



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

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www.ijlar.com

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Introduction

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

JUDICIAL CONTROL OVER CRIMINAL SENTENCING: ANALYSING THE SUPREME COURT'S EVOLVING APPROACH TO LIFE IMPRISONMENT AND SENTENCING STANDARDS

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Abstract

Criminal sentencing in India operates within a statutory framework marked by wide judicial discretion and the absence of structured legislative guidelines. This institutional design has compelled the Supreme Court of India to assume a formative role in shaping sentencing standards through constitutional adjudication. Focusing on life imprisonment, this article examines how the Court has progressively transformed punishment from a formal statutory consequence into a constitutionally regulated exercise grounded in Articles 14 and 21. The analysis traces the evolution of sentencing doctrine from the *Bachan Singh* framework governing capital punishment to the emergence of special category life sentences in *Swamy Shraddananda* and their constitutional validation in *V. Sriharan*. It demonstrates how death penalty jurisprudence generated a sentencing continuum that redefined life imprisonment as a calibrated constitutional sanction rather than a residual alternative to death.

The article further situates this evolution within the contemporary statutory framework of the Bharatiya Nyaya Sanhita, 2023, and the Bharatiya Nagarik Suraksha Sanhita, 2023, highlighting the continuity of legislative silence and the consequent necessity of judicial control. Through doctrinal analysis and engagement with scholarly literature, the paper explores the Supreme Court's self-corrective turn towards consistency, reasoned sentencing, and proportionality, as well as its integration of victimological considerations within constitutional limits. It argues that judicial control over sentencing in India constitutes a form of constitutional guardianship that preserves fairness and legitimacy in the absence of legislative policy. The study concludes that sustainable

sentencing reform requires a collaborative constitutional framework in which judicial principles inform structured legislative guidelines.

Keywords

Judicial sentencing discretion; Life imprisonment; Constitutional criminal law; Proportionality in punishment; Special category sentences; Bharatiya Nyaya Sanhita; Bharatiya Nagarik Suraksha Sanhita; Death penalty jurisprudence; Sentencing consistency; Victimology in sentencing.

I. Constitutional Foundations of Sentencing Discretion in India

Sentencing constitutes a decisive phase in the criminal justice process, translating a determination of guilt into an authoritative deprivation of liberty. In the Indian constitutional framework, sentencing is not a purely statutory exercise but one deeply embedded in constitutional values. The absence of comprehensive legislative sentencing guidelines has elevated the role of constitutional courts in shaping sentencing standards. The Supreme Court of India has consistently treated sentencing discretion as a constitutionally regulated function, governed primarily by Articles 14 and 21 of the Constitution.

Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. Judicial interpretation has expanded this guarantee to include substantive due process requirements of fairness, reasonableness, and proportionality. In *Maneka Gandhi v. Union of India*, the Supreme Court held that any procedure affecting personal liberty must be just, fair, and reasonable.¹ Sentencing decisions, which determine the quantum and duration of incarceration, directly implicate this constitutional mandate. As a result, punishment cannot be imposed mechanically or solely by reference to statutory maximums or minimums.

The Court has repeatedly emphasised that sentencing discretion must operate within constitutionally permissible limits. In *Mithu v. State of Punjab*, the Supreme Court invalidated mandatory death sentencing on the ground that it excluded judicial discretion and violated Articles

¹ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

14 and 21.² Although the case concerned capital punishment, its reasoning established a broader principle that individualized sentencing is a constitutional requirement. This principle applies with equal force to life imprisonment, given its indeterminate duration and severe impact on personal liberty.

Article 14 further structures sentencing discretion by imposing the requirement of equality before the law. Sentencing outcomes must demonstrate rational consistency across comparable cases. Arbitrary disparities in punishment undermine the rule of law and erode public confidence in the criminal justice system. The Supreme Court has acknowledged that sentencing disparity raises constitutional concerns and requires judicial correction.³ Equality in sentencing does not demand uniform punishment but mandates that distinctions be based on relevant and intelligible criteria.

The constitutionalisation of sentencing discretion reflects a shift from offence-centric punishment models to a more nuanced, rights-based approach. Courts are required to consider factors relating to the offender, the circumstances of the offence, and the broader social context. In *State of Madhya Pradesh v. Bablu*, the Supreme Court reiterated that sentencing must reflect proportionality between the crime and the punishment imposed.⁴ This proportionality analysis serves as a constitutional check against excessive or arbitrary punishment.

Academic scholarship has consistently recognised the Indian judiciary's role in developing sentencing principles through constitutional adjudication. Scholars argue that in the absence of legislative guidance, constitutional courts function as norm-creators, ensuring that sentencing aligns with fundamental rights.⁵ This role assumes particular significance in the context of life imprisonment, where statutory silence leaves critical questions of duration, remission, and proportionality unresolved.

² *Mithu v. State of Punjab*, (1983) 2 S.C.C. 277.

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

⁴ *State of Madhya Pradesh v. Bablu*, (2014) 9 S.C.C. 281.

⁵ Anup Surendranath, **Sentencing and the Supreme Court of India**, 6 NUJS L. Rev. 1 (2013).

