

SENTENCING DISCRETION AND THE RIGHT TO LIFE AND PERSONAL LIBERTY UNDER ARTICLE 21

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ABSTRACT

Sentencing discretion occupies a pivotal position in criminal adjudication, yet its exercise directly implicates the constitutional guarantee of life and personal liberty under Article 21 of the Constitution of India. In light of the Supreme Court's expansive reading of Article 21, this paper examines the constitutional constraints that now bear on a judge's discretionary power to impose sentence. Sentencing has become progressively constitutionalised along the lines of fairness, non-arbitrariness and substantive due process, and this paper traces that conceptual shift from A.K. Gopalan v. State of Madras to Maneka Gandhi v. Union of India, before examining the specific doctrinal developments the shift produced: the rarest of rare doctrine, the proportionality principle, the constitutional difficulty mandatory minimum sentencing generates, and the trajectory of death penalty jurisprudence more broadly. Comparing Indian sentencing practice against the more structured approaches adopted in the United States and the United Kingdom, the paper offers a critical assessment of the sentencing disparity and doctrinal inconsistency that continue to characterise Indian criminal adjudication in the absence of codified guidelines. It argues that while judicial discretion remains essential to individualised justice, that discretion must operate within constitutional parameters Articles 14 and 21 jointly establish, and it concludes by advocating structured yet flexible sentencing standards capable of preserving fairness, proportionality and human dignity within India's criminal justice system.

KEYWORDS: Sentencing Discretion; Article 21; Proportionality; Death Penalty Jurisprudence; Constitutional Criminal Process.

1. INTRODUCTION

Sentencing discretion refers to the power criminal courts hold to select an appropriate punishment within statutory limits: the legislature fixes the minimum and maximum penalty a given offence carries, and the judge determines, within that range, the sentence a particular case warrants. This discretion exists because punishment must serve several distinct purposes simultaneously, proportionality to the offence, a workable balance among competing sentencing theories, and individualisation to the specific offender, purposes a single fixed penalty could not reconcile. The absence of codified sentencing guidelines in India has, however, produced a persistent difficulty: inconsistent outcomes across comparable cases, and a judicial process in which sentence selection can appear insufficiently anchored to articulable standard.

The exercise of sentencing discretion accordingly sits between two competing forces, the judge's own independent evaluative judgment and the constraints constitutional law imposes upon that judgment. This tension is at its sharpest wherever the sentence itself implicates Article 21's guarantee of life

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and personal liberty, since the imposition of a death sentence or a term of life imprisonment must, to carry legal validity, satisfy demanding constitutional standard. *Maneka Gandhi v. Union of India*¹ transformed the constitutional treatment of this question fundamentally: the Supreme Court rejected the earlier, narrowly procedural reading of Article 21 and held that any law depriving a person of life or personal liberty must itself be right, just and fair. That reinterpretation embedded substantive due process, a term absent from the constitutional text itself, into the fabric of Indian constitutional law, and it is against this doctrinal backdrop that sentencing, the process through which personal liberty is most directly and severely curtailed, must now be constitutionally evaluated.

1.1 Objectives of the Study

- To examine the concept and scope of sentencing discretion within the Indian criminal justice system.
- To analyse the constitutional framework of Article 21 and its expansion in regulating the criminal process, sentencing specifically.
- To evaluate the Supreme Court's role in constitutionalising sentencing, with particular reference to *Maneka Gandhi v. Union of India* and *Bachan Singh v. State of Punjab*.
- To assess the constitutional validity of mandatory minimum sentencing provisions against the principles of fairness, proportionality and non-arbitrariness.
- To examine sentencing disparity and arbitrariness under Articles 14 and 21, and to consider the case for structured sentencing guidelines capable of ensuring greater consistency.

1.2 Research Methodology

This study adopts a doctrinal methodology, drawing on constitutional provision, statute, judicial decision and scholarly commentary. It examines three decisions central to the constitutionalisation of sentencing, *Maneka Gandhi v. Union of India*, *Bachan Singh v. State of Punjab* and *Mithu v. State of Punjab*, and the relevant sentencing legislation to assess the practical scope of judicial discretion, supplemented by a comparative examination of sentencing structure in the United States and the United Kingdom, and an analytical assessment of Indian sentencing practice against principles of fairness, proportionality and non-arbitrariness.

