

ABSTRACT

EXECUTION BY HANGING : IS IT TIME TO CHANGE ?

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For a while now, there have been quite a few debate around the abolishing of the death penalty, but the another debate which has been arisen related to this is the mode of execution of the death penalty, i.e. whether S. 354(5) Criminal Procedure Code, 1973 is constitutional or not, i.e. executing death penalty by hanging. There has been a landmark judgment over the same issue, i.e. Deena vs. State of Punjab which declared hanging as the most humane mode of execution of death penalty. With the change in time and circumstances, and the development in science and technology, this judgment needs a reconsideration. Lethal injection is an alternative to the hanging, due to the scientific development in this mode which has made the execution of death penalty painless and is now the most used mode in United States of America and also it has developed after this judgment only. There has been a Law Commission Report also on the same aspect, which has not been implemented till date. This research paper mainly encompasses the inhumane aspect of the hanging as mode of execution of death penalty. It critically examines the various judgments, i.e. Indian and foreign both over the same issue and the views of foreign authors over the concerned issue. It states the comparison between various modes of execution of death penalty and the opinion of medical experts over the degree of pain inflicted by such mode of execution. This research paper also mentions about the violation of medical ethics that is caused by hanging and also raises various contentions against hanging being the most humane mode of execution of death penalty amongst all the other prevailing modes. This research paper tends to suggest that even if hanging cannot be declared unconstitutional or be repealed, then also lethal injection can be made as an alternative mode in addition to the hanging giving option to the accused to choose between the modes as it is in USA.

Keywords:- Hanging, Medical Ethics, Article 21, Experts.