Comprehensive Policy Analysis on

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 reformative process begins even before trial where they prefer to plead guilty over false denials.

The core objective of justice is not to distinguish between lies and truth but to regulate the moral character of society through deterrence. There is no morality or character without a solid foundation of truth.

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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Letter to the Reader

Sentencing lies at the decisive junction of the criminal process. It is the point at which a finding of guilt is translated into the concrete deprivation of liberty, property and reputation that the State inflicts in the name of justice. Yet in India, this decision remains one of the least structured parts of our criminal justice system. Courts are asked to move from "guilty" to "how much" or "what kind" of punishment within very broad statutory ranges, but without a shared national framework for assessing harm, culpability, mitigation or the legitimate aims of punishment.

This report and the accompanying National Sentencing Guidelines, 2026 are an attempt to address that structural gap. They start from a simple proposition: in a modern constitutional system, the most coercive decisions cannot be left to instinct and local convention alone. A criminal code that defines offences and prescribes maxima and minima is only half the story; the other half lies in the principles by which courts choose between imprisonment and non-custodial measures, between short and long custodial terms, and between different combinations of fine, compensation, community sanctions and, in a small class of cases, the death penalty.

The framework we propose responds to four interlinked concerns. First, it seeks to reduce unwarranted disparity and opacity in sentencing by requiring courts to explain sentences through an explicit assessment of harm, culpability and identified aggravating and mitigating factors, and by anchoring outcomes in quintile-based bands tied to the statutory range. Secondly, it aims to rationalise the use of imprisonment by reserving custody for cases where it is proportionate and necessary, and by giving courts clearer, principled bases for preferring probation, community service, compensation and restorative measures in appropriate cases, thereby addressing chronic overcrowding and the under-utilisation of non-custodial sanctions. Thirdly, it attempts to confront, rather than ignore, the realities of plea-bargaining and cooperation. By structuring sentence reductions for early guilty pleas and substantial assistance, and by explicitly aggravating for perjury and obstruction, the Guidelines seek to promote truth-based resolution of cases while guarding against coercive "trial penalties" and hidden bargains. Finally, it advances an institutional vision in which sentencing is overseen by a permanent, independent Sentencing Authority that collects data, evaluates departures and overrides, consults widely and revises guidelines in an evidence-based manner, instead of treating sentencing policy as a one-off legislative exercise.

The purpose of this project is not to fetter judicial discretion mechanically, nor to import foreign grids into Indian law. This working paper is offered as a contribution to that debate. It is not a finished code, but a model and a set of proposals. It will have served its purpose if it helps judges, lawmakers, practitioners, scholars and civil-society actors to think more systematically about sentencing, to interrogate the assumptions that currently drive punishment decisions, and to work towards a national sentencing policy that is principled, transparent and worthy of the constitutional order it serves.

— Vishal Gupta

(Satyug Foundation)

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.

Sentencing Order Form: A standardised form to be completed in every sentencing decision, 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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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 standardised Sentencing Order Form 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.

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.

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.

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.

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 Road 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

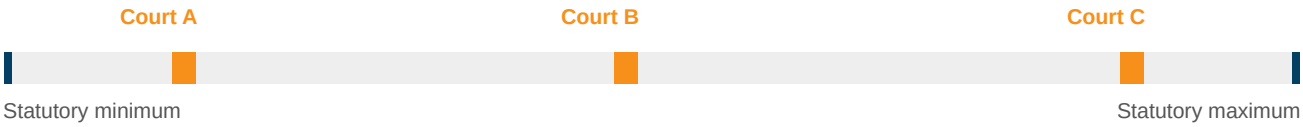
100+

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

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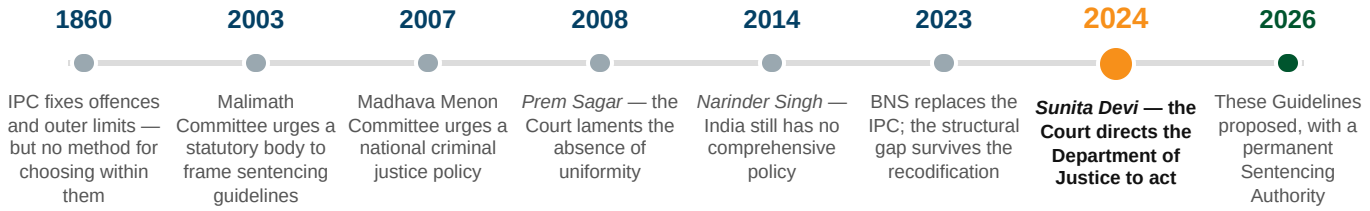
nationally shared frameworks for assessing harm, culpability and mitigation across courts and regions

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 contemporary environment—

[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 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

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.

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

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

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.

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 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

[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.

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 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

[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).

[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.

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.

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

[5] 2008 (7) SCC 550.

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 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

[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).

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 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]

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

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[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.

[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

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 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

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).

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

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.

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 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

[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."

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.

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.

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[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.

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, 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.

[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.

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.

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

[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).

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.

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 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.

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.

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 extends 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.

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

[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.

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 (a standardised Sentencing Order Form), and such further offence-specific Schedules as may be added over time.

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 your 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.

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.

Here is the doctrine section with each principle stated as a heading at the start of its paragraph, in the same register as the rest of Chapter III. You can insert this after the existing discussion under "V. Status and Philosophy of the General Sentencing Guideline" and before "VI. Methodology…".

VI. Doctrine of Conditional Mercy and Social Deterrence

The Guideline proceeds on the further normative premise that sentencing is not concerned only with the reform of the individual offender, but equally with the preservation and gradual elevation of the moral standards of the community. Excessive or unprincipled leniency towards unrepentant offenders risks weakening social norms,

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

rewarding deception and encouraging future violations. In this sense, punishment has a reformative dimension that is not confined to the offender; it operates upon society itself by signalling the consequences of wrongdoing and by reinforcing expectations of honesty, responsibility and respect for law.

Society-first reform: The first duty of sentencing is to reform society by reinforcing clear consequences for wrongdoing. A punishment that, within the bounds of proportionality, deters many potential offenders may be more socially reformative than a lenient sentence that touches only a single individual. Courts are therefore directed to take into account the signalling effect of every sentence and to recognise that public confidence in the administration of justice is itself a legitimate objective of sentencing policy.

Mercy must be earned: Within this framework, mercy is conceived not as an automatic entitlement but as a conditional response grounded in demonstrable remorse and reparation. Voluntary admission of wrongdoing, restitution or compensation, cooperation with investigation or prosecution, early acknowledgment of guilt and acceptance of responsibility without evasive excuses are treated as proper foundations for mitigation, and are expressly reflected in the list of recognised mitigating factors. Where such features are absent, and particularly where the offender contests liability to the end while engaging in obstructive or deceptive conduct, substantial reductions in sentence will ordinarily have no principled basis.

Litigation conduct as a sentencing factor: The conduct of the offender after the commission of the offence is recognised as a distinct and often illuminating dimension of culpability. Perjury, fabrication or destruction of evidence, intimidation of witnesses,

manipulation of procedural delay, false implication of others and repeated denial in the face of overwhelming material are treated as aggravating circumstances reflecting continuing disrespect for the law and for the truth-seeking function of the criminal process. Such behaviour may justify upward movement within, or in exceptional cases beyond, the presumptive quintile, subject always to statutory limits and to the safeguards on scoring and departure set out in Schedule I.

***Plea-bargaining as the principal gateway to leniency*:** Consistent with this doctrine, the Guideline envisages that significant sentence reductions will ordinarily be channelled through lawful mechanisms of early plea-bargaining, cooperation and structured restitution rather than through ad hoc leniency. It draws a deliberate distinction between offenders who, at an early stage, accept responsibility, assist in the clarification of facts and make meaningful reparation, and those who insist upon full contest while engaging in obstruction and only acknowledge guilt after conviction. The former may legitimately attract calibrated mitigation within the bounds of proportionality; the latter will generally not be entitled to comparable indulgence, save where other recognised mitigating factors justify it.

No presumption of Reformability: The framework rejects any abstract presumption that every offender is reformable in practice. Opportunities for rehabilitation, treatment and constructive activity may be provided during custody and after release, but the quantum of punishment is not to be reduced merely on the basis of speculative optimism about future reform. Sentence reductions are instead to be anchored in concrete evidence of change, such as sustained law-abiding conduct, engagement with corrective

programmes or verified efforts at reparation, assessed within the structured list of mitigating factors.

***Truth as the highest mitigating factor*:** The Guideline accords particular normative weight to truth-telling against self-interest. The greatest mitigation is reserved for those who speak truthfully even where such truth is averse to their immediate position. A sentencing framework that explicitly rewards candour and heavily penalises deception can, over time, support a self-reinforcing culture of honesty within the criminal process, and thereby contribute to the wider reform of social attitudes towards law and responsibility.

The rationale and underlying philosophy of these Sentencing Guidelines may be aptly captured in the maxim, "*compassion without accountability corrupts justice; accountability without compassion hardens justice. Mercy should follow truth, remorse, and responsibility—not precede them*." This maxim encapsulates the balance the framework seeks to strike between deterrence and reform: compassion is not excluded, but is disciplined by accountability, while accountability is not absolute, but is informed by genuine remorse and responsibility. In this sense, the Guideline's orientation is cognate with classical deterrence theories and law-and-order traditions that treat the defence of the community's moral fabric as a central purpose of penal power, yet it remains embedded within the structured score method, the quintile-based bands and the ordered pluralism of penal aims already elaborated in these Guidelines, and is subject in every case to statutory limits and to the court's duty to apply the Guideline methodology in full.