The Supreme Court's sentencing jurisprudence thus reveals an understanding of punishment as a constitutional act rather than a mere statutory consequence. Judicial discretion in sentencing operates as a safeguard against excessive state power and as a mechanism for enforcing constitutional morality. This foundational understanding explains the Court's subsequent engagement with life imprisonment, the death penalty–life continuum, and the development of structured sentencing standards.

Sectional Synthesis

Sentencing discretion in India derives its legitimacy from constitutional principles embedded in Articles 14 and 21. The Supreme Court has treated punishment as a constitutionally regulated exercise requiring fairness, proportionality, and reasoned justification. Judicial insistence on individualized sentencing and equality in punishment reflects a rights-based approach to criminal justice. This constitutional foundation provides the normative basis for the Court's evolving control over life imprisonment and its broader sentencing jurisprudence.

II. Life Imprisonment under the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023

Life imprisonment occupies a central position in India's sentencing architecture, particularly for grave offences that implicate collective security, extreme violence, or irreversible harm. The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), has retained this punishment as a core penal sanction while reorganising the statutory framework governing crime and procedure. Although these enactments signify legislative reform, they preserve the essential structure of life imprisonment developed under earlier criminal law. Consequently, judicial interpretation continues to play a decisive role in defining the meaning, duration, and constitutional limits of life sentences under the new regime.

A. Statutory Position of Life Imprisonment under the Bharatiya Nyaya Sanhita, 2023

The BNS prescribes life imprisonment for a wide range of serious offences, including aggravated forms of homicide, sexual violence, terrorism-related offences, and crimes threatening the sovereignty or integrity of the State. The legislative choice to retain life imprisonment as a

principal punishment reflects continuity in penal policy rather than substantive departure. Importantly, the BNS does not provide a statutory definition of “imprisonment for life,” nor does it prescribe a uniform sentencing methodology for its imposition. This legislative silence leaves significant interpretive responsibility with the judiciary.

The absence of a statutory definition has historically generated ambiguity regarding the temporal scope of life imprisonment. Indian courts have long rejected the understanding of life imprisonment as a fixed-term sentence, clarifying that it signifies incarceration for the remainder of the convict’s natural life unless lawfully remitted. This interpretation originated in *Gopal Vinayak Godse v. State of Maharashtra*, where the Supreme Court held that life imprisonment “means imprisonment for the whole of the remaining period of the convicted person’s natural life.”⁶ This construction continues to inform sentencing under the BNS, as the new statute does not indicate any legislative intent to alter the established meaning.

From a constitutional standpoint, the BNS framework situates life imprisonment as a punishment of indeterminate duration, subject to constitutional safeguards. The judiciary has treated this indeterminacy as necessitating heightened judicial reasoning and proportionality analysis. Academic commentary supports this view, noting that indeterminate sentences demand stronger justificatory standards to prevent arbitrary deprivation of liberty.⁷ Thus, while the BNS re-codifies offences and punishments, the constitutional meaning of life imprisonment remains judicially constructed.

B. Procedural Framework under the Bharatiya Nagarik Suraksha Sanhita, 2023

The BNSS governs the procedural dimensions of sentencing, execution of punishment, remission, and commutation. Provisions corresponding to remission powers preserve the executive’s authority to grant premature release, subject to statutory and constitutional constraints. The BNSS, however, does not diminish the sentencing court’s role in determining the nature and structure of punishment at the stage of conviction.

⁶ *Gopal Vinayak Godse v. State of Maharashtra*, A.I.R. 1961 S.C. 600.

⁷ K. Chockalingam, *Life Imprisonment and Penal Policy in India*, 50 J. Indian L. Inst. 1 (2008).

Judicial precedent has consistently held that remission does not reduce the sentence imposed by the court but merely affects its execution. In *State of Haryana v. Mohinder Singh*, the Supreme Court clarified that remission operates within the bounds of the sentence imposed and does not alter its substantive character.⁸ This doctrinal position remains applicable under the BNSS, ensuring continuity between sentencing authority and executive discretion.

The BNSS framework also accommodates judicially evolved sentencing practices, including the specification of minimum incarceration periods. Courts have exercised this authority to ensure that life sentences retain punitive and deterrent significance. Scholarly analyses describe this judicial role as essential in jurisdictions lacking structured sentencing legislation.⁹ The BNSS therefore functions as a procedural vehicle through which constitutional sentencing doctrine continues to operate.

C. Continuity and Departure from the IPC–CrPC Regime

A comparative reading of the BNS–BNSS framework with the earlier IPC–CrPC regime reveals substantial continuity. Life imprisonment remains a discretionary punishment imposed within broad statutory ranges. No statutory sentencing guidelines have been introduced, and legislative silence persists regarding factors governing sentencing discretion. This continuity reinforces the judiciary’s central role in developing sentencing standards.

