

MANDATORY MINIMUM SENTENCING IN INDIA: VIS-A-VIS JUDICIAL DISCRETION

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ABSTRACT

As times evolve, the topic of mandatory minimum sentencing in law appears straightforward but is, in fact, quite complex upon deeper consideration. In simpler terms, this means that the law mandates a minimum punishment for specific crimes, regardless of any mitigating factors. The primary intention behind this concept was to ensure that individuals committing serious offenses receive appropriate punishment. Nevertheless, many contend that this approach can occasionally result in unjust outcomes, as each case possesses unique circumstances. Mandatory minimum sentencing pertains to legislation that establishes fixed minimum penalties for specific criminal offenses, and it has emerged as a significant yet contentious element of India's criminal justice system. Although it was implemented to discourage criminal behavior, standardize sentencing practices, and embody a stringent stance on serious crimes, such regulations frequently lead to unexpected difficulties.

The Bharatiya Nyay Sanhita (BNS) Act of 2023 represents a significant legislative transformation in India's criminal justice framework, superseding the colonial-era Indian Penal Code. A particularly contentious aspect of the BNS is its heightened emphasis on mandatory sentencing provisions, which establish fixed minimum sentences for a range of offenses. Although proponents argue that these measures serve as effective deterrents to crime, promote consistency in penalties, and enhance public trust in the judicial system, they have ignited substantial debate among legal scholars, practitioners, and human rights advocates. This article aims to critically examine the provisions concerning mandatory sentences under the BNS, with a focus on their effects on judicial discretion, the proportionality of sentences, and the principles of restorative justice.

Key Words: Mandatory Sentencing, Criminal Justice, Judicial Discretion, Sentencing Reform, Sentencing Guidelines

INTRODUCTION

Mandatory minimum sentencing denotes legal regulations established by the legislature that dictate a set minimum penalty for particular offenses, which the courts are required to enforce upon a conviction. The term sentencing pertains to a declaration made by a judge concerning the punishment assigned to an individual for their criminal actions. Once this sentence is enacted, it transforms into punishment. Sentencing involves the application of punishment to those who have been adjudicated guilty of criminal conduct.

In India, sentencing policy encompasses the principles, guidelines, and regulations that the criminal justice system adheres to when deciding the suitable punishment for individuals convicted of crimes. This process takes into account various elements to ensure that the punishment is equitable, just, and commensurate with the nature and gravity of the offense. This article seeks to outline a framework for establishing a sentencing policy that is both equitable and consistent. Implementation can be achieved through a blend of factors, including the rights of victims and the necessity for a balanced approach. Regrettably, the criminal justice system in India lacks a definitive sentencing policy. It is imperative for the legislature to formulate policies and principles that will enhance its coercive authority and align with international standards and rights.

Under the newly enacted legislation, the mandated duration of incarceration for 33 offenses has been lengthened, and a ‘minimum mandatory punishment’ has been established for 23 offenses. This indicates that for these specific offenses, the law has set a lower threshold for punishment. While such mandatory penalties have been included in Indian criminal law, their application to additional offenses requires careful examination to assess their effects on different aspects of the criminal justice system¹. Once the guilt of the offender has been established, the subsequent phase involves determining the sentence, specifically regarding the amount, nature, and length of the punishment that the convict will endure. Under Indian law, the forms of punishment generally encompass fines, property forfeiture, imprisonment, the death penalty, and community service².

RESEARCH OBJECTIVE

¹ <https://crimeandjustice.blog/2025/10/02/exploring-the-impact-of-mandatory-minimum-sentences-in-new-criminal-laws-a-critical-legal-perspective/>, last visited Apr 15, 2026.

² Sharma, Mayankraj Vijay Kumar, Mandatory Minimum Sentencing: Justice or Injustice (September 18, 2025). livelaw.lawschool.edu/mandatory-minimum-sentencing-in-indian-law-analysis-305340, Available at SSRN: <https://ssrn.com/abstract=5502979> or <http://dx.doi.org/10.2139/ssrn.5502979>.

