Comprehensive Policy Analysis on the

Proposed National Sentencing Guidelines

to make punishment principled and predictable

A just society is not measured by
how harshly it punishes, but by
how fairly, consistently
and wisely it sentences.

Failure of plea bargaining without sentencing certainty



The absence of sentencing guidelines sits at the very heart of justice delays and failures. In developed societies the reformative process begins even before trial, where the accused prefer to plead guilty over false denials.

Team Satyug

Team Satyug is a volunteer-led reform movement built on transparency and open collaboration. Guided by "Absolute Satvik Karm", we work for public impact and not for personal recognition. Our movement runs on the contribution of time, expertise, and ideas from professionals committed to judicial and legislative reform.

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Justice does not exist to sort truth from lies.

It exists to shape the moral character of a society through deterrence — and no character can be built except on truth.

Sentencing guidelines can discipline litigation behaviour

and **accelerate justice up to twenty-fold,**

but only if they guarantee that truth and timely guilty pleas are rewarded

and every species of falsehood is deterred.

A guilty plea is a bargain, and no bargain can be struck without a price.

Where the sentence cannot be foreseen,

the accused cannot value the concession,

counsel cannot advise upon it,

and the prosecutor cannot price it.

Certainty of sentence is the precondition of every plea.

Letter to the Reader

Sentencing is the point at which a finding of guilt is translated into the deprivation of liberty, property and reputation that the State imposes in the name of justice. Yet it remains one of the least structured aspects of India's criminal justice system. Courts must determine the nature and extent of punishment within broad statutory ranges, often without a common framework for assessing harm, culpability, mitigation or the purposes of punishment.

This report and the accompanying National Sentencing Guidelines, 2026 seek to address that gap. They proceed from a simple proposition: in a constitutional democracy, the State's most coercive decisions should be guided by transparent principles rather than instinct and local convention. Defining offences and prescribing statutory maxima and minima is only part of the task; equal importance lies in the principles governing choices between imprisonment and non-custodial measures, sentence length, fines, compensation, community sanctions and, in rare cases, the death penalty.

The proposed framework pursues four objectives: reducing unwarranted sentencing disparity through structured assessment of harm, culpability and relevant factors; promoting proportionate use of imprisonment while strengthening non-custodial sanctions; providing principled rules for guilty-plea and cooperation discounts while addressing perjury and obstruction; and establishing an independent Sentencing Authority to collect data, monitor outcomes and revise guidelines on an evidence-based basis.

This project does not seek to eliminate judicial discretion or transplant foreign sentencing models into Indian law. It is a working model intended to stimulate debate and encourage a more systematic approach to punishment. It will have served its purpose if it helps judges, lawmakers, practitioners, scholars and civil society work towards a sentencing policy that is principled, transparent and consistent with constitutional values.

> **SATYAMEVA JAYATE**
>
> *Truth alone triumphs — but only where the law makes truth the better bargain. A sentencing system that rewards the timely guilty plea and prices every falsehood turns the national motto from an aspiration on the State Emblem into the dominant strategy of every accused, witness and complainant who enters a courtroom.*

—

Vishal Gupta.

(Team Satyug)

Glossary

Aggravating Factor: A circumstance that increases the seriousness of the offence or the culpability of the offender, justifying movement upward on the score and, where appropriate, towards a higher quintile within the statutory range.

Assistance to Authorities (Substantial Assistance): Cooperation by the offender that materially aids investigation or prosecution of the offence or a related offence, assessed for truthfulness, completeness, timeliness, evidential value and risk to the offender, and capable of justifying a bounded reduction in the otherwise appropriate sentence.

Base Score: The neutral starting value on the scoring scale (fixed at 5 points) representing a typical, mid-range case of the offence in question, before case-specific aggravating and mitigating factors are applied.

Departure: A final sentence that departs from the sentence indicated by the structured score method and corresponding quintile band, permitted only where strict application would result in manifest injustice or where statutory intent requires a different outcome, and in every such case requiring explicit reasons to be recorded.

Final Score: The numerical result obtained after adjusting the Base Score up or down for relevant aggravating and mitigating factors, ordinarily falling between 0 and 10 and used to determine the appropriate quintile.

General Sentencing Guideline: The overarching guideline that sets out the general principles, structured methodology and scoring framework to be applied in all cases, particularly where no offence-specific guideline exists, and to which courts must have due regard when determining sentence.

Guilty-Plea Reduction: A structured reduction in sentence to reflect a plea of guilty, calibrated by the stage at which the plea is entered (earliest reasonably possible, intermediate, or late), the saving of judicial time and the impact on victims and witnesses, and subject to stricter limits for very high-seriousness cases.

Indicative Quintile (Sentencing Band): One of five seriousness bands (Q1–Q5) corresponding to segments of the statutory sentencing range (for example, lower, below-average, average, above-average and high seriousness), identified on the basis of the Final Score and providing the presumptive band within which the sentence should ordinarily fall.

Mandatory Minimum: The lowest custodial term or other punishment that the court is required by statute to impose for a given offence, below which neither the Guidelines nor judicial discretion can reduce the sentence, even when mitigation is strong.

Mitigating Factor: A circumstance that reduces the seriousness of the offence or the offender's culpability, or indicates better prospects of reform, justifying downward movement on the score and, where appropriate, towards a lower quintile (for example, absence or remoteness of prior record, minor role, provocation, restitution, youth or advanced age, ill-health or substantial diminished responsibility).

Override (Structured Override): A narrowly defined mechanism that permits departure from the ordinary scoring outcome in exceptional categories of case, such as multiple deaths, terrorist activity, exceptional cruelty, repeated serious violence or substantial diminished responsibility, subject to explicit identification of the override ground, explanation of why the ordinary outcome is inadequate, and quantified indication of the adjustment; overrides cannot be used to breach statutory maxima or minima.

Presumptive Band (Presumptive Sentence): The sentence or sentencing range indicated by the Final Score and the corresponding quintile, which courts are ordinarily expected to follow, treating it as the starting point for further lawful adjustments, but from which they may depart in clearly justified cases.

Quintile (Q1–Q5): One of five ordered bands of offence seriousness, each covering a segment of the statutory range and associated with an indicative description (such as lower, below-average, average, above-average, and high seriousness) and a presumptive sentencing band.

Score-and-Band Methodology: The structured process by which courts: (i) assign a Base Score; (ii) adjust for aggravating and mitigating factors to derive a Final Score; (iii) map the Final Score to a quintile; and (iv) select a sentence within the corresponding band, subject to lawful adjustments, totality, and limited departures.

Sentencing Authority: The independent statutory body envisaged to prepare, publish and revise sentencing guidelines; collect and analyse sentencing data; monitor compliance and patterns of departure; conduct research; undertake impact assessments; and advise on sentencing policy and legislative reform.

Annexure A Forms: Form PSC and Form PSC(A), a structured calculation filed with the charge sheet and completed by the court at sentencing, together with Form S, the Magistrate's oath certificate for statements under section 183 of the BNSS, recording the Base Score, aggravating and mitigating adjustments, Final Score, quintile, starting point, plea and assistance reductions, totality analysis, and any reasons for departure or override, thereby making the sentencing rationale explicit for parties and appellate courts.

Totality Principle: The principle that when sentencing for multiple offences or cases, the court must ensure that the aggregate sentence is just and proportionate to the overall criminality, neither trivialising serious multi-count offending through automatic concurrency nor imposing a cumulative sentence that is crushing or grossly disproportionate.

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VOLUME V / V: THE SATYUG BILL AND ITS RESEARCH NOTE

Published as a separate volume (6 November 2026): the Comprehensive Policy Analysis on the Prevention of False Statement and Obstruction of Justice (Satyug) Bill (research note, version 5.3), the Bill (version 6.7) and the amendment schedule.

Executive Summary

I. Problem Diagnosis and Policy Rationale

The National Sentencing Guidelines, 2026 address a longstanding structural deficit in Indian criminal law. For decades, courts have operated under very wide statutory ranges with almost no shared methodology for fixing the just sentence within those ranges, producing inconsistency, opacity and, at times, outcomes driven more by optics than by articulated principle. Appellate decisions have corrected extreme sentences but have not generated a coherent national framework; the overall picture remains one of fragmented guidance and highly individualised judgment, in a context where chronic prison overcrowding, under-use of community sanctions and substantial trial pendency have been repeatedly documented. Comparative experience with sentencing councils and guideline schemes in other jurisdictions confirms that these are systemic defects of unguided discretion rather than isolated failings, and that structured sentencing can reduce unwarranted disparity, improve prison-population management and strengthen public confidence when properly designed.

II. Core Architecture: Score and Band Framework

Against this background, the Guidelines adopt a score-and-band methodology that seeks to reconcile proportionality, individualisation and systemic rationality. For each offence, the court begins from a Base Score of five points, representing a typical mid-range case, and then adjusts the score up or down by reference to specified aggravating and mitigating factors, each with bounded point ranges to constrain

arbitrary weighting. Aggravating factors include, among others, prior convictions, the degree and pattern of harm, victim vulnerability, abuse of trust, group offending, premeditation, obstruction of justice and wider institutional or systemic impact, while mitigating factors include the absence or remoteness of prior record, minor role, provocation, restitution, cooperation with authorities, genuine remorse, youth or advanced age, ill-health, diminished capacity and evidence-based prospects of reform. The Final Score, typically between 0 and 10, places the case in one of five seriousness quintiles (Q1–Q5), each mapped to a presumptive sentencing band within the statutory range, with courts retaining discretion to select the precise sentence within the band and, in narrowly defined circumstances, to depart from or override the band where strict adherence would produce manifest injustice. Every sentencing decision is accompanied by a structured sentencing order under Rule 18 of Schedule I, prepared on the Provisional Sentencing Calculation in Forms PSC and PSC(A) of Annexure A, that records the Base Score, factor adjustments, Final Score, quintile, any plea or cooperation reductions, totality analysis and reasons for any departure or override, thereby making the rationale for punishment explicit and reviewable.

> **THE SCORE-AND-BAND ARCHITECTURE**
> *For each offence, the court begins from a Base Score of 5 points, representing a typical mid-range case, and adjusts the score up or down by reference to bounded aggravating and mitigating factors—placing the case into one of five seriousness quintiles (Q1–Q5) recorded on the structured Forms in Annexure A.*

III. Guiding Principles, Scope and Constraints

The Guidelines are anchored in general principles of legality, proportionality, consistency, transparency, individualisation, deterrence, rehabilitation, reparation and protection of the public, and are designed to complement, not displace, the

Bharatiya Nyaya Sanhita and the Bharatiya Nagarik Suraksha Sanhita. They cannot authorise sentences beyond statutory maxima or below mandatory minima, nor can they override special statutory regimes such as enhanced punishments or mandatory minimum terms, but they extend in principle to offences under other criminal statutes and clarify the interaction with provisions on probation, compensation and non-custodial measures. A General Sentencing Guideline applies to all adult offenders and organisations unless displaced by an offence-specific guideline, and courts are required to have due regard to the Guidelines in every sentencing decision, with the aim of securing consistency of analysis across cases. For organisations, the Guidelines provide specialised directions for calibrating fines to corporate gain and systemic risk while guarding against disproportionate collateral harm to innocent stakeholders, reflecting comparative developments in corporate sentencing.

IV. Behavioural Design of Guilty Pleas and Cooperation

Recognising that sentencing rules shape bargaining and cooperation, the Guidelines adopt an explicitly behavioural approach to guilty pleas, plea-bargaining and assistance to authorities. Sentence reductions for guilty pleas are structured on a graduated scale: up to one-third for pleas at the earliest reasonable opportunity, up to one-quarter for intermediate-stage pleas, and up to one-tenth for late pleas, including after commencement of trial, subject to broader interests of justice and to more restrictive treatment in the most serious cases where the Final Score lies in Q5. Plea-bargaining is recognised but its sentencing effects are tied to the same structured mitigation framework; the bargain operates as a basis for adjusting the score and, where justified, the percentage reduction, rather than as a free-standing negotiation of sentence, thereby avoiding hidden trial penalties and unreviewable concessions. Substantial assistance to investigation or prosecution is treated as a

distinct mitigating factor: where the offender's cooperation is timely, truthful, complete, materially valuable and entails genuine risk, the court may grant a further reduction, ordinarily not exceeding one-third of the otherwise appropriate sentence, with the assistance and the discount recorded separately in the order. These provisions aim to make plea and cooperation consequences predictable and transparent, moderate excessive differentials between plea and trial outcomes, particularly in high-seriousness cases where severe guideline bands could otherwise exert coercive pressure, and align incentives towards truthful cooperation rather than strategic dishonesty.

> **BEHAVIOURAL DESIGN OF PLEA & COOPERATION CREDITS**
> *By calibrating sentence reductions on a graduated scale—up to one-third at the earliest opportunity, one-quarter at the intermediate stage, and one-tenth for late pleas—and treating perjury and obstruction as explicit score aggravators, the Guidelines align incentives towards truthful resolution rather than strategic delay.*

V. Integrity of the Process: Perjury and Obstruction

Within this behavioural scheme, perjury and obstruction of justice assume a central role. Deliberate lies under oath, fabrication of evidence, false implication of others and intimidation or interference with witnesses are treated as serious aggravating factors that justify upward movement on the seriousness score and, where authorised by statute, supplementary orders such as costs or compensation tailored to the harm caused. Comparative practice shows that structured systems routinely treat such conduct as warranting obstruction-of-justice enhancements because it strikes at the integrity of adjudication. At the same time, the Guidelines confine cost and compensation orders in obstruction-type cases to powers expressly conferred by the BNSS or other legislation and caution against using sentencing to impose de facto civil liabilities or punitive financial burdens beyond legislative design, thereby

balancing strong disincentives for process abuse with fidelity to legality and proportionality. Two limits are built into that treatment. The aggravator attaches only on the trial court's own recorded finding, never on the accused's answers under section 351 of the BNSS, on a retracted confession or on the denial of the charge; and a witness's independent false evidence is prosecuted against the witness under sections 215 and 379 of the BNSS and is never scored against the offender (Rule 5(1)(b) proviso; Rule 14(5)(d) of Schedule I).

VI. Deterrence, Rehabilitation, Totality and Overrides

The score and band structure is used to give concrete content to the recognised aims of deterrence, rehabilitation, reparation and public protection. Cases involving serious interpersonal violence, high-value economic crime, systemic corruption or offences with multiple or particularly vulnerable victims will typically be driven into higher quintiles, signalling heightened demands of general and specific deterrence and justifying more intensive use of custody. Conversely, strong indicators of reformability, such as youth or advanced age, diminished capacity, genuine remorse, voluntary restitution, and stable, prosocial community ties, will pull the case towards lower quintiles, favouring non-custodial or mixed sanctions where compatible with victim interests and community safety. A structured totality principle governs multi-count and multi-case sentencing, requiring courts to consider overall harm and culpability, to avoid trivialising serious multi-count offending through reflexive concurrency, and to guard against cumulative sentences that are crushing or disproportionate to total criminality. In a limited class of truly exceptional cases such as multiple deaths, terrorist activity, extreme cruelty, or provocation and mental disorder of exceptional gravity, the Guidelines permit structured overrides of the ordinary score outcome, but only where the court identifies the precise override

ground, explains why the standard scoring outcome is inadequate, and states the extent of adjustment, generating a transparent corpus of decisions for future guideline refinement.

VII. Systemic Effects: Prison Population, Community Sanctions and Backlog

The framework is explicitly attentive to systemic effects, particularly prison overcrowding, under-utilisation of non-custodial sanctions and persistent arrears. By tying custodial decisions more closely to quantified seriousness and quintile bands, the Guidelines aim to reserve imprisonment for cases where it is proportionate and necessary, treating lower-quintile (Q1–Q2) cases as strong candidates for non-custodial or mixed sanctions subject to public protection and victim interests. At the same time, they encourage principled expansion of probation, community service, compensation and restorative measures by supplying clearer criteria for their use, thereby reducing routine reliance on short custodial terms that contribute little to deterrence or rehabilitation but significantly to overcrowding and fiscal cost. The Sentencing Authority is tasked with building and maintaining a sentencing database, monitoring how guideline application affects prison admissions, sentence lengths and case-flow, and proposing rationalisation of statutory punishments over time so that sentencing practice is iteratively aligned with prison capacity and trial pendency rather than treating these problems as external to sentencing policy.

> **RATIONALISING CUSTODY & PRISON CAPACITY**
> *Tying custodial decisions to quantified seriousness reserves imprisonment for cases where it is proportionate and necessary—treating lower-quintile (Q1–Q2) cases as strong candidates for probation, community service, compensation, and restorative sanctions.*

VIII. Institutional Design: Sentencing Authority and Oversight

The institutional vehicle for this continuous adjustment is an independent Sentencing Authority with a mixed composition of judges, practitioners and experts. The Authority is responsible for preparing, publishing and periodically revising guidelines and Schedules; collecting and analysing sentencing data; monitoring compliance, patterns of departure and override use; and conducting or commissioning research on sentencing disparities, imprisonment patterns and the effectiveness of non-custodial sanctions. Guideline amendments must be preceded by internal review, public consultation and impact assessment, including analysis of projected effects on prison population, pendency and administrative resources, and laid before Parliament, ensuring democratic accountability and transparency. The Central Government, in consultation with the Supreme Court, is empowered to promote training and capacity-building for judges, prosecutors and defence counsel in the use of the Guidelines, while appellate courts are invited to review not only convictions but also the application of the guideline framework in serious cases, including those involving life imprisonment and the death penalty.

IX. Road Ahead

Looking ahead, the path ahead for the National Sentencing Guidelines, 2026 is both institutional and normative. In institutional terms, the immediate priorities include formal establishment and resourcing of the Sentencing Authority, development of robust data-collection systems in trial courts, phased rollout of training across the judiciary and the bar, and careful piloting of offence-specific guidelines in selected

high-volume and high-stakes offence categories before full national implementation. Normatively, there will be a need for sustained dialogue among courts, policymakers, practitioners, victims' groups and civil society on the relative weight to be attached to harm, culpability, prior record and mitigation in different offence classes, informed by empirical feedback on prison-impact and sentencing patterns. Over time, iterative revision of the score–band framework, calibrated plea and cooperation discounts, and the catalogue of aggravating and mitigating factors will be essential to ensure that the Guidelines remain faithful to their founding commitments—proportionality, consistency, transparency and humane, rational use of custody—while responding to new forms of criminality, evolving constitutional doctrine and emerging evidence about what works in reducing reoffending.

CHAPTER I

Introduction and Background

A century of unguided discretion: how Indian sentencing came to lack a shared method, what the courts and committees have repeatedly asked for, and what comparative experience suggests.

THE STRUCTURAL GAP

90%+

of offences prescribe only a maximum, or a wide band, with no statutory method for locating the sentence inside it

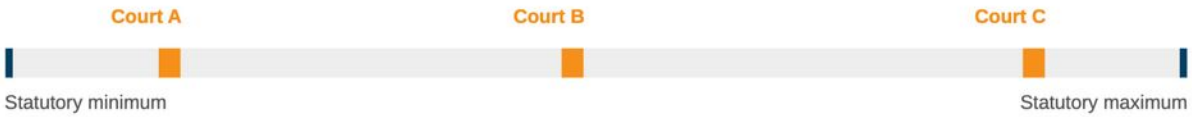
100+

years of exceptionally wide judicial discretion, constrained only by the outer limits of the IPC and now the BNS, 2023

0

nationally shared frameworks for assessing harm, culpability and mitigation across courts and regions

THE SAME FACTS, DIFFERENT ANSWERS



Parliament fixes the outer limits; nothing tells the judge where to stand between them. The result is near-maximum sentences in marginal cases and lenient treatment of serious harm — **difference without transparent principle, which appears indistinguishable from arbitrariness.**

A REFORM LINEAGE, SUBSTANTIALLY UNIMPLEMENTED



"Sentencing shall not be a lottery."

In ***Sunita Devi v. State of Bihar*, 2024 INSC 448 (17 May 2024)**, Sundresh and Bhatti JJ held that a judge "can never have unrestrictive and unbridled discretion" in awarding sentence, and directed the **Department of Justice, Ministry of Law and Justice** to consider introducing a comprehensive sentencing policy — possibly through a duly constituted **Sentencing Commission** of experts — and to file an affidavit on its feasibility, with a report, **within six months**.

WHAT COMPARATIVE EXPERIENCE TEACHES

UNITED STATES

A cautionary tale

Rules replaced uncontrolled discretion — but an under-theorised penal philosophy produced rules without a theory of punishment.

ENGLAND & WALES

The congenial model

A calibrated model of harm and culpability with duties to give reasons, not a rigid grid. It seeks consistency of *approach*, not of result.

INDIA

The unfilled gap

Fragments of sentencing principle but no sentencing jurisprudence — episodic appellate correction in place of a framework.

Chapter I – Introduction and Background

I. Existing Sentencing Framework in India

For more than a century, Indian criminal courts have exercised exceptionally wide sentencing discretion, constrained in most cases only by the outer limits of maximum – and occasionally minimum – penalties prescribed first by the Indian Penal Code and now by the Bharatiya Nyaya Sanhita, 2023. In this legislative design, Parliament has largely confined itself to defining offences and fixing statutory ranges, leaving to individual judges the task of "individualising" punishment by weighing offence gravity, aggravating and mitigating circumstances, and offender characteristics, but without laying down a coherent, commonly accepted methodology for doing so. Although appellate courts have intervened to correct sentences perceived as shockingly inappropriate or manifestly inadequate, scattered case-law and post-conviction review have not been able to generate a systematic, nationwide framework capable of delivering principled consistency across courts, regions and generations of sentencers. Commentators and law-reform bodies have repeatedly observed that, in practice, the resulting pattern of sentencing has been marked by substantial disparity and subjectivity, reflecting differences in individual penal philosophies and local cultures rather than a shared set of articulated standards, and that this structural reliance on unguided discretion has become increasingly difficult to justify in a modern constitutional criminal justice system.[1] In the

[1]. Ashworth A and Roberts JV, *Sentencing Guidelines: Exploring the English Model* (Oxford University Press, Oxford 2013); Tonry M and Frase RS (eds), *Sentencing and Sanctions in Western Countries* (Oxford University Press, New York 2001); Tonry M and Lappi-Seppälä T (eds), *Crime and Justice, Volume 45: Sentencing Policies*

contemporary environment—marked by high-volume dockets, complex economic and organised crime, and intense media scrutiny, this reliance on unstructured discretion and statutory ambiguity translates into visible inconsistency and a "lottery" perception in sentencing, undercutting confidence in criminal justice outcomes.

Sentencing has long occupied an uneasy position in the architecture of criminal justice. It stands at the point where adjudication passes into punishment, where legal principle encounters social consequence, and where the formal determination of guilt must be translated into a public judgment about the measure of censure that the State may justly inflict. In every legal system that claims fidelity to the rule of law, this transition cannot be left to instinct alone. A criminal code may define offences and prescribe outer limits of punishment, yet the practical administration of justice depends no less on the principles by which courts choose between probation and prison, between short custody and long incarceration, between a fine, compensation, community sanction, or the ultimate penalty of death.

> **WHERE ADJUDICATION PASSES INTO PUNISHMENT**
> *Sentencing stands at the point where adjudication passes into punishment, where legal principle encounters social consequence, and where the formal determination of guilt must be translated into a public judgment about the measure of censure that the State may justly inflict.*

and Practices in Western Countries (University of Chicago Press, Chicago 2016); Von Hirsch A, Knapp KA and Tonry M, *The Sentencing Commission and Its Guidelines* (Northeastern University Press, Boston 1987); Roberts JV and Ashworth A, 'The Evolution of Sentencing Policy and Practice in England and Wales 2003–2015' in Tonry M and Lappi-Seppälä T (eds), *Sentencing Policies and Practices in Western Countries* (University of Chicago Press, Chicago 2016); Frase RS, 'Comparative Perspectives on Sentencing Policy and Research' in Tonry M and Frase RS (eds), *Sentencing and Sanctions in Western Countries* (Oxford University Press, New York 2001); Roberts JV, 'Sentencing Reform in Comparative Perspective' (2013) *Criminal Law Review* 597; Verma JK, *Sentencing Principles in India* (1st edn, Eastern Book Company, Lucknow 2020); Menon NK, 'Sentencing Policy in India: Need for a Coherent Framework' (2014) 26 *National Law School of India Review* 45; Patil P, 'A Critical Analysis of Law and Policy Relating to Sentencing in India' (2022) *Journal of the Indian Law Institute* 64

II. Manifest Disparities, Perverse Outcomes and the Optics of Sentencing Decisions

In India, wide and unguided discretion has not only generated disparity but sometimes what commentators describe as perversity: near-maximum sentences in relatively marginal cases, lenient treatment of serious harms, and sharp divergences in outcome on apparently comparable facts, all justified in opaque language about the "gravity of the offence" or the "cry of society".[2] These anomalies are amplified in a media-saturated environment, where selected sentencing decisions quickly become symbols of systemic bias or populism, especially when the reasoning does not transparently connect facts, principles and quantum.

> **THE OPTICS OF UNGUIDED DISCRETION**
> *Wide and unguided discretion has generated near-maximum sentences in relatively marginal cases, lenient treatment of serious harms, and sharp divergences on comparable facts—all justified in opaque language about the 'gravity of the offence' or the 'cry of society'.*

For much of the common-law world, sentencing developed under a model of broad judicial discretion. Courts were entrusted with the power to individualise punishment within wide statutory limits, and appellate intervention was comparatively modest. This arrangement was often defended in the language of flexibility. It was said that judges, being close to the facts of the case and the character of the offender, were best placed to shape punishment to circumstance. Yet the

[2] See generally J K Bakshi, *Sentencing Principles in India* 87-95 (1st edn, Eastern Book Company, Lucknow 2020). See also R Singh, 'Sentencing Disparity in the Indian Criminal Justice System' *Journal of Law, Liberty and Rights* (2024); N K Menon, 'Sentencing Policy in India: Need for a Coherent Framework' (2014) 26 *National Law School of India Review* 45.

modern critique of this tradition has been both persistent and formidable. Wide discretion, unguided by structured principle, does not merely allow individualisation; it also allows disparity, opacity, and inconsistency. Where one judge sees a call for severity, another may see the same facts as demanding mercy. Where one court emphasises deterrence, another may privilege rehabilitation. In the absence of public standards, these differences remain only partially visible and only weakly reviewable. The proposed Sentencing Guidelines, 2026 directly address these concerns by requiring courts to explain sentence selection through an explicit assessment of harm, culpability, and identified aggravating and mitigating factors, and by anchoring the resulting outcome in a quintile-based band that can be reviewed for consistency and rationality.

III. Comparative Experience of Judicial Discretion and Sentencing Guidelines in Other Jurisdictions

The movement toward sentencing guidelines emerged from this dissatisfaction. Comparative literature shows that the impulse behind guidelines has never been simply bureaucratic tidiness.[3] Rather, it has arisen from a set of converging anxieties: that similarly situated offenders were receiving materially different punishments; that penal policy was being shaped by happenstance rather than by coherent normative principle; that prison populations could not be managed rationally where sentencing outcomes were unpredictable; and that a democratic society ought not to leave an area of such public significance entirely to unstructured

[3] Andrew von Hirsch, Kay A Knapp and Michael Tonry, *The Sentencing Commission and Its Guidelines* 3-6 (Northeastern University Press, Boston 1987); Andrew Ashworth and Julian V Roberts, *Sentencing Guidelines: Exploring the English Model* 1-4 (Oxford University Press, Oxford 2013).

official discretion. The development of sentencing commissions and sentencing councils in the United States and in England and Wales reflected the belief that sentencing required institutions capable of articulating policy openly, evaluating data systematically, consulting beyond the judiciary, and formulating frameworks that could both structure discretion and preserve a principled space for judgment.[4] In this sense, the demand for guidelines is a demand that the most coercive choices in the system be governed by public standards rather than by unarticulated assumptions or the optics of individual cases.

It is from within that larger academic debate and institutional history that the present Sentencing Guidelines, 2026 must be understood. Their purpose is not merely administrative. They are the product of a more fundamental jurisprudential claim: that punishment in a constitutional democracy must be reasoned, structured, and publicly defensible. The Bharatiya Nyaya Sanhita, 2023, like the Indian Penal Code before it, prescribes offences and sets maxima, and in some instances minima, but leaves largely unresolved the question that dominates the actual work of sentencing: how should the court select the just sentence within the legal range in a way that is fair to the offender, responsive to the victim, intelligible to the public, and consistent with the constitutional values of equality, dignity, and non-arbitrariness? That gap is not theoretical. It has shaped Indian sentencing law for decades.

[4] Freiberg, A., Roberts, J.V. Sentencing Commissions and Guidelines: A Case Study in Policy Transfer. *Crim Law Forum* 34, 87–129 (2023); K. Reitz, "The Status of Sentencing Guideline Reforms in the US" in Tonry, M. (ed) Penal Reform in Overcrowded Times (New York: Oxford University Press, 2001) p. 311; M. Miller, "A Map of Sentencing and a Compass for Judges: Sentencing Information Systems, Transparency, and the Next Generation of Reform" (2005) 105 *Columbia Law Review* 1359-1360.

