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“LIFE IMPRISONMENT IN INDIA: LACK OF CLARITY AND THE NEED FOR STATUTORY DEFINITION”

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I.CONSTITUTIONAL DIMENSIONS AND HUMAN RIGHTS CONCERNS

1.1 Article 14 – Equality and Arbitrariness

Article 14 of the Constitution of India guarantees the principle of equality before the law and equal protection of the laws. It represents one of the most fundamental values of the Indian constitutional framework and acts as a safeguard against arbitrary state action. Within the criminal justice system, Article 14 plays a crucial role in ensuring fairness, particularly in matters relating to sentencing and remission.

The concept of equality under Article 14 does not mean that the law must treat all individuals in exactly the same way. Rather, it requires that individuals placed in similar circumstances should be treated alike. Any differentiation must be based on reasonable classification and must have a rational connection with the objective sought to be achieved. Over time, the Supreme Court has expanded the interpretation of Article 14 and held that arbitrariness itself is contrary to the idea of equality.⁷⁵⁶

In the context of life imprisonment, issues relating to sentencing discretion and remission policies often raise concerns regarding unequal treatment. Courts exercise discretion while determining the appropriate sentence, and executive authorities exercise discretion when granting remission or premature release. While such discretion is necessary for the functioning of the justice system, it must be exercised in a fair, reasonable, and non-arbitrary manner to comply with the constitutional mandate of equality.

Two important areas where Article 14 becomes particularly relevant are discretionary sentencing and the unequal application of remission policies.

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⁷⁵⁶ E.P. Royappa v. State of Tamil Nadu – The Supreme Court held that arbitrariness is antithetical to equality under Article 14.

1.1 Discretionary Sentencing

Sentencing is one of the most complex stages in the administration of criminal justice. After an accused person is found guilty of an offence, the court must determine an appropriate punishment by considering various factors such as the nature of the offence, the circumstances in which it was committed, the background of the offender, and the broader impact of the crime on society.

In the Indian criminal justice system, statutes often prescribe a range of punishments instead of a fixed sentence. For example, certain offences may allow courts to impose either a fixed term of imprisonment or life imprisonment depending on the seriousness of the case. This framework gives judges considerable discretion in determining the most appropriate sentence.

Judicial discretion serves several important purposes. It allows courts to consider the unique facts of each case and ensures that punishment is tailored according to the gravity of the offence and the culpability of the offender. Since no two crimes are identical, rigid sentencing rules may sometimes produce unjust outcomes. Discretion therefore helps courts deliver individualized justice.

However, unstructured discretion can also lead to inconsistencies in sentencing. Different judges may impose different punishments for similar offences based on their interpretation of the law or their perception of the circumstances of the case. Such disparities can create a perception of unfairness and may weaken public confidence in the justice system.

Article 14 becomes relevant in addressing this concern. The principle of equality requires that sentencing decisions must not be arbitrary or discriminatory. Courts must therefore follow consistent principles while exercising their discretion.

The Supreme Court has repeatedly emphasized the need for rational and principled sentencing. In *Bachan Singh v. State of Punjab*, the Court introduced the “rarest of rare” doctrine while

considering the constitutionality of the death penalty. Although the case primarily concerned capital punishment, it highlighted the importance of structured judicial discretion in sentencing decisions.

The Court further elaborated on sentencing principles in *Machhi Singh v. State of Punjab*, where it outlined factors that courts should consider while determining whether a case falls within the “rarest of rare” category. These guidelines were intended to reduce arbitrariness and promote consistency in sentencing.

Another important development occurred in *Swamy Shraddananda v. State of Karnataka*, where the Supreme Court introduced a special category of life imprisonment. The Court held that in particularly serious cases it may impose life imprisonment with a specified minimum period during which the convict cannot claim remission. This innovation was designed to bridge the gap between the death penalty and ordinary life imprisonment and to ensure that the punishment remains proportionate to the seriousness of the offence.

Despite these judicial developments, sentencing disparities continue to remain a concern. Scholars have therefore suggested the adoption of structured sentencing guidelines in India. Such guidelines could help reduce inconsistencies while still allowing judges limited discretion to consider the circumstances of individual cases. Several jurisdictions across the world have adopted sentencing guidelines to promote transparency and fairness in criminal justice.

