

Death Penalty and Shatrughan Chauhan Case

May 7, 2020

Source: *The Hindu*

Manifest pedagogy: With the delay in Nirbhaya case verdict and a central government plea for society centric guidelines in case of death penalty, different Supreme Court decisions in this regard is important for UPSC mains.

In news: Central government had pushed for faster review of mercy petitions in Nirbhaya case.

Placing it in syllabus: Death penalty in India

Static dimensions: Judgement in the Shatrughan case

Current dimensions:

- Criticisms against the case during Nirbhaya judgement
- Recommendations made to correct loopholes

Content:

Judgement in the case:

- The then Chief Justice P. Sathasivam had delivered the judgement in **Shatrughan Chauhan case in 2014.**
- The undue delay by President in rejecting mercy to a death row convict amounts to torture.
- Such **inordinate and unexplained delay by the President is sufficient in itself to entitle the convict to a commutation.**
- The court had **refused to fix a certain number of years above which** undue delay would amount to torture.
- The **crime in question is irrelevant** while deciding the effects of keeping a death row prisoner waiting for a

decision on his or her mercy petition.

- The suffering that comes with anticipating death on an every day basis for the judges amounted to torture, which was **violative of the Right to life under Article 21** of the Constitution.

Criticisms against the case during Nirbhaya judgement:

- Due to **“deliberate delays” in the execution of four Nirbhaya convicts**, the Central government had moved a petition in January, 2020, before the Supreme Court to **consider “victim centric” and “society-centric” guidelines.**
- The plea by the **Ministry of Home Affairs** came in the aftermath of the four Nirbhaya convicts separately and repeatedly approaching the courts for one relief or the other.
- Their execution dates were kept on extended for months before they were hanged on March 20, 2020.
- The **guidelines** laid down in the 2014 judgement of Shatrughan Chauhan case **set out provisions for curative plea even after the appeal process at every judicial level and review plea in the Supreme Court.**
- The 2014 verdict was blamed as **“accused-centric”**.
- Hence the government had argued that there have been several instances where the **convicts “under the garb of Article 21 took the judicial process for a ride”** and sought modification of the guidelines.
- These guidelines **did not take into account of irreparable mental trauma, agony and upheaval of the victims and their family** members and the deterrent effect which the capital punishment intends to make.

Recommendations made to correct loopholes:

- The rules currently in place call for death penalty to be carried out for all convicts at the same time.
- This, according to the government, allows convicts to

move different petitions one after the other and delay the process.

- The MHA, in its plea filed through Solicitor General Tushar Mehta, urged the court to **fix a time limit within which the convict of death sentence should file curative petition.**
- The 14 day **period for mercy plea should be reduced to 7 days.**
- If a mercy plea has already been rejected, a **death warrant should be issued within the next seven days** and **execution carried out a week thereafter.**
- The **pendency of review or curative petitions of his co-convicts** would be of **no consequence for a man whose mercy plea has been rejected.**

Mould your thought: Critically analyse the guidelines laid down by the Supreme Court on death penalty in Shatrughan Chauhan case. How can the loopholes in the judgement be corrected?