VII. 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,

[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).

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.

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

[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).

structure of the Act described in Chapter II, and the comparative and 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," and "Sentencing Authority." It further provides that words not defined in the Act*

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

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 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

[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).

position that a sentencing guideline should narrow discretion without extinguishing the judicial function.

4. Application of Act 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 serve 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

[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).

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 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 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

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[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).

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.

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

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

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 seeks 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.

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.

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 Sentencing Order Form; 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.

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.

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. Where any doubt arises as to the applicability of disqualification-related concerns, the Chairperson must record reasons for deciding the question.*

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's 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 represents 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

I. 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.

[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).

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 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.*

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

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[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.

[32] A Ashworth, *Sentencing and Criminal Justice* (8th edn, Cambridge University Press, 2022) Chs 3–4.

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 determined through a specified structured assessment mechanism prefigures the score-based methodology set out later in the Guideline and reflects the insight that proportionality,

[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.

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 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; and (h) recording of reasons and finalisation of the sentence. 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 sequentially is particularly important. It prevents the conflation of different normative questions: whether an offence is serious is a 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

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

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]

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 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]

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[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).

[38] Von Hirsch, Andrew, Michael H Tonry, and Kay A Knapp. *The Sentencing Commission and Its Guidelines* (Boston, Northeastern University Press, 1987).

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 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.*

[39] R Dworkin, 'Judicial Discretion' (1963) 60 *Journal of Philosophy* 624.

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.

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 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*

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

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 reflect 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

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

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 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

[42] Reinganum, Jennifer F. "Sentencing Guidelines, Judicial Discretion, and Plea Bargaining." *The RAND Journal of Economics* 31, no. 1 (2000): 62–81.

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.

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: 0–2 (Q1, lower seriousness), 3–4 (Q2, below-average seriousness), 5–6 (Q3, average seriousness), 7–8 (Q4, above-average seriousness), and 9–10 (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

[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).

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.*

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.

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[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).

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.*

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 pleas at the earliest reasonable opportunity; up to one-quarter for intermediate-stage pleas; and up to one-tenth for late-stage pleas, including after commencement of trial. A separate provision addresses lawful plea-bargaining, linking its consequences*

[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).

to the mitigating factor in the score method and permitting further percentage-based reductions only in exceptional circumstances. 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 falls within Q5 (scores 9 or above) 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

[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).

"hidden sentencing law" of informal plea discounts and to bring plea-based sentencing into the same structured, reviewable grammar as other sentencing decisions.

14. The Totality Principle: *Rule 14 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 consecutively, 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

[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).

sanction, but cost orders must remain within statutory authority to avoid punitive experimentation by way of costs.

15. 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 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.

16. Sentencing of Organisations: *Rule 16 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 16 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.

17. 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: ten sequential steps, the score-to-quintile map, and six worked illustrations.

TEN SEQUENTIAL STEPS — NONE MAY BE OMITTED

1. Determine seriousness by the structured score method
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. Consider reductions for guilty plea and cooperation
6. Apply the totality principle across multiple offences
7. Consider compensation, restitution and non-custodial measures
8. Ensure the sentence remains within the statutory range
9. Finalise the sentence
10. Record reasons: base score, factors, final score, quintile, reductions, departures

SCORE TO QUINTILE

Q1	0–2	Lower seriousness — reformative approach
Q2	3–4	Below average — partial mitigation
Q3	5–6	Average — default placement
Q4	7–8	Above average — premeditation, repeat, serious harm
Q5	9–10	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.

Reductions come after the band

Early plea up to ⅓ · intermediate up to ¼ · late plea up to 1/10. Substantial assistance a further ⅓. Both are recorded separately from the score.

SIX WORKED ILLUSTRATIONS

ILLUSTRATION I

Robbery with threat of violence

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

5 + 2 − 2 = 5 → Q3

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, provocation and reform prospects together −3.

5 − 3 = 2 → Q1

ILLUSTRATION IV

Repeat serious sexual offending

Priors, vulnerability and abuse of trust +4. Plea reductions restricted 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.

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 six 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.

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.

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:

1. Determine the seriousness of the offence using the structured score method (Part III).
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 reductions for plea of guilty and/or cooperation.
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).

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 Section 5 and Section 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.).

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.

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. 0–2 → Q1 (lower seriousness).
2. 3–4 → Q2 (below-average seriousness).
3. 5–6 → Q3 (average seriousness).
4. 7–8 → Q4 (above-average seriousness).
5. 9–10 → 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.

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 punishable with imprisonment between a statutory minimum and a higher maximum (e.g., 3–10 years) and fine.

2. Calculation

1. **Statutory range**: Minimum–maximum term prescribed in BNS (e.g., 3–10 years). This is divided into quintiles for band purposes.
2. **Base Score**: 5 (typical robbery).
3. **Aggravation**:
    - Premeditation / planning: +1 (more than impulsive, less than sophisticated).
    - 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**:
    - No prior conviction and otherwise stable conduct: -1.
    - Restitution (phone returned): -1 (partial reparation).
    - Early guilty plea and acceptance of responsibility: treated at the plea-reduction stage rather than as score mitigation, to avoid double-counting.

    Total score mitigation: -2.

5. **Final Score**: 5 + 2 - 2 = **5 → Q3** (average seriousness).
6. **Quintile band**: Q3 corresponds to the middle segment of the statutory range (for example, roughly the central third between minimum and maximum).
7. **Starting point**: Court may choose a custodial term somewhat above the bare minimum but within Q3, say a mid-range term, before plea reduction.
8. **Plea reduction**:

- Early guilty plea (before commencement of evidence) may justify up to one-third reduction.
- If the court starts at, for example, a mid-Q3 term, it may then reduce by up to one-third, ensuring the result does not fall below the statutory minimum.

9. **Final sentence**: A moderate custodial term above the mandatory minimum (to reflect violence and planning) but below what would have been imposed without the plea and restitution; fine and compensation added as appropriate.

3. Observations: The framework ensures that violence and planning push the case above the very bottom of the range, but youth, clean record, restitution and early plea prevent it from being treated as a high-seriousness Q4 or Q5 case. 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.

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: dealt with under plea-reduction rule after seriousness is fixed.
5. **Final Score**: For instance, 5 - 3 = 2 → Q1 (lower seriousness).
6. **Band**: Q1 corresponds to the lowest segment, including the possibility of non-custodial sentences, subject to law.
7. **Plea reduction**:

    Early plea may allow up to one-third reduction of any custodial term, but in a Q1 case the combination of youth, restitution and low harm may justify moving to fine, probation, community service, or a very short custodial term, depending on the BNS structure and policy considerations.

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.

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.

7.2 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.
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 9+) absent specific statutory authorisation and "special reasons", reflecting the moral limits of bargaining in very grave offences.

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.

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.

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.

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.

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.

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.

A Way Forward

The draft National Sentencing Guidelines, 2026, are annexed to this chapter as a concrete proposal rather than an abstract aspiration, together with a form in Schedule II that offers 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.

PROPOSED NATIONAL SENTENCING GUIDELINES, 2026

STATEMENT OF OBJECTS AND REASONS

1. The Indian Penal Code and, now, the Bharatiya Nyaya Sanhita, 2023 prescribe offences with maximum and, in some cases, minimum punishments, but do not provide statutory guidance to courts on how to select the most appropriate sentence within the permissible range, having regard to offence seriousness, aggravating and mitigating circumstances, and offender characteristics. This has resulted in inconsistency and unpredictability in sentencing across the country, as noted by various expert Committees and by the Hon'ble Supreme Court of India in several decisions.

2. The Malimath Committee on Reforms of the Criminal Justice System (2003) and the Madhava Menon Committee on the Draft National Policy on Criminal Justice (2007) highlighted the wide and unguided discretion presently enjoyed by courts in awarding sentences, and recommended the establishment of a permanent statutory body to frame sentencing guidelines, the revision of outdated fines, and the increased use of alternatives to imprisonment. These recommendations remain highly relevant in the context of the transition to the Bharatiya Nyaya Sanhita and the Bharatiya Nagarik Suraksha Sanhita.

3. Several judicial pronouncements have repeatedly expressed concern over the absence of a coherent sentencing policy, the anomalies in the quantum of sentences for similar offences, and the need to take into account proportionality, victim-rights, societal interests, and the prospects of rehabilitation while determining punishment. The judiciary has emphasised that sentencing must be reasoned, transparent, and consistent, yet sensitive to the individual circumstances of each case.

4. Comparative experience, particularly the Sentencing Council for England and Wales and the General Sentencing Guidelines 2019 under the Coroners and Justice Act 2009, and similar frameworks in other jurisdictions, shows that structured sentencing guidelines can promote consistency, transparency and rationality in sentencing without unduly fettering judicial discretion. These systems commonly employ explicit harm and culpability assessments, aggravating and mitigating factors, and staged decision-making processes, all of which are compatible with an independent judiciary.

5. Research studies have further revealed arbitrariness and disproportionality in the prescription of punishments across statutes, over-reliance on imprisonment, and severe under-utilisation of community sanctions, probation, compensation and other non-custodial and restorative measures, despite statutory provisions for such alternatives. Concerns regarding prison overcrowding, fiscal and human-rights impacts of excessive custodial sentencing, and the need for a rational and measured use of criminal law have also been underscored by policy papers and government reports.

