CHAPTER – VI
MODE OF EXECUTION OF DEATH SENTENCE

"State should not punish with Vengeance" Emperor Ashok

Capital punishment is the infliction of the death penalty on persons convicted of a crime. As ideas about what crimes should be punishable by death have differed, so have the methods of inflicting this penalty. The criminal has been hanged, burned, boiled in oil, thrown to wild beasts, flayed alive, drowned, crushed, crucified, stoned, impaled, strangled, torn apart, beheaded, smothered, disemboweled, shot, gassed or electrocuted.

6.1 Mode of Execution Death Sentence: Ancient Time

Capital punishments was common among all ancient civilizations Egyptians, Babylonians, Assyrians, Hebrews, Persians, Greeks and Romans. The means of inflicting death in ancient times were varied but they were characterized by common barbarity. Executions were devised as great public spectacles where crowds might observe anyone of a number of methods of killing criminals. One of the most horrible ways of inflicting death in ancient times was the Persian method called “the boats”. The condemned was put in one boat with another fitted over him from these his head, hands and feet protruded. Thus encased, he was forcibly fed with milk and honey, which were also smeared on his face. Exposed to the sun, he was eventually devoured, alive by insects and vermin that swarmed about and bred with in him.

Several modes of capital punishment was in vogue in different countries or regions. In ancient Assyria and Judea a mace was often employed to crush the skull. Beheading was frequently practiced in ancient Assyria, Persia, Greece, Rome, Egypt and Israel. Burning was also a method of capital punishment practiced in some countries. Biblical and Hebrew literature speaks that mutilation or cutting or sawing of the bodies of culprits

2 Encyclopedia America p. 59
were practiced in some counties.\(^3\) Crucifixation were common in Rome and Greece. It is said that on one occasion Alexander the Great ordered for crucifixion of as many as 2000 Tyrians. Drowning was practiced in Babylonia, Rome and Israel for adultery for incest with daughter-in-law or for being a bad wife. Destruction of wild beasts was employed by a number of peoples in ancient times. Many Christians suffered death at the hands Nero in this manner.\(^4\) Capital punishment by skinning alive used to be inflicted in ancient Assyria, Scythia and Persia.\(^5\)

In ancient Israel, Persia, England and several other countries gallows were\(^6\) certainly used as a method of execution. It is still in practice in India. Impaling the criminal upon a sharp stick was common in ancient Assyria. In Persia, Darius is said to have ordered for impaling 3000 Babylonians. Impaling the criminal upon a sharp stick was also found in Rome. Precipitation from a height was chiefly used in Rome to punish slaves who were found guilty of theft. In Maccabean wars Jewish mothers with infants in their arms in Judea were thrown from the walls of Jerusalem.\(^7\) Stoning was the characteristics method of execution among the ancient Hebrews for offences of adultery, unchastity, blasphemy, idolatry, dishonouring parents etc. Suffocation was also one of the method dealing with offenders in some countries.

After the invention of Gun Powder shooting became a common method of execution. It is still in many countries for military execution. Thus, the method of capital sentence has varied with the varied peoples and with the varied times with march of civilization, the modes of death punishment have witnessed significant humanized changes. Present day methods for execution are not many. Hanging which was originally a public spectacle for the purpose of deterrence, has now become almost uncommon and is relatively secret. This type of punishment is at present in practice in India. Electrocution has

\(^3\) See Hebrews, 11:37
\(^4\) Moeller, History of the Christian Church, p. 78
\(^5\) Rawlinson, Ancient Monarchies, Vol. I, p. 478
\(^6\) Ibid p. -477
\(^7\) Vide II, Maccabees 6:10
recently been adopted in America. Asphyxiation with lethal gas has also now been introduced in some advance countries. This method is probably the quickest and most humane.8

Till, recently, not much attention was given to the mode of execution of the death penalty in our country. This was until the Law Commission of India came out with a “Consultation Paper” on the subject in 2003. It has started a debate on a more humane method of executing the death sentence on a convict.

The Royal commission9 in its Report on Capital Punishment 1949-1953 dealt with prevalent modes of execution of death punishment and stated that three conditions should be fulfilled in executing the death sentence.

a) it should be as less painful as possible.

b) It should be as quick as possible.

c) there should be least mutilation of the body.

It further observed10

“in carrying out this task the commission did not confine itself to the four main methods of execution, lethal gas, shooting, electrocution guillotine. It persuaded enquiry whether there was any method still untried that would inflict death as painless and certain as hanging but with greater decency and without the degrading and barbarous association with which hanging is tainted”.

The Commission decided for various reasons “that if lethal injection were to be constituted as method of judicial execution in the same case .......... The question should be periodically examined especially in light of progress made in the science of anesthetics”.11

8 Lehar Singh Mehta, Death Sentence, Cri L. J. (1977), p. 157
9 Supra Note 1, p.6.
11 Ibid, p. 261
The Law Commission of India has taken up the subject suo moto due to the technological advances in the field of science, technology, medicine, anesthetics and since more than three decades have passed by after the 35th report of Law Commission on capital punishment, 1967 with reference to the mode of executing death penalty. The various modes of execution of death sentence as prevalent at that time in 1967 were studied by the Law Commission. The commission in topic 58(c) paragraph 1149, concluded.

"We find that there is a considerable body of opinion which would like hanging to be replaced by something more humane and more painless......"

However, the commission was not able to arrive at any firm conclusion on this point.\(^{12}\)

"The matter is, to a certain extent, one of medical opinion. That a method which is certain, humane, quick and decent should be adopted, is the general view, with which few can quarrel. It is true that the really agonizing part is the anticipation of impending death. But society owes to itself that the agony at the exact point of execution be kept to the minimum. It is, however, difficult to express an opinion positively as to which of the three methods satisfied these test most, particularly when the two other methods are still untried. We are not at present, in a position to come to a firm conclusion on this point. Progress in the science of anesthetics and further study of the various methods, as well as, the experience gathered in other countries and development and refinement of the existing methods, would perhaps, in future, furnish a firm basis for conclusion on this controversial subject. We do not, therefore, recommend a change in the law on this point. We should however, state here that we do not subscribe to the view that the substitution of any other method will reduce the deterrent effect of the penalty of death".

### 6.2 Methods of Execution through Ages

Various mode and methods of inflicting death sentence upon the convict as practiced in different societies are examined in this chapter. This

\(^{12}\) 35\(^{th}\) Law Commission Report, Para 150 and 1151
study is not exhaustive of all the modes of execution but covers some of the important practices followed.