¹ *Maneka Gandhi v. Union of India*, A.I.R. 1978 S.C. 597 (India).

1.3 Scope

This paper confines its analysis to sentencing within the ordinary criminal process and to the specific constitutional questions Article 21 raises in that context; it does not address the distinct sentencing considerations applicable to corporate criminal liability or to the juvenile justice system beyond the brief reference this paper makes to reformative sentencing principle. The comparative discussion draws on the United States and the United Kingdom specifically, jurisdictions whose sentencing structure offers the most direct contrast to India's own comparatively unstructured approach.

2. CONCEPTUAL FRAMEWORK: SENTENCING DISCRETION IN CRIMINAL JURISPRUDENCE

2.1 Meaning and Scope of Sentencing Discretion

Criminal courts exercise sentencing discretion within the outer boundaries the legislature establishes: the Indian Penal Code, now substantially replaced by the Bharatiya Nyaya Sanhita, prescribes a range of penalty for each offence, spanning specific terms of imprisonment, life sentence and financial penalty, within which the sentencing judge must operate.² Within that statutory range, courts weigh the gravity of the offence, aggravating and mitigating circumstance, the manner of its commission, the resulting harm to the victim, and the offender's own personal background, an evaluative exercise judicial discretion exists precisely to accommodate, since no fixed penalty could adequately individualise punishment across the full diversity of circumstance a given offence category encompasses.

Individualisation supplies the foundational principle of Indian sentencing practice: a court must assess both the crime and the offender before selecting an appropriate punishment, weighing age, antecedent conduct, socio-economic circumstance, degree of culpability, and the offender's capacity for reform. Left genuinely unstructured, however, this same discretion risks producing arbitrary and inconsistent outcome inconsistent with Articles 14 and 21, and the Supreme Court has accordingly held that judicial punishment must proceed from principles of equity and proportionality rather than unguided impression.³ Sentencing discretion, properly understood, is a calibrated judicial function operating within legislative and constitutional boundary, not an unconstrained exercise of personal judgment.

² Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India).

³ State of Punjab v. Prem Sagar, (2008) 7 S.C.C. 550 (India).

2.2 Statutory Framework Governing Sentencing

India's sentencing procedure rests on a binding statutory framework spanning substantive and procedural criminal law. Section 235(2) of the Code of Criminal Procedure, 1973 requires a separate hearing on sentence following conviction in a sessions trial, obliging the court to consider factors capable of mitigating punishment before that punishment is fixed,⁴ and Section 354(3) requires special reasons to be recorded wherever a death sentence is imposed, a requirement that both constrains sentencing authority and establishes a built-in mechanism for constitutional review of capital sentencing specifically.⁵ These provisions reflect clear legislative acknowledgment of individualised, reasoned sentencing as the governing norm, an acknowledgment reinforced by reformatory and welfare-oriented legislation including the Probation of Offenders Act, 1958, which permits courts to grant probation in place of imprisonment for eligible offenders, and the Juvenile Justice (Care and Protection of Children) Act, 2015, which establishes a distinct, reformatory sentencing framework for juvenile offenders oriented toward the child's best interest.

Certain statutes nonetheless restrict this individualised approach through mandatory minimum sentence. The Narcotic Drugs and Psychotropic Substances Act, 1985 prescribes stringent minimum punishment calibrated to the quantity of narcotic substance involved, constraining judicial flexibility even for first-time offenders or cases presenting genuine mitigating circumstance,⁶ and the Protection of Children from Sexual Offences Act, 2012 similarly prescribes mandatory minimum sentence for specified offences against children, a stringency subsequent amendment has increased further.⁷ These statutes reflect a deliberate legislative choice to prioritise deterrence and public protection, but their rigidity has attracted sustained criticism precisely because it constrains the individualised, proportionate justice Article 21 jurisprudence, examined in the sections that follow, has come to require. Indian sentencing law is accordingly best understood as a continuous negotiation between legislative prescription and judicial discretion, conducted within the outer boundary the Constitution itself supplies.

