

# Thirty Percent Of Death Row Prisoners In India Are Acquitted On Appeal

Thirty percent of the defendants convicted of a capital crime and sentenced to death in India are acquitted on appeal. That is one of the most [striking findings](#) in “The Death Penalty India Report.” The report is the result of a research project by the [Centre on the Death Penalty](#) at the National Law University in Delhi, India. The report documents the findings of the first comprehensive study ever attempted of convicted defendants sentenced to death in India.

Information related to every death penalty case in India from 2000 to January 2015 is included in the report. During those 15 years 1,810 people were convicted of a capital crime and sentenced to death.

During those same 15 years, 1,486 defendants sentenced to death — some of whom were convicted prior to 2000 — are known to have completed what the report calls the “judicial ladder” of the appeals process.

More than 99% of the defendants in those appeals were convicted of a crime that involved murder, with less than 1% convicted of a serious drug offense.

India has a two-tier appeal system for trial court criminal cases. The High Court is the first appellate level. There are 24 High Courts that review appeals for one or more of India’s 29 states. The Supreme Court of India reviews conviction and death sentences affirmed by the High Court.

Between 1985 to 1995 India had a special court that heard cases filed under the Terrorist and Disruptive Activities (Prevention) Act, aka TADA. A conviction and death sentence by the TADA court was directly reviewed by the Supreme Court of India.

[The final outcome](#) of the 1,486 death penalty appeals decided by the High Court and Supreme Court was [30% \(443\) of the defendants were acquitted; 65% \(970\) had their sentence commuted to life in prison; and 5% \(73\) had their conviction and sentence affirmed.](#) Those statistics show that by-and-large appellate court judges in India do not have the pro-prosecution bias that affects the judgment of the overwhelming majority of state and federal appellate court judges/justices in the United States.

Prisoners whose death sentence is upheld on appeal can submit a petition for mercy to

the Governor of the state in which they were convicted, or the President of India.

India’s legal system — as does the U.S. legal system — has many similarities to the English legal system, an inheritance of more than 150 years of British Colonial rule. Article 22 of India’s Constitution guarantees the right of every arrested person to consult or be defended by a legal practitioner of her choice. However, as in the U.S., the substandard quality of the legal representation often provided to indigent defendants at the trial court level in India is a major problem. That deficiency in India contributes to a defendant’s conviction of a crime he or she didn’t commit — as evidenced by the 30% acquittal rate on appeal -- and the imposition of the death penalty in cases where it is inappropriate under the law — as evidenced by the 65% commutation rate to life in prison on appeal.

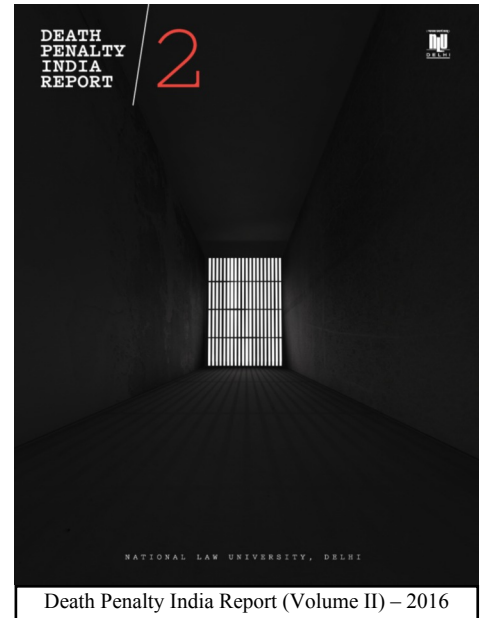
However, a major difference between legal system in India and the U.S. is that appellate courts in India are far more likely to correct the error of a person’s wrongful conviction by ordering an acquittal, or correcting the improvident imposition of a death sentence.

A similarity with the U.S. is India bars the admissibility of a confession extracted by physical coercion. Nevertheless, as in the U.S., police interrogators in India try to get around that prohibition by using intimidation, trickery, threats, psychological coercion, and other shady interrogation tactics. The report documents instances where the police delved into the realm of physical torture that sound like former Chicago Police Department officers moved to India so they could continue inflicting physical pain to extract a confession from a suspect to justify the filing of criminal charges. Many of the tortures documented in the report don’t leave physical wounds so the police have deniability of their use. [Those tortures include:](#) soap water run through nasal canal; no food or water for long periods; head immersed in the toilet; waterboarding; forced to drink urine; not allowed to sit for long periods; stripped and tied to a table with a snake let loose in the room; immersed in ice cold water; electric current passed through wet body/lips/nipples/genitals, etc. (Tortures detailed in Vol. 2, p. 22-23.)

The following charts the outcome of trial court and TADA case appeals from 2000 through 2014:

## Trial Court death penalty cases: 1,463

High Court appeals  
No. of defendants acquitted: 428



No. of death sentences commuted: 851  
No. of convictions and death sentences confirmed: 184

Supreme Court appeals  
No. of defendants acquitted: 15  
No. of death sentences commuted: 108  
No. of convictions and death sentences confirmed: 67  
(Note: Supreme Court reversed the High Court’s acquittal of 1 defendant, and reinstated the death sentence of 5 defendants.)

