

The Poor and The Question of Arbitrary Mercy: The Issue of Arbitrariness in Granting Mercy



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Abstract

The mercy petitions of a number of death row convicts were not given the same benefit despite the fact that they were equally poor and had to be defended by legal aid lawyers such as Gurmeet Singh, Sundar Singh, etc. While the political decision to reject mercy petitions of terror convicts is omnipresent, to understand arbitrariness and non-application of mind. As per Article 39 of the Constitution of India, access to justice must be equal in substance, procedure and availability regardless of a person's economic status. In capital cases, the quality of legal representation is one of the most important factors in determining whether or not a defendant will receive the death penalty. Moreover, it will be beneficial for speedy disposal of mercy petitions if there will be only one authority having power to grant pardon. For example, presently a death convict can approach the Governor and if he is not satisfied with the decision of the Governor, he can further file a fresh mercy petition before the President for mercy. This is a very long and time-consuming process. Therefore, it will be wise and better to cut down one channel.

Keywords: Mercy Petitions, Death Row, Legal Aid, Arbitrary Mercy, Commute, Reject, Decisions, Legal Representation, Poverty, Recommendations, Apex Court, Observations, Death Penalty, Life Imprisonment, Offences, Appeal, Supreme Court.

Introduction

Prayers Is The Breath of New
Man, Drawing in The Air of Mercy
In Petitions, And Returning It in
Praises; It Proves And Maintains
The Spiritual Life.

Matthew Henry

It is a well-known fact that the possibilities of the abuse of power are inherent in the pardon power. The Legal maxim, "Veniae facilitas incentivum est delinquendr", which is a caveat to the exercise of clemency powers, as it means "Facility of pardon is an incentive to crime". It may also prove to be a "grand farce", if granted arbitrarily, without any justification, to "privileged class deviants". Thus, no convict should be a "favoured recipient" of clemency. The possibility of misuse of this power is inherent in this power. The history of this power is full of examples of misuse of this power.

*"In Shatrughan Chauhan, the Supreme Court noted "Most of the death row prisoners are extremely poor and do not have copies of their court papers, judgments, etc. These documents are must for preparation of appeals, mercy petitions and accessing post-mercy judicial remedies which are available to the prisoner under Article 21 of the Constitution". The apex Court further noted that "There is no provision in any of the Prison Manuals for providing legal aid, for preparing appeals or mercy petitions or for accessing judicial remedies after the mercy petition has been rejected. Various judgments of this Court have held that legal aid is a fundamental right under Article 21. Since this Court has also held that Article 21 rights in here in a convict till his last breath, even after rejection of the mercy petition by the President, the convict can approach a writ court for commutation of the death sentence on the ground of supervening events, if available, and challenge the rejection of the mercy petition and legal aid should be provided to the convict at all stages."*¹

Since his swearing on 25.07.2012, President Pranab Mukherjee has considered 28 mercy petitions involving 34 death row convicts. As per information available in the website of the President's Secretariat, 28 mercy petitions involving 34 death row convicts were received by President Pranab Mukherjee as on 07.09.2015. Out of the 28 cases, President Mukherjee rejected 24 mercy petitions involving 31 death row convicts including three women, and commuted death sentence in two cases while two cases are pending disposal as on 07.09.2015.² Out of total 28 cases, at least in 12 cases the death row convicts were defended on legal aid lawyers during trial and appeal stages. These 12 cases include Md. Ajmal Kasab, Saibanna Ningappa Natikar, Mohd. Afzal Guru, Gurmeet Singh, Praveen Kumar, Sundar Singh, Maganlal Barela, Ajay Kumar Pal, Holiram Bordoloi, Surender Koli, Shivaji Shankar Alhat and Mohan Anna Chavan. On 19.03.2015, President Mukherjee commuted the death sentence of Tote Dewan to life imprisonment following recommendation of the Ministry of Home Affairs that the crime was committed due to abject poverty and unemployment.³

The incumbent President Pranab Mukherjee also commuted the death sentence of two death row convicts namely Tote Dewan and Man Bahadur Dewan of Assam, convicted for the murder of his wife, two minor sons and a neighbourhood woman in 2002 as the crime had socio-economic basis⁴ and Atbir of Delhi, convicted for the murder of his step mother, step sister and step brother over a property dispute in 1996 on the ground that the murders were committed due to abject poverty and unemployment.⁵

While the political decision to reject mercy petitions of terror convicts is omnipresent, to understand arbitrariness and non-application of mind, many cases of mercy petitions considered by the President of India broadly categorised under six categories i.e.