Since Middle Ages death sentence was the common practice throughout the world and was inflicted in the case of conviction for large number of crimes, including petty offences involving property. In England, during the 18th century, death was the punishment for several specific offences which were about a hundred. The death penalty was executed in various ways. Several methods of execution of death sentences involved torture, burning at the stake, breaking on the wheel, slow strangulation, crushing under elephant's feet, throwing from a cliff, boiling in the oil, stoning to death etc. With the emergence of various principles relating to fair procedure contained in the Constitutions of several democratic countries and with the strong, growth of human rights movement, such severe death punishments involving torture began to die out since the 18th century. The number of offences punishable by death was also reduced in all leading countries. Also, penalties involving torture disappeared with the idea that punishment by way of death sentence should be swift and humane, whether by guillotine, hanging, the garotte, or the headman's axe. Some of the important practices of death penalty are as follows.\textsuperscript{13}

6.2.1 Crucification

Nailing a person to a wooden cross and leaving him there till he died was the torturous and popular method of executing death sentence during the year in B.C. Jesus Christ was crucified in this manner. This is the most cruel method of death punishment and order of this mode of execution of death punishment is found even today in several countries all over the world in the symbol of the cross over every Christian Church.\textsuperscript{14}

6.2.2 Burning at the Stake

'Burning' date back to the Christen era. Burning at the stake was a popular death sentence and means of torture, which was used mostly for

\textsuperscript{13} Supra Note 1, p. 10, <http://lastmile.inftykitten.com/introduction.html.>

\textsuperscript{14} Ibid, p.12
heretics, witches, and suspicious women. It was the year 643 AD, an Edict issued by Pope declared it illegal to burn witches. However, the increased persecution of witches throughout the centuries resulted in millions of women being burned at the stake. The first major witch hunt occurred in Switzerland in the year 1427 AD. Throughout the 16th and 17th Centuries, witch trials became common throughout Germany, Austria, Switzerland, England, Scotland, and Spain during the Inquisition. Soon after, witch trials began to decline in parts of Europe, and in England and the death penalty for witches was abolished. The last legal execution by burning at the stake took place at end of the Spanish Inquisition in 1834.15

6.2.3 The Wheel

The wheel as a method of torture and execution could be used in a number of ways. A person could be attached the outer rim of the wheel and then rolled over sharp spikes, or down a hill, to his death. Also, the wheel could be laid on its side, like a turntable, with the persons tied to it. The wheel would turn, and people would take turns beating the victim with iron bars, breaking his bones and eventually causing his death. This method was used throughout Europe, especially during the Middle ages.16

6.2.4 Guillotine

The guillotine became a popular form of execution in France in the year 1789, when Dr. Joseph Guillotine proposed that all criminals be executed by the same method and that torture should be kept to a minimum. Decapitation was thought to be the least painful and most humane method of execution at that time. Guillotine suggested that a decapitation machine be built. Subsequently, the decapitation machine came to be named after him. The machine was first tested on sheep and calves, and then on human corpses. Finally, after many improvements and trials, the blade was perfected, and the first execution by guillotine took place in the year 1793. It was widely used during the French Revolution, where many of the executions were held publicly outside the prison of Versailles. King Charles I was also executed in

15 Ibid.
16 Ibid.
the same way in England. The last public execution by guillotine was held in France, in June 1939. The last use of the guillotine came in 1977 in France, and the device has not officially been used since then. Though the guillotine is less painful, it is not acceptable today as it is primitive and involves the mutilation of the condemned person. After France was admitted to the European Union, death sentence itself has since been abolished in France.17

6.2.5 Hanging and the Garotte

Hanging was a very common method adopted for execution the various methods available. The prisoner could simply be hanged with a noose, which could lead to death by fracturing the neck. However, if torture was also intended, there could be methods other than hanging with a noose.

In medieval times, if torture was intended, a person would be drawn and quartered before being hanged. For extremely serious crimes such as high tension, hanging alone was not considered enough. Therefore, a prisoner would be carved into pieces while still alive before being hanged. The Garotte was also a popular method of torture, and was similar to hanging. A mechanical device such as a rack or a gag would be tightened around the person’s neck, causing slow strangulation, stretching, and obstruction of blood vessels. A device could also be placed in a prisoner’s mouth and kept in place by tying and locking a chain around his or her neck.

Hanging is one of the oldest methods of execution and today it is used in some countries as a form of execution. Delaware, New Hampshire and Washington authorize hanging as a form of execution; depending on the convict’s sentencing date he or she may be allowed to choose between hanging or lethal injection. Since 1976, three prisoner have been hanged in the United States. Prior to the execution the prisoner must be weighted. The “drop” must be based on the prisoner’s weight, to deliver 1260 foot-pounds of force to the neck. The prisoner’s weight in pounds is divided into 1260 foot-pounds of force to the neck. The prisoner’s weight in pounds is divided into

1260 to arrive at the drop in feet. The noose is then placed around the convict's neck, behind his or her left ear, which will cause the neck to snap. The trap door then opens, and the convict drops. If properly done, death is caused by dislocation of the third and fourth cervical vertebrae, or by asphyxiation. This lengthy measuring process is to assure almost instant death and a minimum of bruising. If careful measuring and planning is not done, strangulation, obstructed blood flow, or beheading often results. The death by hanging however according to most of the medico-jurisprudential writers is result of asphyxia or strangulation and fracture of the neck is an exception (both in judicial as well as suicidal hanging).18

6.2.6 Headman's Axe

This form of execution was quite popular in Germany and England during the 16th and 17th centuries, where decapitation was thought to be most humane form of capital punishment. An executioner, usually hooded, would chop off the person's head with an axe or sword. The last beheading took place in 1747 in United Kingdom. Later on, and before capital punishment was abolished recently, with a great interest in humanitarianism, capital punishment became less gruesome than the beheadings and torture that were common place centuries before. Lethal injection and electrocution have become the preferred methods of execution in many countries mostly because these methods appeared to be less offensive to the public and more humane for the prisoner.

