

WHY IS THERE SUCH A RANGE OF PUNISHMENTS FOR THE SAME CRIME?

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INTRODUCTION: -

When a crime is proven, judges generally impose punishment after considering the criminal's history. Punishment must have the aim of preventing the perpetrator from committing further crimes in addition to being a response to the crime itself. Punishment is a type of tradition that has been used in our community to solve crimes, and this custom has developed into a law that is followed by every member of our community in order to avoid wrongdoings, maintain tranquility, and remain healthy. As a result, today's definition of crime is "a person's wrongdoing that results in a penalized infraction." It is a type of custom that society has followed to suppress crime, and this has developed into the law that everyone follows to prevent wrongdoings and maintain a common healthy environment.

The punishment policy cannot be solely based on the nature of the crime done; it must also take into account the offender's character. The same crime can be committed by two distinct types of criminals; however, different types of criminals require different types of punishment. In India, there is no consistency in the imposition of punishments because we lack a set of sentencing standards.

Procedural rules, such as the Indian Penal Code, specify the minimum and maximum penalties that can be imposed for a crime but do not specify any guidelines or clarify the principle that must be followed when imposing sentences. This gives the judge a great deal of leeway in deciding the sentence within the statutory parameters. Some judges are forgiving, while others are harsh.

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RESEARCH METHODOLOGY

Research Design: -

This particular research is done with both doctrinal research and as well as empirical research methodology. The research presents the empirical data and various secondary sources has been used to understand the concepts. The researcher has referred to various websites, researches, journals that are too related to the topic. The research has a mixed design; This topic has been studied through the Exploratory Research Methodology where the researcher has discussed why does the same crime has such a wide array of punishments and he further deliberated on the trends of which prevailed in past cases in the Indian Context. Further the researcher has discussed about it, deliberated on the same context, and presented a solution to it with the Descriptive Research Methodology.

Research Questions: -

- Why does the same crime or offences have the same punishments eventoday?
- Is it true that the capacity of the judge also comes into play while giving the different punishments despite the provisions already mentioned in the law?
- Can the scope of punishment be changed in the upcoming future with the help of other judges?

Hypotheses: -

The researcher has developed declarative hypotheses that will be validated by the end of the research, such as that the same crime committed by previous perpetrators has made it abundantly clear that different implication of the same offence receive different punishment based on the distinct factors affecting the scenario in front of the judge.

Scope of Study: -

Punishment is a complex subject that has been debated for centuries. It is a contentious issue, as it involves the use of physical or psychological force to inflict pain or suffering on someone in order to deter them from committing a crime. This article will explore the implications of punishment in relation to the crime that is committed and how it affects society. We will discuss why punishment may be necessary and look at different forms of punishment, such as imprisonment, fines, community service, and rehabilitation programs. We will also examine how the criminal justice system deals with those who are convicted of crimes and what happens afterwards. Finally, we will consider whether punishments are effective in preventing future crimes from occurring. Punishment imposed on the basis of previous intuitions becomes the new standard for new instances like them, while others fall outside the scope of this study. Furthermore, the research demonstrated the numerous issues associated with the previously mentioned topic and presented a solution to them.

SAME OFFENCE, DIFFERENT APPROACH TO PUNISHMENTS

The penalty scheme must take into account the perpetrator's personality as well as the specifics of the offence done. The same crime could have been committed by totally unrelated criminals. Punishment, on the other hand, must be tailored to various kinds of violence.

The government imposes criminal penalties for two primary purposes. The first of these is revenge. Retribution is a type of punishment that concentrates on a previous crime and penalizes the offender because it is just. Criminals, according to this theory, intentionally choose to act badly, and as a result, they must be held accountable for their actions. You may be accustomed to retaliation.