Although India does not yet have a comprehensive sentencing guideline framework, courts increasingly rely on precedents and established principles to maintain consistency. In this manner, Article 14 continues to function as a constitutional safeguard against arbitrary sentencing practices.

1.1.2 Unequal Application of Remission

While sentencing is primarily the function of the

judiciary, remission largely falls within the domain of the executive. Remission refers to the reduction of a sentence without altering its nature. It allows prisoners to earn a reduction in the period of imprisonment on the basis of factors such as good conduct, participation in reformatory programs, or humanitarian considerations.

Remission plays an important role in the criminal justice system. It encourages discipline within prisons and provides prisoners with an opportunity for reform and reintegration into society. However, the manner in which remission policies are applied often raises concerns regarding equality and fairness.

One major issue in India is the lack of uniformity in remission policies across different states. Prison administration is a state subject under the Constitution, and each state government frames its own prison rules and remission policies. As a result, prisoners convicted of similar offences may serve different periods of imprisonment depending on the state in which they are incarcerated.

Such disparities raise concerns under Article 14 because individuals placed in similar circumstances may receive unequal treatment. The Supreme Court has addressed this issue in several important decisions.

In *State of Haryana v. Jagdish*, the Court held that the remission policy applicable at the time of conviction should ordinarily govern the consideration of premature release. However, if a subsequent policy is more beneficial to the prisoner, it may also be applied. This ruling aimed to prevent unfair changes in remission policies that could adversely affect prisoners.

Similarly, in *Laxman Naskar v. State of West Bengal*, the Court laid down important guidelines for considering the premature release of life convicts. These guidelines included factors such as the nature of the offence, the conduct of the prisoner in prison, the possibility of reoffending, and the broader social implications of release.

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The issue of arbitrary remission was further addressed in *Epuru Sudhakar v. Government of Andhra Pradesh*, where the Supreme Court held that clemency and remission decisions are subject to judicial review if they are based on mala fide intentions, irrelevant considerations, or discriminatory grounds. This decision emphasized that even discretionary executive powers must conform to constitutional principles.

These judicial decisions highlight the importance of ensuring that remission powers are exercised fairly and transparently. Executive discretion should not lead to favoritism, political influence, or arbitrary decision-making.

Another practical concern relates to delays in processing remission applications. In several cases, prisoners who are eligible for premature release remain incarcerated due to bureaucratic delays or administrative inefficiencies. Such delays may also raise issues under Article 14 if similarly placed prisoners are treated differently.

To address these concerns, scholars and policymakers have recommended the adoption of clearer and more uniform remission guidelines. Greater transparency, periodic review mechanisms, and effective judicial oversight can help ensure that remission policies operate fairly and consistently across jurisdictions.

1.2 Article 21 – Right to Life and Human Dignity

Article 21 of the Constitution of India guarantees that no person shall be deprived of his life or personal liberty except according to the procedure established by law. Over time, the interpretation of this provision by the judiciary has transformed it into one of the most expansive and influential fundamental rights within the Indian constitutional framework. Initially interpreted in a narrow manner, Article 21 has gradually evolved to include several

⁷⁵⁷ *Laxman Naskar v. State of West Bengal*, (2000) 7 SCC 626.

substantive rights that are essential for living a life with dignity.

The Supreme Court has repeatedly emphasized that the right to life under Article 21 does not merely refer to physical survival. Instead, it includes the right to live with dignity, the right to humane treatment, and protection against arbitrary state action. This expanded interpretation has had a profound impact on the criminal justice system, particularly in matters relating to punishment and imprisonment.

In the context of life imprisonment, Article 21 becomes highly relevant because the state exercises significant control over the liberty and dignity of individuals who are incarcerated. While punishment is an essential component of criminal justice, it must still comply with constitutional principles. The deprivation of liberty cannot be arbitrary, excessive, or inhuman.

Two important aspects of Article 21 that arise in the context of life imprisonment are the proportionality of punishment and the protection of human dignity within the prison system.

1.2.1 Proportionality of Punishment

The doctrine of proportionality is an important principle within constitutional and criminal jurisprudence. It requires that punishment must correspond to the gravity of the offence and the culpability of the offender. In other words, the severity of punishment should not be excessive in comparison to the seriousness of the crime committed.

