

# SENTENCING: COMPARATIVE STUDY AMONG INDIA, USA AND UK

Neeraj<sup>1</sup>, Prof. Sushila Devi Chauhan<sup>2</sup>

<sup>1</sup> Senior Research Fellow, Research Scholar, Department of Law, Kurukshetra University, Kurukshetra.

Email: [advocateneerajjain@gmail.com](mailto:advocateneerajjain@gmail.com)

<sup>2</sup> Professor, Department of Law, Kurukshetra University, Kurukshetra.

Email: [sdchauhan@kuk.ac.in](mailto:sdchauhan@kuk.ac.in)

DOI: 10.47750/pnr.2022.13.509.814

## Abstract

A nation's punishment policy reflects its morality, logic, and judgement. A defined level of punishment allows the legislation of a community to eradicate criminal behaviour through punishment, rehabilitation, or other justifiable measures. However, the rules regarding punishment and imprisonment have changed over time. This sentencing policy is inconsistent due to its uniform development. Judges' rulings and judgments create a discrepancy. This creates inconsistencies in the system and a constant discrepancy in what constitutes a fair "punishment" for a crime. This research paper examines the discrepancies in the Indian justice system and proposes solutions to this long-standing problem.

**Keywords:** Sentencing, Law, Justice, Policy, India.

## Introduction

The global rise in crime rates has been frightening and the India is not immune. This makes it very clear that a criminal justice intending to be fair for all is needed, and that the imposition of a sentence that is both appropriate and proportionate is a crucial part of any legal code. "The Indian Penal Code of 1860" (hereinafter "I.P.C."), "The Indian Evidence Act" of 1872, and "The Code of Criminal Procedure of 1973" are the primary pieces of legislation governing criminal law and punishment in India (hereinafter mentioned because the "Cr.P.C.")<sup>1</sup> The difference between a sentence and a punishment needs to be kept in mind at all times. While they share a connection, their connections do not make them interchangeable. If we talk about the definition "Sentences" are remarks in judgments that specify the legal repercussions of a particular crime. After implementation and institutionalization, the same thing would be referred to as "punishment." Therefore, the sentence is considered to be the preliminary step in the actual administration of punishment. India is a country which is on its way of development and at the same time has increased crime rates now days. There are a lot of legislation in India that are there to stop and prevent the crimes from happening. In order for the crime to be reduced the punishment is supposed to be severe and the intention of giving punishment should be to impose penalty for the criminal. "Sentencing" is also a kind of punishment, on which the paper will be discussed further. There are 2 reasons for punishment being given the very first is that wrong doer must suffer and other that it discourages other people from doing wrong. The intensity of punishment broadly depends upon the nature of crime. The person who is found guilty and is convicted for the crime and is given the punishment of sentencing, In the process of providing punishment the clear intention is to give punishment to the wrong doer and do justice to the victim and establishing new standards. The criminal justice system of our society very rightfully aims at protecting the rights and establishing decent framework for

<sup>1</sup> Code of Criminal Procedure, 1973.

the society to function. Punishing the culprit, assuring justice and providing compensation to the victims and giving protection to the victims are some of the important tasks that our criminal system is entrusted with and at times the punishment is also hindered by the presence of political power around. This means that any change in the government and in the ideology will both be reflected in the act of offence and in the gravity of punishment for the same offence. If we look down at the history, we will get to know that crimes have had close connections with the religious sanction and were considered both as sins and offences without any delimitation.

### Research Problem:

The criminal justice system's sentencing policy is unfair and unjust worldwide, and judges' discretion can lead to unfair and unexplainable consequences. More research is needed to understand the reasons of rising gaps and how to reduce them. It is possible that we might develop more plausible theories concerning the reason of these imbalance in the criminal justice system if we examine a wide range of cases, judgements, and research about sentencing policies and compare them to those in other jurisdictions. This research paper aims at finding out the policy of sentencing in India and other countries for better understanding of the readers.

