



Public Opinion, Media Influence, and Death Penalty Verdicts: A Sociological-Legal Inquiry

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Abstract

The imposition of the death penalty in modern democracies is often shaped not only by legal principles but also by societal perceptions and media narratives. In India, the public demand for harsh punishment in high-profile cases, amplified by the media, often exerts subtle pressure on judicial outcomes. This paper explores the sociological and legal dimensions of how public opinion and media coverage influence death penalty verdicts. Drawing from key judgments, media trials, and empirical studies, the paper examines the risk of justice being swayed by popular sentiment rather than constitutional values and judicial objectivity.

Keywords: Public opinion, media trial, death penalty, judiciary, social pressure, rarest of rare doctrine, criminal justice, sociology of law.

1. Introduction

"No judge ever lives a solitary life. Hence, I am aware of things like public opinion polls, different petitions, media pieces, conversations, political and legal pronouncements, and group gatherings... Seeking publicity and catering to public sentiment are not ways for judges in democracies to earn public trust. They must make decisions in accordance with the law, regardless of popular opinion, if they want to earn trust."¹

This astute comment made by the president of the Slovak Constitutional Court sums up a fundamental problem that contemporary courts around the globe are grappling with. Judges are subject to public discourse as members of society, but maintaining their professional integrity requires them to remain steadfast in their adherence to the law, regardless of outside influences. However, a large body of socio-legal research has proven that the judiciary is not immune to extralegal influences, including public opinion, institutional frameworks, and political ideology.^{2,3,4,5} There is a lack of data on how judges feel the influence of media and public opinion affects their decisions, even though there is a lot of literature on judicial conduct. Epstein's model provides a two-way perspective, arguing that judges, via their decisions and public communication, affect public discourse just as much as the media and public opinion impact judicial reasoning.⁶ Quantitative studies have shown that media coverage does affect court outcomes, but they have not been able to capture judge reflection on this topic. Interviewing expert judges is one example of a qualitative strategy that provides richer understanding. To illustrate the range of opinions on judicial identity and public responsibility, interviews with Czech Constitutional Court judges show that they are either very detached or actively involved with the media.⁷

Death penalty cases in India require objective legal evaluation because to the "rarest of rare" concept established in *Bachan Singh v. State of Punjab* (1980). This intricate web of relationships is magnified in such civilizations.⁸ But as we saw in the *Nirbhaya* case, judges frequently cave to popular opinion, using phrases like "collective conscience of society" to defend the death penalty in cases when public outcry is strong and media coverage is unrelenting. Paradoxically, in emotionally charged environments, judges may unconsciously introduce prejudices into their decisions, even though blind justice is a requirement of constitutional democracies.

Judicial legitimacy is based on public and governmental support rather than direct enforcement measures, notwithstanding the judiciary's constitutional authority.⁹ Regarding this matter, courts frequently walk a fine line: maintaining judicial independence is paramount, yet safeguarding courts against political reprisal requires public trust and open communication. Therefore, public opinion, which is influenced and amplified by the media, can legitimize or undermine court rulings, which in turn influences judicial power indirectly.^{10,11}

The media, sometimes called "the Fourth Estate," is vital in influencing how the public talks



about legal issues. It decides what to report and how to frame it, setting the agenda and influencing the public's thoughts in the process.

¹². Justice, fairness, and accountability are shaped by emotionally charged language, biased facts, and opinion articles. The media's portrayal of judicial processes can either increase trust in the system or foster mistrust, depending on the narrative choices made ¹³.

By critiquing judicial actions and advocating for openness, the media also serves as an external accountability mechanism. At the same time, it has the potential to sensationalize processes or simplify complicated legal matters, both of which can lead to a distorted public understanding¹⁴. Judges may find it difficult to ignore public expectations that are formed when certain crimes are repeatedly linked in the media with expected punishments, particularly the death penalty. When these stories take center stage, public outcry can take the place of sound legal reasoning, undermining the independence of the judiciary¹⁵.