Indian criminal law has long contained fragments of sentencing principle, but not a fully developed sentencing jurisprudence. The Supreme Court has repeatedly recognised the problem. In *State of Punjab v. Prem Sagar*,[5] the Court lamented the absence of uniformity in sentencing and the anomalies that arise when similar offences attract widely varying punishments or when similar sentences are justified on entirely different grounds. Indian scholarship and judicial writing have likewise observed that statutory provisions on sentencing are scattered, that pre-sentence hearings are too often treated as formalities, and that the law has failed to develop stable legal principles adequate to discipline the discretion it confers.[6] The consequence has been a sentencing landscape marked by uncertainty, episodic appellate correction, and a high degree of dependence on the outlook of the individual sentencer. The problem is not only doctrinal but institutional. The existing architecture leaves trial courts to operate within broad statutory bands without any nationally shared method for placing individual cases along those bands, which in turn makes it harder to explain why particular sentences are just, and harder for appellate courts to distinguish tolerable variation from genuine perversity. In such a setting, calls for a principled, transparent sentencing framework are also calls for greater constitutional objectivity and equality in the exercise of penal power.

The problem is intensified by the structure of Indian penal legislation itself. In over 90 percent of offences, the legislature prescribes only a maximum punishment, or

[5] 2008 (7) SCC 550.

[6] See J K Bakshi, Sentencing Principles in India 45–52 (1st edn, Eastern Book Company, Lucknow 2020); A Prasad, 'Sentencing Policy in India: A Study of Criminal Justice System' 1,5-7 *International Journal of Multidisciplinary Research and Technology* (2023); S Gupta, 'Sentencing Discretion in India: The Need for Structuring' in M Khaitan (ed), 171-176 *Discretion, Discrimination and the Rule of Law* (Cambridge University Press, Cambridge 2016).

otherwise a wide band between minimum and maximum, without any statutory method for locating the appropriate sentence within that band. Such a model may preserve formal flexibility, but it places extraordinary weight on the unarticulated assumptions of trial courts. It is precisely this feature that commentators have identified as a principal source of disparity and perceived injustice in sentencing practice. When one court imposes a near-maximum sentence and another imposes a nominal custodial term on a comparable factual matrix, the legitimacy of criminal justice is diminished, not because every case must be treated identically, but because difference without transparent principle appears indistinguishable from arbitrariness.[7]

The academic literature on sentencing reform has insisted that the case for guidelines is strongest not where all discretion is suspect, but where discretion is real and inevitable yet requires principled regulation. Andrew von Hirsch's account of the sentencing commission was premised on the view that sentencing should no longer be controlled merely by the personal attitudes of office-holders or by accidental local conventions; it should instead be informed by an explicit penal rationale, coherent rankings of offence seriousness, and standards that allow departures only on articulated grounds.[8] Likewise, the English model, as described by Ashworth and Roberts, proceeded from the recognition that the old common-law reliance on broad judicial discretion and appellate review was insufficient to secure either fairness of

[7] See R Singh, 'Sentencing Disparity in the Indian Criminal Justice System' *Journal of Law, Liberty and Rights* (2024); See also 'Towards Consistency: Addressing Disparities in Sentencing Practices in India's Criminal Justice System' *NLIU Law Review Blog* (2025).

[8] See Andrew von Hirsch, Kay A Knapp and Michael Tonry, *The Sentencing Commission and Its Guidelines* (Northeastern University Press, Boston 1987); Andrew von Hirsch, '*Proportionality in the Philosophy of Punishment*' (1985) Crime and Justice (reprinted in Andrew von Hirsch, Censure and Sanctions (Oxford University Press, Oxford 1993)) 59–61.

outcome or predictability in prison population management. The significance of these accounts lies not in any simple invitation to copy foreign systems, but in the clarity with which they frame the problem: sentencing is a form of public policy, and where it is left entirely to fragmented case-by-case intuition, both law and policy suffer.[9]

> **SENTENCING AS PUBLIC POLICY**
> *Sentencing should no longer be controlled merely by the personal attitudes of officeholders or by accidental local conventions; it must be informed by an explicit penal rationale, coherent rankings of offence seriousness, and standards that allow departures only on articulated grounds.*

The American experience offers a further lesson, though a cautionary one.[10] The literature on the federal sentencing reforms demonstrates that the creation of a sentencing commission was driven by a legitimate concern to reduce disparity and replace uncontrolled discretion with rule-governed decision-making. Yet that same literature also reveals the risks of reform if its penal philosophy remains under-theorised or internally contradictory. As Stith and Koh show, one of the central tensions in the federal reform project lay in the failure clearly to determine which purposes of punishment should predominate and how guideline ranges were to relate to the trial judge's responsibility to consider the nature of the offence, the history of the offender, and the broader purposes of sentencing.[11] This history is instructive because it demonstrates that sentencing reform cannot succeed by institutional design

[9] *Id.*
[10] See Kate Stith and José A Cabranes, Fear of Judging: Sentencing Guidelines in the Federal Courts (University of Chicago Press, Chicago 1998) 1–10, 79–83; Michael Tonry, 'The Functions of Sentencing and Sentencing Reform' in Michael Tonry and Richard S Frase (eds), Sentencing and Sanctions in Western Countries (Oxford University Press, New York 2001) 3–8.
[11] Stith, Kate and Steve Y Koh. "*The Politics of Sentencing Reform: The Legislative History of the Federal Sentencing Guidelines.*" (1993).

alone. A commission without a coherent normative foundation may produce rules, but not a credible theory of punishment.

The English development is, in some respects, more congenial to the Indian context. In England and Wales, the modern guideline system grew incrementally out of dissatisfaction with broad sentencing discretion, the limitations of appellate guideline judgments, and the need for greater consistency and predictability.[12] What emerged was not a rigid numerical grid of the American type, but a more calibrated model that structures judicial reasoning through offence categories, harm and culpability assessments, aggravating and mitigating factors, reductions for guilty pleas or assistance, and duties to give reasons. The English system is noteworthy because it seeks to secure "consistency of approach" rather than absolute uniformity of result. It does not abolish judgment; it disciplines judgment through an intelligible sequence of reasoning. That aspiration is of particular significance for India, where the constitutional objection to arbitrariness is not answered merely by preserving discretion in the abstract, but by ensuring that discretion is exercised on publicly reviewable grounds.

> **CONSISTENCY OF APPROACH**
> *A calibrated guideline model seeks to secure 'consistency of approach' rather than mechanical uniformity of result. It does not abolish judicial judgment; it disciplines judgment through an intelligible, publicly reviewable sequence of reasoning.*

The Indian case for sentencing guidelines has, moreover, already been articulated within domestic reform discourse. The Malimath Committee on Reforms of the Criminal Justice System and the Madhava Menon Committee on the Draft

[12] Harris, Lyndon, '*Sentencing in England and Wales', Achieving Consistency in Sentencing (*Oxford, Oxford University Publication, 2022).

National Policy on Criminal Justice each recognised the dangers of unguided sentencing discretion and recommended a more coherent sentencing policy, including a permanent institutional mechanism for framing guidelines and expanding the use of alternatives to imprisonment.[13] The Malimath Committee went so far as to propose a statutory sentencing body, chaired by a former Supreme Court Judge or retired Chief Justice of a High Court with criminal-law experience and including members from the police, the prosecution, the legal profession, women's groups and civil society, tasked with laying down sentencing guidelines to regulate judicial discretion under the Penal Code and special laws.[14]

These recommendations were not isolated technocratic suggestions. They responded to structural features of Indian criminal justice: erratic punishments, insufficient use of non-custodial sanctions, weak sentencing hearings, and inadequate integration of victim concerns, offender circumstances, and social consequences into a principled framework. That those recommendations remained substantially unimplemented for years only deepened the urgency of reform. In 2024, the Supreme Court in *Sunita Devi v. State of Bihar* (2024 INSC 448) reiterated that sentencing cannot remain a lottery and directed the Union of India to examine the feasibility of a comprehensive sentencing policy. That constitutional momentum has accelerated in 2026—with the Lok Sabha resolution taken on record on 13 February 2026 on

[13] Committee on Reforms of the Criminal Justice System, Report (Government of India, New Delhi 2003) Ch 4; Committee on Draft National Policy on Criminal Justice, Draft National Policy on Criminal Justice (Government of India, New Delhi 2007) paras 3.4–3.8.

[14] The Committee on Reforms of the Criminal Justice System, Report (Government of India, New Delhi 2003) recommended that "a statutory Committee be constituted to lay down sentencing guidelines to regulate the discretion of the court in imposing sentences for various offences under the IPC and Special Local Laws under the Chairmanship of a former Judge of the Supreme Court or a retired Chief Justice of a High Court who has experience in Criminal Law, and with members representing the Police department, the legal profession, the Prosecution, Women and a social activist."

perjury, false pleadings and the procedural bar under sections 215 and 379 of the BNSS, the Attorney General's call in March 2026 for a national plea-bargaining protocol, and the Supreme Court's issuance of notice to the Union and all States in WP(C) 209/2026 and WP(Crl) 111/2026—making a structured statutory framework an immediate institutional imperative.

The comparative case for reform now rests on systematic evidence rather than anecdote. The most comprehensive cross-national study of the subject, Gabriele Paolini, Elena Kantorowicz-Reznichenko and Stefan Voigt, "Plea Bargaining Procedures Worldwide: Drivers of Introduction and Use", Journal of Empirical Legal Studies, vol. 22, no. 1 (2025), pp. 27–75 (earlier circulated as ILE Working Paper No. 75, Institute of Law and Economics, University of Hamburg, 2023), surveyed the criminal procedure of 174 jurisdictions and found that 101 had a formalised plea-bargaining procedure in 2022: a procedure by which an accused is convicted on agreeing to plead guilty, or otherwise to waive a full trial, in exchange for a benefit from the State, typically a reduced sentence. For 52 of those jurisdictions the authors were able to compute the share of all criminal convictions in 2019 that were obtained in this way. The shares run from almost nil to nearly 99 per cent, with a median of about 43 per cent; in the developed common-law systems with which India is usually compared they lie between about 85 and 98 per cent (England and Wales, Crown Court, 84.5; Australia, 90.5; Ireland, 91.9; New Zealand, 97.7; United States, federal courts, 97.9), the lower median reflecting civil-law systems that confine the procedure to a narrow class of cases. India, whose procedure was enacted in 2005 and brought into force in 2006, is among the lowest: about one conviction in a hundred came by plea in 2019, the seventh-lowest share of the 52. India's figure counts only disposals under Chapter XXIII, while the common-law figures count every guilty plea, so the comparison is of the formal procedure; NCRB does not count ordinary guilty pleas separately; they are concentrated in petty fine cases and long-custody cases, which is exactly where the cost of contesting exceeds the sentence. The study is peer-reviewed

and independent of this project. This Volume relies on it for what it measures, the spread of the procedure and the variation in its use. Its findings are associations across countries, not proof of cause.

CHAPTER II

The Case for Reform

Why a structured and principled sentencing framework is needed now — and what kind of framework it must be.

WHAT A SENTENCING GUIDELINE IS — AND IS NOT

IT IS NOT

- × An inflexible tariff
- × A mechanical or algorithmic code
- × A merely advisory compilation of abstract aspirations
- × An imported foreign grid

IT IS

- ✓ A structured legal framework for choosing within the statutory range
- ✓ A ranking of the considerations that may and may not raise severity
- ✓ A discipline that narrows discretion without extinguishing it
- ✓ Normative and institutional: a theory of just punishment, plus a public method

THE MIDDLE PATH

Unstructured discretion — **GUIDELINES, 2026** — **Rigid numerical grid**



Status quo — disparity, opacity | Due regard + recorded reasons for departure | Minnesota-style — effaces judgment

Guidelines fail when they become either so loose as to be ineffectual or so tight as to efface the judicial function. Courts must have due regard to the guideline, identify the quintile and record reasons for departure — but substantive law retains primacy.

FOUR DRIVERS OF REFORM

1. Disparity and idiosyncrasy

Unguided discretion produces both over-generalisation and idiosyncrasy — stock formulations about gravity, or personal factors invoked without a common metric of weight.

2. The democratic deficit

Severity of punishment, the valuation of offences and rewards for pleas are public policy, not only adjudicative technique — they cannot rest on dispersed judicial intuition.

3. Over-reliance on imprisonment

Custody is imposed reflexively in a system already burdened by overcrowding and delay. Probation, community service and restitution remain under-used.

4. Chilling financial exposure

Aggressive fee-shifting and inflated penal interest chill the right to contest. Compensation enters the mainstream of sentencing, but within statutory limits.

> India has no comprehensive sentencing policy — judges are left to their own understanding of whether deterrence, retribution, rehabilitation or restoration should predominate.
>
> Sikri J in *Narinder Singh v. State of Punjab*, (2014) 6 SCC 466

Chapter II – The Case for Reform: Why a Structured and Principled Sentencing Framework Is Needed Now

The present Guidelines proceed from the proposition that sentencing is not a residual matter to be addressed after conviction as a matter of routine disposal. It is a distinct juridical exercise requiring its own structure of principle. Indian decisions have long insisted that sentencing must take account not only of the crime, but also of the criminal, and that personal and social material relevant to punishment must be brought before the court in a meaningful way.[15] For instance, in *Narinder Singh* v *State of Punjab*[16], Sikri J stressed that, unlike several other jurisdictions which have formal sentencing guidelines, India has no comprehensive sentencing policy, with the result that judges are left to their own understandings of whether deterrence, retribution, rehabilitation or restoration should predominate in a given case and to fix the quantum of punishment accordingly. Yet the doctrinal recognition of this proposition has not been matched by institutional design. Pre-sentence hearings remain underdeveloped, the gathering of relevant information is inconsistent, and the absence of a shared sentencing methodology means that even where judges invoke similar ideals, proportionality, deterrence, reformation, victim justice, they may translate those ideals into radically different outcomes.

[15] *Bachan Singh* v. *State of Punjab* (1980) 2 SCC 684; *Sevaka Perumal* v. *State of Tamil Nadu* (1991) 3 SCC 471; *Chatterjee Alias Dhana* v. *State of W.B.*, (1994) 2 SCC 220; *Shailesh Jasvanthai* v. *State of Gujarat*, (2006) 2 SCC 359; *State of Punjab* v. *Prem Sagar*, (2008) 7 SCC 550; *Gurmukh Singh* v. *State Of Haryana,* (2009) 15 SCC 635; *Narinder Singh* v. *State of Punjab*, (2014) 6 SCC 466; *State of M.P* v. *Mehtaab*, (2015) 5 SCC 197.
[16] (2014) 6 SCC 466.

The proposed Guidelines therefore seek first to define what a sentencing guideline is in the Indian setting. It is not an inflexible tariff and not a mechanical code. Nor is it a merely advisory compilation of abstract aspirations. A sentencing guideline is a structured legal framework through which courts determine the appropriate sentence within the range authorised by substantive law by reference to identified principles, ranked considerations, and reasoned departures. It narrows discretion without extinguishing it. It renders explicit the matters that should influence sentence severity and those that should not. It aims to transform sentencing from an opaque art into a disciplined juridical process. In this sense, a guideline is both normative and institutional: normative because it expresses a theory of just punishment, institutional because it creates a stable public method for applying that theory across cases. The proposed framework adopts a quintile-based sentencing structure within the statutory range and requires courts to determine the appropriate band by reference to harm, culpability, aggravating factors, and mitigating circumstances. This is not a crude mathematical exercise. It is a way of forcing the central questions of sentencing to the surface: how grave was the harm, how blameworthy was the conduct, what contextual features increase or reduce seriousness, and why is the selected band justified? The discipline of structured reasoning is itself a substantive value. It improves transparency, facilitates appellate scrutiny, and promotes equality by making the grounds of decision visible rather than implicit.

FROM OPAQUE ART TO DISCIPLINED JURIDICAL PROCESS

A sentencing guideline narrows discretion without extinguishing it. It forces the central questions of sentencing to the surface: how grave was the harm, how blameworthy was the conduct, what contextual features increase or reduce seriousness, and why is the selected band justified?

The need for such a structure is especially acute in India because the existing system is marked not only by disparity but by inadequate differentiation between cases that ought to be treated differently and inadequate consistency between cases that ought to be treated alike. Unguided discretion paradoxically produces both over-generalisation and excessive individual idiosyncrasy. At times, judges resort to stock formulations about the gravity of the offence or the interests of society without a clear account of how those considerations bear on the precise quantum of sentence. At other times, highly personal factors are invoked without any common metric of relevance or weight. Guidelines cannot remove all contestation about punishment, but they can require such contestation to occur within a shared legal grammar.

A further rationale for reform lies in the relationship between sentencing and democratic legitimacy. One of the most powerful arguments in the comparative literature is that sentencing policy is too important to be shaped exclusively through dispersed judicial intuition. Young and King, writing comparatively on England and Wales and New Zealand, describe sentencing guidelines as a means of addressing the "democratic deficit" inherent in leaving major sentencing policy to unelected judges while still respecting the adjudicative role of courts in individual cases.[17] The same point has force in India. Questions about the severity of punishment, the relative valuation of offences, the place of community sanctions, the treatment of first offenders, the relevance of previous convictions, the reward for guilty pleas or cooperation, and the proper response to corporate offending are all matters of public policy as much as of adjudicative technique. A statutory Sentencing Authority,

[17] Warren Young and Andrea King, 'The Origins and Evolution of Sentencing Guidelines: A Comparison of England and Wales and New Zealand' in Andrew Ashworth and Julian V Roberts (eds), *Sentencing Guidelines: Exploring the English Model* (Oxford University Press, Oxford 2013) 202–217.

composed of judicial and non-judicial members and charged with consultation, research, monitoring, and revision, is therefore not an encroachment upon adjudication but an attempt to provide the institutional setting within which sentencing policy may be developed rationally and transparently.

> **CURING THE DEMOCRATIC DEFICIT**
> *Questions about the severity of punishment, the valuation of offences, the place of community sanctions, the reward for guilty pleas, and the response to corporate crime are matters of public policy as much as of adjudicative technique —they cannot rest on dispersed judicial intuition alone.*

At the same time, the reform is careful not to repeat the excesses of over-rigid models. The comparative record shows that guidelines fail when they become either so loose as to be ineffectual or so tight as to efface the judicial function. The English rejection of Minnesota-style grids for its own system rested on the view that such schemes would be too restrictive of judicial discretion to be accepted in that jurisdiction.[18] The American federal experience further illustrated how ambiguity about departure, purpose, and offender characteristics can generate enduring controversy about whether guidelines are genuinely presumptive, merely advisory, or in practice mandatory. The present Indian framework accordingly adopts a middle path. Courts are required to have due regard to the relevant guideline, to identify the applicable quintile, and to record reasons for any departure, but the substantive law retains its primacy and the guideline remains a framework for principled sentencing rather than an algorithmic command.

[18] See Andrew Ashworth and Julian V Roberts, *Sentencing Guidelines: Exploring the English Model* 4-17 (Oxford University Press, Oxford 2013); Julian V Roberts, 'Sentencing Guidelines and Judicial Discretion: Evolution of the Duty of Courts to Comply in England and Wales' 997, 998–1000 51 *British Journal of Criminology* (2011).

The reform is needed, secondly, because of the crisis of over-reliance on imprisonment. Modern sentencing theory has increasingly recognised that custodial punishment should be used with discrimination, not as the reflexive answer to every conviction. The literature on sentencing commissions repeatedly identifies prison-capacity management and rational distribution of penal resources as one of the core functions of guideline systems. Ashworth and Roberts note that the development of guidelines was motivated not only by fairness and reduction of unwarranted disparity but also by the need for greater accuracy in projecting prison populations. Von Hirsch likewise emphasised that a sentencing commission should consciously consider the impact of its standards on correctional resources rather than allow prison use to expand through uncoordinated sentencing practice. In India, where custodial sentences are frequently imposed in a system already burdened by overcrowding, delay, and weak rehabilitative infrastructure, sentencing reform must consciously expand the principled use of probation, community service, restitution, compensation, and other non-custodial dispositions.

A related set of concerns arises in relation to financial and structural dimensions of sentencing: capped fee-shifting, compensation and damages-like orders, penal interest and the configuration of concurrent or consecutive sentences. Comparative work on costs and damages warns that aggressive fee-shifting or inflated penal interest can chill the right to contest, particularly where the State controls investigative resources and the accused face the prospect of crushing liabilities in addition to penal sanctions. The Guidelines respond by integrating compensation and restitution into the mainstream of sentencing, but within statutory limits and

subject to proportionality and the totality principle; and by providing structured guidance on when concurrency is appropriate and when separate, partially consecutive terms are needed to reflect distinct victims, episodes or dimensions of criminality, thereby avoiding both trivialisation of serious multi-count offending and arithmetically excessive aggregates.

The reform is needed, thirdly, because sentencing in India has too often failed to take institutional account of the information necessary for just punishment. Comparative scholarship has repeatedly shown that sentencing guidelines are effective only when supported by data, research, and systems of monitoring. The English Sentencing Council's statutory duty to monitor the use and effect of its guidelines, and the creation of the Crown Court Sentencing Survey, reflected precisely this insight. American literature on sentencing commissions similarly emphasised that guideline writing, implementation, and revision require empirical research, staffing, and ongoing evaluation. The proposed Sentencing Guidelines, 2026 respond to this by creating a Sentencing Authority charged not only with framing and revising guidelines but also with collecting data, publishing analyses, training judges and prosecutors, and evaluating departures and outcomes. Such an institution is indispensable if sentencing reform is to be more than a one-time legislative gesture.

The link between sentencing and judicial backlog is direct. In a system marked by high pendency, chronic prison overcrowding and under-resourced courts, leaving sentencing consequences radically uncertain makes it harder for parties to rationally assess the benefits of early resolution, and encourages over-use of full trials even where guilt is not seriously contestable. This, in turn, depresses effective conviction rates in

serious cases, as over-stretched judges and prosecutors struggle to allocate adequate time and attention, and victims and witnesses lose confidence in a process that appears both slow and unpredictable.

Comparative evidence shows why an enabling law settles nothing by itself. Among the jurisdictions that permit plea bargaining, Paolini, Kantorowicz-Reznichenko and Voigt find use ranging from a fraction of one per cent of convictions to nearly all of them, and they treat adoption and use as separate questions with different correlates. Adoption of the procedure is associated with legal origin (French and Scandinavian origins with a lower probability than the common law), with a Muslim-majority population (lower) and with democratic government (higher). Its use is associated with national income, which the authors use as a proxy for the resources of the courts and which rises with use up to a point and then falls; with legal origin (Spanish and Socialist origins with higher rates than the common law); and, more weakly (at the 10 per cent level), with the presence of jury trials and with how tightly the procedure is regulated. India shows the gap between the two questions. Chapter XXIA was inserted into the Code of Criminal Procedure by the Criminal Law (Amendment) Act, 2005 and is re-enacted as Chapter XXIII of the BNSS, yet the share of convictions obtained by plea remains about one to two per cent. The study does not examine India separately and does not explain its position. The inference this Volume draws is that the reform question for India is not whether the law permits a plea, but whether an accused has the reason, the information and the means to make one.

HOW SENTENCING UNCERTAINTY DRIVES TRIAL BACKLOG

In a system marked by high pendency, leaving sentencing consequences radically uncertain makes it impossible for parties to rationally assess the benefits of early resolution—encouraging the overuse of full trials even where guilt is not seriously contestable.

A structured, publicly known sentencing framework can help reverse this dynamic. By publishing indicative bands and clearly defined credits for timely guilty pleas, lawful plea-bargaining and genuine cooperation, while also signalling sentence uplifts for obstruction, the Guidelines reduce informational uncertainty and make early, truthful resolution a rational choice where liability is clear. More calibrated use of custody and greater resort to community-based sanctions can ease pressure on prison capacity, while the Sentencing Authority's mandate to monitor data, departures and outcomes allows the correlation between guideline use, pendency and conviction patterns to be studied and adjusted over time. In this way, sentencing reform is designed as an institutional tool for improving both the rate and quality of convictions, rather than as an isolated doctrinal project.

The authors' explanation of the income pattern bears directly on India, though it is offered to explain a cross-country association and is not a finding about India. They suggest that where courts are under-resourced an accused may doubt that a trial will ever convict him, and knows that any conviction will come only after a long delay; because a distant punishment weighs less than a present one, the certain sentence that follows a plea compares badly with the uncertain and deferred sentence that may follow a trial. That is the mechanism this Volume and the Equilibrium Model in Volume III identify in Indian trial courts, and Paolini's separate study of Italian courts, which uses variation across 140 court districts, finds that where long trials

make acquittal through the statute of limitations more likely, plea bargaining and penal orders are used less: a delay effect that works through Italy's own rules on limitation, but through the same kind of incentive. The convergence is one of reasoning, not of Indian evidence: the cross-country association does not show that the mechanism operates in India, or how strongly. Published bands, a known concession and an indication of sentence before plea address the accused's lack of information. They do not of themselves shorten the wait or raise the probability of conviction, which is why the Guidelines are paired with the measures described in Chapter VII and why their effect must be measured in Indian courts.

The reform is needed, finally, because criminal justice in India now requires a sentencing theory adequate to the complexity of contemporary offences and procedures. The new framework expressly recognises early guilty pleas, plea bargaining, and cooperation with investigation or prosecution as mitigating considerations, while also identifying obstruction of justice, destruction of evidence, false implication, intimidation of witnesses, and perjury as aggravating circumstances. This aspect of the scheme reflects a sophisticated understanding of sentencing as not merely retrospective but also institutional. Properly designed incentives can reduce avoidable delay, conserve judicial resources, and reward conduct that facilitates truthful and timely adjudication, provided that these incentives are bounded by fairness and transparency. Comparative literature has long acknowledged that sentencing rules shape bargaining behaviour and can alter the entire criminal process. It is therefore both candid and desirable that the Indian framework openly addresses these effects rather than leaving them to unstructured practice.

The theory underlying these Guidelines is not reducible to any single penal aim. Modern sentencing systems rarely operate on a pure model of retribution, deterrence, rehabilitation, or incapacitation. The better view, reflected in the comparative literature and in Indian judicial pronouncements, is that sentencing requires an ordered pluralism in which different objectives are acknowledged but disciplined by a principle of proportionality. Von Hirsch's work, echoed in Indian discussions of sentencing policy, places deserved punishment and offence seriousness at the centre of the inquiry, assessed through the harm caused or threatened and the culpability of the offender. Yet proportionality in this sense does not exclude consideration of prevention, reform, reparation, or social defence; it insists rather that these aims operate within principled limits. A sentence cannot be justified solely because it may deter, if it is grossly disproportionate to the offence. Equally, a sentence cannot claim fairness merely because it corresponds to abstract deserts if it ignores the lawful claims of victims, the practical value of restitution, or the constitutional significance of humane treatment and rehabilitation.

These objectives are mutually reinforcing. Consistency without proportionality becomes mere bureaucratic uniformity. Proportionality without transparency remains an unreviewable assertion. Individualisation without structure collapses into disparity. Efficiency without justice degenerates into expedience. The present Guidelines therefore reject the false choice between discretion and rules. Their deeper premise is that just sentencing requires structured discretion: discretion that is informed rather than instinctive, disciplined rather than absolute, and capable of explanation to appellate courts, to litigants, and to the public.

FOUR MUTUALLY REINFORCING PILLARS

Consistency without proportionality becomes mere bureaucratic uniformity. Proportionality without transparency remains an unreviewable assertion. Individualisation without structure collapses into disparity. Efficiency without justice degenerates into expedience.

No system of sentencing guidelines can remove all controversy from punishment. Reasonable disagreement will continue over the weight to be given to prior convictions, remorse, victim vulnerability, social impact, or prospects of reform. Nor can any framework eliminate the moral tragedy inherent in penal judgment. What a principled guideline system can do is to ensure that these disagreements are confronted openly, that the grounds of decision are stated rather than concealed, and that sentencing policy evolves through institutionally responsible processes rather than through drift. In that sense, the Sentencing Guidelines, 2026 do not merely add another instrument to Indian criminal procedure. They represent an attempt to bring the sentencing function itself within a clearer structure of legality. This introductory chapter therefore proceeds on a simple but consequential premise. A mature criminal justice system cannot be content with a sentencing order in which the most coercive decisions of the State are often the least structured. The transition from conviction to punishment must be governed by principles that are fair, publicly intelligible, empirically informed, and constitutionally defensible. The Sentencing Guidelines, 2026 are an effort to supply that missing framework. They are designed not to displace the judge, but to furnish the judge with a principled map; not to impose uniformity at the expense of justice, but to secure justice against arbitrariness; not to imitate foreign models uncritically, but to learn from their successes and failures in order to construct an Indian law of sentencing that is coherent, modern, and normatively serious. It also

explains why a principled Indian sentencing framework must now speak not only to substantive theories of punishment, but equally to the problems of ambiguity, optics, backlog, conviction rates, prison capacity and the behavioural incentives that link them.