### Research Objective:

1. To research and develop better understanding of the sentencing policy in India.
2. To investigate the primary justification for using punishment as a sentencing factor.
3. To analyze and draw comparison between different countries in respect of their sentencing policy.

### Sentencing Approach in “India”:

The criminal justice system's sentencing is significant. It is believed that a sentence would prevent the offender from committing further crimes. However, the punishment should not prevent the person from starting again as an improved human being. The judicial system was established to ensure fairness. In recent times, attention has switched from the offence to the offender. Now before discussing India's sentences and punishments, we must define a sentencing policy. Criminal justice system differs by nation. Some nation priorities rehabilitation over punishment. Sentencing policy is a justice system's main justification. India has no sentencing policy. No such rules exist; however, courts have occasionally spelled out principles and elements to examine when deciding sentences. Deterrence, proportionality, and rehabilitation were stressed in *Soman vs. Kerala*<sup>2</sup> despite these factors, the Supreme Court found no policy: Punishing the offender is fundamental to the administration of justice, yet it is the most deficient part of the system of our country. If the accused is found guilty, the trial court has no statutory or judicial criteria to govern its punishment. Section 53, Chapter III of the “IPC”, lists court sanctions for numerous offences. They are: “Death, Life imprisonment, rigorous or simple imprisonment, Property forfeiture and fine”. Every offence that is mentioned in “IPC” has minimum and maximum penalty. Different judicial interpretations may explain this developing discrepancy. The Supreme Court stated in “*State of M.P. v. Bablu Natt*”<sup>3</sup> that imposition of principles relies on the circumstances, facts, and questions of the case. This affects how judges handle cases. Individualization makes sentencing important. Individualization is tailoring sentences to criminals rather than crimes. English classical school talked about rational sentencing. Jeremy Bentham championed this school. “The Indian penal code” follows the Benthamite theory of punishment. Section 235 of the 1973 Criminal Procedure Code may personalize sentencing. The Law Commission's 7th Report highlighted sentencing concerns.

---

<sup>2</sup> *Soman v. State of Kerala*, (2013) 11 SCC 382 (India)

<sup>3</sup> *State of M.P. v. Bablu Natt*, (2008) 9 SCC 281 (India)

## Need for sentencing policy:

The court determines the appropriate sentence, whether it be the minimum, maximum, or something in between. Section 354(1) (B) of the Criminal Procedure Code mandates that judges write down their rationale for imposing a sentence, and Section 354 (3) mandates that judges provide exceptional justification for life or death sentences. Despite all of this, judges and the courts in India have considerable authority since the country lacks a coherent sentencing policy. As a matter of fact, judges' deciding factors in sentence might be rather different. All judges consider severity, purpose, and responsibility. The judge's personal biases and experiences determine the punishment. Competent lawyers on a specific day in front of a particular court could swing judges in their favour. Each situation is different, and that might either increase or decrease the penalty. The Supreme Court acknowledged this in *State of M.P. v. Bablu Natt* and stated:

The severity of a sentence is always based on the specifics of each case. The "Malimath Committee" was founded in 2000 by the Ministry of Home Affairs. The sentencing discretion of judges was emphasised by this committee. They also recommended power regulation and uniform sentencing. This discretionary power extends beyond judges. Section 360 and 361 of the IPC allows good-behaving prisoners to be released. Due to the lack of a sentencing mechanism and a defined "good behaviour," jail authorities could release a convict at their discretion. Lack of a uniform policy causes huge discrepancies. The same-offense defendants may receive different penalties. It has been said that judges, like everyone else, have their own set of priorities. What constitutes an aggravating or mitigating circumstance is determined in a different way by each court. The criminal justice system becomes unbalanced as a result of the excessive incarceration of criminals. Inequitable sentencing is a fundamental problem in the criminal justice system. As time goes on, the problem just becomes worse. The public has concentrated on sentence disparity—unjustifiable differences in probation and prison sentences—despite criminal justice system disparity. This may be because discretion in sentencing has long been recognized whereas discretion at other stages of the criminal justice system has been ignored or minimized. Disparity is most obvious at sentencing. Therefore, sentence inequality is problematic. The system failed to provide equal justice under the law. It's famous. It may damage public trust in criminal justice. Prisoners who receive heavier sentences are said to be demoralized and unrehabilitated by sentence discrepancy. Most importantly, sentencing disparity calls into question the feasibility of individualized correctional treatment due to a lack of understanding of human behaviour. A disagreement about criminal justice goals, a failing of the trial judiciary to minimize sentencing differences and a tendency to prioritize administrative convenience above offender disposition.