Although the Constitution does not explicitly mention the principle of proportionality in relation to criminal punishment, the Supreme Court has recognized it as an essential component of Article 21. A punishment that is grossly disproportionate to the offence may violate the constitutional guarantee of life and personal liberty.

The principle of proportionality helps maintain a balance between the interests of society and

the rights of the accused. While the criminal justice system must deter crime and ensure accountability, it must also ensure that punishment is fair, just, and humane.

One of the most significant decisions relating to proportionality in sentencing is *Bachan Singh v. State of Punjab*, where the Supreme Court examined the constitutional validity of the death penalty. The Court upheld the constitutionality of capital punishment but introduced the “rarest of rare” doctrine. According to this principle, the death penalty should be imposed only in exceptional cases where the alternative option of life imprisonment is unquestionably inadequate.

Although the case primarily dealt with capital punishment, it established the broader idea that sentencing must follow rational principles and must be proportionate to the nature of the offence.

The concept of proportionality was further clarified in *Mithu v. State of Punjab*, where the Supreme Court struck down a provision of the Indian Penal Code that mandated a compulsory death sentence for certain offences committed by life convicts. The Court held that mandatory punishment without allowing judicial discretion violates Article 21 because it prevents courts from considering the circumstances of the case.

This decision emphasized that individualized sentencing is an important safeguard against disproportionate punishment.

Another significant development occurred in *Swamy Shraddananda v. State of Karnataka*, where the Supreme Court introduced a special category of life imprisonment. In certain cases, the Court allowed life imprisonment with a specified minimum term during which the convict would not be eligible for remission.

This approach was intended to address situations where the death penalty might be considered too harsh but ordinary life imprisonment might appear insufficient given the seriousness of the offence. By creating this

intermediate category, the Court attempted to maintain proportionality between the crime and the punishment imposed.

The principle of proportionality is also closely connected with the idea of fairness in sentencing. If punishments are excessively harsh or inconsistent across similar cases, they may undermine the credibility of the criminal justice system.

Therefore, the courts have consistently emphasized that sentencing must be guided by rational principles and must consider factors such as the circumstances of the offence, the role of the offender, and the possibility of reform.

1.2.2 Human Dignity and Life Imprisonment

While punishment inevitably involves the deprivation of liberty, it does not mean that prisoners lose all their fundamental rights. The Supreme Court has repeatedly affirmed that prisoners remain entitled to basic human dignity and protection under the Constitution.

The idea that prisoners retain fundamental rights represents an important shift in the understanding of criminal justice. Historically, imprisonment was often viewed purely as a form of retribution. However, modern constitutional jurisprudence recognizes that the purpose of punishment should also include reform and rehabilitation.

One of the most influential judgments in this regard is *Maneka Gandhi v. Union of India*, where the Supreme Court held that the procedure depriving a person of liberty under Article 21 must be “just, fair and reasonable.” This interpretation significantly expanded the scope of Article 21 and strengthened the protection of individual rights.

Building upon this principle, the Court has recognized that prisoners are entitled to humane treatment within prisons. In *Sunil Batra v. Delhi Administration*, the Supreme Court addressed the issue of cruel and degrading treatment of prisoners. The Court held that prison authorities cannot subject inmates to

torture or inhuman treatment, as such actions would violate Article 21.

The Court emphasized that imprisonment does not strip a person of their fundamental rights, except to the extent necessary for the administration of justice and prison discipline.

Similarly, in *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, the Court held that the right to life includes the right to live with human dignity and the right to basic necessities such as adequate nutrition, clothing, and shelter. This interpretation reinforced the principle that prisoners must be treated with respect for their inherent dignity.

Human dignity becomes particularly significant in the context of life imprisonment because such sentences involve prolonged incarceration. Long-term imprisonment can have profound psychological and social consequences for prisoners. Therefore, the state has a responsibility to ensure that prison conditions do not become degrading or inhuman.

The Supreme Court has also emphasized the importance of reformatory justice. In *Mohd. Giasuddin v. State of Andhra Pradesh*, the Court highlighted that the objective of punishment should not merely be retribution but also the reformation of the offender.

