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# Death Penalty- Methods of Execution: A Comparative Study

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## Abstract

*Death penalty is the highest degree of punishment that is awarded by any society across the world. Death penalty or capital punishment is the ultimate punishment given by the laws of the Nations which still practice it for the most serious offences (capital offences) against humanity. In different parts of the world various methods of execution have been used since time immemorial, some are traditional methods and a few fall under the modern methods for execution of death penalty. This paper is a study to analyze various methods of execution and tries to find out the easiest and least painful method to award death. The researcher has used analytical methodology to analyze the secondary data collected through different resources i.e. from books and different websites.*

**Key words-** *Capital offences, death penalty, traditional methods, modern methods of execution, painful method, appropriate method of execution of death penalty.*

Capital punishment or death penalty which is the highest punishment that can be levied as an ultimate punishment by any society or any law of the land. The word can be explained in the light of the fact that when the government or the state is going to punish a person for committing an offence of serious nature like murder and rape (rarest of the rare case) by death penalty then this the very term is elaborated i.e. a capital offence has been committed and death penalty or capital punishment can be awarded.

The term "Capital Punishment" denotes the most severe form of punishment. It is the punishment which is to be awarded for the most grievous, heinous and hateful crimes against human race. Though the definition and extent of such crimes differ from country to country, state to state, age to age, the consequence of capital punishment has always been the death sentence. Capital sentence means a sentence of death by common usage in jurisprudence, criminology and penology,. Asia has the maximum

## Introduction

number of executions worldwide<sup>1</sup>. Most active death penalty country is China in the world. The numbers of executions are also very high in Islamic countries such as Iran and Saudi Arabia,. Japan, Singapore, South Korea, and Taiwan belong to the few industrialized democracies that have the death penalty (South Korea has a moratorium).

### **1 .Capital crimes**

The crimes that are serious in nature and that affect the society on a whole are called capital crimes or capital offences. These capital offences in India and United States can be studied as following .Offences punished with capital punishment in India can be studied under two heads

*Capital Offences in Indian Penal Code* can be listed as follows<sup>2</sup>

1. According to Section 121 Treason, for waging war against the Government of India,
2. Section 132 Abetment of mutiny actually committed,
3. Section 194 Perjury resulting

- in the conviction and death of an innocent person,
4. Section 195A Threatening or inducing any person to give false evidence resulting in the conviction and death of an innocent person,
5. Section 302 Murder,
6. Section 305 Abetment of a suicide by a minor, insane person or intoxicated person,
7. Section 307 (2) Attempted murder by a serving life convict,
8. Section 364A Kidnapping for ransom,
9. Section 376A Rape and injury which causes death or leaves the woman in a persistent vegetative state,
10. Section 376E certain repeat offenders in the context of rape,
11. Section 396 Dacoity with murder.

### *Capital Offences in other laws*

1. Sections 34, 37, and 38(1) The Air Force Act, 1950,
2. Section 3(1)(i) The Andhra Pradesh Control of Organized Crime Act, 2001 ,
3. Section 27(3) The Arms Act, 1959 (repealed),
4. Sections 34, 37, and 38(1) The Army Act, 1950 ,
5. Sections 21, 24, 25(1) (a), and 55 The Assam Rifles Act, 2006,
6. Section 65A(2) The

<sup>1</sup> Amnesty international report2017

<sup>2</sup> Source: India. Law Commission of India, Report no.262 on Death Penalty, August 2015, pp.31-32



Bombay Prohibition (Gujarat Amendment) Act, 2009 ,7. Sections 14, 17, 18(1)(a), and 46 The Border Security Force Act, 1968 ,8. Sections 17 and 49 The Coast Guard Act, 1978 ,9. Section 4(1) The Commission of Sati (Prevention) Act, 1987 ,10. Section 5 The Defence of India Act, 1971 ,11. Section 3 The Geneva Conventions Act, 1960 ,12. Section 3 (b) The Explosive Substances Act, 1908 ,13. Sections 16, 19, 20(1)(a), and 49 The Indo-Tibetan Border Police Force Act, 1992 ,14. Section 3(1)(i) The Karnataka Control of Organised Crime Act, 2000 ,15. Section 3(1)(i) The Maharashtra Control of Organised Crime Act, 1999 ,16. Section 31A(1) The Narcotics Drugs and Psychotropic Substances Act, 1985 ,17. Sections 34, 35, 36, 37, 38, 39, 43, 44, 49(2)(a), 56(2), and 59 ,The Navy Act, 1957 ,18. Section 15(4) The Petroleum and Minerals Pipelines (Acquisition of rights of user in land) Act, 1962 ,19. Sections 16, 19, 20(1)(a), and 49 The Sashtra Seema Bal Act, 2007 20. Section 3(2)(i) The Scheduled Castes and Scheduled Tribes

