

# THE DISPROPORTIONATE AND UNFAIR USE AND ADMINISTRATION OF THE DEATH PENALTY



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# Death Penalty India Report 2016

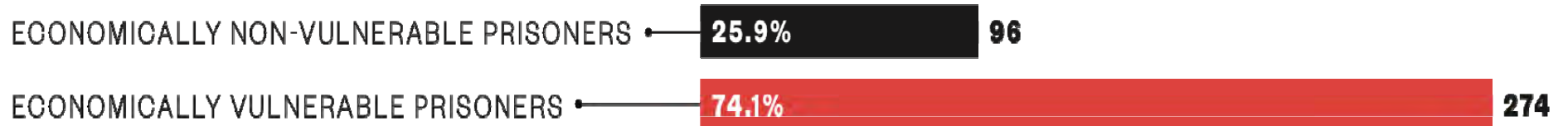
Fieldwork from **June 2013 to January 2015**

373 prisoners included as part of study  
(12 women, 361 men)

**Conversational interviews** with  
prisoners and their families conducted  
guided by questionnaires

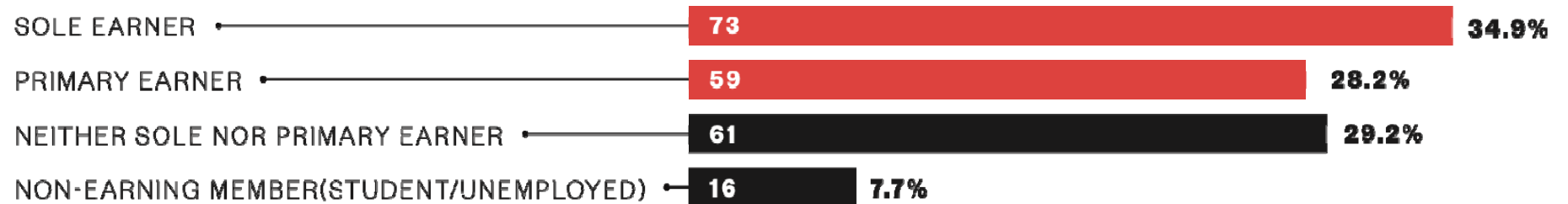
# Who gets the death penalty?

## Economic profile



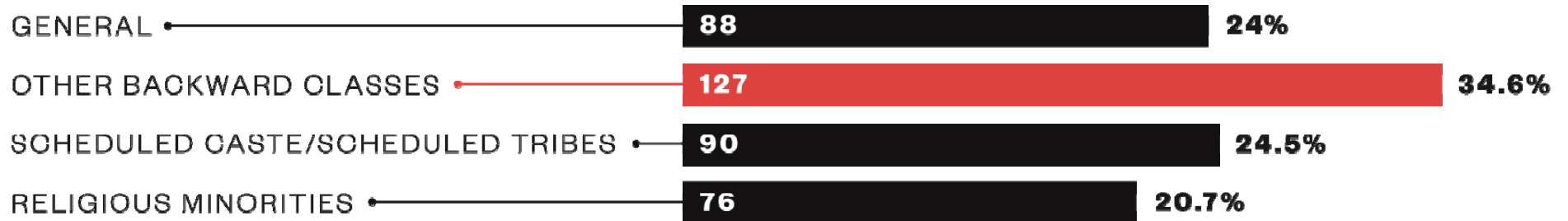
# Who gets the death penalty?

## Economic profile



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## Caste & religious profile



