

DEATH PENALTY IN INDIA



PROJECT 39A
EQUAL JUSTICE
EQUAL OPPORTUNITY

Annual ■
Statistics ■
Report ■

2019

LIST OF CONTRIBUTORS

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Annual ■
Statistics ■
Report ■
2019

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FOREWORD

This is the fourth edition of *The Death Penalty in India: Annual Statistics* published by Project 39A at National Law University, Delhi.

Trial courts in India imposed 102 death sentences this year and that was a significant drop from 162 death sentences in 2018. However, sexual offences played a significant role in determining outcomes in these cases, as the proportion of death sentences imposed for murders involving sexual offences was at the highest in four years at 52.94% (54 out of 102 sentences). This was also the year of highest number of confirmations by the High Courts in 4 years, with a majority in offences of murder involving sexual offences at 65.38% (17 out of 26).

The Supreme Court in 2019 pronounced the highest number of decisions (27) in capital cases since 2001, primarily under Former Chief Justice Ranjan Gogoi's tenure. This can be linked to the priority in listings given to capital cases by Gogoi CJ, which is further evidenced by the fact that this is not only the highest number in a calendar year but also for any Chief Justice in since 2001.

The methodology we followed this year is similar to that used for the last edition. We tracked news reports of death sentences being imposed by trial courts across online news outlets in English and Hindi. These numbers were verified against judgments uploaded on High Court and district court websites. While it must be acknowledged that these resources have steadily and impressively improved over the years, there is still a considerable delay in uploading judgments on several district court sites and some High Court websites. We also attempted to send applications under the Right to Information Act to the Governor Secretariats and Home Departments of each State in order to ensure the information is verified from multiple sources. However, delayed responses and repeated transfers to different departments prevent the extensive use of this data.

In our efforts to continuously update our data, we have identified certain errors in the data presented in the 2018 edition, and those have been provided at the end of this document. 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 2019.

Exceptional contributions by Varsha Sharma and Pritam Raman Giriya (IV year law students at National Law University, Delhi) were (IV year law students at National Law University, Delhi) instrumental in the development of the directory and in the publication of annual statistics reports since it was first published in 2017. The research assistance provided by Hardik Baid and Supriya Shekher (II year law students at National Law University, Delhi) has been extremely useful in compilation and presentation of data in this Report.

OVERVIEW OF LEGAL DEVELOPMENTS IN 2019

2019 was an important year for legal developments on capital punishment in India. The Supreme Court, primarily during the tenure of Former Chief Justice Ranjan Gogoi, listed and heard the maximum number of capital cases (27) since 2001.

A large majority of these were commutations, on grounds of good conduct of the accused in prison, young age and lack of criminal antecedents. Fixed term sentences were common, and several commutations saw the Supreme Court excluding the executive's power of remission for periods ranging between 25 years to the end of natural life. The Supreme Court also commuted death sentences on the basis of the quality of evidence, noting the presence of a 'residual doubt' given the circumstantial nature of evidence. In three cases, 10 out of 11 individuals sentenced to death were acquitted of all charges, with the Court highlighting the lackadaisical nature of investigation and mala fide prosecution. There were six confirmations by the Supreme Court, including one in the review of a criminal appeal decided in 2019. Interestingly, there were dissents in three of these decisions (including the review) on the question of sentence. Two cases were remitted for *de novo* trials; in one, the Court observed that a fast-track trial within 13 days essentially meant that the accused had not received a fair trial, guaranteed under the Constitution.

Widespread discussions on capital punishment in 2019 involved sexual offences against women and children. Despite the drop in the total number of death sentences imposed by sessions courts, the proportion of sexual offences in these cases increased from 41.35% (67 out of 162) in 2018 to 52.94% in 2019 (54 out of 102 sentences). The trend of prominence of cases of murder involving sexual offences is evident in the High Court as well, with 65.38% (17 out of 26) of the confirmations in murders involving sexual offences, with this being the highest number of confirmations by the High Courts in four years. In contrast offences of murder involving sexual offences comprise only 26.79% (15 out of 56) of the commutations by the High Courts. In the Supreme Court however, 64.71% (11 out of 17) of the death sentences commuted were cases of murder involving sexual offences, with 57.14% (4 out of 7) of the confirmations were cases of murder involving sexual offences.

An amendment to the POCSO Act, introducing stringent mandatory minimum punishments and the death penalty for penetrative sexual assault on children was a major development in this direction. While dealing with two cases that involved crimes prior to the amendments, the Supreme Court invoked the aims and objectives of these amendments while justifying the imposition of death sentences in *Ravi* and *Manoharan*, where the Court noted that the harshest punishment was in tune with social policy on the issue. Further, in response to the outrage following a brutal gangrape and murder in Hyderabad, the state legislature of Andhra Pradesh also amended the Indian Penal Code to introduce the death penalty for rape. These state amendments to the Indian Penal Code will now require the approval of the President of India under Article 254(2) to come into force in Andhra Pradesh.



2019 saw an increase in proportion of death sentences imposed for sexual offences. 52.94% of the death sentences imposed at trial courts and 65.38% of High Court confoirmaths of death sentences involved sexual offences along with murder

The Supreme Court, during the tenure of Former Chief Justice Ranjan Gogoi, listed and heard the maximum number of capital cases (27) since 2001

The POCSO Act was amended to introduce the death penalty for non-homicidal rape of children

The state legislature of Andhra Pradesh amended the Indian Penal Code to introduce the death penalty for non-homicidal rape of adult women.

CUMULATIVE FIGURES OF PRISONERS SENTENCED TO DEATH



400

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



366

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



426

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



378

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

THREE PRISONERS SENTENCED TO DEATH DIED IN PRISON.

Mohd Hanif Abdul Rahim Sayyed, lodged in Nagpur Central Jail, Maharashtra, died on 10th February 2019.

Satish, lodged in Jabalpur Central Jail, Madhya Pradesh, died on 13th February 2019.

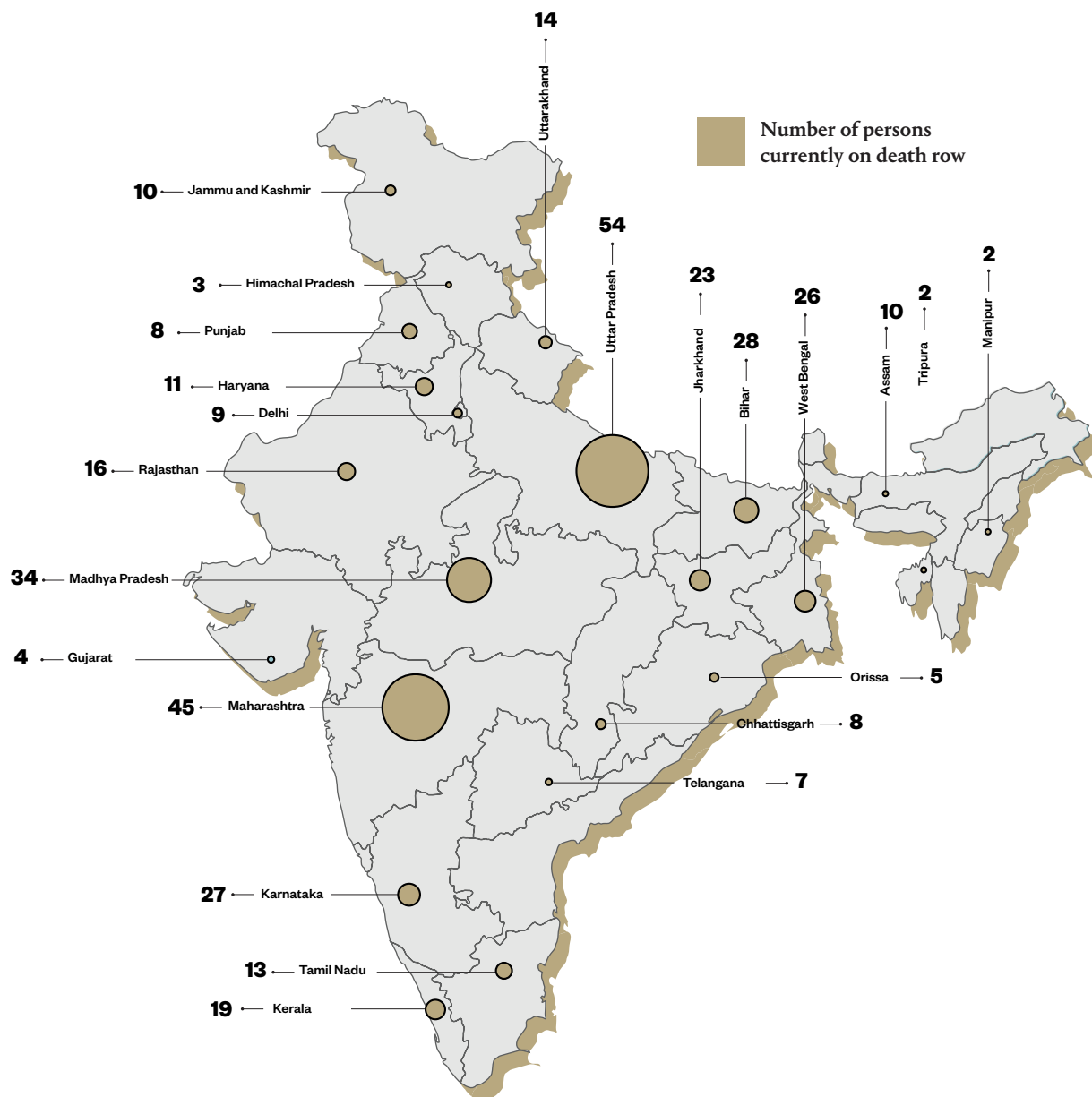
Devendra Nath Rai in Naini Central Prison, Uttar Pradesh died on 13th June 2019.

Mohd. Mannan, in Bhagalpur Central Jail, Bihar died on 27th October 2019. His death sentence was commuted by the Supreme Court on 14th February 2019, to imprisonment for the rest of natural life (ineligible for remission).

