

“THE IMPACT OF MANDATORY MINIMUM SENTENCING IN CRIMINAL JUSTICE SYSTEM OF INDIA”

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ABSTRACT

Mandatory minimum sentencing refers to laws that impose fixed minimum penalties for certain criminal offences, and it has become a notable yet debated aspect of India’s criminal justice framework. Though introduced to deter criminal activity, standardize sentencing, and reflect a tough approach to grave crimes, such provisions often bring about unforeseen challenges. This study provides a critical analysis of how these sentencing requirements affect judicial independence, contribute to prison overcrowding, and disproportionately impact individuals from marginalized backgrounds. By exploring global approaches, particularly those adopted in the United States and the United Kingdom, the research emphasizes the need for proportional and case-sensitive sentencing. The analysis indicates that while mandatory minimums may serve punitive goals, they frequently undermine justice, fairness, and rehabilitation. The paper proposes reforms including the adoption of structured sentencing guidelines, safeguarding judicial discretion, and establishing regular policy reviews to promote a more equitable justice system.

Keywords:

Mandatory Minimum Sentencing, Criminal Justice System, Judicial Discretion, Prison Overcrowding, Sentencing Guidelines, Proportionality, Marginalized Communities, Punitive Measures, Sentencing Reform, International Comparison, Rehabilitation, Legal Uniformity, India, United States, United Kingdom.

1. Introduction

Mandatory minimum sentencing refers to statutory provisions enacted by the legislature that prescribe a fixed minimum punishment for specific offences, which the judiciary is bound to impose upon a conviction. These laws essentially remove or significantly limit the discretion of judges to tailor punishments according to the individual facts and circumstances of a case. Designed with the intent to deter criminal conduct, promote consistency in sentencing, and demonstrate a strong response to serious crimes, mandatory minimums have become a prominent feature in

several Indian penal statutes, including laws addressing narcotics, sexual offences, and firearms.

However, despite their intended deterrent effect, mandatory minimum sentencing provisions have generated widespread debate within legal and policy-making circles. Critics argue that such sentencing frameworks often result in disproportionate punishments, undermine the principle of individualized justice, and contribute to systemic challenges such as overcrowded prisons and delays in the judicial process. Moreover, these laws may have an unintended and disproportionate impact on economically

and socially disadvantaged individuals who often lack adequate legal representation and resources to contest charges effectively.

In India, mandatory sentencing is primarily found in special legislations such as the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act), the Protection of Children from Sexual Offences Act, 2012 (POCSO), and sections of the Indian Penal Code (IPC) relating to heinous crimes. While these laws are often justified on the basis of their perceived deterrent value, empirical evidence suggests that they may fail to reduce crime rates and instead exacerbate existing inequities within the justice system.

This paper aims to explore the evolution, rationale, and practical implications of mandatory minimum sentencing in India. It also analyzes the tension between legislative intent and judicial independence, and the consequences for procedural fairness and rehabilitative justice. Through a comparative lens, examining approaches in jurisdictions such as the United States and the United Kingdom, the study offers critical insights into alternative sentencing models that balance the goals of deterrence, retribution, and reform.

2. Evolution and Legal Framework

2.1 Historical Background

The concept of mandatory minimum sentencing in India has its foundations in the colonial legal architecture, particularly the **Indian Penal Code (IPC), 1860**, which prescribed fixed penalties for various offences.³⁷¹ While the IPC did not extensively incorporate mandatory minimum sentences in its early form, it laid the groundwork for a more rigid sentencing structure in criminal jurisprudence. The focus during colonial rule was largely punitive, aimed at establishing authority and suppressing dissent, often through harsh and non-negotiable sentencing policies.

With the passage of time, India's criminal laws

began to evolve in response to the changing social, political, and legal contexts. The post-independence era witnessed the introduction of several **special and penal statutes** that explicitly included mandatory minimum sentencing provisions. These provisions were introduced primarily as a response to the rising public concern over heinous crimes, especially those involving vulnerable populations such as children, women, and historically oppressed communities, as well as issues like narcotics trafficking and illegal arms possession. The legislative rationale often centered around creating a strong deterrent effect and ensuring that justice was served in a uniform and uncompromising manner.

However, the increasing prevalence of mandatory minimum sentencing in modern Indian statutes has sparked debates about its compatibility with constitutional principles, such as **the right to a fair trial, judicial discretion, and proportionality in sentencing**. Despite these concerns, mandatory minimums continue to form a critical part of India's criminal justice policies, particularly in laws dealing with drugs, sexual offences, and caste-based atrocities.