So, judges have two loads on their shoulders. To be objective, they must, on the one hand, keep their distance from popular opinion. Conversely, there is a growing expectation that they will actively connect with the public, fostering trust and effectively communicating the reasoning behind their decisions¹⁶. Finding that sweet spot is no easy feat. For example, judges in the Czech Republic are required to refrain from actions that cast doubt on their ability to make fair decisions¹⁷. But there is no hard and fast ethical rule that they must follow when planning how to communicate with one another. Thus, different judges tend to engage with the media in different ways; some are more open and approachable, while others are purposefully reserved¹⁸.

Maintaining public trust in the judicial system is an integral part of any successful public relations campaign that includes media planning¹⁹. The public lacks access to modern court decisions due to their length and complexity. That is why it is the responsibility of the courts to make its fundamental concepts and reasoning understood by the public. Scholars in the field of law have contended that the media and the courts both have a role to play in ensuring that the public has a balanced and accurate knowledge of judicial rulings ²⁰.

2. Public Opinion and Penal Populism

Public opinion is a crucial yet volatile force in shaping criminal justice policy, particularly in democratic systems where the judiciary and executive are expected to respond to the voice of the people. This influence becomes most pronounced in the aftermath of particularly heinous crimes—especially those sensationalized by the media—which provoke strong emotional reactions and widespread public outrage. In such contexts, the public's demand for justice can shift from a rational call for due process to a vehement cry for retribution. Sociologist **Stanley Cohen**'s concept of moral panic is highly relevant here. According to Cohen, moral panic arises when an individual, group, or event is perceived as a serious threat to societal norms and values, resulting in an exaggerated societal response that calls for severe punishment rather than calibrated legal reform²¹. This distortion of public discourse can lead to oversimplified, emotionally charged narratives where due process is overshadowed by the urgency to punish. Moral panics often create a fertile ground for penal populism, wherein lawmakers and even courts may adopt harsher sentencing not based on evidence or legal reasoning, but in response to public sentiment. As a result, criminal justice risks being transformed from a rational and constitutional process into a performative mechanism that symbolically restores public order. This dynamic can deeply undermine the foundational principles of procedural fairness, individualized justice, and proportionality in sentencing. Moreover, once moral panic sets the tone, it becomes politically and socially risky for lawmakers or judges to advocate for leniency or reformative alternatives, especially in capital punishment cases. Thus, public opinion, when amplified through moral panic, has the potential to both accelerate legislative overreach and place undue pressure on the judiciary, jeopardizing the balance between public accountability and legal independence that is central to a functioning democracy.

India provides a particularly illustrative example of how public opinion, catalyzed by media and moral outrage, can directly influence criminal justice reform and capital sentencing



discourse. This was most vividly seen in the aftermath of the 2012 Delhi gang rape case, commonly referred to as the Nirbhaya case. The horrific nature of the crime and the circumstances surrounding it ignited a national wave of emotional upheaval, leading to widespread protests, candlelight vigils, and massive youth-led demonstrations across urban centers. The collective anger was directed not only at the perpetrators but also at perceived systemic failures of policing, judicial delay, and inadequate laws. Amid this climate of moral indignation, the dominant public narrative quickly shifted toward retributive justice, with loud and unified demands for the death penalty. In this charged socio-political environment, public discourse equated capital punishment with justice itself—viewing the execution of the offenders as a symbolic act that would restore societal balance, reaffirm the dignity of victims, and serve as a deterrent against future crimes. This overwhelming sentiment placed significant pressure on both the judiciary and the legislature to respond decisively. Consequently, the Indian Parliament enacted the **Criminal Law (Amendment) Act, 2013**, which broadened the scope of capital punishment by introducing death as a possible sentence in cases of rape resulting in death or persistent vegetative state, along with stricter punishments for other sexual offences. While these reforms were celebrated as victories of people's justice, they also marked a shift toward penal populism, raising concerns about the potential erosion of due process and the dangers of legislating in response to public outcry rather than reasoned legal deliberation²².