STATE-WISE DISTRIBUTION OF PERSONS ON DEATH ROW

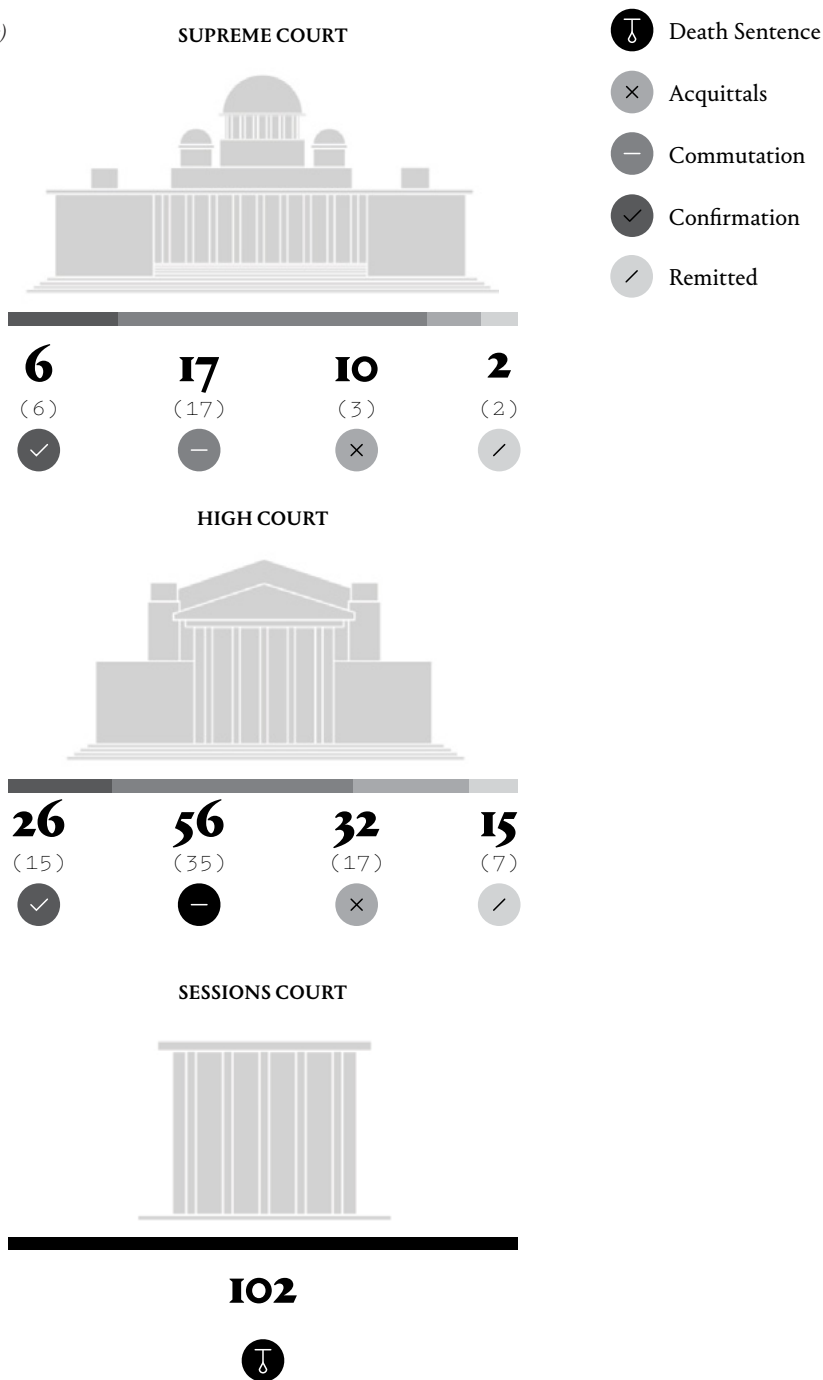
378

Total Persons on
Death Row as on
31st December 2018



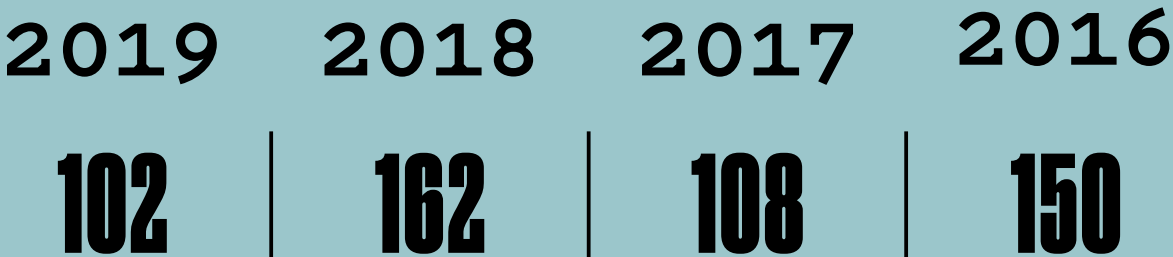
DEATH PENALTY CASES 2019

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



SESSIONS COURTS IN 2019¹

NUMBER OF DEATH SENTENCES IMPOSED BY SESSIONS COURTS



THERE WERE NO DEATH SENTENCES IMPOSED IN THE FOLLOWING STATES IN FOUR YEARS:



• Arunachal Pradesh



• Goa



• Meghalaya



• Mizoram



• Nagaland

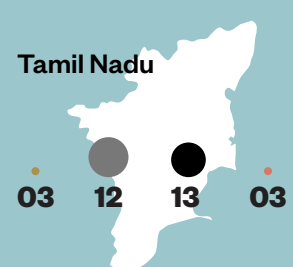
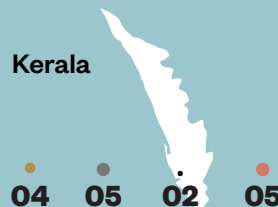
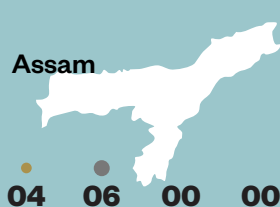
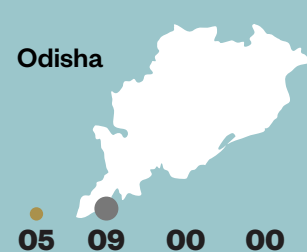
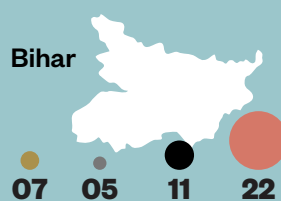
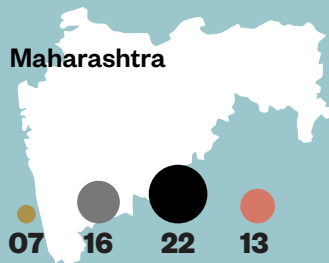
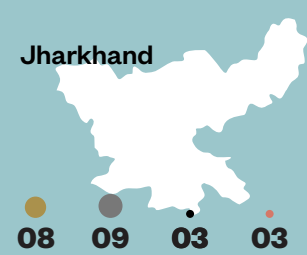
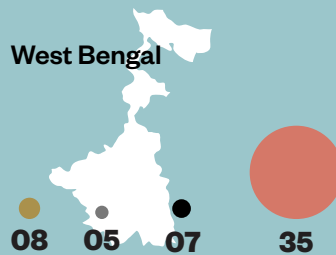
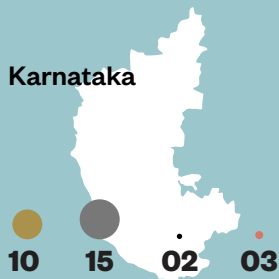
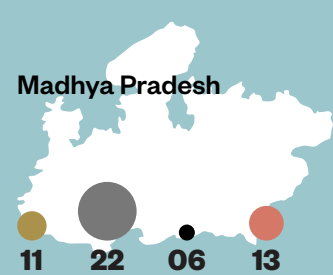
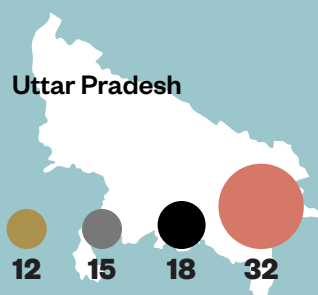
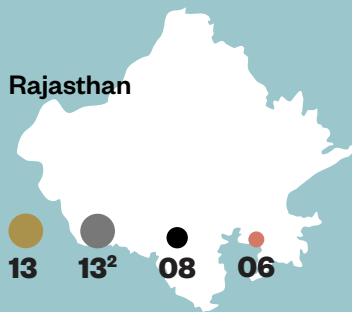


• Sikkim

¹. Death sentences imposed on the same individual in different cases are counted as separate sentences.

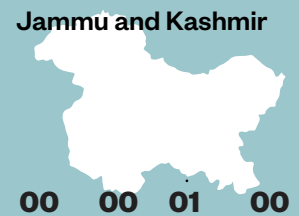
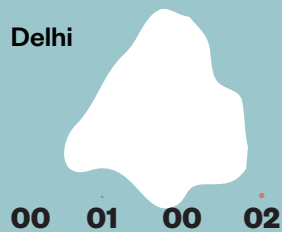
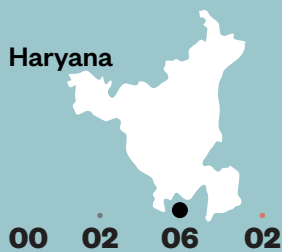
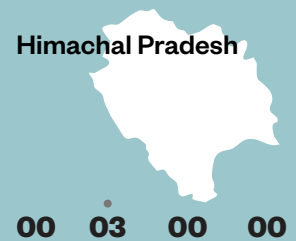
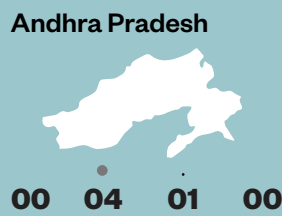
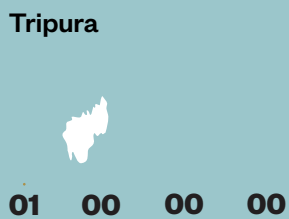
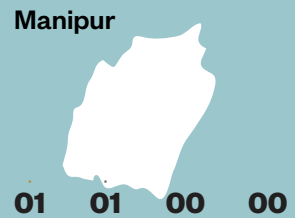
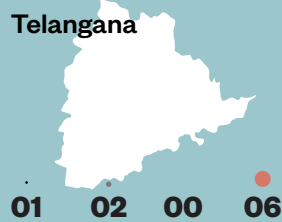
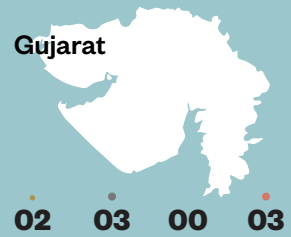
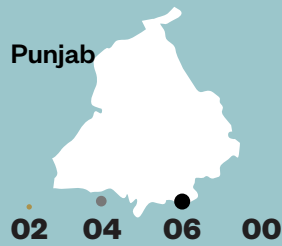
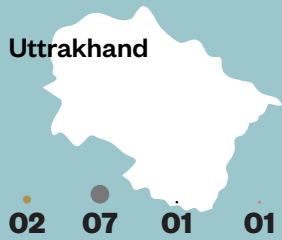
STATE-WISE DISTRIBUTION OF DEATH SENTENCES IMPOSED IN 2019

2019 2018 2017 2016



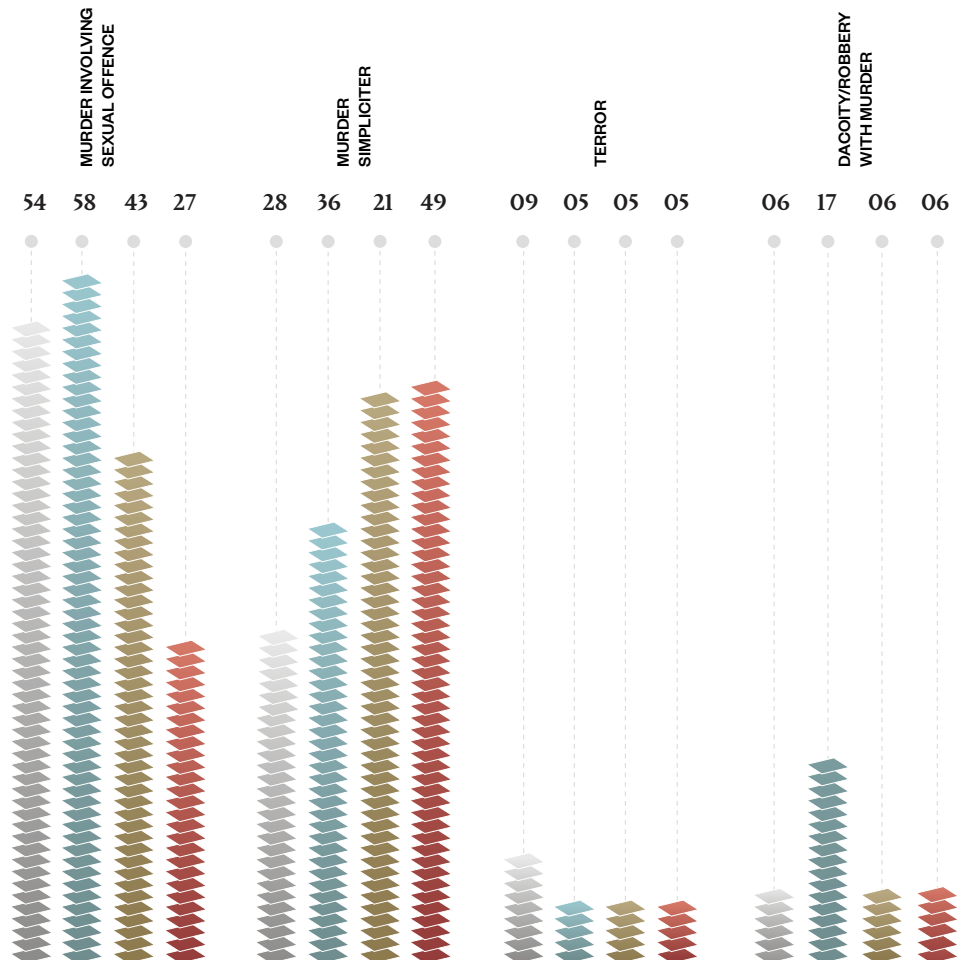
2. The case of one accused was remitted to the trial court by the High Court for re-trial. The trial court re-sentenced the accused to death.