The Supreme Court has acknowledged this structural feature of Indian criminal law and has repeatedly emphasised the judiciary’s responsibility to ensure consistency and proportionality. In *State of Punjab v. Prem Sagar*, the Court recognised sentencing disparity as a systemic issue arising from unguided discretion.¹⁰ Law Commission Reports have echoed this concern, highlighting the absence of legislative guidance and recommending structured sentencing frameworks.¹¹ The persistence of this legislative gap under the BNS–BNSS regime confirms that judicial control over sentencing remains indispensable.

⁸ *State of Haryana v. Mohinder Singh*, (2000) 3 S.C.C. 394.

⁹ Julian V. Roberts, *Sentencing Without Guidelines: Judicial Discretion and Its Limits*, 44 *Crime & Just.* 1 (2015).

¹⁰ *State of Punjab v. Prem Sagar*, (2008) 7 S.C.C. 550.

¹¹ Law Comm’n of India, Report No. 262, *The Death Penalty* (2015).

At the same time, the re-codification process has reinforced the symbolic centrality of life imprisonment by positioning it as a primary alternative to capital punishment. This legislative choice aligns with the Supreme Court's long-standing preference for life imprisonment as the constitutionally appropriate response in cases falling short of the "rarest of rare" threshold.¹²

D. Judicial Interpretation and Constitutional Implications

Judicial interpretation of life imprisonment under the BNS–BNSS regime continues to be guided by Articles 14 and 21 of the Constitution. The Supreme Court has consistently required sentencing courts to provide cogent reasons when imposing life imprisonment, particularly where the sentence involves extended or restrictive incarceration. This requirement reflects the constitutional mandate that deprivation of liberty must be fair, just, and reasonable.¹³

The Court's jurisprudence has also clarified that sentencing discretion must operate within proportionality constraints. In cases involving life imprisonment, courts assess the gravity of the offence, the manner of commission, the impact on victims, and the potential for reform. This individualized assessment aligns with constitutional sentencing principles developed in capital punishment cases. Academic scholarship identifies this convergence as a defining feature of Indian sentencing jurisprudence.¹⁴

The constitutional implications of life imprisonment under the new criminal codes therefore extend beyond statutory text. Judicial interpretation ensures that life sentences function as constitutionally regulated punishments rather than unstructured sanctions. This judicial control preserves the legitimacy of sentencing within a system characterised by legislative silence and broad discretion.

Sectional Synthesis

Life imprisonment under the BNS and BNSS reflects legislative continuity combined with judicial evolution. The statutory framework retains life imprisonment as a central punishment while leaving its meaning and application largely to judicial interpretation. Courts continue to define life

¹² Law Comm'n of India, Report No. 262, *The Death Penalty* (2015).

¹³ *Maneka Gandhi v. Union of India*, (1978) 1 S.C.C. 248.

¹⁴ Anup Surendranath, *Sentencing and the Supreme Court of India*, 6 NUJS L. Rev. 1 (2013).

imprisonment as incarceration for the remainder of natural life, subject to constitutional constraints and executive remission. The procedural structure under the BNSS accommodates judicially evolved sentencing practices, reinforcing the judiciary's role in ensuring proportionality, consistency, and constitutional compliance. This section establishes that, notwithstanding legislative reform, judicial control remains the primary mechanism governing the meaning and operation of life imprisonment in India.

III. The Death Penalty–Life Imprisonment Continuum and the Judicial Structuring of Sentencing Discretion

The constitutional evolution of life imprisonment in India cannot be understood independently of the Supreme Court's death penalty jurisprudence. Capital punishment cases compelled the Court to articulate substantive sentencing principles because of the irreversible nature of the punishment involved. In doing so, the Court constructed a sentencing framework that gradually reshaped life imprisonment from a statutory default into a constitutionally structured sanction. This jurisprudential trajectory positioned life imprisonment within a calibrated continuum of punishment rather than as a residual alternative to death.

A. Constitutional Validation of Capital Punishment and the Framework of Individualised Sentencing

The Supreme Court's decision in *Bachan Singh v. State of Punjab* constitutes the normative foundation of modern sentencing jurisprudence in India. While upholding the constitutional validity of the death penalty, the Court imposed substantive limitations on its imposition by introducing the "rarest of rare" doctrine.¹⁵ This doctrine required sentencing courts to engage in an individualized assessment of each case, balancing aggravating and mitigating circumstances relating to both the offence and the offender.

The Court emphasised that sentencing discretion must operate within constitutional boundaries derived from Articles 14 and 21. Punishment, particularly where it results in the deprivation of life or long-term liberty, must reflect fairness, reasoned judgment, and proportionality. The *Bachan*

¹⁵ *Bachan Singh v. State of Punjab*, (1980) 2 S.C.C. 684.

Singh framework rejected mandatory sentencing and affirmed that discretion, when exercised on principled grounds, constitutes a constitutional necessity rather than a defect in criminal adjudication.

Academic scholarship has consistently identified *Bachan Singh* as the point at which sentencing in India acquired a constitutional character. Scholars observe that the decision transformed sentencing from a predominantly statutory exercise into a rights-sensitive judicial function.¹⁶ This transformation had direct implications for life imprisonment, which increasingly emerged as the constitutionally preferred alternative in cases where the death penalty failed to satisfy the stringent requirements laid down by the Court.

