

Sentencing Policy in India: A Study of Criminal Justice System

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ABSTRACT

The sentencing policy in India serves as a fundamental pillar of the criminal justice system, shaping the consequences faced by individuals convicted of crimes. This abstract provides a comprehensive overview of India's sentencing policy, encompassing its legal foundations, key principles, evolving trends, challenges, and potential reforms. The Indian sentencing policy has undergone significant changes over the years, transitioning from a retributive to a more balanced approach that considers both punitive and reformatory aspects of punishment. The underlying principles of sentencing in India include deterrence, retribution, rehabilitation, and proportionality. Courts are tasked with tailoring sentences to match the gravity of the crime and the individual characteristics of the offender. Several factors influence sentencing decisions in India, including the nature of the offence, the offender's criminal history, age, mental state, and social circumstances. The Code of Criminal Procedure and various statutes provide guidelines for judges to consider these factors while determining sentences. Additionally, judicial discretion allows judges to exercise flexibility in their decisions.

KEYWORDS

Statutory, Judicial Precedents, Probation, Aggravating And Mitigating Factors, Deterrence, Retribution, Rehabilitation.

INTRODUCTION

Criminalities in India have increased significantly over the years, and this is no different globally. The Indian Evidence Act of 1872, the Indian Penal Code of 1860, and the Code of Criminal Procedure of 1973 are some of the laws that are commonly used in this country. Before we can properly analyze the country's sentencing policy, we must first distinguish the terms "punishment" and "sentencing."

The concept of sentencing refers to a statement that a judge makes regarding the punishment that will be given to a particular individual for their crime. Once this sentence is implemented or operationalized, it becomes punishment.

Sentencing is about the imposition of punishment on individuals who have been found guilty of criminal behaviour. Sentencing is described as a 'social battleground' and

‘wasteland in the law.’¹ Sentencing policy in India refers to the principles, guidelines, and rules that the criminal justice system follows when determining the appropriate punishment for individuals convicted of committing crimes. It involves the consideration of various factors to ensure that the punishment is fair, just, and proportionate to the nature and severity of the crime. This article aims to provide a framework for developing a sentencing policy that is both fair and consistent. It can be implemented through a combination of factors such as the victim's rights and the need for a balanced approach. Unfortunately, in India, the criminal justice system does not have a clear sentencing policy. The legislature should enact policies and principles that will help strengthen its coercive power and uphold international standards and rights.

This article aims to provide a comprehensive overview of India's sentencing policy, including the factors that influence the sentence, the rationale behind it, and the goals of the punishment. It also explores the role that the policy plays after the trial has concluded.

Recent developments in sentencing policy include the introduction of restorative justice practices, plea bargaining, and alternatives to incarceration. The judiciary has shown a growing interest in adopting measures that focus on rehabilitation and reducing overcrowding in prisons. However, challenges persist, such as the need for uniformity in sentencing decisions across different courts and regions, addressing biases in sentencing, and ensuring transparency in decision-making. Efforts for reform involve enhancing judicial training and guidance, promoting research to establish evidence-based sentencing practices, and reviewing mandatory minimum sentences that might hinder individualized justice. Balancing the punitive and reformative aspects of sentencing to address the diverse needs of society remains a critical challenge.

SENTENCING POLICY IN INDIA

Before we can talk about the various kinds of policies that are used in the awarding of punishment, we must first understand what a sentencing policy is. Each country has its own unique approach to punishment. For instance, some believe that punishment should be given to the wrongdoer, while others think that rehabilitation is the appropriate approach.

The various theories that a country uses when it comes to sentencing are visible in its policy. For instance, India's legislature and judiciary do not have specific sentencing guidelines.

In India's Penal Code, Section 53 provides a variety of punishments that courts can give to wrongdoers. They are:-

- Death
- Imprisonment for life
- Rigorous imprisonment or simple imprisonment
- Forfeiture of property
- Fine

But IPC only provides for the minimum and maximum punishment, not the exact amount.

DISPARITY IN AWARDING SENTENCES

In order to ensure uniformity, the Judiciary has started to provide various principles that are aimed at guiding the decisions of the court. For instance, in the case of *Bachan Singh vs. the state of Punjab*,² The court noted that in exceptional cases, severe penalties should only be given to those that involve high culpability. This means that extreme penalties would be given only in the gravest cases.