⁴ Code of Criminal Procedure, 1973, § 235(2), No. 2, Acts of Parliament, 1974 (India).

⁵ Code of Criminal Procedure, 1973, § 354(3), No. 2, Acts of Parliament, 1974 (India).

⁶ Narcotic Drugs and Psychotropic Substances Act, 1985, No. 61, Acts of Parliament, 1985 (India).

⁷ Protection of Children from Sexual Offences Act, 2012, No. 32, Acts of Parliament, 2012 (India).

3. ARTICLE 21 AND THE CONSTITUTIONALISATION OF THE CRIMINAL PROCESS

3.1 The Expansion of Article 21

Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law.⁸ In *A.K. Gopalan v. State of Madras*⁹, the Supreme Court initially held that this phrase required only that a statute be validly enacted, with no independent inquiry into its fairness or justice, a formalistic reading that insulated legislative action affecting personal liberty from any deeper constitutional scrutiny. *Maneka Gandhi* reversed this position decisively, holding that any procedure depriving a person of life or personal liberty must itself be right, just and fair rather than fanciful, oppressive or arbitrary, and integrating Articles 14, 19 and 21 into a single, mutually reinforcing standard of reasonableness. Though the term substantive due process appears nowhere in the constitutional text, this interpretive shift introduced its functional equivalent into Indian constitutional law.

3.2 Sentencing as an Element of Fair Procedure

*Bachan Singh v. State of Punjab*¹⁰ extended this reasoning directly into sentencing, holding that the deprivation of life through capital or life sentence must itself satisfy Article 21's requirement of a lawful process that is substantively fair, not merely procedurally regular. Subsequent decisions have confirmed that individual factors, age, personal background, absence of criminal antecedent and capacity for rehabilitation, must be genuinely evaluated at sentencing, since mechanical or automatic punishment cannot satisfy this constitutional standard. By locating sentencing within Article 21's guarantee of fair procedure, the Court elevated it from a purely legislative or administrative act to a constitutionally constrained exercise of judicial authority in its own right.

3.3 Speedy Trial and Humane Punishment

The constitutionalisation of criminal process under Article 21 extends beyond sentencing itself to the surrounding process of trial and confinement. In *Hussainara Khatoon v. State of Bihar*¹¹, the Supreme Court recognised the right to a speedy trial as an integral component of Article 21, holding that prolonged pre-trial detention without trial violates personal liberty, and confirming that criminal justice fairness spans the entire process from pre-trial stage to post-

⁸ India Const. art. 21.

⁹ *A.K. Gopalan v. State of Madras*, A.I.R. 1950 S.C. 27 (India).

¹⁰ *Bachan Singh v. State of Punjab*, A.I.R. 1980 S.C. 898 (India).

¹¹ *Hussainara Khatoon v. State of Bihar*, A.I.R. 1979 S.C. 1369 (India).

conviction. *Sunil Batra v. Delhi Administration*¹² extended Article 21's reach further still, holding that fundamental rights persist during imprisonment and that prisoners retain an entitlement to dignified, humane treatment, establishing that all forms of punishment, including the manner of its execution, must satisfy that same standard. Together, these decisions confirm that Article 21 governs criminal process comprehensively, requiring fairness, proportionality and respect for human dignity at every stage from sentencing through incarceration, and reflecting a broader constitutional morality that now shapes the whole framework of Indian criminal law enforcement.

This comprehensive reach carries a specific consequence for sentencing analysis worth drawing out. Because Article 21 protection does not terminate once a sentence is pronounced but continues through its execution, a sentence that was constitutionally sound at the moment of imposition can become constitutionally problematic through the manner or circumstances of its subsequent execution, delay, changed personal circumstance, or conditions of confinement inconsistent with human dignity among them. This temporally extended conception of Article 21 protection, developed most fully in the death penalty context this paper's Section 4 examines, reflects a broader principle applicable to sentencing generally: constitutional compliance in sentencing is not a single determination made once at trial, but a continuing obligation the state owes the convicted person throughout the sentence's duration.