6. It is also considered necessary that the sentencing framework expressly recognise early plea of guilty, plea-bargaining, approver-type cooperation, and faithful assistance to investigation or prosecution as mitigating circumstances, and grant appropriate reductions in sentence where such conduct is genuine and of demonstrable value. Conversely, the framework must also recognise obstruction of justice, fabrication or destruction of evidence, intimidation of witnesses, absconding, false implication and perjury as aggravating circumstances, and ensure that such conduct is not unduly rewarded.

7. The promotion of bona fide plea-bargaining and truth-based cooperation, combined with principled deterrence of obstruction of justice and related offences, is expected to reduce avoidable trial pendency, conserve judicial time, and improve the efficiency and fairness of the criminal justice system. By

encouraging early resolution of cases and discouraging dilatory or obstructive behaviour, the sentencing structure contributes directly to the expeditious disposal of criminal causes.

8. In view of the foregoing, it is considered necessary to enact a comprehensive framework, the Sentencing Guidelines, 2026, providing for the establishment of an independent Sentencing Authority, empowered to frame definitive sentencing guidelines for courts; to prescribe an overarching general guideline to be applied in all cases, particularly where no offence-specific guideline exists; and to require courts to have due regard to such guidelines, while retaining limited, reasoned discretion to depart in the interests of justice.

9. The proposed guidelines accordingly seek to—
    A. establish a Sentencing Authority with judicial and non-judicial members, entrusted with the preparation, publication and periodic revision of sentencing guidelines;
    B. provide for the preparation, publication, revision and application of statutory guidelines, including the General Sentencing Guideline
    C. introduce a general sentencing guideline based on a structured ten-step methodology, including a structured score method, harm-culpability assessment, and quintile-based sentencing bands (Q1–Q5);
    D. enhance the use of non-custodial and restorative sanctions, such as community service, probation, restitution and compensation, in appropriate cases;
    E. promote plea-bargaining, early guilty pleas, and cooperation with investigation and prosecution, while deterring obstruction of justice and related conduct, through appropriate identification of mitigating and aggravating factors; and

F. ensure that sentencing decisions are reasoned, data-informed, and subject to principled appellate and revisional oversight, including in cases involving life imprisonment and the death penalty.

10. The guidelines also provide for the periodic review of sentencing guidelines and sentencing data, and for the integration of future judicial developments and empirical evidence into the guideline framework, thereby creating a dynamic, evidence-based and responsive sentencing policy for India. By combining structured methodology with judicial discretion, the Guidelines seeks to promote proportionality, consistency, fairness and public confidence in the administration of criminal justice, while contributing to the reduction of avoidable pendency in criminal courts.

11. The Sentencing Guidelines, 2026 accordingly seeks to achieve the above objects through a statutory framework that complements the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023.

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THE SENTENCING GUIDELINES, 2026

In recent years, the administration of criminal justice has been confronted with increasing complexity in the nature of offences, wide disparities in sentencing practices, and the absence of a structured framework guiding judicial discretion. The lack of uniform sentencing principles has, in many cases, led to inconsistency, unpredictability and diminished public confidence in the fairness and transparency of the system.

In the determination of punishment, it is essential that courts are guided by clear, rational and objective standards which ensure that similarly situated offenders receive proportionate and consistent sentences. A principled sentencing framework must balance the gravity of harm, the culpability of the offender, and the broader objectives of deterrence, rehabilitation and protection of society. It is therefore necessary to establish a structured sentencing policy that promotes uniformity while preserving judicial discretion within defined limits. Such a framework would enable courts to arrive at reasoned and proportionate outcomes, enhance transparency in sentencing decisions, and strengthen the credibility of the criminal justice system. Accordingly, it has become imperative to introduce a comprehensive and uniform sentencing guideline framework, incorporating objective criteria and a calibrated system for determining sentencing ranges, to ensure consistency, fairness and accountability across the country.

1. Short title, extent and commencement

1. The Guideline shall be called the Sentencing Guidelines, 2026.
2. It extends to the whole of India.
3. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Guidelines.

PART I

2. Definitions

1. In these Guidelines, unless the context otherwise requires—
    a) "Bharatiya Nyaya Sanhita" means the Bharatiya Nyaya Sanhita, 2023 (No. 45 of 2023), as amended from time to time;
    b) "Bharatiya Nagarik Suraksha Sanhita" means the Bharatiya Nagarik Suraksha Sanhita, 2023, as amended from time to time;

c) "court" means a criminal court competent to try an offence and pass sentence under the Bharatiya Nyaya Sanhita or under any other law for the time being in force;
d) "Guideline" means a sentencing guideline set out in the Schedules to this Act;
e) "offence-specific guideline" means a sentencing guideline which applies to particular offences or classes of offences as specified therein;
f) "general guideline" means the General Sentencing Guideline contained in Schedule I;
g) "statutory range" means the minimum and maximum punishment prescribed by the applicable substantive law;
h) "Sentencing Authority" means the body established under Part VI for the formulation and review of sentencing guidelines.

2. Words and expressions used but not defined in these Guidelines and defined in the Bharatiya Nyaya Sanhita or the Bharatiya Nagarik Suraksha Sanhita shall have the meanings respectively assigned to them in those enactments.

3. Quintiles -based sentencing framework

1. **Application of Quintile structure.—** Every court shall, while determining the appropriate sentence within the statutory range prescribed under the applicable law, apply a Quintiles-based sentencing framework in accordance with this section and the Guidelines.

2. **Computation of range.—** For the purposes of this section—

   a) where no minimum punishment is prescribed, the minimum shall be deemed to be zero;
   b) where the punishment prescribed is imprisonment for life, such punishment shall be the statutory maximum for the offence.

3. **Division into Quintiles.—** The statutory range so determined shall be divided into five equal parts, namely—

a) Quintile 1 (Q1), being the lowest Quintile;
b) Quintiles 2 (Q2), being the lower-middle Quintile;
c) Quintiles 3 (Q3), being the middle Quintile;
d) Quintiles 4 (Q4), being the upper-middle Quintile; and.
e) Quintiles 5 (Q5), being the highest Quintile.

4. **Determination of applicable Quintile.—** The court shall determine the appropriate Quintile having regard to—

    a. the degree of harm caused or intended;
    b. the level of culpability of the offender; and
    c. the presence of aggravating and mitigating circumstances.

5. **Effect of Quintile determination.—** The Quintile so determined shall indicate the appropriate sentencing band within the statutory limits, and the court shall ordinarily impose a sentence within such Quintile unless, for reasons to be recorded in writing, a departure is considered necessary in the interests of justice.

PART II

4. Application of Act and relationship with other laws

1. Subject to the provisions of this Guidelines and any other law for the time being in force, the Guidelines contained in the Schedules shall apply to the sentencing of offences—

    a) under the Bharatiya Nyaya Sanhita; and
    b) under any other law which creates a criminal offence and under which a court in India is empowered to pass a sentence.

2. The provisions of this Guidelines shall be in addition to, and not in derogation of—

    a) the provisions of the Bharatiya Nyaya Sanhita;
    b) the provisions of the Bharatiya Nagarik Suraksha Sanhita relating to trial, bail, compensation, probation and other procedural or ancillary matters; and

c) any other law for the time being in force which prescribes mandatory minimum sentences, maximum sentences, special sentencing procedures or restrictions.

3. In the event of any inconsistency between the sentence authorised by the applicable substantive law and any indicative range or band under the Guidelines, the sentence authorised by such substantive law shall prevail.

5. General Sentencing Guideline to apply in all cases

1. Every court shall have due regard to the General Sentencing Guideline set out in Schedule I while passing sentence upon—

   a) any person who has attained the age of eighteen years and is convicted of an offence; and
   b) any company, firm, body corporate, or association of individuals convicted of an offence.

2. The Guideline shall apply to all offences under the Bharatiya Nyaya Sanhita and under any other law for the time being in force, save where an offence-specific guideline expressly provides otherwise.

3. Nothing in this section shall be construed as authorising any court—

   a) to impose a sentence in excess of the maximum, or below the minimum, prescribed by law; or
   b) to disregard any special sentencing provision, including a mandatory minimum or enhanced punishment, contained in any law for the time being in force.

6. Mandatory consideration and recording of reasons

1. In every case where sentence is passed—

   a) the court shall consider the relevant Guideline or Guidelines; and
   b) the order on sentence shall record that such Guideline or Guidelines have been considered.

2. Every sentencing order shall, as far as practicable, state—

   a) the assessment of harm and culpability;
   b) the Quintile (Q1–Q5) determined under section 3;

c) the principal aggravating and mitigating factors taken into account;
d) any reduction granted on account of assistance or plea of guilty, and the approximate extent thereof;
e) the application of the totality principle; and
f) the reasons for any departure from the applicable Quintile.

3. Every sentencing court shall expressly consider and record its application of the Guideline in accordance with this Schedule.

Provided that where any Guideline is not complied with, the sentence shall be liable to be set aside or modified by the appellate or revisional court, unless the court records reasons why such non-compliance was necessary in the interests of justice.

PART III

7. Interaction with provisions of the Bharatiya Nyaya Sanhita, 2023

1. Nothing contained in these Guidelines shall be construed as—

a) altering, amending or affecting the ingredients, definitions or classifications of offences under the Bharatiya Nyaya Sanhita; or
b) affecting the operation of any provision relating to general exceptions, abetment, attempt, joint liability or other matters governed by the said Sanhita.

2. For the purposes of determining harm, culpability and the appropriate Quintile under this Guidelines and the Schedules, the court shall have due regard to—

a) the nature and gravity of the offence as defined in the relevant provisions of the Bharatiya Nyaya Sanhita; and
b) any statutory aggravating or mitigating circumstances expressly recognised therein, including enhanced punishment for specified classes of victims or circumstances.