Rehabilitation programs, educational opportunities, and skill development initiatives within prisons can play a crucial role in helping prisoners reintegrate into society after their release. Another important aspect of human dignity relates to the possibility of release for life convicts. The absence of any opportunity for remission or parole may raise concerns regarding the dignity and hope of prisoners. Modern penal theory increasingly recognizes that prisoners should have a realistic possibility of rehabilitation and eventual reintegration into society. By recognizing the dignity of prisoners, the judiciary has attempted to balance the objectives of punishment with the broader constitutional commitment to human rights.

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1.3 Separation of Powers

The doctrine of separation of powers is a foundational principle of the Indian constitutional framework. Although the Constitution does not explicitly provide for a strict separation of powers, it clearly demarcates the functions of the three organs of the state—the legislature, the executive, and the judiciary. Each organ performs distinct roles, and the balance among them ensures that power is not concentrated in any single authority.

In the context of criminal justice, this doctrine becomes particularly relevant in matters relating to sentencing and remission. The judiciary is responsible for determining guilt and imposing sentences, while the executive is entrusted with the power to grant remission, commutation, or pardon. While these roles are distinct, they often intersect, especially in cases involving life imprisonment.

The interaction between judicial sentencing and executive remission raises important constitutional questions. On one hand, the judiciary must ensure that punishment is proportionate and just. On the other hand, the executive must exercise its powers of remission in a fair and non-arbitrary manner. Tensions may arise when one organ appears to encroach upon the domain of the other, leading to concerns about institutional overreach.

Two key dimensions of this issue are the relationship between judicial sentencing and executive remission, and the broader concerns regarding institutional overreach.

1.3.1 Judicial Sentencing versus Executive Remission

The distinction between judicial sentencing and executive remission lies at the heart of the separation of powers in criminal law. Sentencing is a judicial function, exercised after

a court determines the guilt of the accused. Remission, on the other hand, is an executive function, which allows the state to reduce the period of imprisonment without altering the nature of the sentence.

The judiciary determines the appropriate punishment based on legal principles, evidence, and the circumstances of the case. This includes the imposition of life imprisonment, which, as clarified by the Supreme Court, ordinarily means imprisonment for the remainder of the convict's natural life unless remitted by competent authority.

The executive derives its powers of remission from statutory provisions as well as constitutional provisions under Articles 72 and 161. These powers allow the executive to grant clemency on various grounds, including humanitarian considerations, public interest, or the conduct of the prisoner.

The relationship between these two powers has been the subject of judicial interpretation in several important cases. In *Maru Ram v. Union of India*, the Supreme Court upheld the constitutional validity of remission powers but clarified that such powers must be exercised in accordance with constitutional principles. The Court emphasized that executive discretion is not absolute and must be guided by fairness and reason.

A significant clarification regarding the scope of judicial and executive powers was provided in *Union of India v. V. Sriharan (Murugan)*, where the Supreme Court held that courts have the authority to impose special categories of life sentences that may restrict the application of remission for a specified period.

This judgment raised important questions regarding the balance of power between the judiciary and the executive. While the Court justified its approach as necessary to ensure proportional punishment, critics have argued that restricting remission may encroach upon the executive's domain.

At the same time, the judiciary has recognized

that executive powers of remission cannot be exercised arbitrarily. In *Epuru Sudhakar v. Government of Andhra Pradesh*, the Court held that clemency decisions are subject to judicial review if they are based on mala fide intentions, irrelevant considerations, or discriminatory grounds.

Thus, while the judiciary and executive perform distinct roles, there is a system of checks and balances that ensures accountability. The judiciary does not directly grant remission but retains the power to review executive decisions to ensure compliance with constitutional principles.

This interaction reflects a delicate balance. The judiciary must respect the executive's authority in matters of remission, while the executive must exercise its powers in a manner that does not undermine judicial decisions.

1.3.2 Concerns of Institutional Overreach

The overlapping functions of the judiciary and executive in matters of sentencing and remission have led to concerns about institutional overreach. Institutional overreach occurs when one organ of the state encroaches upon the functions or authority of another, thereby disturbing the constitutional balance.

One area of concern arises when courts impose sentences that effectively limit or exclude the possibility of remission. For example, in cases such as *Swamy Shraddananda v. State of Karnataka*, the Supreme Court introduced the concept of life imprisonment without remission for a specified period.