102 | 162 | 108 | 150



NATURE OF CRIME FOR THOSE SENTENCED TO DEATH BY SESSIONS COURT IN 2019

2019 2018 2017 2016

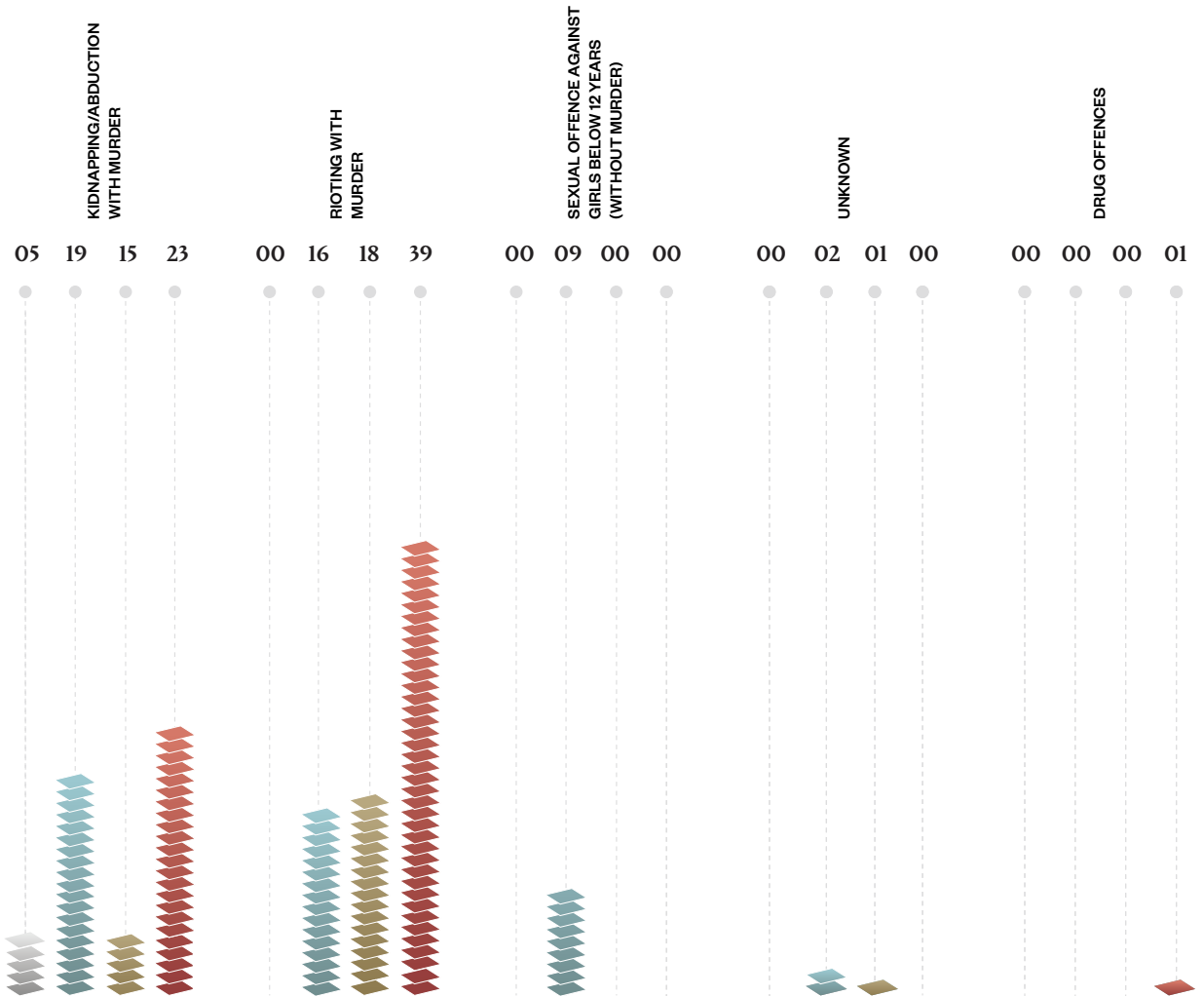


102

162

108

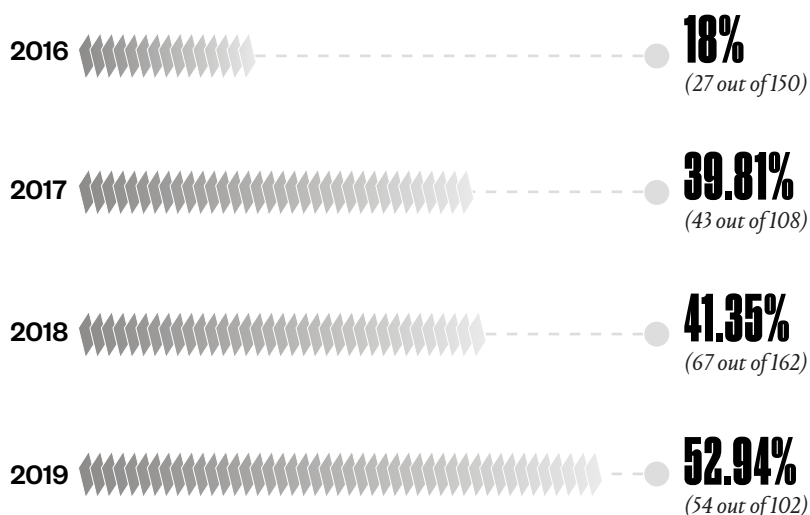
150



DEATH PENALTY IN CASES OF SEXUAL OFFENCES

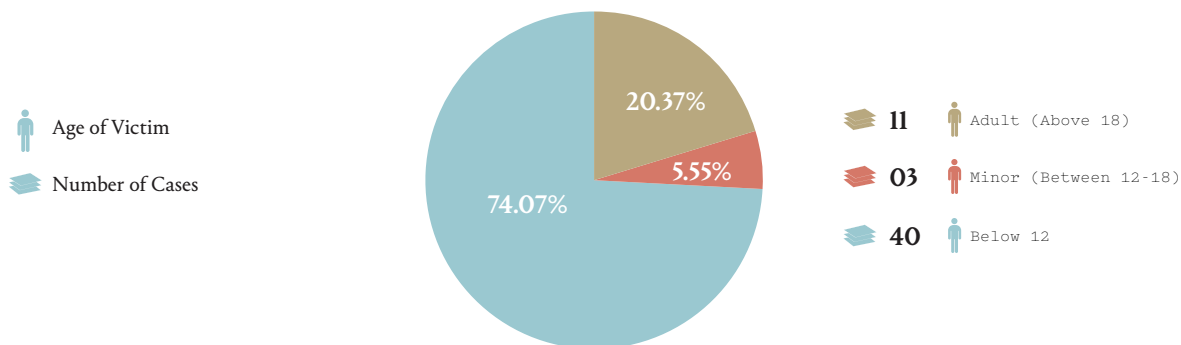
While the number of death sentences imposed by trial courts in 2019 is the lowest in the four years since we began tracking death sentences, the proportion of cases of murder involving sexual offences is the highest since 2016.

The proportion of cases of murder involving sexual offences out of the total death sentences imposed:



Age of Victim in Sexual Offences Cases involving Death Sentence in 2019

54



In 2019, 39.21% of the total death sentences (40 out of 102) are cases of murder involving sexual offences with victims below 12 years of age.

HIGH COURTS IN 2019

2019³ 2018 2017⁴ 2016

HIGH COURT CONFIRMATIONS

26 (15)⁵ | 23 (18) | 11 (10) | 15 (10)

HIGH COURT COMMUTATIONS

56 (35) | 53 (35) | 54 (32) | 56 (37)

HIGH COURT ACQUITTALS

32 (17)⁶ | 28 (13) | 70 (26) | 20 (14)

REMITTED TO TRIAL COURTS BY HIGH COURTS

15 (7) | 10 (6) | 13 (5) | 11 (1)

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

3. 1 case involving part acquittal and part confirmation; 1 case involving part acquittal and part commutation

4. The death reference of one person was recalled by the Allahabad High Court.

5. 1 convict died but the sentence was still confirmed by the High Court, excluded from High Court numbers

6. 1 convict declared juvenile by the High Court

NATURE OF OFFENCE IN CONFIRMATIONS AND COMMUTATIONS BY HIGH COURTS IN 2019

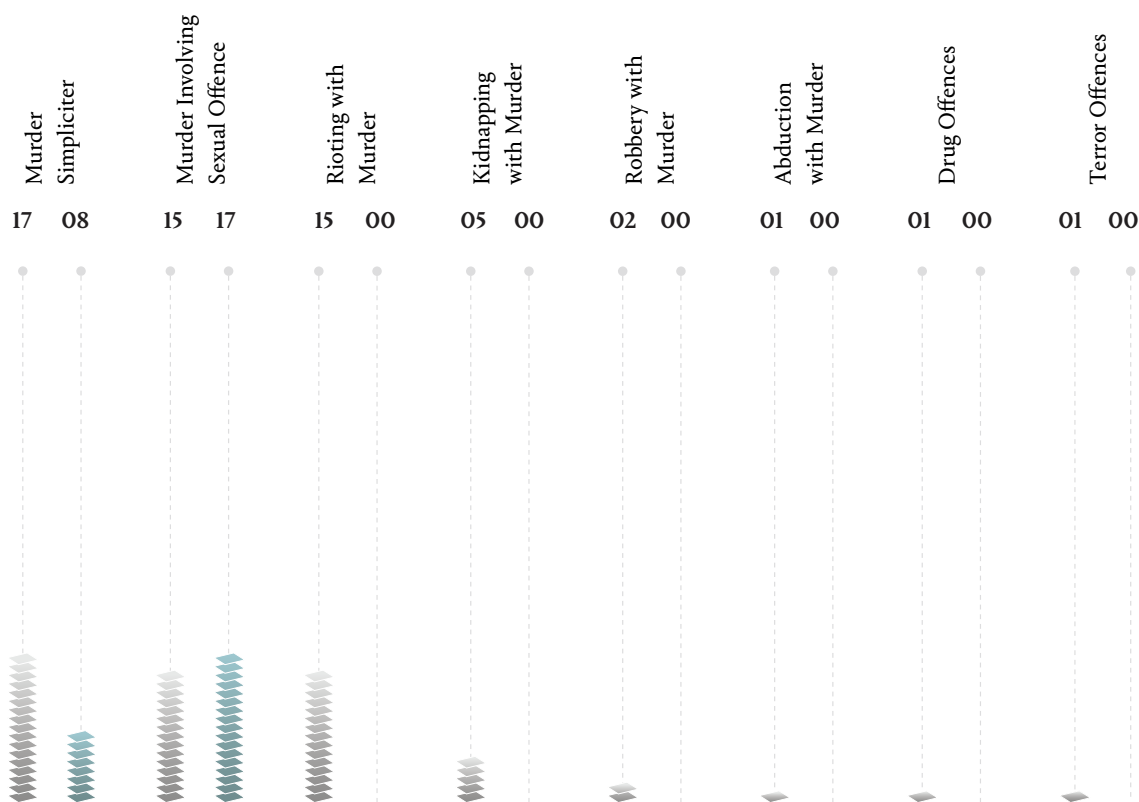
56

Commuted

26

Confirmed

🔍 Nature of Offence — Commuted ✓ Confirmed



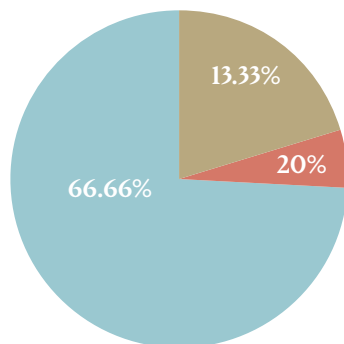
The trend of prominence of cases of murder involving sexual offences is evident in the High Court as well, with 65.38% of the confirmations in murders involving sexual offences in contrast to comprising only 26.79% of the commutations.