8. Interaction with provisions of the Bharatiya Nagarik Suraksha Sanhita, 2023 and other procedural law

1. The application of the Guidelines shall be subject to the provisions of the Bharatiya Nagarik Suraksha Sanhita and any other law for the time being in force relating to—

    a) procedure at the stage of conviction and sentence;
    b) pre-sentence reports, victim-impact statements, and psychiatric or other expert reports;
    c) set-off of pre-trial detention, remission, commutation, probation and parole; and
    d) compensation to victims and other ancillary or consequential orders.

2. In determining compensation, community service, probation, admonition or other non-custodial measures, the court shall—

    a) have regard to the provisions of the Bharatiya Nagarik Suraksha Sanhita and any applicable victim compensation scheme; and
    b) be guided by the principles set out in Schedule I.

PART IV

9. Sentencing of Organisations

1. Where the offender is a company, firm, body corporate or association of individuals, the court shall, for the purposes of this Guidelines —

    a) assess harm and culpability with reference to organisational fault, corporate gain and systemic risk, in accordance with Schedule I; and
    b) determine the appropriate Quintile and calibrate fines or other financial penalties so as to—
        I. Remove any economic benefit derived from the offence;
        II. Achieve effective deterrence; and
        III. Avoid disproportionate adverse impact on innocent stakeholders, employees or creditors.

2. Where authorised by any law for the time being in force, the court may, in addition to financial penalties, consider—

a) compliance or remedial orders;
b) monitoring or reporting obligations; and
c) publication of conviction or other appropriate orders, having regard to the nature and gravity of the offence.

10. Appellate and revisional scrutiny

1. While exercising appellate, revisional or confirmation jurisdiction in relation to sentence, the High Court or any other competent court shall have due regard to—

    a) the applicable Guideline or Guidelines;
    b) the determination of harm, culpability and Quintile by the court below; and
    c) the reasons recorded in accordance with section 7.

2. Where the sentence of death has been imposed by a court of first instance—

    a) the reference for confirmation, and any appeal or review, shall be dealt with in accordance with the applicable procedural law; and
    b) the appellate or confirmation court shall examine the conviction but also the application of Schedule I, including the determination that the case falls within the "rarest of rare" category.

PART V

11. Power to issue directions and provide training

1. The Central Government may, in consultation with the Supreme Court, take such measures as may be necessary to—

    a) ensure effective dissemination of the Guidelines to all criminal courts; and
    b) promote training and capacity-building of judges, prosecutors and other stakeholders in the application of the Guidelines.

2. Nothing in this section shall be construed as conferring upon the Central Government any power to amend, modify or annul any provision of the Schedules.

12. Power to amend Schedules

1. The Central Government may, by notification in the Official Gazette, and with the prior approval of Parliament by resolution, amend, substitute or add to any Schedule to this Guidelines, after taking into account the recommendations of the Sentencing Authority made under section 22:

   Provided that no such amendment shall have the effect of authorising any sentence in excess of that provided under the applicable substantive law.

2. Every notification issued under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament.

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 this Guidelines.

14. Savings and transitional provisions

1. Nothing in these Guidelines shall affect the validity of any sentence finally determined before the commencement of these Guidelines.

2. Sentencing proceedings pending on the date of commencement of these Guidelines may, as far as practicable, be conducted having regard to the Guidelines, without invalidating any step already taken.

3. Any reference in any law or instrument to "sentencing guidelines" shall, unless the context otherwise requires, be construed as a reference to the Guidelines contained herein.

15. Schedules

1. The Schedules to this Guidelines shall form part of this Guidelines and shall have effect accordingly.

2. Without prejudice to the generality of sub-section (1), the Schedules shall comprise—

   (a) **Schedule I** – General Sentencing Guideline (Adult Individuals and Organisations);

   (b) **Schedule II** – Sentencing Order Form; and

   (d) such further Schedules as may be added in accordance with section 12.

PART VI

SENTENCING AUTHORITY

16. Establishment, composition and status of the Sentencing Authority

1. The Central Government, in consultation with the Supreme Court of India, shall, by notification in the Official Gazette, establish a body to be called the "Sentencing Authority", which shall be a statutory body for the purposes of these Guidelines.

2. Notwithstanding anything in this Guidelines or in any other law, the Sentencing Authority shall be a body corporate by the name so notified, with perpetual succession and a common seal, and shall have power, subject to the provisions of this Guidelines,—

   a) to formulate, review and revise sentencing guidelines, including the Schedules hereto;
   b) to promote uniformity and transparency in sentencing practices across the country; and
   c) to advise the courts, legislature and other stakeholders on matters relating to sentencing policy.

3. The Sentencing Authority shall function in accordance with the principles enshrined in—

   a) Articles 21 and 38 of the Constitution of India;
   b) the object and reasons of this Act; and

c) the general principles of legality, proportionality, individualisation, deterrence, rehabilitation, reparation and protection of society set out in Schedule I.

17. Composition of the Authority

1. The Sentencing Authority shall consist of the following members, namely:—

    (a) Chairperson, who shall be a former Judge of the Supreme Court or a former Chief Justice of a High Court;
    (b) not more than two serving or retired Judges of the High Court;
    (c) not more than two members representing the prosecution, to be drawn from the office of the Director of Public Prosecutions or the Director General of Prosecution at the State or Union level, as may be notified;
    (d) not more than two members with expertise in penology, criminology or social sciences; and
    (e) One member representing the Ministry of Law and Justice, who shall be an officer of the level of Joint Secretary or above.
    (h) Two eminent citizens, provided that such eminent citizens shall possess demonstrated expertise in criminal justice reform, victim rights, penology, or social rehabilitation, and shall hold office for a non-renewable term of three years.

2. The members referred to in clauses (b), (d), (e), (f) and (h) shall be appointed in such manner and for such terms and conditions of service as may be prescribed by regulations made under this Guidelines.

3. The Chairperson and the majority of the members shall be persons with proven experience in criminal justice, sentencing policy, or penology.

4. In the appointment of members under clause (d), the Central Government shall ensure that at least one member possesses demonstrable expertise in the application of mathematical or economic game-theoretic models to

evaluate the impact of sentencing policies on judicial efficiency, plea-bargaining rates, and witness cooperation.

18. Functions and powers of the Sentencing Authority

1. The Sentencing Authority shall have the following functions:
    A. To prepare, publish and periodically update the sentencing guidelines, including the Schedules annexed to this Act, having regard to:
        (i) Monitoring compliance and adherence to these Guidelines, including the preparation of reports on judicial deviations for institutional review;
        (ii) Designing and implementing comprehensive training and sensitisation programmes for the judiciary, prosecution, and legal practitioners;
        (iii) Overseeing the digital transformation of sentencing procedures, including the development of automated scoring tools and secure electronic filing systems;
        (iv) Establishing robust systems for the collection, analysis, and public reporting of sentencing statistics and case-level data;
        (v) Applying game-theoretic modelling and empirical analysis to optimise institutional incentives, particularly in the areas of plea-bargaining, witness cooperation, and the reduction of trial pendency;
        (vi) Recommending amendments to substantive and procedural laws, including the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023; and
        (vii) Evaluating trends in judicial decisions and sentencing patterns to ensure the continued relevance and efficacy of the Guidelines.
    B. To recommend the addition, modification or deletion of Schedules to this Guidelines;
    C. To conduct or commission research on sentencing disparities, imprisonment patterns, the impact of non-custodial measures, and the effectiveness of sentencing in achieving deterrence;

D. To develop and publish model forms, checklists, and practice notes to standardise the recording of scores, aggravating and mitigating factors, and judicial reasons for departure;
E. To recommend the review, consolidation or rationalisation of statutory punishments to ensure national proportionality and certainty in sentencing; and
F. To facilitate a structured process for receiving representations from courts, the bar, victims' groups, and other stakeholders regarding the implementation and impact of the Schedules.

2. The Sentencing Authority may issue practice notes, explanatory material, and technical guidance on the application of the Schedules, which shall be advisory and shall not override the provisions of this Guidelines or the parent substantive law.

19. Powers to obtain information and hold consultations

1. For the effective discharge of its functions, the Sentencing Authority may:

a) Mandate any court, police authority, prosecution agency, prison administration, or any other criminal justice agency to furnish such information, data, statistics, or reports as it may specify;
b) Organise public consultations, expert-group meetings, thematic workshops, and stakeholder dialogues; and
c) Constitute committees, panels, or task forces—comprising judges, prosecutors, defence counsel, academics, and domain experts—to provide targeted recommendations.

2. Subject to the rules of privilege and existing statutory restrictions on disclosure, information received under this section shall be treated as confidential and utilised exclusively for the purpose of policy formulation and guideline revision.

20. Procedure for recommending amendments to Schedules

1. The Authority may, of its own motion or upon reference from the Central Government, the Supreme Court, or any High Court, prepare a draft amendment to any Schedule.
2. No amendment shall be recommended unless the Authority has:
    a) Conducted a rigorous internal review, supported by empirical data, case-law analysis, and stakeholder feedback; and
    b) Published a draft version for public comment and provided a reasonable opportunity for objections and representations.
3. Upon consideration of public input, the Authority shall submit its final recommendation to the Central Government, accompanied by a comprehensive Statement of Reasons and an Impact Assessment, including an analysis of the proposal's effect on judicial pendency and administrative costs.
4. The Central Government shall, before initiating the amendment process under Section 12, lay the Authority's recommendation and the Impact Assessment before each House of Parliament, along with an explanatory memorandum on the anticipated effects on sentencing practices.