## Capital Punishment:

Although India is one of the world's largest countries, it also has a correspondingly high crime rate and number of criminals. Each and every offence warrants a disciplinary response from the authorities. The death sentence is sometimes used as a form of punishment in India; however, this is an extreme exception to the norm. A person may be sentenced to death by a court for the most terrible of crimes. In this society, the punishment for crimes is death by hanging. However, in India it is only provided in the most exceptional circumstances. The death penalty in India is outlined in both "The Penal Code" and "The Code of Criminal Procedure". India has always had the death penalty, albeit its application has been severely restricted over the years. To my knowledge, no female criminals in India have been executed since independence. As a form of punishment, capital punishment is still prevalent, which the country believes it must prohibit. In India, the death penalty may be imposed for violations of IPC Sections "121, 132, 194, 195A, 201, 302, 303, 305, 364A, 374A, 376E, 388, 389, and 396", among others. Applicable crimes include aggravated murder, rape leading to death, rape not leading to death, treason, espionage, drug trafficking, and military offences. It is not a requirement that the death penalty be imposed for a crime. The judge decides based on the severity and gravity of the offence. In all situations where the death penalty has been imposed, the appropriate government may, without the offender's approval, commute the sentence to any other punishment permitted by this Code, as stated in Section 54 of "The Indian Penal Code". The judge's discretion in making the choice is wide open. The Supreme Court has established very high conditions for when the death sentence can be used. Considering the defendant's right to life and the defendant's right to liberty, we found that the death penalty was not justified. Death, it was argued, would deprive him of his rights under India's constitution.

However, the state may impose reasonable restrictions on individual liberties if it so chooses, and this is permitted under the Constitution. Following that, the concept of life itself was dissected. Based on considerations of public interest and morality, the court ruled that the right to life could not be protected in this case. For a follower of the principle of consequences, this is enough. When we consider the value of human life, we cannot conclude that capital punishment is acceptable. The defendant's appeal was dismissed and he was ultimately sentenced to death. The court has concluded that the death sentence should be used only in the most extreme cases, where aggravating factors exceed mitigating ones, as was the case in this instance.

## Sentencing Approach in USA:

Different states in the United States have different laws regarding criminal punishment. Since the Constitution of the United States is the highest law in the land, it is imperative that all sentences be consistent with its precepts, which lay down basic structures while delegating most policymaking to the individual states. While federal criminal law has grown, state and local courts still handle the majority of criminal punishment. In all except the most extreme capital cases, jurors have relatively little say in sentence, which is usually left to the discretion of the presiding judge. After the jury (or other fact finder) returns findings of fact and a finding of guilt, and sometimes after the probation department has done a pre-sentence evaluation, the appointed authority often defines the punishment in a separate hearing. Courts, sentencing guidelines, and condemnation procedures in every given U.S. state are typically governed by state law. Criminal laws vary greatly in both procedure and substance between the fifty states and the numerous government domains and territories.

“The United States Sentencing Commission”<sup>4</sup> is an independent agency among the lawful branches of government. Its primary responsibilities are to establish condemning approaches and practices for the public authority courts, including rules suggesting the appropriate construction and reality of punishments for criminals prosecuted for lawful offences, and to counsel and assist Congress and the executive branch in the improvement of effective wrongdoing strategy; and to assemble, inspect, research, and adapt a comprehensive collection of data on crime and censuring issues