4. DEATH PENALTY JURISPRUDENCE AND CONSTITUTIONAL SAFEGUARDS

4.1 The Rarest of Rare Doctrine

Bachan Singh confined the imposition of the death penalty to what it termed the rarest of rare cases, holding that capital punishment may proceed only where the alternative of life imprisonment is unquestionably foreclosed, and requiring the sentencing court to record special reasons under Section 354(3) after a comprehensive evaluation of every relevant factor. *Machhi Singh v. State of Punjab*¹³ elaborated the doctrine further, identifying categories of offence, marked by extreme brutality or extreme depravity, that might justify the rarest of rare characterisation. The categorisation exercise nonetheless remains substantially evaluative rather than mechanical, and the resulting tension, between the demand for structured, predictable capital sentencing and the genuinely subjective character of the rarest of rare inquiry, continues to define Indian death penalty jurisprudence.

¹² *Sunil Batra v. Delhi Admin.*, A.I.R. 1978 S.C. 1675 (India).

¹³ *Machhi Singh v. State of Punjab*, A.I.R. 1983 S.C. 957 (India).

4.2 Mitigating Factors and the Possibility of Reform

Bachan Singh directed courts to weigh a defined set of mitigating factor in capital sentencing specifically: the accused's socio-economic background, age, mental health, absence of prior criminal record, and capacity for rehabilitation.¹⁴ This requirement reflects the reformatory theory of punishment and the broader principle that sentence must be individualised rather than mechanically applied; the possibility of reform has become a decisive consideration in capital cases specifically, with courts required to determine affirmatively that no realistic prospect of rehabilitation exists before a death sentence may be imposed, an inquiry flowing directly from Article 21's guarantee of dignity and humane treatment. The requirement that courts articulate reasoned justification for rejecting mitigating evidence functions as a structural safeguard against arbitrary capital sentencing, compelling transparency in a domain where the constitutional stakes could not be higher.

4.3 Continuing Arbitrariness Concerns

Notwithstanding these doctrinal safeguards, concern regarding arbitrariness in capital sentencing has persisted. In *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*¹⁵, the Supreme Court commuted a death sentence for want of adequate reasoning from the courts below, reaffirming that the rarest of rare determination demands individualised evaluation and a sentence genuinely proportionate to the offence rather than formulaic classification. *Shatrughan Chauhan v. Union of India*¹⁶ articulated a further constitutional safeguard, holding that prolonged delay in disposing mercy petitions, combined with the psychological toll of extended death row confinement, can itself constitute grounds for commutation, confirming that Article 21's protection extends continuously from the moment of sentencing through to the point of execution and requires just process throughout that entire span. Together, these decisions demonstrate a judiciary continuing to work toward reducing unpredictability in capital sentencing while preserving death as a constitutionally available, if exceptional, punishment, subjecting its application to the demands of proportionality, individualised evaluation and human dignity that Article 21 now imposes.

¹⁴ *Bachan Singh v. State of Punjab*, A.I.R. 1980 S.C. 898, ¶ 206 (India).

¹⁵ *Santosh Kumar Satishbhushan Bariyar v. State of Maharashtra*, (2009) 6 S.C.C. 498 (India).

¹⁶ *Shatrughan Chauhan v. Union of India*, (2014) 3 S.C.C. 1 (India).

5. MANDATORY MINIMUM SENTENCING AND ARTICLE 21

5.1 The Constitutional Challenge Mandatory Punishment Presents

Mandatory minimum sentencing seeks consistency and enhanced deterrence by constraining judicial discretion directly, but this constraint raises a genuine difficulty under Article 21, which requires that any deprivation of liberty proceed through a lawful and substantively fair process. Sentencing regimes that eliminate individualised assessment entirely, requiring courts to impose a fixed minimum regardless of mitigating circumstance, accordingly raise proportionality and arbitrariness concern of direct constitutional significance. The Narcotic Drugs and Psychotropic Substances Act's quantity-based mandatory minimum, and the Protection of Children from Sexual Offences Act's mandatory minimum for specified offences against children, both illustrate this tension between legitimate deterrent objective and the individualised justice Article 21 jurisprudence otherwise requires.