AGE OF VICTIM IN CASES OF MURDER INVOLVING SEXUAL OFFENCES COMMUTED AND CONFIRMED BY THE HIGH COURTS

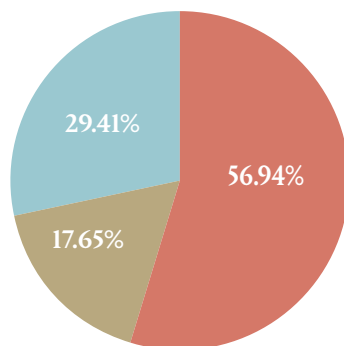
17 Commutations
15 Confirmations

Age of Victim
Commutations



02 Adult (Above 18)
03 Minor (Between 12-18)
10 Below 12

Age of Victim
Confirmations

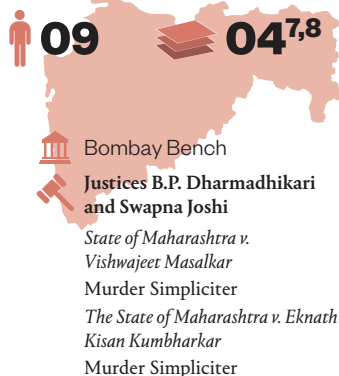


09 Adult (Above 18)
03 Minor (Between 12-18)
05 Below 12

HIGH COURT CONFIRMATIONS IN 2019

-  No. of Persons
-  No. of Cases
-  Court
-  Coram

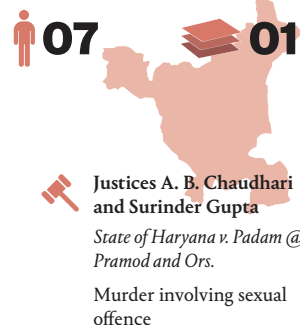
Maharashtra



Justices B.P. Dharmadhikari and Sandeep K. Shinde
The State of Maharashtra v. Ramesh Vishwanath Darandale and Ors.
 Murder Simpliciter
 Bombay High Court (Aurangabad)

Justices K. K. Sonawane and T. V. Nalawade
State of Maharashtra v. Santosh Vishnu Lonkat and Ors.
 Murder involving sexual offence

Haryana



Madhya Pradesh



Justices P. K. Jaiswal and Anjali Palo
Mahendra Singh Gond v. State of Madhya Pradesh

Murder involving sexual offence

Madhya Pradesh High Court (Indore)

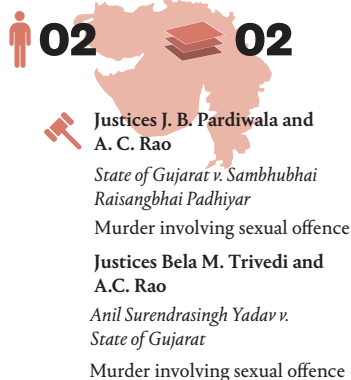
Justices S. C. Sharma and Shailendra Shukla
State of Madhya Pradesh v. Waris Khan

Murder involving sexual offence

Punjab



Gujarat



7. 1 case involving part acquittal and part confirmation

8. 1 convict died but the sentence was still confirmed by the High Court, excluded from High Court numbers

15

Number of cases

26

Number of persons

Rajasthan

01 01



Jaipur Bench



Justices Sabina and
Goverdhan Bardhar

*State of Rajasthan v. Dr. Abdul
Hameed*

Terror Offences

Tamil Nadu

01 01



Madurai Bench



Justices R. Subbiah and B.
Pugalendh

*The Principal District and
Sessions Judge, Theni v.
Kattavellai @ Devakar*
Murder involving sexual
offence

Uttar Pradesh

01 01



Allahabad Bench



Justices Sudhir Agarwal and
Om Prakash

*Gambhir Singh v. State of Uttar
Pradesh*

Murder Simpliciter

Uttarakhand

01 01



Justices Alok Singh and
Ravindra Maithani

*State of Uttarakhand v. Akhtar Ali
@ Ali Akhtar @ Shamim @ Raja
Ustad*

Murder involving sexual offence

HIGH COURT COMMUTATIONS IN 2019

-  No. of Persons
-  No. of Cases
-  Court
-  Coram

Uttar Pradesh



 Allahabad Bench

 **Justices Sudhir Agarwal and Om Prakash**

Sangam Pasi and Ors. v. State of Uttar Pradesh

Murder Simpliciter

Life imprisonment (eligible for remission after 14 years)

Justices Ramesh Sinha and Dinesh Kumar Singh

Arshad v. State of Uttar Pradesh

Rioting with Murder

Life imprisonment (eligible for remission after 14 years)

Justices Sudhir Agarwal and Rajendra Kumar-IV

Santosh v. State of Uttar Pradesh

Murder involving sexual offence

Life imprisonment (eligible for remission after 14 years)

Rajasthan



 Jaipur Bench

 **Justices Banwari Lal Sharma and M. N. Bhandari**

State of Rajasthan v. Mod Singh @ Mor Singh @ Langda

Murder involving sexual offence

Life imprisonment (eligible for remission after 14 years)

Justices Kamaljit Singh Ahluwalia and G. R. Moolchandani

State of Rajasthan v. Lalchand

Murder Simpliciter

Life imprisonment (eligible for remission after 14 years)

Justices Sabina and Narendra Singh Dhaddha

State of Rajasthan v. Ramprasad Sahu

Murder Simpliciter

Fixed term imprisonment of 25 years

Justices Sabina and Goverdhan Bardhar

State of Rajasthan v. Komal Lodha⁹

Murder involving sexual offence

Jodhpur Bench

Justices Sandeep Mehta and Vinit Kumar Mathur

State of Rajasthan v. Shahabuddeen and Ors.

Rioting with Murder

Imprisonment for rest of natural life (ineligible for remission)

Maharashtra



 Bombay bench

 **Justices B.P. Dharmadhikari and P.D. Naik**

The State of Maharashtra v. Ankur Narayanlal Panwar

Murder Simpliciter

Life imprisonment (eligible for remission after 14 years)

Justices B.P. Dharmadhikari and Swapna S. Joshi

Pradeep Yashwant Kokade v. Union Of India and Ors.

Murder involving sexual offence

Fixed term imprisonment of 35 years

Nagpur Bench

Justices P. N. Deshmukh and Pushpa V. Ganediwala

State of Maharashtra v. Amir Ajaj Shaikh and Anr.

Dacoity/Robbery with Murder

Life imprisonment (eligible for remission after 14 years)

Justices Z.A. Haq and Pushpa V. Ganediwala

State of Maharashtra v. Gajanan Wasudeo Mali

Murder Simpliciter

Imprisonment for rest of natural life (ineligible for remission)

9. Judgment not uploaded on High Court website

35

Number of persons

56

Number of cases

Madhya Pradesh

05

05



Jabalpur Bench

Justices J. K. Maheshwari
and Akhil Kumar Srivastava*Ashok Rajak v. State of Madhya Pradesh*

Murder Simpliciter

Life imprisonment (eligible for remission after 14 years)

Justices J. K. Maheshwari and
Anjuli Palo*Shyam Singh @ Kallu v. State of Madhya Pradesh*

Murder involving sexual offence

Life imprisonment (eligible for remission after 14 years)

Anand Kushwaha v. State of M.P.

Murder involving sexual offence

Fixed term imprisonment of 30 years

Affal Khan v. State of Madhya Pradesh

Murder involving sexual offence

Fixed term imprisonment of 30 years

Gwalior Bench

Justices S. C. Sharma and
Virender Singh*State of Madhya Pradesh v. Kanhaiyalal*

Murder Simpliciter

Life imprisonment (eligible for remission after 14 years)

Punjab

05

03¹⁰Justices A. B. Chaudhari and
Surinder Gupta*State of Punjab v. Lakhwinder Singh and Ors.*

Rioting with Murder

Life imprisonment (eligible for remission after 14 years)

Justices Rajiv Sharma and G. S. Gill

State of Punjab v. Rishu Grover

Murder Simpliciter

Fixed term imprisonment of 20 years

State of Punjab v. Makhan Singh

Murder Simpliciter

Fixed term imprisonment of 20 years

Kerala

03

03

Justices A.M. Shaffique
and P. Somarajan*State of Kerala v. Rajesh Kumar @ Rajesh*

Murder involving sexual offence

Fixed term imprisonment of 25 years

Justices A. M. Shaffique
and N. Anil Kumar
State, CBCID, Kannur v. K.C. Hamsa

Murder Simpliciter

Life imprisonment (eligible for remission after 14 years)

State of Kerala v. Shereef
Kidnapping/Abduction
with Murder

Life imprisonment (eligible for remission after 14 years)

Jharkhand

03

03

Justices H. C. Mishra and
Ratnakar Bhengra*State of Jharkhand v. Kashi Nath Singh @ Kallu Singh*

Murder involving sexual offence

Imprisonment for rest of natural life (ineligible for remission)

State of Jharkhand v. Mathura Yadav

Murder involving sexual offence

Imprisonment for rest of natural life (ineligible for remission)

Justices A. K. Gupta and Rajesh Kumar

State of Jharkhand v. Maniya Oraon¹¹

Murder Simpliciter

Gujarat

03

02



Justices J. B. Pardiwala and A. C. Rao

State of Gujarat v. Patel Akshay Kumar

Kidnapping/Abduction with Murder

Fixed term imprisonment of 30 years

Justices Harsha Devani and V. B. Mayani

State of Gujarat v. Deva Dhana Koli

Murder involving sexual offence

Fixed term imprisonment of 30 years

10. 1 case involving part acquittal and part commutation

11. Judgment not uploaded on High Court website

35

Number of persons

56

Number of cases

Haryana

 03
  01


Justices Rajiv Sharma and
Gurvinder Singh Gill
*State of Haryana v. Usman
Khan and Ors.*

Kidnapping/Abduction
with Murder

Life imprisonment (eligible
for remission after 14 years)

West Bengal

 02
  02


Justices Joymalya Bagchi and
Suvra Ghosh

*State of West Bengal v. Ansar
Rahman @ Ramesh Giri and Anr.*

Drug Offences

Fixed term imprisonment of 30 years¹²

State of West Bengal v. Albert

Toppo

Murder involving sexual
offence

Fixed term imprisonment of
35 years

Karnataka

 01
  01


Justices Ravi Malimath
and H.P. Sandesh

Saleem v. State of Karnataka
Murder involving sexual
offence

Fixed term imprisonment
of 25 years

Telangana

 01
  01


Chief Justice Raghvendra
Singh Chauhan and Justice A.
Abhishek Reddy

*Polepaka Praveen @ Pawan v.
State of Telangana*

Murder involving sexual offence

Imprisonment for rest of natural
life (ineligible for remission)

Tamil Nadu

 01
  01


Madurai Bench



Justices R. Subbiah and B.
Pugalendhi

State of Tamil Nadu v. Arumugam

Murder Simpliciter

Imprisonment for rest of natural
life (ineligible for remission)

Chhattisgarh

 01
  01


Justices Pritinker Diwaker
and Sanjay Agrawal,
referred to Justice Prashant
Kumar Mishra