6.2.7 Firing Squad

There is no fixed procedure when it comes to execution by firing squad. Usually the convict is tied to the pole, with hands and is blind folded and a cloth patch is put on his heart, or he is tied to a chair. In most cases, a team of five executions is used to aim at the convict's heart. In some countries few of the rifles are loaded with blank bullets and the shooters are not told about it so that the true killer is unknown. Several countries like Russia and eastern countries like China, Thailand use this method. It is significant to note that

shooting by firing squad is also permitted in India when a death sentence is
given by Court Martial (This is discussed in detail subsequently). In some
states in United States like Utah and Oklahoma, choice is given to the convict
whether he should be shot to death by firing squad or by lethal injection. Gary
Gilmore in 1977, and John Taylor in 1996 were executed by firing squad in
Utah.

It is significant to note that the leaders of the third Reich of Germany,
who were given death punishment by hanging at the Nuremberg trials, asked
for execution of death punishment by the firing squad as the former was
degrad ing and they wanted a military death. This reflects that death by
hanging is not a dignified method of execution.\textsuperscript{19}

\textbf{6.2.8 Gas Chamber}

In an execution by the way of lethal gas, the prisoner is restrained and
sealed in an airtight chamber. When given the signal, the executioner opens
the valves, allowing hydrochloric acid to flow into a pan. Upon another signal,
either potassium cyanide or sodium cyanide crystals are dropped
mechanically into the acid, producing hydro cyanic gas. The hydro cyanic gas
destroys the body's ability to process blood hemoglobin, and
unconsciousness can occur within a few seconds if the prisoner takes a deep
breath. However, if he or she holds their breath, death can take much longer,
and the prisoner usually goes into wild convulsions. Death usually occurs with
6 to 18 minutes. After the pronouncement of death, the chamber is evacuated
through the use of carbon and neutralizing filters. Crews wearing gas masks
decontaminate the body with bleach solution, and it is out gassed before
being released. If this process was not done, the undertaker or anyone
handling the body would be killed. Nevada was the first state to sanction the
use of the gas chamber, and the first execution by lethal gas took place in
February, 1924. Since then it remained a means of carrying out the death
sentence 31 times. Five state in the U.S.A. authorize the use of the gas
chamber as an alternative to lethal injection, viz Arizona, California, Maryland,

\textsuperscript{19} \textit{Ibid.}
Missouri and Wyoming. In most cases the prisoner is allowed to choose the method of execution, depending on his or her date of sentencing. Eleven people have been executed by lethal gas in the United State since 1976. This method however is expensive and cumbersome. It also brings back to the mind the sad fact that hundreds of thousands of Jews were killed in gas chamber by the Nazi Germany.20

6.2.9 Electrocution

In a typical execution using the electric chair, a prisoner is strapped to a specially built chair, his head and body shaved to provide better contact with the moistened copper electrodes that the executioner attaches. Usually three or more executioners push buttons, but only one is connected to the actual electrical source and therefore the real executioner is not known. The jolt varies in power from state to state, and is also determined by the convict’s body weight. The first jolt is followed by several more in a lower voltage. In Georgia, executioners apply 2,000 volts for four seconds, 1,000 volts for the next seven seconds and then 208 volts for two minutes. Electrocution produces visibly destructive effects on the body, as the internal organs are burned. The prisoner usually leaps forward against the restraints when the switch is turned on. The body changes color, swells and may even catch fire. The prisoner may also defecate, urinate, and vomit blood.

The first electric chair designed for an execution was created by George Westinghouse at the turn of the century. Westinghouse was propositioned by the New York City Correctional Institution to design an electric chair, because many felt that the present form of execution, hanging, had become to inhumane and out-dated. Westinghouse told the correctional institution that the chair’s power source was so deadly that it would only take five seconds of 1,000 volts to cause death. However, the first man executed did not die after five seconds, but instead took four minutes of the steady stream of power to be finally pronounced dead. During these four minutes the body of the convict started to smoke, the hair on his arms and head ignited in

20 Ibid, p.15
flames, and blood spilled from every orifice on his face. After this display, the electric chair was considered a failure. Today the electric chair is modernized and is used in eleven State of U.S.A. But, Arkansas, Kentucky, Ohio, Oklahoma, South Carolina, Tennessee, and Virginia State of U.S.A. authorize both lethal injection and electrocution, allowing the inmates to choose one of these methods. Alabama, Florida, Georgia, and Nebraska, however, use electrocution as the sole means of execution. Since 1976, 144 people have been executed by electric chair.  

6.2.10 Lethal Injection

Death by lethal injection involves the continuous intravenous injection of a lethal quantity of three different drugs. The prisoner is secured on a gurney with lined ankle and wrist restraints. A cardiac monitor and a stethoscope are attached, and two saline intravenous line are started, one in each arm. The inmate is then covered with a sheet. The saline intravenous lines are turned off, and Sodium Thiopental is injected, causing the inmate to fall into a deep sleep. The second chemical agent, Pancuronium Bromide, a muscle relaxer, follows. This causes the inmate to stop breathing due to paralysis of the diaphragm and lungs. Finally, Potassium Chloride is injected, stopping the heart.

Since 1976, many prisoners have been executed by lethal injection in the Untied States. Lethal injection is now the most common method of execution in the United States in regard to all the 66 executions carried out during 2001 being by this method. Of the 749 executions in America upto 2000, 586 have been carried out by lethal injection, including those of seven women. China also reported 8 executions by lethal injection during 2000.

Lethal injection was first considered as a mean of execution in 1888 when New York's J. Mount Bleyer MD put it forward in an article in the Medico-Legal Journal suggesting that the intra-venous injection of six grains of Morphine should be used for execution of death sentence. The idea did not

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21 Ibid, p.16
catch on and New York introduced the electric chair instead (Based on the findings of the New York Commission of Inquiry 1888). It was again put forward in 1977 by Dr. Stanley Deutsch, who at the time chaired the Anesthesiology Department of Oklahoma University Medical School. In response to a call by an Oklahoma State senator Bill Dawson for a cheaper alternative to repairing the State's derelict electric chair, Deutsch described a way to administer drugs through an intravenous drip so as to cause death rapidly and without pain. Deutsch wrote to the Senator Bill Dawson "Having been anaesthetized on several occasions with ultra short-acting barbiturates and having administered these drugs for approximately 20 years, I can assure you that this is a rapid, pleasant way of producing unconsciousness". And Oklahoma thus became the first State in the U.S.A. to legislate for it in 1977. Texas introduced similar legislation later in the same year to replace its electric chair and carried out the first execution by the method of lethal injection on December 7, 1982 when Charles Brooks was put to death for the murder. It will be relevant here to mention the observation of this execution procedure. The procedure began at 12:07am. He was certified dead at 12:16am. There was no apparent problem and Brooks seemed to die quite easily. At first he raised his head, clenched his fist and seemed to yawn or gasp before passing into unconsciousness.