5.2 *Mithu v. State of Punjab*: Judicial Review and Proportionality

The Supreme Court's decision in *Mithu v. State of Punjab*¹⁷ supplies the most significant constitutional check on mandatory sentencing to date. Section 303 of the Indian Penal Code mandated a death sentence for any person who committed murder while already serving a life sentence, foreclosing judicial consideration of mitigating circumstance entirely. The Court struck the provision down as violative of Articles 14 and 21, holding that a sentencing scheme eliminating individualised assessment offends the fairness Article 21 demands regardless of the legislature's underlying deterrent purpose, and that the constitutional requirement of proportionality, matching punishment to the offence and the offender's own degree of culpability, cannot be satisfied by a provision that forecloses that very inquiry.

Mithu confirms that constitutional guarantee prevails over legislative prescription wherever the two conflict: Parliament retains extensive power to define offence and prescribe penalty, but that power remains subject to judicial oversight wherever its exercise produces an unjustified deprivation of life or liberty. The decision demonstrates that sentencing, even where governed by mandatory statutory rule, must operate within boundaries the Constitution itself sets, and that judicial discretion, whatever its formal statutory limitation, cannot be eliminated altogether without breaching the fundamental fairness Article 21 requires.

5.3 Legislative Supremacy and Judicial Discretion

The mandatory minimum sentencing debate reflects a genuine constitutional tension between legislative supremacy and judicial sentencing discretion.

¹⁷ *Mithu v. State of Punjab*, A.I.R. 1983 S.C. 473 (India).

Parliament possesses undoubted authority to prescribe severe penalty for offences implicating child protection, public safety or deterrence of serious crime, and the Constitution does not categorically prohibit mandatory minimum sentence; it requires instead that such provisions be assessed against the standards of proportionality and fairness *Mithu* articulates. A sentencing regime that constrains judicial discretion within defined, proportionate limit differs materially from one that eliminates discretion altogether, and it is this latter category, mandatory punishment admitting no individualised consideration whatsoever, that invites the sharpest constitutional objection. Reconciling legislative sentencing policy with judicial responsibility for constitutional compliance accordingly requires continuous, case-specific assessment rather than a categorical rule favouring either institution's authority over the other.

A useful analytical distinction, implicit in *Mithu* though not fully articulated there, separates mandatory minimum provisions that leave a meaningful sentencing band open to judicial discretion above a statutory floor from provisions, like the former Section 303, that prescribe a single, undifferentiated punishment with no band at all. The former category, of which the NDPS Act's quantity-based minimums are arguably an instance, preserves at least some scope for the individualised assessment Article 21 requires, even though the floor itself constrains that assessment's lower bound; the latter category eliminates individualisation altogether and is correspondingly the more constitutionally vulnerable of the two, a distinction future litigation testing mandatory sentencing provisions would do well to draw explicitly rather than treating all mandatory minimums as constitutionally equivalent.

6. PROPORTIONALITY, INDIVIDUALISATION AND REFORMATIVE JUSTICE

6.1 The Doctrine of Proportionality

Proportionality functions as a central constitutional limitation on sentencing discretion, migrating into criminal punishment from its earlier development in administrative and constitutional adjudication through the joint operation of Articles 14 and 21: Article 21 requires that any deprivation of life or personal liberty proceed through a process that is fair, reasonable and just, while Article 14 prohibits arbitrary state action, and together the two provisions bar excessive, unjust or disproportionate punishment.¹⁸ Excessive punishment amounts, on this reading, to unlawful deprivation of liberty offending both provisions simultaneously. Proportionality requires courts to weigh aggravating and mitigating factor, the nature and extent of harm caused, the societal interest at stake, and the offender's own capacity for reform, functioning as a constitutional constraint on both legislative sentencing policy and individual

¹⁸ State of Madhya Pradesh v. Bala @ Balaram, (2005) 8 S.C.C. 1 (India).

judicial decision, and supplying the transparent, structured decision-making framework capable of reducing the unpredictability that otherwise characterises sentencing outcome.

