabnam's family under sections 302 read with 34 of the Indian Penal Code. They were sentenced to death by the same court on 15th July 2010. The sentence was confirmed by a division bench of the High Court of Allahabad comprising Justices Amar Saran and SC Agarwal on 26th April 2013.

A three judge bench of the Supreme Court dismissed the appeals filed by the appellants. The arguments before the Supreme Court were restricted to the issue of the sentence imposed. It was argued on behalf of the appellants that since the case relied on circumstantial evidence (such as forensic reports and call records of the appellants) and no eyewitness accounts had been relied on, the death sentence should not have been imposed. Additionally, the young age of the appellants, their mental stress caused due to the opposition of their family to their marriage and Shabnam's pregnancy at the time of commission of the crime were argued as mitigating circumstances.

51. Shatrughna Baban Meshram was sentenced to life imprisonment. Manoj Suryawanshi, Arvind Singh and Rajesh Daware were sentenced to life without remission for 25 years.

The Court held that while determining the sentence between life imprisonment and death, a link between contemporary community values and the penal system ought to be made. In doing so, the evolving standards of public morality and consciousness must be looked at. It was held that the crime of parricide had shaken the society. In addition, the Court considered numerous aggravating factors- the victims being the family members of Shabnam, the magnitude, motive for and manner of the commission of the crime, and the remorseless attitude of Shabnam and Saleem. The Court dismissed mitigating factors of young age and Shabnam's pregnancy. It was held that the extreme culpability in this case merited the sentence of death, which would be an appropriate punishment. The appeal was dismissed.

Supreme Court (Review Petition)

The review petition was restricted to examining the sentence imposed. The Court, while confirming the sentence, held that the death sentence could not be overturned on grounds raised including that of the petitioners such as earning higher academic qualification, learning embroidery or tailoring skills and otherwise observing good conduct in jail. The Court observed that Shabnam committed the offence despite being well educated and being employed as a teacher. The Court found no error apparent on the face of the record, the standard for consideration of review petitions by the Supreme Court.

COMMUTATIONS

Chhattisgarh 05.03.2020



Criminal Appeal No. 388 of 2020 arising out of SLP (Crl.) No. 8682 of 2014



Justices UU Lalit, Indira Banerjee and MR Shah
Author: Justice MR Shah

Manoj Suryavanshi v. State of Chhattisgarh

Case History

Manoj Suryavanshi was convicted and sentenced to death for the kidnapping and murder of three children under sections 302 and 364 of the Indian Penal Code by Upper Sessions Judge, Ms. Neeta Arora on 4th May 2013. The sentence was confirmed by a division bench of the High Court of Chhattisgarh comprising Justices Yatindra Singh and Pritinker Diwaker on 8th August 2013.

Supreme Court (Criminal Appeal)

The Supreme Court commuted the death sentence of the accused, sentencing him to life imprisonment without the possibility of remission for 25 years. The argument that the sentence merited a commutation as it was a case of 'same day sentencing,' i.e., the conviction and sentencing orders were passed on the same day, thereby violating section 235(2) of the Code of Criminal Procedure, was rejected. Reliance was placed on *Accused X v. State of Maharashtra*⁵² to hold that the requirement under the provision would be sufficiently complied with as long as the accused had been given a sufficient opportunity to present their case on sentencing. The Court added that there was no proposition of law mandating that a sentence would be vitiated if the sentence was imposed on the same day as the conviction.

The Court considered mitigating factors such as extreme mental disturbance caused to the accused, good conduct in prison and lack of criminal antecedents. It placed emphasis on the appellant being in a state of extreme mental disturbance at the time of commission of the crime. These mitigating factors collectively outweighed the sole aggravating factor- brutality of the offence. Though the conviction under sections 302 and 364 of the Indian Penal Code was sustained, the death sentence was converted into a sentence of life imprisonment. The Court clarified that 'life' meant the end of the natural life of the prisoner with no possibility of remission till the prisoner completed 25 years of imprisonment.