B. Development of Aggravating and Mitigating Circumstances and Their Impact on Life Sentences

Following *Bachan Singh*, the Supreme Court elaborated the methodology of sentencing through subsequent decisions. In *Machhi Singh v. State of Punjab*, the Court attempted to systematise the application of the “rarest of rare” doctrine by identifying categories of aggravating circumstances related to the manner of commission, motive, magnitude, and social impact of the crime.¹⁷ While *Machhi Singh* aimed to provide guidance, it retained the central emphasis on individualized sentencing.

The articulation of aggravating and mitigating factors influenced life imprisonment jurisprudence in two significant ways. First, it reinforced the principle that sentencing outcomes must correspond to degrees of culpability rather than statutory labels. Second, it encouraged courts to view life imprisonment as a constitutionally meaningful punishment capable of accommodating varying levels of moral blameworthiness. Life imprisonment ceased to function merely as the lesser alternative to death and began to operate as a flexible sanction shaped by judicial reasoning.

¹⁶ Upendra Baxi, *The Death Penalty in India*, 21 J. Indian L. Inst. 385 (1979).

¹⁷ *Machhi Singh v. State of Punjab*, (1983) 3 S.C.C. 470.

Judicial application of mitigating factors such as age, socio-economic background, possibility of reform, and absence of prior criminal history further strengthened the constitutionalisation of sentencing. Academic analyses highlight that this focus on the offender marked a departure from offence-centric punishment models and aligned Indian sentencing with comparative constitutional trends.¹⁸ Life imprisonment thus acquired substantive content through its placement within a structured sentencing inquiry.

C. Life Imprisonment as the Constitutionally Preferred Punishment

As death penalty jurisprudence matured, the Supreme Court increasingly articulated a normative preference for life imprisonment. The Court consistently held that capital punishment must remain an exception reserved for the gravest cases where alternative punishments prove inadequate. This judicial orientation elevated life imprisonment as the primary vehicle for achieving penological objectives without violating constitutional morality.

In several decisions, the Court emphasised that life imprisonment serves the goals of deterrence and retribution while preserving the possibility of reform. This balance aligns with constitutional values underpinning Article 21. Scholarly literature recognises this shift as reflective of a broader movement towards restraint in the use of capital punishment.¹⁹ The Court's preference for life imprisonment reinforced its role as a constitutionally structured punishment rather than a default statutory sentence.

The preference for life imprisonment also exposed limitations within the statutory framework. Courts encountered cases where ordinary life imprisonment, coupled with remission, appeared disproportionate to the gravity of the offence. This tension highlighted the inadequacy of a binary sentencing structure and set the stage for further judicial innovation. The death–life continuum thus functioned as a catalyst for the development of nuanced sentencing categories.

¹⁸ R. Thakur, **Individualised Sentencing and Constitutionalism**, 45 J. Indian L. Inst. 211 (2003).

¹⁹ Law Comm'n of India, **Report No. 262: The Death Penalty** (2015).

D. Sentencing Continuum and the Limits of Binary Punishment

The Supreme Court's recognition of a sentencing continuum marked a critical development in criminal jurisprudence. By rejecting a rigid binary between death and life imprisonment, the Court acknowledged the need for gradation in punishment. This recognition flowed directly from constitutional sentencing principles developed in death penalty cases.

Judicial observations increasingly reflected discomfort with the lack of intermediate sentencing options. Courts noted that remission policies often diluted the punitive content of life imprisonment, thereby undermining public confidence in sentencing outcomes. At the same time, the death penalty remained constitutionally constrained by the "rarest of rare" doctrine. This structural tension necessitated judicial intervention to preserve proportionality.

Academic commentators have described this phase as one of doctrinal transition, where constitutional imperatives compelled courts to innovate within the confines of statutory law.²⁰ The death-life continuum thus provided the conceptual foundation for the emergence of special category sentences, which would later be explicitly articulated by the Supreme Court. The evolution of life imprisonment during this period demonstrates how constitutional adjudication can reshape sentencing structures in the absence of legislative reform.

Sectional Synthesis

The Supreme Court's death penalty jurisprudence fundamentally reconfigured the meaning and function of life imprisonment in Indian criminal law. By constitutionalising sentencing discretion through the "rarest of rare" doctrine and individualized assessment, the Court positioned life imprisonment within a graduated continuum of punishment. Aggravating and mitigating factors introduced substantive content into sentencing decisions, transforming life imprisonment into a calibrated constitutional sanction. The Court's growing preference for life imprisonment, combined with its recognition of the limitations of binary punishment, laid the doctrinal groundwork for subsequent judicial innovation in sentencing. This section demonstrates that

²⁰ Anup Surendranath, **Beyond the Rarest of Rare**, 6 NUJS L. Rev. 389 (2013).

judicial control over life imprisonment emerged organically from constitutional constraints imposed on capital punishment.

