
THE RAREST OF RARE DOCTRINE: EVOLUTION, CHALLENGES, AND FUTURE PROSPECTS

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The "rarest of rare" doctrine is an Indian legal doctrine, according to which the death penalty can only be awarded in the most egregious and extreme of cases. In this doctrine, capital punishment is an extraordinary recourse, reserved only for situations in which the seriousness of the crime is so outrageous that a life term would fall short of meeting the demands of justice or of deterrence to society.¹

While the application of capital punishment in India remains marked by a certain level of subjective interpretation, it's worth noting that 104 countries have entirely abolished the death penalty, and 29 others have not carried out any executions in the past decade, effectively abandoning it in practice. Indian laws do not present a consistent stance on the issue—neither do they universally ban it, nor do they mandate its imposition uniformly. The judicial principle of the "rarest of rare" doctrine plays a central role in determining when the death sentence may be applied. This doctrine is essentially split into two categories: aggravating and mitigating factors. When aggravating circumstances are found, a judge may exercise discretion to impose the death sentence. On the other hand, if mitigating circumstances are present, the courts are generally inclined to avoid capital punishment, unless the case is exceptionally heinous. There is no rigid formula that can be applied across all cases under this doctrine.

In criminal trials, two key aspects are considered: the nature of the crime and its gravity. These elements guide the court in deciding the appropriate punishment. A prominent historical instance that illustrates the "rarest of rare" doctrine is the assassination of Mahatma Gandhi by Nathuram Godse in the case of *The case of Nathuram Godse v Crown* (Assassination of Mahatma Gandhi)². The incident occurred on January 30, 1948, during a prayer meeting at Birla House in Delhi. After a prolonged trial, Justice Amarnath sentenced Godse to death—a decision later affirmed by a unanimous bench of three judges of the Punjab High Court.

¹ Dr. Vijay Pal Singh, Abolition of Death Penalty: A Study of the Rarest of Rare Cases, *International Journal of Law Management & Humanities*, Volume 3, (2020), Issue 3, Page 2 – 12

² Nathuram Godse v. Crown, 1949 CriLJ 834.

Evolution of the Doctrine

Bachan Singh v. State of Punjab (1980)

The doctrine was formally established in the landmark case of *Bachan Singh v. State of Punjab* (1980). In this case, the Supreme Court upheld the constitutionality of the death penalty but tried to eliminate a theory that held only for death-punishable crimes, in an attempt to minimize judicial uncertainty regarding the use of the most severe punishment at hand. The Supreme Court upheld the legitimacy of the death sentence by a 4-1 margin, and set out a notion that the death penalty should only be applied in the "rarest of rare cases." The degree of this pronouncement, however, was not defined. The Ratio Decidendi of the Bacchan Singh case is that capital punishment is sacred if it is sanctioned as an option of punishment for homicide and the general sentence prescribed by law for homicide is indefinite detention. This means that capital punishment has to be applied in the rarest of cases if there is no other alternative.³

Machhi Singh v. State of Punjab (1983)

The doctrine was further clarified in *Machhi Singh v. State of Punjab* (1983), wherein the Court established certain parameters to determine cases of this nature. They are the mode of commission of murder, motive, severity, anti-social nature, and victim personality. Such crimes that involve heinous brutality, careful planning, or ones that offend society at large are covered under this category, warranting the maximum punishment.⁴ The Court in this case established explicit guidelines for determining when a case fits the ambit of Rarest of Rare:⁵

1. **Brutal Method of Killing:** When a murder is carried out with extreme violence or in a manner that is particularly horrifying, shocking the conscience of society and provoking widespread outrage.
2. **Arson with Intent to Kill:** When the perpetrator sets the victim's residence on fire with the deliberate intention of causing the victim's death by burning them alive.

³ Bachan Singh v. State of Punjab, AIR 1980 SC 898

⁴ Macchi Singh v. State of Punjab, 1983 AIR 957.

⁵ Anubhav Khastagir & Pratiti Palit, The 'Rarest of the Rare' Doctrine in Awarding Death Penalty, International Journal of Legal Science and Innovation, Volume: 3, (2021) Issue 4, Page 622 - 627

3. **Torture Before Death:** When the victim is subjected to acts of extreme cruelty or physical torment intended to cause death.
4. **Dismemberment of the Body:** When the victim's body is savagely mutilated or cut into pieces after or during the act of murder.
5. **Depraved Motives:** When the reason for committing the murder stems from sheer cruelty, inhumanity, or an utterly perverse mindset.
6. **Socially Condemnable Behavior:** When the act involves killing a person from a vulnerable or historically marginalized community, highlighting the social insensitivity and moral depravity of the crime.
7. **Magnitude of the Crime:** When the scale of the offence is extensive, such as in cases involving mass killings or multiple murders.