## Capital Punishment in USA:

Despite widespread international condemnation, several nations continue to enforce the death sentence in the sake of public safety. In contrast to libertarian values, which value life and freedom above all else, euthanasia is morally repugnant. Ironically, for a country governed by libertarian principles, the United States has not abolished the death sentence. United States law mandates the death penalty for acts of treason, drug trafficking on a grand scale, murder, and attempted murder of judicial personnel. For crimes described in Section 794 (gathering or delivering defence information to a foreign government) or Section 2381 (treason) of Title 18, United States Code, or for an offence under Section 3593, if the defendant has intentionally killed the victim, inflicted serious bodily damage that led to death, intentionally participated in the act that directly led to the death of a person, or intentionally engaged in an act that causes great bodily harm to another person. Insufficiency of evidence to establish intent to kill, unusual and substantial duress, defendant's minor degree of participation, presence of equally culpable defendants, lack of prior criminal record, mental illness, victim's consent to death, and other circumstantial factors are all listed as mitigating circumstances in section 3592 for murder.

Its constitutional legality was a highly debated topic in the United States. Concerns were made over its unreliability, arbitrariness, inexplicable delays, and widespread desertion in numerous U.S. states. Unreliability concerns were connected with wrongful conviction and exoneration, bias, and similar matters. Racism, sexism, and inadequate resourcing of capital defence were listed as factors of arbitrariness. The high execution time was also brought up since it undermines its purpose. Due to the court-mandated capital juror qualification, there is a

---

<sup>4</sup> Home | United States Sentencing Commission, <https://www.ussc.gov/> (last visited Apr 15, 2022).

prejudice in the verdict. According to studies on prejudice, attitudes regarding the death sentence may undoubtedly damage a case. The Eighth Amendment of the United States Constitution was a key topic of discussion in relation to this. It adds, "Exorbitant bail, excessive fines, and harsh and unusual penalties should not be necessary or imposed." The interpretation of this provision in the 1972 case "Furman v. Georgia" led to the elimination of the death sentence.

Case of Furman v. Georgia: The case raised the question of discrimination and, based on statistical data, found that there is racial prejudice in the execution of the death penalty. The statistics from a renowned publication were:

RACE OF THE OFFENDER BY FINAL DISPOSITION						
Final	Negro		White		Total	
Disposition	N'	%	N	%	N	%
Executed	130	88.4	210	79.8	340	82.9
Commuted	17	11.6	53	20.2	70	17.1
Total	147	100.0	263	100.0	410	100.0

Even though they constitute a minority in the United States, the graph plainly demonstrates that so-called Negroes have a high execution rate. In addition, the number of commuted Whites is substantial. This demonstrates that a White with a death sentence has twice the likelihood of avoiding execution than a black. The case also addresses many other relevant factors and has determined that the death sentence has no deterrent effect on criminal behavior.

In America, the majority of those punished were black. There are several causes for this problem. One is the relationship between money and politics. Another is the attitude towards blacks. When wealth and power allow the wealthy to dodge punishment, the poor lack access to a free attorney for capital crimes. A further point is that blacks, owing to their situational circumstances, are more likely to commit capital crimes such as murder, drug trafficking on a large scale, etc. The innate prejudice can only be eliminated by societal progress. Consequently, a more equitable perspective on the social and legal system is required. The rising crime rate is not just the product of individual actions, but also of societal issues. We face a looming dilemma can the law condemn a person to death for a crime that was committed because of circumstantial factors?

### Sentencing Approach in UK:

A judgement against a criminal in the United Kingdom is decided by either a bench of magistrates, a district judge in a Magistrate's Court, or a judge in a Crown Court. The court will take into account the defendant's character and antecedents, including his or her criminal past, as well as the defendant's personal circumstances, such as the defendant's financial status if a fine is imposed, while deciding on a punishment.

The Criminal Justice Act,<sup>5</sup> which established a mechanism for judicial sentence judgments, constitutes the primary sentencing resolution. Although the statute specifies a number of elements that the court must examine when imposing a sentence, it is up to the person giving the sentence to determine the weight to be attached to each variable. By establishing maximum punishments for certain crimes, the legislature displays its assessment of the gravity of the offence. The Sentencing Council aids in refining this relationship by providing recommendations, such as censure regulations that propose a degree of censure for each situation. The sentencing judge is required to evaluate the requirements and, if they decide to impose an alternative kind of punishment, to provide their reasons for doing so.