## TADA cases: 23

Supreme Court appeals  
No. of defendants acquitted: 1  
No. of death sentences commuted: 16  
No. of convictions and death sentences confirmed: 6

**Final outcome of all appeals: 1,486 cases**  
No. of defendants acquitted: 443  
No. of death sentences commuted: 970  
No. of convictions and death sentences confirmed: 73

The Death Penalty India Report has a wealth of information and many insightful observations about the Indian legal system. The 375 page report is published in two volumes:

## Volume 1 includes:

- Chapter 1: Coverage Of The Project
- Chapter 2: Durations On Death Row
- Chapter 3: Nature Of Crimes
- Chapter 4: Socio-Economic Profile
- Chapter 5: Legal Assistance

## Volume 2 includes:

- Chapter 6: Experience In Custody

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Chapter 7: Trial And Appeals  
Chapter 8: Living On Death Row  
Chapter 9: Seeking Mercy  
Chapter 10: Impact  
Death Sentences in India (2000-2015): An Overview

The Overview that begins on page 149 of Vol. 2 includes a number of graphics and 29 tables of data.

[Click here to read online the Summary](#) of the Death Penalty India Report.

[Click here to read online Volume One](#) of the Death Penalty India Report.

[Click here to read online Volume Two](#) of the Death Penalty India Report.

[Click here to go to the website of the Centre On The Death Penalty, NLU, Delhi.](#)

### Sources:

[1 in 3 sentenced to death is eventually acquitted](#), reveals study, *The Times of India*, May 7, 2016

[Centre On The Death Penalty](#), NLU, Delhi

[Death Penalty India Report](#) (Summary) – 2016, by Dr. Anup Surendranath (Author, Preface), Shreya Rastogi (Author), Lina Mathias (Editor), 30 pgs.

[Death Penalty India Report](#) (Volume I) – 2016, by Dr. Anup Surendranath (Author, Preface), Shreya Rastogi (Author), Lina Mathias (Editor), 174 pgs.

[Death Penalty India Report](#) (Volume II) – 2016, by Dr. Anup Surendranath (Author, Preface), Shreya Rastogi (Author), Lina Mathias (Editor), 210 pgs.

Death Penalty India Report (Volume I and II) Hardcover – 2016, by Dr. Anup Surendranath (Author,



### Visit the Innocents Database

Includes details about more than 6,800 wrongly convicted people from the U.S. and other countries.

[www.forejustice.org/search\\_idb.htm](http://www.forejustice.org/search_idb.htm)

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Back issues of *Justice: Denied* can be read, there are links to wrongful conviction websites, and other information related to wrongful convictions is available. JD's online Bookshop includes more than 70 wrongful conviction books, and JD's Videoshop includes many dozens of wrongful conviction movies and documentaries.

## Derrick Redd Awarded New Trial Based On Pervasive Prosecutor Misconduct

Derrick W. Redd was [awarded a new trial](#) on July 6, 2016 by the Appellate Division of the New York Supreme Court based on pervasive prosecutor misconduct during his trial. Derrick Redd was convicted of second-degree murder in 2012, and the appeals court identified at least six different types of prejudicial prosecutor misconduct during his trial.

In October 2008 Redd was 35 and living with his mother in Queens County, New York (One of New York City's five boroughs). Redd had been seeing 25-year-old Niasha Delain off and on for some months. She was pregnant, but Redd didn't think it was his child. Niasha lived in Queens several miles from Redd.

On the early evening of October 25, 2008, Niasha's mother, Townada Wimms, called Redd and told him she hadn't heard from her daughter that day. They arranged to meet at Niasha's apartment. When they entered they found Niasha was dead. The New York Police were called at 7:40 p.m.

When the police arrived they found that Niasha, who was nine months pregnant, had multiple stab wounds, including stab wounds to her stomach.

The murder weapon was not found in her apartment. However, the police found the bars on one of the apartment building's rear windows had been removed and that window was open.

Niasha's autopsy later determined she died from her stab wounds, and her fetus didn't survive the attack.

Police asked Redd and Townada to go to the police station for questioning. Redd arrived at about 10 p.m., and he was vigorously interrogated during the next 27 hours without being allowed to sleep, or eating. His interrogators later claimed he was given his *Miranda* warning about midnight, and he waived his rights to remain silent and to consult with a lawyer. Redd was allowed to go to the



Derrick W. Redd

bathroom with an officer present, but he wasn't allowed to make any phone calls.

During Redd's marathon interrogation he repeatedly denied having anything to do with Niasha's death, and he did not make any statement implicating him in the crime. He was released.

Redd's two cars were searched, as were the residences of his mother, his father, and his grandparents. No physical evidence was found linking him to Niasha's death. No witness was found who saw Redd outside or inside Niasha's apartment building on the day she died.

Redd was not identified by DNA testing as the father of Niasha's unborn child.

However, three weeks later, in November 2008, Redd was charged with second-degree murder, second-degree abortifacient act, and fourth-degree criminal possession of a weapon.

While Redd was awaiting trial, his girlfriend gave birth to their son in July 2009.

Redd's jury trial began in October 2011.

The prosecution had no physical, forensic, eyewitness, or confession evidence linking him to the crime. Its circumstantial case was based on the prosecution's belief he killed Niasha because she refused to have an abortion, that cell phone records showed he had made a call within five blocks of Niasha's apartment in the early morning of October 25, 2008, and an upstairs neighbor, Jinette Gerve, said that between 5:30 and 6 a.m. on October 25 [she heard a woman](#) in the apartment below her apartment scream "Stop," "No," and "Don't Do that."

To make up for the lack of evidence presented during the trial, the lead prosecutor, Queens County Assistant District Attorney Eugene P. Reibstein, made numerous claims during his opening statement and closing argument that were either not supported by evidence or that were misstatements of the evidence. Redd's lawyer objected to many of those statements, but the judge didn't deter Reibstein from continuing to do so.

Redd's defense was the cell phone location



Niasha Delain  
(Richmond Hill Times)

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