Thirty Six American States now use lethal injection either as their sole method or as an option to one of the traditional methods. These are Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington and Wyoming. The Philippines has also decided to use lethal injection for future executions to replace the electric chair and carried out its first execution since 1976 when Leo Echegaray was put to death for child rape on February 4, 1999 and 6 more men have been executed by this method by the end of 2000. Guatemala has also switched to lethal injection after botched firing squad execution in 1996 and carried out three executions since then. China
also has been experimenting with lethal injection although most executions continue to be by shooting. The present trend thus seems to be that of favouring execution by lethal injection.\textsuperscript{22}

### 6.3 Execution of Death Sentence in India

The execution of death sentence in India is carried out by two modes namely hanging by neck till death and being shot to death. The jail manuals of various States provide for the method of execution of death sentence of India. Once death sentence is awarded and is confirmed after exhausting all the possible available remedies the execution is carried out in accordance with section 354(5) of the Code of Criminal Procedure 1973 i.e. hanging by neck till death. It is also provide under The Air Force Act, 1950, The Army Act 1950 and The Navy Act 1957\textsuperscript{23} that the execution has to be carried out either by hanging by neck till death or by being shot to death (as has been explained in detail herein below).


Section 368(1) of the Code of Criminal Procedure, 1898 provided for hanging by neck till death. This has been amended by the Code of Criminal Procedure, 1973. Section 354(5) reads as under:

"When any person is sentenced to death, the sentence shall direct that he be hanged by the neck till he is dead".

\textsuperscript{22} Ibid, p. 17

\textsuperscript{23} Chapter VI of The Air Force Act, 1950 in Sector 34 provides for the offences in relation to the enemy which are punishable with death. Section 37 provides for the infliction of death sentence in case the accused is convicted. Chapter VII provides for the various punishments and the competent court-materials are empowered to recommend such punishments. Section 73 provides for the punishments awardable by Court material. Chapter XII provides for the Confirmation and Revision provisions. Chapter XIII provides for the Execution of Sentences, section 163 deals with the form of the sentence of Death. The provisions relating to awarding the Death penalty in The Army Act, 1950 are enunciated in Chapter VI Section 34(a) to (l) relates to offences in relation to the enemy and punishable with death. Section 37 relates to Mutiny and provides for the infliction of death sentence in case the accused is convicted. Chapter VII deals with punishments awardable by court-materials, Chapter XII relates to Confirmation and Revision, Chapter XIII is on Execution of Sentences, Section 166 deals with form of Sentence of Death. Section 147 of The Navy Act 1957 provides for the Form of Death Sentence.
The execution of the death in India, under the Code of Criminal Procedure, is thus carried out by hanging by neck till death during the last over hundred years. The execution of death penalty is carried out in accordance with section 354 (5) of the Code of Criminal Procedure, 1973 and Jail Manuals of the respective States. For example, Chapter XXXI, Jail Manual of Punjab and Haryana provides for the various steps leading to the execution of the death sentence: -

“Paragraph 847(1) every prisoner under the sentence of the death shall immediately of his arrival in the prison after sentence, be searched by, or by order of the Deputy Superintendent, and all articles shall be taken from him which the Deputy Superintendent deems it dangerous or inexpedient to leave in his possession.”

“Paragraph 847(2) every such prisoner shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of a guard.” After such admission of the prisoner in the jail, the Deputy Superintendent is required to examine the cell and has to satisfy himself that it is secure and has no article which can be used as a weapon or instrument with which the prisoner can commit suicide. The said Deputy Superintendent also has to ensure that there is nothing in the cell which in his opinion is inexpedient to permit its remaining in such cell.

Paragraphs 848 Cell to be examined – Every cell in which any convict who is under sentence of death, is at any time to be confined shall, before such convict is placed in it, be examined by the Deputy Superintendent, or other officer appointed in that behalf, who shall satisfy himself that it is secure and contains no article of any kind which the prisoner could by any possibility use as a weapon of offence or as an instrument with which to commit suicide, or which it is, in the opinion of the Superintendent, inexpedient to permit to remain in such cell.'

The Manuals also describes various restrictions pertaining to the use of the apparels etc. Paragraphs 851 provides that the condemned prisoner shall
not be provided Munj mat or bhabbar mat. This clause is intended to avoid presence of any substance which can be used by the prisoner as instrument for committing suicide.

"Paragraph 851 Munj Mat not be issued — Prison clothing, bedding and necessaries shall be issued to condemned as to other convicts, with the exception of the Munj or bhabbar mat which shall be withheld and an extra blanket substituted."

The para 854 provides that such prisoner shall be under the constant surveillance of the guard, and further that he should not be allowed to meet or communicate with any person except those persons authorized by the Superintendent. Paragraph 855 provides for raising of the alarm in case the prisoner tries to commit suicide.

Paragraph 855: Management of keys, Conditions under which the door may be opened.

(1) The keys of the cell in which a condemned prisoner is confined shall be kept by the head warder on duty who, on hearing the alarm, shall proceed to such cell which, in case of emergency such as attempt by the prisoner to commit suicide, he shall enter and with the help of the sentry frigate it.

(2) At no other time shall the door of the cell in which a condemned prisoner is confined, be opened without first handcuffing the prisoner and so securing him against the possibility of using violence or, if he declines to be handcuffed, unless at least three members of the establishment are present.

(3) The locks in use in a condemned cell shall be such as cannot be opened by any keys in use in the jail, other than those properly belonging to them.

The condemned prisoner and the cell in which he is residing are required to be searched twice a day by Deputy Superintendent. The
paragraph also provides for maintenance of a journal of such searches and results thereof.

Paragraph 858 Condemned prisoners to be searched twice daily: Morning and evening daily, the Deputy Superintendent or, under his directions, the Assistant Superintendent, shall carefully search every condemned prisoner and the cell he occupies, with his own hands and make a note of his having done so and of the results in his Journal.

Paragraph 859 casts duty on Deputy Superintendent and other officers to examine the food given to such condemned prisoner. It is enunciated that the ordinary diet of a labouring convict should to the condemned prisoner.