Maharashtra 24.04.2020



Criminal Appeal Nos. 640-641 of 2016 with Criminal Appeal Nos. 1515-1516 of 2017



Justices UU Lalit, Indu Malhotra and Hemant Gupta
Author: Justice Hemant Gupta

Arvind Singh v. State of Maharashtra

Case History

Arvind Singh and Rajesh Daware were convicted for kidnapping and murder of a child under sections 364A, 302, 201 and 120-B read 34 of the Indian Penal Code by Mr. KK Sonawane, Sessions Judge, Nagpur on 30th January 2016. Death sentences were imposed on both accused under sections 364A and 302 by the same court on

4th February 2016. On 5th May 2016, the conviction and sentence was confirmed by a division bench of the High Court of Bombay (Nagpur Bench) comprising Justices BR Gavai and Swapna Joshi.

Supreme Court (Criminal Appeal)

The Supreme Court, in the criminal appeal, upheld the conviction but converted the death sentence to life imprisonment. The Court did not consider the argument that a higher standard of proof known as 'residual doubt,' which was over and above the 'beyond reasonable doubt' ought to be imposed in this case. Young age of the accused and the absence of criminal antecedents were also not considered as mitigating factors. However, the Court observed that the accused had the potential to reform and rehabilitate. It further held that the case was not a 'rarest of rare' case which had shocked the collective conscience of the community and therefore did not merit the death sentence. Death sentences imposed on Arvind Singh and Rajesh Daware were commuted to life imprisonment, without the possibility of remission for 25 years of imprisonment.

Maharashtra 02.11.2020

Shatrughna Baban Meshram v. State of Maharashtra



Criminal Appeal No. 763-764 of 2016



**Justices UU Lalit, Indu
Malhotra and Krishna Murari**
Author: Justice UU Lalit

Case History

Shatrughna Baban Meshram was convicted and sentenced to death by Mr. AC Chaphale, Additional Sessions Judge, Yavatmal for the rape murder of his niece under sections 376 (1) and (2), 376A and 302 of the Indian Penal Code and Section 6 of the Protection Of Children from Sexual Offences (POCSO) Act on 14th August 2015. A division bench of the High Court of Bombay (Nagpur bench) comprising Justices BR Gavai and Prasanna B. Varale confirmed the sentence on 12th October 2015.

Supreme Court (Criminal Appeal)

On appeal, the Supreme Court commuted the death sentence to life imprisonment. However, the conviction was sustained. Though the conviction was based on circumstantial evidence (such as the post mortem report and the DNA analysis report), the Court held that the circumstances establishing the complicity of the appellant-accused stood proved beyond reasonable doubt and excluded all other hypotheses other than the guilt of the accused.

Since the appellant was sentenced to death by the trial court on the same day on which he had been convicted, the defence argued that this violated section 235(2) of the Code of Criminal Procedure, warranting a commutation of the death sentence. While rejecting this argument, the Court relied on *Dagdu v. State of*

*Maharashtra*⁸³ and held that adequate and sufficient opportunity had been afforded to the accused to place all relevant material on record and the plea that his rights under Section 235(2) had been violated was untenable. The Court further examined the possibility of imposing the death sentence in a case that relied solely on circumstantial evidence. The defence argued that since the case relied on circumstantial evidence, applicability of “residual doubt” in this case was rejected. The court held that the theory of residual doubt would not be applicable in cases in which the conviction was based on circumstantial evidence as the burden in such cases is already of a very high magnitude. However, it held that though the circumstantial evidence establishing the guilt was unimpeachable, sentences alternate to the death penalty had not been foreclosed.

The Court commuted the sentence to life imprisonment, observing that death sentences are rarely given for convictions under the “*fourthly*” clause to Section 300 of the Indian Penal Code which deals with culpable homicide amounting to murder without there being any intention to murder. The death sentence imposed for an offence under section 376A for committing rape that resulted in murder was also converted to rigorous imprisonment for 25 years stating that the provision had been enacted a few days before the crime was committed.