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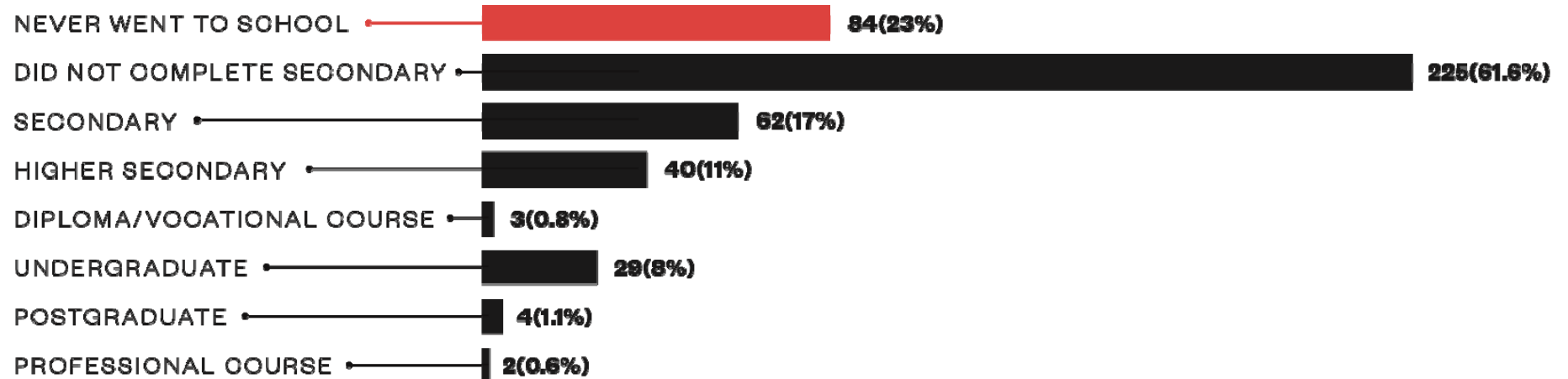
State-wise caste & religious profile

Maharashtra (**50%**), Karnataka (**36.4%**) and Madhya Pradesh (**36%**) have a significantly high proportion of prisoners belonging to scheduled castes and scheduled tribes

Gujarat (**79%**), Kerala (**60%**) and Karnataka (**31.8%**) have a significantly high proportion of prisoners belonging to religious minorities

# Who gets the death penalty?

## Educational profile



# Who gets the death penalty?

108 prisoners (30.2%) were economically vulnerable, had not completed their secondary education and belonged to the religious minorities or SC/STs



# **EXPERIENCE WITH THE CRIMINAL JUSTICE SYSTEM**

# Custodial Violence

**Of the 39 former judges** who discussed the prevalence of torture in the criminal justice system, **38** believed it to be rampant.

- *Matters of Judgment, 2017*

**80%** prisoners admitted to being tortured in police custody

**78.3%** prisoners who said that they had confessed in police custody, admitted to making confessions due to torture

# Procedural Violations

**64.3%** prisoners said that they were not produced before a Magistrate within 24 hours of arrest

**89.4%** prisoners did not have a lawyer at the time of first production before the Magistrate

# Legal Assistance

**70.6%** prisoners at the trial court and **68.7%** prisoners at the High Court level had private representation. In the Supreme Court, this figure dramatically fell to **29.9%**

Of the prisoners accessing private lawyers in the trial courts and High Courts, **70.6%** were economically vulnerable

**14 judges** acknowledged that poor legal representation disproportionately impacts the poor.

Despite the existence of the legal aid mechanism, **not a single judge** found the present day legal aid system to be satisfactory.

*- Matters of Judgment, 2017*

# Wrongful Conviction



**Adambhai Suleiman Ajameri, Muslim  
Accused in the Akshardham Temple  
case: 2002  
Acquitted: May 2014**

Adambhai was on death row for **eleven years**.

Six months after his acquittal, Adambhai was still struggling to piece together his life. His city, Ahmedabad, had changed and old acquaintances had moved on.

The wrongful conviction irrevocably changed Adambhai and his family's life.