*State of Chhattisgarh v. Shankar
Haldar*

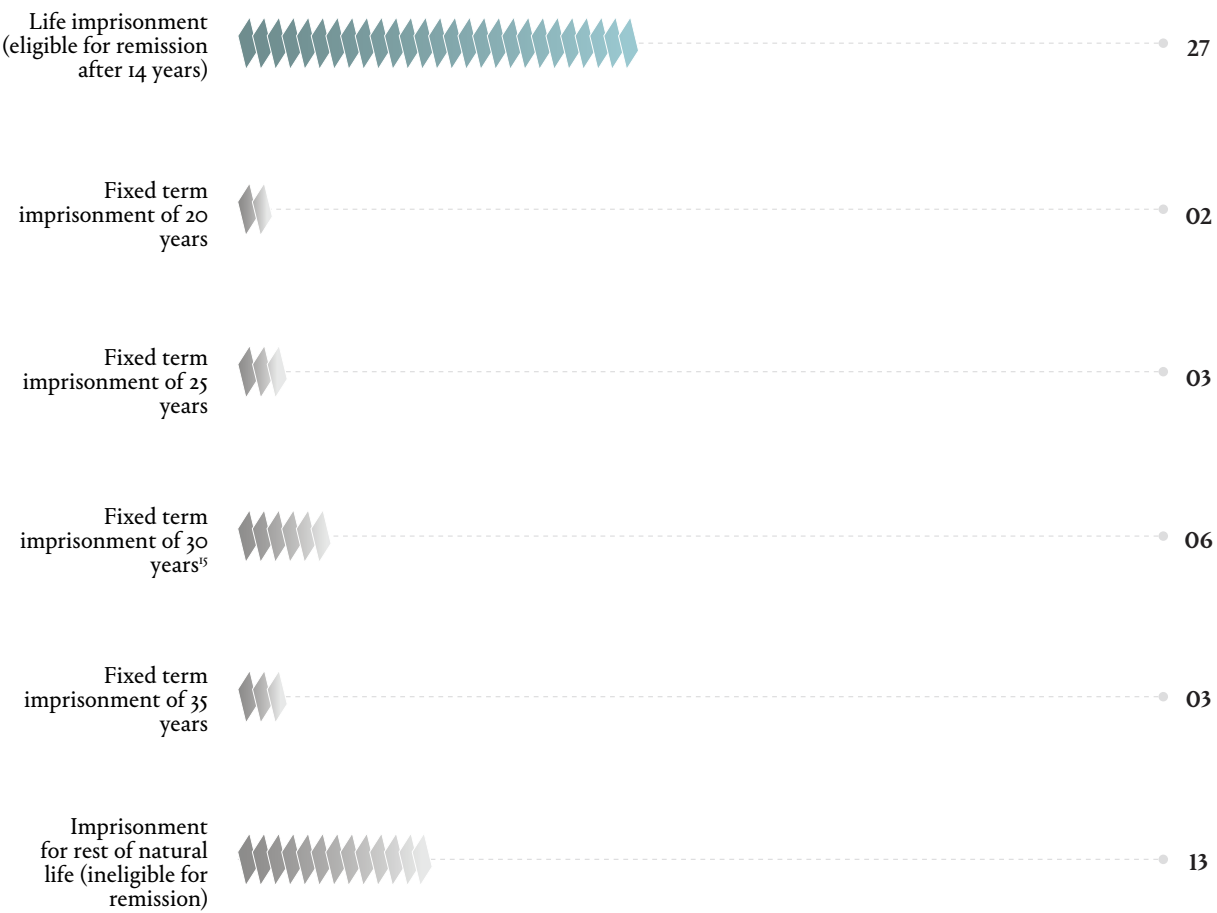
Murder Simpliciter

Imprisonment for rest of
natural life (ineligible for
remission)

12. Under section 32A of the Narcotic Drugs and Psychotropic Substances Act, 1985 the sentence cannot be remitted, commuted or suspended.

SENTENCES IMPOSED ON COMMUTATION OF DEATH SENTENCE^{13, 14}

54



^{13.} In 2015, in *Union of India v. V. Sriharan*, a Constitution bench of the Supreme Court upheld the validity of sentences where a prisoner is debarred from earning remission and from being eligible to be considered for premature release for either the rest of their lives, or for a specified period of 20, 30 or more years.

^{14.} Judgments not uploaded on High Court websites for two cases therefore sentence imposed unavailable

^{15.} In one case section 32A of the Narcotic Drugs and Psychotropic Substances Act, 1985 bars remission

HIGH COURT ACQUITTALS IN 2019

-  No. of Persons
-  No. of Cases
-  Court
-  Coram

Uttar Pradesh

 **10**  **05**

 Allahabad Bench
 Justices Ramesh Sinha and Dinesh Kumar Singh

State of Uttar Pradesh v. Bhonda @ Gotar and Ors.

Rioting with Murder
Chand Babu and Anr. v. State of Uttar Pradesh

Murder Simpliciter
Rashid @ Zakir v. State of U.P.
Murder Simpliciter

Justices Sudhir Agarwal and Rajendra Kumar
Raghuveer v. State of Uttar Pradesh
Murder involving sexual offence

Justices B. K. Narayana and Rahul Chaturvedi
Kunwar Pal Singh and Ors. v. State of Uttar Pradesh
Rioting with Murder

Maharashtra

 **05**  **05^{16,17}**

 Bombay Bench
 Justices B. P. Dharmadhikari and P. D. Naik

State of Maharashtra v. Ramadas Rangnath Shinde

Murder Simpliciter
Nazir Javed Khan v. State of Maharashtra
Murder involving sexual offence

Justices B. P. Dharmadhikari and S. K. Shinde
Sandip Samadhan Shirsat @ Raghu Rokda v. State of Maharashtra

Murder involving sexual offence
The State of Maharashtra v. Ramesh Vishwanath Darandale and Ors.

Murder Simpliciter
Justices B.P. Dharmadhikari and Swapna Joshi
The State of Maharashtra v. Imtiyaz Ahmad Mohd. Sadik Ali Shaikh
Kidnapping/Abduction with Murder

Andhra Pradesh

 **04**  **01**

Justices Chagari Praveen Kumar and Mallevolu Satyanarayana Murthy

State of Andhra Pradesh v. Gaderipalle Subhanu and Ors.
Murder Simpliciter

Rajasthan

 **04**  **01**

 Jaipur Bench
 Justices Kanwaljit Singh Ahluwalia and Banwari Lal Sharma

State of Rajasthan v. Diamond De Silva @ Sunny and Ors.

Dacoity/Robbery with Murder

Punjab

 **03**  **01¹⁸**

 Justices A. B. Chaudhari and Surinder Gupta

State of Punjab v. Lakhwinder Singh and Ors.
Rioting with Murder

16. 1 convict declared juvenile by the High Court
17. 1 case involving part acquittal and part confirmation
18. 1 case involving part acquittal and part commutation

17

Number of cases

32

Number of persons

Tamil Nadu



03



01



Madurai Bench



Justices P. N. Prakash and B. Pugalendhi

State of Tamil Nadu v. Sundararaj and Ors.

Murder involving sexual offence

Haryana



01



01



Justices Rajiv Sharma and Gurvinder Singh Gill

State of Haryana v. Ashok Murder Simpliciter

Madhya Pradesh



01



01



Gwalior Bench



Justices Sanjay Yadav and Vivek Agarwal

State of Madhya Pradesh v. Ankur @ Nitesh Dixit

Murder Simpliciter

Uttarakhand



01



01



Uttarakhand High Court



Justices Alok Singh and Ravindra Maithan

State of Uttarakhand v. Sardar Parwan Singh⁹

Murder involving sexual offence

HIGH COURT REMITTED CASES IN 2019

7

Number of cases

15

Number of persons

-  No. of Persons
-  No. of Cases
-  Court
-  Coram

Orissa

 **09**  **01**

 Justices S. K. Mishra and
A. K. Mishra
*State of Orissa v.
Dengun Sabar and Ors.*
Kidnapping/Abduction
with Murder

Maharashtra

 **02**  **02**

 Bombay Bench
 Justices B. P. Dharmadhikari
and Prakash D. Naik
State of Maharashtra v. Atul Rama Lote
Murder involving sexual offence

Bombay High Court (Nagpur)

Justices Sunil B. Shukre
and S. M. Modak

Kaustubh v. State of Maharashtra
Murder Simpliciter

Gujarat

 **02**  **02**

 Justices J. B. Pardiwala
and A. C. Rao
*State of Gujarat v. Thakor Nagiji
Babuji Nathuji*
Murder Simpliciter
State Of Gujarat v. Manjuben
Murder Simpliciter

Madhya Pradesh

 **01**  **01**

 Gwalior Bench
 Justices Sanjay Yadav and
Vivek Agarwal
*State of Madhya Pradesh v.
Yogeshnath @ Jogeshnath*
Murder involving
sexual offence

Rajasthan

 **01**  **01**

 Jaipur Bench
 Justices B. L. Sharma
and K. S. Ahluwalia
*State of Rajasthan v. Bhajan @
Bahadur Singh*
Dacoity/Robbery
with Murder

SUPREME COURT IN 2019

2019²⁰ 2018 2017 2016

SUPREME COURT CONFIRMATIONS

6 (6) | 03 (1) | 07 (3) | 01 (1)

SUPREME COURT COMMUTATIONS

17 (17) | 11 (11) | 01 (1) | 07 (6)

SUPREME COURT ACQUITTALS

10 (3) | 00 | 00 | 03 (3)

SUPREME COURT REMITTED CASES

2 (2) | 00 | 00 | 00

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

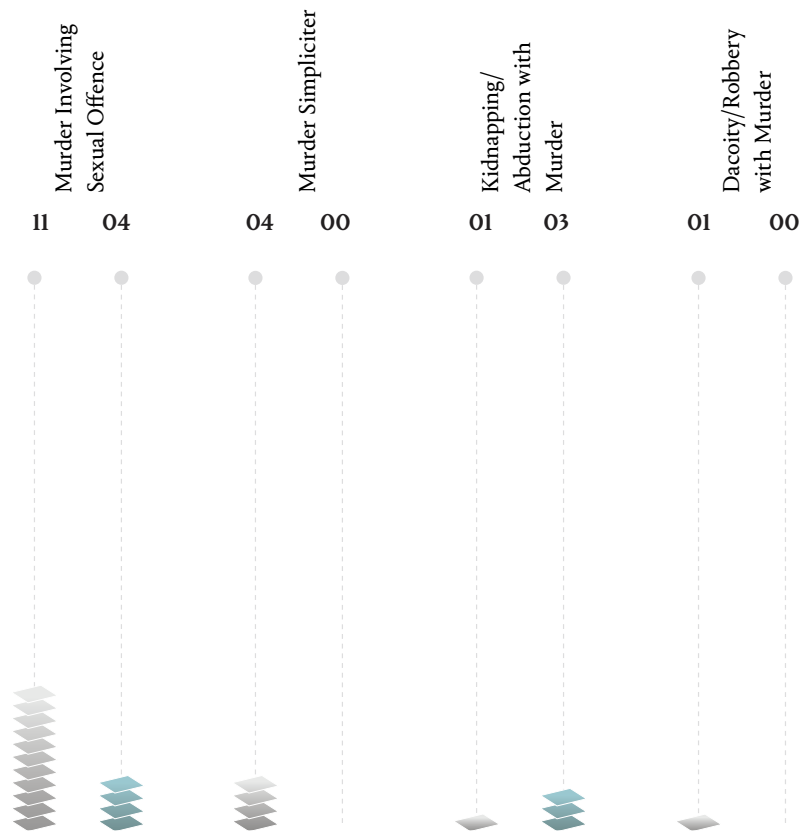
²⁰. 1 case involving part acquittal and part commutation

NATURE OF OFFENCE IN CONFIRMATIONS AND COMMUTATIONS BY THE SUPREME COURT IN 2019

17 Commuted

07 Confirmed

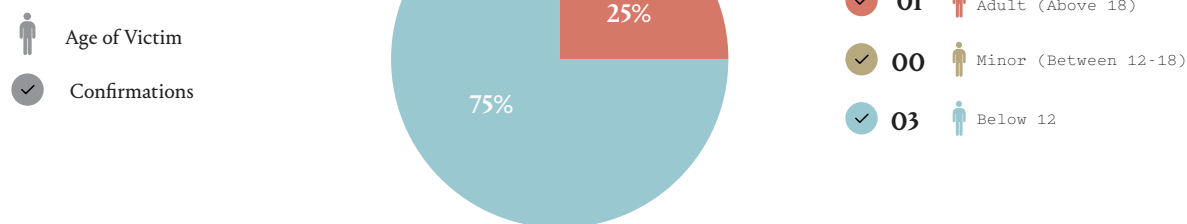
- 🔍 Nature of Offence
- Commuted
- ✓ Confirmed



Confirmations ██████████ 64.71%

Commutations ██████████ 57.14%

11 | **04**
 Commutations | Confirmations



SUPREME COURT CONFIRMATIONS IN 2019

06

Number of cases

06

Number of persons

 Number of Convicts

 Case No.

