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Death sentence rate highest in Delhi, J&K

Himanshi Dhawan, TNN | Sep 9, 2015, 01.03 AM IST

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Trial courts had erroneously imposed the death penalty in 95.7% of cases.

NEW DELHI: A person convicted of murder in Delhi or Jammu & Kashmir has the highest probability of being handed the death penalty than anywhere else in India. In J&K, the likelihood is 6.8 times higher than the national average and in Delhi the convict is six times more likely to be put on death row.

These stark differences in sentencing, based on NCRB data, are part of a study called 'Hanging in Balance: Arbitrariness in Death Penalty Adjudication in India', which was cited by the Law Commission as "another axis of disparity in death penalty jurisprudence".

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The study looked at the rate of imposition of death sentences for murder convictions in various states. The disparities in sentencing reveal how a person can receive different punishment for the same crime. For instance

For instance, a man convicted of murder in Jharkhand is 2.4 times more likely to get the death sentence than the national average while the possibility increases to 2.5 times in Gujarat, three times in West Bengal and 3.2 times in Karnataka.

The differences among many neighbouring states were found to be high. A murder convict in Karnataka is 5.8 times as likely to get the death sentence compared to Tamil Nadu. A convict in Gujarat is again 5.8 times more likely to get death than one in Rajasthan. Similarly, Maharashtra sends murder convicts to death row 2.9 times more frequently than Madhya Pradesh.

In absolute numbers, Uttar Pradesh sentences the most number of persons to death row. But in terms of the proportion of death sentences to murder convictions, it is almost at par with the national average. In Karnataka, which is the second largest contributor to death row sentencing, the death sentence rate was 3.2 times the national average.

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Citing this disparity, the Law Commission headed by Justice (retired) A P Shah has recommended gradual abolition of death penalty with the exception of terror cases. To strengthen its argument on the "excessive use of death penalty", the commission cited data from Supreme Court analyzed by the Death Penalty Litigation Clinic. This second study — which was reported by TOI — indicates that between 2000 and 2015, trial courts imposed the death sentence on 1,790 persons.

Of these, 1,512 cases were decided by the high court. In 62.8% of these 1,512 cases, the appellate courts commuted the sentence while upholding the conviction. In another 28.9 % cases, the convicts were acquitted, pointing to an even deeper systemic problem relating to the quality of adjudication in the lower courts. In all, the death sentence was confirmed in only 4.3% of the cases.

The Supreme Court's data thus shows that trial courts had erroneously imposed the death penalty in 95.7% of cases.

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