21. Annual report and accountability

1. The Sentencing Authority shall submit an annual report to the Central Government and the Supreme Court on—

    (a) the implementation and impact of the Guidelines, including Schedule I;
    (b) any significant disparities or anomalies observed in sentencing practices; and
    (c) such recommendations, if any, for legislative or policy measures as may appear appropriate.

2. The annual report, or an abridged version thereof, shall, as far as may be, be made available to the public and to all criminal courts in India.

3. The Authority shall be subject to general financial oversight of the Comptroller and Auditor General of India and shall comply with such accounting and audit requirements as may be prescribed.

22. Independence and neutrality

1. While functioning in an advisory capacity, the Sentencing Authority shall be independent of any executive or political influence in the formulation or review of sentencing guidelines.
2. If any doubt arises as to the applicability of sub-section (2), the Chairperson shall record reasons for deciding the question of disqualification.

23. **Transitional provisions relating to the Authority**

1. The Sentencing Authority shall be deemed to have been constituted on the date notified by the Central Government under sub-section (1) of section 16.
2. Until such time as the Authority is established, the Central Government may, in consultation with the Supreme Court, continue to issue notifications modifying the Schedules under section 12, in accordance with the existing framework.

24. **Interpretation and savings**

1. Where any guideline, rule or form issued by the Sentencing Authority under this Guidelines is inconsistent with—

   (a) a provision of this Guidelines; or
   (b) any special sentencing provision in any other law, including the Bharatiya Nyaya Sanhita, 2023, the statutory provision shall prevail over the guideline.

2. No guideline issued by the Authority shall be construed as altering, amending or affecting the ingredients, definitions or classifications of offences under the Bharatiya Nyaya Sanhita or any other law.

***

SCHEDULE I

(See sections 3, 5 and 7)

GENERAL SENTENCING GUIDELINE
(ADULT INDIVIDUALS AND ORGANISATIONS)

PART I: PRELIMINARY

1. Status, scope and application

1. This Guideline shall apply to—
    a) all offenders who have attained the age of eighteen years at the time of conviction;
    b) all organisations, including companies, firms, bodies corporate and associations of persons, whether incorporated or not, convicted of offences under the Bharatiya Nyaya Sanhita, 2023 or under any other law for the time being in force.
2. This Guideline shall—
    a) apply in all cases where no offence-specific guideline is applicable; and
    b) supplement any offence-specific guideline, to the extent that it is not inconsistent therewith.
3. Nothing contained in this Guideline shall be construed as authorising any court—
    a) to impose a sentence exceeding the maximum prescribed by law; or
    b) to impose a sentence below any mandatory minimum prescribed by law.

2. Guiding principles of sentencing

1. In determining the appropriate sentence, the court shall be guided by the following principles, namely:—
    (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.

2. The seriousness of the offence shall be determined through the structured assessment mechanism provided in this Guideline to ensure a rational and transparent evaluation of aggravating and mitigating circumstances, thereby promoting early resolution of disputes, witness cooperation, and efficient administration of justice to reduce trial pendency.

PART II: SENTENCING METHODOLOGY

3. Sequential steps in sentencing

1. The court shall, while determining sentence, adopt a structured methodology comprising the following 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 such determination;
(c) identification of the starting point within such band or quintile;
(d) adjustment of the sentence having regard to aggravating and mitigating factors recognised by this Guideline;
(e) consideration of reductions for plea of guilty or cooperation with investigation and prosecution;
(f) application of the totality principle in cases involving multiple offences, including, where necessary to reflect distinct criminality, the imposition of consecutive sentences;
(g) consideration of compensation, restitution and other ancillary or non-custodial measures; and
(h) recording of reasons and finalisation of the sentence.

2. The steps specified in sub-paragraph (1) shall be applied in a cumulative and sequential manner, and no step shall be omitted unless expressly justified in the order of the sentence.

PART III: DETERMINATION OF SERIOUSNESS

4. Structured score method

1. For the purpose of determining seriousness, the court shall apply a structured score method in accordance with this Part.
2. The structured score method shall begin from a neutral baseline representing a typical case falling at the midpoint of the statutory punishment range, as defined in the relevant provisions of the Bharatiya Nyaya Sanhita, 2023 and the parent Act.
3. Subject to Rule 5, the Base Score for every offence shall be 5 points.
4. The court shall then increase or decrease such score having regard to the presence of relevant aggravating and mitigating factors specified in this Guideline.
5. The Final Score so determined shall reflect the overall seriousness of the offence and shall be recorded expressly in the sentencing order, together with the corresponding quintile (Q1–Q5) under the parent Act.

5. Aggravating score factors

1. The court may increase the Base Score for the presence of one or more of the following aggravating factors by up to 2 points each, namely: —

    a) Prior conviction or habitual offending—
        i. 1 point, where there is one prior conviction for an imprisonable offence and fewer than three years have elapsed since completion of sentence;
        ii. 2 points, where there are two or more prior convictions, or a prior conviction for an offence of the same category or involving violence, dishonesty, or breach of trust;

    b) Obstruction of justice, concealment of the offence, or evasion of process—
        i. 1 point, where there is reactive concealment after the act, without advance planning;
        ii. 2 points, where there is active or premeditated obstruction, including destruction of evidence, fabrication of evidence, intimidation of witnesses, absconding, or comparable conduct;

c) Premeditation or significant planning—
    i. 1 point, where there is identifiable prior thought or preparation beyond impulse;
    ii. 2 points, where there is sustained, coordinated, or sophisticated planning;
d) Either one of the following—
    i. Repeated acts, brutality, or serious violence—
        A. 1 point, where force or repetition falls within the upper range of the ordinary case;
        B. 2 points, where the violence is sustained, cruel, torturous, or causes prolonged suffering; or
    ii. Severe harm, including death, serious bodily injury, grave psychological injury, or very high financial loss—
        A. 1 point, where the harm falls within the range ordinarily contemplated by the offence;
        B. 2 points, where the harm materially exceeds that range;
e) Significant economic, institutional, or systemic impact—
    i. 1 point, where the impact is material but contained in scope;
    ii. 2 points, where the impact is large-scale, cascading, or affects public institutions, markets, or the administration of justice;
f) Either one of the following—
    i. Vulnerability of the victim or plurality of victims—
        A. 1 point, where a vulnerable victim is targeted or the number of victims is between two and five;
        B. 2 points, where multiple vulnerability factors are present, or the number of victims is six or more; or
    ii. Abuse of authority, fiduciary position, or position of trust—
        A. 1 point, where the abuse is opportunistic or isolated;

B. 2 points, where the abuse is systematic, repeated, or linked to institutional responsibility.

6. Mitigating score factors

1. The court may decrease the Base Score for the presence of one or more of the following mitigating factors by up to 2 points each, namely:—

a) Absence of prior conviction and demonstrable law-abiding conduct
   i. 1 point, where there is no prior conviction for any imprisonable offence together with otherwise stable conduct, employment, education, or family responsibility;
   ii. 2 points, where there is no prior conviction and a long demonstrable period of lawful conduct, strong community standing, or verified reformative background;

b) Peripheral or minor role in the commission of the offence—
   i. 1 point, where participation is secondary or limited;
   ii. 2 points, where the role is merely incidental, minimal, or easily separable from the principal act;

c) Restitution, compensation, or meaningful reparation—
   i. 1 point, where there is partial restitution, attempted repayment, apology accompanied by material reparation, or measurable efforts to reduce the harm caused;
   ii. 2 points, where there is full restitution, complete repayment, prompt compensation, or substantial repair of the harm voluntarily made before sentencing;

d) Cooperation with investigation or prosecution—
   i. 1 point, where there is limited but genuine cooperation;
   ii. 2 points, where there is full and timely cooperation materially aiding detection, recovery, or conviction;

e) Provocation, emotional disturbance, or situational pressure—
   i. 1 point, where some provocation or emotional disturbance partly reduces culpability but falls short of a complete defence;
   ii. 2 points, where substantial provocation, grave emotional disturbance, sudden fight, or comparable situational pressure significantly reduces self-control, though not enough to negate liability;

f) Demonstrable remorse accompanied by corrective conduct—
    i. 1 point, where remorse, apology, or visible regret is supported by some corrective conduct;
    ii. 2 points, where remorse is genuine and sustained and is accompanied by voluntary surrender, acceptance of responsibility, or affirmative corrective conduct;

g) Youth, advanced age, illness, or diminished personal capacity—
    i. 1 point, where youth, old age, illness, mental health difficulty, cognitive limitation, or comparable personal condition partly reduces blameworthiness;
    ii. 2 points, where such condition materially affects judgment, resilience, or culpability; and

h) Strong prospects of reform and rehabilitation—
    i. 1 point, where there are some indicators of reform, including family support, employment, education, or stable living arrangements;
    ii. 2 points, where prospects of rehabilitation are strong and verified by conduct, background, institutional reports, or other reliable material.

i) Early plea bargaining and structured resolution of the case –

    i. 2 points, where the offender enters into a lawful plea-bargaining arrangement after substantial evidence has been recorded, resulting in some saving of judicial time and witness inconvenience;
    ii. 4 points, where the offender enters into a lawful plea-bargaining arrangement at an early stage, before commencement of evidence, resulting in substantial saving of judicial time and witness inconvenience.

Provided that any reduction under clause (i) shall be applied in addition to other mitigating factors, but the court shall ensure that the Final Score does not fall below 0 in accordance with Rule 7(2).

2. In applying mitigating factors, the court shall have due regard to the facts of the case and shall not assign a reduction on grounds already otherwise reflected in the classification of the offence or in any statutory provision.