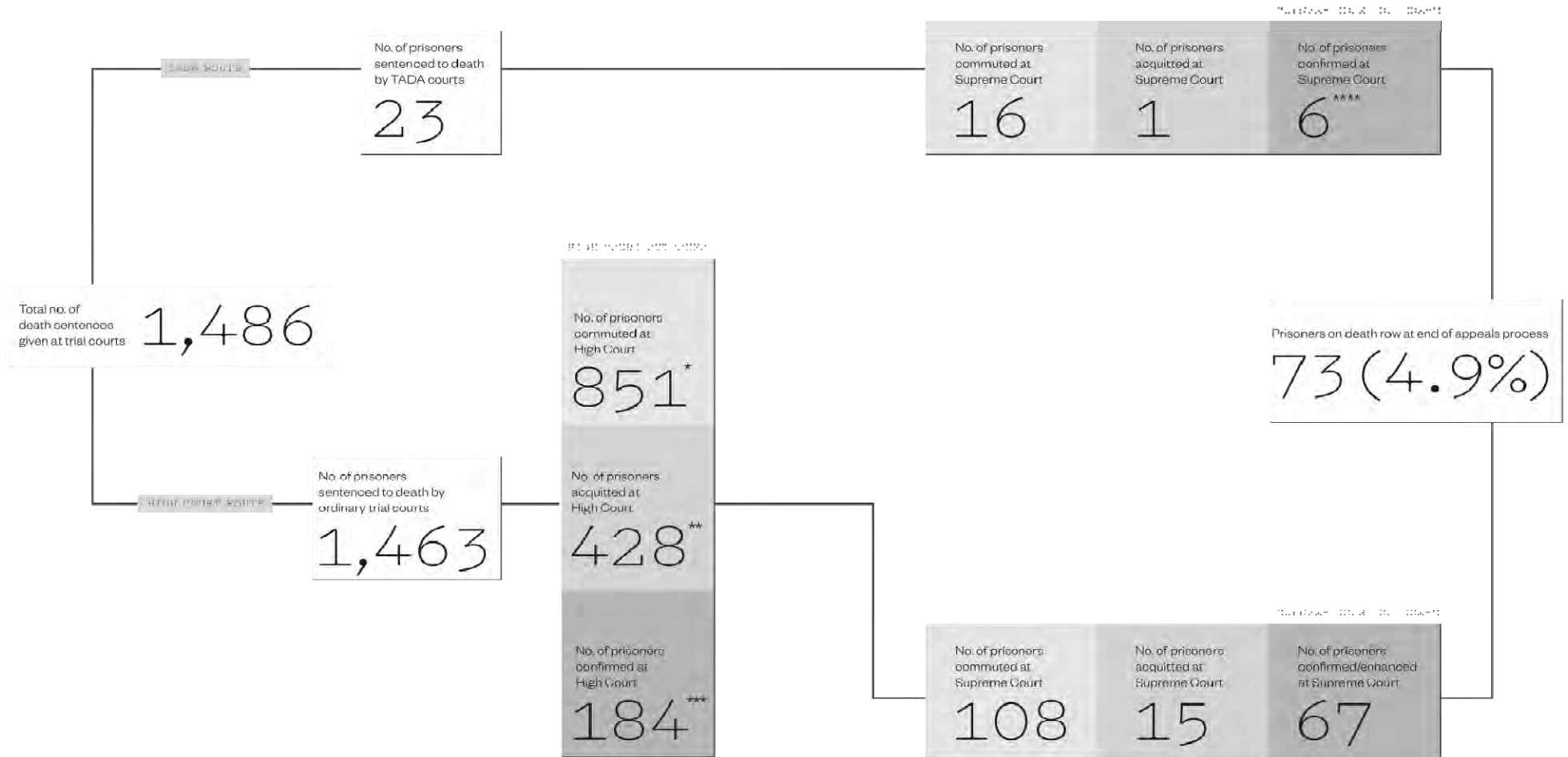
Could the state ever compensate him?