MERCY PETITIONS⁵⁴

Prisoner (State)	Recommendation by MHA	Decision by the President	Outcome
Mukesh (Delhi)	16/01/2020	17/01/2020	Rejected
Vinay Sharma (Delhi)	31/01/2020	01/02/2020	Rejected
Akshay Kumar Singh (Delhi)	02/02/2020	05/02/2020	Rejected
Pawan Kumar (Delhi)	03/03/2020	04/03/2020	Rejected
Sanjay (Uttar Pradesh)	13/07/2020	16/07/2020	Rejected

54. The information presented in this section is as per data made available by the President's Secretariat.

DEATH WARRANT

Four death warrants were issued against Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar who were ultimately executed on March 20th, 2020. We discuss the details of the proceedings in which the warrants were issued and the grounds for the stays issued subsequently (*See Executions 2020, Death Warrants*).

Prisoner Name	Court Issuing Death Warrant	Date of Issuing Death Warrant	Scheduled Date of Execution	Date of Stay Order
Mukesh	Mr. Satish Arora, Additional Sessions Judge, Patiala House Court, New Delhi	7/1/2020	22/1/2020	17/1/2020
	Mr. Satish Arora, Additional Sessions Judge, Patiala House Court, New Delhi	17/1/2020	1/2/2020	31/1/2020
Akshay Kumar Singh				
Vinay Sharma	Mr. Dharmender Rana, Additional Sessions Judge, Patiala House Court, New Delhi	17/2/2020	3/3/2020	2/3/2020
Pawan Kumar	Mr. Dharmender Rana, Additional Sessions Judge, Patiala House Court, New Delhi	5/3/2020	20/3/2020	Not applicable. Execution carried out on 20/03/2020.

EXECUTIONS 2020

Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar were executed on 20th March 2020. The last execution prior to this was the execution of Yakub Memon in July 2015.

India has executed eight persons since 2000:

Dhananjoy Chatterjee

(August 2004)

Ajmal Kasab

(November 2012)

Afzal Guru

(February 2013)

Yakub Memon

(July 2015)

Mukesh

(March 2020)

Akshay Kumar Singh

(March 2020)

Vinay Sharma

(March 2020)

Pawan Kumar

(March 2020)

CASE TIMELINE

2012

16.12.2012

A young woman was gangraped and murdered in Delhi.

11.03.2013

One of the accused, Ram Singh, was found dead in prison, deemed to be a case of suicide.

10.09.2013

A Special Fast Track Court convicted Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar of rape and murder.

13.03.2014

A division bench of the High Court of Delhi, Hon'ble Justices Reva Khetrpal and Pratibha Rani, confirmed the death sentence imposed on Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar.

09.07.2018

Review Petitions filed before the Supreme Court by Mukesh, Vinay Sharma and Pawan Kumar were dismissed.

07.01.2020

The trial court issued a death warrant, setting the execution for 22nd January 2020.

17.01.2020

Mercy petition filed by Mukesh before the President of India was rejected.

The trial court issued a second death warrant, setting the execution for 1st February 2020.



17.12.2012 – 21.12.2012

Six men were arrested for the offence: Ram Singh, Mukesh, Akshay Kumar Singh, Vinay Sharma, Pawan Kumar and one accused who was subsequently found to be a juvenile.

13.09.2013

The court imposed the death sentence on Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar.

18.12.2019

Review Petition filed by Akshay Kumar Singh was dismissed by the Supreme Court.

05.05.2017

The three-judge bench of the Supreme Court, Hon'ble Justices Dipak Misra, Ashok Bhushan and R. Banumathi, upheld the death sentence imposed on Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar.

31.08.2013

One accused was declared a juvenile and sentenced according to the procedure prescribed by the law.

14.01.2020

Curative Petitions filed by Mukesh and Vinay Sharma were dismissed by the Supreme Court.



● **30.01.2020**

Curative Petition filed by Akshay Kumar Singh was dismissed by the Supreme Court.

● **01.02.2020**

Mercy petition filed by Vinay Sharma before the President of India was rejected.

● **31.01.2020**

The trial court passed an order deferring the executions until the prisoners had exhausted legal remedies.