(Prevention of Atrocities) Act, 1989 ,21. Section 3(1)(i) The Suppression of Unlawful Acts against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act, 2002; 22. Sections 10(b)(i) and Section 16(1)(a) ,The Unlawful Activities Prevention Act, 1967

***Under American Laws following offences are punished by capital punishment***

Aggravated murder-The inmates executed since the United States reinstated the death penalty in 1976 were convicted of intentional homicide. It was in the case *Godfrey v. Georgia*, in the 1980 the U.S. Supreme Court ruled that murder can be punished by death only if it includes a narrow and specific aggravating factors.<sup>3</sup> Various aggravating conditions are almost universal amongst death penalty states, such as robbery-murder, murder involving rape of the victim, and murder of an on-duty officer. Several states have included child murder to their list of aggravating factors, but the victim's age under which the murder is

<sup>3</sup> *"Connecticut governor signs bill to repeal death penalty". FOX News Network, LLC. April 25, 2012. Retrieved April 25, 2012.*

punishable by death varies between them. The high number of aggravating factors in some states has been criticized as giving local prosecutors too much discretion in picking cases where they believe capital punishment warranted. Numerous states still have on their statutes books various provisions allowing the death penalty for child rape or other non-homicidal crimes such as kidnapping.

**Crimes against the state**-The opinion of the court in *Kennedy v. Louisiana* says that the ruling does not apply to "treason, espionage, terrorism, and drug kingpin activity, which are offenses against the State". Treason, espionage and large-scale drug trafficking are all capital crimes under federal law. Treason is also a punishable by death in six states (Arkansas, California, Georgia, Louisiana, Mississippi and Missouri) and large-scale drug trafficking in two states (Florida and Missouri). Aircraft hijacking is a capital crime in Georgia and Mississippi. Vermont still has a pre-

*Furman* statute providing the death penalty for treason.

## 2. Various Methods of Execution

Various modes and methods of inflicting death sentence upon the convict as practiced in different societies are examined in this chapter. This study is not an exhaustive of all the modes of execution but covers some of the important practices followed. The execution of death penalty has been continued since long and is still being continued in many states and broadly can be divided into two main categories <sup>4</sup>

A. Traditional Methods of execution

B. Modern Methods of execution

A. Traditional Methods of execution

The methods which were used in the ancient period to medieval period throughout the world and can be studied as follows

### *Scaphism*

It was an ancient Persian method of execution in this method a person was stripped naked

<sup>4</sup>Richard C. Dieter, "methods of execution and their effect on the use of the death penalty in the united

states", Fordham *Urban Law Journal* Symposium in New York City, March 7, 2008.

and placed in a tree trunk with only the head, hands, and feet protruding. He was then fed milk and honey forcefully till they develop a severe case of diarrhea. To increase the gravity of punishment their exposed skin would be covered by honey to attract insects while they were left floating in a still pond. Resultantly the person's feces gathered, the insects it engrossed would begin to breed and eat within his/her skin which would become increasingly gangrenous. Death could take more than 2 weeks and was likely the result of hunger, dehydration, and shock wave.

### **Guillotine**

It was one of the first methods of execution created under the assumption that capital punishment was intended to end life rather than inflict pain which was apprehended in the late 1700's. Although it was specifically invented as a human form of execution it has been outlawed in France and the last one was in 1977.

### **Republican Marriage**

It is a peculiar form of execution professedly practiced in France it comprised of fastening a man and woman together and then thrown in a river to sink.

### **Execution by Elephant**

Generally practiced heavily in Southeast Asia, the elephants were often proficient in causing the death of the victim.

### **Bestiarii**

It is a reference to those who would fight beasts in the days of Ancient Rome. Though sometimes the act was voluntary and performed for money or recognition, many times the bestiarii were political prisoners sent into the arena naked and unable to defend themselves.

### **Upright Jerker**

Having originated in the United States, this method of capital punishment is now often employed in countries like Iran. Although it is very similar to hanging, rather than the victim being dropped through a trap door to sever the spinal cord they are violently jerked upwards, typically by a crane.

### **Sawing**

Allegedly practiced in parts of Europe and Asia, it involved the victim being inverted and then sawn in half starting at the groin. Due to being upside down the brain would receive enough blood to keep the person conscious until the large vessels of the abdomen were severed.

### **Flaying**

The act of removing a person's skin from their body, this form of execution was often

used in order to stir up fear, as the skin would typically be nailed in a public place for all to see.