The main aim of this research is to conduct a thorough analysis of the sentencing policy in India, examining its legal framework, guiding principles, implementation, challenges, and possible areas for enhancement. This research seeks to enrich the current understanding of the Indian criminal justice system by offering insights into the development, effectiveness, and equity of the sentencing policy.

RESEARCH DESIGN

The research design for this study will employ a qualitative approach, utilizing secondary data sources. The study will entail a comprehensive review of legal documents, case law, academic literature, and empirical data pertinent to sentencing practices.

DATA COLLECTION

Secondary Data - Legal documents: Indian Penal Code, Criminal Procedure Code, and relevant statutes, case law and amendments concerning sentencing. Examine significant court rulings related to sentencing, including decisions involving various types of offences and their corresponding sentences.

LITERATURE REVIEW

Analyze scholarly articles, research papers, books, and reports that concentrate on sentencing policy, judicial discretion, and criminal justice reform in India. Government reports: Investigate official reports from governmental agencies tasked with criminal justice administration.

MANDATORY MINIMUM IN INDIAN CRIMINAL JUSTICE SYSTEM

Sentencing in criminal law can be broadly categorized into two types; the first is mandatory maximum, which establishes an upper limit for punishment while allowing judges and magistrates the flexibility to decide the severity of the punishment based on the specifics of each case. In other words, this form of punishment permits judges to utilize their discretion when determining the length of the sentence. The Indian legal system does not have a specific sentencing formula. Rather, it is primarily the judges' discretion and the particular circumstances of the case that guide them in establishing the amount of punishment for an offence, which sets both an upper and lower limit for penalties.

The other form of punishment, known as mandatory minimum sentence, pertains to the mandated penalty that a judge or magistrate must enforce on an individual found guilty of a particular crime. In the context of mandatory minimum sentencing, the legislation stipulates a minimum penalty for an offense that must be served if a person is convicted. For offenses that establish mandatory minimum sentencing, the amount of punishment cannot be diminished below the duration specified by the law. In these cases, judges lack the discretion to adjust the severity of the sentence³.

The introduction of the Bharatiya Nyay Sanhita, 2023 (hereafter referred to as BNS) signifies a landmark event in the annals of Indian legal history. Under the newly enacted laws, the duration of imprisonment for 33 offenses has been lengthened, and a 'minimum mandatory punishment' has been established for 23 offenses. This indicates that for these specific offenses, the statute has set a lower limit for punishment. While mandatory punishment has been a feature of Indian criminal law, its application to additional offenses warrants careful examination to assess its effects on various elements of the criminal justice system.

This modification prompts several important inquiries, including:

- * What constitutes mandatory minimum sentencing?
- * What are the benefits and drawbacks of mandatory minimum sentencing within the criminal justice framework?
- * In what ways will its incorporation into the new criminal laws affect judicial discretion and prison management?

While the BNS aims to simplify legal structures and enhance the administration of justice, one of its most controversial elements is the expanded implementation of mandatory minimum sentencing provisions. The shift towards legislative rigidity, particularly in relation to crimes such as gang lynching, sexual offenses, and organized crime, raises profound concerns regarding proportionality, judicial discretion, and restorative justice⁴. Several provisions of the BNS impose fixed minimum sentences without allowing for judicial discretion.

³ <https://crimeandjustice.blog/2025/10/02/exploring-the-impact-of-mandatory-minimum-sentences-in-new-criminal-laws-a-critical-legal-perspective/>, last visited Apr 15, 2026.

⁴ Chandi Prasad Khamari and Prof (Dr.) Meena ketan Sahu, Reforming Justice: A Critical Examination Of Mandatory Sentencing Under The Bharatiya Nyay Sanhita (BNS) Act, 2023, 10(6) IJNRD 90 (2025).