 Coram

Chhattisgarh 03.10.2019

 *Ishwari Lal Yadav and Anr. v. State of Chhattisgarh*
Criminal Appeal Nos. 1416-1417 of 2017

 **02**  Justices Rohinton Fali Nariman, R. Subhash Reddy and Surya Kant
Kidnapping with Murder

Tamil Nadu 01.08.2019

 *Manoharan v. State by Inspector of Police*
Criminal Appeal Nos. 1174-1175 of 2019

 **01**  Justices Rohinton Fali Nariman and Surya Kant
Justice Sanjiv Khanna Dissenting
Murder involving sexual offence

Punjab 05.03.2019

 *Khushwinder Singh v. State of Punjab*
Criminal Appeal Nos. 1433-1434 of 2014

 **01**  Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah
Kidnapping with Murder

Maharashtra 03.10.2019

 *Ravi v. State of Maharashtra*
Criminal Appeal Nos. 1488-1489 of 2018

 **01**  Justices Rohinton Fali Nariman and Surya Kant
Justice R. Subhash Reddy Dissenting
Murder involving sexual offence

Tamil Nadu 07.11.2019

 *Manoharan v. State of Tamil Nadu*
Review Petition (Criminal) Nos. 446-447 of 2019

 **01**  Justices Rohinton Fali Nariman and Surya Kant
Justice Sanjiv Khanna Dissenting
Murder involving sexual offence

Delhi 18.12.2019

 *Akshay Kumar Singh v. State (NCT of Delhi)*
Review Petition (Criminal) D No. 44603 of 2019

 **01**  Justices R. Banumathi, Ashok Bhushan and AS Bopanna
Murder involving sexual offence

SUPREME COURT COMMUTATIONS IN 2019

17

Number of cases

17

Number of persons

 Number of Convicts

 Case No.

 Coram

Karnataka 23.01.2019

 *Basavaraj @ Basya and Ors. v. State of Karnataka*
Criminal Appeal No. 1031-1032 of 2016

 **01²¹**  Chief Justice Ranjan Gogoi, Justices L. Nageswara Rao and Sanjiv Khanna
Dacoity with Murder
Life imprisonment (eligible for remission after 14 years)

Maharashtra 17.01.2019

 *State of Maharashtra v. Raju Jagdish Paswan*
Criminal Appeal Nos. 88-89 of 2019

 **01**  Justices S. A. Bobde, L. Nageswara Rao and R. Subhash Reddy
Murder involving sexual offence
Fixed term imprisonment of 30 years

Madhya Pradesh 17.01.2019

 *State of Madhya Pradesh v. Yogendra @ Jogendra Singh*
Criminal Appeal Nos. 84-85 of 2019

 **01**  Justices S. A. Bobde, L. Nageswara Rao and R. Subhash Reddy
Murder Simpliciter
Life imprisonment (eligible for remission after 14 years)

Madhya Pradesh 18.01.2019

 *Nand Kishore v. State of Madhya Pradesh*
Criminal Appeal No. 94 of 2019

 **01**  Justices S. A. Bobde, L. Nageswara Rao and R. Subhash Reddy
Murder involving sexual offence
Fixed term imprisonment of 25 years

Maharashtra 09.01.2019

 *Santosh Maruti Mane v. State of Maharashtra*
Criminal Appeal Nos. 45-46 of 2019

 **01**  Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah
Murder Simpliciter
Life imprisonment (eligible for remission after 14 years)

Madhya Pradesh 05.02.2019

 *State of Madhya Pradesh v. Vijay Raikwar*
Criminal Appeal No. 1112 of 2015

 **01**  Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah
Murder involving sexual offence
Life imprisonment (eligible for remission after 14 years)

Maharashtra 06.02.2019

 *Jawed Khan @ Tingra v. State of Maharashtra*
Criminal Appeal Nos. 622-623 of 2016

 **01**  Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah
Murder involving sexual offence
Life imprisonment (eligible for remission after 14 years)

Bihar 14.02.2019

 *Mohd Mannan @ Abdul Mannan v. State of Bihar*
Review Petition (Criminal) No. 308 of 2011

 **01**  Justices N.V. Ramana, Mohan M. Shantanagoudar and Indira Banerjee
Murder involving sexual offence
Imprisonment for rest of natural life (ineligible for remission)

17

Number of cases

17

Number of persons

Madhya Pradesh**19.02.2019***Parsuram v. State of Madhya Pradesh*
Criminal Appeal Nos. 314-315 of 2013**01**

Justices N.V. Ramana, Mohan M. Shantanagoudar and Indira Banerjee

Murder involving sexual offence

Fixed term imprisonment of 30 years

Maharashtra 20.02.2019*Dnyaneshwar Suresh Borkar v. State of Maharashtra*

Criminal Appeal No. 1411 of 2018

**01**

Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah

Kidnapping with Murder

Life imprisonment (eligible for remission after 14 years)

Maharashtra 21.02.2019*Dattatraya @ Datta Ambo Rokade v. State of Maharashtra*

Criminal Appeal Nos. 1110-1111 of 2015

**01**

Justices N. V. Ramana, Deepak Gupta and Indira Banerjee

Murder involving sexual offence

Life imprisonment (eligible for remission after 14 years)

Madhya Pradesh**21.02.2019***Jagdish v. State of Madhya Pradesh*
Review Petition (Criminal) No. 591 of 2014 with Writ Petition (Criminal) No. 197 of 2014**01**

Justices N. V. Ramana, Deepak Gupta and Indira Banerjee

Murder Simpliciter

Life imprisonment (eligible for remission after 14 years)

Madhya Pradesh**02.03.2019***Sachin Kumar Singhraha v. State of Madhya Pradesh*

Criminal Appeal Nos. 473-474 of 2019

**01**

Justices N.V. Ramana, Mohan M. Shantanagoudar and Indira Banerjee

Murder involving sexual offence

Fixed term imprisonment of 25 years

Maharashtra 12.04.2019*Accused 'X' v. State of Maharashtra*
Review Petition (Criminal) No. 301 of 2008**01**

Justices N.V. Ramana, Mohan M. Shantanagoudar and Indira Banerjee

Murder involving sexual offence

Imprisonment for rest of natural life (ineligible for remission)

Madhya Pradesh**10.07.2019***Dileep Bankar v. State of Madhya Pradesh*
Criminal Appeal Nos. 1059-1060 of 2019**01**

Justices Arun Mishra, S. Abdul Nazeer and M R Shah

Murder involving sexual offence

Fixed term imprisonment of 25 years

Maharashtra 01.10.2019*Sudam @ Rahul Kaniram Jadhav v. State of Maharashtra*

Review Petition (Criminal) Nos. 401-402 of 2012

**01**

Justices N. V. Ramana, Mohan M. Shantanagoudar and Indira Banerjee

Murder Simpliciter

Imprisonment for rest of natural life (ineligible for remission)

Madhya Pradesh**03.10.2019***Ravishankar @ Baba Vishwakarma v. State of Madhya Pradesh*

Criminal Appeal No. 1523-1524 of 2019

**01**

Justices Rohinton Fali Nariman, R. Subhash Reddy and Surya Kant

Murder involving sexual offence

Imprisonment for rest of natural life (ineligible for remission)

SUPREME COURT ACQUITTALS IN 2019

03

Number of cases

10

Number of persons

 Number of Convicts

 Case No.

 Coram

Maharashtra 05.03.2019

 *Ambadas Laxman Shinde and Ors. v. State of Maharashtra*
Criminal Appeal Nos. 1008-1009 of 2007 with Criminal Appeal Nos. 881-882 of 2009 with Criminal Appeal Nos. 268-269 of 2019

 **05**  Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah
Murder involving sexual offence

Chhattisgarh 05.03.2019

 *Digamber Vaishnav and Anr. v. State of Chhattisgarh*
Criminal Appeal Nos. 428-430 of 2019

 **02** Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah
Robbery with Murder

Karnataka 23.01.2019

 *Basavaraj @ Basya and Ors. v. State of Karnataka*
Criminal Appeal No. 1031-1032 of 2016

 **03²²**  Chief Justice Ranjan Gogoi, Justices L. Nageswara Rao and Sanjiv Khanna
Dacoity with Murder

SUPREME COURT REMITTED CASES IN 2019

02

Number of cases

02

Number of persons

 Number of Convicts

 Case No.

 Coram

Uttar Pradesh 20.02.2019

 *Pappu @ Chandra Kumar v. State of Uttar Pradesh*
Criminal Appeal No. 345 of 2019

 **01**  Justices A. K. Sikri, S. Abdul Nazeer and M. R. Shah
Murder Simpliciter

Madhya Pradesh 18.12.2019

 *Anokhilal v. State of Madhya Pradesh*
Criminal Appeal Nos. 609-610 of 2019

 **01**  Justices Uday Umesh Lalit, Indu Malhotra and Krishna Murari
Murder involving sexual offence

ANALYSIS OF SUPREME COURT DECISIONS IN 2019

CONFIRMATIONS

The Supreme Court decided death sentence appeals from 6 persons this calendar year and confirmed death for 6 of them. . In all the confirmation decisions, brutality of the offence and collective conscience played a major role in determining the outcome. The Supreme Court precedent in *Machhi Singh v. State of Punjab*²³, laying down 5 factors where death sentence is appropriate, was frequently relied upon to dismiss mitigating factors presented by the defense.

Dissent in Confirmations

In two of the four confirmation cases (including review, three out of six), the court confirmed the death sentence despite one judge on the bench dissenting on the point of sentence. This was raised as a sentencing argument in the review petition hearing before the Supreme Court in *Manoharan*, but was dismissed by the court as an irrelevant consideration.

Policy on sexual violence- POCSO amendment playing a role in determining outcome

In the two cases of murder involving sexual offences (*Ravi and Manoharan*), the Court, while deciding appropriate punishment, relied on the amendment to POCSO Act, which introduced the death penalty for penetrative sexual assault on children. This Amendment does not have retrospective application, and did not govern the adjudication of either case. However, the majority relied on the public policy reflected through this legislative trend to confirm the death sentence.

The dissenting opinion in both these cases, by Reddy J. and Khanna J., observed that these cases were not adjudicated under the POCSO Amendment and that individualized sentencing should take priority over inapplicable legislative policy.

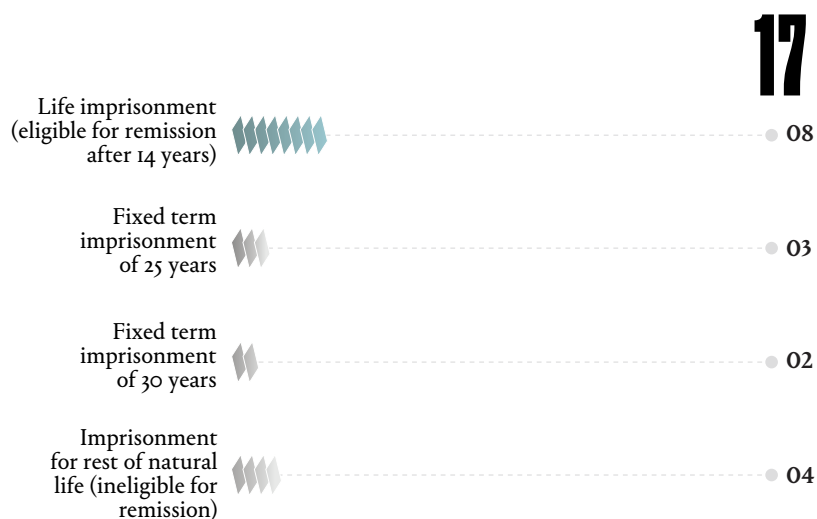
ACQUITTALS

This year the Supreme Court acquitted 10 persons across 3 cases in who had been on death row for at least 5 years with the maximum time of 13 years spent on death row by 5 persons. These cases are *Basavaraj @ Basya and Ors v. State of Karnataka* (acquitting three out of four persons), *Ambadas Laxman Shinde and Ors. v. State of Maharashtra* (acquitting five persons) and *Digamber Vaishnav and Anr. v. State of Chhattisgarh* (acquitting two persons). While acquitting the accused in all of the three cases, the Supreme Court raised questions on the evidence, particularly around identification of the accused. In *Shinde*, the Court also directed the initiation of departmental action against investigating officers, highlighting the lackadaisical nature of investigation and mala-fide prosecution.