### **Blood Eagle**

Spoken of in Nordic sagas, the Blood Eagle involved cutting the ribs of the victim by the spine, breaking them so they resembled wings, and then pulling the victim's lungs out through the opening. Salt would then be sprinkled on the wound.

### ***The Gridiron***

Essentially broiling the victim over a bed of hot coals, the first "burning" method on our list was terribly cruel and the death was not a quick one.

### ***Breaking Wheel***

It is also known as the Catherine Wheel, in this method the victim is tied to it and then spun while the executioner delivered bone shattering blows to their body. Sometimes the victim's appendages would then be woven through the spokes of the wheel and they would be placed on display for all to see.

### ***Burning at the Stake***

It is a historically popular method of execution of capital punishment, if the victim were lucky he or she would be executed along with several others. This would ensure that the flame is much bigger and lead to death by

carbon monoxide poisoning rather than actual burning.

### ***Bamboo***

An extremely slow and painful punishment used in Asia, the victim was tied down over several bamboo shoots. Because bamboo grows so fast (up to 1 foot per day) it would penetrate directly through the victim's body, slowly impaling them.

### ***Premature Burial***

Somewhat self-explanatory, this technique has been used by governments throughout history to execute condemned prisoners. One of the latest documented cases was during the Nanking Massacre in 1937 when Japanese troops buried Chinese civilians alive.

### ***Ling Chi***

Also known as the "death by slow cutting" or the "lingering death". It involved pieces of the victim's body being slowly and methodically removed while the executioner tried to keep him or her alive for as long as possible. This form of execution was finally outlawed in China by the end of the 20th century

### ***Crucifixion***

A particularly brutal method of execution practiced primarily by the Romans, it was intended to be as slow, painful, and humiliating as possible. Usually after a

prolonged period of beating or torture, the victim was forced to carry his own cross to the location of his death. Afterwards they were either nailed or tied to the cross where they would hang sometimes for several weeks. Death, when it did come, usually came by suffocation as the victim could no longer hold themselves up to breathe.

### ***Hanged, Drawn, and Quartered***

Used mainly in England, it is widely considered to be one of the most brutal forms of execution ever devised. As the name implies it came in three parts. In the first the victim was tied to a wooden frame and dragged to the location of their execution (drawn). They were then hung until nearly dead (hanged). Immediately after being taken down their abdomen was opened and their entrails were removed. As the victim watched they were then burned before his or her eyes. He was then also emasculated and eventually beheaded. After all of this his body was divided into four parts (quartered) and placed in various locations around England as a public crime deterrent. This punishment was only used on men for any convicted woman would generally be burnt at the stake as a matter of decency.

### ***Modern Methods of Execution***

In this civilized world, there are various methods of execution, but generally we are not very much aware of the modern methods involved in executing the act. Some of the modern methods are popular and some are not. Many nations adopt different methods for execution. Some of the modern methods of execution are discussed as under:

### **Lethal Injection**

In this method of execution, the drugs are delivered by a machine. Due to fear of mechanical failure, most of the US states prefer to manually inject the drugs. The drugs are administered in the following order:

- a) **Sodium thiopental (Pentathol):** is a barbiturate used as a surgical anesthetic. In surgery, a dose of up to 150mg is used. For execution, up to 5,000mg is used. This is a lethal dose and after inject the prisoner remains alive, but feels nothing.
- b) **Pancuronium bromide (Pavulon):** this drug is a muscle relaxant given in the form of a strong dose to paralyse the diaphragm and lungs. This drug affects in 1-3 minutes. A normal medical dose is 40 – 100mcg per kilogram; but for execution up to 100mg is used.



c) **Potassium chloride:** This is a toxic agent which induces cardiac arrest. This drug is less used by all the states as the first two drugs are sufficient enough to bring death. Saline solution is used to flush the IV between each dose. Within a minute or two, after the final dose is given, the doctor declares the prisoner dead. The body is then sent to the coroner for verification and sometimes an autopsy is done. Then after the body is released for burial.

### **The Electric Chair**

The electric chair was invented by Harold P. Brown. He was employed by Thomas Edison for the sole purpose of investigating the uses of electricity for execution. Brown, a dentist used to work with people in chairs, used a chair design for his device. At times, there was competition to see whether Edison's direct current (DC) or Westinghouse's alternating current (AC) would win the war. Edison was in favor of using his opponents AC as he thought it would lead people to believe that AC was more dangerous than DC. In fact, it would make little difference which current was used at a high voltage for

an execution. Edison was so keen to alienate Westinghouse that he tried to get people to refer to execution by electrocution as "westinghousing" someone. The chair was first adopted in 1889 and the first execution took place in 1890 in New York.