1. Cases of murder of spouse and children.
2. Cases of murder by servants for gains.
3. Cases of murder due to enmity.
4. Cases of murder by relatives.
5. Cases of rape and murder of minor girls.
6. Cases of kidnapping followed by murder for gains.

In all these cases, the President gave contradictory opinion with respect to the cases with similar facts and circumstances.

Cases of Murder of Spouse and Children

In cases of mercy petitions by death-row convicts convicted for murder of spouse and children, the President gave different decisions in different cases of similar circumstances and evidence. Death penalty was commuted to life imprisonment in Sunil Baban Pingale vs. State of Maharashtra⁶, where death row convict was convicted for murder of his mother-in-law and sister-in-law. The convict also attempted to kill his wife and father-in-law. The conviction was based on accounts of the eyewitness and documentary evidence. Similarly, death penalty of Kheraj Ram was commuted in State of Rajasthan vs. Kheraj Ram⁷. The accused was convicted for murder of his wife, his two children and brother in law on

suspicion of infidelity on the part of his wife. Though the conviction was based on circumstantial evidence but the same conclusively established the guilt of the accused.

However, the President rejected mercy petitions of a several death rows convicts who had been convicted of similar offences committed in similar circumstances. For example, in Bheru Singh vs. State of Rajasthan⁸, the accused was convicted for the murder of his wife and his five minor children; in Saibanna vs. State of Karnataka⁹ the accused was convicted for murder of his wife and his minor daughter on suspicion of infidelity on the part of his wife while on parole in a life imprisonment term; and in Jafar Ali vs. Union of India¹⁰, the accused was convicted for the murder of his wife and five daughters.

Sunil Baban Pingale, Maharashtra¹¹

The apex court made the following observation:

"But we are unable to persuade ourselves to agree with this submission of the learned Counsel for the appellant particularly when the entire scenario in which the appellant had come being armed with a sword and assaulted and killed two persons and also injured two persons which has been fully described in the impugned judgment of the High Court. Having scrutinised the judgment of the learned Sessions Judge as well as the judgment of the High Court, we do not find any mitigating circumstances from which the Court would be justified in taking the view that this is not one of the rarest of the rare cases. On the other hand, the manner in which the appellant had come with a prior plan to finish the entire family and for no justifiable reason would indicate that the penalty of death is the only appropriate sentence that can be awarded against the appellant."

However, The President commuted the death sentence to life imprisonment.¹²

Bheru Singh, Rajasthan¹³

The apex court made the following observation:

"The barbaric gruesome and heinous type of crime which the appellant committed is a revolt against the society and an affront to human dignity. There is no extenuating or mitigating circumstances whatsoever in this case nor have any been pointed out and in our opinion, it is a fit case which calls for no punishment other than the capital punishment and we accordingly confirm the sentence of death imposed upon the appellant. The plea of his leaned counsel for mercy is unjustified and the prayer for sympathy, in the facts and circumstances of the case, is wholly misplaced. We, therefore, upheld the conviction and sentence of death imposed upon the appellant by the courts below for the offence under Section 302 IPC." However, The President rejected the mercy petition.¹⁴

Cases of Murder by Servants for Gains

In two exactly similar cases, the President gave contradictory decisions. Death penalty on Omprakash was commuted in Omprakash and Raja vs. State of Uttaranchal¹⁵ where the accused, a domestic servant, had committed the murder of his employer, his son and sister-in-law and also

attempted on the life of his employer's wife. The conviction was based on oral and documentary evidence. On the other hand, the President rejected the mercy petition of the death-row convict in *Amrutlal Someshwar Joshi vs. State of Maharashtra*¹⁶ where the condemned prisoner, a domestic male servant, was convicted for committing murder of three members of a Sindhi family living in a flat in Bombay City, where he was employed. His conviction was mainly based on circumstantial evidence.

