

Bill No. XLIV of 2014

THE INDIAN PENAL CODE AND OTHER LAWS
(AMENDMENT) BILL, 2014

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BILL

further to amend the Indian Penal Code, 1860, the Narcotics Drugs and Psychotropic Substances Act, 1985 and the Army Act, 1950.

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code and Other Laws (Amendment) Act, 2014.

Short title,
extent and
commencement.

5 (2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

45 of 1860 2. In Section 53 of the Indian Penal Code, 1860, the words "First Death" shall be omitted.

Amendment
of Section 53
of Act.

61 of 1985 3. Section 31A of the Narcotics Drugs and Psychotropic Substances Act, 1985, shall
10 be omitted.

Omission of
Section 31A
of Act.

46 of 1950 4. Section 34 of the Army Act, 1950 shall be omitted.

Omission of
Section 34 of
Act.

STATEMENT OF OBJECTS AND REASONS

The death penalty is the ultimate denial of human rights. It is pre-meditated and cold blooded killing of human being by the State. This cruel, inhuman and degrading punishment is done in the name of justice. It violates the right to life enshrined in the Constitution as well as in the Universal Declaration of Human Rights. According to the National Crime Records Bureau, a total of 1455 convicts or an average of 132 convicts per year were given death penalty during 2001 to 2011. During the same period, sentence for 4321 convicts were commuted from death penalty to life imprisonment.

Section 53 of the Indian Penal Code provides for death sentence and life imprisonment as alternative punishment under certain circumstances. This is not a single offence in the Indian Penal Code which is punishable with mandatory death penalty. In section 53 of the Indian Penal Code death sentence sets the upper limit of punitive strategy. There is no guidelines as to when capital punishment in preference to imprisonment for life or lesser sentence of life imprisonment be awarded. In addition to the Indian Penal Code other laws like the Narcotics Drugs and Psychotropic Substances Act, 1985 and the Army Act, 1950 also have similar provisions. Further, in India the mode of execution of death sentence is by hanging. The Supreme Court in Attorney General of India versus Lachma Devi, AIR 1980 SC 467 held that hanging even if permitted under rule would violate article 21 of the Constitution being barbaric, disgraceful and bringing shame on any civilized society. So far Ninety-eight countries have already abolished death penalty. Now, it is the time for India to follow suit by amending related laws.

The Bill seeks to abolish the death penalty in all cases without exception regardless of the nature of the crime, the characteristic of the offender or the method used by the State to kill the prisoner.

P. RAJEEVE

ANNEXURE

EXTRACTS FROM THE NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1985

(61 OF 1985)

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31A. (1) Notwithstanding anything contained in section 31, if any person who has been convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, any of the offences punishable under section 19, section 24, section 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance, is subsequently convicted of the commission of, or attempt to commit, or abetment of, or criminal conspiracy to commit, an offence relating to,—

Death penalty for certain offences after previous conviction.

(a) engaging in the production, manufacture, possession, transportation, import into India, export from India or transshipment, of the narcotic drugs or psychotropic substances specified under column (1) of the Table below and involving the quantity which is equal to or more than the quantity indicated against each such drug or substance, as specified in column (2) of the said Table:

TABLE

Particulars of narcotic drugs/ psychotropic substances	Quantity
(1)	(2)
(i) Opium	10 kgs.
(ii) Morphine	1 kg.
(iii) Heroin	1 kg.
(iv) Codeine	1 kg.
(v) Thebaine	1 kg.
(vi) Cocaine	500 grams
(vii) Hashish	20 kgs.
(viii) Any mixture with or without any neutral material of any of the above drugs	lesser of the quantity between the quantities given against the respective narcotic drugs or psychotropic substances mentioned above forming part of the mixture
(ix) LSD, LSD-25(+)-N,N-Diethyllysergamide (d-lysergic acid diethylamide)	500 grams
(x) THC Tetrahydrocannabinols, the following isomers: 6a(10a), 6a(7), 7, 8, 9, 10, 9) and their stereo-chemical variants)	500 grams
(xi) Methamphetamine(+)-2-methylamine-1-Phenylpropane	1,500 grams
(xii) Methaqualone (2-Methyl-3-o-tolyl-4-(3H)-quinazolinon)	1,500 grams

(1)	(2)
(xiii) Amphetamine(+)-2-amino-1-phenylpropane	1,500 grams
(xiv) Salts and preparations of the Psychotropic substances mentioned in (ix) to (xiii)	1,500 grams;

(b) financing, directly or indirectly, any of the activities specified in clause “shall be punished with punishment which shall not be less than the punishment specified in section 31 or with death” outside India under any law corresponding to the provisions of section 19, section 24 or section 27A and for offences involving commercial quantity of any narcotic drug or psychotropic substance], such person, in respect of such conviction, shall be dealt with for the purposes of sub-section (1) as if he had been convicted by a court in India.

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EXTRACTS FROM THE ARMY ACT, 1950

(46 OF 1950)

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Offences in relation to the enemy and punishable with death.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) shamefully abandons or delivers up any garrison, fortress, post, place or guard, committed to his charge, or which it is his duty to defend, or uses any means to compel or induce any commanding officer or other person to commit any of the said acts; or

(b) intentionally uses any means to compel or induce any person subject to military, naval or air force law to abstain from acting against the enemy, or to discourage such person from acting against the enemy; or

(c) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(d) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(e) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies; or

(f) treacherously or through cowardice sends a flag of truce to the enemy; or

(g) in time of war or during any military operation, intentionally occasions a false alarm in action, camp, garrison or quarters, or spreads reports calculated to create alarm or despondency; or

(h) in time of action leaves his commanding officer or his post, guard, picquet, patrol or party without being regularly relieved or without leave; or

(i) having been made a prisoner of war, voluntarily serves with or aids the enemy; or

(j) knowingly harbours or protects an enemy not being a prisoner; or

(k) being a sentry in time of war or alarm, sleeps upon his post or is intoxicated; or

(l) knowingly does any act calculated to imperil the success of the military, naval or air forces of India or any forces co-operating therewith or any part of such forces;

shall, on conviction by court-martial be liable to suffer death or such less punishment as is in this Act mentioned.

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EXTRACTS FROM THE INDIAN PENAL CODE

(45 OF 1860)

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53. The punishments to which offenders are liable under the provision of this Code are— Punishments.

First. — Death;

Secondly—Imprisonment for life;

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Fourthly.—Imprisonment, which is of two descriptions, namely : —

(1) Rerorous, that is, with hard labour;

(2) Simple;

Fifthly. — Forfeiture of property;

Sixthly. — Fine.

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RAJYA SABHA

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Further to amend the Indian Penal Code, 1860, the Narcotics Drugs and Psychotropic Substances Act, 1985 and the Army Act, 1950.

(Shri P. Rajeeve, M.P.)