This response typifies the phenomenon known as penal populism²⁴, a term in criminology used to describe a political and judicial orientation in which decisions regarding punishment are influenced more by public sentiment than by empirical evidence or normative legal principles. In such a framework, both policymakers and the judiciary appear to respond to emotionally charged public demands for harsher penalties, particularly in the aftermath of high-profile crimes, rather than following the guidance of criminological research or jurisprudential standards. Penal populism thrives on the assumption that the public universally supports tough-on-crime measures, and that to maintain institutional legitimacy, courts and political leaders must mirror these punitive preferences—regardless of whether such measures align with the constitutional values of justice, proportionality, and rehabilitation. The risks inherent in penal populism are manifold. It transforms the justice system from a measured, rights-based mechanism into a reactionary apparatus that seeks to reassure a disturbed populace. This reactivity often bypasses expert consultations, overlooks systemic root causes of crime, and may lead to inconsistent or overly punitive outcomes that disproportionately affect marginalized communities. Moreover, when the judiciary begins to interpret legal mandates in light of what it perceives to be public outrage—especially through references to "collective conscience" or the "mood of the nation"—its decisions risk being shaped more by sociopolitical exigencies than by constitutional fidelity. The media plays a compounding role in this process. In an age of 24/7 news cycles and competitive journalism, crime stories are frequently dramatized using emotive language, sensational headlines, and stark binary portrayals of victims versus villains. Such framing not only fuels the public's demand for exemplary punishment but also constructs a moral narrative that reinforces the need for immediate and severe retribution. This synergy between media and public sentiment places an invisible but palpable pressure on the judiciary. Even when courts claim independence, their discretion may be unconsciously influenced by the prevailing emotional climate, particularly in death penalty cases where symbolic justice becomes a public expectation. In this context, judicial reasoning risks being subordinated to societal catharsis, raising critical concerns about the dilution of due process, impartiality, and the rule of law.

In **Mukesh v. State (NCT of Delhi)**, the Supreme Court of India upheld the death penalty for the convicts in the 2012 Delhi gang rape case, invoking the rhetoric of the "collective conscience of society" to justify its decision. The Court observed that the brutal nature of the crime had "shocked the soul of the nation," thereby suggesting that the punishment was not only legally warranted but also socially imperative. While such reasoning may appear to validate judicial responsiveness to prevailing public sentiment, it raises serious constitutional



and jurisprudential concerns. Anchoring a capital punishment verdict in the emotive concept of “collective conscience” risks blurring the boundary between principled adjudication and majoritarian morality. The justice system, ideally grounded in constitutional safeguards, procedural fairness, and individualized sentencing, begins to resemble a mirror of public outrage when courts draw upon such abstract, undefined social sentiments. The use of “collective conscience” as a sentencing rationale becomes particularly problematic when applied to irreversible punishments like the death penalty. It can render the judiciary susceptible to popular pressures, reducing the courtroom to a forum for moral catharsis rather than one for rational, rights-based adjudication. Furthermore, this appeal to public emotion often conceals the selective nature of penal populism. Public outrage, and consequently judicial rhetoric invoking society’s conscience, is frequently shaped by the visibility of the case, the identity of the victim, and the extent of media coverage. Cases involving middle-class or urban victims, especially those sensationalized by the media, are more likely to trigger such reactions and demands for exemplary punishment. In contrast, crimes against marginalized individuals—such as Dalits, tribal women, or rural poor—often fail to evoke similar national outrage, even when equally heinous. As a result, the invocation of “collective conscience” becomes uneven and arbitrary, leading to glaring inconsistencies in sentencing and undermining the constitutional mandate of equality before the law enshrined in Article 14. This selective moral visibility challenges the legitimacy of the judiciary’s reliance on public sentiment, especially when it leads to disparate treatment of similar crimes. It also exposes the dangers of allowing retributive instincts, amplified by media narratives and moral panic, to override individualized assessments of culpability, mitigating circumstances, and reformative potential. If not critically examined and restrained, such populist jurisprudence could erode the foundational principles of criminal justice—due process, impartiality, and the presumption of innocence—and reduce sentencing to a symbolic exercise aimed at appeasing collective anger rather than delivering justice grounded in law and equity.