2.2 Key Statutes Containing Mandatory Minimum Sentences

Several significant Indian laws incorporate mandatory minimum sentencing clauses. Below are the most notable statutes that reflect this trend:

a) **The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act):**

One of the most well-known legislations with mandatory minimum provisions, the NDPS Act, prescribes **a minimum of 10 years of rigorous imprisonment and a fine of ₹1 lakh** for offences involving commercial quantities of narcotic substances. Even for smaller quantities, the Act stipulates structured punishments based on the quantity of substance involved. Judicial discretion is largely curtailed under this Act, with very limited scope for leniency, even in cases involving first-time offenders or those from

³⁷¹ Indian Penal Code, 1860, S. 53-75.

marginalized backgrounds.³⁷²

b) The Protection of Children from Sexual Offences Act, 2012 (POCSO):

This legislation, aimed at safeguarding children from sexual offences, prescribes mandatory minimum punishments that vary depending on the gravity of the offence and the age of the victim. For instance, **penetrative sexual assault carries a minimum sentence of 10 years**, which may extend to life imprisonment. In aggravated cases, the punishment may be increased further. The Act does not allow for judicial leniency, even in cases with mitigating circumstances, which has raised concerns about inflexibility and over-penalization.³⁷³

c) The Arms Act, 1959:

This Act mandates **a minimum sentence of 3 years** for offences such as illegal possession or manufacture of prohibited arms or ammunition. The rationale behind this provision is to curb the proliferation of illegal weapons, particularly in regions affected by insurgency, terrorism, or organized crime. Courts have limited discretion in modifying the punishment below the prescribed minimum unless exceptional circumstances are proved.³⁷⁴

d) The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:

To prevent caste-based discrimination and violence, this Act prescribes **mandatory minimum punishments** for a range of atrocities committed against members of the SC/ST communities. For example, the Act stipulates **a minimum of six months to one year of imprisonment** for specific offences like social boycotts, denial of access to public places, and physical violence. The objective is to ensure swift and certain punishment for caste-based crimes and to convey a zero-tolerance stance by the state.³⁷⁵

e) Other Relevant Legislations:

- **The Protection of Women from Domestic Violence Act, 2005** (though not primarily punitive, works in conjunction with penal provisions under IPC that may involve mandatory sentencing).

- **The Unlawful Activities (Prevention) Act, 1967**, and **The Prevention of Money Laundering Act, 2002** also contain strict sentencing requirements in cases involving national security or economic offences.

3. Objectives Behind Mandatory Minimum Sentencing

Mandatory minimum sentencing laws have been introduced with the primary aim of achieving certain criminal justice objectives. These provisions are designed to ensure that individuals convicted of specific crimes face consistent and predetermined penalties. While the underlying intent of these laws is often grounded in notions of justice, deterrence, and fairness, their actual application has sparked significant debate regarding their effectiveness and consequences. Below, we explore the key objectives behind the implementation of mandatory minimum sentencing in the Indian criminal justice system.

3.1 Deterrence

One of the central justifications for mandatory minimum sentencing is the deterrence of potential offenders. The principle of **deterrence** suggests that individuals will be less likely to engage in criminal activity if they perceive the penalties to be severe and inevitable. Proponents of mandatory minimum sentences argue that by prescribing fixed, substantial punishments for certain crimes, the law sends a strong message to society that certain behaviours will not be tolerated and will result in severe consequences.³⁷⁶

In the Indian context, mandatory minimums are often applied in cases involving **drug trafficking, child sexual abuse, and serious violent crimes**. For example, under the **Narcotic**

³⁷² Narcotic Drugs and Psychotropic Substances Act, 1985, S. 32A.

³⁷³ Protection of Children from Sexual Offences Act, 2012, S. 4.

³⁷⁴ The Arms Act, 1959, S. 25(1).

³⁷⁵ Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, S. 3.

³⁷⁶ Chopra, A. (2019). "Mandatory Sentencing and Overcrowding in Indian Prisons," *Indian Law Review*, 12(1), 43-59.*

Drugs and Psychotropic Substances Act (NDPS Act), individuals found guilty of drug trafficking are subject to a minimum sentence of **10 years** of imprisonment, regardless of the specifics of their case. The theory is that the **severity and certainty** of this punishment will act as a deterrent, preventing people from engaging in such activities.³⁷⁷

However, the effectiveness of mandatory minimums as a deterrent is often questioned. Research and empirical data from various jurisdictions suggest that the certainty of punishment, rather than its severity, is a more significant factor in deterring crime. Additionally, offenders who engage in criminal activities are often influenced by factors such as **addiction, economic deprivation, or mental health issues**, making it questionable whether the mere threat of severe punishment can address the root causes of criminal behaviour. Thus, while mandatory minimum sentences may serve as a deterrent in theory, their actual impact on reducing crime rates remains uncertain.