● **29.01.2020**

The writ filed by Mukesh challenging the rejection of mercy petition was dismissed by the Supreme Court.

● **14.02.2020**

The writ filed by Vinay Sharma challenging the rejection of mercy petition was dismissed by the Supreme Court.

● **05.02.2020**

Mercy petition filed by Akshay Kumar Singh before the President of India was rejected.

The High Court of Delhi held that Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar could not be executed separately and directed them to exhaust their legal remedies within seven days.

● **02.03.2020**

Curative Petition filed by Pawan Kumar was dismissed by the Supreme Court.

● **17.02.2020**

The trial court issued a third death warrant, setting the execution for 3rd March 2020.

● **05.03.2020**

The trial court issued the fourth death warrant, setting the execution for 20th March 2020.

● **20.03.2020**

The writ filed by Pawan Kumar challenging the rejection of the second mercy petition was dismissed at 2:30 am by a three judge bench of the Supreme Court, Hon'ble Justices R. Banumathi, Ashok Bhushan and AS Bopanna.

Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar were executed at 5:30 am in Tihar Jail.

● **19.03.2020**

Second mercy petitions filed by both Akshay Kumar Singh and Pawan Kumar before the President of India were rejected.

The writ filed by Akshay Kumar Singh challenging the rejection of the second mercy petition was dismissed by the Supreme Court.

● **04.03.2020**

Mercy petition filed by Pawan Kumar before the President of India was rejected.

2020

PRIOR CASE HISTORY

Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar were sentenced to death for the gangrape and murder of a woman in Delhi on 16th December 2012. The public outrage surrounding the case precipitated reforms to substantive and procedural law on sexual violence in India in the form of the Criminal Law Amendment Act, 2013, which introduced the death penalty for repeat sexual offenders among other changes. The 2013 Amendment marked the beginning of the ever increasing scope of the death penalty for sexual violence in India.

While two others were arrested in the case, Ram Singh reportedly took his own life in prison before the completion of the trial and the other was declared a juvenile and given a three year sentence in accordance with the procedure applicable to children in conflict with the law.

Over the course of proceedings at the trial court, High Court and Supreme Court, Mr. AP Singh represented Akshay Kumar Singh and Vinay Sharma; and Mr. ML Sharma represented Mukesh and Pawan Kumar.

Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar were convicted by a Special Fast Track Court in Saket, Delhi on 10th September 2013 and were sentenced to death on 13th September 2013. The conviction and sentence was upheld by the Delhi High Court on 13th March 2014.

During the Criminal Appeal proceedings, by order dated 8th April, 2016, the Supreme Court appointed two Senior Advocates as amicus curiae, Mr. Raju Ramachandran and Mr. Sanjay R. Hegde, in light of the 'gravity of the matter'. Noting serious lapses in the sentencing by the trial court and the High Court, the Supreme Court, by order dated 3rd February 2017, directed the advocates to present mitigation affidavits and reconsidered the question of sentence at this stage. The conviction and sentence was upheld by the Supreme Court of India on 5th May 2017.

The Review Petitions of Vinay Sharma, Pawan Kumar and Mukesh, were dismissed on 9th July 2018. The Review Petition of Akshay Kumar Singh, was dismissed on 18th December 2019.

Curative Petitions

The Supreme Court rejected the Curative Petitions of Vinay Sharma and Mukesh on 14th January 2020; of Akshay Kumar Singh on 30th January 2020 and of Pawan Kumar on 2nd March 2020. All three petitions were dismissed in circulation, with the Court rejecting the application for oral hearing and refusing to stay the execution of the death sentence.

Mercy Petitions

Mukesh's mercy petition, which was filed on 14th January 2020,⁵⁵ was rejected on 17th January 2020, following a recommendation by the Ministry of Home Affairs (MHA) on 16th January 2020. Vinay Sharma's mercy petition, which was filed on 29th January 2020,⁵⁶ was rejected on 1st February 2020, following a recommendation by the MHA on 31st January 2020. Pawan Kumar's mercy petition, which was filed on 2nd March 2020,⁵⁷ was rejected on 4th March 2020, following a recommendation by the MHA on 3rd March 2020. He also filed a second mercy petition on 18th March 2020. Akshay Kumar Singh sent a mercy petition on 31st January 2020, which was incomplete, and then sent the complete mercy petition on 18th March 2020,⁵⁸ which was rejected on 19th March 2020.