3. Media Trials and Their Influence on Judicial Decisions

In its 200th Report, the Law Commission of India emphatically recommended that pre-trial media reporting must be regulated to avoid prejudice, particularly in cases involving grave offences such as murder, rape, and terrorism. The Commission proposed a legal framework for issuing postponement orders, wherein courts can temporarily restrain media from publishing content likely to prejudice ongoing proceedings. This recommendation stemmed from growing concerns that uncontrolled media commentary often results in a trial by the press, undermining the accused's right to be presumed innocent until proven guilty. Judicial acknowledgment of the media’s influence has grown more explicit over time. In **Romila Thapar v. Union of India (2018)**, the Supreme Court warned that public discourse, especially when driven by emotion or misinformation, cannot determine the course of justice and must not dilute procedural safeguards. The Court emphasized that the judiciary is not to be swayed by majoritarian will or media populism but must stand as a “counter-majoritarian institution” safeguarding constitutional values²⁵. Despite these principles, the popularization of “media justice” continues. Newsrooms, especially in the age of 24x7 news cycles and digital media, increasingly prioritize virality and viewer engagement over accuracy and restraint. This has led to a proliferation of what scholars call “penal populism through screens”—a form of justice shaped not in courts, but on television and social media platforms²⁶. This environment fosters pressure on law enforcement agencies and judges to act in accordance with public demand rather than legal prudence, especially in emotionally charged capital punishment cases.

Empirical research from the Centre for the **Study of Developing Societies (CSDS) (2019)** indicated that nearly 68% of urban Indian respondents believed media coverage played a role in speeding up judicial decisions in sensational cases²⁷. This data reflects a worrying trend where public trust in justice is becoming contingent upon media coverage, not judicial independence or legal clarity. Furthermore, social media platforms have complicated the picture further. Influencers, independent bloggers, and viral posts often relay partial,



incorrect, or speculative information on high-profile criminal cases. The lack of editorial accountability and the virality of hashtags like #JusticeForNirbhaya or #HangTheRapists create intense emotional responses, placing the judiciary under additional pressure to reflect public outrage in its rulings²⁸. In such a climate, the danger lies not only in potential miscarriage of justice due to undue influence but also in erosion of judicial credibility. If courts appear to respond to the loudest voices in society rather than reasoned legal argument, it damages their legitimacy as impartial arbiters. This is especially dangerous in death penalty cases, where the consequences are irreversible.

4. Rarest of Rare Doctrine and Collective Conscience

The doctrine of the "rarest of rare" emerged as a constitutional safeguard against arbitrary imposition of the death penalty in India. It was formally articulated by a Constitution Bench of the Supreme Court in *Bachan Singh v. State of Punjab* (1980), where the Court upheld the constitutional validity of capital punishment under Section 302 of the IPC, but only in the most exceptional cases²⁹. The Court ruled that the death penalty should be awarded only when "life imprisonment appears to be an altogether inadequate punishment having regard to the relevant circumstances of the crime," and that the sentencing judge must balance aggravating and mitigating factors.

This doctrine was further operationalized in *Machhi Singh v. State of Punjab* (1983), where the Court categorized cases involving extreme depravity, brutality, or massive societal impact as potentially falling within the "rarest of rare" category³⁰. The ruling laid down five broad categories of aggravating circumstances, including the manner of commission of murder, motive, anti-social or socially abhorrent nature of the crime, magnitude of the crime, and personality of the victim. However, it stopped short of defining "rarest of rare" in objective terms, leaving it open to interpretation by future benches. In the decades that followed, the application of this doctrine became inconsistent. Courts often substituted the test of "rarest of rare" with the vague and controversial concept of "collective conscience of society." The term first gained prominence in *Dhananjay Chatterjee v. State of West Bengal* (2004), where the Court held that the brutal rape and murder of a young girl by a security guard had "shocked the collective conscience of society" and hence merited the death penalty³¹. The invocation of collective conscience, while rhetorically compelling, has drawn widespread academic and judicial criticism for its subjectivity and imprecision. Critics argue that "collective conscience" is a nebulous and extralegal standard that varies across time, geography, and social groups. It risks converting popular outrage—often amplified by media trials and social media outrage—into a judicial norm, thereby eroding the individualized and principled nature of sentencing jurisprudence³².