3.2 Uniformity in Sentencing

Another major objective behind the implementation of mandatory minimum sentences is to **ensure uniformity and consistency** in sentencing. Supporters of these laws argue that by setting fixed penalties for specific crimes, the legal system can eliminate potential disparities in sentencing, ensuring that all individuals convicted of similar crimes face the same punishment. This aims to create a **level playing field** where judges cannot impose varying sentences based on subjective factors or personal bias.

The **Indian criminal justice system** has been plagued by concerns over inconsistency in sentencing, which critics claim leads to arbitrary and unjust outcomes. For instance, different judges may impose vastly different sentences for the same offence, creating a perception of unfairness. Mandatory minimum

sentencing laws are seen as a way to reduce these discrepancies and promote equality before the law.

However, the push for uniformity in sentencing comes at the cost of judicial **discretion**. While consistency is important, it is equally essential to ensure that sentences are proportionate to the crime and tailored to the individual circumstances of the offender. Critics argue that mandatory minimums remove the possibility of considering **mitigating factors** (such as **first-time offenders, mental health conditions, or cooperation with authorities**) that could justify a lesser sentence. The **lack of flexibility** inherent in mandatory sentencing has led to concerns that it can result in **overly harsh penalties** in cases that may not warrant such severe punishment.

3.3 Public Confidence

Mandatory minimum sentencing is often justified as a way to **boost public confidence** in the criminal justice system³⁷⁸. By imposing harsh, certain penalties, lawmakers aim to reassure the public that the state is taking a **strong stance** against serious crimes, particularly those that have a significant social impact, such as **drug trafficking** and **child sexual abuse**. The argument is that when the public sees criminals being punished severely and uniformly, they are more likely to believe that the justice system is effective and fair in its approach.

In a country like India, where crime rates, particularly violent and heinous crimes, are often high, mandatory minimum sentencing is often seen as a tool to show that the government is serious about combating crime. The **perception** of a **tough approach** can be politically advantageous, as it conveys that the state is committed to public safety and justice³⁷⁹. Politicians and lawmakers may use such laws as a tool to demonstrate their

³⁷⁷ *State of Punjab v. Balwinder Singh*, (2012), Punjab and Haryana High Court.

³⁷⁸³⁷⁸ *The Hindu*, "Mandatory Minimum Sentencing and Public Confidence in the Justice System," March 2021.

³⁷⁹ *Srinivasan, V.* (2019). "Public Perception and Sentencing in India," *Journal of Legal Studies and Policy*, 24(2), 110-128.

commitment to the welfare of the people, often to enhance their image as protectors of law and order.

However, the idea that harsh punishments automatically increase public confidence is debated. While severe penalties may have a short-term impact on the **public's perception of justice**, they do not necessarily address the deeper **systemic issues** that may undermine trust in the justice system, such as **delays in trials, corruption, and inequitable treatment** of marginalized communities. Furthermore, **public opinion** on sentencing tends to fluctuate, and a focus on retributive justice may alienate individuals who believe in the importance of **rehabilitation and restorative justice**.

3.4 Political Messaging

Mandatory minimum sentencing laws are frequently introduced as part of **political platforms** that focus on a **"tough on crime"** approach. Lawmakers may use mandatory sentencing provisions as a means of **appealing to the electorate** by presenting themselves as leaders who are dedicated to **ensuring public safety** and tackling crime head-on. By advocating for harsher punishments, they signal to the public that they are taking decisive action on crime, often appealing to those who feel that current legal systems are too lenient.³⁸⁰

For example, the introduction of mandatory minimums in the **Narcotic Drugs and Psychotropic Substances Act** and the **POCSO Act** was likely influenced by political considerations in response to increasing public concern over drug abuse and child sexual abuse. These laws reflect a desire to **demonstrate the government's commitment** to protecting society and taking a strong stance against criminal activities. Politicians, especially in times of heightened fear or public outcry about certain crimes, may seek to implement such laws as a way to strengthen their political standing.

However, the use of mandatory minimum sentences for **political messaging** purposes raises ethical concerns. The **overemphasis** on punitive measures, rather than focusing on **rehabilitation or preventative programs**, may undermine broader social goals and **infringe upon the principles of justice**. A political agenda centered solely on "punishing criminals" can overshadow the need for **balanced policies** that also address **root causes of crime**, such as poverty, inequality, and lack of education.

