
RAREST OF RARE – A FLAWED SAFEGUARD OF INDIAN JUSTICE SYSTEM

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ABSTRACT

The rarest of rare doctrine was established in the landmark case of ¹Bachan Singh vs. State of Punjab in 1980. The aim of this doctrine was to impose restriction on the capital punishment in other words death penalty. It ensures that the such punishments restrict to exceptionally grave crimes thereby safeguarding the rights guaranteed under Article 21.

It was originated as a constitutional safeguard to avoid arbitrary execution on an individual, it mandates death penalty in case where no other punishments are deemed adequate in a particular situation.

However, inconsistency in judicial proceedings origination from vague criteria and subjective interpretation led significant debate on this topic This paper critically examines the evolution and application of the "rarest of rare" doctrine through doctrinal analysis of key judgments, including ²Machhi Singh v. State of Punjab and the Nirbhaya case, to highlight the resulting disparities and the subjective nature of judicial interpretation. It further analyses the socio-legal critics which includes violation of constitutional rights due to arbitrary sentencing, it also focuses on the alignment of the doctrine with the human right principles. By analyzing various judicial precedents and system flaws, the study underscores the urgent need for legislative clarity and standardized guidelines to reconcile retributive justice with constitutional fairness.

¹ (1980) 2 SCC 684

² 1983) 3 SCC 470V

Introduction

Death sentence is one of the controversial topics till date. Judiciary deal with the death sentence through the doctrine called **Rarest of the Rare doctrine**. So, what is rarest of the rare doctrine?

There is no clear definition of the doctrine, even the Supreme court has refused to lay down a clear distinction of what constitutes 'rarest of the rare'. It is upon the discretion of the judges to interpret as per their own understanding. In simple language the meaning of 'rarest of the rare doctrine' constitutes a crime that is so brutal, diabolical so as to arouse intense resentment in the society for which there is no punishment that can allotted other than the death penalty.

In this paper we will deal with the different perspective of the 'rarest of the rare' doctrine and how it is applied in the different cases by the judicial bodies.

History

The doctrine of rarest of rare first discussed in the case of ³Jagmohan Singh vs. State of Uttar Pradesh (1972) in this case constitutional validity of the death penalty was upheld by Supreme court of India and stated that it does not violate article 14, 19, and 21 of the Indian constitution. The court made it very clear about the punishment it depends on the court discretion and varies on each case. This judgement did not provide any clear guidelines for the application of punishment.

Later in the case of ⁴Bachan Singh vs. State of Punjab (1980) the doctrine got structured framework. A substantial restriction was established by Supreme court of India on the use of death penalties. The court held that doctrine should be only used in the rarest of the rare case, when life in prison is clearly the only viable alternative. This judgement brought some changes towards the use of death penalty. The court also highlighted that the harshest punishments should be used for the heinous crimes, however this judgement did not provide the clear definition of rarest of rare and court has power to interpretate and judicial discretion.

The doctrine has evolved through the landmark judgements of supreme court where it was stated over and again that there is no clear definition and guidelines for this. It totally depends

³ (1973) 1 SCC 20

⁴ (1980) 2 SCC 684

on the discretion and interpretation of the court which varies from cases to case depending upon the facts.

Punishment

What is a germane for the consideration of appropriate punishment in a criminal trial? previously it was held by the court that “it is the nature and gravity of the crime but not the criminal”.

But this does not seem right! It was after the case of *Bachan Singh vs State of Punjab*, that It changed where it was held by the court that the in deciding the punishment only the circumstances of the crime should not be considered but the circumstances of the criminal should also be considered.

But if we consider these rulings, so what about the recent *R.G Kar Medical Case*, where the on duty doctor was raped and murdered inside the seminar room in Kolkata. The criminal was arrested and convicted based on the evidences which were linking him to the crime but during sentencing it was held by the session judge that the crime does not fall into the category of the rarest of the rare doctrine. whereas at the same time in *Sharon murder case* the criminal who poisoned her partner had been sentenced to death as court found it rarest of the rare case.

It is totally on the discretion of the judges to decide what falls under the category of the mentioned doctrine, and this dates back to 1972 when the supreme court upheld the constitutionality of the death sentence. In case of⁵*Jagmohan Singh vs state of U.P* it was argued by the petitioner that uncertain guidelines for deciding between the death penalty and life imprisonment is unjust delegation of power to the judges which violates the article 14 of the constitution.

It was disagreed by the court and affirmed that the death sentence does not violate any rights provided under the constitution but did not provide any guidelines for the use of death penalty by the judges.