CHAPTER III

Legislative Scheme and Policy Design

Scope, guardrails and the Sentencing Authority — and the normative orientation that informs the whole framework: the Doctrine of Conditional Mercy and Social Deterrence.

THREE GUARDRAILS — AND THREE STAKEHOLDERS

No alteration of offences

The Act does not amend the ingredients, definitions or classifications of any offence. Guilt remains governed by substantive law.

No transgression of limits

No court may sentence above a statutory maximum or below a mandatory minimum. Bands yield to the boundaries Parliament sets.

Substantive law prevails

Where a band cannot be reconciled with the sentence authorised by statute, the statute prevails; the guideline governs method.

THE OFFENDER
Culpability, prior record, circumstances, prospects of rehabilitation

THE VICTIM
Harm suffered, restitution, compensation, protection from further prejudice

SOCIETY
Deterrent signalling, public protection, confidence in the administration of justice

THE POLICY ENGINE

SENTENCING AUTHORITY
Chaired by a former Supreme Court Judge or High Court Chief Justice, with High Court judges, prosecutors, penology experts, a Law Ministry officer and two eminent citizens

→

Schedule I — General Sentencing Guideline

Schedule II — Sentencing Order Form

Offence-specific Schedules, as added

→

COURTS
Due regard in every sentence; the recorded score, quintile and reasons feed back as data

↖ Data, departures and impact assessment return to the Authority — guidelines revised on evidence and laid before Parliament ↗

DOCTRINE OF CONDITIONAL MERCY AND SOCIAL DETERRENCE

The primary purpose of sentencing is **not merely to reform the offender, but to preserve and elevate the moral standards of society**. It operates through, and subject to, Schedule I — whose bounded factors, calibrated reductions and safeguards give it disciplined effect.

I — Society-First Reform
The first duty of sentencing is to reform society by reinforcing clear consequences. A punishment that deters thousands may be more socially reformative than a lenient sentence that reforms one offender.

II — Mercy Must Be Earned
Mercy is not a right but a reward for demonstrated remorse — voluntary admission, restitution, cooperation, an early plea, responsibility without excuses. Absent these, reduction should be unavailable.

III — Litigation Conduct as a Sentencing Factor
Conduct after the offence is often more revealing than the offence. Perjury, fabricated evidence, witness intimidation, procedural abuse and denial despite overwhelming evidence justify enhanced punishment.

IV — Plea Bargaining as the Gateway to Leniency
Substantial reductions should come through early pleas, cooperation and restitution. The offender who admits early deserves mitigation; the one who forces society to prove every fact generally does not.

V — No Presumption of Reformability
Courts should not presume that every offender seeks reform. Rehabilitation remains available in prison and after release, but reductions must rest on demonstrated evidence of reform, not the hope of it.

VI — Truth as the Highest Mitigating Factor
The greatest mitigation belongs to those who tell the truth against their own interest. Rewarding truth and penalising deception creates a self-reinforcing culture of honesty.

> "Compassion without accountability corrupts justice; accountability without compassion hardens justice. Mercy should follow truth, remorse and responsibility — not precede them."

Chapter III – The Sentencing Guidelines, 2026: Legislative Scheme and Policy Design

I. From Justification to Policy and Institutional Design

The present Chapter proceeds on the premise developed in Chapter I and seeks to carry the inquiry from the realm of justification into the realm of institutional design and practical operation. Its concern is not merely to restate that sentencing guidelines are necessary, but to explain how the Sentencing Guidelines, 2026 are conceived as a statutory and policy response to the structural deficiencies of unguided sentencing. In this sense, the Guidelines constitute a comprehensive sentencing policy for India: a normative and institutional framework intended to structure judicial discretion by requiring courts to consider all relevant factors, offence seriousness, offender culpability, victim impact, restitution and compensation, prior record, prospects of reform, cooperation or obstruction within the process, and the systemic effects on backlog, prison capacity and public confidence, within a common methodology.

The Chapter therefore examines the legal architecture of the Act, the institutional scheme it creates, the powers and duties assigned to the Sentencing Authority, and the manner in which the Schedules are intended to function as a living and revisable code of sentencing practice. It further shows how the General Sentencing Guideline in Schedule I translates the principles developed in Chapter I into an operational method for sentencing courts, one that seeks to achieve proportionality through a calibrated assessment of harm and culpability, transparency through recorded

reasons, consistency through common decision-making steps, and responsiveness through the use of data, consultation and periodic revision.

Comparative research tells the designer something about procedure, though less than is sometimes claimed. Paolini, Kantorowicz-Reznichenko and Voigt group the procedures in their survey into three levels of regulation according to how widely the procedure applies, what may be negotiated, and how far judges, defence lawyers and victims take part. Across the 52 jurisdictions with data on use, the least regulated procedures are associated with plea shares about 14 percentage points higher than the intermediate group and the most regulated with shares about 18 points lower, after allowing for income, crime, legal origin, jury trials and other factors. Both estimates are significant only at the 10 per cent level, on a small sample, and neither is significant when the external factors are left out. The pattern fits the expectation that every added condition and participant raises the cost of reaching a plea. It is not an argument for removing safeguards: the study measures the number of pleas and not their accuracy, and the authors note that plea bargaining saves the cost of trial at the price of a greater risk of wrongful conviction. Nor is looser regulation sufficient. In Paolini's wider study, the Czech Republic's 2020 reform moved its procedure from the most to the least regulated group and nearly tripled the number of plea agreements, which nonetheless remained marginal. The study places India's procedure in its least regulated group, alongside the common-law systems. That classification is difficult to reconcile with the authors' own description of the groups. As they describe it, the least regulated group does not limit the offences to which the procedure applies and gives the victim no veto. Chapter XXIII does both: it is confined to offences punishable

with up to seven years and excludes offences affecting the socio-economic condition of the country and offences against women and children (section 289); it permits a disposition only where a mutually satisfactory disposition, including compensation to the victim, is worked out with the victim's participation (sections 291 to 293); and the reduction that follows is discretionary, not assured (section 293: the Court "may" sentence to the stated fraction). In substance the procedure works as a victim-led settlement, close to compounding, rather than as the plea bargaining of the common-law systems with which it is grouped, and its features are those the authors attribute to their more regulated groups. This is Team Satyug's legal analysis, not a finding of the study: the authors' estimates cannot be re-run with India reclassified, and a single observation would not move them reliably. Rule 14 responds to it by offering a parallel route on a plea to the charge as framed. The Guidelines therefore pursue a different simplicity: simplicity for the accused in knowing what a plea is worth, with judicial scrutiny, legal aid and a hearing for the victim kept in place.

II. Scope, Relationship with Other Laws, and the Three Stakeholders

The starting point of these Guidelines is the diagnostic claim elaborated in Chapter I: Indian criminal statutes, including the Bharatiya Nyaya Sanhita, 2023, largely confine themselves to defining offences and prescribing maximum, and occasionally minimum, punishments, while leaving to individual judges the task of locating the appropriate sentence within broad statutory bands, without any legislated method for doing so. The Sentencing Guidelines, 2026 constitute Parliament's response to this structural omission.

The proposed Guidelines extend to the whole of India. It applies to the sentencing of offences under the Bharatiya Nyaya Sanhita and also to offences created by any other law in force, so far as a criminal court in India is empowered to impose sentence for such offences. Its provisions are expressly stated to be "in addition to, and not in derogation of" the substantive and procedural codes and special statutes. Three propositions delineate the relationship between the Act and the rest of criminal law. *First*, there is no alteration of offences: the Act does not amend, qualify or affect the ingredients, definitions or classifications of offences. Questions of guilt remain governed entirely by substantive criminal law. *Secondly*, there is no transgression of statutory limits: the Guidelines do not authorise any court to impose a sentence above the statutory maximum or below any mandatory minimum prescribed by the applicable statute, and indicative bands must always yield to the outer boundaries set by Parliament. *Thirdly*, in case of conflict, the substantive law has primacy: where an indicative band cannot be reconciled with the sentence authorised by statute in a particular class of case, the latter prevails, while the guideline continues to govern method and reasoning within the legally permissible space.

Within this framework, the policy nature of the Guidelines is reflected in their attention to all three principal stakeholders in sentencing: the offender, the victim, and the wider society. For the offender, the framework structures consideration of culpability, prior record, personal circumstances and prospects of rehabilitation. For victims, it foregrounds harm, restitution, compensation and protection against further victimisation. For society, it recognises that the community has an interest not only in deterrence and incapacitation but also in a sentencing process that promotes

reformative attitudes, avoids arbitrary severity or leniency, and sustains legitimacy in the criminal justice system.

> **BALANCING THE THREE STAKEHOLDERS**
> *For the offender, the framework structures culpability, prior record, and rehabilitation. For the victim, it foregrounds harm, restitution, and compensation. For society, it sustains deterrence, reformative norms, and public confidence in the administration of justice.*

III. Institutional Design: The Sentencing Authority as Policy Engine

A central institutional feature of the Act is the creation of a Sentencing Authority as a statutory body with perpetual succession and a common seal. Constituted by the Central Government in consultation with the Supreme Court, the Authority is composed of a Chairperson who is a former Judge of the Supreme Court or former Chief Justice of a High Court, serving or retired High Court judges, senior officers from prosecution services, experts in penology, criminology and allied social sciences (including at least one expert in quantitative and game-theoretic analysis), a senior officer from the Ministry of Law and Justice, and eminent citizens with demonstrated experience in criminal justice reform, victim rights or social rehabilitation.

This composition reflects the insight that sentencing policy is not the preserve of any single profession. It requires legal authority and constitutional sensitivity, but also sustained engagement with empirical data, correctional resources, victim perspectives, community expectations and behavioural incentives. Accordingly, the Authority is charged with four families of functions: normative and drafting (preparing and revising guidelines and Schedules, model forms and practice notes),

empirical and monitoring (collecting sentencing statistics, analysing patterns of compliance, departure and disparity, and commissioning research), advisory and training (developing training for judges, prosecutors and defence counsel, and providing technical guidance), and policy evaluation (using empirical and game-theoretic tools to assess how guideline design affects plea-bargaining, witness cooperation, trial pendency and resource allocation, and recommending legislative change where experience reveals anomalies or systemic strain). In this way, the Sentencing Authority institutionalises the central lesson of comparative reform: guidelines cannot be drafted once and left untouched; as a policy instrument they must be monitored, evaluated and refined in the light of actual operation.[19]

IV. The Schedules and the Quintile Framework

The body of the proposed Guidelines is intentionally lean; the detailed operation of the scheme is set out in Schedules, which form part of the Guidelines and are amendable through a combination of recommendations from the Sentencing Authority and Parliamentary approval. At the core are Schedule I (the General Sentencing Guideline for adult individuals and organisations), Schedule II (the Reference Table of Sentencing Quintiles), Annexure A (the Sentencing Score Forms and the Magistrate's Oath Certificate), and such further offence-specific Schedules as may be added over time.

[19] Andrew von Hirsch, Kay A Knapp and Michael Tonry, *The Sentencing Commission and Its Guidelines* (Northeastern University Press, Boston 1987) 3–6; Andrew Ashworth and Julian V Roberts, *Sentencing Guidelines: Exploring the English Model* (Oxford University Press, Oxford 2013) 1–4.

A structural innovation is the adoption of a quintile-based sentencing framework. For each offence, the "statutory range" is first determined—from the minimum punishment (or zero where no minimum is prescribed) to the maximum, with life imprisonment treated as the statutory maximum for banding purposes, and then divided into five equal parts (Q1 to Q5, from lowest to highest band). The quintiles do not replace the statutory range; they structure its internal use. Courts are required, in ordinary cases, to identify the appropriate quintile by reference to harm, culpability and aggravating or mitigating circumstances, and to impose sentence within that band, subject to reasoned departure in exceptional situations. The quintile framework thus supplies the bridge between abstract legislative ranges and concrete judicial sentences and allows the policy aims of proportionality, consistency and transparency to be pursued within a disciplined numerical structure.

The choice of five quintiles is grounded in both principle and practicality. Sentencing needs more nuance than a crude "low/medium/high" scale, but an overly granular system quickly becomes unmanageable. A five-band structure allows the framework to capture the full spectrum of seriousness, ranging from clearly low, somewhat below average, genuinely average, somewhat above average, to truly high seriousness, without over-engineering the scheme. This mirrors the way judges already speak about cases in practice ("on the lower side", "towards the higher end"), but turns those intuitions into an explicit, structured method of analysis.

At the same time, five quintiles strike a balance between guidance and discretion. With only two or three bands, the framework would offer little real steering, while a larger number of bands would push the system towards a rigid tariff.

Five bands mean that movement between quintiles is normatively meaningful, shifting a case from Q2 to Q4 signals a real change in the assessment of seriousness, yet each quintile still covers a sub-range within which the judge can individualise the sentence. In this way, the quintile structure supports the reform's stated ambition: to promote consistency of analysis and indicative ranges while preserving space for case-sensitive judgment.

The five-quintile approach also aligns well with proportionality reasoning. Proportionality in practice is a relative question: is this case substantially more, or less, serious than the ordinary case? The quintiles map directly onto that vocabulary: Q1 for clearly below the ordinary case, Q2 for somewhat below, Q3 for typical or central cases, Q4 for somewhat above, and Q5 for clearly above or especially serious cases. This gives both trial and appellate courts a shared language for describing where a sentence lies on the seriousness spectrum, and gives policymakers a coherent way to discuss whether certain classes of cases are being treated too harshly or too leniently in practice.

From an implementation and empirical-review standpoint, dividing the statutory range into five segments carries further advantages. Any statutory maximum (and, where relevant, minimum) can be divided into five bands without complex calculations, making the framework easy to operationalise at the court level. The resulting categories are numerous enough to support meaningful empirical analysis—such as tracking sentencing patterns across Q1–Q5 and their prison-population consequences, without fragmenting the data into so many cells that reliable patterns are hard to detect. This, in turn, strengthens the capacity of the Sentencing Authority

to monitor drift, evaluate prison-impact, and identify where recalibration of guideline bands is required.

Finally, the quintile structure is deeply integrated into other elements of the proposed framework. The moderation of guilty-plea and cooperation discounts at the highest quintile, designed to prevent excessive differentials between plea and trial outcomes in the most serious cases, depends on having a distinct "top band" (Q5) that is clearly separate from merely above-average cases (Q4). Similarly, the design of structured overrides and departures is easier to explain and to review when movement can be described in terms of shifts between a small number of clearly differentiated bands, rather than between a large number of fine gradations. Five bands are also cognitively manageable for judges, lawyers and court staff in day-to-day use and training, which is essential if the framework is to be internalised rather than treated as an external audit device. In short, three bands are too crude to guide real decisions, and seven or ten bands are too complex to be workable; five quintiles represent a "sweet spot" that captures meaningful gradations of seriousness, supports empirical and prison-impact monitoring, and maintains a principled zone of judicial discretion within each band.

> **THE QUINTILE SWEET SPOT (Q1–Q5)**
> *Three bands are too crude to guide real decisions, and seven or ten bands are too complex to be workable; five quintiles represent a 'sweet spot' that captures meaningful gradations of seriousness, supports empirical monitoring, and maintains a principled zone of judicial discretion.*

V. Status and Philosophy of the General Sentencing Guideline

Schedule I is the normative heart of the scheme. It applies to all offenders who have attained the age of eighteen at the time of conviction, and to all organisations convicted of offences under the Bharatiya Nyaya Sanhita or any other law. It functions as a default guideline wherever no offence-specific guidance exists and as a supplementary guideline that informs and constrains offence-specific Schedules so far as there is no inconsistency. Every sentencing court must have due regard to the General Guideline, record that it has done so, and, where it departs from the methodology or indicative range, give reasons sufficient to permit appellate scrutiny.

Chapter I argued for an "ordered pluralism" of penal aims, disciplined by proportionality. The General Guideline gives that theoretical stance concrete form. It affirms, first, that the sentence must be proportionate to the seriousness of the offence, where seriousness is determined by a structured assessment of harm and culpability. Within that proportionality-bounded space, however, the Guideline recognises multiple legitimate purposes of punishment: deterrence, rehabilitation, incapacitation, reparation and protection of society. The framework thus expressly accommodates both deterrent and reformative objectives. Deterrence, general and specific, is treated as a valuable aim, particularly in relation to serious violence, repeat offending, systemic economic crime and offences with significant institutional or societal impact; but it may not be invoked to justify punishments that are grossly out of line with offence gravity and offender blameworthiness.

At the same time, the Guideline embeds a robust reformative orientation. Its lists of mitigating factors, absence of prior convictions, peripheral role, restitution and

compensation, genuine remorse, cooperation with investigation or prosecution, youth, advanced age, illness or diminished capacity, and strong prospects of rehabilitation, are expressly directed towards identifying cases where the offender can reasonably be expected to reform. The policy aim is to encourage such reformative behaviour by attaching tangible sentencing consequences to it, while still maintaining proportionality and public protection.[20]

The Guideline further identifies consistency, transparency and individualisation as guiding principles. Consistency is pursued by requiring courts to follow the same sequence of reasoning and to employ a common vocabulary of harm, culpability, aggravation and mitigation. Transparency is secured by the obligation to record the seriousness assessment, the chosen quintile and the principal factors influencing the sentence. Individualisation is preserved by the non-exhaustive nature of the lists of mitigating and aggravating factors and by an "interests of justice" safety-valve that permits departure where strict adherence to the bands would produce manifest injustice or conflict with statutory intent.

Doctrine of Conditional Mercy and Social Deterrence

The primary purpose of criminal sentencing is not merely to reform the offender, but to preserve and elevate the moral standards of society. Excessive leniency toward unrepentant offenders weakens social norms, rewards deception, and encourages future violations. Therefore, punishment itself can be reformative—not only for the offender but for society at large.

[20] Singh, P 'Determination of Sentences in India: Policy and Practice', 61 (3-4) *International Annals of Criminology*, (2023).

The doctrine set out below states the normative orientation that informs these Guidelines. It operates through, and subject to, the structured framework in Schedule I: the bounded mitigating factors, the calibrated plea and cooperation reductions and the safeguards provided there give it disciplined effect, and nothing in this doctrine derogates from statutory limits or from the court's duty to apply the Guideline methodology in every case.

Sentencing Principle 1: Society-First Reform

The first duty of sentencing is to reform society by reinforcing clear consequences for wrongdoing.

1. A punishment that deters thousands may be more socially reformative than a lenient sentence that reforms one offender.
2. Courts should consider the signaling effect of every sentence.
3. Public confidence in justice is a legitimate sentencing objective.

Sentencing Principle 2: Mercy Must Be Earned

Mercy is not a right. Mercy is a reward for demonstrated remorse. Indicators of genuine remorse include:

1. Voluntary admission of wrongdoing.
2. Restitution or compensation.
3. Cooperation with investigators.
4. Early plea of guilt.
5. Acceptance of responsibility without excuses.
   Absent these factors, sentence reduction should generally be unavailable.

Sentencing Principle 3: Litigation Conduct as a Sentencing Factor

The conduct of the accused after the offence is often more revealing than the offence itself. Aggravating factors:

1. Perjury.
2. Fabrication of evidence.
3. Intimidation of witnesses.
4. False allegations against others.
5. Procuring or threatening a witness, or giving false evidence on oath.

Such conduct demonstrates continuing disrespect for the law and justifies enhanced punishment. Denial of the charge, silence, and the exercise of the right to trial are none of these things: they earn no mitigation, but they are never aggravation, and the accused's answers under section 351 of the BNSS can never be scored against him (Rule 5(1)(b) proviso; Rule 14(5)(d)).

Sentencing Principle 4: Plea Bargaining as the Gateway to Leniency

Substantial sentence reductions should primarily be available through:

1. Early guilty pleas.
2. Cooperation agreements.
3. Restitution agreements.

The legal system should strongly distinguish between:

1. The offender who admits wrongdoing early.
2. The offender who forces society to prove every fact and only accepts guilt after conviction. The first deserves mitigation; the second generally does not. The absence of mitigation is not aggravation: the second offender receives the sentence the offence warrants, not a sentence enhanced for having gone to trial.

Sentencing Principle 5: No Presumption of Reformability

Courts should not presume that every offender seeks reform. Rehabilitation opportunities may remain available in prison and post-release, but sentence reductions should depend on demonstrated evidence of reform rather than speculative hopes of future reform.

Sentencing Principle 6: Truth as the Highest Mitigating Factor

The greatest mitigation should be reserved for those who tell the truth against their own interests. A legal system that rewards truth-telling and heavily penalizes deception creates a self-reinforcing culture of honesty.

> **TRUTH AS THE HIGHEST MITIGATING FACTOR**
> *Mercy is not an unconditional right; it is a reward for demonstrated remorse—voluntary admission, restitution, cooperation, and an early plea of guilt. A legal system that rewards truth-telling against self-interest and penalises deception creates a self-reinforcing culture of honesty.*

Sentencing Maxim

"Compassion without accountability corrupts justice; accountability without compassion hardens justice. Mercy should follow truth, remorse, and responsibility—not precede them." This doctrine would sit closest to the traditions of classical deterrence theory, aspects of Singapore's law-and-order model, and the ancient concept that justice must protect the moral fabric of society before it can rehabilitate the individual offender. It differs from purely rehabilitative models by treating deterrence itself as a form of societal rehabilitation.

VI. Methodology: Structured Score, Deterrence, and Reformative Behaviour

The methodology prescribed by the Guideline can be stated simply: courts are to move from an assessment of seriousness, through a quintile-based band, to a concrete sentence, making explicit at each stage the considerations that inform their judgment. The point of departure is a structured score method for assessing offence seriousness. For every offence, the court begins from a neutral Base Score of five

points, representing a typical case at the mid-point of the statutory punishment range, and then adjusts this upwards or downwards by reference to enumerated aggravating and mitigating score factors.

Aggravating factors capture dimensions of increased harm or culpability, such as relevant and recent prior convictions, obstruction of justice (including destruction or fabrication of evidence, intimidation of witnesses or absconding), significant planning or premeditation, repeated acts or sustained violence, substantial economic or systemic impact, and exploitation of vulnerable victims or abuse of authority or trust. These factors reflect both proportionality and deterrence: they mark conduct that is more harmful or more blameworthy, and that calls for sentences capable of expressing stronger censure and discouraging repetition.

Mitigating factors capture reduced blameworthiness or strong prospects of reform, including absence of prior convictions, peripheral roles, restitution and compensation, cooperation with investigation or prosecution, provocation or emotional disturbance, genuine remorse accompanied by corrective conduct, youth or advanced age, illness, diminished capacity, and demonstrable prospects of rehabilitation. By giving structured weight to such factors, the Guideline promotes reformative behaviour: it makes acceptance of responsibility, reparation to victims, and engagement with treatment or rehabilitation not merely morally relevant but legally consequential in sentencing.

The Guideline also provides structured reductions for early pleas of guilty and lawful plea-bargaining, recognising that timely and truthful resolution can save judicial resources, reduce witness trauma and improve overall system performance,

provided such reductions remain bounded by proportionality. Conversely, obstruction of justice is treated as a distinct aggravating basis, justifying upward movement within, or in exceptional cases beyond, the presumptive quintile.[21] This dual design, rewarding cooperation and reparation, penalising obstruction and repeat harm, embodies the policy aim of using sentencing to shape behaviour in a way that advances both deterrence and reformation.

Once the Final Score is determined, it is mapped to one of the five quintiles. Lower scores correspond to lower bands (Q1–Q2), mid-range scores to Q3, and higher scores to Q4–Q5, with the statutory range divided into equal sentencing bands for each offence. The identified quintile functions as the presumptive band: within it the court selects a starting point sentence and may then make modest upward or downward movements to reflect additional case-specific considerations, ensuring that the sentence remains proportionate and that the reasons for any adjustment are recorded.

The methodology concludes with adjustments for multiple offences (through application of the totality principle and structured decisions on concurrency and consecutivity) and for ancillary measures such as compensation, restitution, community-based sanctions, probation and other non-custodial dispositions, particularly in lower-seriousness quintiles and where the offender shows strong prospects of rehabilitation. In relation to organisational offenders, the Guideline requires courts to calibrate fines and orders so as to remove economic gain, deter future violations, and minimise collateral harm to innocent stakeholders.

[21] United States Sentencing Commission, *Guidelines Manual* (USSC, Washington DC 2016) §3C1; see also Sentencing Council (England and Wales), *Perverting the Course of Justice and Witness Intimidation Offences: Definitive Guideline* (2023).

Viewed alongside Chapter I, the structure of the Sentencing Guidelines, 2026 is thus an attempt to translate a set of normative commitments, proportionality, ordered pluralism of penal aims, reduction of unwarranted disparity, rational use of imprisonment, principled individualisation, democratic accountability, and a balanced commitment to deterrent and reformative purposes, into a workable statutory and policy scheme. The Act supplies the institutional and legal scaffolding; the General Sentencing Guideline supplies the common methodology; and the overall design is directed at securing a sentencing practice that is not only legally coherent, but also capable of inducing reformative behaviour by offenders, maintaining public protection and confidence, and supporting the long-term reformation of society's own attitudes towards punishment.

CHAPTER IV

Legislative Framework of the Guidelines

A section-by-section map of the Sentencing Guidelines, 2026 — what each of the twenty-four sections does.

SIX PARTS, TWENTY-FOUR SECTIONS

PRELIMINARY

- s.1 **Short title, extent and commencement** — the whole of India, on such dates as are notified

PART I · FOUNDATIONS

- s.2 **Definitions** — court, Guideline, statutory range, Sentencing Authority
- s.3 **Quintile framework** — the statutory range divided into five equal bands; where life is prescribed it is itself the statutory maximum

PART II · APPLICATION

- s.4 **Application** — in addition to, not in derogation of, the BNS and BNSS
- s.5 **General Guideline applies** — the default for all adults and organisations
- s.6 **Reasons mandatory** — every order records harm, culpability, quintile, factors, reductions and departures

PART III · THE CODES

- s.7 **With the BNS** — no change to ingredients, exceptions or joint liability
- s.8 **With the BNSS** — pre-sentence reports, set-off, remission, compensation

PART IV · ORGANISATIONS

- s.9 **Corporate sentencing** — remove the gain, deter, spare innocent stakeholders
- s.10 **Appellate scrutiny** — appeal courts review the guideline application, including in death cases

PART V · IMPLEMENTATION

- s.11 **Directions and training** — dissemination and capacity-building
- s.12 **Amending Schedules** — on the Authority's recommendation, with prior approval of Parliament
- s.13 **Good faith protection** — no proceeding for acts done in good faith
- s.14 **Savings and transition** — concluded sentences unaffected; pending matters not invalidated
- s.15 **Schedules** — Schedule I the General Guideline, Schedule II the Sentencing Order Form

PART VI · THE SENTENCING AUTHORITY

- s.16 **Establishment** — a body corporate, constituted with the Supreme Court
- s.17 **Composition** — judicial and non-judicial members; one with game-theoretic modelling expertise
- s.18 **Functions** — frame and revise guidelines, monitor deviations, train, publish data
- s.19 **Information** — may require data from courts, police, prosecution, prisons
- s.20 **Amendment procedure** — empirical review, public comment, impact assessment, Parliament
- s.21 **Annual report** — to Government and the Supreme Court; public; CAG audited
- s.22 **Independence** — free of executive or political influence
- s.23 **Transition** — deemed constituted on the notified date
- s.24 **Interpretation and savings** — statute prevails over any inconsistent guideline; offences untouched

> The Act builds the method and the institution; it never touches the definition of a crime or the limits Parliament has already set.
>
> Section 24 preserves statutory primacy — any guideline inconsistent with the Act, the BNS or a special sentencing provision yields to the statute.

Chapter IV – Legislative Framework of the Sentencing Guidelines, 2026

This part is the legislative spine of the Sentencing Guidelines, 2026. It supplies the legal architecture through which the broad normative commitments developed in the preceding chapters, proportionality, consistency, transparency, principled individualisation and institutional accountability, are translated into a binding statutory framework for sentencing courts. Its significance lies not merely in the fact that it introduces sentencing guidelines, but in the more fundamental fact that it reconceives sentencing as a structured juridical exercise rather than a matter left substantially to unarticulated intuition within wide statutory ranges.

The Guidelines must therefore be read as a coherent legislative design. Its preliminary provisions define the field of operation and the conceptual vocabulary of the reform; its central provisions regulate the relationship between the Guidelines and the substantive and procedural criminal law; its operative provisions require structured sentencing reasons and introduce the quintile framework; and its concluding provisions create the Sentencing Authority as the institutional mechanism through which sentencing policy may be monitored, revised and refined over time. This arrangement reflects a central insight found in comparative scholarship: sentencing reform cannot succeed through abstract principle alone, nor through institutional machinery alone; it requires both an articulated penal rationale and a stable framework capable of implementation, feedback and revision.[22]

In discussing the principal part, the present chapter proceeds section by section. Under each section, the statutory provision is first set out in substance and then analysed in the light of the theory of sentencing guidelines developed in Chapter I, the structure of the Act described in Chapter II, and the comparative and

[22] See J Roberts and L Harris, 'Sentencing Policy, Social Values and Discretionary Justice' *Journal of Law and the Biosciences* (2022); O Immanuel, 'Comparative Assessment of Sentencing Laws, Practices and Trends' in J Roberts (ed), *The Oxford Handbook of Sentencing and Corrections* (Oxford University Press, 2019).