Para 589 - Diet. Precautions to be taken – (1) A prisoner under sentence of death shall be allowed the ordinary diet of a labouring convict. (2) All food intended for consumption by a condemned prisoners shall be examined by the Deputy Superintendent, Assistant Superintendent or Medical subordinate, who may withhold any article he regards with suspicion and report the circumstances to the Superintendent. The food shall be delivered to the prisoner in the presence of one or other of these officers.

The provisions regarding the execution of a pregnant woman, exception in cases of female, allowing the prisoner to make use of books etc. are elaborately discussed in Paragraphs 856 to 864. The elaborate description of the rope to be used for the purpose of hanging, its testing etc. is provided in Paragraph 866.

Paragraph 866 Description and testing of rope – (1) A Manila rope one inch in diameter shall be used for executions. At least two such ropes in serviceable condition shall be maintained at every jail where executions are liable to take place.

Note –
(1) The rope should be 19 feet in length, well twisted, and full stretched. It should be of equal thickness, capable of passing readily through the
noose-ring and sufficiently strong to bear a strain of 280 lbs. With a 7 foot drop.

(2) The ropes shall be tested in the presence of Superintendent, at least a week before the date fixed for the execution and if they fail to pass the test, other shall be obtained at once and tested when received.

(3) Ropes that have been tested shall be locked up in a place of safety.

(4) On the evening before the execution is to take place, the gallows and rope should be examined to ascertain that they have received no injury since being tested.

Note – The rope shall be tested by attaching to one end a sack of sand or clay equal to one and a half times the weight of the prisoner to be executed and dropping this weight the distance of the drop to be given to the prisoner.

The above provision provides for the testing of the rope to be used for the execution at two occasions firstly at least before a week form the date of the execution and secondly on the evening before such execution is to take place. It provides for the maintaining at least two Manilla ropes of one inch diameter in serviceable condition. The method for testing such rope is by attaching the sack of clay or sand to one end which is equivalent to one and half times of the weight of such prisoner. The length of the drop to be kept same as required for the condemned prisoner.

The actual execution with such background of preparations etc. made has to be carried out in accordance with Paragraphs 868 to 873. It is briefly as follows:

1. The officers required to be present at the execution are, The Superintendent and Medical officer of the jail and Magistrate of the District or a first class Magistrate deputed by him (Paragraph 867)

2. The execution is to be carried out by the public executioner, whenever service of such executioner are available. If such services are not available then some trustworthy individual who is locally trained is to be assigned this job. The duty is entrusted to the Superintendent to satisfy
himself that the person so assigned is competent to fulfils the job. (Paragraph 868).

3. Regulation of the drop: it is most important factor in deciding the regulation of death sentence to be executed. The slightest error in deciding the length of the drop may lead to the lingering death of the condemned man. The drop is regulated accordingly to the height, weight and physical condition of the prisoner. The Superintendent may also take the advice of the Medical Officer in this regard. Paragraph 871 provides for the comparative chart for general of the Superintendent as follows:

Paragraph 871. Regulation of the “drop” – The following scale of drop proportioned to the weight of the prisoner, is given for general guidance, the Superintendent must use his discretion and be guided by the advice of the Medical Officer and the physical condition of the prisoner:

For a prisoner under 100 lbs weight 7
For a prisoner under 120 lbs weight 6.
For a prisoner under 140 lbs weight 5½.
For a prisoner under 160 lbs weight 5.

Note: The last figures namely 7, 6, 5½, 5 denote the height of the drop in terms of feet.

Note: The “drop” is the length of the rope from a point on the rope opposite the angle of the lower jaw of the criminal as he stands on the scaffold, to the point where the rope is embraced in the noose after allowing for the constriction of the neck that takes place in hanging.

Time of execution: The time of the execution is provided in the early hours of the day. However, the time varies as per the chart in the Paragraph 872. Paragraph 872, Time of executions. Procedure to be adopted – (1)

Executions shall take place at the following hours:

- November to February 8 am
- March, April, September and October 7 am
May to August 6 am

4. The Superintendent, Deputy Superintendent will reach to the cell of the condemned prisoner and will ensure that the identity of such condemned prisoner. The warrant of death will be read over to him and the signatures required on the various documents such as will etc. may be placed by the prisoner in the presence of the Superintendent. Then the Superintendent will move towards the scaffold. In the presence of the Deputy Superintendent the convict will be pinioned behind his back and his legs irons (if any) will be struck off.

5. Marching towards death: The condemned prisoner shall be marched to the scaffold under the change of the Deputy Superintendent. He will be guarded by Head warder and six warders, two proceeding in front, two behind and one holding either arm.

6. After reaching at the scaffold (where the Superintendent, District Magistrate, Medical Officer already at their respective places) the warrant should be read in the vernacular to the convict and he be made over the executioner.

7. The warders holding the arm of the convict also shall also mount the scaffold with the convict and place him under the direct beam to which rope is attached.

8. The executioner shall next strap his legs tightly together, place the cap over his head and face and adjust the rope tightly around his neck. The noose should be placed one and half inches to the right or left of the middle line and free from the flap of the cap.

9. The warders holding the condemned man's arms to withdraw at that time and at the signal from the Superintendent the executioner shall draw the bolt.

10. The body of such condemned prisoner should remain suspended half an hour and shall not be taken down till the medical officer declares the life extinct. The Superintendent is required to return the warrant with the endorsement to the effect that the sentence has been carried out.
6.3.2. Executions in Accordance with Army Act, Air Force Act and Navy Act

The Army Act and Air Force Act also provide for the execution of the death sentence. The procedure of execution of death sentence are though not explained in details but the relevant provisions under these Acts can be stated here as under.

The Air Force Act, 1950

The Air Force Act, 1950 also provides for the awarding of the death sentence and its executions relating to some offences provided thereunder explained in details:

The Death Sentence as provided under The Air Force Act, 1950 will be relevant for the purpose of studying the execution of the death penalty awarded accordingly to the provisions of the Act. Section 34 of the Act provides for the various offences contemplated for which the death penalty can be awarded. It provides as,

"...... shall, on the conviction by court –material, be liable to suffer death or such less punishment as is this Act mentioned".

This section empowers the court material to award the death sentence for the offences mentioned in section 34 (a) to (o) of the Air Force Act, 1950. These punishment however are subject to provides as enunciated in Chapter XII which contains procedure for the Confirmation and Revision provision. The provision in Chapter XIII provide for the Execution of Sentences.