4. Issues and Criticisms

While mandatory minimum sentencing laws were introduced to serve certain objectives, their application has raised several significant concerns. These concerns revolve around the **erosion of judicial discretion**, the **impact on marginalized communities**, **prison overcrowding**, and the **injustice** caused in relatively minor cases. Below, we explore these critical issues in more detail.

4.1 Erosion of Judicial Discretion

One of the most widely discussed criticisms of mandatory minimum sentencing laws is their **curtailment of judicial discretion**³⁸¹. Judges are often tasked with considering the specific facts and circumstances of each case before determining an appropriate sentence. However, mandatory minimums impose fixed penalties that leave little room for this kind of **individualized justice**. This reduction in judicial discretion prevents judges from considering mitigating factors such as the **offender's background, mental health, role in the crime, or efforts at rehabilitation**.

The loss of judicial discretion has been a point of contention in the Indian legal system. In cases where offenders may have committed crimes under duress, out of necessity, or in circumstances of severe mental illness, mandatory minimum sentences may result in punishments that are **disproportionate** to the crime committed. The inflexibility of these laws

³⁸⁰ Kapur, A. (2019). "The Role of Mandatory Sentencing in India's Criminal Justice Policy," *Indian Law Journal*, 61(1), 22-35.

³⁸¹ Reddy, S. (2020). "The Impact of Mandatory Minimum Sentences on Judicial Discretion in India," *Law and Policy Review*, 34(2), 47-59.

can thus undermine the judicial principle of **fairness**, which requires that punishment be proportionate to both the **severity of the offence** and the **culpability of the offender**.

Furthermore, mandatory minimums can often lead to **injustices in cases where the criminal act was a result of extenuating circumstances**. For example, a **first-time offender** who commits a crime under economic duress or as a result of addiction may be subjected to the same punishment as a habitual offender, without consideration of the individual's **potential for reform** or **rehabilitation**.

4.2 Impact on Marginalized Communities

Mandatory minimum sentencing laws disproportionately affect marginalized and socio-economically disadvantaged communities. Studies and case law suggest that individuals from these groups are more likely to face prosecution under laws such as the **Narcotic Drugs and Psychotropic Substances Act (NDPS Act)**, which contains mandatory minimum sentences for drug-related offences.³⁸²

The **NDPS Act**, in particular, has been criticized for its disproportionate impact on the **poor** and **vulnerable**, who are often caught in the nexus of **drug trade**, **poverty**, and **social marginalization**. These individuals typically have less access to legal resources, including quality legal representation, and are more likely to be convicted due to systemic inequities in the criminal justice system.

For example, people from lower-income backgrounds may be more vulnerable to being involved in **drug trafficking**, either as a result of coercion, lack of opportunities, or social pressures. The imposition of mandatory minimum sentences for drug offences, regardless of the **role** played by the accused in the crime, further entrenches **inequality** within the criminal justice system. Thus, these laws can perpetuate cycles of poverty, criminality, and

marginalization.

Moreover, **caste-based discrimination** within the Indian justice system has also led to the disproportionate application of mandatory minimum sentences on individuals from **Scheduled Castes (SC)**, **Scheduled Tribes (ST)**, and other **backward communities**. These groups may face bias both in terms of **police investigations** and in **courtroom proceedings**, increasing the likelihood that they will be convicted under stringent laws with mandatory minimum sentences.

4.3 Overcrowding of Prisons

Another significant issue resulting from mandatory minimum sentencing is the **overcrowding** of prisons. When offenders are given fixed long-term sentences, irrespective of the individual circumstances of their cases, the number of people incarcerated for **non-violent** or **low-level crimes** increases significantly. This contributes to the problem of overcrowded prisons, which are already plagued with inadequate facilities, poor living conditions, and a lack of proper rehabilitation programs.³⁸³

Prison overcrowding is a critical issue in India, where the prison system often operates at more than 150% of its capacity. Many of those incarcerated for long periods under mandatory minimum sentences are **non-violent offenders** or those who have committed **relatively minor offences**. This results in a **waste of resources**, as the prison system is not able to focus on the **rehabilitation** of offenders or address the root causes of crime. Additionally, overcrowded prisons often have high rates of **recidivism** because individuals are exposed to more hardened criminals and do not have access to **rehabilitative programs** that could aid their reintegration into society.³⁸⁴

The lack of space, poor conditions, and failure to provide adequate **mental health care**, **education**, and **vocational training** for

³⁸² Thorat, S. (2017). "Marginalized Communities and the Indian Penal System: A Study of Drug Laws," *Social Justice Journal*, 42(4), 205-218.