6.2 The Reformatory Theory of Punishment

Indian criminal law increasingly recognises reformatory theory as the punishment philosophy most consistent with constitutional value, favouring the offender's restoration to society over pure retribution, a philosophy that aligns naturally with Article 21's protection of dignity and humane treatment. In *Mohd. Giasuddin v. State of Andhra Pradesh*¹⁹, the Supreme Court endorsed reformatory sentencing explicitly, holding that punishment should serve rehabilitation rather than destruction, addressing both societal and individual need, and treating incarceration as a measure of last resort where alternative correctional avenues remain unavailable. The Probation of Offenders Act, 1958 supplies the principal statutory vehicle for this reformatory approach, permitting courts to substitute probationary supervision for imprisonment where an offender's circumstances suggest genuine capacity for behavioural change, requiring judges to make an individualised assessment of background and rehabilitative prospect that itself gives practical effect to the constitutional value this section has traced.

6.3 The Sentencing Hearing as Constitutional Mandate

Procedural safeguard operates alongside these substantive principles. Section 235(2) of the Code of Criminal Procedure entitles an accused convicted in a sessions trial to a dedicated sentencing hearing, requiring the court to reach an independent, reasoned sentencing decision distinct from its determination of guilt.²⁰ The Supreme Court has read this provision as conferring a substantive right to introduce mitigating evidence at sentencing, permitting the court to consider age, socio-economic status, family circumstance, mental health and rehabilitative prospect specifically; the absence of such an opportunity would reduce sentencing to a standardised, depersonalised exercise incapable of producing genuinely individualised outcome. Courts increasingly rely on social investigation reports and psychological assessment, particularly in capital cases, to inform this individualised evaluation, though such reports remain unevenly available across the system. The constitutional architecture of Indian sentencing, taken as a whole, rests on the three principles this section has traced, proportionality, individualisation and reformatory purpose, with the Section 235(2) hearing supplying the procedural mechanism through which each is given practical effect.

¹⁹ *Mohd. Giasuddin v. State of Andhra Pradesh*, A.I.R. 1977 S.C. 1926 (India).

²⁰ Code of Criminal Procedure, 1973, § 235(2), No. 2, Acts of Parliament, 1974 (India).

The three principles this section has examined are, on close analysis, mutually reinforcing rather than independent. Proportionality supplies the substantive standard against which any given sentence is measured; the reformatory theory supplies the underlying penological purpose that standard is meant to serve, particularly for offenders whose circumstances suggest genuine capacity for change; and the Section 235(2) hearing supplies the procedural occasion through which both are translated into an actual sentencing decision. A sentencing system lacking any one of the three would be structurally incomplete: proportionality without a hearing at which mitigating evidence can be presented is merely aspirational; a reformatory purpose without proportionality risks producing sentences untethered from the gravity of the offence; and a hearing without a clear substantive standard to apply offers procedure without the fairness that procedure is meant to secure. It is the combination of all three, operating together, that gives Article 21's sentencing jurisprudence its practical content.

7. SENTENCING DISPARITY AND THE CASE FOR STRUCTURED GUIDELINES

7.1 The Absence of Structured Sentencing Guidelines

Indian criminal law suffers from a persistent structural weakness: the absence of codified sentencing guideline. Statute fixes the outer range of permissible punishment but supplies little guidance on how discretion within that range should actually be exercised, producing unpredictable outcome in which comparable cases can receive markedly different treatment. The Supreme Court has itself acknowledged that the absence of uniform sentencing standard erodes public confidence in the criminal justice system.²¹

Comparative practice illustrates an available alternative. The United Kingdom's Sentencing Council issues binding structured guideline that courts must apply, organising offences by category of seriousness while preserving room for case-specific judgment within each category.²² India possesses no comparable institution, a gap the Law Commission of India has repeatedly flagged: the Commission's 156th Report called for the rationalisation of sentencing practice generally, while its 262nd Report specifically documented significant accountability problems in capital sentencing.²³ Neither report has yet produced binding legislative reform, leaving the structural gap this section identifies substantially unaddressed.

²¹ Soman v. State of Kerala, (2013) 11 S.C.C. 382 (India).

²² Sentencing Act 2020, c. 17 (UK).