Indian scholarship on sentencing reform. The aim is to explain the legal function, policy rationale and jurisprudential significance of each provision in the architecture of the reform.

1. Short Title, Extent and Commencement: *The Act is titled the Sentencing Guidelines, 2026; it extends to the whole of India; and it comes into force on such date as the Central Government may appoint by notification in the Official Gazette, with power to appoint different dates for different provisions.*

This opening section performs a conventional but important legislative function. The short title gives the enactment juridical identity, but the deeper significance of the provision lies in its insistence on national territorial application. The problem to which the Act responds, unstructured sentencing discretion producing inconsistency across courts and jurisdictions, is national in character, and a fragmented or regionally limited framework would have reproduced rather than corrected the disparity that sentencing reform seeks to address. Comparative experience demonstrates that sentencing guideline systems require institutional preparation, judicial training, dissemination, data systems and administrative adaptation if they are to operate coherently.[23] By permitting phased commencement, the Act recognises that sentencing reform cannot be implemented effectively merely by formal enactment; it must be operationalised in a staged and institutionally realistic manner.

2. Definitions: *The Act defines, among other expressions, "Bharatiya Nyaya Sanhita," "Bharatiya Nagarik Suraksha Sanhita," "court," "Guideline," "offence-specific guideline," "general guideline," "statutory range," "Sentencing Authority," "Provisional Sentencing Calculation," "Provisional Sentence Indication," "reformative finding," "Litigation Conduct*

[23] P.M. Bakshi, 'Sentencing and the Supreme Court' (1990) 32(4) *Journal of the Indian Law Institute* 536–539.

Record" and "Annexure A." It further provides that words not defined in the Act but defined in the Bharatiya Nyaya Sanhita or the Bharatiya Nagarik Suraksha Sanhita shall bear the meanings assigned to them in those enactments.

The definitions clause is foundational because a sentencing code depends upon precision of vocabulary. One of the recurrent criticisms of unguided sentencing, both in Indian writing and in comparative literature, is that courts often invoke broad concepts such as gravity, deterrence or reform without a common legal grammar for translating those ideas into a reasoned sentencing outcome. By clearly defining the principal expressions used throughout the Act, section 2 creates the conceptual stability necessary for a rule-governed sentencing framework.

Certain definitions carry particular structural significance. The definition of "statutory range" provides the legal base from which the quintile framework is constructed, and is therefore indispensable to the Act's effort to organise judicial movement within legislatively prescribed punishment bands. The distinction between "general guideline" and "offence-specific guideline" reflects an important lesson of the English model: a guideline system must combine universal principles with the possibility of offence-sensitive elaboration, so that consistency of approach is maintained without flattening the relevant differences between categories of offending. The definition of "Sentencing Authority" is equally significant because it confirms that the reform is institutional as well as normative; it does not merely announce principles, but creates a body charged with maintaining and revising them.

3. Quintiles-Based Sentencing Framework: *Every court, while determining the appropriate sentence within the statutory range prescribed by the applicable law, is required to apply a quintiles-based sentencing framework. Where no minimum punishment is prescribed, the minimum is deemed to be zero; where punishment is imprisonment for life, such punishment is treated as the statutory maximum. The statutory range is divided into five equal parts—Q1 to Q5—and the court must*

determine the appropriate quintile having regard to harm, culpability, and aggravating and mitigating circumstances. The quintile so determined ordinarily indicates the appropriate sentencing band unless departure is required in the interests of justice and reasons are recorded in writing.

This section is the central structural innovation of the principal Guideline. Its purpose is to transform the statutory punishment range from a broad and largely undifferentiated field of discretion into an ordered framework within which the court's choice of sentence is made more visible, reviewable and normatively disciplined. The quintile device operationalises a core sentencing insight found across the literature: consistency in sentencing does not require identical outcomes, but it does require a common method for relating offence seriousness to the severity of punishment.

The section's emphasis on harm and culpability reflects the widely accepted view that offence seriousness is the primary anchor of proportionate sentencing. Von Hirsch's work on guideline systems placed deserved punishment and offence seriousness at the centre of the inquiry, while later English guideline structures similarly proceed through harm and culpability assessments before considering aggravation, mitigation and ancillary adjustments.[24] The quintile structure in the Act adapts that logic to the Indian statutory landscape by requiring the court first to locate the case within an internally ordered punishment band before moving to the final sentence.

Equally important is the section's retention of reasoned departure. Comparative experience warns against two opposite failures: guidelines so loose as to be ineffectual, and guidelines so rigid as to efface the adjudicative role of the court. By providing that the court shall ordinarily sentence within the applicable quintile

[24] See Andrew von Hirsch, '*Proportionality in the Philosophy of Punishment'* (1986); Andrew von Hirsch, 'The "Desert" Model for Sentencing: Its Basic Features' *Michigan Law Review* (1981).

but may depart for recorded reasons in the interests of justice, the provision adopts a middle path. It structures discretion without abolishing it, and thereby reflects the jurisprudential position that a sentencing guideline should narrow discretion without extinguishing the judicial function.

> **STRUCTURING THE STATUTORY RANGE (SECTION 3)**
> *The quintile framework transforms the statutory punishment range from an undifferentiated field of discretion into an ordered structure—requiring the court first to locate the case within one of five equal bands (Q1–Q5) before selecting the precise sentence.*

4. Application of Guidelines and Relationship with Other Laws

The Guidelines contained in the Schedules apply to the sentencing of offences under the Bharatiya Nyaya Sanhita and under any other law creating a criminal offence for which a court in India may pass sentence. The provisions of the Act and the Guidelines are in addition to, and not in derogation of, the Bharatiya Nyaya Sanhita, the Bharatiya Nagarik Suraksha Sanhita, and any other law prescribing mandatory minimum sentences, maximum sentences, special sentencing procedures or restrictions. In the event of inconsistency between the sentence authorised by substantive law and any indicative range or band under the Guidelines, the substantive law prevails.

This provision is fundamental to the constitutional and doctrinal integrity of the reform. These Guidelines are designed to regulate sentencing, not to alter the substantive definitions of offences or the outer limits of punishment fixed by Parliament. That distinction is essential because the legitimacy of sentencing guidelines depends upon their operating within, rather than above, the hierarchy of criminal norms. Comparative scholarship repeatedly notes that guideline systems

become controversial when they are perceived to displace legislative judgment on punishment rather than structure judicial choice within the legislative range.[25]

The clause that the Guideline is "*in addition to, and not in derogation of*" the substantive and procedural codes serves two purposes. *First*, it avoids doctrinal conflict by making explicit that the Guidelines complement, rather than compete with, the Bharatiya Nyaya Sanhita and the Bharatiya Nagarik Suraksha Sanhita. *Secondly*, it preserves the principle of legality: no guideline may authorise what substantive law forbids, and no sentencing band may override a statutory minimum or maximum. In that sense, the provision secures the subordinate but important role of the guideline framework: it governs the exercise of discretion within lawful bounds, but it does not become a parallel criminal code.

5. General Sentencing Guideline to Apply in All Cases: *Every court is required to have due regard to the General Sentencing Guideline contained in Schedule I while sentencing any person aged eighteen or above and any organisation convicted of an offence. The General Guideline applies to offences under the Bharatiya Nyaya Sanhita and any other law, save where an offence-specific guideline expressly provides otherwise. Nothing in the section authorises a sentence above the statutory maximum or below the statutory minimum, or permits disregard of special sentencing provisions contained in any other law.*

Section 5 gives legal centrality to Schedule I by making it the default sentencing framework across the criminal justice system. This is a decisive feature of the Guidelines. A guideline regime that depends entirely on offence-specific instruments would remain fragmentary for a considerable period, and would leave large sectors of sentencing practice untouched. By contrast, a general guideline

[25] See, for example, Law Reform Commission (Ireland), *Report on Sentencing* (LRC 53–1995); Michael Tonry, *Sentencing Matters* (Oxford University Press 1996); Richard S. Frase, *Just Sentencing: Principles and Procedures for a Workable System (*Oxford University Press 2013).

secures a baseline of methodological coherence even in cases for which no offence-specific guidance has yet been developed.

The section also preserves the balance between universality and legality. It makes the General Guideline mandatory in its consideration but subordinate in its authority: the court must have due regard to it, yet the Guideline cannot enlarge the lawful sentencing power of the court beyond what substantive law permits. This formulation resembles the English concern with "consistency of approach" rather than absolute uniformity of result, and reflects the broader principle that guidelines should structure reasoning while remaining anchored in legislative limits.[26]

The inclusion of organisations within the scope of the General Guideline is noteworthy. It indicates that the reform is not confined to the conventional individual offender paradigm, but is intended to govern sentencing wherever penal responsibility is imposed, including in cases of corporate or institutional wrongdoing. That reflects modern sentencing policy, which increasingly recognises that economic and organisational offending requires structured sentencing principles no less than conventional interpersonal crime.

6. Mandatory Consideration and Recording of Reasons

In every sentencing decision, the court must consider the relevant guideline or guidelines and record that such guideline or guidelines have been considered. The sentencing order must, as far as practicable, state the assessment of harm and culpability, the quintile determined, the principal aggravating and mitigating factors, any reduction for assistance or plea of guilty and its approximate extent, the application of the totality principle, and the reasons for any departure from the applicable quintile. Non-compliance may render the sentence liable to be set aside or

[26]. Sentencing Council (England and Wales), A Review of Consistency in Sentencing (2011); C Roberts, 'Consistency in Sentencing' in A Ashworth and J Roberts (eds), *Sentencing Councils and Guidelines in the United Kingdom* (Oxford University Press, 2013).

modified by the appellate or revisional court unless the sentencing court records reasons why such non-compliance was necessary in the interests of justice.

This is the transparency and enforceability provision of the Guidelines. It recognises that a sentencing system cannot achieve principled consistency merely by prescribing factors to be considered; it must also require the sentencer to disclose how those factors were actually used in arriving at the final disposition. The duty to record reasons converts the guideline framework from a background aspiration into an operational discipline.

The jurisprudential importance of this requirement is considerable. Sentencing has often been criticised for opacity: broad penal aims are invoked, but the path from those aims to the concrete sentence remains obscure.[27] By requiring the court to state harm, culpability, quintile, aggravation, mitigation and reasons for departure, the Act creates a public and reviewable sentencing narrative. This improves appellate scrutiny, facilitates empirical study of sentencing patterns, and advances equality by exposing the grounds on which unlike treatment is justified.

The possibility of appellate or revisional correction for non-compliance is equally important. Comparative experience demonstrates that guideline systems become ineffective where their application is left entirely to judicial choice without consequences for structured disregard. The Guideline, therefore, carefully balances flexibility and enforcement: deviation is not impossible, but it must be reasoned, and unexplained non-compliance carries the risk of correction.

> **MANDATORY RECORDING OF REASONS (SECTION 6)**
> *A sentencing system cannot achieve principled consistency merely by listing factors to be considered; it must require the sentencer to disclose how those factors were actually weighted in arriving at the final disposition.*

[27] J Carlson, 'The Need for Transparency in the Age of Predictive Sentencing' *Iowa Law Review* (2018).

7. ***Interaction with the Bharatiya Nyaya Sanhita, 2023****: Nothing in these Guidelines is to be construed as altering, amending or affecting the ingredients, definitions or classifications of offences under the Bharatiya Nyaya Sanhita, or the operation of general exceptions, abetment, attempt, joint liability or other matters governed by that enactment. For determining harm, culpability and the appropriate quintile, the court must have due regard to the nature and gravity of the offence as defined in the relevant provisions of the Bharatiya Nyaya Sanhita and to any statutory aggravating or mitigating circumstances expressly recognised therein.*

This provision draws an essential line between substantive criminal liability and sentencing liability. The Guidelines are not intended to become an indirect means of redefining offences or altering their legal ingredients. That restraint is doctrinally important because the legitimacy of sentencing reform depends upon maintaining a clear division between the adjudication of guilt and the determination of punishment.

At the same time, the provision ensures that the sentencing process remains anchored in the offence structure chosen by Parliament. A guideline system cannot float free of the substantive law; seriousness must still be assessed in relation to the legislative character of the offence, the nature of the protected interest, and any aggravating or mitigating circumstances already recognised in the penal statute. The section therefore performs a dual function: it prevents doctrinal overreach by the guideline framework, while also ensuring that sentencing assessment remains faithful to the internal structure of substantive criminal law.

8. Interaction with the Bharatiya Nagarik Suraksha Sanhita, 2023 and Other Procedural Law: *The application of the Guidelines is subject to the Bharatiya Nagarik Suraksha Sanhita and other laws relating to procedure at the stage of conviction and sentence, pre-sentence reports, victim-impact statements, psychiatric or other expert reports, set-off of pre-trial detention, remission, commutation, probation, parole, compensation and ancillary orders. In*

determining compensation, community service, probation, admonition or other non-custodial measures, the court must have regard to the applicable law and be guided by the principles set out in Schedule I.

This Section recognises that sentencing is inseparable from procedure. A just sentence depends not only on penal principle but also on the institutional means by which the court obtains information about the offender, the victim and the wider context of the offence. Indian scholarship has long pointed out that sentencing hearings are often underdeveloped and that relevant personal and social material does not consistently reach the court. By explicitly linking the guideline framework to pre-sentence reports, victim-impact material and expert evidence, the Guidelines seek to improve the informational quality of sentencing decision-making.

The section also signals the reform's commitment to moving beyond an overly custodial sentencing culture. By referring expressly to compensation, community service, probation and other non-custodial measures, it integrates restorative and community-based responses into the ordinary sentencing calculus rather than relegating them to exceptional leniency. This reflects a broader trend in comparative sentencing reform: a structured sentencing system should not merely rationalise imprisonment, but should also create principled space for alternatives where custody is unnecessary or disproportionate.

9. Sentencing of Organisations: *Where the offender is a company, firm, body corporate or association of individuals, the court must assess harm and culpability with reference to organisational fault, corporate gain and systemic risk, and determine the appropriate quintile and calibrate fines or financial penalties so as to remove any economic benefit derived from the offence, achieve effective deterrence, and avoid disproportionate adverse impact on innocent stakeholders, employees or creditors. Where authorised by law, the court may additionally consider compliance orders, remedial orders, monitoring obligations and publication of conviction.*

Section 9 is significant because it acknowledges that organisational offending cannot be sentenced according to the same logic as individual offending. Corporate and institutional offences often involve diffuse decision-making, economic incentives, systemic compliance failures and harms that are broad, cumulative or difficult to localise. A sentencing regime that treated organisations simply as large individuals would fail to capture the distinctive structure of organisational blameworthiness and deterrence.

The section's insistence on removing economic benefit reflects a central premise of rational corporate sentencing: punishment must neutralise unlawful gain if deterrence is to be credible. At the same time, the requirement to avoid disproportionate harm to innocent stakeholders reflects the principle of fairness. Corporate punishment should not become indiscriminate collateral injury to employees, creditors or other persons unconnected with the wrongdoing. In this respect the provision balances expressive condemnation, deterrence and institutional realism.

> **CALIBRATING CORPORATE SANCTIONS (SECTION 9)**
> *Organisational offending cannot be sentenced by treating companies simply as large individuals. Punishment must neutralise unlawful economic gain and systemic risk while avoiding indiscriminate collateral injury to innocent employees, creditors, and stakeholders.*

10. Appellate and Revisional Scrutiny: *While exercising appellate, revisional or confirmation jurisdiction in relation to sentence, the High Court or other competent court must have due regard to the applicable guideline or guidelines, the determination of harm, culpability and quintile by the court below, and the reasons recorded in accordance with the Act. Where a sentence of death has been imposed, the appellate or confirmation court must examine not only the conviction but also the application of Schedule I, including the determination that the case falls within the "rarest of rare" category.*

Section 10 extends the discipline of structured sentencing to the appellate stage. A guideline regime cannot achieve durable coherence if appellate courts review sentence without reference to the same structured framework that binds trial courts. By requiring attention to quintile determination, harm, culpability and reasons, the provision encourages the development of a shared sentencing jurisprudence across judicial levels.

Its special reference to death sentences is especially important in the Indian context. Capital sentencing has long been marked by concern over inconsistency, subjectivity and the unstable application of the "rarest of rare" doctrine. By requiring the higher court to scrutinise the application of Schedule I in capital cases, the Act seeks to bring even the most severe sentencing power within a more explicit and reviewable framework of structured reasoning.

> **APPELLATE SCRUTINY & CAPITAL SENTENCING (SECTION 10)**
> *A guideline regime cannot achieve durable coherence if appellate courts review sentences without reference to the same framework that binds trial courts—including, in capital cases, structured scrutiny of whether the case genuinely falls within the 'rarest of rare' category.*

11. Power to Issue Directions and Provide Training: *The Central Government may, in consultation with the Supreme Court, take measures necessary to ensure effective dissemination of the Guidelines to all criminal courts and to promote training and capacity-building of judges, prosecutors and other stakeholders in their application. The section expressly states that it does not confer any power on the Central Government to amend, modify or annul any provision of the Schedules.*

Implementation is a recurring challenge in sentencing reform. Comparative literature emphasises that even well-designed guidelines may fail if they are not understood, internalised and administered through sustained institutional training.

Section 11 responds to that reality by authorising dissemination and capacity-building, thereby recognising that structured sentencing requires not only legal rules but also professional competence and administrative support. At the same time, the section contains an important constitutional safeguard: implementation authority is not amendment authority. The executive may facilitate the spread and understanding of the Guidelines, but it may not alter their substantive content outside the procedure prescribed elsewhere in the Act. This preserves the integrity of the statutory framework and protects sentencing policy from informal executive reshaping.

12. Power to Amend Schedules: *The Central Government may, by notification in the Official Gazette and with prior approval of Parliament by resolution, amend, substitute or add to any Schedule to the Act, after taking into account the recommendations of the Sentencing Authority. No such amendment may authorise a sentence in excess of that provided under the applicable substantive law. Every such notification must be laid before each House of Parliament.*

This provision embodies the Act's commitment to institutional flexibility combined with legal control. Sentencing policy is not static: offence patterns evolve, judicial experience accumulates, and empirical research may reveal that existing guidelines require modification. A rigid framework incapable of amendment would soon become detached from reality. Section 12 therefore makes revision possible.

Yet the mechanism of revision is carefully cabined. Parliamentary approval is required, the Sentencing Authority's recommendations must be considered, and substantive legal limits on punishment remain inviolable. This reflects a sophisticated institutional design. It allows sentencing policy to respond to experience, while ensuring that amendment remains publicly accountable and subordinate to legislative supremacy in matters of punishment.

13. Protection of Action Taken in Good Faith**:** *No suit, prosecution or other legal proceeding shall lie against any court, judge or other person for anything which is in good faith done or intended to be done in pursuance of the Act or the Guidelines.*

This is a standard protective provision, but it has special significance in the sentencing context. Sentencing necessarily involves evaluative judgment, and the Act requires judges and other institutional actors to engage with a more structured and visible methodology than before. Good-faith protection ensures that honest implementation of the framework is not chilled by collateral litigation, while leaving intact the ordinary appellate and revisional processes through which legal error may be corrected. The clause therefore strikes a balance between decisional confidence and legal accountability. It protects bona fide action under the framework without insulating sentencing decisions from judicial review on the merits.

14. Savings and Transitional Provisions*: Nothing in the Guidelines affects the validity of any sentence finally determined before their commencement. Sentencing proceedings pending on the date of commencement may, as far as practicable, be conducted having regard to the Guidelines, without invalidating any step already taken. Any reference in any law or instrument to "sentencing guidelines" is, unless the context otherwise requires, to be construed as a reference to the Guidelines contained in the Act.*

Transitional provisions are essential in any significant procedural or institutional reform. Section 14 protects legal certainty by preserving sentences already finally determined before commencement. Without such a saving clause, the introduction of the new framework might generate extensive retrospective challenges incompatible with orderly criminal administration.

At the same time, the section permits pending proceedings to benefit from the new framework where practicable. This reflects a measured approach to reform:

finality is respected, but transition is not treated as an all-or-nothing event. The interpretive clause dealing with references to "sentencing guidelines" further promotes coherence by ensuring that the statutory framework becomes the default referent for future legal usage.

15. Schedules: *The Schedules form part of the Act and have effect accordingly. They comprise Schedule I, the General Sentencing Guideline (Adult Individuals and Organisations); Schedule II, the Reference Table of Sentencing Quintiles; Annexure A, the Forms; and such further Schedules as may be added in accordance with the Act.*

This provision is legally decisive because the substantive operational content of the reform lies substantially in the Schedules. The principal Act establishes the architecture, but the Schedules supply the detailed methodology, recording forms and offence-specific extensions through which sentencing is to be structured in practice. By declaring that the Schedules form part of the Act, section 15 ensures that they carry full statutory force rather than existing as merely advisory appendices.

The relationship between the body of the Guidelines and the Schedules also reflects a sound legislative technique. Core principles and institutional powers are placed in the main statute, while more detailed sentencing methodology is housed in Schedules capable of structured revision. This arrangement preserves legislative seriousness without sacrificing adaptability.

16. Establishment, Composition and Status of the Sentencing Authority*: The Central Government, in consultation with the Supreme Court of India, must establish a statutory body called the Sentencing Authority. The Authority is a body corporate with perpetual succession and a common seal, empowered to formulate, review and revise sentencing guidelines, promote uniformity and transparency in sentencing practices, and advise courts, the legislature and other stakeholders on sentencing policy. The Act further provides that the Authority shall function in accordance with Articles 21 and 38 of the Constitution, the objects of the Act, and the principles of*

legality, proportionality, individualisation, deterrence, rehabilitation, reparation and protection of society set out in Schedule I.

The creation of a permanent Sentencing Authority is one of the reform's most important institutional choices. Comparative scholarship consistently shows that guideline systems function best where there exists a dedicated body capable of drafting, monitoring, revising and publicly explaining sentencing policy. A commission or council of this kind helps to shift sentencing policy from dispersed and often opaque local intuition to a more public, evidence-sensitive and consultative framework.

The Authority's statutory and corporate status matters because it signals permanence and seriousness. Sentencing policy is not treated as an occasional administrative exercise, but as an ongoing institutional responsibility. Equally, significant is the provision requiring the Authority to function in conformity with constitutional principles and the normative aims of the Act. This makes explicit that sentencing reform is not merely technocratic; it is linked to dignity, social justice, legality and rational penal restraint.

17. Composition of the Authority: *The Sentencing Authority consists of a Chairperson who is a former Judge of the Supreme Court or former Chief Justice of a High Court; not more than two serving or retired High Court judges; not more than two prosecution representatives; not more than two experts in penology, criminology or the social sciences; one representative of the Ministry of Law and Justice of the rank of Joint Secretary or above; and two eminent citizens with demonstrated expertise in criminal justice reform, victim rights, penology or social rehabilitation. The Chairperson and the majority of members must have proven experience in criminal justice, sentencing policy or penology, and at least one expert member must possess demonstrable expertise in mathematical or economic game-theoretic modelling of sentencing incentives and judicial efficiency.*

The composition provision reflects an understanding that sentencing policy is neither purely judicial nor purely administrative. It sits at the intersection of adjudication, criminology, public administration, victimology and penal theory. By combining judicial, prosecutorial, academic, executive and civic perspectives, the Act attempts to create an Authority capable of both legal credibility and policy sophistication.

The inclusion of a member with expertise in mathematical or economic modelling is particularly distinctive. It indicates that the Act openly acknowledges the systemic effects of sentencing policy on plea-bargaining, witness cooperation, case disposal and institutional behaviour. This is a sophisticated feature: it treats sentencing not merely as backward-looking moral judgment, but also as a set of incentives that shape the functioning of the broader criminal process.

> **GAME-THEORETIC & EMPIRICAL DESIGN (SECTION 17)**
> *By mandating expertise in quantitative and game-theoretic modelling within the Sentencing Authority, the Act treats sentencing not merely as backward-looking moral judgment, but as an institutional incentive system that shapes plea-bargaining, witness cooperation, and trial pendency.*

18. Functions and Powers of the Sentencing Authority: *The Authority is empowered to prepare, publish and periodically update sentencing guidelines; monitor compliance and departures; design training and sensitisation programmes; oversee digital transformation of sentencing procedures; collect, analyse and publicly report sentencing data; apply empirical and game-theoretic analysis to optimise institutional incentives; recommend amendments to substantive and procedural laws; evaluate trends in sentencing; recommend addition, modification or deletion of Schedules; conduct or commission research; develop model forms, checklists and practice notes; and facilitate stakeholder representations. It may also issue advisory explanatory material and technical guidance on the application of the Schedules.*

The provision makes plain that the Sentencing Authority is not a merely ceremonial body. It is designed as a research, policy, implementation and monitoring institution. That design is strongly supported by comparative experience. The literature on sentencing commissions repeatedly emphasizes that effective guideline systems require empirical monitoring, capacity to revise policy, and regular engagement with courts and stakeholders. Particularly important are the powers relating to data collection and public reporting. One of the most persistent problems in sentencing reform is that systems often lack reliable information about actual sentencing patterns, making it difficult to identify disparity or to evaluate whether guidelines are operating as intended. By building data analysis and reporting into the Authority's core functions, the Act seeks to create an evidence-based sentencing culture rather than a merely rhetorical one.

19. Powers to Obtain Information and Hold Consultations: *For the effective discharge of its functions, the Authority may require courts, police authorities, prosecution agencies, prison administrations and other criminal justice agencies to furnish information, data, statistics or reports; organise public consultations, expert meetings, workshops and stakeholder dialogues; and constitute committees, panels or task forces comprising judges, prosecutors, defence counsel, academics and domain experts. Subject to privilege and statutory restrictions, information received is to be treated as confidential and used exclusively for policy formulation and guideline revision.*

This provision equips the Authority with the practical means to perform the functions assigned to it. Without access to institutional information, a sentencing authority would remain dependent on anecdote or selective case-law rather than systematic evidence. The power to gather data from multiple criminal justice agencies is therefore indispensable to the Act's ambition of evidence-based guideline governance.

The consultation power is equally important from the perspective of democratic legitimacy and institutional quality. Comparative scholarship has emphasised that sentencing policy should not be formed in a closed technocratic circle; it should be informed by judicial experience, academic expertise, practitioner knowledge and broader stakeholder input. The Guideline's consultation model reflects that principle by requiring sentencing policy to emerge through structured engagement rather than administrative opacity.

20. Procedure for Recommending Amendments to Schedules: *The Authority may, on its own motion or upon reference from the Central Government, the Supreme Court or any High Court, prepare draft amendments to any Schedule. No amendment may be recommended unless the Authority has conducted a rigorous internal review supported by empirical data, case-law analysis and stakeholder feedback, and has published a draft for public comment. The final recommendation must be accompanied by a Statement of Reasons and an Impact Assessment, including analysis of effects on judicial pendency and administrative costs, and the Central Government must lay these materials before Parliament before initiating the formal amendment process.*

This is a strikingly robust amendment procedure. It embodies the principle that sentencing policy should evolve, but only through evidence, transparency and public reason. Comparative debates about sentencing reform often reveal the danger of abrupt or politically driven changes in guideline policy, especially where amendment processes are opaque or insufficiently evidence-based. Section 20 responds to that concern by insisting upon empirical review, draft publication, public comment and impact assessment before any recommendation is finalised.

The requirement of an impact assessment is especially valuable. Sentencing choices affect not only abstract penal desert but also prison populations, trial incentives, administrative burdens and fiscal costs. By requiring the Authority to evaluate those effects, the Act recognises that sentencing policy is both normative

and institutional. It must be justified not only in moral terms, but also in terms of its consequences for the functioning of the justice system.

> **EVIDENCE-BASED EVOLUTION (SECTION 20)**
> *Sentencing choices affect not only abstract penal desert but also prison populations, trial incentives, administrative burdens, and fiscal costs. Guideline amendments must therefore be preceded by empirical review, public consultation, and a formal Impact Assessment laid before Parliament.*

21. Annual Report and Accountability: *The Authority must submit an annual report to the Central Government and the Supreme Court on the implementation and impact of the Guidelines, significant disparities or anomalies in sentencing practices, and any recommendations for legislative or policy measures. The report, or an abridged version, is to be made available to the public and to all criminal courts in India. The Authority is also subject to financial oversight by the Comptroller and Auditor General and to prescribed accounting and audit requirements.*

Section 21 provides the accountability framework for the Authority. Annual reporting ensures that sentencing reform remains visible, assessable and open to correction over time. It also promotes transparency by requiring that the system publicly confront any emerging anomalies or disparities rather than allowing them to remain submerged within dispersed sentencing practice.

Public availability of the report is especially important in a domain where confidence in the administration of justice depends heavily on the perceived fairness and intelligibility of punishment. The financial oversight provisions further reinforce institutional seriousness by ensuring that the Authority is accountable not only for policy but also for public resources.