³⁸³ Mishra, R. (2021). "Prison Overcrowding and Mandatory Minimum Sentences in India," *Journal of Criminal Justice Studies*, 22(3), 173-185.

³⁸⁴ National Human Rights Commission (NHRC), "Report on Overcrowding in Indian Prisons," 2020.

prisoners leads to a **cycle of reoffending**, where individuals who could have been reformed and reintegrated into society instead return to a life of crime after serving their sentences. Mandatory minimum sentences, by failing to allow for any flexibility in sentencing, contribute to this **systemic failure** of the prison system.

4.4 Injustice in Minor Cases

Mandatory minimum sentencing provisions often result in **injustice** in cases involving **minor offences** or **low-level crimes**, particularly in the context of drug-related offences. For instance, in the case of individuals found in possession of small amounts of narcotics, mandatory minimum sentences under the **NDPS Act** might impose the same punishment as that imposed for more serious offenders, such as those involved in large-scale drug trafficking.³⁸⁵

This results in **disproportionate punishment** for **first-time offenders** or individuals who may have committed crimes out of **addiction**, **mental illness**, or **economic distress**, without considering the **less severe nature** of the offence. Critics argue that mandatory minimums in such cases can contribute to the **over-incarceration** of individuals who could be better served by **rehabilitative measures** such as drug treatment programs, rather than long-term imprisonment.

Additionally, the **one-size-fits-all approach** of mandatory minimum sentencing does not allow for the **consideration of intent**, **circumstances**, or **mitigating factors** in cases involving **minor offences**. For example, a person caught with a small quantity of narcotics for personal use may receive the same sentence as someone who is caught trafficking large quantities of drugs. This lack of **proportionality** leads to **unjust outcomes** in cases where the crime committed does not warrant the severity of the penalty.

5. Judicial Interpretation and Response

The Indian judiciary has faced challenges in

balancing the legislative intent behind **mandatory minimum sentencing** provisions and the core principles of **fairness** and **justice**. While the judiciary has upheld these laws in certain instances, it has also expressed concerns about their **rigidity** and the lack of **proportionality** in sentencing. The judiciary's interpretation and response to mandatory minimum sentencing have been shaped by both **precedent** and **the need to preserve judicial discretion** in the face of stringent statutory mandates.

5.1 Mandra v. State of M.P. (1994)

In the landmark case of **Mandra v. State of M.P. (1994)**³⁸⁶, the Supreme Court addressed the validity of mandatory minimum sentences under the **Narcotic Drugs and Psychotropic Substances Act (NDPS Act)**. The case revolved around whether the judiciary had discretion to depart from the prescribed minimum sentence set by the Act.

The Court, in this case, **upheld the validity** of the mandatory minimum sentencing provisions of the **NDPS Act**. The ruling emphasized that the legislature had enacted these provisions to tackle the rising problem of drug-related offences and to ensure a strong deterrent effect. The Court held that once a conviction had been made, the **mandatory minimum sentence** specified by the law must be imposed, irrespective of the circumstances of the case or the offender's background.

While the decision reinforced the **intent of the legislature** to impose stricter penalties, it also raised concerns about the **lack of judicial flexibility**. The Court essentially ruled that judges were bound by the statutory mandate, thereby narrowing the scope for individualized justice. As a result, offenders in cases where there might have been extenuating factors, such as addiction or limited involvement in the crime, could still face harsh, minimum sentences that did not account for their specific circumstances.

³⁸⁵ Amnesty International India, "The Injustice of Mandatory Minimum Sentencing in India," 2022.

³⁸⁶ Mandra v. State of M.P. (1994), (1994) 4 SCC 427.

5.2 Mohd. Aslam v. Narcotics Control Bureau (2006)

In a subsequent case, **Mohd. Aslam v. Narcotics Control Bureau (2006)**³⁸⁷, the Supreme Court took a different approach by recognizing the importance of **proportionality** in sentencing. The case concerned the application of mandatory minimum sentences under the **NDPS Act** and whether the Court should be able to take into account mitigating factors before imposing a fixed sentence.

The Supreme Court, in this case, expressed concern about the **rigidity** of mandatory sentencing laws and emphasized that **proportionality** must be a key factor in the imposition of sentences. The Court acknowledged that while the legislature's intent to deter drug-related offences was important, mandatory minimum sentences should not be imposed without consideration of the **nature and extent** of the offence, the **role of the offender**, and any **mitigating circumstances**.