COMMUTATIONS:

The Supreme Court commuted the death sentences of 17 persons in 17 cases in 2019. In 8 cases, the Court held that the cases did not fall within the category of 'rarest of the rare', and commuted the sentence to life imprisonment with the possibility of remission. The most common reasons invoked by the Court were young age, lack of criminal antecedents and good conduct of the accused in prison. In *Raju @ Jagdish Paswan*, inordinate delay on the part of the Governor to decide mercy (over four years) was the reason for commutation.

In three cases, the Court commuted the death sentence of three persons to a fixed imprisonment term of 25 years without remission, while in two other cases, this period was 30 years for two persons. In these cases, the Court was of the view that the death sentence was not proportionate, since it was an exceptional punishment, to be given only in the rarest of rare cases. In four cases, the Court commuted the death sentence of four persons to imprisonment for the rest of the convicts' natural life. The rationale was that the individuals were not deserving of the death penalty, given the circumstances of the case, such as mental illness and circumstantial evidence of the case. However, these decisions do not elaborate on the basis for determining the term of life imprisonment.



Circumstantial Evidence and Residual Doubt:

A commonly invoked factor while commuting death sentences in 2019 was 'residual doubt' arising out of circumstantial evidence which formed the basis of the conviction. The line of reasoning in these cases was that though there was sufficient corroboration to convict on the basis of circumstantial evidence, it was not sufficient to impose a death sentence. Thus, a relatively lenient view as regards punishment had to be taken for want of better evidence. This argument was used in 3 cases to commute the death sentence for 3 persons.

Post-conviction mental illness:

The court also acknowledged 'post-conviction mental illness' to be a relevant mitigating factor in determining appropriate punishment, given that defendants often suffer from mental illness post-incarceration, which often goes undiagnosed and untreated given the lack of facilities across prisons. In this case, while insanity could not be established, the court commuted the death sentence to imprisonment for the rest of the defendant's natural life, on grounds of mental illness.

Sentencing hearing:

In *Accused X*, the Supreme Court answered the question of what constitutes an effective sentencing hearing and held that the requirements of Section 235 (2) of the CrPC, which requires a separate hearing on the point of sentence, must be met in spirit. It held that there couldn't be a mandate of a fixed number of days between determination of guilt and deciding appropriate punishment. What must matter, thus, is that the court must give sufficient time to the accused to present mitigating material, and that could be possible on the same day as conviction, if the parties so wished.

In *Manan*, the Court delved into the question of what constitutes an effective sentencing hearing and held it to be ineffective in this case since the lawyer did not show up at the sentencing stage. Moreover, the Court noted that accused should have been accompanied by a social worker at the sentencing stage.

REMISSIONS

In two cases, the court remitted the case back to the trial court for fresh trial.

In *Anokhilal*, involving rape and murder of a minor, the Court observed that the trial had been completed in only 13 days, and that the *amicus* had been appointed on the same day as framing of the charges. The Court also noted that the *amicus* had to argue on the same day and this essentially meant that neither was there sufficient time to go through the basic documents, nor meet the client to deliberate over the matter. The 13-day duration was itself indicative of the fact that the legal aid provided to the accused was not real and meaningful. This was indicative of the lack of fairness of the trial. In this case, reading into the right to legal aid under Article 39-A of the Indian Constitution, the Court also laid down guidelines as to legal representation in capital cases, requiring a lawyer with at least 10 years experience in doing trials to represent persons accused of capital offences.

In *Pappu*, the Court remitted the matter for trial since the High Court, which was the court of first appeal, did not appreciate the evidence, and proceeded directly to the question of sentence and confirmed the findings of the trial court.

THE SUPREME COURT DURING CHIEF JUSTICE GOGOI'S TENURE

While this year saw a significant drop in the number of death sentences imposed by the sessions court, the Supreme Court saw the converse trend. This year saw the highest number of death penalty decisions by the apex court in a single year since 2001.

Year of Decision	Number of decisions	Year of Decision	Number of decisions	Year of Decision	Number of decisions
2001	02	2007	06	2013	18
2002	13	2008	06	2014	21
2003	09	2009	08	2015	07
2004	11	2010	11	2016	11
2005	11	2011	16	2017	03
2006	13	2012	16	2018	13

2019 | 27

This trend can be linked to Chief Justice Ranjan Gogoi giving priority to listing of death penalty cases. He has repeatedly indicated the urgency with which he regards death penalty appeals.²⁴ This policy can now be statistically depicted through data that shows the listing of capital cases since July 2015²⁵.

Cause List Type²⁶	Thakur CJ (03/12/2015 - 03/01/2017)	Khehar CJ (4/1/2017 - 27/08/2017)	Misra CJ (28/08/2017 - 02/10/2018)	Gogoi CJ (3/10/2018 - 17/11/2019)
Advance List	22	7	397	78
Elimination Advance List	20	25	00	00
Weekly List	3	00	20	359
Daily List of Miscellaneous Matters	11	18	73	115
Miscellaneous Supplementary List	00	00	10	30
Daily List of Regular Hearing Matters	17	00	1	615
Elimination List	12	1	00	00
Final List	116	21	1	00
Regular Supplementary List	00	00	00	20
Supplementary List	68	20	00	00

²⁴. Krishnadas Rajagopal, 'Supreme Court Veers Away from Death Penalty' The Hindu (New Delhi, 8 December 2018) < <https://www.thehindu.com/news/national/cji-ranjan-gogoi-spotlights-the-law-on-death-penalty/article25699732.ece>>.

²⁵. This data was accessed using Provakil software

²⁶. The data excludes Registrar and Chamber listings.

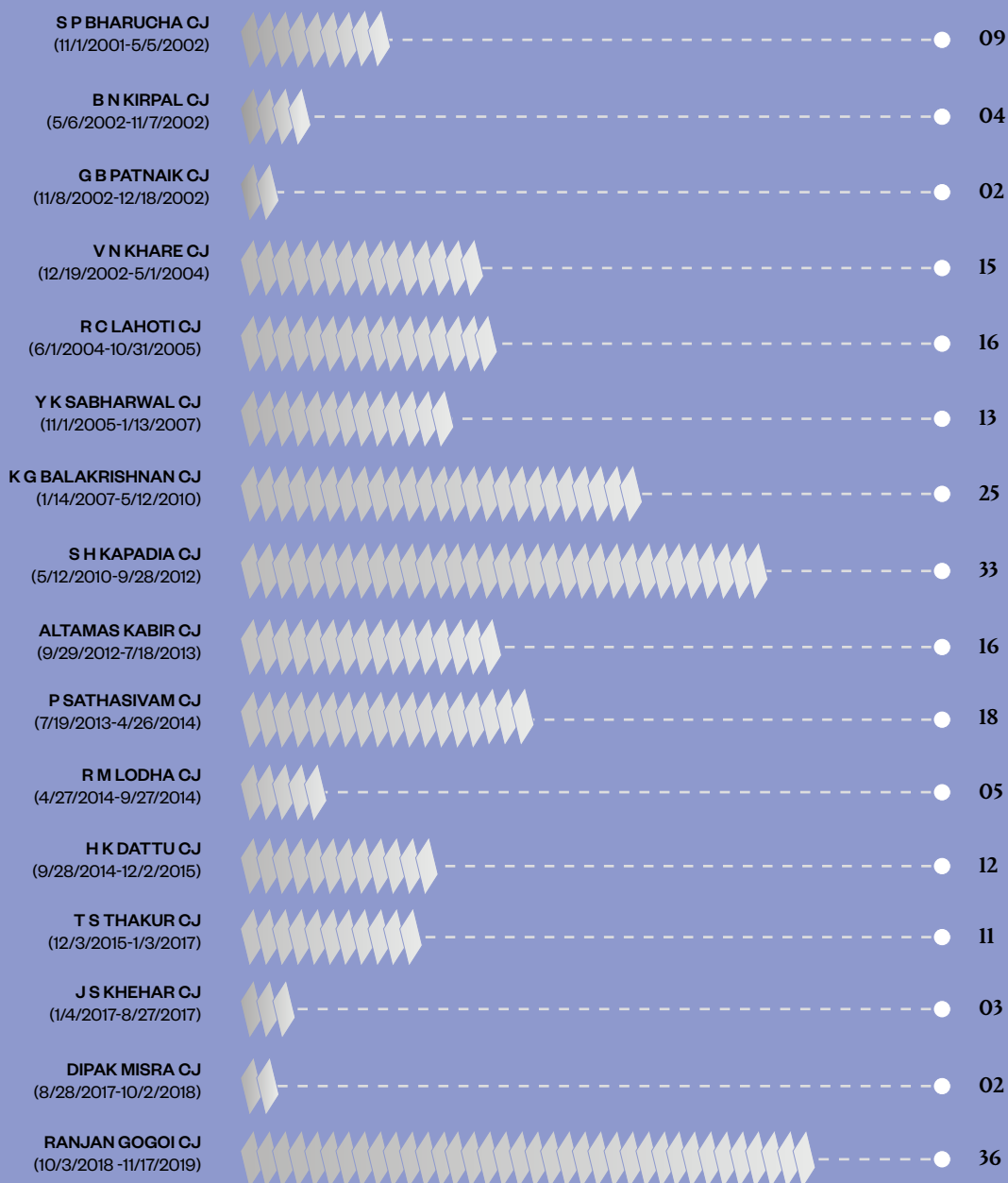
It is pertinent to note that the number of listings is not indicative of the number of cases. Listing means that a case is scheduled for hearing on a particular date. While several lists are released through the course of the month preceding the date of hearing, this is not a guarantee of being heard on that date due to numerous circumstances that might prevent such hearing. However since the Chief Justice is the authority for listing of cases, the fact of listing of a case closer to the date of hearing is indicative of the priority given to the case by the Chief Justice, even if other circumstances (such as matters on the same day taking longer than estimated) prevent the actual hearing of the case. A case will be listed multiple times on different lists, at different stages of the case as well as when hearings continue over several days. Each listing in this data specifies every time a case involving a death sentence was listed for hearing on any of the lists released by the Supreme Court in a year.

Cases listed in the Supreme Court generally follow the process of being listed in the advance list (which rarely translates to the final listing), then the weekly list, and finally the daily list. Supplementary lists add matters to the daily lists, while elimination lists list those matters that are deleted from lists. Miscellaneous days are days dedicated to deciding on whether notice should be issued in special leave petitions while regular days involve the hearing of appeals before the Court. The Final List is the final list for the day, a practice that has been discontinued in recent years.

Thus, it is evident that Chief Justice Gogoi prioritised hearing of death penalty matters well over his predecessors of the past four years. An interesting contrast is the large numbers of listings by Chief Justice Misra in the advance list, and comparatively low numbers in the daily listing. The stark number of listings in the daily regular lists is the best indicator of the matters being prioritised by the Chief Justice of India for hearing, whereas a failure to have cases move from the advance lists to regular lists is indicative a significant absence of such prioritisation.

■ Chief ■ Number of Cases

This has a direct correlation with the number of decisions. Chief Justice Gogoi had the highest number of decisions in his term as Chief Justice of India compared to the Chief Justices since 2001



DEATH WARRANT

Death warrants were issued against 1 prisoner in 2018 and against 6 prisoners in 2019, with all warrants eventually stayed by the courts.