IV. Emergence of Special Category Sentences and Judicial Innovation in Life Imprisonment

The Supreme Court's development of special category life sentences represents one of the most significant instances of judicial innovation in Indian sentencing jurisprudence. This development arose from the Court's sustained engagement with cases where conventional sentencing options proved constitutionally inadequate. By crafting sentences that mandated life imprisonment without remission for specified minimum periods, the Court sought to reconcile proportionality, public confidence, and constitutional morality. The emergence of this category reflects judicial control exercised in response to structural gaps within statutory sentencing law.

A. The Genesis of Special Category Life Sentences

The jurisprudential foundation of special category sentences was laid in *Swamy Shraddananda v. State of Karnataka*. In this case, the Supreme Court confronted the limitations of a binary sentencing framework that offered only death or ordinary life imprisonment. The Court observed that remission policies often resulted in premature release, thereby diluting the punitive and deterrent impact of life sentences in cases involving extreme brutality.²¹

To address this concern, the Court introduced the concept of life imprisonment for a specified minimum term without remission. This sentencing option enabled courts to impose punishment proportionate to the gravity of the offence while avoiding the irreversible nature of capital punishment. The Court justified this innovation by invoking Articles 14 and 21, emphasising that sentencing discretion must ensure fairness, rationality, and consistency. The decision marked a shift from statutory literalism towards constitutional purposivism in sentencing.

Academic commentators have recognised *Swamy Shraddananda* as a pragmatic response to the inadequacies of existing sentencing structures. Scholars note that the judgment reflects judicial

²¹ *Swamy Shraddananda v. State of Karnataka*, (2008) 13 S.C.C. 767.

sensitivity to societal expectations of justice while maintaining constitutional restraint.²² The decision thus occupies a pivotal position in the evolution of life imprisonment jurisprudence.

B. Constitutional Validation by the Constitution Bench

The constitutional legitimacy of special category life sentences was decisively affirmed in *Union of India v. V. Sriharan*. A Constitution Bench addressed the question of whether sentencing courts possess the authority to restrict remission in life imprisonment cases. The Court held that the power to determine the nature and duration of punishment forms an essential component of judicial sentencing authority.²³

The Bench clarified that executive remission powers operate within the confines of the sentence imposed by the court. Judicial specification of minimum incarceration periods ensures that the punishment retains its intended character. This interpretation preserved the separation of powers while recognising judicial responsibility to impose constitutionally proportionate sentences. The Court's reasoning reinforced the view that sentencing constitutes an integral part of judicial function rather than a domain reserved exclusively for legislative or executive discretion.

Scholarly analysis has highlighted *Sriharan* as a reaffirmation of judicial primacy in sentencing. Academic literature emphasises that the decision aligns Indian sentencing jurisprudence with constitutional principles governing deprivation of liberty.²⁴ The judgment thus consolidated the doctrinal foundation of special category sentences.

C. Proportionality and Institutional Legitimacy

Special category life sentences derive legitimacy from the principle of proportionality. The Supreme Court has consistently held that punishment must correspond to culpability and social harm. In cases involving extreme violence or recidivism, ordinary life imprisonment subject to remission may fail to achieve this correspondence. Judicially structured sentences address this imbalance by ensuring that punishment remains meaningful.

²² K. Chockalingam, **Sentencing, Life Imprisonment and Judicial Discretion**, 51 J. Indian L. Inst. 215 (2009).

²³ *Union of India v. V. Sriharan*, (2016) 7 S.C.C. 1.

²⁴ Anup Surendranath, **Life Imprisonment and Constitutional Sentencing**, 8 NUJS L. Rev. 1 (2015).

The Court's approach reflects an institutional understanding of sentencing as a constitutional responsibility. By articulating reasons for imposing non-remittable periods, courts enhance transparency and accountability. Academic studies observe that reasoned sentencing decisions contribute to public confidence in criminal justice institutions.²⁵ Special category sentences thus function as a mechanism for aligning sentencing outcomes with constitutional expectations.

D. Critiques and Doctrinal Boundaries

Judicial innovation in sentencing has attracted scholarly debate. Critics argue that special category sentences blur the line between judicial interpretation and legislative law-making. However, prevailing academic opinion recognises that such innovation arises from necessity rather than institutional overreach. The absence of statutory sentencing guidelines compels courts to fill normative gaps through constitutional reasoning.²⁶

The Supreme Court has itself articulated doctrinal boundaries for the use of special category sentences. Courts emphasise that such sentences must be reserved for exceptional cases and supported by detailed reasoning. This self-imposed restraint preserves institutional legitimacy and prevents arbitrary expansion of judicial power. The jurisprudence thus reflects a balance between innovation and constitutional discipline.

Sectional Synthesis

The emergence of special category life sentences represents a landmark in the Supreme Court's exercise of judicial control over sentencing. Through *Swamy Shraddananda* and *V. Sriharan*, the Court developed a constitutionally grounded response to the limitations of statutory punishment. These decisions demonstrate how proportionality, transparency, and institutional responsibility can guide judicial innovation. Special category sentences have redefined life imprisonment as a flexible constitutional sanction capable of addressing complex sentencing realities. This section underscores the judiciary's role in shaping sentencing standards where legislative guidance remains absent.