<sup>5</sup> Criminal Justice Act 2003 (UK)

Penalties for crimes committed in England and Wales are outlined in statute. Dismissals, fines, community service, and jail time are the four most typical outcomes for criminal justice cases. A conditional or unconditional pardon may be granted to a convicted inmate if the court does not order his immediate execution. Fines are the most common kind of Punishment. The court provides many community punishment options for those convicted of "serious enough" offences. The offender is required to complete or abstain from certain community-based tasks as part of their community-based punishment. Necessities include things like catching up on unfinished work, getting drug rehab, and excluding a litigant from a restricted area. Jail time, either immediate or suspended, may be given for acts judged serious enough that no other kind of punishment is appropriate. Adjudicators' court sentences may not exceed six months in prison (which may be constrained progressively up to a year for two offences however offenses). Depending on the specifics of the offence, the court may also impose further sanctions such as a restitution order, costs, solicitation limitations, or a rejection order. Some crimes, including murder, require the mandatory minimum sentence of life in prison. There are mandatory minimum penalties for crimes including burglary (with "three strikes and you're out"), entrusting another person with a handgun, and certain firearms offences. Different sentencing guidelines apply to juvenile offenders between the ages of 10 and 17, to those between the ages of 17 and 20, and to those between the ages of 18 and 20.

### Capital Punishment in UK:

The United Kingdom is one of 140 nations where the death penalty does not exist. Even though the British implemented harsh execution sentences in India, the situation in Britain was different. Since the 1957 Homicide Act, which limited the number of individuals executed each year, British law has been liberal towards the death sentence. The statute was superseded by the Murder (Abolition of the Death Sentence) Act 1965, which confined the death penalty to four crimes: treason, espionage, piracy with violence, and dockyard arson. It is significant that no one has been condemned to death since 1964, when the last execution took place. Even though the United Kingdom possessed a statute that authorized the death sentence, it was not practiced. Peter Anthony Allen was the final person to be executed for the murder of John Alan West. The convention produced by the European Commission on Human Rights was endorsed by the House of Commons, resulting in its abolition in the United Kingdom, save in times of war or imminent conflict. The Human Rights Act of 1998 safeguards the right to life in general and the death sentence in particular.

Article 2 makes it very clear that everyone's right to life is safeguarded by law. No one shall be willfully deprived of life unless in the execution of a court's judgement upon conviction for a crime for which the death penalty is prescribed by law.<sup>6</sup>

The Sixth Protocol declared its elimination, save in times of war, as described above. A 2004 amendment act, however, replaced it with the 13th protocol, which eliminated the death penalty from British law entirely. The protocol issued by the European Commission for Human Rights states, "convinced that the right to life is a fundamental value in an undemocratic society and that the abolition of the death penalty is essential for the protection of this right and for the full recognition of the inherent dignity of all human beings"<sup>7</sup>. However, the issue of desert persists. Whether a murderer deserved to be murdered? Critics of this statute continue to highlight the same concern, even if worldwide abolitionist campaigning triumphs. In a British study, 70% of respondents favored the death penalty. This makes the death penalty issue dark. Even after being released, a person who has committed significant crimes might have a criminal propensity, according to the consequentialist position. In order to commit more murders. One death may prevent the deaths of thousands. However, the question's validity is founded only on probability theories. How can the law implement a punishment mechanism for a crime that may or may not occur in the future, particularly if it takes a life? This is why the United Kingdom abolished the death penalty. In the United Kingdom, one may only deprive another person of their Right to Life

---

<sup>6</sup> Clause 1, Article 2, Schedule 1, Human Rights Act, 1998 accessed on 26<sup>th</sup> September, 2022 <https://www.legislation.gov.uk/ukpga/1998/42/schedule/1> last accessed on 3rd October, 2022

<sup>7</sup> X

- (a) Self-defense in response to illegal aggression;
- (b) To conduct a legitimate arrest or prevent the escape of a lawfully detained individual;
- (c) Legal measures employed to suppress a riot or uprising<sup>8</sup>.