Scholars such as Anup Surendranath and his team at the Project 39A at NLU Delhi have examined over 700 capital sentencing judgments and found a troubling lack of consistency in the application of both the "rarest of rare" doctrine and the "collective conscience" reasoning. Their 2020 report revealed that judicial subjectivity, media narratives, and emotional impact on judges often outweighed reasoned assessment of mitigating factors like the convict's background, potential for reform, and mental state³³. Furthermore, the Justice B. N. Srikrishna Commission recommended that the "rarest of rare" test should be reformulated to exclude public sentiment as a determining factor in capital sentencing. The report cautioned that incorporating "collective conscience" undermines the constitutional requirement of reasoned, dispassionate adjudication, particularly when life and death are at stake³³. In essence, while the "rarest of rare" doctrine was designed to introduce restraint, rationality, and constitutional morality into capital sentencing, the infusion of the "collective conscience" principle has at times subverted its core intent. As judicial standards shift between legal reasoning and emotive public responses, there is an urgent need for doctrinal clarity, empirical review, and adherence to constitutional values of fairness, proportionality, and non-arbitrariness.

5. Empirical Studies on Judicial Behaviour and Public Sentiment

In recent years, empirical research in India has increasingly pointed to a complex and



concerning intersection between judicial behavior, public sentiment, and socio-political influences, particularly in the context of capital punishment. Contrary to the idealized image of the judiciary as an isolated and impartial institution, a growing body of evidence suggests that judicial decisions are often responsive to the broader environment in which courts operate—including media pressures, political climate, and public opinion. This is especially evident in high-profile cases that evoke strong emotional reactions from the public and are heavily amplified by the media.

One of the central insights from empirical research is that the decision to award the death penalty frequently correlates with the degree of public and media attention a case receives. When crimes are widely publicized, especially those involving vulnerable victims or gruesome details, they often trigger widespread moral outrage. This in turn creates intense pressure on the judiciary to respond in a way that signals accountability, deterrence, and a sense of closure for the public. The symbolic nature of capital punishment, thus, becomes a tool not just for justice but for restoring public faith in state institutions. In these situations, the judiciary, consciously or subconsciously, may lean towards imposing harsher sentences—including the death penalty—to align with what appears to be the collective will of society.

Another important dimension of this empirical inquiry is the role of socio-economic status and marginalization. Multiple studies have demonstrated that the imposition of the death penalty disproportionately affects individuals from economically weaker sections, religious minorities, Scheduled Castes, and other historically disadvantaged groups. These individuals often lack access to effective legal representation, resources to appeal to higher courts, or the public visibility required to attract support from civil society and media watchdogs. As a result, they become more vulnerable to the full force of punitive justice, even in cases where mitigating circumstances may warrant lesser punishment. The judicial process, thus, becomes skewed by structural inequalities, perpetuating rather than rectifying social injustices. Moreover, political factors can further entangle judicial decision-making. In times of national or regional elections, or during periods of heightened political instability, there is often a perceptible shift in how courts approach criminal cases with strong public interest. Courts may feel compelled to demonstrate strength and decisiveness, especially in cases linked to communal violence, terrorism, or crimes against women, fearing criticism or backlash for perceived leniency. These motivations, while often unspoken, can subtly erode the principles of individualized justice and proportionality in sentencing—principles which are the cornerstone of a constitutional democracy.