For instance, Section 701 prescribes a minimum sentence of ten years for the gang rape of a woman under the age of sixteen, and Section 111(2) establishes a minimum prison term of no less than seven years for organized crime resulting in death. Furthermore, Section 103(2) imposes a mandatory minimum sentence of twenty years, which can be extended to life imprisonment, for mob lynching resulting in death, a completely new category of crime not previously recognized in the Indian Penal Code.

Proponents of mandatory minimums argue that they:

- * Serve as a significant deterrent against criminal activity
- * Ensure equal treatment for all individuals
- * Demonstrate society's serious stance on specific offenses
- * Prevent corruption and bias in judicial sentencing. These points are compelling, particularly in situations where public safety is compromised.

Arguments against mandatory minimums:

Opponents of mandatory minimums contend that they,

- * Eliminate judicial discretion
- * Result in unjust outcomes in unique circumstances
- * Have a disproportionate impact on certain communities
- * Contribute to prison overcrowding without addressing the underlying causes of crime.

These considerations indicate that although the concept may have merit, its implementation can sometimes lead to more harm than benefit. While these provisions are intended to promote deterrence and uniformity, they may undermine the judge's ability to consider mitigating factors such as age, socioeconomic background, or the circumstances surrounding the crime. The mandatory sentencing framework of the Indian Penal Code reflects a philosophy of retributive justice, which limits the scope for restorative or reformatory

approaches that have been emphasized in earlier policy debates and Law Commission reports⁵.

LEGISLATIONS CONTAINING MANDATORY SENTENCES

Mandatory minimum sentencing in India is a statutory provision that requires judges to impose a specific, non negotiable minimum punishment upon a conviction, regardless of mitigating circumstances. While Indian law traditionally favoured judicial discretion, recent laws have significantly expanded mandatory punishments to ensure deterrence and consistency for serious offences.

The primary purpose of such laws is to instill fear in individuals who may consider committing crimes. The lawmakers believed that if potential offenders were aware of the severe consequences they would face, they would reconsider their actions before engaging in criminal behavior. Additionally, this approach aims to prevent judges from being excessively lenient. A significant objective was to establish uniformity in sentencing, ensuring that individuals who commit the same offense receive comparable punishments⁶.

The term “serving justice” signifies that a court must impose a penalty that mirrors the public’s outrage towards a crime. In addition to weighing the rights of both victims and the accused, the court must also consider various factors that impact the community. Beyond evaluating the victims’ rights and the severity of the crime, the court bears the responsibility of sentencing offenders in accordance with pertinent factors⁷.

The various statutes incorporated mandatory minimum sentencing provisions are Narcotic Drugs and Psychotropic Substances Act, 1985, Protection of Children from Sexual Offences, (POCSO) 2012, Arms Act, 1959, Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Domestic Violence Act, 2005, Unlawful Activities Prevention Act, 1967 and Prevention of Money Laundering Act, 2002.

India’s sentencing policy is in a state of continuous evolution, reflecting the shifting values of society and global legal trends. Striking a balance between punitive actions and rehabilitative objectives remains a significant challenge. By addressing inequalities, enhancing

⁵ <https://www.livelaw.in/lawschool/articles/mandatory-minimum-sentencing-in-indian-law-analysis-305340>, last visited June 20, 2026.

⁶ <https://www.livelaw.in/lawschool/articles/mandatory-minimum-sentencing-in-indian-law-analysis-305340>, last visited June 12, 2026.

⁷ Mr. Puranjay Das, Sentencing Policy in India: A Study of Criminal Justice System, 4(8) IJMRT 73,79 (2025).

transparency, and promoting informed public discussions, a more just and effective sentencing policy can be developed, one that aligns with the core principles of justice, deterrence, and rehabilitation.