While this approach was intended to ensure proportional punishment in serious cases, it has been criticized on the ground that it may infringe upon the executive's power to grant remission. Critics argue that by restricting remission, the judiciary may be stepping into the domain of the executive.

On the other hand, concerns of overreach also arise when the executive exercises its remission powers in a manner that appears to undermine judicial decisions. Arbitrary or politically

motivated remission decisions can weaken the authority of the judiciary and erode public confidence in the justice system.

The Supreme Court has addressed such concerns in several cases. In *State of Haryana v. Jagdish*, the Court emphasized that remission policies must be applied fairly and consistently.⁵ Similarly, in *Laxman Naskar v. State of West Bengal*, the Court laid down objective criteria for the premature release of life convicts.

These decisions highlight the need for transparency and accountability in the exercise of executive powers.

Another dimension of institutional overreach relates to judicial activism. In recent decades, the judiciary has played an increasingly active role in shaping criminal justice policy. While judicial intervention has often been necessary to protect fundamental rights, it has also raised concerns about the limits of judicial power.

The challenge lies in maintaining a balance between judicial intervention and respect for executive authority. Excessive judicial interference in executive functions may undermine the principle of separation of powers. At the same time, a lack of judicial oversight may allow arbitrary or unjust executive action to go unchecked.

The doctrine of checks and balances provides a framework for resolving this tension. Each organ of the state must act within its constitutional limits while ensuring that the actions of other organs remain consistent with the Constitution.

Ultimately, the goal is not to create rigid boundaries but to ensure that power is exercised responsibly and in accordance with constitutional principles. The interaction between judicial sentencing and executive remission must therefore be guided by mutual respect and adherence to the rule of law.

1.4 Victims' Rights and Public Interest in Sentencing

The evolution of criminal justice in India reflects a gradual but significant shift from an offender-

centric system to a more balanced framework that acknowledges the rights of victims and the interests of society. Traditionally, sentencing focused primarily on punishing the offender in proportion to the crime. However, contemporary jurisprudence recognizes that crime causes deep and lasting harm not only to individuals but also to the social fabric. As a result, modern sentencing practices increasingly incorporate considerations relating to victims' suffering, societal expectations, and the broader goals of justice.

This section examines how victims' rights and public interest have become integral to sentencing decisions and how courts attempt to harmonize these considerations with the constitutional rights of the accused.

1.4.1 Recognition and Participation of Victims in Sentencing

Historically, victims occupied a limited role within the Indian criminal justice system. Once an offence was reported, the prosecution was conducted in the name of the State, and victims were largely reduced to the status of witnesses. Their personal loss, trauma, and long-term consequences of the crime were rarely addressed within the formal sentencing process.

Over time, judicial thinking began to acknowledge that this approach was incomplete and often unjust. Victims of crime frequently endure not only physical injuries but also psychological distress, social stigma, and financial hardship. Recognizing this reality, courts and lawmakers

gradually moved toward a system that treats victims as stakeholders rather than passive participants.

One of the most important developments in this regard has been the recognition of the victim's right to be heard during sentencing. Victim participation allows courts to understand the real impact of the offence beyond the technical elements established during trial. Through victim impact statements and other forms of

participation, courts gain insight into how the crime has affected the victim's life, family, and livelihood. This helps ensure that sentencing reflects not only the legal gravity of the offence but also its human consequences.

The inclusion of victims' voices also serves an important psychological function. It allows victims to feel acknowledged by the justice system and reduces the sense of marginalization that many victims experience during criminal proceedings. In this way, participatory rights contribute not only to more informed sentencing but also to the broader legitimacy of the justice process.

1.4.2 Compensation, Restorative Justice, and the Role of the State

Punishment alone cannot undo the harm suffered by victims. Even when a conviction is secured and the offender is punished, victims may continue to struggle with medical expenses, loss of income, and emotional trauma. Recognizing this, Indian law has increasingly emphasized victim compensation as an essential component of justice rather than a mere ancillary measure.

Compensation schemes are intended to provide financial assistance and support rehabilitation. Courts have repeatedly stressed that such compensation should be realistic and meaningful rather than symbolic. Adequate compensation helps restore a sense of dignity and enables victims to rebuild their lives after the crime.