3. Mitigating factors shall be assessed on the basis of reliable material, including antecedents, conduct, social background, pre-sentence material, proof of restitution, medical record, or any other relevant material lawfully before the court.

7. Calculation and safeguards

1. The Final Score shall be calculated by adding the total aggravating adjustments to the Base Score and deducting the total mitigating adjustments therefrom.
2. The Final Score shall ordinarily not be less than 0 and shall not exceed 10.

   Explanation. For the avoidance of doubt, cases falling in Quintile 1 (Q1) may, where justified by the mitigating factors, attract a Final Score of 0, and the corresponding sentence may range from no punishment to the lower end of the statutory range, subject to the applicable substantive law.

3. The total upward or downward adjustment from the Base Score shall ordinarily not exceed 4 points, unless exceptional reasons are recorded in writing.

4. Where multiple factors overlap, the court shall apply only the most appropriate factor, or such combination of factors as is sufficient to reflect the true seriousness of the case, and shall avoid duplication in assessment.

PART IV: MAPPING OF SERIOUSNESS TO SENTENCE

8. Statutory anchoring of sentence

1. The sentence shall in every case remain within the limits prescribed by the applicable substantive law, including the Bharatiya Nyaya Sanhita, 2023 and any other law for the time being in force.
2. Where no minimum punishment is prescribed, the minimum shall, for the purposes of computation under this Guideline, be treated as zero.
3. Where the punishment prescribed includes imprisonment for life, the court shall treat life imprisonment as the statutory maximum for the offence and shall not convert it into any fixed term merely for the purposes of computation under this Guideline.

4. For the avoidance of doubt, nothing in this Guideline shall authorise any court to exceed the statutory range defined by Section 3 of the parent Guidelines.

9. Indicative Quintile mapping

1. After determining the Final Score, the court shall identify the indicative quintile or sentencing band as follows:—

Final Score	Quintile	Indicative Seriousness
0 to 2	Q1	Lower seriousness
3 to 4	Q2	Below-average seriousness
5 to 6	Q3	Average seriousness
7 to 8	Q4	Above-average seriousness
9 to 10	Q5	High seriousness

In cases falling within Q5, plea-based reductions shall be constrained in accordance with Rule 13(6).

2. The identified quintile shall guide the placement of the sentence within the available statutory range and shall provide the presumptive band for the starting point, consistent with the quintile-based framework in section 3 of the parent Guideline.

3. The court may round the sentence to the nearest practical unit, including days, months, or years, as the nature of the punishment may require.

Illustration

a) An offence is punishable with imprisonment for a term which may extend to seven years and a fine. There is no statutory minimum. The Final Score is determined to be 5.5, falling in Q3. Indication – Q3 in Part A (maximum 7 years) is 2.8 to 4.2 years. The court ordinarily imposes a sentence within this range and may move within it having regard to the precise final Score.

b) An offence is punishable with imprisonment for a term which shall not be less than three years but which may extend to ten years. The Final Score is determined to be 7.5, falling in Q4. Indication – Q4 in Part B (3 years to 10 years) is 7.2 to 8.6 years. The court ordinarily imposes a sentence within this range.

10. Starting point, adjustment and departure

1. The sentence indicated by the applicable quintile shall ordinarily constitute the starting point for final determination, in accordance with section 3 and section 7 of the Guideline.

2. The court may adjust such sentence, within the bounds of the applicable law, having regard to—

   a) factors recognised by this Guideline;
   b) the circumstances of the offender; and
   c) the interests of justice.

3. 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 otherwise requires, and in every such case the reasons for departure shall be expressly recorded and, where practicable, quantified.

PART V: OVERRIDES AND ADDITIONAL ADJUSTMENTS

11. Structured overrides

1. Notwithstanding anything contained in Rules 4 to 10, the court may depart from the ordinary scoring outcome only where one or more of the following circumstances is established on the record:—

   a) Multiple deaths, torture, terrorist activity, or murder accompanied by exceptional cruelty;
   b) Repeat violent or sexual offending proved by two or more prior convictions of a similar kind;
   c) Provocation of such gravity as materially reducing culpability, though not amounting to a complete defence;

d) Diminished responsibility of a substantial degree supported by medical, psychiatric, or other reliable material; or

e) a negligence-based offence accompanied by aggravating features so exceptional that the ordinary ceiling would understate the seriousness of the case.

2. Where this Rule is invoked, the court shall identify the precise circumstance relied upon, explain why the ordinary scoring outcome is inadequate, and state the extent of the resulting adjustment.

3. Nothing in this Rule shall authorise the court to disregard any mandatory statutory minimum or maximum punishment.

12. Assistance to authorities

1. Where the offender has rendered substantial assistance to the investigation or prosecution of the offence or any related offence, the court may grant a reduction in sentence, in accordance with Section 7 and the principles of assistance specified in the parent Guidelines.

2. No such reduction shall ordinarily be granted unless the assistance is placed before the court through—

   i. a written submission of the prosecution; or

   ii. other reliable material recorded on the proceedings and disclosed to the offender, subject to lawful claims of privilege or protection.

3. The reduction under this Rule shall ordinarily not exceed one-third of the sentence otherwise determined, and its extent shall depend upon—

   a) the truthfulness, completeness, and timeliness of the assistance;

   b) the significance of the assistance to detection, recovery, disruption, or conviction; and

   c) the degree of risk or prejudice assumed by the offender in rendering such assistance.

   d) Where the existence, truthfulness, or value of the alleged assistance is disputed, the court shall determine the matter on the basis of material lawfully placed on record and shall record brief reasons for accepting or rejecting the claim.

e) For the avoidance of doubt, the court shall not grant any reduction under this Rule in a manner inconsistent with any statutory restriction on leniency, pardon, witness-protection or other special procedures, and any such reduction shall be expressly recorded in the sentencing order together with the stage-wise assessment under the structured score method.

13. Plea of guilty

1. Where an offender pleads guilty, otherwise than pursuant to a formal plea-bargaining procedure, the court may grant a reduction in sentence having regard to the stage at which such plea is entered, in accordance with section 7 of the Guidelines.
2. Where an offender enters into a lawful plea-bargaining arrangement in accordance with the applicable procedural law, the consequences of such plea for the structured score shall be determined under Rule 6(1)(i), and any further percentage-based reduction under this Rule shall be granted only where justified by exceptional circumstances and reasons are recorded.
3. Without prejudice to the generality of sub-rule (1), the reduction may ordinarily be as follows:—
    a) where the plea of guilty is entered at the earliest reasonable opportunity, a reduction not exceeding one-third of the sentence;
    b) where the plea of guilty is entered after the matter has progressed beyond the initial stage but before substantial prosecution evidence is recorded, a reduction not exceeding one-quarter of the sentence; and
    c) where the plea of guilty is entered at a late stage, including after commencement of trial, a reduction not exceeding one-tenth of the sentence.
4. The extent of reduction shall be determined having regard to all relevant circumstances, including—
    a) the stage of proceedings;
    b) the conduct of the offender;
    c) the saving of judicial time;
    d) the effect on victims and witnesses; and

e) the interests of justice.

4. Where, in accordance with law, the offender becomes a prosecution witness or otherwise gives evidence materially leading to the conviction of one or more co-offenders, the court may, in addition to, or independent of, sub-rule (2), grant an appropriate further reduction, which shall ordinarily not exceed one-third of the sentence, and for which reasons shall be recorded.

5. No reduction under this Rule shall be granted in a manner inconsistent with any statutory restriction or special procedure governing pardon, tender of evidence, plea bargaining, or witness protection.

(6) Notwithstanding anything contained in this Rule or in Rule 6(1)(i), no reduction on account of plea of guilty or plea-bargaining shall ordinarily be granted where the Final Score falls within Quintile 5 (Q5), that is, where the Final Score is 9 or above, unless a specific statutory provision expressly permits such reduction and the court records special reasons for doing so.

14. Totality principle

1. Where an offender is convicted of two or more offences, or is already subject to an existing sentence, the court shall ensure that the aggregate sentence is just and proportionate to the overall criminality involved, in accordance with section 7 and section 11 of the Guideline.
2. In applying the totality principle, the court shall have regard to—
    a) the entirety of the offending behaviour;
    b) the need to avoid a sentence that is excessive or disproportionate; and
    c) the desirability of directing sentences to run consecutively, and not merely concurrently, where such direction is necessary to reflect distinct offences, separate victims, separate transactions, or separate dimensions of criminality.
3. In cases involving obstruction of justice, fabrication of evidence, false implication, perjury, or comparable conduct affecting the administration of justice, the court may make such order as is expressly authorised by the applicable law relating to compensation, costs, restitution, or recovery,

and shall not award legal or investigative costs except to the extent permitted by statute.

15. Compensation and restorative measures

1. The court shall, in appropriate cases, consider the making of orders for—
    a) compensation to victims;
    b) restitution of property or monetary loss;
    c) community service; and
    d) probation or other non-custodial measures.
2. In determining whether to make such orders, the court shall have regard to—
    a) the nature and extent of harm suffered by the victim;
    b) the means and circumstances of the offender; and
    c) the provisions of any applicable law relating to compensation, probation, or restorative measures.