## Need For “Sentencing Guidelines in India”:

Democracy and the rule of law limit judicial discretion by providing a framework to correct mistakes. Law cannot forecast every circumstance or which law applies. The reason, due process, and case facts should govern what the law cannot. Judges should be consistent and replaceable, making similar decisions in similar cases, so no one may gain an undue advantage by picking or influencing the judge. To avoid arbitrary, insolent, discriminating, biased, intrusive, and corrupt administration, judges should utilize their judgement intelligently, justly, and competently. The court can convict or acquit a prisoner based on the facts and evidence, but sentencing under the Indian Penal Code is an emotional topic that needs debate. Consider victim rights when establishing punishment. India has worse sentence than the US and UK. The essay urges that the legislature establish regulations to reduce conflicting judgments and ensure fair and consistent criminal sentence. The article outlines India's criminal justice system, ideas, and sentence advice.

The 47th Law Commission was constituted by the Ministry of Law and Justice of the Union. Mr. Gajendragadkar headed up the team that filed the report on 2.28.1972 asking how sentences should be set. Many considerations go into determining an appropriate punishment, he said, including the seriousness of the crime, any mitigating or aggravating circumstances, the offender's criminal history (if any), and the offender's age, career or social history, and level of education. Separate from the conviction process, sentence is outlined in sections 235(2), 248(2), and 255 of the Criminal Procedure Code. Both sides may submit sentencing-related material on a different day after conviction. A sentence handed down in absentia can be overturned through the appeals process. The verdict and punishment closes the case. The court may grant a defendant's request for release on probation of good behaviour or admonition under the Criminal Procedure Code or the Probation of Offender Act of 1958.<sup>9</sup>

Fines, restitution, imprisonment, or the death penalty can all be stipulated in a court order for good cause. Governments have the power to suspend, remit, or commute sentences under Articles 432 and 433 of the Criminal Procedure Code. Sentences of life in prison may be reduced to 14 years. According to a report published in March 2003 by the Ministry of Home Affairs' established Committee on Reforms of the Criminal Justice System (the Malimath Committee), the Indian Penal Code was the authoritative source for offences and penalties. Different crimes have different maximum and minimum penalties. The judge has wide discretion in imposing sentences, within the bounds of the law.

The judge isn't given any guidance on how to arrive at a suitable sentencing. For this reason, judges often make decisions based on their personal preferences. There's a lack of uniformity. In court, judges might be either lenient or strict. A judge's unrestrained discretion is just as problematic. The Committee recommended creating a statutory committee with members from the prosecution, legal profession, police, social scientist, and women's representative to bring predictability to sentencing. This committee would be chaired by a retired Supreme Court judge or retired Chief Justice of a High Court with experience in criminal law. There has been no progress thus far. In the wake of a conviction, a separate sentence phase is provided for under sections 235(2), 248(2), and 255 of the Criminal Procedure Code (2). Both sides may submit sentencing-related material on a different day after conviction. A sentence handed down in absentia can be overturned through the appeals process. The verdict and punishment closes the case. Under Cr PC or Probation of Offender Act, 1958, the court can release a person on probation of good conduct or admonition.

<sup>8</sup> Clause 2, Article 2, Schedule 1, Human Rights Act, 1998 <https://www.legislation.gov.uk/ukpga/1998/42/schedule/1> last accessed on 3rd October, 2022

<sup>9</sup> Allaudin Mian v. State of Bihar, (1989) 3 SCC 5

In India, there is no unified method to punishment. A statute or set of rules that balances and defines the weight to be given to aggravating and mitigating variables in the conduct of a crime would enable the judge in imposing appropriate punishment on the accused. In addition, it will be consistent with the common law nations from whom we have derived the majority of our laws.