To set these decisions in context, for 28 prisoners for whom information on the date of filing mercy petition was available, the mercy petition was ultimately rejected by the President an average of 7 years after it was filed. Further, excluding the one other mercy petition decided in 2020, the President took an average of 3.6 years to decide on the mercy petitions of 28 prisoners⁵⁹ after the first recommendation from the Ministry of Home Affairs, as per data released by the President's Secretariat.

55. This information has been sourced from *Mukesh v. State of NCT of Delhi*, Writ Petition (Criminal) D No. 3334 of 2020.

56. This information has been sourced from *Vinay Sharma v. Union of India and Ors.*, Writ Petition (Criminal) No. 65 of 2020.

57. This information has been sourced from *Pawan Kumar Gupta v. State of NCT of Delhi*, Writ Petition (Criminal) No. 122 of 2020.

58. This information has been sourced from *Akshay Kumar Singh v. State of NCT of Delhi*, Writ Petition (Criminal) No. 121 of 2020.

59. While there is an overlap, this is not the same set of 28 prisoners for whom information on filing is available.

Post-Mercy Writ Proceedings

Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar filed separate writ petitions before the Supreme Court of India, challenging the rejection of their mercy petitions. Mukesh was represented in these proceedings by Ms. Anjana Prakash, Senior Advocate. Mukesh's writ was rejected on 29th January 2020. Vinay Sharma's writ was rejected on 14th February 2020. Akshay Kumar Singh's writ was rejected on 19th March 2020. Pawan Kumar's writ was rejected on 20th March 2020.

In all four proceedings, the Supreme Court held that the decision by the President of India on the mercy petition followed established procedure and involved consideration of relevant materials. Particularly, the Court held that a constitutional authority is presumed to have acted carefully after considering all aspects, and there were no grounds to challenge this presumption in any of the applications. In addition, across the four proceedings the Supreme Court held that there were pre-established grounds for the judicial review of the order rejecting the mercy petition, which did not include torture or treatment in prison faced by the petitioner. In addition, with regard to Pawan Kumar's petition, the Court held that the question of juvenility of the convict had been determined with finality by the Courts and was no longer subject to review.

Death Warrants

In this case, four death warrants were issued against Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar, before they were ultimately executed on 20th March 2020. The court appointed Ms. Vrinda Grover, Senior Advocate as an amicus curiae to assist the trial court during the warrant proceedings.

In light of the absence of any pending petitions, on 7th January 2020 the Additional Sessions Judge, Patiala House Court issued a death warrant against Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar fixing the date of the execution as 22nd January 2020.

On 17th January 2020, the trial court revised the date of execution to 1st February 2020. This was in light of the rejection of the mercy petition of Mukesh on the same date. The Supreme Court in *Shatrughan Chauhan v Union of India*⁶⁰ and Rule Number 858 of the Delhi Prison Rules, 2018 require a minimum period of 14 days between the receipt of the communication of the rejection of the mercy petition and the scheduled date of execution to enable the prisoner sentenced to death to prepare themselves, settle their affairs, meet family members or avail any judicial

remedy. On 31st January 2020, the trial court stayed the execution in light of the pendency of the mercy petition of Vinay Sharma.