Omprakash and Raja, Uttaranchal¹⁷

The apex court made the following observation:

*"As rightly observed by the High Court, the crime had been cleverly pre-planned and committed in a brutal and diabolical manner. Three out of the four inmates of the house in which he was employed, were eliminated. There was an attempt to kill the fourth person (PW-1) also. The accused had inflicted injuries on the young Sarit Khanna in such a cruel manner that his neck was practically severed from his body. Multiple injuries were inflicted on the vital parts of the other victims. The cruel tendency of the appellant was writ large even in the manner of attack. His antecedents also reveal a cruel and savage behaviour on his part. The evidence on record reveals that he killed a pet bird and pierced feathers inside the nose of the hen. He was determined to kill all the members of the Khanna family to take revenge on a flimsy ground. Alternatively, he stooped to the ghastly crime in order to take away the valuables in the house. His conduct and behaviour are repulsive to the collective conscience of the society. It is fairly clear that he does not value the lives of others in the least. The crime committed by the appellant shocks the conscience of the society at large and of the Court and the facts and circumstances unfolded in the case leave the Court with an irresistible feeling that he is beyond reformation though young he is. As held in *Amrutlal Someshwar Joshi vs. State of Maharashtra MANU/SC/0510/1994:1995 Cri. LJ 400* mere young age of the accused is not a ground to desist from imposing death penalty, if it is otherwise warranted. Moreover, in the present case, none is dependent on the appellant. There are no mitigating circumstances in his favour. The accused is a menace to the society and it seems to us that the death sentence is the most appropriate punishment in this case. On facts, the case on hand is closest to *Amrutlal Someshwar's case (supra)* where the death sentence was up held. Accordingly, the sentence of death is confirmed. The appeal is dismissed".*¹⁸

However, The President commuted the death penalty.¹⁹

Amrutlal Someshwar Joshi, Maharashtra²⁰

The apex court made the following observation:

"On a careful consideration of the entire material both the courts below have categorically found that the accused and accused alone committed the murders for gain. Even assuming for argument's sake that more than one person could have participated, we are unable to see as to how in the facts and circumstances of the case, participation by the

accused does not warrant imposition of death sentence. He was working as a domestic servant staying along with the family members in the flat who trusted him. The accused having become extremely greedy cleverly pre-planned the commission of the crime at a time when P.W.2 was not in the flat and when only the old retired person, a helpless lady and a child were in the flat. The knife used is a big knife which he must have procured and he killed the three deceased persons at the time when they were resting after having their meals. He did not even spare the young girl Vaishali, deceased No. 3, aged about three years. P.W.6, who conducted the post-mortem, found five incised injuries on the child. He found 32 incised injuries on deceased No. 1 Shri Parsharam Sadarangani and the Doctor opined that many of the injuries individually were necessarily fatal. On deceased No. 2, Hema Mirchandani, the Doctor found 12 incised injuries and the Doctor opined that injuries nos. 2, 3 and 7 were singularly sufficient to cause death in the ordinary course of nature. The medical evidence shows that some of the injuries found on the three deceased persons were very serious and would show that the assailant practically butchered them. The attack was so brutal and the same establishes that the accused left no chance for anybody's survival lest they may figure a witness and this heinous crime has been committed in that cruel and diabolical manner only with a view to commit robbery. The subsequent conduct and his movements would show that the accused is a clever criminal prepared to go to any extent in committing such serious crimes for his personal gain and the murders committed by him manifest an exceptional depravity."

However, The President rejected the mercy petition.²¹

Cases of Murder Due To Enmity

In cases of murder due to enmity, the President commuted the death sentence in some cases while rejected in other similar cases and circumstances. The President commuted the death penalty of six death-row convicts into life imprisonment in *Shri Ram and Shiv Ram and vs. State of Uttar Pradesh*²², of five death-row convicts in *Gurdev Singh vs. State of Punjab*²³, of two death-row convicts in *ShobitChamar vs. State of Bihar*²⁴, of two death-row convicts in *Karan Singh vs. State of Uttar Pradesh*²⁵ and of one death row convict in *Prajeet Kumar Singh vs. State of Bihar*²⁶. Convictions in all these cases were based on oral and documentary evidences. In contrary, the President rejected the mercy petitions of death-row convicts who have been awarded death sentence for similar charges as stated above. The President rejected the mercy petitions of two death-row convicts in *Maresh and Ram Narayan vs. State of Madhya Pradesh*²⁷ and one death-row convict in *Sundar Singh vs. State of Uttaranchal*.²⁸