⁵ (1973) 1 SCC 20

Monica Sakhrani and Maharukh Adenwalla, *Death Penalty: Case for Its Abolition*, Economic and Political Weekly, Mar. 12-18, 2005, Vol. 40, No. 11

The Doctrine of '**rarest of rare**' was brought in year 1980 in the case of 'Bachan Singh vs State of Punjab' it was held that death penalty should only be given in exceptional cases but it did not specify the meaning of '**rarest of rare**'. Only in the case of 'Macchi Singh vs State of Punjab'³ the framework for the rarest of the had provided by the court.

Even after providing certain framework by the court the uncertainty and unclear definition for what constitutes or qualifies as rarest of rare has kept open the room for judicial discretion.

Analysis

What is the need of punishment? The most common answer to this question is that, to retribute the criminal for the crime committed. Is that the sole purpose of the punishment? I don't think it that way. Punishment does not have a sole purpose of retribution, it is also there to proportionate the offence and not only to negate the benefit gained by the crime. In case of death penalty, the crime is of that nature that death is the only proportionate solution that can be given to the criminal, and that decision is totally based on the discretion of the judges.

There is lot of anomalies in relation to the doctrine, there is no proper guideline to describe what is a meaning of rarest of rare, that is why in some cases where the charges are similar one party gets death penalty while other do not, secondly to punish a person for the crime state is doing the same act as like eye for an eye, this is not a reasonable solution in a civilized society

The current scenario of the doctrine makes it very uncertain and ambiguous as there is no concrete definition or guideline that can elaborate the meaning or circumstances in which the it can be applied by the court, it is totally on the discretion of the judges to decide whether a crime is qualified to be considered as an rarest of rare in order to give death sentence as a punishment, due to this there are lot of cases and punishments are coming up these days which makes us think whether the punishment given by the court is reasonable or not.

Future Aspects

Doctrine of rarest of rare need a clearer definition and guidelines because of its nature. Giving power to give death sentence as a punishment to a criminal as per their discretion should not be left without a proper backing.

As of now there is no clear guidelines for the implementation of the doctrine due to which the cases of the same nature in which the crime done by the criminal are identical in nature are dealt by the courts in different ways. Precedents are there to guide the court, so that the crime of same nature can be treated alike. And that is also needed in rarest of rare doctrine which will help in avoiding any arbitrariness and increasing efficiency of the court in dealing with the cases.

At present there are various crimes of diabolical nature that in first view their in no punishment that can proportionate the crime other than the death sentence. The Indore murder case where the wife killed her husband due to extra marital affair, R.G medical case and more, the nature of the crime in these cases very brutal, but whether the doctrine has been applied in these cases? As discussed earlier in R.G medical case the court held that it does not fall under the doctrine of rarest of rare and life imprisonment has been given by the court, other case are still going on and the decision still has to come, but the point of discussion in here is there is need of a proper system of guidelines which can tell particularly and identify where exactly the doctrine of rarest of rare should be applied and where it should not be. Giving the full power to judges to decide the implementation cause arbitrariness and inefficiency as human can make mistakes and judges are human beings.

Punishment of that nature strictly need reforms and better implementation guidelines so that a proper mechanism can be set up and distinction can be made as what constitutes rarest of rare, and what not. Without proper guidelines this doctrine will continue to be the ambiguous safeguard of the Indian justice system, cases at present need to be deal with proper efficiency and without any arbitrariness so that a proper precedent should be set by the courts to let other courts deal with the cases of similar nature efficiently and in a time saving manner. For all this legislation need to give proper definition and guidelines for this doctrine to give clarity on the implementation of it upon different cases, where it should be applied and it should not be. All these parts are important for better and efficient case handling of the cases of brutal and extreme nature and to avoid letting the criminals getting away without proportionating for the crime they have done against the person and the society.

CONCLUSION

The doctrine of rarest of rare was crafted as a safeguard to limit the death sentence only to the most exceptional cases but at current times it is a most flawed and ambiguous element of Indian

criminal justice system.

Doctrine's reliance on the discretion resulted in very unpredictable outcomes, no proper guidelines and framework has resulted in handing over the power to judges to decide what constitutes rarest of rare at their discretion which has resulted disparities in sentencing among the cases which have the same nature of brutality. It can also lead to biasness as it is judge centric model which ultimately influences life or death decisions.

The rarest of rare doctrine, despite its good intentions, lacks the necessary clarity and consistency for a fair legal system. There is an urgent need for legislative action to create transparent and objective criteria for capital sentencing in India. Such reforms would ensure that the death penalty, if retained, is applied fairly and in line with constitutional and human rights principles. Without these changes, the doctrine may continue to promote debate, uncertainty, and potential injustices within the justice system.