The state argued before the Delhi High Court that the prisoners could be executed separately, whenever each prisoner had exhausted the legal remedies they were entitled to. In these proceedings, Mukesh was represented by Ms. Rebecca John, Senior Advocate and Ms. Vrinda Grover. On 5th February 2020, the Delhi High Court upheld the postponement of the execution for all convicts, despite the exhaustion of legal remedies by Mukesh. Relying on Supreme Court decisions,⁶¹ the Court emphasised that the convicts were exercising their rights under Article 21 of the Constitution of India and that it would be unjust to execute the death sentence against only one convict. The Court held that the commutation of the sentence of a co-accused would constitute a change in circumstances that would entitle the remaining co-accused to file a second mercy petition.⁶²

On 17th February 2020 a third death warrant was issued scheduling the execution for 3rd March 2020. By order dated 2nd March 2020, the trial court deferred the execution in light of the pending mercy petitions from Akshay Kumar Singh and Vinay Sharma. The court emphasised the protection under Article 21 of the Constitution of India continues to protect convicts till their last breath, particularly guaranteeing their right to exercise all remedies available to them. The court highlighted the unjustness of executing any convict without the opportunity to exhaust all legal remedies.

On 5th March 2020, the trial court issued the fourth death warrant scheduling the execution for 20th March 2020. On 20th March at 12 am, the Delhi High Court dismissed a plea seeking a stay on the execution. At 5.30 am, Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar were executed.

61. *Sher Singh & Ors. v. State of Punjab*, (1983) 2 SCC 344, and *Harbans Singh v. State of Uttar Pradesh & Ors.*, (1982) 2 SCC 101.

62. As allowed by *Yakub Abdul Razak Memon v. State of Maharashtra*, Writ Petition (Criminal) No. 129 of 2015 decided on 29.07.2015.58.

LEGISLATIVE DEVELOPMENTS

Maharashtra Shakti Criminal Law (Maharashtra Amendment) Act, 2020

The Maharashtra Cabinet has approved two bills: the 'Special Courts and Machinery for the Implementation of Shakti Act 2020' and the 'Maharashtra Shakti Criminal Law (Maharashtra Amendment) Act, 2020', which introduce the death penalty for non-homicidal rape and acid attack by amending provisions in the Indian Penal Code (IPC) and the Protection of Children from Sexual Offences (POCSO) Act. In addition, the Bills increase the punishment for various offences relating to sexual violence and sets out expedited processes, limiting investigation to 15 days, and trial and disposal of the case to 45 days from filing of the chargesheet. The bills are now pending before a joint select committee of the state Legislative Assembly.

The 'Andhra Pradesh Disha (Special Courts for Specified Offences against Women and Children) Bill 2020' was passed by the Andhra Pradesh legislature on 4th December 2020. This was a revised version of the Bill passed in 2019, reportedly due to the latter's failure to receive the President's assent. This Bill requires the assent of the President under Article 254(2) of the Constitution of India to come into force. Reportedly, this Bill did not carry the death penalty provisions from the 2019 Bill.

OBSERVATIONS

The COVID-19 pandemic severely impacted the functioning of the courts, with a significant drop in the number of death sentences imposed by trial courts and the number of death penalty cases decided by appellate courts. More than 60% of the death sentences imposed by trial courts this year were imposed before the first lockdown was announced. Yet, the 48 death sentences imposed within the first three months of the year, amounting to nearly 50% of last year's total, indicate that the total would likely have been much higher in the absence of the pandemic.

2020 also demonstrated the extensive public clamor for the death penalty for sexual offenders, visible with the outcry in support of the executions of Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar in March 2020. Despite the strong and repeated calls to expedite the executions of Mukesh, Akshay Kumar Singh, Vinay Sharma and Pawan Kumar, it was admirable to see the Delhi district judiciary protect their rights to exhaust all legal remedies till the very end, ensuring compliance with the law.

In line with the strong public sentiment to execute sexual offenders, 2020 also saw an increasing legislative reliance on the death penalty for sexual offences with the proposed state amendments to the Indian Penal Code and the Protection of Children from Sexual Offences Act.

The public as well as legislative discourse appears to have had an impact on the implementation of the death penalty in India, with the proportion of death sentences imposed in sexual violence cases now the highest in 5 years, at 65%. It is also important to note that with the introduction of the death penalty for child rape in 2018, the proportion of death sentence cases involving rape of children now constitutes 82% of the death sentences imposed for all sexual offences in 2020.

The changing realities of the death penalty in India highlight the necessity of robust empirical research that helps assess the impact of various measures and design well-considered reform.