Media framing adds another layer of complexity. The tendency of television channels and newspapers to sensationalize crime, simplify legal arguments, and portray accused persons in a binary of guilt or innocence can distort public understanding of legal processes. This distortion, in turn, influences how judges anticipate public reaction to their judgments. While courts often emphasize that verdicts are delivered on the basis of legal reasoning and not public emotion, inconsistencies in sentencing patterns across similarly situated cases—especially where only one of the cases had extensive media coverage—undermine this assertion. These inconsistencies have been documented in comparative studies of trial court, High Court, and Supreme Court judgments in death penalty cases, indicating a troubling elasticity in the application of justice. Additionally, studies analyzing judicial pronouncements have revealed that courts often resort to abstract and subjective language like “collective conscience of society,” especially when justifying the imposition of the death penalty. This phrase, which lacks a precise legal definition, can serve as a proxy for public emotion rather than objective legal standards. It reflects an attempt to reconcile judicial reasoning with popular sentiment, but simultaneously opens the door for arbitrariness and inconsistency. In sum, empirical data on judicial behavior reveals a multifaceted relationship between the courts, the public, and the media. It illustrates that, despite the constitutional commitment to fairness, equality, and independence of the judiciary, sentencing in capital cases is often shaped by extralegal factors. These findings challenge the myth of a completely detached and apolitical judiciary, and call for greater transparency, accountability, and reform



in sentencing practices—particularly in cases involving the irreversible punishment of death. Such reforms must address both the systemic biases within the legal process and the broader social conditions that allow these biases to thrive. Only then can the Indian criminal justice system hope to deliver justice that is not just legal, but also equitable and humane.

6. Constitutional Concerns: Fair Trial and Article 21

Article 21 of the Indian Constitution, which guarantees that “no person shall be deprived of his life or personal liberty except according to procedure established by law,” forms the bedrock of substantive and procedural due process in the Indian legal system. Over decades, the judiciary has interpreted this provision to encompass a wide range of rights essential to human dignity—including the right to a fair trial, the right to legal aid, protection against arbitrary arrest, and humane treatment of prisoners. However, in the context of capital punishment, the very soul of Article 21 is tested, particularly when courts allow external influences like public opinion and media narratives to seep into the adjudicatory process.

In principle, the “rarest of rare” doctrine, laid down in *Bachan Singh v. State of Punjab* (1980), was designed to safeguard against the arbitrary imposition of the death penalty. It requires a careful balancing of aggravating and mitigating factors, with the presiding judge conducting an individualized assessment of the convict's background, mental state, the nature of the crime, and its impact. However, the later incorporation of the “collective conscience of society” into sentencing decisions introduces an inherently vague and populist criterion. The term, undefined in constitutional or statutory law, allows for subjectivity and opens the floodgates for emotive and moralistic reasoning rather than strictly legal rationale. This trend was reinforced in *Machhi Singh v. State of Punjab* (1983) and *Dhananjay Chatterjee v. State of West Bengal* (2004), where the courts justified the death sentence by citing the need to satisfy the “collective conscience” of society. In doing so, courts arguably shifted from a rights-based approach to a sentiment-driven framework—where punishment is awarded not solely on the basis of guilt, but on the perceived societal need for retribution. This raises a fundamental tension: should constitutional morality and rule of law yield to popular morality? The issue becomes even more pressing when viewed through the lens of judicial impartiality and independence, essential components of the right to a fair trial. In a democratic society governed by constitutionalism, courts are supposed to stand as bulwarks against the volatility of majoritarian pressures. The judiciary is expected to insulate its decisions from the shifting sands of public opinion, no matter how strong the tide of outrage, especially in high-profile cases. Public sentiment, often inflamed by media sensationalism, should not become a de facto standard of justice, lest the judiciary surrender its constitutionally ordained role to transient passions.

The fair trial guarantee under Article 21 is not limited to procedural aspects like opportunity to be heard or legal representation. It also encompasses the right to be judged without prejudice, fear, or external pressure. When judgments begin to reflect populist terminology—such as “shock to the conscience of society” or “need to send a strong message”—it raises concerns about the erosion of this neutrality. For instance, a convict's background (e.g., caste, class, religion), the level of media coverage, or even the political climate may end up playing a disproportionate role in sentencing, thereby violating the principle of equality before law (Article 14) and non-discrimination. The troubling implication is that justice in such instances becomes context-dependent rather than case-dependent. A similar crime committed in obscurity may lead to life imprisonment, while the same offense committed under media glare may result in capital punishment. This inconsistency violates not just the rule of law, but the doctrine of proportionality, which demands that state action—especially punitive action—must be just, fair, and reasonable. Moreover, the Constitution does not allow for mob justice, even if it is clothed in legal robes. The Supreme Court's own pronouncements in cases like *Sahara India Real Estate Corp. v. SEBI* (2012) caution against trial by media, recognizing its potential to jeopardize fair trial rights. Nevertheless, judicial reliance on terms like “public expectations” paradoxically validates the very same extralegal pressures the courts warn against. Such contradictions reveal a deeper crisis of jurisprudential coherence