In execution by electric chair, the prisoner is strapped to the chair with metal straps and a wet sponge is placed on his head to aid conductivity. Electrodes are placed on the head and leg to create a closed circuit. Depending on the physical state of the prisoner, two currents of varying level and duration are applied on him. The first current of 2,000 volts for 15 seconds causes unconsciousness and stops the heartbeat. The second current is usually lowered to 8 amps. This current normally causes severe damage to internal organs and the body heats up to 138 °F (59 °C). While unconsciousness occurs within a second or two, there have been occasions where it has taken much longer time, making people to speak out against this method of execution.

### **Gas Chamber**

This method was one of the most popular methods of execution. This method gained popularity when it was used in the German



prison camps during World War II. It was used to exterminate millions of people in one of the worst cases of genocide in the 20th century. All the five US states prefer lethal injection method over this gas chamber method. The last death by gas chamber in the US was in 1999 when German Walter LaGrand was executed in Arizona. The gases used for execution are potassium cyanide (KCN), concentrated sulfuric acid ( $H_2SO_4$ ), generating lethal hydrogen cyanide (HCN) gas. After the prisoner's death, the chamber is purged of gas and neutralized with anhydrous ammonia ( $NH_3$ ).

### **Single Person Shooting**

Execution by shooting is another common method of execution and is used in more than 70 countries. Most countries use the firing squad, but some countries even use single person shooting. In Soviet Russia, a single bullet at the back of the head was used for execution in military and civil matters. This method is still the main method of execution in China, though the gunshot can be to either on the neck or on the head. Earlier, the Chinese government would ask the family of the executed person to pay the price of the bullet. In Taiwan, the prisoner is made senseless through a strong anesthetic

injection and then a bullet is fired into his heart.

### **Firing Squad**

The firing squad is considered as the most honorable method of execution. Because of this, it was not used on war criminals. In this method of execution, a group of men fire single bullet into the heart of the prisoner. In some cases, one of the shooters is not given a bullet so that afterwards he will feel less guilty. None of the shooters are aware of the fact that who among the group has the blank one.

### **Hanging**

Hanging is carried out in a variety of ways. In the short drop method, the prisoner is made to stand on an object which is then thrust away, leaving the person to die by strangulation. This standard drop was a common method of hanging used by the Nazis after 1850s. Suspension hanging (popular in Iran) is a type of hanging where the gallows are movable. The prisoner stands on the ground with the noose around their neck and the gallows are lifted into the air, taking the prisoner with it.

The final method is the long drop, devised in 1872 in which the weight of a person was taken into account to determine the correct rope and drop to be used to ensure the

breaking of the neck. There have been some instances where the long drop method has caused decapitation – the most recent of which was the hanging of Saddam Hussein’s half-brother Barzan Ibrahim al-Tikriti, in Iraq in the year 2007.

### **Beheading**

Some nations adhere to the Islamic Sharia law. In these countries, Beheading is still a common method of execution and is done by a curved, single-edged sword. In Saudi Arabia, this method is used on criminals involved in heinous crimes. The prosecution is normally carried out on Friday nights in public, outside the main mosque of the city. The penalty can be dealt for rape, murder, drug related crimes, and apostasy.

### **The Execution of Death Sentence in India**

The execution of death sentence in India is carried out by two modes viz. hanging by neck till death and being shot to death. Once the death sentence is awarded after exhausting all the available remedies, the execution is carried out in accordance with section 354(5) of the Code of Criminal Procedure 1973 i.e. hanging by neck till death.

<sup>5</sup> “Supreme Court Judgement, Devinder Pal Singh Bhullar vs. National Capital Territory of Delhi”: 43–46.

Under The Air Force Act, 1950, The Army Act 1950 and The Navy Act 1957, the execution is carried out either by hanging by neck till death or by being shot to death.

### **Hanging**

The Code of Criminal Procedure (1898) considered the method of execution to be hanging<sup>5</sup>. The same method was adopted in the Code of Criminal Procedure (1973). Here, Section 354(5) of the above procedure reads as “When any person is sentenced to death, the sentence shall direct that the person be hanged by the neck till the person is dead.”

### **Shooting**

The Air Force Act 1950, The Army Act 1950 and The Navy Act 1957 also award the execution of the death sentence<sup>6</sup> through shooting. Section 34 of The Air Force Act 1950 empowers the court martial to impose the death sentence for the offences mentioned in section 34(A) to (O) of The Air Force Act, 1950.