22. Independence and Neutrality: *While functioning in an advisory capacity, the Sentencing Authority shall be independent of executive or political influence in the formulation or review of sentencing guidelines.*

Independence is indispensable to the legitimacy of any sentencing authority. Sentencing policy sits close to public emotion and political rhetoric, especially in relation to serious crime. If the guideline framework were perceived as vulnerable to day-to-day executive or political pressure, its credibility as an instrument of principled sentencing would be gravely weakened.

By expressly safeguarding neutrality, section 22 seeks to insulate the Authority from short-term populist impulses while preserving its advisory and institutional character. This reflects a central comparative lesson: guideline systems command respect when they are seen as principled, consultative and evidence-informed, not when they become vehicles for episodic penal politics.

23. Transitional Provisions Relating to the Authority*: The Sentencing Authority is deemed to have been constituted on the date notified by the Central Government. Until it is established, the Central Government may, in consultation with the Supreme Court, continue to issue notifications modifying the Schedules under the existing framework.*

This transitional clause prevents institutional hiatus. Because the reform depends heavily on the existence of a functioning Authority, the statute must provide for continuity during the period between enactment and full operationalisation. Section 23 therefore avoids a vacuum in which the guideline system exists formally but lacks an institutional custodian.

At the same time, the interim power is carefully limited by the requirement of consultation with the Supreme Court and by the wider constraints elsewhere in the Act. This reflects the general design of the statute: transition is permitted, but not at the cost of unstructured executive control.

24. Interpretation and Savings: *Where any guideline, rule or form issued by the Sentencing Authority is inconsistent with a provision of the Act or any special sentencing provision in any other law, including the Bharatiya Nyaya Sanhita, the statutory provision prevails. No guideline issued by the Authority is to be construed as altering, amending or affecting the ingredients, definitions or classifications of offences under the Bharatiya Nyaya Sanhita or any other law.*

This provision serves as a concluding safeguard for the hierarchy of criminal norms. It reiterates that guidelines, rules and forms remain subordinate to statute, and that the Sentencing Authority cannot use guideline-making power to alter the substantive criminal law. This is essential both for constitutional clarity and for the internal coherence of the Act.

The section also completes the Guidelines' central structural theme: sentencing reform must be strong enough to discipline discretion, but restrained enough to remain within its proper domain. The statute therefore ends where it began—with a reaffirmation that the guideline framework is a means of structuring punishment within the law, not a vehicle for displacing the deeper legislative architecture of criminal responsibility.

Read as a whole, the principal Guidelines represent a carefully calibrated effort to bring sentencing in India within a more explicit structure of legality, proportionality and institutional rationality. Its provisions are not isolated technical clauses. They form an integrated legislative design through which sentencing is reconceived as a structured process: one anchored in harm and culpability, organised through quintile-based bands, disciplined by the duty to give reasons, and supported by a permanent institutional body capable of research, consultation and revision.

The deeper significance of these Guidelines lies in the fact that it refuses the false choice between rigid rules and unconstrained discretion. Instead, it adopts the model of structured discretion that comparative scholarship has found to be both normatively attractive and institutionally workable: discretion remains, but it must

now operate through a common public method, within a framework of reasons, and under conditions of reviewability and empirical accountability. In that sense, the principal Act is not merely a legislative preface to the Schedules. It is itself the juridical foundation of a modern law of sentencing.

CHAPTER V

Structured Sentencing under Schedule I

The scoring engine: a base of five, six aggravating and eight mitigating factors, and the safeguards that keep the score honest.

THE STRUCTURED SCORE METHOD

5
BASE SCORE

Every offence begins at a neutral baseline of **5 points** — a typical case at the midpoint of the statutory range. The court then moves up for aggravating factors and down for mitigating factors, each bounded at **2 points**, to reach a Final Score between **0 and 10**. The categories are non-exhaustive and graded in sub-rules.

AGGRAVATING (a)–(f), up to +2 each

- +2 **(a)** Prior conviction or habitual offending
- +2 **(b)** Obstruction of justice, concealment or evasion of process
- +2 **(c)** Premeditation or significant planning
- +2 **(d)** EITHER repeated acts, brutality or serious violence, **or** severe harm — death, serious injury, grave psychological injury or very high financial loss
- +2 **(e)** Significant economic, institutional or systemic impact
- +2 **(f)** EITHER vulnerability of the victim or plurality of victims, **or** abuse of authority, fiduciary position or trust

MITIGATING (a)–(h), up to −2 each

- −2 **(a)** Absence of prior conviction and law-abiding conduct
- −2 **(b)** Peripheral or minor role in the offence
- −2 **(c)** Restitution, compensation or meaningful reparation
- −2 **(d)** Cooperation with investigation or prosecution
- −2 **(e)** Provocation, emotional disturbance or situational pressure
- −2 **(f)** Demonstrable remorse with corrective conduct
- −2 **(g)** Youth, advanced age, illness or diminished capacity
- −2 **(h)** Strong, verified prospects of reform and rehabilitation

SAFEGUARDS AGAINST RUNAWAY SCORING

0–10
The Final Score envelope. A Q1 case may attract a score of 0, where the sentence may range from no punishment to the lower end of the statutory range.

±4
Maximum ordinary movement from the base of 5 in either direction, unless exceptional reasons are recorded in writing.

1×
Overlapping factors are counted once. The court applies the most appropriate factor rather than double-counting the same conduct.

> Overrides are available in narrowly defined cases — multiple deaths, terrorist activity, exceptional cruelty, grave provocation or substantially diminished responsibility — but never to breach a statutory maximum or minimum.
>
> Rule 11, Schedule I. The court must name the ground, explain why ordinary scoring is inadequate, and quantify the adjustment.

Chapter V – Structured Sentencing under Schedule I: Principles and Practice

1. Introduction

The principal Act, analysed in the preceding chapter, provides the legislative architecture for a national sentencing framework. It establishes the quintile-based structure, defines the relationship between guidelines and substantive law, and creates the Sentencing Authority as the institutional custodian of sentencing policy. Schedule I, which contains the General Sentencing Guideline for adult individuals and organisations, is the operational heart of that framework. It is through Schedule I that the abstract commitments of the Guidelines, proportionality, consistency of approach, transparency, principled individualisation, and evidence-informed sentencing, are translated into a structured method for determining the concrete sentence in individual cases.

In comparative perspective, Schedule I performs a function analogous to that of the General Sentencing Guideline issued by the Sentencing Council of England and Wales: it lays down a general methodology and a set of cross-cutting principles that apply across offences and offender types, and that are supplemented rather than displaced by offence-specific guidelines.[28] At the same time, its design reflects lessons drawn from institutional experiments with sentencing commissions and guideline grids in the United States and elsewhere, highlighting both the value of structured decision-making and the risks of over-rigidity or under-theorisation.

The present chapter examines Schedule I in detail. For each of its principal Parts and rules, the text of the Guideline is first reconstructed in substance, followed

[28] A Ashworth and J Roberts, *Sentencing Guidelines and the Sentencing Council* (Oxford University Press, 2013); Sentencing Council (England and Wales), General Guideline: *Overarching Principles – Seriousness* (2019).

by an analysis of its rationale and place in the larger scheme of the reform. The chapter thus moves progressively from preliminary provisions on status and scope, through the sequential methodology and structured score method, to the mapping of seriousness into quintiles, the treatment of overrides, assistance and pleas, the totality principle, restorative measures and organisational sentencing, and finally the duty to record reasons. In doing so, it situates Schedule I within both the Indian discourse on sentencing policy and the comparative literature on structured sentencing.

2. Status, Scope and Application: *Schedule I declares that the General Sentencing Guideline applies to all offenders who have attained the age of eighteen at the time of conviction and to all organisations—companies, firms, bodies corporate and associations of persons—convicted of offences under the Bharatiya Nyaya Sanhita, 2023 or under any other law in force. It provides that the Guideline applies in all cases where no offence-specific guideline is applicable and supplements any offence-specific guideline to the extent of consistency. The Guideline is expressly subject to the statutory maximum and any mandatory minimum; it cannot authorise a sentence in excess of the maximum or below a mandatory minimum prescribed by law.*

These preliminary provisions confer upon Schedule I a dual character. First, they make it a *general* guideline in the sense articulated in the comparative literature: a cross-cutting framework designed to apply across the range of offences and offender types, providing a common method where no more specific guidance exists. Secondly, they make it a *supplementary* guideline, applicable alongside offence-specific guidelines so far as there is no inconsistency, thereby ensuring methodological coherence even where specialised sentencing structures are developed for particular offences.[29]

[29] I McKenzie, 'Individualisation at Sentencing: The Effects of Guidelines and the General Guideline' *Criminal Law Review* (2018).

The universal scope is central to the reform's commitment to "consistency of approach" rather than mechanical uniformity.[30] Without a general guideline, the sentencing landscape would remain patchy, risking disparity precisely in those areas where no offence-specific guidance has yet emerged. At the same time, the explicit subordination of the Guideline to statutory minima and maxima preserves the principle of legality and reinforces the Act's insistence that guidelines may structure judicial discretion but cannot extend penal power beyond what Parliament has authorised.[31]

The inclusion of organisations within the ambit of the Guideline also signals a modern conception of sentencing. It recognises that corporate and institutional offenders are now central actors in criminal justice, particularly in economic, regulatory and environmental offences, and that they require principled, structured sentencing no less than natural persons.

3. Guiding Principles of Sentencing: *Schedule I states that, in determining the appropriate sentence, the court shall be guided by five principles: (a) proportionality between the seriousness of the offence and the sentence imposed; (b) consistency in sentencing for similar offences and offenders; (c) transparency and reasoned decision-making; (d) individualisation of sentence having regard to the circumstances of the offender; and (e) promotion of deterrence, rehabilitation, reparation and protection of society. It further provides that seriousness shall be determined through the structured assessment mechanism in the Guideline, so as to ensure rational and transparent evaluation of aggravating and mitigating circumstances and to promote early resolution of cases, witness cooperation and reduction of trial pendency.*

[30] Sentencing Council (England and Wales), *A Review of Consistency in Sentencing* (2011).
[31] Irish Law Reform Commission, *Report on Sentencing* (LRC 53–1995) emphasise that guideline schemes should structure judicial discretion "within" legislatively prescribed ranges and not usurp the legislature's function in fixing maxima and minima.

This articulation of guiding principles gives concrete expression to the "ordered pluralism" of penal aims defended in Chapter I.[32] Proportionality is placed at the centre of the sentencing enterprise, echoing both the desert-based theories advanced in the guideline scholarship and the injunctions of Indian courts that punishment must be commensurate with offence gravity and offender blameworthiness.[33] At the same time, proportionality is not presented as an austere retributive principle detached from other goals. Deterrence, rehabilitation, reparation and social protection are acknowledged as legitimate aims, but their pursuit is bounded by the requirement that the sentence remain proportionate to seriousness.[34]

Consistency and transparency are articulated as distinct principles rather than left implicit. This reflects the critique that broad judicial discretion without structured principles produces disparity and opacity: similar cases may attract different punishments, and differences in outcome cannot be explained except by reference to individual judicial attitudes.[35] The Guideline responds to that critique by requiring courts to follow a shared sequence of reasoning and to record the factors that drive sentencing outcomes.

Individualisation occupies a carefully hedged position. It is recognised as a principle, thereby resisting any temptation to treat guidelines as inflexible tariffs or sentencing grids, but it is embedded within a framework that requires explanation and prevents purely idiosyncratic outcomes. The insistence that seriousness be

[32] A Ashworth, *Sentencing and Criminal Justice* (8th edn, Cambridge University Press, 2022) Chs 3–4.
[33] J Roberts, '*The Principle of Proportionality in Sentencing: A Dynamic Evolution*' (2022).
[34] Von Hirsch, Andrew, Michael H Tonry, and Kay A Knapp. *The Sentencing Commission and Its Guidelines* (Boston, Northeastern University Press, 1987).
[35] See, A Ashworth, *Sentencing and Criminal Justice* 3 (8th edn, Cambridge University Press, 2022); Law Commission of India, Report No 262: The Death Penalty (2015)- The Report describe Indian capital sentencing as "judge-centric" and noting that differences in outcome are often explained by the attitudes of individual judges rather than by structured legal standards); See also Reyes Molina, S.A. (2020) 'Judicial Discretion as a Result of Systemic Indeterminacy', *Canadian Journal of Law & Jurisprudence*, 33(2), pp. 369–395.

determined through a specified structured assessment mechanism prefigures the score-based methodology set out later in the Guideline and reflects the insight that proportionality, if left unstructured, risks becoming a label for intuitive judgment rather than a genuine constraint on it.[36]

4. Sequential Sentencing Methodology: *Part II of Schedule I requires the court, in determining sentence, to follow a structured methodology consisting of sequential steps: (a) determination of the seriousness of the offence in accordance with Part III; (b) identification of the appropriate sentencing band or quintile indicated by that determination; (c) identification of a starting point within the band; (d) adjustment of the sentence within the band having regard to aggravating and mitigating factors recognised by the Guideline; (e) consideration of reductions for plea of guilty or cooperation; (f) application of the totality principle in cases involving multiple offences or sentences; (g) consideration of compensation, restitution and other ancillary or non-custodial measures; (h) ensuring that the sentence remains within the statutory range; (i) finalisation of the sentence; and (j) recording of reasons. It further provides that these steps shall be applied cumulatively and sequentially and that no step is to be omitted unless expressly justified in the order on sentence.*

This provision is the methodological spine of Schedule I. It converts what has historically been an opaque "sentencing moment" into a structured process that can be traced, analysed and reviewed. The formulation closely parallels the "staged decision-making" approach emphasised in broader comparative literature: courts are expected to move through distinct stages, seriousness assessment, starting point, adjustment, reductions, totality and ancillary orders, rather than arriving at a sentence through undifferentiated intuition.

The requirement of sequentiality is particularly important. It prevents the conflation of different normative questions: whether an offence is serious is a

[36] Ronald Dworkin, 'Judicial Discretion' (1963) 60(21) *Journal of Philosophy* 624–638.

different question from whether the offender has cooperated, whether there are multiple offences, or whether compensation should be ordered. By insisting that the courts proceed step-by-step, the Guideline fosters what we can call "consistency of approach" and makes it possible for appellate courts and the Sentencing Authority to see where in the process divergence occurs. Moreover, the explicit integration of reductions for guilty pleas and cooperation, the totality principle and restorative measures into the sequencing reflects a sophisticated understanding of sentencing as both retrospective and institutional. As Dhami and others have shown, guidelines alter the incentives facing defendants and the behaviour of the criminal process as a whole; it is therefore preferable to address those effects openly rather than allow them to remain unstructured and invisible.[37]

> **SEQUENTIAL DECISION-MAKING (RULE 3)**
> *Whether an offence is serious is a different normative question from whether the offender has cooperated, whether there are multiple offences, or whether compensation should be ordered. Proceeding step-by-step makes it possible for appellate courts to see exactly where in the process divergence occurs.*

5. The Structured Score Method: *Part III introduces a structured score method for determining seriousness. The court begins from a neutral baseline representing a typical case at the midpoint of the statutory range; subject to specified exceptions, the Base Score is fixed at 5. The court then increases or reduces this score in light of aggravating and mitigating factors set out in the Guideline, with each factor capable, in principle, of altering the score by up to 2 points. The Final Score, normally constrained between 0 and 10 with a ceiling of 4 points in either direction from the Base Score, represents the overall seriousness of the offence and must be recorded expressly in the sentencing order, together with the corresponding quintile.*

The structured score method is the principal technical device by which Schedule I operationalises the principle of proportionality. It is an explicit attempt to

[37] M K Dhami, 'Sentencing Guidelines in England and Wales: Missed Opportunities?' 76 *Law and Contemporary Problems* (2013) and 'Nudge the Judge? Theorizing the Interaction Between Heuristics and Sentencing Guidelines' *Punishment & Society* (2020).

subject the assessment of seriousness, traditionally left to unstructured judicial intuition, to a more transparent and replicable scheme. The use of a neutral baseline and bounded adjustments mirrors practices found in certain American and European guideline systems, but without importing a rigid grid; instead, it adapts these techniques to the Indian context through a more flexible scoring range and an emphasis on explicability rather than arithmetic precision.[38]

The method responds directly to critiques of unguided discretion, including Dworkin's concern that "discretion, if unconstrained, may become a license for the exercise of personal morality under the guise of legal judgment."[39] By requiring courts to specify which factors increased or decreased the Base Score and by how much, the Guideline exposes to view the normative judgments that sentencing entails. This level of explicitness does not eliminate judgment, but it disciplines it and makes it contestable.

The caps on upward and downward adjustment serve as safeguards against over-reliance on single factors and against disproportionate sentences generated by cumulative but overlapping elements. They reflect the insight, drawn from both empirical psychology and sentencing research, that human decision-makers are prone to double counting and to overreaction where multiple factors point in the same direction. By requiring courts to avoid duplication and to remain within a bounded scoring envelope absent exceptional reasons, the Guideline encourages a calmer, more principled evaluation of seriousness.

6. Aggravating Score Factors: *The Guideline lists a series of aggravating score factors that may justify increasing the Base Score by up to 2 points per factor. These include: (a) prior convictions or habitual offending, with higher weighting for multiple or similar convictions; (b) obstruction of*

[38] Von Hirsch, Andrew, Michael H Tonry, and Kay A Knapp. *The Sentencing Commission and Its Guidelines* (Boston, Northeastern University Press, 1987).
[39] R Dworkin, 'Judicial Discretion' (1963) 60 *Journal of Philosophy* 624.

justice, concealment, or evasion of process, with differentiation between reactive concealment and premeditated obstruction; (c) premeditation or significant planning; (d) repeated acts, brutality or serious violence, or severe harm materially exceeding what is ordinarily contemplated by the offence; (e) significant economic, institutional or systemic impact; (f) victim vulnerability or plurality, and abuse of authority, fiduciary position or trust. These categories are non-exhaustive but are formulated in graded sub-rules to guide the magnitude of adjustment.

The identification and grading of aggravating factors reflects both domestic and comparative understandings of what makes offending more serious. Indian case law has consistently treated prior record, brutality, vulnerability of victims and abuse of trust as aggravating circumstances, even though such factors have not always been systematically organised. The Guideline consolidates that jurisprudence into a more structured framework, distinguishing, for example, between reactive obstruction and premeditated interference with the administration of justice. The obstruction factor is, however, hedged by a proviso: it is applied only on the court's own finding, is confined to conduct that is independently an offence under Chapter XIV of the BNS, and is never founded on the accused's answers under section 351 of the BNSS or on the exercise of the right to trial.

Comparative literature also emphasises that prior record, victim vulnerability and abuse of position are enduring aggravators, but warns that they must be integrated into a broader conception of seriousness rather than treated as free-standing justifications for penal escalation. The score method embodies this caution by treating aggravating factors as adjustments to a baseline, subject to overall limits and to the requirements of proportionality and non-duplication.[40]

The inclusion of economic, institutional and systemic impact as aggravating dimensions is a significant development, particularly in light of the growing

[40] Richard S Frase, 'The Role of Criminal Record in the Sentencing Process' (1997) 10 *Federal Sentencing Reporter* 28.

prominence of corporate, financial and regulatory offences. It recognises that harms to markets, public institutions or systems of justice may be diffuse yet grave, and that sentencing should be able to register such harms explicitly. At the same time, the graded structure, distinguishing between contained and large-scale impact, guard against an unstructured elevation of sentences for all "white-collar" crime.

7. Mitigating Score Factors: *The Guideline sets out mitigating score factors that may justify decreasing the Base Score by up to 2 points each. These include: absence of prior convictions with demonstrable law-abiding conduct; a peripheral or minor role in the offence; restitution, compensation or meaningful reparation; cooperation with investigation or prosecution; provocation, emotional disturbance or situational pressure falling short of a defence; demonstrable remorse accompanied by corrective conduct; youth, advanced age, illness or diminished personal capacity materially affecting culpability; strong prospects of reform and rehabilitation; and early plea bargaining or structured resolution of the case, with higher reduction where plea-bargaining occurs at a very early stage.*

Mitigating factors must be supported by reliable material, such as antecedents, social background, presentence reports, proof of restitution or medical evidence, and must not duplicate considerations already reflected in the offence definition or other statutory provisions.

The mitigating factors respond to the insistence, in both Indian and comparative scholarship, that principled sentencing must preserve space for mercy and for recognition of individual circumstances while remaining within a structured and reviewable framework. Youth, law-abiding background, restitution, remorse and rehabilitation prospects have long been acknowledged in case law and policy documents as considerations that may legitimately temper punishment. The

Guideline brings these into a transparent scoring system that requires courts to identify which mitigating dimensions are present and to what degree.[41]

The express recognition of restitution and reparation resonates with a broader movement towards integrating victim concerns into sentencing without allowing "victim impact" to become an unstructured escalator of punishment. By treating compensation and reparation as mitigating, the Guideline encourages offenders to make meaningful amends, thereby reinforcing the restorative and reparative functions of sentencing.

Particularly noteworthy is the treatment of cooperation and early plea-bargaining. As comparative writers have pointed out, modern guideline systems inevitably shape bargaining behaviour, and it is preferable to set out clearly the circumstances in which cooperation or early guilty pleas may attract structured reductions than to allow such incentives to remain implicit and opaque. The Guideline therefore includes early and structured resolution as a mitigating factor, but subjects it to caps on reduction and to the overarching constraint that the Final Score cannot fall below zero. This balances the institutional advantages of early resolution against the need to preserve proportionality and to avoid undue disparity between those who plead and those who exercise their right to trial.[42]

8. Calculation Safeguards and the Seriousness Envelope: *The Guideline provides that the Final Score shall be calculated by adding the total aggravating adjustments to the Base Score and then deducting the total mitigating adjustments. The Final Score is ordinarily not to be less than 0 or more than 10, and total upward or downward adjustment from the Base Score is ordinarily not to exceed 4 points unless exceptional reasons are recorded. Where factors overlap, the*

[41] Bakshi, P.M. "Sentencing and the Supreme Court" 32(4) *Journal of the Indian Law Institute* 536–539 (1990).
[42] Reinganum, Jennifer F. "Sentencing Guidelines, Judicial Discretion, and Plea Bargaining." *The RAND Journal of Economics* 31, no. 1 (2000): 62–81.

court must apply only the most appropriate factor or combination sufficient to capture the seriousness of the case, and must avoid duplication.

These safeguards are designed to prevent the score method from becoming either mechanically punitive or unduly sensitive to marginal variations in factor enumeration. The constraint that the Final Score ordinarily lie between 0 and 10 and that adjustments not exceed 4 points from the baseline reflects a recognition that even serious aggravation does not ordinarily justify unlimited penal escalation. It also encourages courts to reserve more extreme scores for truly exceptional cases, preserving a meaningful distinction between moderate and severe seriousness.

The prohibition of double counting responds to a well-documented difficulty in guideline systems. When a single factual feature, such as the presence of a weapon, multiple victims or the abuse of trust, is used to define the offence, to raise the statutory maximum and then again to aggravate the sentence, the result may be a disproportionate and opaque escalatory effect. By directing courts to identify overlapping factors and to avoid duplication, the Guideline clarifies that scoring is to reflect the substance rather than the multiplicity of aggravating labels.

> **PROHIBITION OF DOUBLE COUNTING (RULE 7)**
> *When a single factual feature—such as a weapon, multiple victims, or abuse of trust—is used to define the offence, raise the statutory maximum, and then again aggravate the score, the result is disproportionate escalation. Scoring must reflect substance rather than the multiplicity of labels.*

9. Statutory Anchoring and Quintile Mapping: *Part IV reiterates that the sentence must remain within the limits of the applicable substantive law. Where no minimum punishment is prescribed, the minimum is treated as zero for computation; where life imprisonment is prescribed, life is treated as the statutory maximum and is not converted into a fixed term. The Guideline then maps the Final Score to indicative quintiles: 0 to 2 (Q1, lower seriousness), >2 to 4 (Q2, below-average seriousness), >4 to 6 (Q3, average seriousness), >6 to 8 (Q4, above-average seriousness),*

and >8 to 10 (Q5, high seriousness). The identified quintile guides placement of the sentence within the statutory range and provides the presumptive band for the starting point, consistent with the quintile-based framework in the Act. Illustrations are provided for offences with varying statutory ranges.

This portion of Schedule I integrates the score method with the quintile structure established in the principal Act. It is here that seriousness, once quantified, is translated into an indicative sentencing band. The mapping ensures that the entire statutory range is used in a principled manner and that cases assessed as more serious on the score scale are, other things being equal, allocated to higher quintiles and more severe sentencing bands.

The table of score-to-quintile mapping embodies the concept of "consistency of approach" championed in the English guideline literature: different judges may still arrive at somewhat different sentences within a band, but they are expected to place cases of comparable seriousness within comparable sectors of the statutory range. The use of illustrations further promotes practical intelligibility and reduces the cognitive load on sentencers, a concern highlighted in empirical studies of judicial decision-making under guidelines.

By retaining life imprisonment as an anchor rather than treating it as a convertible term for computational purposes, the Guideline also avoids the perverse effect of transforming life sentences into long but finite terms through arithmetic adjustment. It thereby respects the special normative status accorded to life imprisonment and its relationship to the death penalty under Indian constitutional jurisprudence.

10. Starting Point, Adjustment and Departure: *The Guideline provides that the sentence indicated by the applicable quintile ordinarily constitutes the starting point for final determination. The court may adjust this sentence within lawful bounds having regard to factors*

recognised by the Guideline, the circumstances of the offender and the interests of justice. Departure from the sentence indicated by the structured score method may be made only where strict application would result in manifest injustice or where statutory intent so requires, and reasons for departure must be expressly recorded and, where practicable, quantified.

This provision clarifies the normative force of the score method and quintile mapping. They are neither rigid prescriptions nor mere suggestions; they are presumptive starting points, subject to adjustment and reasoned departure. This structure mirrors the "presumptive" status of guidelines in certain American states and in the English system, and avoids the extremes of both purely advisory guidance and inflexible tariffing.[43]

The requirement that departure be limited to cases of manifest injustice or clear statutory intent, and that reasons be recorded, ensures that the guideline framework retains normative bite while preserving the residual judicial responsibility to do justice in the individual case. It also provides the Sentencing Authority and appellate courts with a body of departure decisions from which to identify patterns of guideline inadequacy, a technique specifically recommended in the comparative literature as a way of driving evidence-based guideline revision.

11. Structured Overrides: *Part V permits structured overrides of the ordinary scoring outcome in narrowly defined circumstances, such as multiple deaths, torture, terrorist activity or murder with exceptional cruelty; repeat violent or sexual offending with two or more prior similar convictions; provocation of exceptional gravity significantly reducing culpability; substantial diminished responsibility supported by medical or psychiatric material; or negligence-based offences with truly exceptional aggravating features. Where an override is invoked, the court must identify the precise circumstance, explain why the ordinary scoring outcome is inadequate, and state the extent of adjustment. Overrides cannot be used to circumvent statutory minima or maxima.*

[43] Kate Stith and Steve Y Koh, "The Politics of Sentencing Reform: The Legislative History of the Federal Sentencing Guidelines" 28 *Wake Forest Law Review* 223 (1993).

Overrides are a deliberate safety-valve in the system. Comparative experience, especially with grid-based guidelines, demonstrates that no scoring or categorisation system can anticipate every factual configuration; rigid adherence to a scheme in extraordinary cases may produce outcomes that are either excessively harsh or unduly lenient.[44] The override provision acknowledges this reality by providing a limited set of gateway circumstances in which courts may move beyond the immediate implications of the score, subject to heightened justification.

The emphasis on explicit identification of the override ground and on explanation reflects an important normative commitment: exceptional treatment of exceptional cases should be transparent, not tacit. Overrides thereby serve a dual purpose. They protect the system against manifest injustice in outlier cases, and they generate a body of reasoned decisions signalling to the Sentencing Authority that particular offence types or factual patterns may require future guideline refinement.

> **TRANSPARENT SAFETY-VALVES (RULE 11)**
> *Exceptional treatment of exceptional cases must be transparent, not tacit. Structured overrides protect against manifest injustice in outlier cases while generating a reasoned corpus of decisions that signal where future guideline refinement is needed.*

12. Assistance to Authorities: *The Guideline provides that where an offender has rendered substantial assistance to investigation or prosecution of the offence or a related offence, the court may grant a reduction in sentence, ordinarily not exceeding one-third of the sentence otherwise determined. Assistance must be placed before the court through a prosecution submission or reliable material on record and assessed for truthfulness, completeness, timeliness, significance to detection, recovery or conviction, and the risk assumed by the offender. Any reduction must be recorded separately and must not contravene statutory restrictions on pardon, leniency or special procedures.*

[44] See, for example, N Fox, '*Sentencing Guidelines Mechanisms in Other Jurisdictions*' Northern Ireland Assembly Research and Information Service Paper 79/16 (2016); RS Frase, 'Sentencing Guideline Schemes Across the United States and Other Common Law Jurisdictions' in J Roberts (ed), *Mitigation and Aggravation at Sentencing* (Oxford University Press, 2011).