Challenges in Application

- **Subjectivity and Arbitrariness**

One of the major criticisms of the doctrine is that it is subjective in nature. The absence of a well-defined statutory definition gives rise to different interpretations by different judges, which results in inconsistent application. The Supreme Court itself has recognized that the application of the "rarest of rare" doctrine is marred with "chaos," "subjectivity," and "arbitrariness."⁶

- **Procedural Delays and Psychological Impact**

Delays in procedure in the Indian judiciary can result in lengthy stays on death row, resulting in tremendous psychological trauma to the convicts. In *Chhannu Lal Verma v. State of Chhattisgarh* (2018),⁷ the Supreme Court ordered a psychological test to determine the potentiality of reform prior to commuting capital punishment, and this shows that the judiciary was seeking a more compassionate approach.

⁶ Manoj Mitta, 'Rarest of Rare' Doctrine, Subjective, Arbitrary, TIMES OF INDIA (May 13, 2025, 3:37 PM), <https://timesofindia.indiatimes.com/india/rarest-of-rare-doctrine-subjective-arbitrary/articleshow/6703485.cms>

⁷ *Chhannu Lal Verma v. State of Chhattisgarh* AIR 2019 SC 243

- **Socio-Economic and Psychological Factors**

The critics opine that the doctrine tends to neglect the socio-economic and psychological backgrounds of the convicts. For example, in *Amruta v. State of Maharashtra* (1983)⁸, in spite of the heinousness of the crime, the Court refused to impose the death penalty, keeping in view the socio-economic conditions of the offender. This ruling reinforced judicial restraint in awarding the death penalty and emphasized that courts must weigh circumstantial factors, intent, and the possibility of reform before deciding on capital punishment.⁹

Should the Doctrine of Rarest of Rare be abolished in India?

The challenge with awarding the death penalty arises from the absence of a clear statutory definition of the term "rarest of the rare." This lack of clarity has led to inconsistent rulings—while some individuals convicted of both rape and murder have received the death sentence, others with seemingly identical facts and circumstances have been spared. These discrepancies make it difficult to understand the basis for differing outcomes. Completely abolishing the death penalty could be risky for a country like India, which may not yet be fully prepared to deal with extreme crimes without such a deterrent. Although the doctrine was originally designed to reflect the values and expectations of society, in practice, it has become heavily reliant on individual judicial interpretations. If the judiciary intends to retain this principle, it must work towards defining concrete criteria that reduce ambiguity and ensure greater consistency in its application.¹⁰

Future Prospects

Some of the findings and suggestions for this problem are as follows –

1. **Establishment of Clear Guidelines:** There is a pressing need to formulate standardized criteria that outline the specific conditions under which a case may be classified as "rarest of the rare." Implementing such structured parameters could help resolve the confusion

⁸ *Amruta v. State of Maharashtra*, AIR 1983 SC 629

⁹ Sohini Chowdhury, *Rarest Of Rare Doctrine Requires Death Sentence Be Imposed Only If There Is No Possibility Of Reformation : Supreme Court*, LIVE LAW (May 13, 2025, 4:01 PM) <https://www.livelaw.in/top-stories/rarest-of-rare-doctrine-requires-death-sentence-be-imposed-only-if-there-is-no-possibility-of-reformation-supreme-court-224408>

¹⁰ Sahasransu Mishra, Siddhant Nayak and Yashwardhan Mafidar, Analysis of Judicial Trends Rarest of Rare of India, *International Journal of Legal Science and Innovation*, Volume 6, (2024), Issue 3, Page 115 - 129

among different judges and reduce the inconsistencies that currently cloud judicial interpretations.

2. **Balanced and Thoughtful Judgement:** Even in cases where the crime committed is extremely heinous, the court must evaluate whether the individual poses a continuing threat to society. If it is determined that the accused is unlikely to reoffend or endanger others in the future, capital punishment should be avoided.
3. **Avoid Unreasonable Delay in Execution:** In *Triveni Bai v. State of Gujarat* (1989)¹¹, the Supreme Court emphasized that any delay in carrying out the death sentence must be justified on reasonable grounds, such as ensuring a fair trial. However, once the sentence is confirmed, unnecessary postponement should be avoided. While the convict must retain the right to appeal, such opportunities should be time-bound to prevent indefinite delays.
4. **Cautious Imposition of the Death Penalty:** The decision to impose capital punishment must be made with extreme care. A thorough evaluation of all case-specific factors by the constitutional bench is essential to avoid hasty or emotionally charged judgments.
5. **Proportionality of Punishment:** The severity of the sentence should reflect the seriousness of the crime. Minor offences must not be met with the death penalty. Punishment should be proportionate, both to uphold justice and to serve as a deterrent, discouraging others from engaging in similarly grievous conduct.

¹¹ Smt. Triveniben & Ors. v. State of Gujarat & Ors., 1989 AIR 1335