This judgment marked a **significant shift** in judicial thinking, as it reflected a growing recognition that **mandatory minimums** could result in **disproportionate penalties** in cases where **less severe sentences** would be more appropriate. The Court ruled that the sentencing process should allow for a broader assessment of the **context of the crime** and the **offender's profile**, to ensure that justice was served in a **fair and equitable** manner.

5.3 Judicial Critique of Rigidity

Despite the decisions in these cases, the Indian judiciary has not been entirely uncritical of the **rigidity** of mandatory sentencing provisions. Over time, there have been instances where courts have expressed reservations about the **inflexibility** of such laws, particularly in cases where the sentencing appears to **override** the principle of **individualized justice**³⁸⁸. Courts have acknowledged the potential for **mandatory minimum sentences to lead to**

unjust outcomes, especially when applied to **first-time offenders** or individuals involved in minor offences.

For example, the **Supreme Court** has occasionally highlighted the **need for discretion** to accommodate the **specific circumstances** of a case, including the **degree of the offence**, the **mental state** of the accused, and the **level of involvement** in the crime. However, unless such provisions are formally challenged on **constitutional grounds**, the judiciary is bound to uphold the laws as they stand, thus limiting its ability to provide more context-sensitive or rehabilitative alternatives.

5.4 Constitutional Challenges and Legal Reform

One of the critical avenues for challenging the **rigidity of mandatory minimum sentences** is through **constitutional review**³⁸⁹. The Indian judiciary has occasionally considered whether mandatory minimums violate fundamental rights such as the **right to life and personal liberty** under **Article 21 of the Constitution**³⁹⁰. In some instances, courts have struck down or softened mandatory sentencing provisions on grounds of **unconstitutionality** or **excessive punishment**.

In cases where mandatory minimums conflict with principles of **fairness, equality, or proportionality**, courts may be more inclined to **interpret** or **reform** the application of these laws. This could include allowing for **exceptions** in particular cases, where the **severity of the offence** does not justify the **minimum sentence** prescribed by law. Such reforms, however, would require a **comprehensive review** of sentencing laws and a recognition of the evolving needs for **individualized justice** in the criminal justice system.

6. Comparative Jurisprudence

In examining the impact of **mandatory minimum sentencing** across various legal

³⁸⁷ Mohd. Aslam v. Narcotics Control Bureau (2006), (2006) 3 SCC 576.

³⁸⁸ Ravi Kumar v. State of Rajasthan, (2020) 3 SCC 468.

³⁸⁹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

³⁹⁰ Constitution of India, Article 21. Justice Malimath Committee Report, (2003).

systems, it is essential to explore how different countries handle this issue and what lessons India can draw from their experiences. **Mandatory minimums** are a contentious feature of criminal justice systems worldwide, with varying degrees of implementation and reform. A closer look at the **United States**, the **United Kingdom**, and how these systems balance the goals of deterrence with judicial discretion provides valuable insights for India.

6.1 United States

The **United States** has one of the most prominent and widely discussed **mandatory minimum sentencing regimes**, particularly in relation to **drug offences**. Over the past few decades, these mandatory sentences, especially under the **Anti-Drug Abuse Act of 1986** and subsequent legislation, have imposed **fixed minimum sentences** for a range of narcotics-related crimes³⁹¹. Initially, the aim was to create **uniformity** in sentencing and act as a deterrent against the growing drug trade. However, the system has faced significant criticism for its **disproportionate impact**, particularly on **minorities, low-level offenders**, and those without adequate legal representation.

Several critiques highlight that the **mandatory minimums** often result in **severe penalties** for **non-violent offenders**, which disproportionately affect **black and Hispanic populations**.³⁹² The **inequitable impacts** of these provisions, along with evidence suggesting that they did not significantly reduce crime rates, have led to **reform efforts** at the federal and state levels.

A notable reform is the **First Step Act of 2018**³⁹³, which was passed to address some of the issues created by mandatory minimums. This **bipartisan legislation** focused on reducing the scope of mandatory minimum sentences for **drug-related offences**, particularly for those without a history of violence. The Act provides

judicial discretion for certain low-level offenders, allowing them to receive reduced sentences after serving a portion of their sentence.

The **First Step Act** represents a significant shift in U.S. policy, aiming to balance the **deterrent effect** of mandatory minimums with a more **humane and proportionate** approach to sentencing, especially for **non-violent offenders**.