JUDICIAL OVERVIEW

The authority to impose a life sentence on an individual represents the utmost exercise of power, and such authority should only be utilized when warranted by the established criminal justice system, specifically by the judiciary, which must evaluate the particulars of each case based on legally admissible evidence and adhere to the legal principles and guidelines for discretion as outlined in judicial rulings.

Rigid sentencing contradicts the spirit of individualized justice, which has been championed by the Indian judiciary in various decisions, including *Mithu v. State of Punjab*⁸, where the Supreme Court struck down mandatory death penalty provisions as unconstitutional. This article aims to clarify whether the increasing reliance on inflexible minimum sentences aligns with the constitutional guarantees of Articles 14 and 21, as well as with international best practices in penal reform⁹.

After the offender's guilt has been established, the subsequent phase involves determining the sentencing, which encompasses the nature, type, and length of punishment that the convict will endure. Under Indian law, the forms of punishment generally consist of fines, property forfeiture, imprisonment, the death penalty, and community service.

Sentencing represents the official ruling regarding a convicted individual in a criminal case, specifying the punishment to be imposed. It is a crucial component of the criminal justice framework. As articulated by Justice Krishna Iyer, it serves "as a means to an end, a psycho-physical remedy to rehabilitate the accused from socially unacceptable behavior that led to the crime". The Indian criminal justice system incorporates a blend of regulations governing sentencing, which includes both mandatory minimum and maximum penalties, along with discretionary fines. This mixed sentencing approach is consistent with various legal systems globally, including those in the United Kingdom and the United States¹⁰.

⁸ AIR 1983 SC 473.

⁹ Chandi Prasad Khamari and Prof (Dr.) Meena ketan Sahu, *Reforming Justice: A Critical Examination Of Mandatory Sentencing Under The Bharatiya Nyay Sanhita (Bns) Act, 2023* , 10(6) IJNRD 90,91 (2025).

¹⁰ HUNGERFORD-WELCH PETER, *CRIMINAL PROCEDURE AND SENTENCING* 87 (7th Ed., London & New York, Routledge-Cavendish, 2009);

Sentencing in criminal law can be generally categorized into two types; the first is mandatory maximum, which establishes an upper limit for punishment while allowing judges and magistrates to assess the severity of the punishment based on the specifics of each case. In essence, this form of punishment permits judges to utilize their discretion in deciding the length of the sentence. The Indian legal system does not adhere to a specific sentencing formula. Rather, it is the judges' discretion and the particular circumstances of the case that primarily influence their determination of the appropriate level of punishment for an offence, which includes both upper and lower limits of punishment.

The alternative form of punishment, known as mandatory minimum sentence, pertains to the obligatory penalty that a judge or magistrate must enforce on an individual found guilty of a particular crime. In the context of mandatory minimum sentencing, the law stipulates a minimum penalty for an offense that must be served if a person is convicted. For offenses that mandate minimum sentencing, the severity of the punishment cannot be lowered below the duration established by the law. In these cases, judges lack the discretion to adjust the length of the sentence¹¹.

The primary motivation behind implementing harsher sentencing was to deter trafficking and address sentencing disparities, although this objective has yet to be fully realized. Mandatory minimum sentences are designed to guarantee “just punishments, enhance the effectiveness of deterrence, incapacitate serious offenders, eliminate sentencing disparities, and encourage co-offenders to cooperate in investigations”. Ensuring that individuals convicted of serious crimes serve substantial prison time is intended to increase the cost of crime, deter offenders, and ultimately improve public safety by incapacitating organized criminals.

This approach leads to “increased rates of incarceration”, which, however, does not necessarily indicate an effective justice system. Among various concerns, some argue that while mandatory minimums provide a swift and efficient resolution of cases, they significantly heighten the risk of injustice. Additionally, this system tends to promote uniformity, which can sometimes compromise “individualization for uniformity”. It is also contended that stringent punishments do not invariably result in the reduction of crime.

Hall Geoffrey G: Sentencing Reforms in context, (Wellington, LexisNexis NZLimited, 2007).