### **A Better Method of Execution**

It was analyzed, after going through some basic widely accepted norms which were drawn from the cases decided by Hon’ble

<sup>6</sup> “The Code of Criminal Procedure, 1973 Act No. 2 of 1974” (PDF). 25 January 1974. Retrieved 22 June 2014.

Supreme Court and the resolutions adopted by the United Nations Economic and Social Council (ECOSOC), to standardize and safeguard guaranteeing protection of the rights of those facing the death penalty. The test laid down in *Deena v. Union of India* (1983) 4 SCC 645 provides that the execution of death punishment should satisfy the threefold test viz.:

- a) It should be Quick and simple as possible, the act of execution should be as quick and simple as possible and free from anything that unnecessarily sharpens the poignancy of the prisoner's apprehension.
- b) The act of the execution should produce immediate unconsciousness passing quickly into the death.
- c) It should be decent.
- d) It should not involve mutilation.

1. The ECOSOC whereas describes one of the important standards and safeguards against the death penalty enunciated in safeguard No.9: “Where capital punishment occurs it shall be carried out so as to inflict minimum possible suffering.”

2. In light of the above safeguards and views, it is important to note here the view taken by Justice Bhagwati (in dissenting Judgment) in **Bachan Singh v. State of Punjab**<sup>7</sup> (1982) 3 SCC 25. The said view is as follows:-

“..... The physical pain and suffering which the execution of the sentence of death involves is also no less cruel and inhuman. In India, the method of execution followed is hanging by the rope. These observations of Bhagwati, J. are clearly in light of the fact that most of the developed as well as developing countries have replaced the execution by hanging by the intravenous lethal injection or by shooting. The descriptions of these kinds of double executions prove that the death penalty by hanging involves immense pain and suffering. It is with these views and the observations made in the various execution by the lethal injection that the lethal injection is the most acceptable and humane method of executing of the death sentence. This mode involves less pain and suffering to the convict

<sup>7</sup> *Bachan Singh v. State of Punjab*, 1983(1) SCR 145(a) para. 224, Supreme Court of India, 1980.

undergoing the death sentence. The death as result of the hanging in the most of the cases is because of the asphyxia or strangulation which causes the lingering and painful death of the condemned person.”

It may be mentioned here that in Dena's case (supra) the Supreme Court upheld the constitutional validity of Section 354(5) of Code of Criminal Procedure of 1973 for carrying out death sentence of hanging by neck till he is dead as the best available method in India in comparison to electric chair, shooting or lethal injection.

The following table gives comparative analysis of different modes of executing death sentence<sup>8</sup>:

<b>Hanging By Neck Till Death</b>	<b>Shooting</b>	<b>Intravenous Lethal Injection</b>
1. Simple to execute	1.Simple to execute	1. Simple to execute
2. Execution process takes more than 40 minutes to declare prisoner to be dead	2. Execution process takes not more than few minutes to declare prisoner to be dead	2. Execution process takes 5 to 9 minutes to declare prisoner to be dead
3. Less scientific equipments are required.	3. Less scientific equipments are required.	3. More scientific equipments are required, they are easily available.
4. Uncertainty as to time required for the prisoner to become unconscious	4. Instant death.	4. Unconsciousness takes place immediately after the application of anesthesia and dies in sleep.
5. May cause lingering death	5. Instant death	5. Not a lingering death.
6. Most of the time may involve enormous pain	6. Pain may hardly be involved.	6. Pain only as result of needle prick.

<sup>8</sup> "Consultation paper on mode of execution of death sentence and incidental matters" (PDF). Law commission of India. Retrieved 29 may 2017

7. Has been abandoned by most of the countries considering it not to be a civilized mode	7. Most of the countries provide for the option of either lethal injection or shooting.	7. It is being accepted now to be most civilized mode of execution of death sentence.
8. Mutilation involved.	8. Mutilation involved.	8. No mutilation involved.
9. Not a controlled way of execution. It depends on various factors.	9. It is always under control and does not depend on the factors like physique etc. of the convict.	9. It is the best controlled way of execution.
10. Not generally swift	10. It is comparatively swift and painless	10. It is the painless and swift method of execution.

## CONCLUSION

It can be said that the best method of execution from point of view of less painful and most efficient is lethal injection. In Indian context, hanging proves to be the best possible method of execution as quoted by various jurist in their judgments as stated above. When the need of the law and society is to develop the deterrent effect of death penalty then the method of hanging by neck seems to be most effective as the death caused is not so very easy and painful as in case of lethal injection in which the person getting the punishment hardly comes to feel as he is given very high dose of anesthetic medicine. Whatever the method be the final aim of death penalty is to have a deterrent effect on the society so that any criminal thinks twice before doing any crime.

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