Lessons for India:

India can learn from the U.S. experience in several ways:

1. **Reform of Drug Laws:** India's **Narcotic Drugs and Psychotropic Substances Act (NDPS Act)** could be reformed to allow for **less rigid mandatory minimums** for non-violent offenders, especially those with **first-time convictions**.
2. **Second Chances:** Introducing provisions similar to the **First Step Act** in India could allow certain prisoners to receive reduced sentences based on **good behavior** and **rehabilitation efforts**.

6.2 United Kingdom

In contrast to the U.S., the **United Kingdom** employs **mandatory minimum sentences** in a **more limited and selective manner**. These are generally reserved for **repeat offenders** and cases where the offence is of a particularly **grave nature**, such as **drug trafficking** or **firearm possession**. However, unlike the U.S., the UK system allows for **judicial flexibility** through various legal provisions, such as the **"exceptional circumstances"** clause.

The **exceptional circumstances** clause allows judges to depart from mandatory minimum sentences in cases where **extenuating circumstances** exist, such as the **offender's age, mental health, or the role they played** in the offence. This provision is intended to ensure that sentencing remains **proportionate** and that judges can take into account **individual circumstances** that may justify a lighter

³⁹¹ Anti-Drug Abuse Act of 1986, Pub. L. No. 99–570, 100 Stat. 3207.

³⁹² U.S. Sentencing Commission, Report to the Congress: Mandatory Minimum Penalties in the Federal Criminal Justice System (2011).

³⁹³ First Step Act of 2018, Pub. L. No. 115–391, 132 Stat. 5194.

sentence.³⁹⁴

Moreover, the UK's use of mandatory minimums has been a subject of **scrutiny and critique**, particularly concerning whether these laws achieve their deterrent goals or simply contribute to **prison overcrowding** and **increased recidivism**.³⁹⁵

Lessons for India:

India can adopt several aspects of the UK approach:

1. **Use of "Exceptional Circumstances":** India could consider including **exceptional circumstances** clauses in its mandatory sentencing laws to provide judges with the flexibility to consider **mitigating factors** such as **youth, mental health, or first-time offences**.

2. **Targeted Use of Mandatory Minimums:** Like the UK, India could reserve mandatory minimums for only the most serious and repetitive offences, particularly in areas like **drug trafficking, violent crime, and terrorism-related offences**.

6.3 Lessons for India

India's criminal justice system can adopt a **hybrid model** that integrates elements of both the **U.S.** and **UK** systems. A reformed approach could maintain **mandatory minimum sentences** for serious and repetitive crimes, but also provide **judicial discretion** based on the **individual facts of each case**. This would allow judges to consider **mitigating factors** and **personal circumstances** while still upholding the **deterrent value** of the law.

Some specific recommendations for India include:

1. **Limited Discretion in Certain Cases:** While maintaining **mandatory minimums** for serious crimes, India could introduce **limited judicial discretion** for less severe or non-violent offences. This would help ensure that offenders are not subjected to harsh penalties when the case does not warrant it, especially in cases

involving **first-time offenders** or those with a history of **good conduct**.

2. **Implementation of Review Mechanisms:** India could benefit from creating **regular review mechanisms** for sentences imposed under mandatory minimum provisions, similar to the **First Step Act** in the U.S. This would allow for **sentence reductions** based on the **offender's rehabilitation** efforts or the **nature of the crime**.

3. **Focus on Rehabilitation:** India should move towards a more **rehabilitative approach**, particularly for **non-violent** and **first-time offenders**, and not just focus on punitive measures. Integrating **educational** and **vocational training programs** into the prison system could help reduce recidivism rates and facilitate reintegration into society.

4. **Targeting Serious Crimes:** While some offences like **terrorism, child sexual abuse, and organized crime** may justify mandatory minimums, less serious crimes (such as **minor drug possession**) could be handled through **alternative sentencing options** such as **probation, community service, or rehabilitation** programs.

7. Recommendations

The issue of **mandatory minimum sentencing** has raised concerns regarding its impact on **judicial discretion, prison overcrowding, and disproportionate punishments**. To ensure that India's criminal justice system is fair, just, and effective, several reforms are necessary. These reforms aim to create a balanced approach that upholds **deterrence** while addressing the practical and ethical issues related to mandatory minimums. Below are some detailed recommendations.³⁹⁶

7.1 Judicial Discretion Should Be Preserved

One of the most critical aspects of a fair judicial system is the ability of **judges to exercise discretion**. Mandatory minimum sentencing provisions, while intended to reduce disparities

³⁹⁴ R v. Offen & Others, [2001] 1 WLR 253 (CA).