¹¹ <https://crimeandjustice.blog/2025/10/02/exploring-the-impact-of-mandatory-minimum-sentences-in-new-criminal-laws-a-critical-legal-perspective/>, last visited June 15, 2026.

Furthermore, mandatory minimums fail to differentiate between first-time offenders and habitual offenders, thereby neglecting the principle of proportionate punishment.

Mandatory sentencing is essential in curbing the misuse of judges' discretionary power, as the extensive discretion granted to them has been problematic in a society characterized by inequality and class conflict. In the Indian social context, where most accused individuals come from marginalized communities and the judicial system lacks clear sentencing guidelines, this reform aims to mitigate perceived biases and discrimination¹².

To maintain consistency, the Judiciary has begun to establish various principles intended to guide court decisions. For example, in the case of *Bachan Singh v. the State of Punjab*¹³, the court observed that in exceptional circumstances, severe penalties should be reserved for those cases that demonstrate high culpability. This indicates that extreme penalties will be imposed only in the most serious cases.

In the case of *State of Madhya Pradesh v. Mehtab*¹⁴, the court emphasized that while imposing sentences must be equitable, it should also take into account the repercussions of the sentence on the victims and society as a whole. In *Gurubachan Singh v. Satpal Singh*¹⁵, the court upheld the presumption of innocence, asserting that releasing a suspect without sufficient evidence does not serve justice for the victim. The judiciary bears the responsibility for administering inconsistent punishments, a notion supported by various case laws¹⁶.

In the *Khairlanji massacre*¹⁷, a mob sexually assaulted a mother and daughter before murdering them in public. Although this incident took place in 2006, the case was adjudicated in 2019, following the *Shakti Mills case*¹⁸. Furthermore, this crime was directed against the entire scheduled caste community, yet the court only imposed a life sentence¹⁹.

In the case of *Priyadarshini Mattoo*²⁰, a student was brutally raped and murdered by her senior at her residence in Delhi. Despite the trial court finding ample evidence to convict the

¹² <https://crimeandjustice.blog/2025/10/02/exploring-the-impact-of-mandatory-minimum-sentences-in-new-criminal-laws-a-critical-legal-perspective/>, last visited June 8, 2026.

¹³ AIR 1980 2 SCC 684.

¹⁴ (2015) 5 SCC 197.

¹⁵ AIR 1989 SCR 209.

¹⁶ Malik P, *Law on Sentencing* (Aggarwal Law House 2016) 45.

¹⁷ (2019) 4 SCC 303.

¹⁸ 2022 CrLJ 772.

¹⁹ A.S. Raj, *New Horizons of Prison reform in India*, 23 *Journal of Correctional Work* 1,7 (1977).

²⁰ (2010) 9 SCC 747.

accused, the police officer's son faced no punishment. This case underscored the indecision within the judicial system and its potential for error. The case was escalated to the High Court, which convicted the accused of both murder and rape, subsequently sentencing him to death. The accused then appealed to the Supreme Court, which ruled that in instances where the court must choose between a death sentence and a life sentence, it should opt for the lesser punishment²¹.

In the Kathua rape case²², a minor girl was subjected to repeated sexual assault within a temple. This incident bore similarities to the Nirbhaya rape case²³; however, the court imposed a life sentence rather than the death penalty. In the Unnao rape case²⁴, the former BJP MLA was found guilty of several offenses, including rape and conspiring to murder the girl's father, yet he too received only a life sentence.

Dissatisfied with the lower court's ruling, the parties involved sought recourse in higher courts. The delay in delivering justice to the victim has been attributed to the absence of uniform guidelines. In the case of Mohd. Chaman v. State (N.C.T. of Delhi)²⁵, the accused brutally raped and murdered a minor girl, who was merely one year old at the time. Although the trial court sentenced him to death, the High Court reversed this decision, arguing that the accused did not pose a danger to society. The Supreme Court noted that courts frequently encounter cases where sentencing guidelines are not adhered to properly. Reports indicate that approximately ninety percent of trial court decisions are overturned due to inconsistencies.