²⁵ Julian V. Roberts, **Public Confidence and Sentencing Legitimacy**, 44 *Crime & Just.* 1 (2015).

²⁶ Andrew Ashworth, **Judicial Law-Making in Sentencing**, 30 *Oxford J. Legal Stud.* 1 (2010).

V. Sentencing Consistency, Arbitrariness, and the Supreme Court's Self-Corrective Jurisprudence

Judicial control over sentencing has increasingly engaged with concerns of consistency and arbitrariness. As sentencing discretion expanded through constitutional interpretation, the Supreme Court also confronted the risk that unguided discretion could produce unequal outcomes. The Court's response has taken the form of a self-corrective jurisprudence aimed at enhancing transparency, rationality, and coherence in sentencing decisions. This development reflects an institutional awareness that judicial legitimacy in sentencing depends upon demonstrable consistency grounded in constitutional principles.

A. Recognition of Sentencing Disparities as a Constitutional Concern

The Supreme Court has expressly acknowledged that sentencing disparity undermines the principle of equality before the law. In *State of Punjab v. Prem Sagar*, the Court recognised that similarly situated offenders often receive markedly different punishments due to the absence of structured sentencing guidance.²⁷ The judgment treated disparity as a systemic issue rather than an incidental flaw, situating sentencing inconsistency within the ambit of Article 14.

The Court observed that sentencing discretion must be exercised on rational and intelligible criteria. Arbitrary variation in punishment erodes public confidence and weakens the moral authority of criminal law. Academic studies corroborate this concern, demonstrating that unstructured discretion increases unpredictability in sentencing outcomes.²⁸ The Court's acknowledgement of this problem marked a shift towards institutional introspection.

B. Judicial Emphasis on Reasoned Sentencing

A key feature of the Supreme Court's self-corrective approach has been its insistence on reasoned sentencing orders. Courts have repeatedly emphasised that sentencing decisions must disclose the factors that influenced the choice of punishment. This requirement serves both constitutional and functional objectives by enabling appellate review and promoting transparency.

²⁷ *State of Punjab v. Prem Sagar*, (2008) 7 S.C.C. 550.

²⁸ Arvind Narrain, *Sentencing Discretion and Equality*, 47 J. Indian L. Inst. 245 (2005).

In *Soman v. State of Kerala*, the Supreme Court reiterated that sentencing courts must articulate reasons that demonstrate proportionality between the offence and the punishment imposed.²⁹ The Court clarified that mechanical reliance on statutory maxima or minima fails to satisfy constitutional standards. Reasoned sentencing ensures that discretion remains accountable to constitutional norms.

Scholarly literature highlights that reason-giving functions as a disciplining mechanism in discretionary decision-making.³⁰ By demanding articulated reasoning, the judiciary reduces the risk of arbitrariness while preserving necessary flexibility. This jurisprudential emphasis strengthens judicial control without imposing rigid formulae.

C. Engagement with Law Commission Reports and Institutional Learning

The Supreme Court's sentencing jurisprudence demonstrates sustained engagement with Law Commission recommendations. The 262nd Law Commission Report identified sentencing inconsistency as a consequence of legislative silence and recommended structured guidelines.³¹ While legislative action remains pending, judicial acknowledgment of these recommendations reflects institutional learning.

Judgments increasingly reference the absence of sentencing policy as a structural deficiency. The Court has used these observations to justify principled intervention through precedent. Academic commentators view this dialogue between the judiciary and law reform bodies as an example of constitutional collaboration.³² Judicial control thus operates not in isolation but in conversation with broader reform discourse.

D. Limits of Judicial Correction and the Need for Structure

While judicial self-correction has improved sentencing transparency, courts have also recognised its limitations. Precedent-based correction operates incrementally and remains dependent on case-

²⁹ *Soman v. State of Kerala*, (2013) 11 S.C.C. 382.

³⁰ Frederick Schauer, **Giving Reasons**, 47 *Stan. L. Rev.* 633 (1995).

³¹ Law Comm'n of India, **Report No. 262: The Death Penalty** (2015).

³² Madhav Khosla, **Judicial Dialogue and Institutional Reform**, 6 *Indian J. Const. L.* 1 (2012).

specific facts. The Supreme Court has acknowledged that true consistency requires systemic reform rather than episodic adjudication.

Comparative scholarship demonstrates that jurisdictions with structured sentencing guidelines achieve greater uniformity without eliminating judicial discretion.³³ The Indian judiciary's recognition of this comparative experience informs its cautious approach. Courts continue to refine sentencing principles while acknowledging the need for legislative intervention.

Sectional Synthesis

The Supreme Court's engagement with sentencing consistency reflects a mature phase of judicial control. By recognising disparity as a constitutional concern, insisting on reasoned sentencing, and engaging with law reform discourse, the Court has developed a self-corrective jurisprudence. This approach enhances transparency and equality while preserving judicial flexibility. The section demonstrates that judicial control over sentencing extends beyond innovation to include institutional restraint and accountability.