Section 163 provides for the form of the sentences of death as:

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24 Chapter VI of The Air Force Act, 1950 in Section 34 provides for the offences in relation to the enemy and punishable with death, Section 37 is on mutiny and provides of the infliction of death sentence in case the accused is convicted. Chapter VII provides for the various punishments and the competent court material to pass it, section 73 provides for the punishments awardable by Court material. Chapter XII provides for the Confirmation and Revision provision. Chapter XIII provides for the Execution of Sentences, section 163 deals with the form of the sentence of Death.
"In awarding a sentence of death, a court material shall, in its discretion, direct that the offender shall suffer death by being hanged by the neck until he be dead or shall suffer death by being shot to death”.

This provides for the discretion of the Court Martial to either provide for the execution of the death sentence by hanging or by being shot to death. This section provides for the procedure and method in which death sentence is to be carried out in accordance with the provisions under the Act. It is important to note that The Air Force Act, 1950 provides for the execution of the death by being “shot to death”. This method though not being prescribed under the Code of Criminal Procedure, is provided in The Air Force Act, 1950 for the execution of the Death Sentence. This means that the execution procedure in India also permits the execution of the Death Sentence up to certain extent by another method namely by being shot to death. This is with the objective to provide for the easy simple method of the execution in case of the convicted offenders of the offences mentioned in the Act.

It is worth mentioning that unless the punishment is confirmed by the concerned authorities under the Act convict will not be executed. The Act provides for the findings and the order to be confirmed by the Central Government or any office empowered by the same in this behalf. This provides for the mandatory review of all the decisions of the Court Martial by the Central Government. This enables the Central Government to scrutinize the irregularity pertaining to the procedure or the fining of the Court Martial.

1950 providing for the option of the execution of the death penalty by being shot at death.\textsuperscript{28}

After referring to these relevant provisions in these Acts inference can be drawn that the method of shooting as one of the methods provided for execution of the death penalty under the Act aims to make it simple and easy to be executed with the weapons and equipments available with these forces. The form of shooting a condemned man necessarily involves less agony as compared to that in the case of the hanging in which there is an elaborate procedure as to weighting, measuring of the height, etc. in order to determine the length of the drop specific restrictions are also put as to wearing certain kinds of apparels etc.

It may be pointed out here that during the Nuremberg trials after the Second World War executions, the methods of the German High Command who were condemned to death opted for the execution of the death sentence by being shot to death as against the method of hanging. They wanted soldiers death by shooting instead of the degrading death by hanging. This is sufficient to objectively assert that the execution by being shot to death is simpler and less painful to the hanging by neck till death. The practice of this method both in various developing and developed countries is apparently because this method is simple, easy to execute and less painful.

6.4 Mode of Execution of Death Sentence

The Commission comparatively analyse various modes of execution of death sentence and suggest the most humane, least painful mode, with no mutilation of body and easy to execute. This part aims at a comparative analysis of the Hanging, Intravenous Lethal Injection and Shooting. This analysis is founded on some basic and widely accepted norms. These are

\textsuperscript{28} The provisions relating to awarding the Death penalty in The Army Act, 1950 are enunciated in Chapter VI Section 34(a) to (i) relates to offences in relation to the enemy and punishable with death, Section 37 deals with Mutiny and provides for the infliction of death sentence in case the accused is convicted. Chapter VII pertains to Punishments awardable by Court Martial, Chapter XII is on Confirmation and Revision, Chapter XIII is on Execution of Sentences, Section 166 deals with form of Sentence of Death. Section 147 of The Navy Act 1957 provides for the Form of Death Sentence.
drawn from the cases decided by Hon'ble Supreme Court of India, findings of
the Commissions and resolution adopted by the United Nations Economic and
Social Council (ECOSOC resolution as to standards and safeguards
guaranteeing protection of the rights of those facing the death penalty viz;
Economic and Social Council Resolution 1984/50, annex. General Assembly
Resolution 29/118, 1984).

The test laid down in Deena v. Union of India\(^{29}\) provides that the
execution of death punishment should satisfy the threefold test viz:
1. It should be quick and simple as possible, the act of execution should
be as quick and simple as possible and free from anything that
unnecessarily sharpens the poignancy of the prisoner's apprehension.
2. The act of the execution should produce immediate unconsciousness
of the person passing quickly into the death.
3. It should be decent.
4. It should not involve mutilation.

The ECOSOC describes one of the important standards and
safeguards against the death penalty and this is enunciated in safeguard No.
9 as

"Where capital punishment occurs it shall be carried out so as to inflict
minimum possible suffering".

The execution of the death sentence by hanging by rope has to be
judged with reference to the objective factors such as the international
standards or norms or the climate of the international opinion, modern
penological theories and evolving standards of human decency. The standard
of human decency with reference to death punishment is required to be
judged with reference to various aspects which very from society to society
depending on the cultural and spiritual tradition of the Society, its history and
philosophy and its sense of moral and ethical values. To take an example, if a

\(^{29}\) (1983) 4 SCC 645
sentence of cutting off the arm for the offence of theft or a sentence of stoning to death for the offence of adultery were prescribed by law, as practiced in South Africa, there can be no doubt that such punishment would be condemned as barbaric and cruel in our country, even though it may be regarded as proportionate to the offence and hence reasonable and just in some other countries. So also the standards of human decency vary from time to time even with in the same society. In an evolutionary society, the standards of human decency are progressively evolving to higher levels and what was regarded as legitimate and reasonable punishment proportionate to the offence at one time, may now according to the evolving standards of human decency, be regarded as barbaric and inhuman punishment wholly disproportionate to the offence.

It may be observed that even when a dog is to be killed, shooting it is no longer a norm but it is killed by intravenous injection. Therefore the question arises as to why man should be executed through archaic method of extinguishing a life?