The aim of any sentence is to impose a sentence that is adequate, just, and proportionate to the character of the offence. The broad elements that the judge considers when deciding on punishments are as follows: the motivation for the offence and the manner by which the offence was committed. The gravity of the crime

1. The actual loss incurred because of offense
2. The ability of the defendant to pay fines or any damages

3. The offender's mentality
4. The conventions or standard practices that are followed by the court in such cases which have been predetermined
5. First time offenses or repeated offences

Case example: -

Four people have been found guilty of murder and rape in the Nirbhaya rape case. According to the juvenile justice statute, which the law permits, adolescents 16 years of age or older to be prosecuted as adults for serious acts like homicide and rape. The adolescent faces a maximum sentence of three years in a rehabilitation center. Heinous crimes are defined as those that bear a prison sentence of seven years or more. Each district must create juvenile justice tribunals and child protection boards, according to the law. Others were later convicted guilty and sentenced to death by hanging. In this case, they all did the same crime, but the youngster got a three-year sentence in a reform prison while the others received death sentences.

BACKGROUND/HISTORY: -

When it comes to sentencing offenders, judges must consider the criminal history and aggravating circumstances of the defendant in order to determine the appropriate length of imprisonment. By taking into account a defendant's past criminal activity and any additional factors that may have contributed to their current offense, judges are better able to assess the severity of the crime and make a more informed decision when determining an appropriate sentence. Everything is decided on an individual premise. Every offender is unique, as are all crime scenes. Even individuals who commit the same crime and face the same charges are not the same. The fees may be the same in either case, but there may be situations where one is worse than the other. Extenuating circumstances may exist in some cases that do not appear in others.

INTENTIONS: -

The deed of committing a specific offence must be done with a specific goal in mind. Committing a specific offence is an act that breaks the law and has severe legal consequences. It is important to understand the severity of committing such an offence as it can have a long-term effect on an individual's life. It falls into three categories: general goal, targeted intention, and productive intention. The purpose of the perpetrator influences how an offence is punished. If someone kills another person without intending to do so, or if their main motivation is to kill someone, they are committing murder. In both cases, the only difference is the goal. As a result, the penalty should vary greatly depending on each individual's actions and goals in each situation.

UNCERTAINTY AND INDETERMINACY IN JUDICIAL DECISIONS

According to Justice Stewart, an American lawyer and judge who served as an Associate Justice of the United States Supreme Court, all types of crime are different from the ones we witness on a daily basis, making it difficult for us to determine the specification that we want to learn for. In India, many central and state laws provide the harshest punishments without specifying how they can be carried out, in addition to rejecting rehabilitation of the convict, which is the basic aim of criminal justice. **Section 354 (3) CRPC** places more emphasis on the court's need to provide special justifications when imposing a death sentence as it is a matter of life of another human being and the capital punishment is often given in the cases which are considered "rarest of the rare" in our Indian judicial system.

For addition: -

Bachan Singh v. the State of Punjab²

An idea that may be argued to now no longer be an absolute rule for its invariable application. It is regularly argued that the ambiguities found in Bachan Singh's case have brought about the absence of widespread standards for enforcing the demise penalty. A wide variety of reiterations of the case have arisen that aren't in consonance with the real judgment.

²Bachan Singh v. the State of Punjab, *AIR 1980 SC 898*

The vital argument towards the framework given in Bachan Singh's case is the dearth of normative clarity and the ambiguity that arose after investigation of the case. Now it no longer really provides an explanation for the interrelationship among the stressful and mitigating factors. A wide variety of things and parameters are taken into consideration consisting of age, intellectual state, and the socio-monetary historical past of the culprit. The judges have the discretion to fill this normative hole whilst giving sentences with inside the future, with their very own considerations.

Machhi Singh V. State of Punjab³

But the same is discussed at length, and in this case specifically defined by three judges who apply the "balance sheet test" to compare the "aggravated" status of crimes and the "mitigated" status of offenders. It was done. To make mistakes, to inflict pain and suffering.