VI. Victimology, Penological Objectives, and Constitutional Balance in Sentencing

The Supreme Court's evolving sentencing jurisprudence reflects a deliberate effort to integrate victimological considerations with established penological objectives while maintaining constitutional balance. Sentencing decisions increasingly acknowledge the impact of crime on victims and society, yet remain anchored in principles of proportionality, fairness, and individualised justice. This integration demonstrates judicial control exercised with sensitivity to competing constitutional values rather than unidimensional punishment logic.

A. Incorporation of Victim-Centric Considerations in Sentencing

The Indian criminal justice system historically prioritised the offender–State relationship, with limited attention to victims during sentencing. Judicial pronouncements in recent decades have recalibrated this approach by recognising the victim as a stakeholder in criminal proceedings. The

³³ Julian V. Roberts & Andrew Ashworth, *Sentencing Guidelines and Judicial Discretion*, 30 *Oxford J. Legal Stud.* 1 (2010).

Supreme Court has emphasised that sentencing must reflect the gravity of harm suffered by victims and the broader social impact of the offence.³⁴

Victim impact statements and judicial acknowledgment of trauma have increasingly influenced sentencing outcomes, particularly in cases involving sexual violence, terrorism, and mass crimes. This development aligns with international criminal justice norms recognising victims' rights. Academic literature supports the view that victim-sensitive sentencing enhances the moral legitimacy of punishment without compromising constitutional safeguards.³⁵

B. Penological Objectives Guiding Life Imprisonment

The Supreme Court has consistently articulated four primary penological objectives: retribution, deterrence, reform, and proportionality. Life imprisonment occupies a distinctive position within this framework because of its capacity to balance these objectives. Courts have observed that life imprisonment provides substantial deterrence and retributive satisfaction while preserving the possibility of reform, thereby aligning with Article 21's emphasis on dignity.

In *Mohd. Giasuddin v. State of Andhra Pradesh*, the Court underscored the importance of reformatory justice, holding that punishment should aim at rehabilitation rather than mere retribution.³⁶ Subsequent judgments have reiterated that life imprisonment must not extinguish the prospect of reformation unless constitutionally justified. Scholarly analyses describe this approach as reflective of a humanistic sentencing philosophy grounded in constitutional morality.³⁷

C. Proportionality as the Mediating Principle

Proportionality functions as the central mediating principle that reconciles victim interests with offender rights. The Supreme Court has consistently held that punishment must correspond to the severity of the offence and the degree of culpability. In sentencing jurisprudence, proportionality ensures that victim impact does not translate into excessive punishment.

³⁴ *State of Madhya Pradesh v. Bablu*, (2014) 9 S.C.C. 281.

³⁵ R. Dhavan, **Victims and Criminal Justice in India**, 42 J. Indian L. Inst. 173 (2000).

³⁶ *Mohd. Giasuddin v. State of Andhra Pradesh*, (1977) 3 S.C.C. 287.

³⁷ K. Iyer, **Reformatory Justice and Constitutional Sentencing**, 38 J. Indian L. Inst. 1 (1996).

Judicial application of proportionality requires courts to assess the nature of the offence, the manner of commission, the extent of harm, and the personal circumstances of the offender. This assessment reflects a constitutional commitment to fairness under Articles 14 and 21. Academic commentary recognises proportionality as the doctrinal bridge between retributive demands and constitutional restraint.³⁸

D. Constitutional Limits on Victim-Centric Sentencing

While integrating victim perspectives, the Supreme Court has articulated clear constitutional limits. Sentencing cannot become an instrument of vengeance or collective outrage. Courts have cautioned against allowing public sentiment to override constitutional guarantees. In this regard, judicial pronouncements emphasise that sentencing must remain a rational, principled exercise rather than an emotional response.

Scholars have warned that excessive reliance on victim impact risks undermining consistency and equality in sentencing.³⁹ The Supreme Court's jurisprudence reflects awareness of this risk and demonstrates restraint by grounding sentencing decisions in articulated principles rather than emotive considerations.

Sectional Synthesis

The Supreme Court's integration of victimology into sentencing jurisprudence reflects a balanced exercise of judicial control. By recognising victim harm while maintaining commitment to proportionality and reform, the Court has harmonised competing penological objectives within a constitutional framework. Life imprisonment emerges as a sanction capable of addressing serious harm without abandoning human dignity. This section illustrates that judicial control over sentencing operates through equilibrium rather than absolutism.

³⁸ Aharon Barak, **Proportionality: Constitutional Rights and Their Limitations** (2012).

³⁹ Jonathan Doak, **Victims' Rights and the Limits of Punishment**, 18 *Crim. L.F.* 1 (2007).

VII. Normative Assessment and the Future of Sentencing Jurisprudence in India

The Supreme Court's evolving approach to life imprisonment reflects a broader constitutional engagement with sentencing as an institutional responsibility rather than a mechanical consequence of conviction. Judicial control over sentencing has emerged as a response to legislative silence, structural discretion, and the constitutional demand for fairness. A normative assessment of this jurisprudence reveals both its achievements and its inherent limitations, while also illuminating pathways for future reform.