²³ Law Commission of India, 262nd Report on the Death Penalty (2015).

7.2 Sentencing Disparity Under Articles 14 and 21

Disparate treatment of comparably situated offenders implicates both Article 14, which bars arbitrary state action and requires that persons similarly situated receive comparable treatment, and Article 21, which requires that any deprivation of liberty proceed through a substantively fair process. Sentences that diverge sharply across comparable cases without articulable justification offend the equality guarantee directly, and the substantive fairness Article 21 requires is equally compromised by arbitrary or disproportionate sentencing outcome. *Maneka Gandhi's* requirement of non-arbitrariness in state action extends, on this reasoning, to judicial sentencing decisions no less than to executive or legislative action, meaning that the absence of structured guideline is not merely an administrative shortcoming but a matter of continuing constitutional concern, requiring that judicial discretion be exercised in a manner genuinely reconcilable with the equality and fairness standard Articles 14 and 21 jointly establish.

7.3 Designing Guidelines Suited to the Indian Context

Any structured sentencing framework India adopts would need to accommodate features of the domestic criminal justice system the United Kingdom's Sentencing Council model does not confront in the same form, including the considerably larger case volume Indian trial courts manage, the wide regional variation in resource and institutional capacity across states, and the constitutional commitment to individualised sentencing this paper has traced through *Bachan Singh* and its successors. A workable Indian model would likely combine offence-category anchoring, comparable to the Sentencing Council's approach, with an express, judicially enforceable requirement that departure from the anchor be justified by reference to the specific mitigating or aggravating factor the case presents, preserving the individualisation the Constitution requires while supplying the predictability its present absence denies. Designing and implementing such a framework would require sustained institutional collaboration among the judiciary, the Law Commission and Parliament, but the constitutional case for undertaking that collaboration, on the analysis this paper has developed, is considerably stronger than the absence of legislative action to date would suggest.

8. CONCLUSION

Sentencing discretion remains a vital element of criminal adjudication, but it operates, and must continue to operate, within the boundary the Constitution establishes through Articles 14 and 21. The development of Article 21 jurisprudence traced in this paper has transformed criminal sentencing from a matter of largely unreviewable judicial or legislative prerogative into a domain governed by constitutional requirement of reasonableness, non-arbitrariness and

substantive justice, a transformation *Maneka Gandhi v. Union of India* initiated and successive decisions have steadily deepened.

Article 21's requirement of fair sentencing procedure obliges courts to permit an accused to present mitigating evidence and to reach reasoned, individualised decisions grounded in established principle, a requirement Section 235(2) of the Code of Criminal Procedure operationalises directly in every capital and non-capital trial alike. Proportionality supplies the essential limiting principle governing both legislative sentencing policy and judicial discretion, requiring that punishment track the gravity of the offence and the offender's own degree of responsibility; the rarest of rare doctrine *Bachan Singh* developed exemplifies the judiciary's continuing effort to align capital sentencing with this constitutional standard, and *Mithu v. State of Punjab* confirms decisively that legislative prescription cannot override the constitutional requirement of individualised, fair sentencing wherever the two come into conflict.

Non-arbitrariness, the principle *Maneka Gandhi* locates jointly in Articles 14 and 21, requires that sentencing outcomes be consistent and justified, since a justice system operating without articulable grounds for differential treatment offends both constitutional guarantees at once. The constitutional demand for human dignity, *Sunil Batra v. Delhi Administration* confirms, extends without interruption through the entire period of imprisonment, reinforcing that sentencing cannot be treated as a discrete event divorced from the humane treatment Article 21 requires throughout a sentence's execution. What the present moment demands, on the analysis this paper has offered, is constitutional harmonisation: a sentencing framework preserving the individualised judicial discretion Indian criminal law has always valued while introducing the structured guideline capable of reducing the arbitrary variation this paper's Section 7 has documented. Achieving that harmonisation would balance legislative sentencing policy against judicial independence in a manner that finally gives full effect to the constitutional principles, retribution and deterrence tempered by fairness, proportionality, equality and human dignity, that Article 21 now requires of every sentencing decision in India's constitutional democracy.