and constitutional integrity. In this environment, the true meaning of Article 21 is at risk of being diluted. The principle that "procedure established by law" must be just, fair, and reasonable, laid down in *Maneka Gandhi v. Union of India* (1978), seems increasingly at odds with sentencing practices influenced by collective outrage rather than individualized justice. The core question is whether the Indian judiciary can maintain its commitment to constitutionalism in an age of media trials and rising penal populism. To safeguard the fairness of the trial process, it is imperative that courts reassert their allegiance to constitutional morality, not public morality. This includes acknowledging and actively resisting the pressures exerted by public sentiment and refraining from referencing vague, extra-legal standards in sentencing decisions. Only then can Article 21 truly function as a shield against arbitrariness, rather than a procedural formality used to legitimize socially driven vengeance.

7. Recommendations and Safeguards

To uphold the constitutional guarantee of a fair trial and maintain judicial independence in capital punishment cases, the following multi-level reforms are recommended:

- A statutory or judicially accepted framework should be developed that outlines objective sentencing criteria in capital cases. This would reduce subjective reliance on emotive terms like “collective conscience” and enhance uniformity across jurisdictions.
- Courts must refrain from invoking ambiguous concepts such as public sentiment or collective outrage unless clearly defined and evidentially supported. Judicial reasoning should remain firmly grounded in law and case-specific facts.
- Include modules in judicial academies focused on unconscious biases, emotional reasoning, and susceptibility to external influence. Training should also involve simulated trials where judges analyze media pressure and ethical dilemmas.
- Enact rules that limit speculative or sensational media coverage in ongoing criminal trials, especially capital punishment cases, to prevent trial by media and protect the rights of the accused.
- Strengthen and enforce an independent Media Ethics Council that can impose penalties, sanctions, or suspension of licenses for media houses violating the presumption of innocence or influencing judicial proceedings through prejudicial content.
- Supreme Court and High Courts should have formal spokespersons or press officers to clarify legal developments to the media. This reduces the possibility of misrepresentation and enhances transparency without compromising judicial neutrality.
- Ensure access to the best quality legal representation for economically and socially marginalized convicts. A robust defense acts as a counterbalance to prosecutorial zeal and public pressure.
- Awareness campaigns via schools, digital media, and community platforms should educate citizens on due process, the presumption of innocence, and the values of reformative justice over retribution.
- Transparency in Clemency Decisions (Articles 72 and 161): The process of presidential and gubernatorial clemency should be made more transparent and reasoned, particularly in death sentence commutations, to prevent arbitrariness and political influence.

8. Conclusion

In a constitutional democracy like India, the interplay between public opinion, media influence, and judicial decision-making raises profound concerns—particularly in the context of the death penalty. While media and popular sentiment play a crucial role in bringing social injustices to light and generating necessary public discourse, they must not supplant the foundational principles of rule of law and due process. The administration of justice, especially in capital cases, requires a dispassionate and impartial approach grounded in constitutional morality, procedural fairness, and individualized assessment of the case. The invocation of emotionally charged constructs such as “collective conscience” or “public outrage” can, if unrestrained, erode the objectivity of sentencing and lead to miscarriages of justice. The judiciary, as the legal sentinel of constitutional rights, must resist the urge to



mirror public sentiment, however intense, and instead act as a counterbalance to majoritarian impulses. In doing so, it not only protects the rights of the accused but also preserves the integrity and credibility of the justice system. A sentence of death should not emerge as a reaction to societal anger or media sensationalism but as the product of a thoroughly reasoned, cautious, and just legal process. Only through such principled adjudication can the judiciary uphold its constitutional mandate and ensure that justice is truly served—not just seen to be done.

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