A. Judicial Control as a Constitutional Necessity

Judicial intervention in sentencing has arisen from the structural design of Indian criminal law, which confers wide discretion without corresponding statutory guidance. The Supreme Court has treated this discretion as requiring constitutional discipline rather than judicial withdrawal. Sentencing decisions directly implicate personal liberty and human dignity, thereby engaging Article 21 at its core. Judicial control ensures that punishment remains proportionate, reasoned, and consistent with constitutional morality.

The Court's development of doctrines governing life imprisonment illustrates how constitutional adjudication can compensate for legislative gaps. By defining life imprisonment as incarceration for the remainder of natural life, structuring non-remittable sentences, and insisting on individualized assessment, the judiciary has infused substantive content into an otherwise indeterminate punishment. Academic commentary supports this approach, characterising judicial control in sentencing as a form of constitutional guardianship rather than institutional overreach.⁴⁰

B. Institutional Limits and the Risk of Fragmentation

While judicial innovation has strengthened sentencing jurisprudence, it also exposes institutional limits. Precedent-based development operates incrementally and remains dependent on fact-specific adjudication. This mode of evolution risks doctrinal fragmentation, where sentencing

⁴⁰ Madhav Khosla, *The Indian Constitution and Judicial Discretion*, 12 Int'l J. Const. L. 1 (2014).

principles vary across benches and contexts. The Supreme Court has itself acknowledged that consistency achieved solely through case law remains partial and uneven.

Scholars caution that excessive reliance on judicial discretion may perpetuate uncertainty, particularly in lower courts where sentencing capacity varies.⁴¹ The absence of binding sentencing guidelines leaves trial courts with limited direction, increasing the risk of disparity. Judicial control, though essential, cannot fully substitute for comprehensive legislative policy.

C. The Case for Structured Sentencing Guidelines

Comparative constitutional experience demonstrates that structured sentencing guidelines enhance consistency while preserving judicial discretion. Jurisdictions such as the United Kingdom and several common law systems employ guideline-based frameworks that articulate sentencing ranges and relevant factors. Academic analyses indicate that such frameworks improve transparency and appellate review without rigidifying punishment.⁴²

The Indian Supreme Court's sentencing jurisprudence implicitly gestures towards this model. Judicial insistence on reasoned sentencing, proportionality, and consistency mirrors the objectives of guideline-based systems. Law Commission Reports have repeatedly recommended the adoption of structured sentencing frameworks tailored to Indian conditions.⁴³ Legislative engagement with these recommendations would complement judicial control and strengthen institutional coherence.

D. Constitutional Sustainability of Judicially Crafted Sentences

The sustainability of judicially crafted sentencing doctrines depends upon their continued alignment with constitutional principles. Special category sentences, structured life imprisonment, and proportionality-based reasoning derive legitimacy from Articles 14 and 21. The Supreme Court has consistently emphasised restraint, reserving exceptional sentencing innovations for extraordinary cases. This self-imposed discipline preserves institutional legitimacy.

⁴¹ Andrew von Hirsch, **Sentencing and Fairness**, 6 Crim. L.F. 1 (1995).

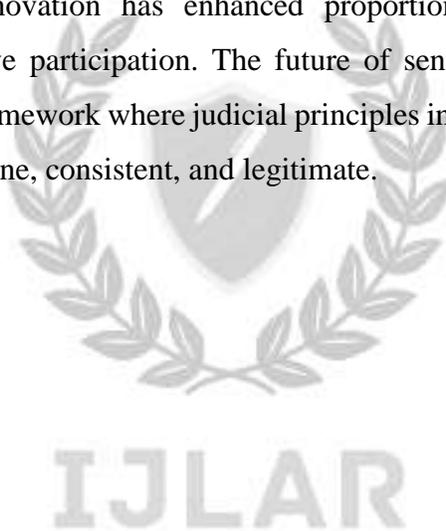
⁴² Andrew von Hirsch, **Sentencing and Fairness**, 6 Crim. L.F. 1 (1995).

⁴³ Law Comm'n of India, **Report No. 262: The Death Penalty** (2015).

Academic discourse recognises that constitutional courts play a vital role in shaping sentencing norms during periods of legislative inertia.⁴⁴ The Indian experience demonstrates that judicial control over sentencing can evolve responsibly when guided by transparency, proportionality, and respect for separation of powers. Life imprisonment jurisprudence thus serves as a model for constitutionally grounded judicial engagement.

Sectional Synthesis

A normative assessment of sentencing jurisprudence in India reveals judicial control as both necessary and constrained. The Supreme Court's engagement with life imprisonment reflects a principled effort to harmonise punishment with constitutional values in the absence of legislative guidance. While judicial innovation has enhanced proportionality and fairness, structural consistency requires legislative participation. The future of sentencing jurisprudence lies in a collaborative constitutional framework where judicial principles inform statutory reform, ensuring that punishment remains humane, consistent, and legitimate.



⁴⁴ Law Comm'n of India, **Report No. 262: The Death Penalty** (2015).