The treatment of cooperation aligns with a substantial body of comparative scholarship showing that well-designed sentence reductions for assistance can promote truth-finding, disrupt organised criminality and improve investigative efficiency, provided that such reductions are bounded and transparent.[45] The Guideline departs from earlier informal practices, where cooperation was sometimes rewarded but seldom structured—by specifying criteria for the magnitude of reduction and requiring explicit recording of the assistance and the discount.

This approach mitigates the risk, identified in critiques of American and other regimes, that cooperation discounts may become vehicles for discrimination or for excessive prosecutorial leverage, especially where the extent of assistance is not subject to transparent judicial reasoning. By keeping the maximum reduction to one-third in ordinary cases and by binding it to demonstrable value and risk, the Guideline seeks to balance institutional advantages against fairness and proportionality.

13. Plea of Guilty and Plea-Bargaining *Rule 13 allows sentence reductions for pleas of guilty, with the reduction scale varying by stage: up to one third for a plea at the first hearing at which the accused is asked to plead; up to one quarter for a plea after that hearing but before closure of the prosecution evidence; and up to one tenth for a plea after closure of the prosecution evidence. A separate provision links every guilty plea, whether under Chapter XXIII of the BNSS or to the charge as framed, to the reformative placement in Rule 6(2) read with Rule 14(2), and applies the stage based reduction under Rule 13(3) thereafter, separately from the score reduction, so that the two count different facts. Reductions are to be determined having regard to the stage of proceedings, offender conduct, saving of judicial time, effects on victims and witnesses and the interests of justice. No reduction may be granted in conflict with statutory restrictions on pardon, plea-bargaining or witness protection, and no reduction is ordinarily to be granted for guilty pleas where the Final Score*

[45] See, M Osiel, 'Agreements for Cooperation in Criminal Cases' 72 *Iowa Law Review* 1063 (1987); S Schulhofer, 'Cooperation's Cost' 88 *Michigan Law Review* 1415 (1990); Korean Institute of Criminology and Justice, *Sentence Reduction for Judicial Cooperators as a Response to Transnational Crime* (2026).

falls within Q5 (Final Score above 8) unless expressly authorised by statute and justified by special reasons.

The explicit recognition and structuring of guilty-plea discounts reflect the comparative insight, powerfully developed in the literature on guidelines and plea-bargaining, that sentencing rules shape bargaining dynamics and that open, rule-governed discounts are preferable to implicit, unreviewable bargains. Dhami's analysis of English guilty-plea reductions and American empirical work on "trial penalties" both demonstrate that unstructured incentives can undermine perceptions of fairness and may exert coercive pressure on defendants to plead, particularly in the shadow of highly punitive guideline ranges.[46]

The Guideline adopts a calibrated approach. It acknowledges that early guilty pleas can conserve resources, spare victims and witnesses the burdens of trial and contribute to timelier justice, but it constrains reductions within graduated ceilings and explicitly ties them to procedural stage and broader interests of justice. The special caution in relation to Q5 cases, where seriousness is already very high, indicates a sensitivity to the moral limits of bargaining: there is a point beyond which institutional efficiency cannot justify substantial discounts without undermining the expressive and retributive functions of punishment.

By requiring reasons for reductions and linking plea-related reductions to the structured score method and quintile framework, the Guideline attempts to avoid the "hidden sentencing law" of informal plea discounts and to bring plea-based sentencing into the same structured, reviewable grammar as other sentencing decisions.

[46] See, M K Dhami, 'Sentence Reductions for a Guilty Plea in England and Wales: Exploring New Empirical Trends' *Journal of Empirical Legal Studies* (2015); JF King & BF Johnson, 'Trial Penalties in Federal Sentencing: Extra-Guidelines Factors and District Variation' *Justice Quarterly* (2010).

BRINGING PLEA DISCOUNTS INTO THE LIGHT (RULE 13)

By linking guilty-plea and cooperation discounts to procedural stage and withholding plea-based reductions in Q5 cases, the Guideline eliminates the 'hidden sentencing law' of informal bargains and subjects plea concessions to the same reviewable grammar as trial sentences.

14. Harmonised Application to Plea Bargaining and Direct Pleas of Guilty: *Rule 14 applies the Provisional Sentencing Calculation in Forms PSC and PSC(A) uniformly to every plea of guilty, whether disposed of under Chapter XXIII of the BNSS or entered to the charge as framed, and settles the sequence that precedes the plea. The victim is heard on identity, facts and compensation; the court records the reformative finding on which the Q1 placement under Rule 6(2) depends and considers release under section 401 of the BNSS where the sentence permits; on the request of the accused the court gives a written Provisional Sentence Indication, valid for fifteen days, which does not bind the sentencing court and is followed by a plea only after the accused accepts it; and every Form, Written Basis of Plea and request is marked provisional and removed to a sealed cover if no plea follows. The Rule also establishes the electronic safe harbour for perjury and obstruction, routing any complaint under sections 215 and 379 of the BNSS through the Litigation Conduct Record after an opportunity to correct, and prescribes the oath, caution and record for statements under section 183 in Form S. The stage based reduction under Rule 13(3) is applied thereafter, separately from the reformative placement.*

Kasambhai Abdulrehmanbhai Sheikh v. State of Gujarat, (1980) 3 SCC 120, set aside a conviction on a bargained plea where the sentence fell below the statutory minimum. A sentence within the statutory range, as every sentence under the Guidelines is, does not repeat those facts. *Thippeswamy v. State of Karnataka*, (1983) 1 SCC 194, concerned a lawful sentence: the plea was induced by the expectation of leniency, and the High Court then enhanced the sentence on the State's appeal. The Court held that course contrary to Article 21 and directed that an inadequate sentence on such a plea be met by setting aside the conviction and remitting for trial. Rule 14(4) meets *Thippeswamy* at the sentencing court, because the plea is recorded only after the

court confirms the indicated sentence, which then caps the sentence passed (Rule 14(4)(d)), and the accused may withdraw if it does not. Rule 14(4)(e), proposed in Volume II, extends the same protection to appeal and revision.

Rules 13 and 14 rest on a proposition that the cross-country study does not test, and it should be stated as what it is. Paolini, Kantorowicz-Reznichenko and Voigt measure how much plea procedures are used. They do not measure how predictable sentences are or how discounts are scheduled, although Paolini's wider study records that many civil-law procedures fix the plea discount by law, that several common-law systems outside the United States grade it by the stage at which the plea is entered, and that some common-law courts indicate the likely sentence before plea. The case for a published, stage-graded concession and an early Provisional Sentence Indication comes from elsewhere: from the economic analysis of settlement, under which an accused compares a known plea sentence with the expected cost of trial (W. M. Landes, "An Economic Analysis of the Courts", Journal of Law and Economics, vol. 14 (1971), p. 61), and from the legal literature showing how uncertainty and structural pressures distort that comparison (S. Bibas, "Plea Bargaining outside the Shadow of Trial", Harvard Law Review, vol. 117 (2004), p. 2463). On that reasoning an accused can value a plea only if the baseline sentence, the concession and the stage at which it is earned are known in advance, and Form PSC(A) and Rule 14(4) supply each of them. The inference is theoretical and institutional. Whether predictability raises the number of fair and reliable pleas in Indian courts is a question for the pilot's records, not for foreign data.

15. The Totality Principle: *Rule 15 provides that where an offender is convicted of multiple offences or is already subject to an existing sentence, the court must ensure that the aggregate sentence is just and proportionate to the overall criminality. In applying the totality principle, the court must consider the entirety of the offending, the need to avoid excessive or disproportionate aggregate sentences and the desirability of directing sentences to run consecutively, and not merely concurrently,*

where necessary to reflect distinct offences, separate victims, transactions or dimensions of criminality. In cases involving obstruction of justice, fabrication of evidence, false implication or perjury, the court may make orders authorised by law in relation to compensation, costs or restitution and is cautioned not to award legal or investigative costs beyond statutory permission.

The totality principle has an established presence in common-law sentencing but has often lacked structured treatment in statutory frameworks. The Guideline's explicit articulation of totality reflects recognition that proportionality must apply to the *aggregate* sentence, not merely to individual counts viewed in isolation. As Ashworth and Roberts observe, without totality review, a sequence of individually justifiable sentences may produce a cumulative outcome that is "crushing" and out of line with overall culpability.[47]

By directing courts to consider the nature of multiple offending and to make conscious choices between concurrency and consecutivity, the Guideline seeks to reduce arbitrary variation in aggregate sentences and to ensure that distinct aspects of criminality are neither collapsed nor overstated. The special mention of obstruction-related offending underscores the reform's focus on the integrity of the criminal process: conduct that subverts adjudication may properly attract separate or enhanced sanction, but cost orders must remain within statutory authority to avoid punitive experimentation by way of costs.

16. Compensation, Restitution and Restorative Measures: *The Guideline requires courts, in appropriate cases, to consider making orders for compensation to victims, restitution of property or monetary loss, community service, probation and other non-custodial measures. In doing so, courts must regard the nature and extent of harm to the victim, the means and circumstances of*

[47] See, Andrew Ashworth and Julian V Roberts, 'Sentencing Multiple Offenders' in A. Ashworth and JV Roberts (eds), *Sentencing Guidelines: Exploring the English Model* (OUP 2013). Also see, Kameswari, G., & V. Nageswara Rao. "The Sentencing Process- Problems and Perspectives" 41 *Journal of the Indian Law Institute* 452–59 (1999).

the offender and applicable statutory provisions relating to compensation, probation or restorative measures.

This provision embeds restorative and reparative dimensions into the mainstream of sentencing rather than leaving them at the periphery as "soft alternatives." Indian sentencing practice has long acknowledged statutory powers to order compensation or to resort to probationary dispositions, but such measures have been underused and often decoupled from a coherent theory of sentencing. By making compensation and restitution part of the structured methodology, the Guideline encourages judges to view them as integral tools for achieving justice rather than as optional extras.

Comparative scholarship supports this integrative approach. Sentencing systems that remain exclusively custody-and-fine oriented tend to overuse imprisonment, under-compensate victims and neglect the potential of community-based sanctions to promote rehabilitation and social reintegration. The Guideline's emphasis on means and circumstances of the offender, and on legal frameworks for compensation and probation, also aligns with the constitutional concern that sentencing should be humane, proportionate and attentive to the dignity of both victims and offenders.

17. Sentencing of Organisations: *Rule 17 of Schedule I sets out specific considerations for organisational offenders. Seriousness is to be assessed having regard to the extent of organisational fault, the degree of management involvement, connivance or systemic failure, the economic or other benefit derived from the offence and the actual or potential impact on the public, market, institution or regulatory system. Within statutory limits, financial penalties or other sanctions must remove economic benefit, secure effective deterrence and remain proportionate given the impact on innocent stakeholders. In determining the amount of fine, courts may consider turnover, revenue or financial*

capacity; duration and scale of offending; prior misconduct; compliance failures and remediation; and the need to avoid unjust enrichment and promote compliance.

Rule 17 of the Schedule I concretises the general organisational sentencing principles stated in the principal Guideline. It is responsive to the recognition, in both Indian policy and comparative writing, that corporate and institutional misconduct often produces wide-ranging harms that cannot be reduced to the actions of a single individual and that require sanctions tailored to organisational structures and incentives.

The emphasis on removing economic benefit and on turnover-based assessment resonates with practices developed in competition, corruption and corporate crime sentencing in other jurisdictions, where fines calibrated to organisational capacity and unlawful gain are seen as essential to credible deterrence. At the same time, the caution to remain proportionate, especially in relation to innocent stakeholders, reflects an awareness that corporate sanctioning can easily spill over onto employees, creditors and other non-culpable parties. The Guideline, thus, steers a middle course between tokenistic fines and indiscriminate corporate incapacitation.

18. Duty to Record Reasons: *The final rule in Schedule I requires every sentencing order to record, in a clear and structured manner: the Base Score; the aggravating and mitigating factors applied; the Final Score; the quintile identified; any reduction, override, adjustment or departure; and the final sentence with reasons. Where the court departs from the sentence ordinarily indicated by the Guideline, it must record specific reasons, including any reliance on override provisions, totality or statutory obligations.*

This rule reiterates and concretises the Act's general requirement of reasoned sentencing. It is the procedural linchpin of the entire structured framework. Without a duty to record the elements of the scoring and mapping process, the Guideline

would risk becoming a set of background considerations whose influence on actual sentences is invisible and thus unreviewable.

The structured format for reasons serves several systemic functions. It enables appellate courts to assess whether the methodology has been properly followed, including whether aggravating and mitigating factors have been double-counted or overlooked. It furnishes the Sentencing Authority with a body of systematically recorded data from which to identify patterns of disparity or guideline malfunction. And it allows scholars, practitioners and the public to understand and critique sentencing practice in a way that is not possible when punishment decisions are expressed in formulaic or purely rhetorical terms.

In this respect, the duty to record reasons is not a mere formality. It is the chief mechanism through which sentencing is brought "within a clearer structure of legality," by ensuring that the most coercive decisions of the criminal process are also among the most structured and explicable.

Schedule I is the operational manifestation of the sentencing philosophy developed in Chapter I and of the statutory architecture analysed in Chapter III. It takes seriously the comparative lesson that guidelines must be both principled and practical: they must articulate a coherent theory of seriousness and penal aim, while providing a workable method that judges can follow under real-world conditions. By combining a score-based assessment of harm and culpability, a quintile-based mapping of seriousness into sentencing bands, structured treatment of aggravation and mitigation, explicit provisions on cooperation and plea-based reductions, a totality framework, restorative measures and organisational sentencing, and a robust duty to give reasons, Schedule I seeks to transform sentencing from an opaque craft into a disciplined juridical practice. It does so without denying the inevitability of discretion; instead, it demands that discretion be exercised through a common

public grammar and under conditions of transparency, reviewability and empirical accountability. In that sense, the General Sentencing Guideline embodies the core ambition of the proposed Sentencing Guidelines, 2026: to ensure that the transition from conviction to punishment is no longer the least structured phase of the criminal process, but one of its most principled, publicly intelligible and constitutionally defensible stages.

CHAPTER VI

Practical Working of the Framework

How a sentence is actually built: a preliminary plea step under Rule 13A, ten sequential steps, the score to quintile map, and eight worked illustrations.

TEN SEQUENTIAL STEPS, NONE MAY BE OMITTED

0. Where Form I-A Part B is filed: victim hearing and written Provisional Sentence Indication before any plea is recorded (Rule 13A(3), (4))
1. Determine seriousness by the structured score method, including the reformative finding and Rule 6(2) reduction for an early truthful plea
2. Identify the quintile that seriousness indicates
3. Identify a starting point within that band
4. Adjust within the band for aggravating and mitigating factors
5. Apply the stage based reduction under Rule 13(3), separately from Rule 6(2), and any Rule 12 reduction for assistance
6. Apply the totality principle across multiple offences
7. Consider compensation, restitution and measures other than custody
8. Ensure the sentence remains within the statutory range
9. Finalise the sentence
10. Record reasons: base score, factors, final score, quintile, reductions, departures, the reformative finding and any finding under Rule 13A(5)(d)

SCORE TO QUINTILE

Q1	0 to 2	Lower seriousness, reformative approach
Q2	>2 to 4	Below average, partial mitigation
Q3	>4 to 6	Average, default placement
Q4	>6 to 8	Above average: premeditation, repeat, serious harm
Q5	>8 to 10	High, exemplary; death only in the rarest of rare

The quintile gives the presumptive band and the starting point. Departure is permitted only where strict application would work manifest injustice, with reasons recorded and, where practicable, quantified.

Two plea credits, counting different facts

Rule 6(2)(b): a 4 point reformative placement at the scoring stage on the court's finding of a truthful first hearing plea, remorse, no prior in the same Chapter and no contested fact. Rule 13(3): a stage based cut after the band, up to one third at the first hearing, one fourth before closure of prosecution evidence, one tenth after. Substantial assistance a further one third. The four point cap in Rule 7(3) applies to Rules 5(1) and 6(1), not to Rule 6(2).

EIGHT WORKED ILLUSTRATIONS

ILLUSTRATION I

Robbery with threat of violence

Planning +1, weapon +1; no priors −1, phone returned −1; reformative finding −4.

5 + 2 − 2 − 4 = 1 → Q1

ILLUSTRATION II

Large scale corporate fraud

Cascading loss +2, governance failure +0.5; full restitution −2, cooperation −2.

5 + 2.5 − 4 = 3.5 → Q2

ILLUSTRATION III

Youthful impulsive assault

No aggravation; youth, remorse and reform prospects −3; reformative finding −4; floored at 0.

5 − 3 − 4 = 0 → Q1

ILLUSTRATION IV

Repeat serious sexual offending

Priors, vulnerability and abuse of trust +4. Chapter XXIII excluded by s. 289; plea reductions barred in Q5.

5 + 4 = 9 → Q5

ILLUSTRATION V

Multiple offences and totality

Each count scored separately, then the court steps back: concurrency for one scheme, consecutive only to mark distinct criminality.

ILLUSTRATION VI

Capital case and appellate scrutiny

Q5 with override for multiple deaths and cruelty. The High Court reviews the scoring, not merely the conviction.

ILLUSTRATION VII

The plea pathway under Rule 13A

Victim heard; disposition declined; indication given and accepted; plea recorded; probation under s. 401 BNSS; rollback to sealed cover if the indication fails.

5 + 1 − 1 − 4 = 1 → Q1

ILLUSTRATION VIII

Perjury routing under Rule 13A(5), (6)

Form S statement contradicted at trial; opportunity to correct; complaint by the trial court under s. 379(1), framed in the alternative under s. 244; accused scored only for procuring the lie.

Chapter VI – Practical Working of the Sentencing Framework

I. Introduction

The Sentencing Guidelines, 2026 are designed not as an abstract code, but as a practical machinery to structure the judicial journey from conviction to the final order on sentence. The principal part provides the legislative spine: it mandates a quintiles-based framework, integrates guidelines with the Bharatiya Nyaya Sanhita, 2023 ("BNS"), and requires reasoned sentencing orders. Schedule I, in turn, supplies the operational method through which courts assess seriousness, locate the case within the statutory range, and apply adjustments for aggravation, mitigation, plea, cooperation, totality and restorative measures.

This chapter explains the working of that machinery in detail. It has two objectives. First, it sets out the calculation method under Schedule I in analytic terms, showing how the structured score and quintile mapping operate within the punishment limits prescribed by the law. Secondly, it develops eight worked illustrations that simulate typical and difficult sentencing situations, thereby demonstrating how the framework produces concrete outcomes without degenerating either into rigid tariffing or unstructured intuition. Throughout, punishment remains anchored in the offence: the Guidelines can never authorise a sentence above the statutory maximum or below any mandatory minimum, nor can they alter the form of punishment (death, life, imprisonment, fine, community service, etc.) that Parliament has chosen, save that section 293 of the BNSS, which is Parliament's own exception, permits a sentence below a mandatory minimum where the case is disposed of under Chapter XXIII. Rule 14 of Schedule I and the Forms in Annexure A are the procedural machinery through which the method reaches the

plea stage and the record of statements under section 183 of the BNSS; both operate under the BNSS as it stands.

II. Sequential Methodology under Schedule I

2.1 Statutory anchoring

Every sentencing decision begins with the statutory range under the BNS or other substantive law. The BNS specifies, for each offence, the type and quantum of punishment, for example, "imprisonment up to three years, or fine, or both", or "imprisonment not less than three years but which may extend to ten years and fine", or "imprisonment for life or death". Section 4 of the BNS enumerates the available punishments (death, life, rigorous/simple imprisonment, forfeiture, fine, community service), and related provisions govern issues such as default terms for non-payment of fine and enhanced punishment for repetition. Schedule I does not disturb this architecture. It explicitly provides that the sentence "shall in every case remain within the limits prescribed by the applicable substantive law", and that nothing in the Guideline authorises a sentence beyond the statutory range or below any mandatory minimum. In short, the BNS fixes the outer boundary; Schedule I structures the choice within that boundary.

> **STATUTORY ANCHORING IN PRACTICE**
> *The Bharatiya Nyaya Sanhita fixes the outer boundary of punishment; Schedule I structures the judicial choice within that boundary.*

2.2 The ten-step sequence

Part II of Schedule I requires courts to follow a sequential, cumulative methodology whenever they sentence an adult or an organisation:

Preliminary step (Rule 14(3) and (4)). Where the accused has filed Form PSC(A) Part B, the victim hearing on identity, factual basis and compensation, and the written

Provisional Sentence Indication, precede the recording of any plea; the plea is recorded only after the court confirms the indication and the accused accepts it.

1. Determine the seriousness of the offence using the structured score method (Part III). The reformative finding under Rule 14(2)(a) and the Rule 6(2) reduction for an early truthful plea are made at this stage.
2. Identify the appropriate sentencing band or quintile indicated by that seriousness.
3. Identify a starting point within that band.
4. Adjust the sentence within the band for aggravating and mitigating factors.
5. Consider the stage based reduction under Rule 13(3), applied after and separately from Rule 6(2), and any reduction under Rule 12 for assistance.
6. Apply the totality principle where multiple offences or existing sentences are involved.
7. Consider compensation, restitution and non-custodial measures.
8. Ensure the sentence remains within the statutory range.
9. Finalise the sentence.
10. Record reasons in a structured way (Base Score, factors, Final Score, quintile, reductions, departures, the reformative finding, any Provisional Sentence Indication, and any finding under Rule 14(5)(d)).

No step may be omitted unless the court expressly justifies the omission in the sentencing order. This sequencing is critical: it separates distinct normative questions (seriousness, mitigation, plea, totality) and makes visible the path from facts to punishment.

III. The Structured Score Method and Quintile Mapping

3.1 Base Score and adjustments

For every offence, the court begins with a Base Score of 5, representing a "typical case" at the midpoint of the statutory punishment range. This baseline links sentencing strongly to the offence definition and the maximum/minimum chosen by Parliament: a more serious statutory offence will have a higher range and, therefore, a more severe band structure, even if the Base Score is numerically the same. From this baseline, the court adjusts upward for aggravating score factors and downward for mitigating score factors, each capable of contributing a certain number of points as provided for in Rules 5 and 6 of Schedule I respectively. The court is directed to avoid duplication where factors overlap and to base mitigation on reliable material (antecedents, reports, restitution evidence, medical records, etc.). The 4 point reformative placement under Rule 6(2)(b) attaches on the court's recorded finding of the four conditions in Rule 14(2)(a), not on the plea alone; the stage based credit under Rule 13(3) is applied later and counts a different fact, which is what keeps the two clear of the duplication bar in Rule 7(4).

3.2 Safeguards and score envelope

The Guideline imposes important safeguards:

a) The Final Score is ordinarily between 0 and 10.
b) Total upward or downward adjustment from the Base Score (5) will "ordinarily" not exceed 4 points, unless exceptional reasons are recorded.
c) In overlapping situations, the court must choose the most appropriate factor(s) rather than double-counting.
d) A Final Score of 0 corresponds to the lowest seriousness, where the sentence may range from no punishment to the lower end of the statutory range, subject to law.

e) No aggravation is founded on the accused's answers under section 351 of the BNSS, on his denial of the charge, or on his exercise of the right to trial (Rule 5(1)(b) proviso).
f) A witness's independent false evidence is never scored against the offender; only conduct the trial court itself finds, and which is independently an offence under Chapter XIV of the BNS, can be scored (Rule 14(5)(d)).

These safeguards reduce the risk of runaway escalation or unprincipled leniency, and ensure that extreme scores are reserved for truly exceptional cases.

3.3 Mapping scores to quintiles

Once the Final Score is determined, the court must map it to an indicative quintile:

1. 0 to 2 → Q1 (lower seriousness).
2. >2 to 4 → Q2 (below-average seriousness).
3. >4 to 6 → Q3 (average seriousness).
4. >6 to 8 → Q4 (above-average seriousness).
5. >8 to 10 → Q5 (high seriousness).

The quintile then guides where, within the statutory range of the offence, the sentence should ordinarily fall. For example, for an offence with a maximum of seven years and no minimum, Q3 might correspond to the central segment (approximately 2.8–4.2 years), Q1 to the lower segment (0–1.4 years), and Q5 to the upper segment (5.6–7 years). The court then selects a starting point inside that segment, bearing in mind the exact score (e.g., 5.2 versus 6.8). The Guideline emphasises that the quintile is a presumptive band, not a rigid tariff. Departure is possible, but only for recorded reasons of manifest injustice or statutory intent, and such departures themselves form material for future review by appellate courts and the Sentencing Authority. A Q1 placement on a reformative finding triggers the mandatory consideration under Rule 14(2)(e) of release under section 401 of the

BNSS, probation under sections 3 or 4 of the Probation of Offenders Act, 1958, community service under section 4(f) of the BNS, and restitution.

IV. Illustrations

Illustration I: Robbery with Threat of Violence

1. Scenario

An adult offender is convicted of a street robbery. He brandishes a knife, threatens the victim and steals a phone and cash; no actual injury occurs. The incident was preceded by some planning (choosing a time and place, targeting a lone victim). The victim is middle-aged but not extremely vulnerable. The offender has no prior convictions, pleads guilty at an early stage and returns the phone through the police. The applicable BNS offence is robbery under section 309(4), punishable with rigorous imprisonment up to ten years and fine, with no statutory minimum. The accused files Form PSC(A) Part B with the Declaration of Antecedents and requests a Provisional Sentence Indication.

2. Calculation

1. **Statutory range:** 0 to 10 years under section 309(4) BNS (Part A of Schedule II: Q1 is 0 to 2 years, Q3 is 4 to 6 years). This is divided into quintiles for band purposes.
2. **Base Score:** 5 (typical robbery).
3. **Aggravation:**
    a) Premeditation / planning: +1 (more than impulsive, less than sophisticated).
    b) Use of a weapon and implied violence: treated under "repeated acts/serious violence or harm" at +1 (upper ordinary range but without severe injury).
    Total aggravation: +2.
4. **Mitigation:**
    a) No prior conviction and otherwise stable conduct: -1.

b) Restitution (phone returned): -1 (partial reparation).
c) Early guilty plea at the first hearing: the court hears the victim under Rule 14(3) (identity and facts confirmed, phone returned, compensation fixed) and records the reformative finding under Rule 14(2)(a): the plea is truthful and voluntary, remorse is expressed, there is no previous conviction in Chapter XVII of the BNS (Item B4 sworn), and no contested fact requires trial. Reduction under Rule 6(2)(b): -4.

Total score mitigation: -2, plus -4 reformative placement.

5. **Final Score:** 5 + 2 - 2 - 4 = 1 → Q1 (lower seriousness).
6. **Quintile band:** Q1 corresponds to the lowest fifth of the statutory range, 0 to 2 years under section 309(4).
7. **Provisional Sentence Indication:** the court indicates in writing, before any plea is recorded, a term in the upper part of Q1 (about 18 months) to reflect the weapon and the planning, informs the accused that the indication does not bind the sentencing court, and records the plea under section 264 of the BNSS only when the accused accepts it.
8. **Plea reduction:**
   a) Plea at the first hearing: a stage based reduction of up to one third under Rule 13(3)(a), applied within Q1 after and separately from the Rule 6(2)(b) reduction (Rule 14(2)(d)).
   b) From 18 months, a one third reduction yields 12 months; the court then considers, as Rule 14(2)(e) requires, whether probation under section 401 of the BNSS is appropriate, and concludes that the knife makes a short custodial term necessary.
9. **Final sentence:** twelve months' rigorous imprisonment, fine, and compensation to the victim, with the reformative finding, the Provisional Sentence Indication and the victim's objection, if any, recorded in the order under Rule 18. Variant: had the offence carried a mandatory minimum (for instance section 309(6), not less than seven years), the Q1 placement would have anchored at that minimum under Rule 14(2)(a), and only a disposition under section 293 with the victim joining could have gone below it.

3. Observations: The framework ensures that violence and planning push the case above the very bottom of the range, but a clean record, restitution and a truthful plea at the first hearing, found as facts rather than assumed from the plea, move a first time offender into Q1 while leaving the court free to choose custody within that band. The sentence is thus proportionate to seriousness and responsive to mitigation, with every step openly recorded.

Illustration II: Large-Scale Corporate Fraud

1. Scenario

A private limited company systematically inflates invoices over three years, causing ₹50 lakh loss to twenty small counterparties through dishonest inducement of delivery of goods on credit. The fraud yields substantial unlawful gain but does not immediately threaten life or public safety. Upon detection, the company fully cooperates with investigators by disclosing internal records, dismisses culpable officers, implements SFIO-compliant compliance reforms, and tenders full restitution to all identifiable victims. The main crime is cheating under BNS Section 318(4)—tricking someone into giving property, punishable by up to 7 years in jail plus fine. Companies Act 2013 also applies: Section 447 covers fraud (6 months to 10 years jail + fine of at least the fraud amount, up to 3 times more, minimum 3 years if public interest is involved), and Section 454 lets the Registrar of Companies impose civil penalties for non-criminal violations like related-party deals under Section 188. In practice, companies mainly get hit with big financial penalties based on their size, the harm caused, and illegal profits, plus other orders under both laws.