In *State of Madhya Pradesh Vs. Mehtab*³ The court noted that while awarding sentences must be fair, it should also consider the impact of the sentence on the victims and society at large.

In *Gurubachan Singh vs. Satpal Singh*,⁴ the court relied on the presumption of innocence and releasing the suspect without any proof will not ensure justice for the victim.

The judiciary is responsible for delivering inconsistent punishments. This can be reinforced by various case laws.

In the **Khairlanji massacre**⁵ , In this case, the mob sexually assaulted the mother and daughter, and then, in the market, they murdered them. Although this incident occurred in 2006, the case was decided in 2019 following the Shakti Mills case. In addition, this crime was against the entire scheduled caste community, and the court only gave a life sentence.

In **Priyadarshini Mattoo's case**⁶ , A student was brutally murdered and raped by his senior at her residence in Delhi. Although the trial court had found sufficient evidence to convict the accused, the police officer's son was not punished. This case highlighted the judicial system's indecision and how it can sometimes make mistakes.

The case was sent to the High Court, which convicted the accused based on both murder and rape and then sentenced him to death. The accused then approached the Supreme Court, where it was decided that in cases where the court has to decide between awarding a death sentence or a life sentence, it should give lesser punishment.

In the **Kathua rape case**⁷ , In this case, a minor girl was repeatedly raped in a temple. This crime was similar to that of the **Nirbhaya rape case**⁸ but the court gave a life sentence instead of the death penalty.

In the **Unnao rape case**⁹ , The court found the former BJP MLA guilty of multiple charges, including rape and conspiring to kill the girl's father. He was only given a life sentence.

Since the parties involved in the case did not satisfy with the lower court decision, they went to higher courts to seek a remedy. This delay in the justice provided to the victim has been caused by the lack of uniform guidelines.

In the case of **Mohd. Chaman Vs. State (N.C.T. of Delhi)**, The accused, brutally raped and killed the girl who was a minor at that time and she was only a one-year-old child. The trial court had sentenced him to death, but the High Court overturned this verdict on the basis that the accused did not pose a threat to society.

The Supreme Court ruled that the court will often come across cases where the guidelines for sentencing are not followed properly. It has also been reported that around ninety per cent of the decisions taken by trial courts are overturned due to the lack of consistency.

REASON BEHIND THE INCONSISTENCY WHILE THE COURTS AWARDING PUNISHMENTS TO THE ACCUSED

The courts proceeding have been divided into two parts. The first one deals with the liability of the accused, while the other one deals with the quantum of punishment that will be given to the prisoner. Taking into account the provisions of Sections 354, 361, 360 and 235 of the Crpc and the relevant sections, the court decides the punishment that will be given to the prisoner. The provisions of Crpc require that judges consider the accused's demographic information when making decisions. This can lead to delays in the delivery of justice as a lot of time is spent deliberating on this matter. Over 3.5 crore cases are currently pending in the judiciary, and this burden is affecting the second stage of trials. This often leads to a lack of consistency in the sentences handed down to the accused.

WHY WE NEED UNIFORM SENTENCING POLICY?

The Malimath committee's report emphasized the need to adopt sentencing guidelines when it comes to dealing with criminal cases. According to the Indian Penal Code, some offences have only minimum punishments, while others have maximum sentences which provide the judges with more discretion when sentencing wrongdoers. "Since each judge has his or her own philosophy, there is no uniformity when it comes to awarding sentences The Committee advised further that "a statutory committee must be established" to avoid disparity."

In October 2010, "the Law Minister announced that the government would establish a uniform sentencing policy that would be similar to the policies of the UK and the US¹⁰. However, even though these recommendations have been made, the legislature has not taken any steps to implement them.