Karan Singh and Another, Uttar Pradesh²⁹

The apex court made the following observation:

"We are unable to accept the contentions advanced by the Appellants' counsel. The Appellants killed as many as five persons one by one and the nature of the injuries sustained by the deceased

persons show that almost all of them were butchered with axes and other weapons in a very dastardly manner. The Appellants after killing three of them even went to the house of the deceased and killed the children who were in no way involved with the property dispute with the Appellants. It seems that the Appellants wanted to exterminate the whole family. On reappraisal of the entire facts and circumstances of the case, we are not inclined to commute the death sentences imposed on the Appellants Karan Singh and Kanwar Bahadur Singh. The sentences imposed on them are confirmed and the interim stay granted by this Court on 12.3.2004 on the execution of the sentence is hereby vacated.”

However, The President commuted the death sentence to life imprisonment.³⁰

Mahesh and Ram Narayan, Madhya Pradesh³¹

The apex court made the following observation:

Sharing the concern of the High Court the Supreme Court observed, “We also feel that it will be a mockery of justice to permit these appellants to escape the extreme penalty of law when faced with such evidence and such cruel acts. To give the lesser punishment for the appellants would be to render the justice system of this country suspect. The common man will lose faith in Courts. In such cases, he understands and appreciates the language of deterrence more than the reformatory jargon. When we say this, we do not ignore the need for a reformatory approach in the sentencing process. But here, we have no alternative but to confirm the death sentence”

However, The President rejected the mercy petition.³²

Cases of Murder by Relatives

In most cases of this kind, the President rejected the mercy petitions of the death-row convicts. Mercy petition of – one death-row convict³³ in Praveen Kumar vs. State of Karnataka, two death-row convicts³⁴ in Ram Singh vs. Sonia and others and one death-row convict³⁵ in Suresh Chandra Bahri vs. State of Bihar, two death-row convicts³⁶ in Asharfi Lal and Sons vs. State of Uttar Pradesh, one death-row convict namely Raj Gopal Nayar from Jammu & Kashmir³⁷, one death-row convict³⁸ in Surja Ram vs. State of Rajasthan and two death-row convicts³⁹ in Suresh vs. State of Uttar Pradesh have been rejected. However, in a few similar cases, the President commuted the death penalty of death-row convicts in Atbir vs. Govt. of NCT of Delhi⁴⁰ and Jai Kumar vs. State of M.P.⁴¹ in to life imprisonment.

Asharfilal and Sons, Uttar Pradesh⁴²

The apex court made the following observation:

“This case falls within the test ‘rarest of the rare cases’ as laid down by this Court in Bachan Singh vs. State of Punjab. The Court observed that the punishment must fit the crime. These were cold-blooded brutal murders in which two innocent girls lost their lives. The extreme brutality with which the appellants acted shocks the judicial conscience. Failure to impose a death sentence in such grave cases where it is a crime against the society

particularly in cases of murders committed with extreme brutality will bring to naught the sentence of death provided by S. 302 of the Penal Code. It is the duty of the Court to impose a proper punishment depending upon the degree of criminality and desirability to impose such punishment. The only punishment which the appellants deserve for having committed the reprehensible and gruesome murders of the two innocent girls to wreak their personal vengeance over the dispute they had with regard to property with their mother Smt. Bulakan is nothing but death. As a measure of social necessity and also as a means of deterring other potential offenders the sentence of death on the two appellants Asharfi Lal and Babu is confirmed.”

However, The President rejected the mercy petition.⁴³

Jai Kumar, Madhya Pradesh⁴⁴

The facts establish the depravity and criminality of the accused in no uncertain terms. - No regard being had for precious life of the young child also. The compassionate ground of the accused being of 22 years of age cannot in the facts of the matter be termed to be at all relevant. The reasons put forth by the learned Sessions Judge cannot but be termed to be unassailable. The learned Judge has considered the matter from all its aspects.