- **Uncertainty of sentencing:** The punishments for the various offences are spread out throughout several provisions of the IPC. The minimum and/or maximum punishments for the infractions are set forth in the statutes. However, the wide gap between these two sentencing ranges provides judges with substantial leeway in setting punishments in both circumstances where the sentencing range is provided and cases where it is not, such as in theft cases where no maximum sentence is indicated. The sentencing procedure is filled with uncertainty since some judges are kind while others are harsh. Therefore, the severity of the punishment and term that may be imposed on the offender is neither assured nor predictable. The "Malimath Committee" in 2003<sup>10</sup> agreed, as did the "Madhav Menon Committee," which pushed for a legislative framework for sentencing recommendations in India.<sup>11</sup>
- **Lack of statute governing punishment:** Due to absence of this there has been an increase in appeals in India. One of the grounds for this is the broad discretion provided to judges<sup>12</sup> hence, the appellant believes the judge exhibited bias when deciding the appropriate sentence.
- **Affects the fundamental rights of the offender:** According to the Indian Constitution, everyone has the right to be treated equally. However, without sentencing guidelines, judges may deliver verdicts where, in the event of comparable facts, the consequences may differ, harming the offender's right to equality, which ensures that all are treated equally before the law, and the right to a fast trial given by Article 21 of the Constitution, since the appeal in lieu of seeking relief from the higher courts frequently leads in a backlog of cases of appeal until the actual day of trial.

Consequently, a competent system for sentencing guidelines will aid in guaranteeing consistency and the provision of justice, so enhancing the public's faith in the legislative and court.

## Conclusion and Suggestions:

The United Nations and other regional and international organisations have condemned the use of the death penalty as an abuse of human rights in recent decades. Its major goal is the global abolition of the death penalty. Many resolutions have been approved by it calling for the end of the death penalty. The United States and India, however, have limited the death penalty without outlawing it totally. It has been banned in several US states, and its usage has been severely limited in India. The death sentence is being seen as an abuse of human rights by more and more countries throughout the world. At the close of 2021, 108 countries will have completely done away with the death penalty.

Since there is no formal Bill of Fundamental Rights and people's rights are safeguarded by regular legislation, the United Kingdom is committed to the Rule of Law idea. Most serious crimes and civil procedures are triaged via three courts in the aforementioned countries. In the United States, both criminal and civil cases are heard in the same court at the federal level. Subordinate courts hear matters first, then appellate courts, and finally the Supreme Court, if required. Unlike India and the UK, the United States does not have a "Tribunal System." In the United States, it is common practise to "charge bargain" or "plea bargain." For 86% of instances in 2010, this was the chosen method of resolution. This procedure is not used in Indian or British courts. As a result, there is now a significant backlog of cases in the judicial systems of both countries.

The Constitution is the "Supreme Law of the Land" in both India and the United States, and the judiciary is responsible for protecting and interpreting it. While the United States has a well-documented Constitution, the

---

<sup>10</sup> [https://www.mha.gov.in/sites/default/files/criminal\\_justice\\_system.pdf](https://www.mha.gov.in/sites/default/files/criminal_justice_system.pdf)

<sup>11</sup> Report of the Committee on Draft National Policy on Criminal Justice (July 2007)

<sup>12</sup> Jagmohan Singh v. State of Uttar Pradesh, (1973) 1 SCC 20

United Kingdom does not. Procedure established by law is the standard in India, whereas due process of law is used in the United States. Thus, it may be argued that the guideline system in the United Kingdom offers a perfect sentencing method to aid judges in assigning appropriate punishment to offenders. The current system in India relies on precedents that might change from case to case based on the judge's whim and the presence or absence of other aggravating or mitigating elements. Furthermore, because there are no regulations for specific offences, there are no general sentencing recommendations in our legal system. Author concludes that a hybrid system of sentencing in India is necessary, and that the existing sentencing guidelines in the United Kingdom should be considered in the formation of the sentencing guidelines in India. This is because the United Kingdom's approach is more familiar to the Indian society, and because the Indian legal system is increasingly based on laws borrowed from common law countries.