LEGAL FRAMEWORK:

The sentencing policy in India is primarily governed by the Indian Penal Code, the Criminal Procedure Code, and various specialized statutes. These laws establish a range of penalties for different offences, offering judges discretion within defined limits to determine appropriate sentences. India's sentencing policy includes:

1. **Discretion of Judges:** Indian judges have a significant degree of discretion when determining sentences. This allows them to consider the individual circumstances of the case, the offender's background, the impact on victims, and other relevant factors.
2. **Punishment Options:** Sentences in India can vary widely, ranging from fines and probation to imprisonment and even the death penalty for certain heinous crimes. The type and duration of the punishment depend on the severity of the offence.
3. **Aggravating and Mitigating Factors:** Judges consider aggravating factors (factors that make the crime more serious) and mitigating factors (factors that make the offender's culpability less severe) when determining sentences. These factors can include the offender's criminal history, the degree of premeditation, the impact on victims, and any remorse shown.
4. **Rehabilitation and Reform:** The Indian legal system emphasizes rehabilitation and reform as key objectives of sentencing. The idea is not only to punish offenders but also to provide them with opportunities for rehabilitation and reintegration into society after serving their sentences.
5. **Specialized Laws:** India has specialized laws and sentencing guidelines for specific offences such as drug trafficking, terrorism, sexual offences, and economic crimes. These laws often prescribe minimum sentences or mandatory provisions.
6. **Death Penalty:** The death penalty is a controversial aspect of India's sentencing policy. While it is retained for certain offences, there has been an ongoing debate about its effectiveness as a deterrent and its ethical implications.
7. **Juvenile Justice:** India also has a separate legal framework for juvenile offenders, taking into account their age and cognitive development. The focus here is on rehabilitation rather than punishment.
8. **Judicial Precedents:** Courts often refer to previous judgments to maintain consistency in sentencing decisions and to ensure that similar cases are treated similarly.

It's important to note that sentencing policy is not static and can evolve based on societal changes, legal developments, and judicial interpretations.

EVOLVING TRENDS:

Historically centred on retribution, India's sentencing approach has evolved to incorporate more rehabilitative and restorative elements. Alternative sentencing options like community service, probation, and mediation are gaining traction as society recognizes the benefits of addressing the root causes of criminal behaviour.

CHALLENGES AND FUTURE PROSPECTS:

The Indian sentencing policy faces challenges such as inconsistent sentencing, lack of comprehensive guidelines, and the need for increased transparency. The ongoing dialogue seeks to enhance the policy's effectiveness, ensure proportionality, and promote justice.

RESEARCH METHODOLOGY ON SENTENCING POLICY IN INDIA:

Research Objective:

The primary objective of this research is to critically analyze the sentencing policy in India, understanding its legal framework, guiding principles, implementation, challenges, and potential areas for improvement. The research aims to contribute to the existing knowledge of the Indian criminal justice system by providing insights into the evolution, effectiveness, and fairness of the sentencing policy.

Research Design:

The research design for this study will be of qualitative method, involving secondary data sources. The study will involve an in-depth examination of legal documents, case law, academic literature, and empirical data related to sentencing practices.

Data Collection:

Secondary Data-

Legal documents: Indian Penal Code, Criminal Procedure Code, relevant statutes, and amendments related to sentencing.

Case law: Analyzing landmark court judgments related to sentencing, including judgments involving different types of offences and their respective sentences.

Academic literature: Review scholarly articles, research papers, books, and reports focusing on sentencing policy, judicial discretion, and criminal justice reform in India.

Government reports: Studying official reports from government bodies responsible for criminal justice administration.

RESULT

- The Indian Judiciary needs a comprehensive sentencing act that includes amendments to the laws regarding probation, parole, and community sentences. In addition, the establishment of effective sentencing guidelines councils and the recruitment of more qualified judges are crucial for the efficient administration of justice.
- eliminate mandatory minimum sentencing laws that often result in disproportionately harsh punishments, especially for nonviolent offences.

- Use evidence-based risk assessment tools to determine an individual's likelihood of reoffending and identify their specific needs, allowing for more targeted interventions and sentences.
- Involve the community in the sentencing process through restorative justice programs, where affected parties collaborate to find appropriate resolutions and repair harm caused by the offence.

CONCLUSION

"Serving justice" refers to the fact that a court should impose a penalty that reflects the anger of the people towards a crime. Apart from considering the rights of the victims and the accused, the court should also take into account the other factors that affect the community. In addition to considering the victims' rights and the gravity of the crime, the court is also responsible for sentencing the offenders according to the relevant factors.

India's sentencing policy continues to evolve, reflecting changing societal values and global jurisprudential trends. Balancing punitive measures with rehabilitative goals remains a central challenge. Addressing disparities, improving transparency, and fostering informed public discourse will contribute to a more equitable and effective sentencing policy that aligns with the principles of justice, deterrence, and rehabilitation.

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