2. Calculation

1. **Statutory Framework:** BNS s. 318(4) permits imprisonment up to 7 years RI or fine or both; Companies Act s. 447 escalates for fraud (min. fine = amount involved, up to 3x + RI). For corporate entity, fine is primary

sanction, imprisonment vicarious on directors/officers; Schedule I organisational rules prioritise gain removal, deterrence, and proportionality avoiding innocent stakeholder harm.

2. **Base Score:** 5 (typical case).
3. **Aggravation (total +2.5, avoiding duplication):**
   a) Significant economic/institutional impact (+2: large-scale multi-party loss cascading to small vendors).
   b) Systemic element (repeated invoicing exploiting institutional position; +0.5, distinct from scale as it reflects governance failure, not mere quantum).
4. **Mitigation (total -4, bounded by adjustment cap):**
   a) Full restitution/meaningful reparation (-2: prompt, complete voluntary repayment before sentencing).
   b) Full/timely cooperation materially aiding detection/recovery/conviction (-2).
   c) Post-offence compliance reform/remediation (-subsumed in cooperation; no separate points to avoid overlap).
5. **Final Score:** 5 + 2.5 - 4 = 3.5 → Q2 (below-average seriousness post-mitigation).
6. **Quintile Band:** Q2 within BNS/CA range suggests lower financial severity; starting fine removes gain (₹50 lakh) + deterrence premium calibrated to turnover (assume ₹10 crore company: 1–2% = ₹1–2 crore range, starting ~₹1.25 crore).
7. **Adjustments:**
   a) Plea/cooperation already scored.
   b) Totality N/A (single representative count).
   c) Ancillary: compensation (full, already paid), compliance order (2 years monitoring under CA s. 447/212 SFIO powers if public interest), publication of conviction (CA practice)
8. **Final Sentence:**
   a) Fine: ₹1.25 crore (gain removal + premium; within CA s. 447 max 3x ₹50 lakh = ₹1.5 crore).
   b) Full restitution (complied).

c) 2-year independent compliance monitoring + conviction publication.
d) Directors/officers: separate adjudication under CA s. 447 (3–10 yrs RI if personal fraud + personal fines).

9. **Reasons Recorded:** Seriousness initially high from scale/systemic fault (Score elevated to 7.5 pre-mitigation) but substantially reduced by exemplary reparation/cooperation (final 3.5, Q2); corporate sanction emphasises economic accountability over imprisonment; aligns with BNS flexibility and CA fraud deterrence without disproportionate stakeholder impact.

3. Observations: This calculation exemplifies Schedule I's sophistication in corporate contexts: the structure that rigidly escalates personal violence (as in Illustration I) permits calibrated mitigation where institutional offenders deliver full reparation and systemic reform, yielding economically rational outcomes over punitive overreach. Integration with Companies Act, 2013 reinforces hybrid enforcement, BNS for core criminality (cheating inducement), CA s. 447 for fraud escalation (gain-based fines + director liability), ensuring Schedule I supplements rather than supplants specialised regimes. Empirical monitoring by the Sentencing Authority will reveal whether Q2 placements unduly favour restitution-capable entities, prompting future refinement as in English guideline evolution.

Illustration III: Youthful Offender in Impulsive Assault

1. Scenario

A 19-year-old student with no prior record participates in a spontaneous altercation, causing minor injury without any weapon. He immediately expresses remorse, escorts the victim to hospital, pays expenses and surrenders to the police. He pleads guilty at the first opportunity. The relevant BNS offence is punishable with imprisonment up to a short term and/or fine. He files Form PSC(A) Part B with the

Declaration of Antecedents and requests a Provisional Sentence Indication; the victim, heard under Rule 14(3), confirms the facts and the payment of expenses.

2. Calculation

1. **Statutory range:** 0 to a modest maximum term, or fine, or both.
2. **Base Score:** 5.
3. **Aggravation:**
    a) Limited: minor public violence may be treated as +0.5 in serious cases, but here no weapon and minor harm; the court may treat the case as close to the typical baseline and either apply no aggravation or a very small uplift.
4. **Mitigation:**
    a) Youth and absence of priors: -1 to -2.
    b) Immediate remorse and corrective conduct (helping victim, surrender): -1 to -2.
    c) Restitution of medical expenses: -1.
    d) Strong prospects of reform (education, family support): -1.
    e) Early guilty plea at the first hearing: reformative finding recorded under Rule 14(2)(a) (truthful and voluntary plea, remorse, no previous conviction in Chapter XVI of the BNS, no contested fact): -4 under Rule 6(2)(b).
5. **Final Score:** For instance, 5 - 3 - 4 = -2, floored at 0 under Rule 7(2) → Q1 (lower seriousness, lowest point).
6. **Band:** Q1 corresponds to the lowest segment, including the possibility of non-custodial sentences, subject to law. Rule 14(2)(e) requires the court to consider release under section 401 of the BNSS or sections 3 or 4 of the Probation of Offenders Act, 1958, with section 12 of that Act removing any disqualification attaching to the conviction, community service under section 4(f) of the BNS, and restitution.
7. **Plea reduction:**

    The court gives a written Provisional Sentence Indication of release on probation of good conduct under section 401 of the BNSS with the medical expenses already restituted; the accused accepts; the plea is

recorded under section 275 of the BNSS. The Rule 13(3)(a) stage reduction has nothing to operate on because no custodial term is imposed, and the order under Rule 18 says so.

3. Observations: The illustration shows how Schedule I supports principled leniency without arbitrariness. The low Final Score and Q1 placement reflect genuine mitigation; the structure makes that mitigation visible, preventing like cases from being treated wildly differently across courts. It also shows the sequence Rule 14(4) imposes: indication first, acceptance second, plea third, so that section 403 of the BNSS is never engaged and a declined indication can be rolled back into a sealed cover.

Illustration IV: Repeat Serious Sexual Offending

1. Scenario

An adult is convicted of a serious sexual offence against a vulnerable victim. The offence involved abuse of trust, premeditation and significant psychological harm. The offender has two prior convictions for similar conduct within the last ten years, denies responsibility, shows no remorse and offers no restitution. The relevant BNS offence carries a high maximum, potentially including life imprisonment, and mandatory minimums in some configurations. Chapter XXIII of the BNSS is unavailable under section 289 (an offence against a woman, and punishable above seven years), so only a plea to the charge as framed could have been entered, and none was. The victim's statement was recorded on oath under section 183(6)(a) of the BNSS; under Rule 14(6)(e) no Form S caution or acknowledgment is taken from such a deponent and no Litigation Conduct Record flag is raised, so any contradiction at trial is for the trial court under section 379 in the ordinary way.

2. Calculation

1. **Statutory framework:** High statutory range, possibly with mandatory minimum and enhanced punishment for repeat or aggravated circumstances.
2. **Base Score:** 5.
3. **Aggravation:**
   a) Prior similar convictions: +2 (repeat and same category).
   b) Vulnerable victim: +2.
   c) Abuse of trust/authority: +2 (systematic misuse).
   d) Serious psychological harm beyond the ordinary range: +2.
   e) Planning: +1–2.

   In practice, the safeguard on total adjustment (ordinarily ±4) requires the court to ensure these overlapping dimensions do not generate uncontrolled escalation; it will select the combination sufficient to capture very high seriousness (e.g., +4 from the most salient overlapping factors).
4. **Mitigation:** Essentially none. Absence of remorse does not by itself aggravate but blocks mitigation; the denial of responsibility is the exercise of the right to trial and is not scored (Rule 5(1)(b) proviso). Had the court found on the record that the offender threatened the victim or a witness, that would be +2 under Rule 5(1)(b)(ii) read with section 232 of the BNS, within the overall cap.
5. **Final Score:** 5 + 4 = 9 → Q5 (highest seriousness).
6. **Band:** Q5 corresponds to the uppermost segment of the statutory range (from a high minimum up to maximum). For offences with potential life imprisonment, this may mean a very long term of imprisonment or life, subject to statutory constraints and constitutional jurisprudence.
7. **Plea/cooperation:** No guilty plea; no cooperation. The Guideline also limits plea-based reductions in Q5 cases (Final Score above 8) absent specific statutory authorisation and "special reasons", reflecting the moral limits of bargaining in very grave offences. Rule 13(7) would have barred any plea reduction in Q5 even had a plea been entered.

3. Observations: Here the framework channels severity through structured reasoning. The sentence will be severe, but not because of an intuitive sense that this is a "bad case"; rather, because the scoring and mapping process, grounded in legislatively recognised aggravators (repeat offending, vulnerability, abuse of trust), leads transparently to Q5. Severity is driven by what is proved, not by the manner of the defence.

Illustration V: Multiple Offences and the Totality Principle

1. Scenario

An offender is convicted in a single trial of several property-related offences (for example, cheating, forgery and criminal breach of trust) arising from a single fraudulent scheme, causing cumulative financial loss to one complainant. Each offence has its own BNS punishment range; cumulatively, the maximum exposure is very high. The offender has no priors, has partially repaid the money and has cooperated in recovering some assets.

2. Calculation

1. **Individual offence scoring:** For each count, the court assesses seriousness using the structured score method and maps it to a quintile. It might find, for example, that each count individually falls in Q3 or Q4 because of planning, breach of trust and substantial financial harm.
2. **Starting sentences:** For each offence, the court identifies a starting point within the relevant quintile band, adjusting for partial restitution and cooperation as mitigation.
3. **Totality principle:** The court must then step back and ask whether simply adding all custodial terms consecutively would produce a just and proportionate aggregate sentence. Totality requires that the overall punishment reflect the *whole criminality*, not a mechanical sum of counts.
4. **Concurrency vs consecutivity:** Where several offences form part of one comprehensive scheme against a single victim, sentences may properly run

concurrently, with a modest consecutive element only if necessary to mark distinct criminality (e.g., a separate episode, separate victims, or qualitatively distinct harm).

5. **Final outcome:** The result may be a single moderate term reflecting the overall course of conduct, rather than a crushing cumulative term that would be disproportionate to the offender's culpability and prospects of reform.

3. Observations: The illustration shows that Schedule I is not confined to single-count cases. It provides a tool for managing the complexity of multi-offence sentencing while containing cumulative severity within principled bounds. Where the forgery count concerns a document produced or given in evidence in court, the forgery offence itself falls under section 215(1)(b)(ii) of the BNSS and any complaint is routed under Rule 14(5)(c); the sentencing of the count is unaffected.

Illustration VI: Capital/Life Imprisonment Case and Appellate Scrutiny

1. Scenario

An offender is convicted of a murder involving multiple victims, exceptional cruelty and clear premeditation. The trial court, applying the framework, imposes the death penalty, concluding that the case falls within the "rarest of rare" category. The matter goes to the High Court for confirmation.

2. Working of the framework

1. **Trial court stage:**
   a) The trial court applies the score method and, unsurprisingly, arrives at a Final Score in Q5 with extreme aggravation (multiple deaths, torture, exceptional cruelty).
   b) The court then invokes the structured override provision, which expressly lists circumstances such as multiple deaths, terrorism, and exceptional cruelty as grounds to move beyond the ordinary ceiling where necessary.

c) It explains why even a maximum life term would undervalue the gravity of the offence and why death is justified, subject to constitutional standards.

2. **Appellate/confirmation stage:**
   a) Under the Act, the High Court must examine not only the conviction, but also the application of Schedule I, including harm-culpability assessment, quintile determination, override and any departure from ordinary bands.
   b) The framework thus imposes a structured record on which the appellate court can evaluate whether the "rarest of rare" conclusion is consistent with both guideline logic and constitutional doctrine.
3. **Outcome:** The High Court may confirm, commute or alter the sentence, but it must engage with the structured reasoning rather than a bare recitation of aggravating and mitigating circumstances.

3. Observations: In the gravest cases, the framework enhances, rather than weakens, constitutional safeguards. It forces trial courts to articulate why the case is so exceptional as to warrant the ultimate penalty, and it gives the appellate court a transparent record for scrutiny. Rule 13(7) also withholds plea based reductions in Q5, so the structured record is not distorted by bargaining at the top of the range.

Illustration VII: The Plea Pathway under Rule 14

1. Scenario

A first time offender is charged with cheating under section 318(4) of the BNS (imprisonment up to seven years and fine, no statutory minimum) for inducing a supplier to deliver goods on credit worth Rs. 4 lakh. The Public Prosecutor files Form PSC(A) Part A with the charge sheet under section 193 of the BNSS, showing a Base Score of 5 with +1 for planning and -1 for partial restitution. At the first hearing the accused files Form PSC(A) Part B: an election to plead guilty to the charge as framed, a request for a Provisional Sentence Indication, and the

Declaration of Antecedents in Item B4, sworn before the court, stating that he has no previous conviction in Chapter XVII of the BNS.

2. Working of the framework

(a) Victim hearing (Rule 14(3)). The court notifies the supplier and hears him on the identity of the accused, the factual basis of the charge and the Prosecutor's Charge Integrity Certificate, and on compensation. The supplier confirms identity and facts, obtains an order for full restitution of Rs. 4 lakh, but declines to join a mutually satisfactory disposition because he objects to any discount. The application under Chapter XXIII stands closed under section 292 of the BNSS; the victim's objection to the sentence is recorded as a relevant consideration.

(b) Reformative finding (Rule 14(2)(a)). On the record, including Item B4 and the Charge Integrity Certificate, the court finds that the plea is truthful and voluntary, that remorse has been expressed, that there is no previous conviction in Chapter XVII, and that no trial is required on any contested fact. It records the reformative finding and applies -4 under Rule 6(2)(b). Final Score 5 + 1 - 1 - 4 = 1, Q1 (0 to 1.4 years in Part A of Schedule II for a seven year maximum).

(c) Provisional Sentence Indication (Rule 14(4)). Before any plea is recorded the court gives a written indication: Q1, a stage reduction of one third under Rule 13(3)(a), and release on probation of good conduct under section 401 of the BNSS with a condition of restitution, and informs the accused that the indication does not bind the sentencing court. The accused accepts within fifteen days. The plea is then recorded under section 264 of the BNSS and conviction follows.

(d) Sentence and order. Release under section 401 with a bond, full restitution to the supplier, and an order under Rule 18 recording the Base Score, the factors, the reformative finding and its conditions, the Provisional Sentence Indication, the victim's objection and the court's reasons for proceeding notwithstanding it. The

State may appeal under section 418 of the BNSS if it considers the sentence inadequate, but the appellate court may not enhance the sentence by acting on the plea; if it finds the sentence inadequate, it sets aside the conviction and remits the case for trial (Thippeswamy v. State of Karnataka, (1983) 1 SCC 194; Rule 14(4)(e), proposed in Volume II); the victim's appeal under section 413 lies on compensation, not on the quantum of sentence.

(e) Rollback variant. Had the court, on hearing the victim, declined to confirm a Q1 placement, the accused could have withdrawn his request under Rule 14(4)(c); Form PSC(A) Part B and the Written Basis of Plea would have been removed to a sealed cover, not referred to by any party or the court, and the case transferred where practicable to another presiding officer under section 448 of the BNSS. Section 22 of the Bharatiya Sakshya Adhiniyam, 2023 would govern any statement the accused made in response to the indication.

3. Observations

The illustration shows that the victim's refusal to join a disposition closes the Chapter XXIII route but does not close the court's ordinary sentencing discretion on a plea to the charge as framed, which Schedule I structures in the same way. The sequence (indication, acceptance, plea) avoids section 403 of the BNSS; the sworn Item B4 is the only part of the Form on which the accused is on oath, and it concerns collateral facts only.

Illustration VIII: Perjury Routing under Rule 14(5) and (6)

1. Scenario

In a Sessions trial for grievous hurt, an eyewitness had earlier given a statement under section 183 of the BNSS before a Magistrate, on oath, after the Form S caution: that he saw the accused strike the complainant with an iron rod. At trial the

same witness deposes on oath that he was not present and saw nothing. The accused, examined under section 351 of the BNSS, denies the incident and gives an account the court later finds to be untrue.

2. Working of the framework

(a) Detection and opportunity to correct (Rule 14(5)(a) and (b)). The Litigation Conduct Record, which holds the section 183 statement and its Form S with the e Sakshya hash, flags the contradiction. The Registry issues an electronic Opportunity to Correct communication to the witness, in his vernacular through the District Legal Services Authority, attaching both statements and stating that no court has formed any opinion. The witness does not withdraw or correct either statement within fifteen days.

(b) Judicial opinion and complaint (Rule 14(5)(c)). The Registry places the dossier before the Sessions Judge, who, as the trial court before which the later statement was given, is competent under section 379(1) of the BNSS in respect of both statements, the earlier one having been made in relation to the proceeding before it (section 2(1)(j) of the BNSS read with Explanation 2 to section 229 of the BNS), and records a brief order under section 379(1) that a complaint is expedient in the interests of justice, treating the persistence after notice as material indicating deliberateness but not as a deemed finding. The authorised officer of the court signs and transmits the complaint under sections 379(3)(b) and 382 to the Magistrate of the first class, framed in the alternative under section 244 of the BNSS and Illustration (d) thereto, so that the perjury trial does not fail for want of proof of which statement was false.

(c) Effect on the main trial (Rule 14(5)(d)). Nothing is scored against the accused under Rule 5(1)(b) for the witness's change of evidence, unless the court finds on the record that the accused procured it. Here the court finds, on the evidence of a

second witness and call records, that the accused threatened the eyewitness: that is an offence under section 232 of the BNS, and the court records its own finding and applies +2 under Rule 5(1)(b)(ii). The accused's own untrue account under section 351 is not scored at all: section 351(3) of the BNSS forbids punishing him for it, and the proviso to Rule 5(1)(b) gives effect to that bar; the court may still treat the false explanation as an additional link at the guilt stage under section 351(4).

(d) Contrast: the accused's sworn declaration. Had this accused, in an earlier case, sworn in Item B4 of Form PSC(A) that he had no previous conviction in Chapter XVI of the BNS when he had one, the reformative finding in that case would have stood withdrawn under Rule 14(2)(g) and the court before which the declaration was sworn could have proceeded under section 379 in respect of it, because a voluntary sworn declaration of collateral facts, like the affidavit under section 290(2) of the BNSS, is outside the immunity of section 351(3).

3. Observations

The illustration shows the three lines the framework holds at once. The witness answers for his own perjury under sections 215 and 379 of the BNSS, through the trial court under section 379(1) and not through a private complaint; the Sessions Judge acts under section 379(2) only where a trial Magistrate has neither complained nor refused. The accused answers for what he did to the witness, on the court's own finding, and not for the witness's conduct. And the accused is never scored for his own unsworn answers or for his denial, so that the sentencing premium on obstruction never becomes a premium on the right to trial.

Across these illustrations, a common pattern emerges. The court begins with the BNS range and form of punishment, which the Guideline cannot change. The Court uses the structured score method to anchor seriousness in harm, culpability and context, rather than purely intuitive impressions. The Court maps seriousness

into quintiles to locate the case within the statutory range, thereby advancing "consistency of approach" without mandating identical outcomes. The Court applies structured mitigation and plea/cooperation reductions that are visible and bounded, avoiding hidden discounts and double counting. The Court uses totality and restorative measures to align aggregate punishment with overall criminality and the interests of victims. The Court, further, records reasons in a standardised format, thereby enabling appellate review, empirical study and eventual guideline refinement by the Sentencing Authority. The practical significance of the framework lies therefore not in replacing judgment, but in reframing judgment as a reasoned, sequential and public exercise. Discretion remains, but it is no longer a matter of unarticulated instinct; it is embedded in a method that links facts to punishment through visible steps. With Rule 14, the method now reaches the plea stage and the record of statements as well as the sentencing hearing, and the Litigation Conduct Record supplies the Sentencing Authority with the data on plea rates and witness conduct that section 18(1)(a)(v) contemplates.

> **JUDGMENT THROUGH VISIBLE STEPS**
> *The practical significance of the framework lies not in replacing judicial judgment, but in reframing judgment as a reasoned, sequential, and public exercise—linking facts to punishment through ten auditable steps.*

CHAPTER VII

Conclusion and the Road Ahead

Systemic effects the framework is built to deliver, and the sequence of steps from proposal to durable institutional reform.

WHAT THE FRAMEWORK IS DESIGNED TO CHANGE

Backlog and pendency

Clear, bounded plea and cooperation reductions reduce informational uncertainty and make negotiated resolution rational for both sides — increasing early resolutions without sacrificing accuracy.

Prison capacity

Custody is reserved for cases where it is proportionate and necessary. Q1–Q2 cases become strong candidates for probation, community service, compensation and restorative measures.

Optics-driven sentencing

Recording the base score, adjustments, final score, quintile and reasons for departure replaces ad hoc responses to public outcry with a reasoned narrative testable on appeal.

Integrity of process

Perjury, fabrication, false implication and witness interference aggravate the score, while truthful cooperation reduces it — aligning incentives towards truth rather than strategic dishonesty.

A WAY FORWARD

1. **Establish the Authority** — Formal constitution and resourcing of the Sentencing Authority
2. **Build the data spine** — Robust sentencing data collection in trial courts
3. **Train the system** — Phased rollout across the judiciary, prosecution and bar
4. **Pilot before scaling** — Offence-specific guidelines tested in high-volume categories
5. **Revise on evidence** — Iterative recalibration of scores, bands and discounts

THE PRICE LIST THAT MAKES BARGAINING RATIONAL

⅓ — Maximum reduction for a guilty plea entered at the earliest reasonable opportunity

¼ — Maximum reduction for a plea entered before substantial prosecution evidence is recorded

1/10 — Maximum reduction for a late plea, including one entered after trial has begun

⅓ — Further reduction available for substantial, truthful assistance to investigation or prosecution

> "A just society is not measured by how harshly it punishes, but by how fairly, consistently and wisely it sentences."

The draft Guidelines are offered as a model and a set of proposals — not a finished code — to be tested by judges, interrogated by scholars and argued in real cases.

Chapter VII – Conclusion

The present sentencing framework is marked by broad statutory ranges and very little structured guidance on how courts should move within those ranges. In practice, this has produced ambiguity, disparity and a pattern of "optics-driven" outcomes, where similar cases may attract very different sentences and where reasons are often expressed in impressionistic, rather than principled, terms. The proposed Guidelines address this deficit by introducing a structured scoring method, a quintile-based band system (Q1–Q5) and a mandatory duty to record reasons. Together, these features convert opaque "gut feeling" decisions into transparent, reviewable choices anchored in explicit assessments of harm and culpability. What was once largely a free space for media-sensitive or intuition-based reasoning becomes a domain in which courts must show, step by step, how aggravating and mitigating factors, prior record, victim vulnerability and organisational fault translate into a Final Score and a corresponding sentencing band. In this way, the Guidelines preserve the core of judicial discretion but discipline it through a methodology that is public in advance and auditable in retrospect, directly responding to concerns about arbitrariness and legitimacy.

The Statement of Objects and Reasons records that expert committees and the Supreme Court have, over many years, drawn attention to the absence of a coherent sentencing policy, the anomalies in sentences for comparable offences and the need to give principled weight to proportionality, victim rights, societal interests and rehabilitation. The Guideline responds by articulating a set of core principles—proportionality, consistency, transparency, individualisation, deterrence, rehabilitation, reparation and protection of society, and then operationalising these through a ten-step methodology, including structured scoring for single offences and totality review for multiple-offence cases. Factors that were previously invoked in an ad hoc way are now systematically embedded in the scoring framework: prior

convictions, obstruction of justice, premeditation, scale of harm, victim vulnerability, abuse of trust and systemic impact operate as aggravating elements, while the absence of priors, minor role, restitution, cooperation, provocation, remorse, youth, age, illness and prospects of rehabilitation operate as mitigating elements, each within defined point ranges. This design standardises what must be considered in every case, while still leaving judges space to explain why a particular constellation of factors justifies movement within, or in exceptional circumstances departure from, the indicated band. The aim is to reconcile consistency with individualised justice, rather than to sacrifice one for the other.

The Guidelines also take seriously the behavioural consequences of sentencing rules. Early guilty pleas, plea-bargaining, approver-type cooperation and genuine assistance to investigation or prosecution are expressly recognised as mitigating circumstances and are linked to quantified reductions that depend on the timing, authenticity and value of the cooperation. By contrast, obstruction of justice, through destruction or fabrication of evidence, intimidation of witnesses, absconding, false implication or perjury, is treated as an aggravating factor both in the score and in the design of ancillary orders such as costs, restitution and compensation. This dual structure reflects a conscious attempt to reward truth-based cooperation and early resolution, while imposing a sentencing premium on conduct that deepens information asymmetries and increases institutional costs, in line with comparative work on cooperation and "trial penalties". The creation of a Sentencing Authority with a mandate to collect data, monitor guideline use and apply empirical and game-theoretic tools to questions such as plea-bargaining rates, witness cooperation and trial pendency links the Guidelines to modern evidence-based sentencing practice, while the insistence that such guidance remains advisory and within statutory limits is designed to avoid over-mechanisation or perverse incentives.

Within this framework, the score-and-band system effectively re-specifies the "payoff matrix" facing key actors. Offenders, defence counsel and prosecutors gain clearer expectations about the marginal effect of aggravation, mitigation and cooperation on sentence length, and judges face an institutional expectation that they will ordinarily stay within the indicated bands unless they can record principled reasons for doing otherwise. The Sentencing Authority is tasked with gathering sentencing statistics, identifying patterns of deviation, and using those data to propose periodic refinements to the Guidelines, including the way they interact with plea-bargaining and witness behaviour. At the same time, the text recognises the risk that strong financial or procedural incentives may distort behaviour in adjacent domains: it confines cost and compensation orders in "obstruction of justice" type cases to what is expressly authorised by statute, and cautions against the award of legal or investigative costs beyond legislative authority. The totality principle is framed to discourage reflexive concurrency where there are distinct victims, transactions or dimensions of criminality, thus ensuring that concurrent sentences do not collapse serious multi-count offending into a trivial aggregate term and avoiding both perverse incentives and public perceptions of leniency disconnected from overall harm.

> **RE-SPECIFYING THE PAYOFF MATRIX**
> *The score-and-band system re-specifies the payoff matrix facing every actor in the criminal process: offenders, defence counsel, and prosecutors gain predictable expectations of what aggravation, mitigation, and early truth-telling are worth, while totality review prevents reflexive concurrency from trivialising multi-count harm.*

The core principles of deterrence, rehabilitation, reparation and protection of society are also given concrete effect. Serious violence, large-scale economic or institutional impact and multiple vulnerable victims push the seriousness score upwards and place cases into higher quintiles, promoting general and specific deterrence. At the same time, strong prospects of rehabilitation, genuine remorse,

restitution and youth or diminished capacity reduces the score and support more reformative outcomes, including the use of non-custodial measures contemplated in the restorative provisions. A central safeguard is the obligation to record the Base Score, all adjustments, the Final Score, the resulting quintile and the reasons for any override or departure. This reduces the scope for optics-driven, ad hoc sentencing that responds primarily to public outcry or media pressure and replaces it with a reasoned, data-informed narrative that can be tested on appeal or revision in terms of articulated principles rather than conjectured motivations, including in the most serious cases such as capital sentencing.

From a systemic perspective, the Objects and Reasons link structured sentencing to backlog, conviction rates, prison capacity and institutional efficiency. Encouraging bona fide plea-bargaining and cooperation through clear, bounded sentence reductions is expected to reduce avoidable trial pendency, conserve scarce judicial time and improve the overall efficiency and fairness of the criminal process. A predictable and transparent sentencing menu, especially the quintile bands and explicit plea-related reductions, reduces informational uncertainty and makes negotiated resolutions more rational for both sides, which should increase the proportion of early resolutions and decrease the number of fully contested trials without sacrificing accuracy. At the same time, the Guidelines' emphasis on non-custodial sanctions, probation, compensation and community service, combined with more proportional use of imprisonment calibrated to seriousness, directly confronts concerns about over-reliance on custody, chronic prison overcrowding and the fiscal and human-rights implications of excessive incarceration. Because the Sentencing Authority is mandated to track sentencing patterns, estimate prison-population impact and recommend rationalisation of statutory punishments, sentencing practice is intended to evolve in step with realistic

prison capacity, conviction patterns and case-flow dynamics, rather than treating these systemic variables as fixed constraints that courts must simply endure.

The comparative record supports this design without pre-empting its evaluation. Plea bargaining is now formalised in most of the jurisdictions surveyed worldwide, yet its use runs from almost none to almost all convictions, and in the most comprehensive study of that variation (Paolini, Kantorowicz-Reznichenko and Voigt, 2025) the presence of the procedure in law says little about its use in practice. India is a clear instance: a procedure in force since 2006 that yields about one conviction in a hundred through the Chapter XXIII procedure. What the study cannot say is which features of the Indian system keep that figure low, or how far Rules 13 and 14 and the related measures will move it. Those answers must come from the pilot.

