

Review Article

Hanging (Nirbhaya Case) in the time of CORONA: is Opportunity Missed for the Welfare of Mankind?

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A B S T R A C T

Recently four convicts of infamous "Case" were hanged. All the convicts were young (Age between 25-32 years). These days one of the biggest challenges faced by the whole planet is CORONA virus. In Indian we are facing complete shutdown and no medicine is still available to fight the deadly Virus. Worldwide large no. of corporations are working 24x7 to find a break through to counter CORONA Virus. Human testing is the mandatory phase before commercial launch of any vaccine/medicine. Due to strict rules and regulations regarding human trials, it is taking long time. A very large no. of people are dying in various countries like China, USA, Italy, Sweden etc. due to non-availability of the medicine to fight the virus. When we wake up in morning till the time we go to bed at night, first news to last news is about CORONA only. This research paper will start a thought process - 'If Hanging of young convicts is correct step or something else could be a solution for the welfare of Mankind'.

Keywords: CORONA, Hanging, Human Trials, Organ Transplant, Nirbhaya Case

Introduction

A paramedic student, Nirbhaya (actual name undisclosed) was gang raped in a moving base in the National capital, Delhi on 16th Dec 2012, Nirbhaya case convicts-Mukesh Singh (32), Pawan Gupta (25), Vinay Sharma (26) and Akshay Kumar Singh (31) were sent to the gallows after a long legal battle. On December 16, 2012 they committed something which was declared as rarest of the rare crime against the humanity by Supreme Court of India.

On January 2, 2013, Then C.J.I., Mr. Altamas Kabir inaugurated FTC (Fast Track Court) for speedy trial and by September 13, 2013 Court awarded death penalty to all the 4 convicts. On March 13, 2013, HC upheld the death penalty of all the 4 convicts in the case and on May 5, 2017, SC upheld death penalty awarded to the 4 convicts. Then the legal battle finally concluded On March 20, 2020, with hanging of all convicts.

So we can easily see that from date of crime i.e. December 16, 2012 to March 20, 2020 they were being using the facilities of the Govt. like food, shelter, cloths, transport, medical facilities etc. Specialty in a developing country like India, such amount matters a lot.

According to a report of the Law Commission of India (1967), the total number of cases in which the death sentence was handed down in India from 1953-63 was 1410. In December 2007, India voted against a United Nations General Assembly resolution calling for a moratorium on the death penalty. In November 2012, India again upheld its stance on capital punishment by voting against the UN General Assembly draft resolution seeking to end the institution of capital punishment globally.

Data Analysis

A Developing Country like India is struggling to provide

healthcare facilities to their people. According to Lancet's study India's ranking on A Global Healthcare Access and Quality (HAQ) index is 145. Let us see the eye opening data from "National Organ and Tissue Transplant Organization (NOTTO)" (A Govt. of India organization established to co-ordinate organ transplants in India):

Table I

Sr. No.	Organ Name for which donation is required	Organs Required	Organs Available
1	Corneas	2,00,000	50,000
2	Kidneys	2,00,000	1684
3	Hearts	50,000	339
4	Livers	50,000	708

This data clearly shows that there is huge demand-supply gap in our country so almost all of the needy patients will never get organs due to non-availability of organs in our country. In most of the cases its poor people who suffer most. Thus some efforts are required at all levels to bridge this gap to the extent possible.

Efforts of WHO

WHO has established "Task Force on Donation and Transplantation of Human Organs and Tissues". Organ transplantation is an established form of treatment that is nowadays acknowledged as the best and frequently the only life-saving therapy for end-stage organ failure. Most recent data from the WHO Global Observatory on Donation and Transplantation (GODT) indicate that over 130,000 solid organ transplants are performed worldwide, and although impressive, it is estimated that this number represents less than 10% of the global need. Moreover, there is a huge discrepancy in the availability and access to services as rates of organ donation and transplantation vary widely between WHO regions. The situation of acute organ shortage causes high mortality rates of people that are on waiting lists or leads people (usually the wealthy) to obtain an organ through illegal and unethical pathways (usually from the poor and vulnerable).

Corona Issue

These days not just India but whole world is fighting with a common enemy CORONA VIRUS. Doctors/ Scientists are coming out with solutions to save the mankind. These people need healthy bodies to test the medicine, but due to strict rules about the testing of medicines on human beings, approval process is very slow. Due to which people from around the world are suffering. Many people are scared of CORONA Virus as no medicine is available.

So after all this discussion there is urgent need to take following steps:

- Better than surrendering the bodies of convicts, their kidneys, eyes, liver, heart etc. should be taken out and transplant to needful.
- Better than hanging they should be used for all kind of medical research.
- New medicine must be tested on them.
- They will die gruesome death and mankind will be benefited from the research.
- Pharmaceutical research on human will be beneficial for entire mankind.
- Sending them to research laboratory as testing object will help creating panic among the criminals

After spending so much time in jail, these devils get lots of tax payers' money spent on them, which is just wastage. So their bodies must be declared Public property and taking out the organs must be made legal.

Legal Aspect

In India organ transplant is covered under "Transplantation of Human Organs Act, 1994" and "Transplantation of Human Organs and Tissues Rules, 2014."

Following rules needs amendment to allow organ transplant from Convicts:

- Section 19 (Procedure in case of transplant other than near relatives.)
- Section 21 (Eligibility of applicant to donate)
- FORM 3 (For organ or tissue donation by other than near relative living donor)

Conclusion

Present paper cites the example of "Nirbhaya case" convicts, all of them were physically healthy and young in age, were awarded death penalties. Authors of the paper suggested utilizing such case in welfare of mankind by means of organ transplant and human trials for new pharmaceutical researches. In the time of Global crisis of corona Virus the suggestions becomes all the more important.

Ultimately, society needs to decide if it prefers to protect justifications of capital punishment or protect the lives of people who need organs.

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