During the development of the balance sheet test, Machhi Singh popularized his own elements of the death penalty law. Walking and horrific crimes against women, which may constitute the rarest crimes, society seems very normal now, but the tougher laws passed by Congress have hardly stopped.

This implies that the solution is clearly not, and that you can never "hang murderers and rapists and deter all future crimes."

Santosh Kumar Bariyar V. State of Maharashtra⁴

The death penalty is irrevocable, and its dangers are most clearly seen in post-Incurium Supreme Court decisions. The ruling upheld his 13 death sentences after Incurium, ignoring the law passed in the Bachan Singh case.

³Machhi Singh V. State of Punjab, 1983 Air 957

⁴Santosh Kumar Bariyar V. State of Maharashtra, CRIMINAL APPEAL NO. 1478 OF 2005 WITH CRIMINAL APPEAL NO. 452 OF 2006

ROLE OF ADEQUATE PUNISHMENT IN THE SOCIETY

Adequate punishment is a vital tool in maintaining law and order in society. It helps to uphold justice and deter individuals from committing criminal offenses. Punishment also serves to protect innocent people from the potential harm that criminals can cause. Punishments that are fair and effective can help to promote a sense of security and stability among citizens, as well as instill respect for laws and authority figures. Furthermore, punishments allow offenders a chance to reform themselves, thus creating opportunities for rehabilitation rather than retribution.

Kalidas described that the characteristics of the Rangvanshi kings, as one of their characteristics, he noted punishment based on transgressions. Everyone is subject to punishment, and only punishment saves them. According to wise people, punishment is dharma while they slumber. If the penalty is administered correctly, it will be well-cared for, and everyone will be pleased. Penalties for crimes must be proportionate to the gravity of the offence and the character of the perpetrator, and fair sentencing is a necessary component of the correct operation of criminal justice.

CONCLUSION: -

The category of 'rarest of the rare' is always evolving. The **Nirbhaya case**⁵ violated collective conscience and clearly was under the scope of this doctrine. It is tough to distinguish between a rare and ordinary murder, and then the most unusual instance. The crime is mostly defined as heinous, grotesque, and so on, but there is no clear cut line. It is ultimately up to the judges to impose the death penalty based on their beliefs, sensitivity, and unique circumstances in light of the gravity of the crime. It is critical to create an effective framework for imposing the death penalty and to consider whether the death penalty is in society's best interests. The conflicting claims made by these different techniques constitute a significant portion of the punishment issue. Crimes are committed when the real or perceived interests of the perpetrator and the interests of society at large collide. Punishment, however, is not uniformly applicable. It makes no difference what type of discipline you receive; you may still be punished for moral,

⁵Nirbhaya case, SCC Online SC 533

particularly religious, reasons. The law frequently specifies a range of punishments for most offenses, which varies from state to state and across the federal government. The range purportedly allows the tribunal to impose a penalty appropriate to the crime's circumstances—the offender's age and criminal history, the presence of aggravating and mitigating factors that influence how society sees the offence.

As a result it is evident that whether a specific often should be punished with the lowest maximum penalty please guide for it or somewhere in between he is entirely up to this judge's discretion **section 354 (1)(B) of CRPC** required judges to record the reason for imposing a particular sentence and **section 354(3)** requires supplementary reasons to be provided whether a sentence authorizes life imprisonment or the death penalty despite the foregoing rules it is undeniable that the lack of sentence in strategy in India gives judges in the quota grid of discretion Simply put not every judge approaches sentence in with the same mindset concern a few general consideration that all this consider include the gravity of an offence the intent and the liability the final sentence in however is heavily influenced by judge personal experience prejudice in concern the competency of the lawyers present or in any given day in front of a certain court who could say the judges in favor could be critical in consideration every case as unique circumstances characteristics that either aggregate or minimize the potential punishment that could be imposed this has also been recognized by the Supreme Court which is stated in the case of **state of MP versus bablu Natt**⁶

⁶state of MP versus babluNatt, 2009 (2) SCC 272