³⁹⁵ Ministry of Justice (UK), *Sentencing Statistics Annual 2022*.

³⁹⁶ Law Commission of India, *Report No 156: The Indian Penal Code (1997)*

and enhance **uniformity**, often prevent judges from considering the **individual circumstances** of a case. This can lead to disproportionately harsh penalties, particularly in cases involving first-time offenders or minor crimes.

Recommendation:

- **Incorporate Flexibility into Legislation:** Legislation should be amended to allow **judicial discretion** in cases where there are **exceptional circumstances**. Courts should be able to consider factors such as the **offender's age, mental health, role in the crime, and rehabilitative potential**.

- **"Exceptional Circumstances" Clause:** Similar to provisions in jurisdictions like the **UK**, India could introduce a legal mechanism that allows judges to depart from mandatory minimums if **extenuating factors** are present. For example, in **non-violent crimes** or cases where the offender shows clear signs of **remorse** or **rehabilitation**, judges should have the option to impose a lesser sentence.

By allowing **judicial flexibility**, the criminal justice system can ensure that **sentences are tailored** to the specifics of each case, promoting **fairness** and **justice**.

7.2 Proportionality Principle

The **proportionality principle** is a fundamental aspect of a just legal system. It mandates that the **severity of the punishment** should be proportionate to the **gravity of the offence**. While mandatory minimums often aim to ensure **uniformity** and **deterrence**, they can lead to disproportionate sentences, particularly for **non-violent crimes** or **first-time offenders**.

Recommendation:

- **Adopt Proportional Sentencing:** Sentences should be proportionate not only to the **severity of the crime** but also to **mitigating factors**, such as the **offender's prior criminal record, personal circumstances, and intent**. For instance, **minor drug possession** or **first-time offenders** should not automatically be subjected to long mandatory sentences if the

offence is not of a violent or serious nature.

- **Sentencing Hearings:** Judges should have the option to hold **sentencing hearings** where they can assess the context and background of the crime and tailor the punishment to reflect **justice** rather than just adherence to a rigid legal framework.

The **proportionality principle** ensures that the punishment is not only just but also effective in promoting **rehabilitation** and preventing **recidivism**.

7.3 Periodic Review of Statutes

Laws, especially those as impactful as mandatory sentencing provisions, should be subject to regular scrutiny to assess their **effectiveness** and **fairness**. **Mandatory minimum sentencing laws** are often introduced with the best of intentions, but their long-term impact must be carefully evaluated. Over time, they may become outdated or produce unintended consequences that necessitate legislative adjustment.

7.4 Sentencing Guidelines

A key issue with mandatory minimums is the **lack of flexibility** in sentencing, which may result in inconsistent and potentially unjust outcomes. To strike a balance between the goals of **uniformity** and **individualized justice**, comprehensive **sentencing guidelines** can provide a **framework** that allows for consistency while still accommodating **judicial discretion**.

7.5 Focus on Rehabilitation

While **punitive justice** focuses on retribution, **rehabilitative justice** emphasizes the **reformation** of the offender. In cases involving **non-violent crimes**, such as **drug possession** or **theft**, the emphasis should be on the offender's **rehabilitation** rather than **long-term imprisonment**. This is particularly important in a country like India, where prison overcrowding and the lack of effective **rehabilitation programs** are significant challenges.

CONCLUSION

Mandatory minimum sentencing laws, initially introduced to deter crime, ensure uniform punishment, and demonstrate a tough stance against serious offences, have led to unintended and often unjust consequences in India's criminal justice system. These laws limit judicial discretion, preventing judges from considering the unique circumstances of each case, resulting in disproportionate punishments. This is particularly problematic for minor or non-violent offences, where offenders may face harsh sentences that don't align with the severity of the crime or their individual situation.

Additionally, these laws disproportionately affect marginalized communities, particularly socio-economically disadvantaged individuals, who are more likely to face harsher punishments due to limited legal resources. Mandatory minimum sentencing also contributes to prison overcrowding without effectively reducing crime or recidivism rates.

While such laws are intended to deter crime, empirical evidence suggests that they often fail to achieve their goals and foster a punitive culture that neglects rehabilitation. A more balanced approach, allowing judicial discretion and focusing on rehabilitation, particularly for non-violent offenders, is necessary.

In conclusion, while mandatory minimums were designed to promote fairness and deterrence, they often have counterproductive effects. India's criminal justice system needs alternatives, such as flexible sentencing guidelines and periodic reviews, to ensure justice is both fair and effective.

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