16. Sentencing of Organisations

1. Where the offender is an organisation, the court shall assess seriousness having regard to—
    a) the extent of organisational fault;
    b) the degree of management involvement, connivance, consent, or systemic failure;
    c) the economic or other benefit derived from the offence; and
    d) the actual or potential impact of the offending on the public, market, institution, or regulatory system.
2. Subject to the limits prescribed by the applicable law, the court shall impose a financial penalty or other sanction sufficient—
    a) to remove, so far as practicable, any economic benefit derived from the commission of the offence;
    b) to secure effective deterrence; and
    c) to remain proportionate, having regard to the impact on innocent stakeholders, employees, and creditors.
3. In determining the amount of fine, the court may have regard to—
    a) the turnover, revenue, or financial capacity of the organisation;
    b) the duration and scale of the offending;
    c) prior regulatory or criminal misconduct;

d) compliance failures and post-offence remediation; and
e) the need to avoid unjust enrichment and to promote future compliance.

17. Duty to record reasons

1. Every sentencing order shall record, in a clear and structured manner—
   a) the Base Score;
   b) the aggravating and mitigating factors applied;
   c) the Final Score;
   d) the quintile (Q1–Q5) identified;
   e) any reduction, override, adjustment, or departure applied; and
   f) the final sentence imposed, together with reasons therefor, in accordance with section 7 of the Guideline.
2. Where the court departs from the sentence ordinarily indicated by this Guideline, it shall record specific reasons justifying such departure, including, where applicable, any reference to the structured override provisions, totality considerations, or statutory obligations.

***

FORM I

[See sub-rule (1) of Rule 4, read with Rules 5, 6, 7, 9, 11 and the Second Schedule]

SENTENCING SCORE FORM

(To be filed by the Public Prosecutor along with the charge-sheet, and placed before the court at the time of framing of charges)

PART A — PARTICULARS OF THE CASE

1. FIR No. and date		**2. Police Station / District**	
3. Court / Sessions Division		**4. Date of filing of charge-sheet**	
5. Public Prosecutor (name & desig.)		**6. Bar Council Reg. No.**	

PART B — PARTICULARS OF THE ACCUSED

7. The Public Prosecutor doth hereby file this Form in respect of the accused person particularised below. **A separate Annexure in Form I-A is enclosed in respect of each offence-section invoked against the said accused.**

(i) Name of accused (with father's/spouse's name)		**(ii) Age, gender, occupation**	
(iii) Permanent address		**(iv) Address for service**	

8. Whether the said accused has been convicted of a similar offence within the five years preceding the date hereof, having regard to sub-section (2) of section 291 of the Bharatiya Nagarik Suraksha Sanhita, 2023:

☐	No — first-time offender [s. 291(1) BNSS applies]	☐	Yes — repeat offender; reduction at the discretion of the Court [s. 291(2) BNSS]

PART C — SCHEDULE OF OFFENCES INVOKED AGAINST THE SAID ACCUSED

9. The offences alleged against the said accused, the statutory range of punishment, and the corresponding Annexure in Form I-A, are as follows:

Sl. No.	Section & Statute	Brief description	Statutory min.	Statutory max.	Annex. No.

PART D — PLEA-BARGAINING STATUS

[Required by ss. 290 and 291 of the BNSS, 2023, as amended by the Prevention of False Statement and Obstruction of Justice (Satyug) Act, 2025.]

10. Plea-bargaining application — stage at which made [mark only one]; the date of notice under sub-section (1) of section 290, BNSS shall be stated alongside:

☐	**(a)**	No plea-bargaining application filed.
☐	**(b)**	Within 90 days of s. 290(1) notice, before framing of charges — cap at ¼ of prescribed [s. 291(1)(i) BNSS].
☐	**(c)**	Within 60 days of s. 290(1) notice, before closure of prosecution evidence — cap at ½ of prescribed [s. 291(1)(ii) BNSS].
☐	**(d)**	After closure of prosecution evidence — not maintainable [proviso to s. 291(1) BNSS].

11. Status of the said application:

☐	Pending	☐	Accepted by Court (date: ……)	☐	Rejected (date: ……; reasons recorded separately)

PART E — TOTAL ANNEXURES ENCLOSED

12. Total number of Annexures (in Form I-A) enclosed herewith — one in respect of each offence-section listed in Part C:	

PART F — VERIFICATION

13. I, the Public Prosecutor named in item 5, do hereby solemnly affirm that the contents hereof and of every Annexure are true, based on materials on record, and that the scoring reflects the calibration thresholds under sub-rule (3) of Rules 5 and 6.

Place:	**Date:**	**Signature of Public Prosecutor:**	**Designation & Bar Reg. No.:**

FORM I-A

ANNEXURE TO FORM I

[See sub-rule (3) of Rule 5, sub-rule (3) of Rule 6, and Rule 9; to be filed in respect of each offence-section listed in Part C of Form I, the accused being the person particularised in Part B thereof]

SENTENCING SCORE — INDIVIDUAL SCORING SHEET

Annexure No.:		**of total enclosed:**	
Name of accused:		**BNS / Act, Section:**	
Offence in brief:		**Stat. min / max:**	

I. AGGRAVATING FACTORS — Rule 5(1) read with sub-rule (3)

Mark one of '0', '1' or '2' per factor, having regard to the calibration thresholds in sub-rule (3) of Rule 5.

Factor	0	1	2	Score	Brief facts in support (mandatory if 1 or 2)
(a) Prior conviction or habitual offending	☐	☐	☐		
(b) Obstruction of justice, concealment of the offence, or evasion of process	☐	☐	☐		
(c) Premeditation or significant planning	☐	☐	☐		
(d) either (i) or (ii); not both (i) Repeated acts, brutality, or serious violence — (ii) Severe harm — death, serious bodily injury, grave psychological injury, or very high financial loss	☐	☐	☐		
(e) Significant economic, institutional, or systemic impact	☐	☐	☐		
(f) either (i) or (ii); not both (i) Vulnerability of the victim or plurality of victims — (ii) Abuse of authority, fiduciary position, or position of trust	☐	☐	☐		
Aggravating subtotal — sum of items (a) to (f), with only one of (d)(i)/(d)(ii) and one of (f)(i)/(f)(ii) to be counted [Rule 5(1)]:					

II. MITIGATING FACTORS — Rule 6(1) read with sub-rule (3)

Mark one of '0', '1' or '2' per factor, having regard to the calibration thresholds in sub-rule (3) of Rule 6.

Factor	0	1	2	Score	Brief facts in support (mandatory if 1 or 2)
(a) Absence of prior conviction and demonstrable law-abiding conduct	☐	☐	☐		
(b) Peripheral or minor role in the commission of the offence	☐	☐	☐		
(c) Restitution, compensation, or meaningful reparation	☐	☐	☐		
(d) Cooperation with investigation or prosecution	☐	☐	☐		
(e) Provocation, emotional disturbance, or situational pressure	☐	☐	☐		
(f) Demonstrable remorse accompanied by corrective conduct	☐	☐	☐		
(g) Youth, advanced age, illness, or diminished personal capacity	☐	☐	☐		
(h) Strong prospects of reform and rehabilitation	☐	☐	☐		
Mitigating subtotal — sum of items (a) to (h):					

III. STRUCTURED OVERRIDES — RULE 11(1)

The court may depart from the ordinary scoring outcome only where one or more of the following circumstances is established on the record. The precise circumstance relied upon, the reasons why the ordinary scoring is inadequate, and the extent of the resulting adjustment shall be recorded in writing [Rule 11(2)]. No statutory minimum or maximum may be exceeded thereby [Rule 11(3)].

	Clause	Description	Adjustment / reasons
☐	**11(1)(a)**	Multiple deaths, torture, terrorist activity, or murder accompanied by exceptional cruelty	

☐	**11(1)(b)**	Repeat violent or sexual offending proved by two or more prior convictions of a similar kind	
☐	**11(1)(c)**	Provocation of such gravity as materially reducing culpability, though not amounting to a complete defence	
☐	**11(1)(d)**	Diminished responsibility of a substantial degree supported by medical, psychiatric, or other reliable material	
☐	**11(1)(e)**	Negligence-based offence accompanied by aggravating features so exceptional that the ordinary ceiling would understate the seriousness of the case	

IV. COMPUTATION OF FINAL SCORE — Rule 7

Base (Rule 4(3))	+ Aggravating subtotal	− Mitigating subtotal	± Rule 11 adjustment	= FINAL SCORE (0–10)
5				

V. QUINTILE PLACEMENT — Rule 9(3)

☐ **Q1 (0–2)** *Lenient*	☐ **Q2 (>2–4)** *Below median*	☐ **Q3 (>4–6)** *Moderate (default)*	☐ **Q4 (>6–8)** *Strict (Life ceiling)*	☐ **Q5 (>8–10)** *Maximum / Exemplary*
Note. — Q5 denotes the upper fifth of the permissible range and does not, of itself, import the death penalty. The death penalty is to be considered only where the offence so prescribes, and only in the rarest of cases as provided in clause (a) of sub-rule (1) of Rule 11. In all other cases falling within Q5, the upper fifth of the permissible imprisonment range applies.				

VI. INDICATIVE SENTENCE RANGE (from Second Schedule)

Indicative range corresponding to Q-band marked above:	

VI-A. PLEA-BARGAINING CAP — Section 291, BNSS as amended

[To be filled by reference to Part D of Form I. Where the application has been accepted, the punishment imposable shall not exceed the applicable cap in respect of this offence.]

(i)	Stage at which plea-bargaining was accepted (mark only one):	Cap (computed) for this offence
☐	(a) Before framing of charges — cap at one-fourth of statutory maximum [s. 291(1)(i)]	
☐	(b) Before closure of prosecution evidence — cap at one-half of statutory maximum [s. 291(1)(ii)]	
☐	(c) Repeat offender [s. 291(2)] — court's discretion, less favourable than (a) or (b); else (d) Not applicable	

VII. VERIFICATION

I solemnly affirm that the scoring herein is based on the materials on record and the calibration thresholds in sub-rule (3) of Rules 5 and 6, and that no relevant factor has been omitted or wrongly applied.