In the present case, the savage nature of the crime has shocked our judicial conscience. The murder was cold-blooded and brutal without any provocation. It certainly makes it a rarest of the rare cases in which there are no extenuating or mitigating circumstances.” However, The President commuted the death sentence to life imprisonment.⁴⁵

Cases of Rape and Murder of Minor Girls

The decisions of the President differed in mercy petitions by the death row prisoners convicted in cases of rape and murder of girls. The President commuted the death penalty of Santosh and Molai Ram⁴⁶ in Molai vs. State of Madhya Pradesh, Satish⁴⁷ in State of Uttar Pradesh vs. Satish, and Bantu⁴⁸ in Bantu vs. State of Uttar Pradesh.

Whereas in similar cases of rape followed by murder, the President declined to commute the death penalty of Jumman Khan⁴⁹ in Jumman Khan vs. State of Uttar Pradesh, Laxman Naik⁵⁰ in Laxman Naik vs. State of Orissa and Shivu and Jadeswamy⁵¹ in Shivu vs. R.G. High Court of Karnataka and Another.

Satish, Uttar Pradesh⁵²

The apex court made the following observation:

“Considering the view expressed by this Court in Bachan Singh’s case (supra) and Machhi Singh’s case (supra) we have no hesitation in holding that the case at hand falls in rarest of rare category and death sentence awarded by the trial Court was appropriate. The acquittal of the respondent-accused is clearly unsustainable and is set aside. In the ultimate result, the judgment of the High Court is set aside and that of the trial Court is restored.”

However, The President commuted the death sentence to life imprisonment.⁵³

Laxman Naik, Orissa⁵⁴

The apex court made the following observation:

"The evidence of Dr. Pushp Lata, PW 12, who conducted the post-mortem over the dead body of the victim, goes to show that she had several external and internal injuries on her person including a serious injury in her private parts showing the brutality with which she was subjected to while committing rape on her. The victim of the age of Nitma could not have ever resisted the act with which she was subjected to. The appellant seems to have acted in a beastly manner as after satisfying his lust he thought that the victim might expose him for the commission of the offence of forcible rape on her to the family members and other, the appellant with a view to screen the evidence of his crime also put an end to the life of innocent girl who had seen only seven summers. The evidence on record is indicative of the fact as to how diabolically the appellant had conceived of his plan and brutally executed it and such a calculated, cold blooded and brutal murder of a girl of a very tender age after committing rape on her would undoubtedly fall in the category of rarest of the rare case attracting no punishment other than the capital punishment"

However, The President rejected the clemency petition of the convict.⁵⁵

Cases of Kidnapping Followed By Murder for Gains

It is found that in cases of murder after kidnapping, the decision of the President was not uniform. The President's decision on mercy petitions by accused convicted in such cases differed from case to case.

Henry Westmuller Roberts, Assam⁵⁶

The apex court made the following observation:

"We are of the opinion that the offences committed by Henry, the originator of the idea of kidnapping children of rich people for extracting ransom are very heinous and pre-planned. He had been attempting to extract money from the unfortunate boy's father, P.W.23 even after the boy had been murdered by making the father to believe that the boy was alive and would be returned to him if he paid the ransom. In our opinion, this is one of the rarest of rare cases in which the extreme penalty of death is called for the murder of the innocent young boy, Sanjay in cold blood after he had been kidnapped with promise to be given sweets. We, therefore, confirm the 119 The Status of Mercy Petitions in India sentence of death and the other sentences awarded to Henry by the High Court, under Ss. 302, 364, 201 and 387 I.P.C. and dismiss Criminal Appeal No. 545 of 1982 filed by him. We allow Criminal Appeal No. 209 of 1983 filed by Chabil Prasad Agarwal, P.W.23 against the acquittal of Sunil, Anil and Naresh in part and convict only Sunil under S. 365 I.P.C. for having kidnapped Sanjay in order to secretly and wrongfully confine him and sentence him to undergo rigorous imprisonment for seven years and dismiss that appeal in other respects. We reject Criminal Appeal No. 210 of 1983 filed by the State of

Assam against the rejection of the death sentence reference in regard to Sunil and dismiss Criminal Appeals Nos. 212 and 213 of 1983 filed by the State of Assam against the acquittal of Naresh in Criminal Appeal No. 25 of 1981 and of Anil in Criminal Appeal No. 24 of 1981, both on the file of the High Court, and allow Criminal Appeal No. 211 of 1983 filed by the State of Assam against the acquittal of Sunil in Criminal Appeal No. 19 of 1981 on the file of the High Court as indicated in Criminal Appeal No. 209 of 1983 and dismiss it in other respects. The sentences of imprisonment awarded to Henry by the trial court and confirmed by the High Court and by us shall run concurrently and merge with the sentence of death."