In addition to compensation, the concept of restorative justice has gained attention in recent years. Restorative justice focuses on repairing harm, encouraging accountability, and promoting reconciliation where appropriate. Instead of viewing crime solely as a violation against the State, this approach recognizes it as a wrong committed against individuals and communities. While not suitable for every type of offence, restorative mechanisms can play a valuable role in less severe cases by fostering healing and reducing

recidivism.

The State plays a central role in implementing these victim-centric measures. It is responsible for establishing compensation schemes, ensuring their effective functioning, and creating procedures that allow victims to participate meaningfully in criminal proceedings. By fulfilling

these responsibilities, the State acts not merely as a prosecutor but as a guardian of justice who must protect both the rights of the accused and the welfare of victims.

1.4.3 Public Interest, Deterrence, and Societal Expectations in Sentencing

Sentencing decisions do not affect only the offender and the victim; they also send a message to society about the seriousness with which the legal system treats crime. Public interest therefore becomes an important factor in determining appropriate punishment. Courts must ensure that sentencing promotes respect for law, deters potential offenders, and reassures the public that justice is being served.

Deterrence is often invoked as a key objective of punishment. By imposing appropriate penalties, courts seek to discourage both the offender and others from committing similar offences in the future. This is particularly significant in cases involving violent crimes, offences against women and children, and crimes that threaten public safety. In such cases, lenient punishment may be perceived as encouraging lawlessness and undermining public confidence in the justice system.

At the same time, courts must exercise caution to ensure that deterrence does not lead to excessive or disproportionate punishment. Justice requires that sentences remain individualized and proportionate to the specific circumstances of the offence and the offender. Overemphasis on deterrence may result in overly harsh penalties that conflict with constitutional principles of fairness and human dignity.

Societal expectations also play an indirect role

in sentencing. High-profile crimes often generate widespread public outrage and intense media scrutiny. While courts cannot remain completely isolated from the social context in which they operate, they must resist the pressure to deliver punishments based on popular sentiment alone. Judicial independence requires that sentencing be guided by law, evidence, and reasoned analysis rather than by media narratives or public emotions.

In particularly heinous cases, courts have sometimes referred to the idea of the “collective conscience” of society. This concept reflects the belief that certain crimes are so shocking that they demand a strong response in order to reaffirm societal values. However, reliance on this notion must be approached with caution, as excessive subjectivity in assessing public sentiment may lead to inconsistency in sentencing.

1.4.4 Balancing Victims’ Rights, Public Interest, and the Rights of the Accused

While the growing emphasis on victims’ rights and public interest represents a progressive development, it also raises the challenge of maintaining balance within the criminal justice system. The rights of the accused—such as the presumption of innocence, the right to a fair trial, and protection against excessive punishment—remain fundamental constitutional guarantees.

Sentencing must therefore operate within a framework that respects all three dimensions: the rights of the accused, the needs of victims, and the interests of society. If sentencing becomes overly influenced by sympathy for the victim or public anger, there is a risk of transforming justice into vengeance. Conversely, ignoring victims’ concerns may lead to a perception that the system is insensitive and detached from social realities.

The judiciary plays a crucial role in maintaining this equilibrium. Courts must carefully weigh aggravating and mitigating factors, consider

the impact of the offence, and ensure that punishment remains proportionate. This balancing exercise is particularly complex in cases involving serious offences, where the emotional intensity surrounding the crime is often very high.

Another area where this balance becomes evident is in decisions relating to remission and clemency. When the executive considers the premature release of a convict, the interests of victims and society must be taken into account alongside humanitarian considerations and the conduct of the prisoner. Failure to consider victims' perspectives in such decisions can lead to public dissatisfaction and erode confidence in the justice system.

Despite the progress made in recognizing victims' rights, several challenges remain. Many victims are unaware of their legal entitlements or lack access to legal assistance. Compensation schemes often suffer from delays, and mechanisms for victim participation are not uniformly implemented across jurisdictions. Moreover, the absence of clear sentencing guidelines sometimes results in inconsistent outcomes, which can undermine both public trust and the perception of fairness.

Nevertheless, judicial trends indicate a steady movement toward a more balanced and inclusive sentencing framework. Courts have increasingly emphasized that justice must be seen as a

holistic concept that protects the accused, supports victims, and upholds the rule of law. This evolving approach reflects a deeper understanding that the legitimacy of the criminal justice system depends on its ability to address the concerns of all stakeholders.

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