In light of the above safeguards and views, it is important to note here the view taken by Justice Bhagwati (in dissenting Judgement) in *Bachan Singh v. State of Punjab*. The said view is as follows:

The physical pain and suffering which the execution of the sentence of death involves is also no less cruel and inhuman. In India, the method of execution followed is hanging by the rope. Electrocution or application of lethal gas has not yet taken its place as in some of the western countries. It is, therefore, with reference to execution by hanging that I must consider whether the sentence of death is barbaric and inhuman as entailing physical pain and agony. It is no doubt true that the Royal Commission on Capital Punishment 1949-53 found that hanging is the most humane method of execution and so also in

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30 (1982) 2 SCC 25
Ichikawa Vs. Japan\textsuperscript{31}, the Japanese Supreme Court held that execution by hanging does not correspond to 'cruel punishment' inhibited by Article 36 of the Japanese Constitution. But whether amongst all the methods of execution, hanging is the most humane or in the view of the Japanese Supreme Court, hanging is not cruel punishment within the meaning of Article 36, one thing is clear that hanging is undoubtedly accompanied by intense physical torture and pain. Warden Duffy of San Quentin, a high security prison in the United States of America, describes the hanging process with brutal frankness in lurid details:

The day before an execution the prisoner goes through a harrowing experience of being weighted, measured for length of drop to assure breaking of the neck, the size of the neck, body measurements et cetera. When the trap springs he dangles at the end of the rope. There are times when the neck has not been broken and the prisoner strangles to death. His eyes pop almost out of his head, his tongue swells and protrudes from his mouth, his neck may be broken, and the rope many times takes large portions of skin and flesh from the side of the face that the noose is on. He urinates, he defecates, and droppings fall to the floor while witnesses look on, and at almost all executions one or more faint or have to be helped out of the witness-room. The prisoner remains dangling from the end of the rope from 8 to 14 minutes before the doctor, who has climbed up a small ladder and listens to this heartbeat with a stethoscope, pronounces him dead. A prison guard stands at the feet of the hanged person and holds the body steady, because during the first few minutes there is usually considerable struggling in an effort to breathe.

If the drop is too short, there will be a slow and agonising death by strangulation. On the other hand, if the drop is too long, the head will be torn off. In England centuries of practice have produced a detailed

\textsuperscript{31} David Pannick on Judicial Review of Death Penalty, (1982), p. 73
chart relating a man's weight and physical condition to the proper length of drop, but even there mistakes have been made. In 1927, a surgeon who witnessed a double execution wrote:

The bodies were cut down after fifteen minutes and placed in an antechamber, when I was horrified to hear one of the supposed corpses give a gasp and find him making respiratory efforts, evidently a prelude to revival. The two bodies were quickly suspended again for a quarter of an hour longer...... Dislocation of the neck is the ideal aimed at, but, out of all my post-mortem findings, that has proved rather an exception, which in the majority of instances the cause of death was strangulation and asphyxia.

These passages clearly establish beyond doubt that the execution of sentence of death by hanging does involve intense physical pain and suffering, though it may be regarded by some as more humane than electrocution or application of lethal gas.

These observations of Bhagwati, J., are clear in light of the fact that most of the developed as well as developing countries have replaced the mode of execution by hanging by the modes of intravenous lethal injection or by shooting. The description of these methods of executions prove that the death penalty by hanging involves immense pain and suffering. It is with these views and the observations made in relation to the various other modes of execution that the lethal injection becomes acceptable as the most humane method of execution of the death sentence. This mode involves less pain and suffering to the convict undergoing the death sentence. The death as a result of the hanging in most of the cases is because of the asphyxia or strangulation which causes the lingering and painful death of the condemned person.

He further observed that "if this be the true mental and physical effect of death sentence on the condemned prisoner and if it causes such mental anguish, psychological strain and physical agony and suffering, it is difficult to see how it can be regarded as anything but cruel and
inhuman. The only answer which can be given for justifying this infliction of mental and physical pain and suffering is that the condemned prisoner having killed a human being does not merit any sympathy and must suffer this punishment because he 'deserves' it. No mercy can be shown to one who did not show any mercy to others. But, as I shall presently point out, this justificatory reason cannot commend itself to any civilized society because it is based on the theory of retribution or retaliation and at the bottom of it lies the desire of the Society to avenge itself against the wrong-doer. That is not a permissible penological goal”.

It is also important to mention here the viewpoint adopted by the Supreme Court in the case of Deena v. Union of India32 with regard to the lethal injection based on the information and practice of the use of lethal injection prevalent more than two decades ago. It was observed as follows,

“What remains now to consider is the system of lethal injection. The Royal Commission has discussed that method in paragraphs 735 to 749 of its Report. Lethal injection is by and large an untried method. But that is not its most serious defect. The injection is required to be administered intravenously, which is a delicate and skilled operation. The Prison Medical Officers who were interviewed by the Royal Commission, doubted whether the system of lethal injection was more humane than hanging. The British Medical Association told the Commission that no medical practitioner should be asked to take part in bringing about the death of a convicted murderer and that the Association would be most strongly opposed to any proposal to introduce a method of execution which would require the services of a medical practitioner, either in carrying out the actual process of killing or in instructing others in the technique of that process. The Commission expressed its conclusions in paragraphs 749 by saying that it could not recommended that, in the present circumstances, lethal injection should be substituted for hanging since they were not satisfied that executions carried

32 Supra Note 29, Para 76
out by the administration of lethal injections would bring about death more quickly, painlessly, and decently in all cases. The Commission, however, recommended, unanimously and emphatically, that the question should be periodically examined, specially in the light of the progress made in the Science of anesthetics.

In light of these observations it is important to note that the process of administering lethal injection is not regarded as a practice of medicine and most of the states in the USA are able to overcome this issue and outside the scope of medical ethics. One of the solutions to this problem is to train persons having knowledge of the medicine and related field specifically for this purpose, and to see that such persons are designated by the appropriate authority in this behalf.

It may be mentioned here that in Deena's Case\textsuperscript{33} the Supreme Court upheld the constitutional validity of Section 354(5) of Code of Criminal Procedure of 1973 for carrying out of death sentence by hanging by neck till he is dead as the best available method in India as compared to electric chair, shooting or lethal injection. As mentioned earlier by reference to the Punjab and Haryana Jail Manual, the procedure of hanging starts a day earlier as the condemned person is weighed. Furthermore, his hands and legs are tied and the black mask is put on his head before he is hanged. This causes further punishment although the judgment holds that no further agony should be caused. It may be noted that hands and legs are tied and the mask is kept not for the benefit of the condemned person but for the benefit of people who are present for carrying out the death punishment by hanging as they cannot bear the last sight of restlessness of the condemned persons. Furthermore, because many times, tongue and eyes protrude, a black mask is placed on the convict's head. As the person is kept hanging and as there is no provision for postmortem, it is not known whether death was caused by painful strangulation or instantaneously by breaking of the spinal cord.