Complementary Architecture: How the National Sentencing Guidelines, 2026 and the Prevention of False Statement and Obstruction of Justice (Satyug) Bill Interlock

While the *National Sentencing Guidelines, 2026* are drafted as a self-contained statutory framework that operates "in addition to, and not in derogation of" the Bharatiya Nyaya Sanhita, 2023 (BNS) and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), their behavioural design is conceived as one half of a two-part institutional reform alongside Team Satyug's companion legislative proposal, the *Prevention of False Statement and Obstruction of Justice (Satyug) Bill* (the Forms in Annexure A are drafted on the BNSS as it stands, with Rule 14 of Schedule I supplying the pilot mechanism, so that nothing in this volume depends on the enactment of that Bill). Understanding how these two instruments interact clarifies both what can be achieved immediately under existing law and how full-scale statutory reform can multiply their impact.

India's plea share of about 1 to 2 per cent of convictions through the Chapter XXIII procedure (0.11 per cent when plea disposals are measured against every case before the courts), compared with 85 to 98 per cent of convictions in comparable common-law jurisdictions—is the product of two distinct failures that reinforce each other. First, **the concession cannot be priced**: because sentencing within broad BNS ranges is unpredictable, an accused cannot know what sentence a trial will produce, defence counsel cannot advise on the value of a guilty plea, and the prosecutor cannot price a concession. Second, **false denial is procedurally risk-free while the plea gateway is procedurally blocked**: under Chapter XXIII of the BNSS (sections 289–300), plea-bargaining is excluded for offences punishable beyond seven years, receives no mandatory notice at the first hearing, and is subject to an informal victim veto; meanwhile, section 215 of the BNSS bars victims and police from initiating proceedings across thirty two perjury and obstruction of justice offences under section 215(1)(a) and (b)(i) (thirty five with the document offences under section 215(1)(b)(ii)) without a formal court complaint under section 379, which overburdened courts rarely file. When lying on oath carries no practical cost and a trial takes a decade, rational actors deny, delay, and wait.

The *National Sentencing Guidelines, 2026* and the *Prevention of False Statement and Obstruction of Justice (Satyug) Bill* address these two halves of the problem through a modular, two-gear design:

Crucially, the two instruments are **modular rather than mutually dependent**. The *National Sentencing Guidelines, 2026* do not wait for the *Prevention of False Statement and Obstruction of Justice (Satyug) Bill* to be enacted: even under the unamended BNSS, publishing the quintile lookup tables, mandating the prosecutor's preliminary Sentencing Score Form at charge-framing, and applying Schedule I's structured plea discounts and obstruction aggravators can immediately discipline sentencing disparity and activate early guilty pleas. Conversely, when paired with the

Prevention of False Statement and Obstruction of Justice (Satyug) Bill's compulsory plea notice, victim-compensation framework and 15-day safe-harbour perjury mechanism, the Guidelines supply the indispensable mathematical and normative engine that allows those procedural reforms to operate fairly, predictably and at national scale.

TWO GEARS OF A SINGLE REFORM

Phase 1 (the National Sentencing Guidelines, 2026 and the Chapter XXIII plea-bargaining reforms) makes the truthful plea pay by giving every actor a published price list. Phase 2 (the Prevention of False Statement and Obstruction of Justice (Satyug) Bill) locks the reform in by statute and widens it: the false denial already costs under Phase 1, and the Bill makes that cost permanent and open to the person a lie harms. Together, they flip the litigation fork so that truth becomes the default strategy in Indian courts.

Dimension	Gear 1: National Sentencing Guidelines, 2026 (this volume)	Gear 2: Prevention of False Statement and Obstruction of Justice (Satyug) Bill	Combined systemic effect
Core function	**Prices the sentence and the concession:** establishes the Base Score of 5, bounded ±2 factor adjustments, five quintile bands (Q1–Q5), and graduated plea/cooperation reductions (up to one-third, one-quarter, one-tenth).	**Unlocks the plea gateway and ends risk-free perjury:** reforms BNSS Chapter XXIII (ss. 289–300) on plea-bargaining and converts the court routed safe harbour operated under Rule 14(5) and (6) into a statutory private complaint right under s. 215.	Makes early truth-telling calculable and rational while making deliberate falsehood costly.
Plea-bargaining and notice (Phase 1)	Requires the Prosecutor to file the preliminary **Sentencing Score Form (Forms PSC and PSC(A))** with the charge-sheet so the accused sees the indicative band and discount before framing of charges.	Mandates a compulsory Magistrate plea notice with legal-aid counsel, replaces the victim's veto with a right to be heard and court-fixed compensation, widens eligible offences, and proposes statutory caps (¼ of the maximum before charge-framing; ½ before closure of prosecution evidence).	Converts Chapter XXIII of the BNSS from a dormant 0.11 % provision into the primary channel for resolving uncontested cases.
Perjury and obstruction (Phase 2)	Treats perjury, false implication, fabricated evidence and witness intimidation as an explicit **+1 to +2 score aggravator** under Rule 5(1)(b) of Schedule I for the underlying offence. Operates the fifteen day Opportunity to Correct and the routing of complaints through the court's authorised officer under ss. 215, 379 and 382 BNSS as they stand (Rule 14(5)), and the oath certificate and caution for statements under s. 183 BNSS (Rule 14(6), Form S).	Makes the safe harbour statutory and opens prosecution of prima facie record falsehoods to aggrieved parties, with a mandatory fifteen day notice to correct honest errors of memory or translation without penalty, and consecutive sentences for proved obstruction.	Filters out honest mistakes while collapsing fabricated defences, hostile-witness inducement and frivolous complaints.

Dimension	Gear 1: National Sentencing Guidelines, 2026 (this volume)	Gear 2: Prevention of False Statement and Obstruction of Justice (Satyug) Bill	Combined systemic effect
Constitutional and safeguard design	Preserves statutory maxima and minima, withholds plea discounts in Q5 cases (Final Score above 8), and requires recorded reasons reviewable on appeal.	Protects the right to silence under Article 20(3): staying silent is never an offence; only a sworn lie persisted in after safe-harbour notice carries consequences. Respects s. 351(3) BNSS: the accused's answers at his examination are never scored and never prosecuted; only a sworn declaration (Item B4) or evidence on oath under s. 353 exposes him.	The innocent are never worse off; Articles 20(3) and 21 remain untouched.
Implementation pathway	**Immediate:** can be operationalised through judicial directions (Article 142 in WP(C) 209/2026), High Court practice directions under Article 227 read with s. 529 BNSS, prosecution SOPs, or standalone enactment without amending the BNS/BNSS.	**Legislative:** enacted by Parliament under Concurrent List Entries 1, 2 and 12 as targeted amendments to BNSS Chapter XXIII and sections 215 and 379, alongside BNS Chapter XIV.	Allows Phase 1 sentencing certainty to begin immediately while Parliament completes the statutory amendments.

Empirical and Game-Theoretic Validation: The Satyug Equilibrium Model and the Two-Phase Pathway

While the normative case for structured sentencing rests on proportionality, equality before the law, and reasoned transparency, a reform of this scale must also be stress-tested against the behavioural realities of Indian trial courts. Consistent with the institutional design of sections 17(4) and 18(1)(a)(v) of these Guidelines—which mandate quantitative and game-theoretic modelling of plea rates, witness cooperation, and trial pendency—the architecture of Schedule I and the companion Practice Directions has been formally validated in a companion technical study, *Making Truth the Dominant Strategy: A Game-Theoretic and Queueing-Theoretic Equilibrium Model of the National Sentencing Guidelines, 2026 and the Satyug Reform Package*[48]

[48] Cross reference: the companion technical study is reproduced in full as Volume III of this series under its working paper title, *Making Truth the Dominant Strategy: A game-theoretic equilibrium model of plea, perjury and pendency in Indian criminal courts* (Team Satyug, Working Paper, model version 2.7, Revision 12a, 7 November 2026). The figures cited in this subsection and in Table 7.1 are drawn from Tables 3 and 5 of that paper (Section 6, Results) and may be reproduced on the open source policy simulator at https://satyug-sim.pages.dev. The paper's own contents list appears in the Table of Contents of this Volume under Volume III.

(accompanied by an open-source interactive policy simulator at https://satyug-sim.pages.dev).

The mathematical model treats criminal litigation as an interconnected system of incentives governed by Bayesian Nash Equilibrium and Little's Law queueing dynamics. In the status quo, an accused who is factually guilty compares an immediate, certain conviction upon pleading guilty against a contested trial delayed by an average pendency of six to nine years, during which time-discounting, witness attrition, witness hostility, and a near-zero effective penalty for perjury erode the expected cost of contesting. Under these conditions, contesting—and fabricating defences or suborning witnesses—is the dominant strategy for almost every non-detained accused, explaining why consensual and plea-based disposals remain at about 1 to 2 per cent of convictions nationally (0.2 per cent in the calibrated baseline simulation).

Crucially, the equilibrium model demonstrates a vital policy lesson: naive sentencing guidelines alone are insufficient. If a guideline merely narrows sentencing bands and offers a modest fractional discount without addressing the underlying procedural bottlenecks, the equilibrium plea rate remains stagnant (0.00 per cent). To flip the equilibrium so that early truth-telling becomes the rational dominant strategy for the guilty while strictly protecting the innocent from coercive pressure, the reform operates across a coordinated two-gear architecture:

1. **Phase 1 — Immediate Judicial Execution via the Guidelines and Practice Directions (Rule 14) under the Existing Acts, without New Legislation:**[49] Operating entirely within the existing *Bharatiya Nagarik Suraksha Sanhita, 2023* (BNSS) and *Bharatiya Nyaya Sanhita, 2023* (BNS), the

[49] Cross reference: Rule 14 of Schedule I (General Sentencing Guideline), Form PSC(A) Part B (Provisional Sentencing Indication and Accused's Election) and Form S (Warning and Safe Harbour Notice) are set out in Volume II of this series, *Practice Directions for the structured sentencing of adult offenders and organisations*, which also carries the text of sections 1 to 24 of the Sentencing Guidelines, 2026, Annexure A and Schedule II (Reference Table of Sentencing Quintiles). The Volume II contents, with page numbers, appear in the Table of Contents of this Volume.

Guidelines and companion Practice Directions activate four mutually reinforcing levers:

- *Two-Step Early Plea Credit and Reformative Band Placement (Rule 6(2) & Rule 14(2)):* An accused who enters a truthful plea at the earliest opportunity receives both a 4-point mitigating deduction on the seriousness score —moving a standard first-time Base Score of 5 into Quintile 1 (Q1, 0–2 points), or 2 points at the intermediate stage into Quintile 2 (Q2)— and mandatory judicial consideration of non-custodial release or probation under section 401 BNSS and sections 3, 4, and 12 of the Probation of Offenders Act, 1958 (preserving a clean employment and civil record upon restitution), followed by the stage-graded fractional reduction (one-third, one-quarter, one-tenth) under Rule 13(3).
- *Parallel Procedural Tracks (Rule 14(1)):* Because Chapter XXIII BNSS (sections 289–300) excludes offences punishable above seven years and socio-economic categories, Rule 14 pairs Track 1 (Chapter XXIII bargaining with the mandatory section 293 BNSS statutory fractions of one-fourth and one-half) with Track 2 (direct stage-graded pleas of guilty under sections 252, 264, 269(3), and 275 BNSS backed by a pre-plea Provisional Sentencing Indication in Form PSC(A) Part B).
- *Evidence Locking and Perjury Deterrence (Rule 5(1)(b) & Rule 14(3)–(5)):* Key witness statements are locked early on audio-video before a Magistrate under section 183(5)–(6) BNSS, paired with a formal Warning and 15-Day Safe-Harbour Notice (Form S). Where contradiction persists, an automated Registry routing under sections 215(1)(b), 379(1), 379(3)(b), and 244 BNSS triggers a separate complaint for false evidence, while proved obstruction or a false sworn Declaration of Antecedents (Item B4) attracts a +2 score uplift—subject to a strict constitutional firewall

protecting the accused's right to silence under section 351 BNSS and Article 20(3) of the Constitution.

- *Administrative Fast-Track Listing for Fresh Filings:* When High Courts combine the Guidelines and Rule 14 with a separate judicial roster for fresh filings, the equilibrium tips across the critical pendency threshold, lifting in the model truthful early pleas to 48–74 per cent of all criminal cases over the first twelve years, settling at 57 per cent of cases (84 per cent of all convictions) once the wait on the fresh-filings list holds at six months, without awaiting Parliamentary legislation.

2. **Phase 2 — Legislative Consolidation via the Companion Satyug Bill (BNSS & BNS Amendments):** While Phase 1 delivers immediate transformation through judicial rules, the companion legislative proposal—the *Prevention of False Statement and Obstruction of Justice (Satyug) Bill*—codifies the remaining statutory reforms: removing the seven-year and socio-economic exclusions in section 289 BNSS, replacing the private victim veto in section 290 BNSS with a mandatory right to be heard and enforceable restitution, enacting statutory stage-graded caps in sections 291 and 293 BNSS, and replacing the section 215 BNSS court-complaint bottleneck across 32 obstruction offences with direct cognizance subject to a statutory 15-day safe-harbour window.

Table 7.1 — Summary of Equilibrium Model Findings Across Reform Regimes (calibrated model scenarios)

Policy Regime	Legal Instrument Required	Guilty-Plea Rate (% of All Cases)	Guilty-Plea Share (% of Convictions)	Effective Conviction Rate (Guilty)	Steady-State Trial Wait (T)
Status quo: unamended BNSS and BNS, no sentencing guidelines	None (calibrated baseline)	0.04%	0.2%	0.20	9.0 years
Naive guidelines alone: Schedule I pricing of the plea and shields, no procedural reform	Guidelines notified by Practice Direction; Rule 14 not activated	0.00%	0.0%	0.21	9.0 years
Guidelines plus the Rule 14 pathway (dual track plea notice, Q1 reformative placement, Form S perjury routing) on a single docket	Practice Directions under Article 227 read with section 529 BNSS; no statutory amendment	9.3%	25%	0.35	9.0 years (break even T* of 6.9 years; 7.9 years by year five, 7.0 by year twelve)
Phase 1 complete: Guidelines, Rule 14 and a separate judicial list for fresh filings	Practice Directions plus an administrative roster order of the High Court; no statutory amendment	48 to 74% over twelve years; 57% at the settled six-month wait	84% at the settled wait	0.33	six months in year one, 2.2 years by year four, six months again from year eight (two track docket; legacy stock cleared in year four)
Phase 2: the Satyug Bill amendments to BNSS and BNS, at the six-month wait the Bill's own docket produces (51.9% of cases and 66% of convictions at today's nine-year wait)	Parliamentary legislation (Satyug Bill)	73.8%	87%	0.79	0.5 year (six months from year one; legacy stock cleared in year three)

Source: Making Truth the Dominant Strategy, Working Paper (Team Satyug, November 2026), Tables 3 and 5, model version 2.8, revision 12b of 9 November 2026 (scenario fingerprints: the Pilot, that is the Rule 14 pathway on a single docket, 98639636; with a separate list DC918C3A; the Bill DD3A6DC7; the "full package" preset of earlier revisions is withdrawn in revision 12, the Bill at its own wait being the terminal scenario), reproduced as Volume III of this series. Plea rates are shares of all cases still accused; the effective conviction rate is the derived probability of conviction for a guilty accused who contests; T is the trial wait used in the equilibrium computation. Figures are rounded and ranges are the bounds reported by the model. Calibrated, not estimated from Indian data; the bands in Volume III, Table 3 run from 0.6–93 per cent (the Pilot) to 46–98 per cent (the Bill at its own wait). The pilot is designed to measure these quantities.

WHAT THE MODEL SHOWS

Naive sentencing guidelines alone leave guilty pleas stagnant at 0.00%. Combining Schedule I's two-step Q1 reformative shift with Rule 14's dual-track plea notice, Form S safe-harbour perjury routing, and a separate judicial list for fresh filings lifts truthful early resolutions to 48–74% of all cases over the first twelve years, 57% of cases (84% of convictions) once the wait settles at six months, under existing law—before a single statutory amendment is enacted.

Within the model, an innocent accused on bail never prefers to plead at the assumed cost of litigation (Volume III, Proposition 2). This is a property of the model, not a measurement. The only experiment that assigns participants to be innocent or guilty (Helm and Zottoli, Law and Human Behavior, 2026; 3,646 participants) found that 11–15 per cent of innocent participants accepted discounts of 80–90 per cent, and 30–44 per cent of those who expected to be convicted. The Guidelines' safeguards therefore rest on removing custody before any plea and keeping a residual cost on the plea, and the pilot measures the innocent risk directly.

WHAT IS ESTABLISHED AND WHAT IS NOT

Most guilty accused plead at the NSG offers. Status for India: Not yet known. What would settle it: Application and completion rates in the pilot districts.

Innocent pleas kept below a set ceiling. Status for India: Not yet known; the risk is concentrated in custody. What would settle it: An independent audit of completed pleas, or an Indian experiment.

Court time saved exceeds time spent. Status for India: Not yet known; there are no Indian data on judge-hours by route. What would settle it: Timed hearings in pilot courts for one year.

The mathematics is proved; the Indian evidence does not yet exist. The pilot is how it is obtained.

External Validation: What Foreign Evidence Establishes, and What It Does Not

One measure. Plea rates are comparable only on one definition: convictions obtained by plea as a share of all convictions. On that definition India obtains about 1 to 2 per cent (1.7 per cent for IPC offences in the nineteen metropolitan cities in 2023, NCRB Table 18B.1; 1.1 per cent all-India in 2019), against 98.2 per cent in United States federal courts (FY 2025), 91.3 per cent in the Crown Court of England and Wales (2024–25) and a median of 43 per cent across the 52 jurisdictions measured by Paolini, Kantorowicz-Reznichenko and Voigt (Journal of Empirical Legal Studies, 2025). The frequently quoted 0.11 per cent divides plea disposals by

every case before the courts, the pending stock included, and should not be set beside foreign shares of convictions.

Coverage. The figures in this comparison differ in year and coverage. The median of 43 per cent is for 2019; the United States figure covers federal courts only, and the English figure the Crown Court only, which hears the more serious cases; for common-law systems the comparative literature counts guilty pleas as a proxy for plea agreements, because no official series records the agreements themselves; and India's figure counts only convictions through the Chapter XXIII procedure: NCRB does not count ordinary guilty pleas separately, and they are concentrated in petty fine cases and long-custody cases, which is exactly where the cost of contesting exceeds the sentence. The gap between India and the comparators is far larger than these differences, but the decimals are not comparable across rows.

Six kinds of evidence. What foreign evidence can contribute depends on its kind, and six kinds are used in this Volume. The first is descriptive: how many jurisdictions permit plea bargaining and how much they use it. The second is associational: the cross-country regressions of Paolini, Kantorowicz-Reznichenko and Voigt, which identify correlates of adoption and of use but, as the authors state, cannot support causal claims. The third is the institutional mechanism those associations suggest, such as the authors' account of why under-resourced courts see fewer pleas. The fourth is Satyug's own theory of the accused's choice, set out in Volume III. The fifth is the output of the calibrated Equilibrium Model, which gives scenarios and not forecasts. The sixth is what only an Indian pilot can measure. The table below sets out what each kind establishes and what it does not.

Kind of evidence	What it establishes	Principal source	What it does not establish
1. International descriptive evidence	101 of 174 jurisdictions had formalised plea bargaining in 2022. In the 52 with data, the share of convictions obtained by plea in 2019 ran from almost nil to nearly 99 per cent (median about 43 per cent); India's was about 1 per cent, seventh-lowest.	Paolini, Kantorowicz-Reznichenko and Voigt (2025)	Why rates differ; what India's rate would be under reform.

Kind of evidence	What it establishes	Principal source	What it does not establish
2. Econometric association	Use is associated with national income, the authors' proxy for court resources (rising, then falling), Spanish and Socialist legal origins (higher), jury trials (about 15 points higher) and the level of regulation (least regulated about 14 points higher, most regulated about 18 points lower); the last two at the 10 per cent level only. Adoption is associated with legal origin, a Muslim-majority population and democracy.	Paolini, Kantorowicz-Reznichenko and Voigt (2025)	Cause; the effect of any BNSS provision; the effect of sentencing predictability, discount schedules or perjury enforcement, none of which is measured.
3. Institutional mechanism	Plausible channels: trial cost and uncertainty; the transaction costs of the procedure; doubt about conviction and long delay in under-resourced courts; long trials under Italy's limitation rules reducing pleas.	The same study (theory); Paolini, doctoral thesis (2025), ch. 4; Landes (1971); Bibas (2004)	That these channels operate in India, or how strongly.
4. Satyug theory	Contesting is the better strategy for a guilty accused where delay discounts the trial sentence and false denials and hostile witnesses lower the probability of conviction.	Volume III, Sections 3 and 4	Empirical confirmation. Not tested by Paolini et al.
5. Calibrated model	Scenario outcomes for the Pilot and the Bill under stated assumptions.	Volume III, Sections 6 to 8	A forecast; independent validation wherever a foreign observation set a parameter (Italy's conviction probability was set to reproduce Italy's plea share).
6. Indian pilot	Reach of the plea notice; plea rate at the first hearing by band; contested conviction rate in pilot and matched courts; months from charge to verdict; time to dispose of a court-routed perjury complaint; an independent audit of completed pleas.	High Court records	—

What the study does not test. One limit needs emphasis because the perjury reforms are central to this project. Paolini, Kantorowicz-Reznichenko and Voigt do not measure the enforcement of perjury or obstruction offences, the hostility of witnesses or the cost of a false denial, and none of their variables stands in for them. Their findings therefore cannot show that stronger perjury enforcement raises plea rates. The two lines of argument are separate. The cross-country study shows that use varies widely among systems that permit pleas and is associated with national income (the authors' proxy for court resources), legal tradition, jury trial and regulation. Satyug's mechanism, set out in Volume III, holds that a lie which costs nothing lowers the probability of conviction at trial, through false denials and hostile

witnesses, and so lowers the expected cost of contesting. The first is consistent with the second, in that both locate the problem in incentives rather than in the text of the law. Neither confirms the other, and Volume III itself reports that its lie-pricing lever has not been tested on foreign data.

Three conviction rates. The National Crime Records Bureau's conviction rate counts only cases that complete trial. On its own 2024 figures for IPC and BNS offences, the 8,45,098 convictions recorded are 53.3 per cent of the 15,84,487 trials completed, 47.4 per cent of the 17,83,138 cases disposed of (including those withdrawn, compounded and quashed), and 4.6 per cent of the 1,84,27,760 cases before the courts. Fewer than five in every hundred cases before the criminal courts end in conviction in a year.

Why the incentive runs the other way. In the United States a contested federal case reaches verdict in a median of about two years and 87.7 per cent of trials end in conviction; in England and Wales a contested case is decided in about a year and the guilty-plea reduction is fixed by a published guideline at one-third for a plea at the first stage. Waiting buys the accused little, so the discount decides. In India a guilty accused who contests faces a nine-year wait and an effective conviction probability of about one in five, and in present value bears about one-sixteenth of the trial sentence. India's difficulty is not a weak discount; delay pays the accused. Italian evidence shows the same effect: as trials lengthened, plea agreements fell by about one to four points for every three months of added delay.

The transport test. The equilibrium model's decision rule, run unchanged on each system's observed wait, trial conviction rate and discount, reproduces India's near-zero plea share and the United States rate only with the American trial penalty (trial sentences about three times plea sentences). It predicts no pleas for England and Wales at observed inputs. Earlier revisions of the paper explained the English rate by the cost of a false defence; revision 12 withdraws that explanation,

because an accused who may contest in silence pays no penalty on a lie, so the lie-pricing levers account for England only on the assumption that every contester lies on oath. England's costs of a false defence are real (counsel may not advance a case known to be false or mislead the court, the defence must state its case before trial and silence may draw an adverse inference, and witness interference is prosecuted as perverting the course of justice), but the model does not yet carry the features that make those costs bite on the contest rather than on the lie. The English result is therefore reported as a failure of transport, not as a confirmation; Italy's response to delay is reproduced on Italy's own outcome measure.

What this means for the Guidelines. The comparison supports two design choices of these Guidelines. The first is the published, stage-graded discount of Rule 13, modelled on England and Wales rather than on the unstructured American trial penalty, which the evidence associates with coercion. The second is the pricing of the recorded lie under Rule 5(1)(b) and its routing under Rule 14, which the model shows working through the witness, who has no option of silence, rather than through the accused: once the witnesses' truth raises the conviction probability, the plea becomes the cheaper choice. Foreign figures do not establish India's own plea rate, and the English result is not evidence for the lie-pricing lever. India's conviction probability and wait under the Practice Direction are to be measured, within a year, from the High Court's own records: the reach of the plea notice, the plea rate at the first hearing, the contested conviction rate in pilot courts against matched courts, and the months from charge to contested verdict on the fresh-filings list.

Not a target. A higher plea rate is not itself the objective. The authors note that plea bargaining saves the cost of trial at the price of a greater risk of wrongful conviction. A high rate can also be bought with coercion: Volume III finds that the United States rate is reproduced only with the American trial penalty. The measure of success for these Guidelines is the number of fair, informed and reliable

resolutions, secured by the safeguards already built into them: legal aid at the plea notice; a plea that is voluntary and informed; a factual basis verified by the court; judicial scrutiny, with a confirmed indication that caps the sentence; no aggravation founded on silence, on answers under section 351 of the BNSS or on the exercise of the right to trial; and release under section 479 of the BNSS considered before any plea from an accused in custody. The pilot's independent audit of completed pleas is the test.

Source: Making Truth the Dominant Strategy, Working Paper (Team Satyug), revision 12b of 9 November 2026, Section 8 and Tables 7 to 9, model version 2.8; US Courts, Judicial Business 2025, Table D-4; Crown Prosecution Service, Annual Report 2024–25, Table 7; NCRB, Crime in India 2023 (Table 18B.1) and 2024.; G. Paolini, E. Kantorowicz-Reznichenko and S. Voigt, Journal of Empirical Legal Studies 22(1) (2025) 27–75 (plea-bargaining rates for 52 jurisdictions, 2019, and the associated regressions)

A Way Forward

The draft National Sentencing Guidelines, 2026, are issued in a separate volume, titled Practice Directions, as a concrete proposal rather than an abstract aspiration, together with the Forms in Annexure A that offer a simple, structured template for calculating the appropriate sentence in an individual case by recording the Base Score, the aggravating and mitigating adjustments and the resulting quintile band. The hope is that placing this model in the public domain, in a form that judges can imagine using, lawyers can test in real cases and scholars can interrogate with data, will trigger a serious national conversation about sentencing in India: how it can be made more principled and transparent, how it can better respect constitutional commitments to proportionality and dignity, how it can help manage prisoner numbers, and how it can contribute to the speedy and effective disposal of criminal cases. If this draft does nothing more than spark a sustained debate among judges,

lawyers and academics about what a just, efficient and humane sentencing system for twenty-first-century India should look like, it will already have served an important purpose; the greater hope is that it can be a first step towards turning that debate into durable institutional reform.

The five-volume set

Overview — **Unlock Plea Bargaining: Resolve 90% of Cases Without Trial**

The Plea Bargaining Booklet (A4, sixteen pages): the case in brief, why plea bargaining fails in India, and what the Practice Direction and the Bill each change.

Phase 1 · Practice Directions for National Sentencing Guidelines (NSG)

Volume 1 — **Comprehensive Policy Analysis on the Proposed National Sentencing Guidelines**

this volume

Why structured sentencing is needed now; the legislative scheme and institutional design; a section-by-section analysis with worked illustrations; how the NSG, the Bill and the model interlock.

Volume 2 — **Practice Directions, Schedules and Forms for the National Sentencing Guidelines, 2026**

The text for adoption by High Court Practice Direction under the existing Acts: Schedule I (the General Sentencing Guideline), Annexure A (Forms PSC, PSC(A) and S) and Schedule II (quintile tables for every offence under the Bharatiya Nyaya Sanhita, 2023).

Volume 3 — **Mathematical Model of Plea, Perjury and Pendency**

Making truth the dominant strategy: a game-theoretic equilibrium model of Indian criminal courts, showing why India pleads in under 1% of cases and what an NSG Pilot and the Bill each change. Working paper, model version 2.8, revision 12b.

Volume 4 — **Current Proceedings before the Supreme Court**

Filings, orders and proposed filings: the Lok Sabha resolution of 13 February 2026, the two public interest petitions on perjury and false cases with the orders made in them, and Team Satyug's draft application to intervene.

Phase 2 · The legislative instrument

Volume 5 — **Obstruction of Justice (Satyug) Bill and Research Note**

The Prevention of False Statement and Obstruction of Justice (Satyug) Bill (version 6.7), its research note (version 5.3) and the amendment schedule.

Sentencing guidelines can discipline litigation behaviour and accelerate justice up to twenty-fold, but only if they guarantee that truth and timely guilty pleas are rewarded *and every species of falsehood is deterred.*

Team Satyug is a volunteer-led movement working to make India's courts faster and more truthful: through sentencing guidelines, a working plea-bargaining system and a law against false statements. Guided by "Absolute Satvik Karm", we work in the open, for public impact rather than personal credit, drawing on the time and expertise of lawyers, researchers and professionals who share that aim.

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