All warrants that were issued indicate a lack of compliance with the guidelines issued in the case of *Shabnam v. Union of India*²⁷, which requires that a warrant for execution not be issued until reasonable time for exhausting all remedies under the law has lapsed and specifies procedures to be followed in issuing such warrant.

“...However, in the statutory framework, further procedural safeguards in the form of judicial review as well as mercy petitions are yet to be traversed. This would also be covered by the expression ‘procedure established by law’ occurring in Article 21. Therefore, till the time limitation period for filing the review petition and thereafter reasonable time for filing the mercy petition has not lapsed, issuing of death warrants would be violative of Article 21.”

Operative part of the Supreme Court ruling in Shabnam v. Union of India (para 12.3) prohibiting issuance of death warrant before exhaustion of all legal remedies.

“...Firstly, the principles of natural justice must be read into the provisions of Sections 413 and 414 of Cr. P. C. and sufficient notice ought to be given to the convict before the issuance of a warrant of death by the sessions court that would enable the convict to consult his advocates and to be represented in the proceedings. Secondly, the warrant must specify the exact date and time for execution and not a range of dates which places a prisoner in a state of uncertainty. Thirdly, a reasonable period of time must elapse between the date of the order on the execution warrant and the date fixed or appointed in the warrant for the execution so that the convict will have a reasonable opportunity to pursue legal recourse against the warrant and to have a final meeting with the members of his family before the date fixed for execution. Fourthly, a copy of the execution warrant must be immediately supplied to the convict. Fifthly, in those cases, where a convict is not in a position to offer legal assistance, legal aid must be provided. These are essential procedural safeguards which must be observed if the right to life under Article 21 is not to be denuded of its meaning and content.”

Operative part of the Allahabad High Court ruling in Peoples' Union for Democratic Rights (PUDR) v. Union of India & Ors.²⁸ approved by Shabnam v. Union of India

2018

Prisoner (State)	Details of Warrant Issued	Stage of Case	Details of Stay of Execution	Compliance with Shabnam
Jagat Rai (Bihar)	By the Fast Track Court-II, Hazipur Vaishali on 25.10.2018	Mercy petition rejected by the President on 23.04.2018	Stayed by the Delhi High Court on 02.11.2018 in writ seeking commutation of the death sentence in light of extraordinary delay in disposal of mercy petition	Open-ended warrant that does not mention the place or time of execution, noted by the Delhi High Court

2019

Prisoner (State)	Details of Warrant Issued	Stage of Case	Details of Stay of Execution	Compliance with Shabnam
Mahendra Singh Gond (Madhya Pradesh)	By the Additional Sessions Judge, Satna around 04.02.2019 scheduling an execution for 02.03.2019	Death sentence confirmed by the High Court on 25.01.2019	Stayed by the Supreme Court on 15.02.2019 while granting leave to appeal in this case	Warrant issued before all remedies under the law have been exhausted
Rabbu @ Sarvesh (Madhya Pradesh)	By the First Additional Sessions Judge, Sagar around 24.02.2019 scheduling an execution for 10.05.2019	Death sentence confirmed by the High Court on 17.01.2019	Stayed by the Supreme Court on 07.03.2019 while granting leave to appeal in this case	Warrant issued before all remedies under the law have been exhausted
Kattiavellai alias Devakar (Tamil Nadu)	By Principal Sessions Judge, Theni on 27.03.2019	Death sentence confirmed by the High Court on 13.03.2019	Quashed by the Supreme Court on 16.04.2019 in a writ as contrary to the law laid down in <i>Shabnam v. Union of India & Ors.</i>	Warrant issued before all remedies under the law have been exhausted

Purushottam Borate and Pradeep Kokade (Maharashtra)	By the Principal District and Sessions Judge, Pune on 10.04.2019 scheduling an execution for 24.06.2019	Mercy petition rejected by the President on 26.05.2017	Quashed by the Bombay High Court in its judgment dated 29.07.2019 while commuted the sentences of both convicts to life imprisonment for a period of 35 years	Warrant issued ex parte
Manoharan (Tamil Nadu)	Execution scheduled for 20.09.2019	Criminal appeal dismissed by the Supreme Court on 01.08.2019	Stayed by the Supreme Court in its order dated 17.09.2019 to hear review petition	Warrant issued before all remedies under the law have been exhausted
Manoharan (Tamil Nadu)	By the Sessions Judge, Mahila Court, Coimbatore on 18.11.2019 scheduling an execution for 02.12.2019	Review petition dismissed by the Supreme Court on 07.11.2019	Stayed by the High Court of Madras in order dated 26.11.2019 in a writ	High Court noted that the death warrant had not been served on the petitioner. It also stayed the warrant until further orders on the basis of submissions that the fundamental right to seek mercy petition before the Governor of Tamil Nadu was still pending and cannot be prevented by issuance of death warrant.

LEGISLATIVE DEVELOPMENTS

Protection of Children from Sexual Offences (Amendment) Act, 2019

The Parliament enacted the Protection of Children from Sexual Offences (Amendment) Act on 5 August 2019. The Act amends the POCSO Act of 2012. Section 6 of the Amendment Act provides for death penalty as the maximum punishment in cases of aggravated penetrative sexual assault, while the minimum punishment has been enhanced to 20 years of rigorous imprisonment (from 10 years previously). The Act is gender-neutral, unlike the Criminal Law Amendment Act, 2018 which was exclusively for the rape of minor girls below the age of 12 years.

Refraining from vote in UNGA

India abstained from voting on the UN resolution to establish common international standards for the import, export and transfer of goods used for “capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.”²⁹ First Secretary in India’s Permanent Mission to the UN, Paulomi Tripathi, reasoned that it is unacceptable to place death penalty at par with torture, adding that the death penalty in India is awarded as per several Indian Penal Code provisions after following the due process of law. However, she stated that India is committed to preventing torture and other cruel, degrading and inhuman punishments.

The Abolition of Capital Punishment (Amendment) Bill, 2019 in the Rajya

Sabha Congress MP Pradeep Tamta introduced a bill seeking abolition of death penalty in India on 12 July 2019 arguing that the death penalty has been abolished internationally across 140 countries while in India it continues to be awarded. This despite the 262nd Law Commission of India’s recommending for its abolition. Further, he added that the death penalty is awarded in cases of faulty investigation and largely to the members of minority communities such as Scheduled Castes and Scheduled Tribes. The Bill was opposed on the ground that countries such as the United States and China still continue to utilise the punishment. Also, the capital punishment is awarded only in heinous crimes like rape, murder and terrorism. He however, withdrew the bill on G. Kishan Reddy’s appeal that the government will decide on abolition of death penalty after all the states have submitted their reports. Similar Bills were introduced in previous years by Members of Parliament, Dr. Shashi Tharoor from the Congress Party in November 2017 and Dravida Munetra Kazhagam’s Kanimozhi in 2015.

The Rajasthan Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition Bill, 2019

This Bill was passed the Rajasthan State Assembly on August 5, 2019 and provides for the maximum punishment of death penalty for killing a couple or either of them in the name of honour. This Bill was passed in the wake of twelve cases of

29. The 193-member UN General Assembly adopted the resolution with recorded vote of 81 in favour to 20 against, with 44 abstentions.

honour killings that took place in the state in the past five years. This is the first time that a Bill criminalising honour killings has been passed by a state in India.

Haryana Control of Organised Crime Act, 2019

The Haryana State Legislative Assembly passed the Haryana Control of Organised Crime Act, 2019 on 6 August 2019. The Act prescribes death penalty as the maximum punishment in instances where a gangster syndicate causes death of a person. This Act is similar to the Maharashtra Control of Organised Crime Act, 1999 which prescribes capital punishment as the maximum punishment in cases of organised crime resulting in the death of any person.

West Bengal (Prevention of Lynching) Bill, 2019

The West Bengal State Legislative Assembly passed the West Bengal (Prevention of Lynching) Bill on 30 August 2019 in pursuance of the Supreme Court's guidelines in the case of *Tehseen Poonawala v. Union of India and Ors.* The Bill is awaiting assent from the Governor of the State who has withheld it, owing to the grievance raised by the opposition claiming that the version of the Bill circulated amongst the members of the Assembly for reading was different from the version actually tabled for voting. The contention is that the Bill tabled for voting provides for the maximum punishment of death penalty when the instance of mob violence results in the death of the victim(s), as against that of life imprisonment in its earlier version. It has been argued by the ruling Trinamool Congress that since the maximum punishment for murder is death penalty, the crime of lynching, which in effect is the murder of an individual(s) by a group of people, should also carry the maximum punishment akin to that prescribed for murder.

Andhra Pradesh Criminal Law (Amendment) Bill, 2019 [The Andhra Pradesh Disha Bill, 2019]

The Andhra Pradesh State Legislative Assembly passed the Andhra Pradesh Criminal Law (Amendment) Act on 13 December 2019. The Act provides for the exclusive punishment of death penalty in cases involving rape by amending section 376 of the Indian Penal Code. Additionally, the Act, by amending sections 173 and 309 of the Code of Criminal Procedure, reduces the period of judgment from 4 months (2 months for investigation and 2 months for trial) to 21 days (7 days for investigation and 14 days for trial). The Act also reduces the appeal period in rape cases from 6 months to 3 months by amending section 374 and 377 of the Code of Criminal Procedure.

FINAL OBSERVATIONS

National debates and legislative trends, as well as data on administration of the death penalty in this Report, indicate that the issue of sexual violence against women and children is now at the heart of the debate on capital punishment in India. The rampancy and impunity of sexual violence and the fractures within the criminal justice system perpetuating this cycle, has led to a public outcry for harsher punishments. The President of India, Mr. Ram Nath Kovind weighed in on this debate and opined that persons accused of rape and murder of minors should not file mercy petitions for remission of sentences. In response to the outrage following a brutal gangrape and murder in Hyderabad, the state legislature of Andhra Pradesh amended the Indian Penal Code to introduce the death penalty for rape. This Bill also prescribes completing investigation and trial of cases involving sexual violence in 21 days. This overall trend is evident from the high proportion of death sentences imposed in cases of murder involving sexual offences this year, the highest in four years and with the highest number of confirmations by the High Courts in four years, with a majority in offences of murder involving sexual offences.

The Supreme Court listed and heard the maximum number of capital cases (27) since 2001. In 17 of these cases, the death sentence was commuted to life imprisonment, out of which 11 were cases of murder involving sexual offence and 10 where the victim was a minor. While the Andhra Pradesh Bill accelerates the process of the trial; a few weeks after the Bill was passed, the Supreme Court remitted a case of murder involving sexual offence of a minor to the trial court, where the trial had been completed in only 13 days.

With the focus of public and legislature on using the criminal law in response to deep seated societal issues, such empirical work becomes all the more essential. It is necessary that we engage in reform on the basis of accurate and comprehensive data, which will allow us to develop well-considered solutions.

CORRECTIONS TO ANNUAL STATISTICS

1. In previous years, death sentences imposed on the same person in different cases were counted as one death sentence. This year, we have corrected our previous numbers to reflect each death sentence imposed in a case (irrespective of the sentence in other cases) as one death sentence. However the number of prisoners on death row remains unchanged.
2. Due to unavailability of the judgement at the time of publication, five persons who were acquitted by the Madras High Court, were erroneously recorded as commuted.
3. One death warrant issued in 2018 was erroneously excluded from the 2018 Annual Statistics, it has been included in the Death Warrant section of this Report.
4. Dattatraya Rokade was erroneously treated as a case with appeal to the Supreme Court pending, when the death sentence was confirmed by the Supreme Court.
5. In the case of Rajendra Prahladrao Wasnik, the commutation was erroneously recorded as life imprisonment without remission for 30 years when it was life imprisonment without remission for rest of natural life.
6. In Orissa nine persons in one case were sentenced to death for abduction with murder and not, as erroneously recorded, for murder simpliciter.



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