However, The President rejected the mercy petition.⁵⁷

Sushil Murmu, Jharkhand⁵⁸

The Supreme Court made the following observations:

"A bare look at the fact situation of this case shows that the appellant was not possessed of the basic humanness and he completely lacks the psyche or mind set which can be amenable for any reformation. He had at the time of occurrence a child of same age as the victim and yet he diabolically designed in a most dastardly and revolting manner to sacrifice a very hapless and helpless child of another for personal gain and to promote his fortunes by pretending to appease the deity. The brutality of the act is amplified by the grotesque and revolting manner in which the helpless child's head was severed. Even if the helpless and imploring face and voice of the innocent child did not arouse any trace of kindness in the heart of the accused, the non-challan way in which he carried the severed head in a gunny bag and threw it in the pond unerringly shows that the act was diabolic of most superlative degree in conception and cruel in execution. The tendency in the accused and for that matter in any one who entertains such revolting ideas cannot be placed on par with even an intention to kill some but really borders on a crime against humanity indicative of greatest depravity shocking the conscience of not only any right thinking person but of the Courts of law, as well. The socially abhorrent nature of the crime committed also ought not to be ignored in this case. If this act is not revolting or dastardly, it is beyond comprehension as to what other act can be so described is the question. Superstition is a belief or notion, not based on reason or knowledge, in or of the ominous significance of a particular thing or circumstance, occurrence or the like but mainly triggered by thoughts of self-aggrandizement and barbaric at times as in the present case. Superstition cannot and does not provide justification for any killing, much less a planned and deliberate one. No amount of superstitious colour can wash away the sin and offence of an unprovoked killing, more so in the case of an innocent and defenceless child. 23. Criminal propensities of the accused are clearly spelt out from the fact that similar accusations involving human sacrifice existed at the time of trial. Though the result could not be brought on record, yet the fact that similar accusation was made against the accused-

appellant for which he was facing trial cannot also be lost sight of. In view of the above position we do not think this to be a fit case where any interference is called for, looking to the background facts highlighted above. This in our view is an illustrative and most exemplary case to be treated as the 'rarest of rare cases' in which death sentence is and should be the rule, with no exception whatsoever. Appeal fails and is dismissed."

However, The President commuted the death sentence of the accused appellant to life imprisonment.⁵⁹

Aim of the Study

The aim is to provide a platform for research students, practitioners, academicians and professional to share innovative research achievements & practical experiences to stimulate scholarly debate in the development of decision making. It is dedicated to publish high quality research papers providing meaningful insights into the subject areas.

Conclusion

The mercy petitions of a number of death row convicts were not given the same benefit despite the fact that they were equally poor and had to be defended by legal aid lawyers such as Gurmeet Singh, Sundar Singh, etc. Extreme poverty which indicates inability to defend oneself has often been used to grant mercy. The President K. R. Narayanan found a number of mitigating circumstances such as young age, no previous criminal record, poor socio-economic background, etc sufficient to grant clemency under the first ground. It is not known whether the lawyers who defended Dewan from the trial court to the apex court were hired by him or provided by the Courts from the legal aid services. Given his poor economic condition it is presumed the lawyers were provided from the legal aid services.

As per these norms the court made it clear that the power of judicial review can be exercised by the court in cases where the order has been passed without application of mind, the order is mala fide, the order has been passed on extraneous or wholly irrelevant considerations or the order suffers from arbitrariness. The Court is also of the opinion that if such power is exercised arbitrarily, mala fide or in absolute disregard of the finer canons of the constitutionalism, the by-product order cannot get the approval of law and in such cases, the judicial hand must be stretched to it. From different Landmark Judgments passed by the Courts it can be concluded that the orders of the President or Governor under Article 72 or 161 can be reviewed if order has been passed without application of mind or order is mala fide or order has been passed on extraneous or wholly irrelevant considerations or the order suffer from arbitrariness.