CORRECTIONS TO ANNUAL STATISTICS

Due to significant changes in the process of recording and classifying information on death penalty cases this year, there are several changes in the statistics as presented in previous years, particularly in the nature of offence data. A detailed list of these changes and corrections is specified below.

2019

- 3 additional prisoners, from Karnataka, Manipur and Karnataka respectively, were identified as having a death sentence imposed by trial courts in 2019 for 'Murder involving Sexual Offences', 'Murder Simpliciter', and 'Kidnapping with Murder' respectively.
- Due to revised categorisation of offences, the death sentences imposed by the trial court on 2 prisoners for 'Terror Offences' and 'Murder involving Sexual Offences' have been now reclassified as 'Murder Simpliciter'.
- The death sentence imposed by the trial court on 4 prisoners erroneously classified as 'Murder involving Sexual Offences' has now been reclassified as 'Murder Simpliciter'.
- Due to a typographical error, the offence of 'Dacoity with Murder' erroneously included 6 additional death sentences.
- 2 additional prisoners, from Kerala and Gujarat and convicted of 'Murder Simpliciter' and 'Murder involving Sexual Offences' respectively, were identified as having a death sentence confirmed by High Courts in 2019.
- Due to revised categorisation of offences, the death sentences confirmed by High Courts for 2 prisoners for 'Murder Simpliciter' have now been reclassified as 'Kidnapping with Murder'.
- 1 case of a commutation by the High Court has now been reclassified as a confirmation case. 1 case of an acquittal by the High Court has now been excluded as the prisoner died during the course of the proceedings.
- The sentences on commutation imposed by the Supreme Court in 2 cases involving 2 prisoners erroneously classified as 'Life imprisonment (eligible for remission after 14 years)' have now been reclassified as 'Imprisonment for the Rest of Natural Life (ineligible for remission)'.

2018

- 2 additional prisoners, from Haryana and Karnataka respectively, were identified as having a death sentence imposed by trial courts in 2018 for ‘Murder involving Sexual Offences’ and ‘Murder Simpliciter’.
- The death sentence imposed on 1 prisoner by the trial court erroneously classified as ‘Murder involving Sexual Offences’ has now been reclassified as ‘Murder Simpliciter’.
- Due to revised categorisation of offences, the death sentences imposed by the trial courts on 14 prisoners for ‘Murder involving Sexual Offences’ have now been reclassified as ‘Child Rape without Murder’.

2017

- The death sentences imposed by trial courts on 2 prisoners from Uttar Pradesh in one case involving the offence of ‘Murder involving Sexual Offences’ were erroneously excluded from the 2017 Report.
- The death sentences imposed by trial courts on 4 prisoners erroneously classified as ‘Murder involving Sexual Offences’ and on 3 prisoners erroneously classified as ‘Kidnapping with Murder’ have now all been reclassified as ‘Murder Simpliciter’.

2016

- 3 additional prisoners, from Karnataka, West Bengal and Madhya Pradesh respectively, were identified as having a death sentence imposed by trial courts in 2016 for ‘Murder Simpliciter’.
- 2 death sentences for ‘Murder involving Sexual Offences imposed by trial courts on 1 prisoner from Uttar Pradesh were erroneously excluded from previous reports.
- Due to revised categorisation of offences, the death sentences imposed by the trial courts on 7 prisoners for ‘Rioting with Murder’ and ‘Robbery with Murder’ have now been reclassified as ‘Murder Simpliciter’.
- 2 additional prisoners in 1 case, from Madhya Pradesh and convicted of ‘Murder involving Sexual Offences’ were identified as having a death sentence confirmed by High Courts in 2016.
- One case of acquittal by the High Court has been excluded as the judgment was pronounced in 2015.
- One case involving 1 prisoner erroneously included in the commutations by High Courts has been excluded.
- The commutation by the Supreme Court of the death sentence of 1 prisoner, from Madhya Pradesh and convicted of ‘Murder involving Sexual Offences’, in 2016 was erroneously excluded from previous reports.



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