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Hanging, or something else as death penalty? Before Supreme Court, a case around the mode of capital punishment

According to Amnesty International, 55 countries still have the death sentence in their statute books. Death by hanging is the most prevalent mode of execution, especially in the former British colonies; other modes are followed in some countries.

By: **Express News Service**

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 **NewsGuard**

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Five years after a PIL was filed seeking a more dignified way to execute the capital punishment, the Supreme Court has listed the case for (Express photo by Prem Nath Pandey)

A Supreme Court Bench headed by Chief Justice of India (CJI) D Y Chandrachud last week asked the Centre to defend the law that allows **hanging by the neck** as a mode of execution, reopening a decades-old debate over whether there can be a more humane and dignified way of executing the death penalty.

According to Amnesty International, 55 countries still have the death sentence in their statute books. Death by hanging is the most prevalent mode of execution, especially in the former British colonies; other modes are followed in some countries. In the United States, a fifth state moved this week to bring back firing



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In India, The Air Force Act, 1950, The Army Act, 1950, and The Navy Act, 1957 provide for an offender to be “hanged by the neck until he be dead”, or to “suffer death by being shot to death”.

Case before SC

In 2017, advocate Rishi Malhotra filed a PIL seeking a more dignified way to execute the capital punishment. He argued that a convict whose life has to end because of the sentence should not be compelled to suffer the pain of hanging.

The PIL challenged the constitutional validity of Section 354(5) of the Code of Criminal Procedure (CrPC), 1973, which reads: “When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead.” The constitutional validity of the death sentence itself had been upheld by the SC in *Bachan Singh v State of Punjab* (1982).



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Centre’s stand

In its affidavit filed in January 2018, the government had submitted that death by hanging was the only “viable” option to execute a death warrant, but had also sought time to examine methods followed in other countries.

In its 187th report in 2003, the Law Commission had recommended that Section 354(5) CrPC should be amended to provide for “lethal injection until the accused is dead”. It had suggested that the mode of execution should be left to the discretion of the judge, who should hear the convict on the question before passing an order.

Other countries

Execution by firing squad is employed in China. Saudi Arabia uses beheading, apart from other methods. In the US, an intravenous lethal injection is given in every state (27 states and American Samoa) that allows the death penalty. Electrocuting is a secondary method in some states.

Lawmakers in Idaho passed a Bill last week seeking to authorise firing squads, which are currently allowed in Mississippi, Utah, Oklahoma, and South Carolina, the AP reported. The last execution by firing squad in the US was of Ronnie Lee Gardner in Utah in 2010.



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to kill, rather than to save lives. In the face of an acute shortage of sodium thiopental, pancuronium bromide, and potassium chloride, which make up the standard lethal cocktail, some states have switched to pentobarbital or midazolam, which can cause great pain to the dying individual.

Bullets fired at the heart, on the other hand, are expected to instantly rupture it and cause the convict to lose unconsciousness, and quickly bleed to death. The AP quoted a 2017 opinion from Supreme Court Justice Sonia Sotomayor which argued that “in addition to being near instant, death by shooting may also be comparatively painless”.

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