**43 out of 49 judges** acknowledged the existence of wrongful convictions within our criminal justice system.

**- *Matters of Judgment, 2017***

# **JUDICIAL AND POLITICAL TRENDS IN THE DEATH PENALTY DISCOURSE**

# 5% Death Penalty Cases Confirmed by the Supreme Court



## Death Sentences in 2017 by Sessions Courts

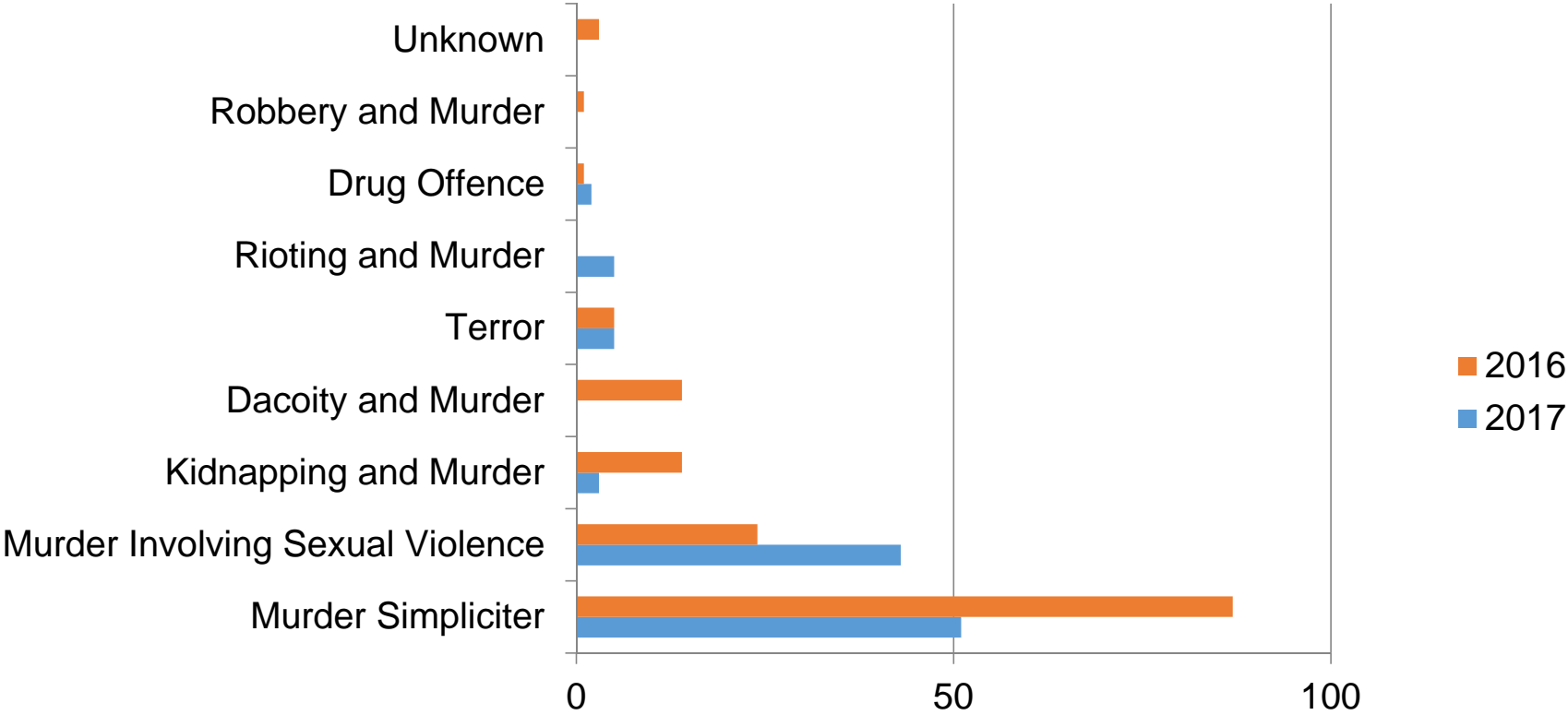
**109** death sentences imposed in 2017

**149** death sentences imposed in 2016





# Nature of Crime Analysis for Death Sentences



# Increase in Legislative Reliance on the Death Penalty

2016	2017	2018
Parliament legislated the Anti-Hijacking Act introducing death penalty	Madhya Pradesh passes Bill to amend the IPC introducing death penalty for rape of girls below 12	Arunachal Pradesh, Haryana and Rajasthan pass Bills to amend the IPC introducing death penalty for rape of girls below 12
Bihar legislates amendment to the Bihar Excise Act introducing death penalty for manufacture and distribution of illicit liquor resulting in death	Uttar Pradesh passes Bill to amend the UP Excise introducing death penalty for manufacture and distribution of illicit liquor resulting in death	Delhi passes resolution to introduce similar amendments
		Karnataka, J&K and Assam contemplate doing the same
		Uttar Pradesh passes UPCOCA Bill providing for the death penalty (on the lines of MCOCA)

# India's International Obligations under ICCPR

As State Party to ICCPR, India has an obligation to restrict and move away from death penalty

Draft General Comment 36 on the Right to Life states that death penalty should not be available for crimes not resulting directly and intentionally in death

UN Resolutions on the death penalty have repeatedly called for reducing the number of death eligible crimes

In 2016 and 2017, India opposed Resolutions at the UNGA and UNHRC respectively on various questions of the death penalty