\textsuperscript{33} Ibid.
It may also be mentioned that the Supreme Court observed that method of shooting to death was practiced in dictatorships. But this is not fully correct. In fact the Army, Navy and Air Force Acts in India give discretion to the Court Martial tribunal to hold that the condemned person be hanged to death or be shot to death, as mentioned earlier. It may be further noticed that since hanging has been given up in several states in the United States of America and has been substituted by electrocution, or lethal are adopted as they are more civilized and hanging has been abolished by most of these states in the U.S.A. There is also significant increase in the number of countries which have adopted the method of execution by lethal injection and today thirty five States use this method.

Dr. N.M. Ghatate, Member Law Commission, Law Commission of India presented a consultation paper and questionnaire on the mode of execution of death sentence. The question which were put to different classes of categories included mainly judges, advocates, general public, offices of the Armed Forces, Doctors.

The various questions which were put up in the questionnaire and analysis of responses were as follows. \textsuperscript{34}

6.5 Different View Point and Comments on the Mode of Execution

\textit{Analysis of responses from the judges}

1. Section 354(5) of the Code of Criminal Procedure, 1973 provides that when a person is sentenced to death, the sentence shall be executed by hanging by neck till he is dead. On the question whether this section 354(5) of Cr.P.C. is required to be amended for providing another mode of execution of death sentence? 80% Judges have responded in favour of amending the section. It means they are of the view that present mode of execution of death sentence should be changed only approx 19% judges are satisfied with present mode of execution of death. All the 80% judges who were in favour of

\textsuperscript{34} \textit{Supra Note 1, p. 76-80}
amendment of section 354 (5) have suggested that administering the lethal injection should be the other mode of execution of death sentence. However 5% judges have suggested that apart from the lethal injection, ‘shooting may also be prescribed as an alternative mode of execution of death sentence.

2. Incase, another alternative mode of execution of death sentence is provided, question arises whether discretion, should be given to the Judge or to the convict to select the mode of execution of death sentence?

45% of the judges have opined that discretion should be given to the convict and 36% judges are of the view that discretion should be given to the judge in choosing the mode of execution of death sentence.

Analysis of the responses from persons other than judges

The commission has also received a large number of responses to the consultation paper from the general public, persons from the legal profession, Doctors, officers of the Armed Forces and officers of the CBI etc.

1. It is observed that 89% persons are in favour of amendment in section 354(5) of the code of Criminal Procedure, 1973, for providing other modes of execution of death sentence. However, 11% persons in their responses do not suggest amendment in Section 354(5) of Cr.P.C. 73% of among those who are in favour of providing other modes of execution of death sentence prefer that administering lethal injection should be an alternative mode of execution of death sentence while 10% prefer using electric chair 5% prefer shooting by firing squad as on alternative mode of execution death sentence. However, 12% persons suggested other modes of execution of death sentence.

51% of among those who are in favour of retaining the present mode of execution of death sentence i.e. ‘hanging by neck till death’ are of the view that execution of death sentence by hanging should be done in a public place. But 49% persons viewed that hanging should be done at a private place like a jail.

2. On the question whether discretion should be given to the court in case provision being made for an alternative mode of execution of death sentence?
62% have given their answer in negative and 38% are in favour of giving discretion being given to the court. On the question whether discretion should be given to the convict for choosing mode of execution of death sentence, 70% have given their answer in the positive. However, 30% are not in favour of such discretion being given to the convict.

6.6 Recommendation of Law Commission

On the basis of the responses which the Law Commission received on consultation paper and Questionnaire, the Law Commission recommends as follows:

1. More than 85% persons in their responses have favoured that section 354(5) of the Cr.P.C. 1973 is required to be amended for providing other mode of execution of death sentence and approx. 76% persons are in favour that administering the lethal injection should be a mode of execution of death sentence.

The commission is of the view that administering the lethal injection should be provided as an alternative mode of execution of death sentence along with existing mode of execution of death sentence by 'hanging by neck till death' as provided in section 354(5) of the Cr.P.C. 1973. It may not be appropriate at this juncture to wipe out altogether the present mode of execution of death sentence i.e. 'hanging by neck till death'. So Law commission is of the view that the present mode of execution be retained and further provision be added permitting an alternative mode of execution of death sentence by lethal injection. Therefore, the Law Commission recommended that:

Section 354(5) of Cr.P.C. of 1973 which provides “when any person is sentenced to death, the sentence shall direct that he be hanged till he is dead”, needs to be amended by providing an alternative mode of execution of death sentence by administering lethal injection until the accused is dead.
(2) Whether discretion should be given to the court or to the convict in choosing the mode of execution of death sentence, majority of responses suggest that it should be given to the convict and not to the court. The commission is of the view that discretion should be given to the court which can decide the mode of execution of death sentence after taking various relevant factors into consideration. Besides, the commission is of the view that opportunity of hearing should be given to the convict on the question of mode of execution of death sentence. In this regard, a suitable provision for providing an opportunity of hearing to the convict on the question of mode of execution of death sentence needs to be inserted in section 354 of the Code of Criminal Procedure, 1973 which is applicable to the trial court as well as appellate courts. Therefore, the commission recommends that in order to give opportunity of hearing to the accused about the mode of execution of death sentence, subsection (5) of the section 354 of the Code of Criminal Procedure, 1973 needs to be amended by inserting a provision as follows:

"provided that the court shall before passing the final orders as to mode of execution of death sentence, hear the accused on that question".

There was a point of time when stoning or crucifixion were considered decent form of execution. Today, the same method evoke revulsion and disgust. Similarly, hanging was once wide prevalent, but now many of the nations have changed to more human and less complicated forms, and this method of execution too has to be discarded once and for all. It submitted that hanging in its present form in India, must be done away with an execution of lethal injection introduced in its place. Any method of execution that is not accompanied by intense physical torture and pain (as hanging is), must be welcomed. Of the range of options available, the lethal injection method seems to be most suitable. It will also confirmed to the criterion as spelled out Deena v. Union of India\textsuperscript{35} and Bachan v. State of Punjab\textsuperscript{36}. It is hope that the law makers of the nation consider this alternative form of execution with due care and attention and worth towards ensuring that an offender no longer has to suffer the tremendous metal and physical agony of death by hanging.

\textsuperscript{35} Supra Note 29.
\textsuperscript{36} Supra Note 30.