Place:	Date:	Signature of Public Prosecutor:	Designation & Bar Reg. No.:

THE SECOND SCHEDULE

(See section 3 of the Guidelines and Rules 8 and 9(1) of Schedule I)

REFERENCE TABLE OF SENTENCING QUINTILES

for offences under the Bharatiya Nyaya Sanhita, 2023

1. This Schedule sets out, for each offence under the Bharatiya Nyaya Sanhita, 2023 punishable with imprisonment, the statutory minimum and maximum punishment and the five sentencing quintiles (Q1–Q5) computed in accordance with section 3 of the Guidelines and Rule 9(1) of Schedule I. Q3 is the default starting band; the court moves upward or downward by reference to the Final Score under Rules 4 to 7 of Schedule I.

2. Where the punishment prescribed is, or includes, imprisonment for life, imprisonment for life itself constitutes the highest quintile (Q5) and is not converted into a fixed term [section 3(2)(b)]. Where the section prescribes a fixed term as an alternative to life ("life or X years"), Q1–Q4 divide the range up to that fixed term into four equal bands. ‡ Where the section prescribes a continuous range extending to life ("not less than X years but which may extend to imprisonment for life"), Q1–Q4 have been computed, as a working convention pending express provision, over the range up to twenty years, and Q5 comprises any longer fixed term and imprisonment for life.

3. † The death penalty is confined to Q5, only where prescribed by the section, and only in the rarest of rare cases in accordance with Rule 11(1)(a) of Schedule I.

4. Abbreviations: 'yr' = year(s); 'mo' = month(s); 'd' = day(s); 'R.I.' = rigorous imprisonment; 'Life' = imprisonment for life; '(nat.)' = remainder of natural life; '—' in the Min. column = no statutory minimum; '—' in the quintile columns = banding inapplicable (fine-only, derivative or special punishment). Fines prescribed by the Sanhita apply in addition and are not separately banded.

5. This Schedule is for reference only and does not supersede the express text of any section of the Bharatiya Nyaya Sanhita, 2023, of the Guidelines or of Schedule I. In case of conflict, the substantive law prevails [section 4(3)].

PART A — GENERAL LOOKUP TABLE: OFFENCES WITH NO STATUTORY MINIMUM

(Applicable to any offence, under the Bharatiya Nyaya Sanhita, 2023 or any other law, by reference to the maximum punishment prescribed. Where no minimum is prescribed, the minimum is taken as zero [section 3(2)(a); Rule 8(2)].)

Statutory range	Q1	Q2	Q3 (default)	Q4	Q5
1 month	0 – 6 d	6 d – 12 d	12 d – 18 d	18 d – 24 d	24 d – 1 mo
3 months	0 – 18 d	18 d – 1.2 mo	1.2 mo – 1.8 mo	1.8 mo – 2.4 mo	2.4 mo – 3 mo
6 months	0 – 1.2 mo	1.2 mo – 2.4 mo	2.4 mo – 3.6 mo	3.6 mo – 4.8 mo	4.8 mo – 6 mo
1 year	0 – 2.4 mo	2.4 mo – 4.8 mo	4.8 mo – 7.2 mo	7.2 mo – 9.6 mo	9.6 mo – 1 yr
2 years	0 – 4.8 mo	4.8 mo – 9.6 mo	9.6 mo – 1.2 yr	1.2 yr – 1.6 yr	1.6 yr – 2 yr
3 years	0 – 7.2 mo	7.2 mo – 1.2 yr	1.2 yr – 1.8 yr	1.8 yr – 2.4 yr	2.4 yr – 3 yr
5 years	0 – 1 yr	1 yr – 2 yr	2 yr – 3 yr	3 yr – 4 yr	4 yr – 5 yr
7 years	0 – 1.4 yr	1.4 yr – 2.8 yr	2.8 yr – 4.2 yr	4.2 yr – 5.6 yr	5.6 yr – 7 yr
10 years	0 – 2 yr	2 yr – 4 yr	4 yr – 6 yr	6 yr – 8 yr	8 yr – 10 yr
14 years	0 – 2.8 yr	2.8 yr – 5.6 yr	5.6 yr – 8.4 yr	8.4 yr – 11.2 yr	11.2 yr – 14 yr
Life or 7 years	0 – 1.75 yr	1.75 yr – 3.5 yr	3.5 yr – 5.25 yr	5.25 yr – 7 yr	Life imp.
Life or 10 years	0 – 2.5 yr	2.5 yr – 5 yr	5 yr – 7.5 yr	7.5 yr – 10 yr	Life imp.
Life or 14 years	0 – 3.5 yr	3.5 yr – 7 yr	7 yr – 10.5 yr	10.5 yr – 14 yr	Life imp.
Imprisonment which may extend to life	0 – 5 yr	5 yr – 10 yr	10 yr – 15 yr	15 yr – 20 yr	above 20 yr – Life‡

PART B — GENERAL LOOKUP TABLE: OFFENCES WITH A STATUTORY MINIMUM

(Applicable to any offence, under the Bharatiya Nyaya Sanhita, 2023 or any other law, by reference to the statutory minimum and maximum. For ranges not set out here, the bands are computed on the same principles.)

Statutory range	Q1	Q2	Q3 (default)	Q4	Q5
6 months – 2 years	6 mo – 9.6 mo	9.6 mo – 1.1 yr	1.1 yr – 1.4 yr	1.4 yr – 1.7 yr	1.7 yr – 2 yr
1 – 3 years	1 yr – 1.4 yr	1.4 yr – 1.8 yr	1.8 yr – 2.2 yr	2.2 yr – 2.6 yr	2.6 yr – 3 yr
1 – 5 years	1 yr – 1.8 yr	1.8 yr – 2.6 yr	2.6 yr – 3.4 yr	3.4 yr – 4.2 yr	4.2 yr – 5 yr
1 – 7 years	1 yr – 2.2 yr	2.2 yr – 3.4 yr	3.4 yr – 4.6 yr	4.6 yr – 5.8 yr	5.8 yr – 7 yr
2 – 7 years	2 yr – 3 yr	3 yr – 4 yr	4 yr – 5 yr	5 yr – 6 yr	6 yr – 7 yr

Statutory range	Q1	Q2	Q3 (default)	Q4	Q5
3 – 7 years	3 yr – 3.8 yr	3.8 yr – 4.6 yr	4.6 yr – 5.4 yr	5.4 yr – 6.2 yr	6.2 yr – 7 yr
3 – 10 years	3 yr – 4.4 yr	4.4 yr – 5.8 yr	5.8 yr – 7.2 yr	7.2 yr – 8.6 yr	8.6 yr – 10 yr
5 – 7 years	5 yr – 5.4 yr	5.4 yr – 5.8 yr	5.8 yr – 6.2 yr	6.2 yr – 6.6 yr	6.6 yr – 7 yr
5 – 10 years	5 yr – 6 yr	6 yr – 7 yr	7 yr – 8 yr	8 yr – 9 yr	9 yr – 10 yr
7 – 10 years	7 yr – 7.6 yr	7.6 yr – 8.2 yr	8.2 yr – 8.8 yr	8.8 yr – 9.4 yr	9.4 yr – 10 yr
7 – 14 years	7 yr – 8.4 yr	8.4 yr – 9.8 yr	9.8 yr – 11.2 yr	11.2 yr – 12.6 yr	12.6 yr – 14 yr
10 – 14 years	10 yr – 10.8 yr	10.8 yr – 11.6 yr	11.6 yr – 12.4 yr	12.4 yr – 13.2 yr	13.2 yr – 14 yr
5 years – life	5 yr – 8.75 yr	8.75 yr – 12.5 yr	12.5 yr – 16.25 yr	16.25 yr – 20 yr	above 20 yr – Life‡
7 years – life	7 yr – 10.25 yr	10.25 yr – 13.5 yr	13.5 yr – 16.75 yr	16.75 yr – 20 yr	above 20 yr – Life‡
10 years – life	10 yr – 12.5 yr	12.5 yr – 15 yr	15 yr – 17.5 yr	17.5 yr – 20 yr	above 20 yr – Life‡
14 years – life	14 yr – 15.5 yr	15.5 yr – 17 yr	17 yr – 18.5 yr	18.5 yr – 20 yr	above 20 yr – Life‡
20 years – life	Life imp. (min 20 yr)	Life imp. (min 20 yr)	Life imp. (min 20 yr)	Life imp. (min 20 yr)	Life imp.
Minimum life (death also prescribed)	Life imp.	Life imp.	Life imp.	Life imp.	Death†

Sentencing guidelines can discipline litigation behavior and **accelerate justice up to twenty-fold,** but only if it guarantees truth, and timely guilty pleas are rewarded and dishonesty 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.

THE SENTENCING GUIDELINES, 2026

Impact overview

SENTENCING GUIDELINES: MISSING

Unstructured. Inconsistent. Inefficient.

- WIDE DISPARITY IN SENTENCES
- NO CLEAR FRAMEWORK
- OVERUSE OF IMPRISONMENT
- DELAYS IN JUSTICE
- LOW PUBLIC CONFIDENCE

SENTENCING GUIDELINES: PRESENT

Structured. Consistent. Just.

- UNIFORMITY IN SENTENCING
- CLEAR, PRINCIPLED FRAMEWORK
- RATIONAL USE OF IMPRISONMENT
- FASTER, EFFICIENT JUSTICE
- STRONGER PUBLIC TRUST

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 deterred**.

TEAM सतयुग TeamSatyug.in