It is revealed from this study that in India we have so many different statutes such as the Constitution, Code of Criminal Procedure, Penal Code, Prison laws. Laws for the armed forces etc. that confer the pardoning power on different executives. It is true that the objective behind the power conferred on these executives is the same. But there is no

uniformity in the exercise of this power by different States. Since our country is one right from Kashmir to Kanyakumari therefore it is suggested that the Parliament of India shall enact a uniform national policy on pardoning power in order to establish uniformity. It will definitely be helpful for transparency and to avoid the arbitrary exercise of this power.

Endnotes

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7. *State of Rajasthan vs. Kheraj Ram* AIR (2004) SC 3432.
8. *Bheru Singh vs. State of Rajasthan* (1994) ACR491(SC)
9. *Saibanna vs. State of Karnataka* 2005(2) ACR1836(SC)
10. *Jafar Ali vs. Union of India Writ Petition (Crl) No. 190 of 2013*
11. *Sunil Baban Pingale vs. State of Maharashtra* (1999)5 SCC 702
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15. *Omprakash and Raja vs. State of Uttaranchal* 2003(2) ACR1639(SC)
16. *Amrutlal Someshwar Joshi vs. State of Maharashtra* AIR1(994) SC 2 516

17. *Omprakash and Raja vs. State of Uttaranchal 2003(2) ACR1639(SC)*
18. *Ibid.*
19. See Serial No. 920 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
20. *Amrutlal Someshwar Joshi vs. State of Maharashtra AIR (1994) SC 2 516*
21. *The Death Penalty in India: A Lethal Lottery, A study of Supreme Court judgments in death penalty cases 1950- 2006', May 2008, Amnesty International India and People's Union for Civil Liberties (Tamil Nadu & Puducherry).*
22. See Serial No. 78 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
23. See Serial No. 80 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
24. See Serial No. 81 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
25. See Serial No. 94 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
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27. See Serial No. 46 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
28. *Sundar Singh vs. State of Uttaranchal (2010)10 SCC 661*
29. *Karan Singh vs. State of Uttar Pradesh IR (2006) SC 210*
30. See Serial No. 94 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
31. *Mahesh and Ram Narayan vs. State of Madhya Pradesh (1987)3 SCC 80*
32. See Serial No. 49 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
33. See Serial No. 9 "Statement of Mercy Petition Cases-Rejected" by the President of India.
34. See Serial No. 12 "Statement of Mercy Petition Cases-Rejected" by the President of India.
35. See Serial No. 69 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
36. See Serial No. 53 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
37. *Smt. Shashi Nayar vs. Union of India 1992 AIR 395*
38. See Serial No. 72 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
39. See Serial No. 104 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
40. See Serial No. 1, "Statement of Mercy Petition Cases-Commuted" by the President of India.
41. See Serial No. 85 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
42. *Asharfilal and Sons vs. Uttar Pradesh (1987)3 SCC 224*
43. See Serial No. 53 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
44. *Jai Kumar vs. State of Madhya Pradesh AIR (1999) SC 1860*
45. See Serial No. 85 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
46. See Serial No. 83 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
47. See Serial No. 93 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
48. See Serial No. 98 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
49. See Serial No. 47 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
50. See Serial No. 65 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
51. See Serial No. 14, "Statement of Mercy Petition Cases-Rejected" by the President of India.
52. *Satish vs. State of Uttar Pradesh (2005)3 SCC 114*
53. See Serial No. 93 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
54. *Laxman Naik vs. State of Orissa AIR (1995) SC 1387*
55. See Serial No. 65 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
56. *Henry Westmuller Roberts vs. State of Assam (1985)3 SCC 291*
57. See Serial No. 33 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.
58. *Sushil Murmu vs. State of Jharkhand AIR (2004) SC 394*
59. See Serial No. 90 "List of mercy petition cases since 1981 dated 28.03.2013" obtained from Judicial Division, Ministry of Home Affairs under the RTI Act.