Therefore, it can be firmly asserted that the judiciary is the sole organ of the state authorized to determine sentences. If the legislature were to remove the court's ability to impose lesser penalties, it would violate the principle of separation of powers, which constitutes a fundamental aspect of the Constitution of India²⁶. Recent advancements in sentencing policy encompass the implementation of restorative justice practices, plea bargaining, and alternatives to incarceration.

²¹ shodhganga.inflibnet.ac.in.

²² (2022) 14 SCC 535.

²³ (2017) 6 SCC 1.

²⁴ SC 90/2019.

²⁵ SC 134 of 1996.

²⁶ <https://srivastavandco.com/minimum-mandatory-sentences-in-india/>, last visited June 12, 2026.

The judiciary has demonstrated an increasing interest in embracing measures that prioritize rehabilitation and alleviate overcrowding in correctional facilities. Nevertheless, challenges continue to exist, including the necessity for consistency in sentencing decisions across various courts and regions, tackling biases in sentencing, and ensuring transparency in the decision-making process. Reform initiatives involve improving judicial training and guidance, encouraging research to develop evidence-based sentencing practices, and reassessing mandatory minimum sentences that may obstruct individualized justice. Striking a balance between the punitive and reformatory elements of sentencing to meet the diverse needs of society remains a significant challenge²⁷.

CRITICISM

Nonetheless, despite their intended purpose of deterring crime, mandatory minimum sentencing laws have sparked extensive discussion among legal and policy-making communities. Detractors contend that these sentencing structures frequently lead to unequal punishments, erode the concept of personalized justice, and exacerbate systemic issues like overcrowded correctional facilities and delays in the judicial system. Furthermore, these regulations may inadvertently and disproportionately affect economically and socially marginalized individuals who typically do not have sufficient legal support and resources to effectively challenge charges²⁸.

The drive for uniformity in sentencing sacrifices judicial discretion. Although consistency holds significance, it is equally crucial to guarantee that sentences are commensurate with the crime and customized to the specific circumstances of the offender. Detractors contend that mandatory minimums eliminate the opportunity to take into account mitigating factors, such as first-time offenders, mental health issues, or cooperation with law enforcement, that might warrant a reduced sentence. The rigidity associated with mandatory sentencing has raised alarms that it may lead to excessively severe penalties in situations that do not justify such harsh punishment²⁹.

Permitting the introduction of the new mandatory minimums to extend sentencing span would significantly undermine the structure of the sentencing framework. This alteration

²⁷ Mr. Puranjay Das, Sentencing Policy in India: A Study of Criminal Justice System, 4(8) IJMRT 73,74 (2025).

²⁸ Bhavya Dwivedi and Dr.Parishkar Shreshth, The Impact of Mandatory Minimum Sentencing in Criminal Justice System of India, 5(5) IJLR 225,226 (2025).

²⁹ Bhavya Dwivedi and Dr.Parishkar Shreshth, The Impact of Mandatory Minimum Sentencing in Criminal Justice System of India, 5(5) IJLR 225,228 (2025).

would also contradict the established principles of sentencing³⁰. As time progressed, major weaknesses in this policy became evident. One key issue is that it diminishes the judges' capacity to consider each case individually. There are times when a person may have a strong rationale for their actions, yet because of mandatory minimums, the judge is obligated to enforce a severe sentence. For example, there have been cases where a first-time offender was sentenced to decades in prison merely for possessing a small amount of drugs³¹.

A considerable number of critics assert that mandatory minimum sentences contribute to injustice instead of justice. Every case is characterized by its own specific facts and untold stories. For example, an individual who commits a crime under duress or due to poverty may be entitled to a second chance, but mandatory sentencing policies often disregard these critical factors. Justice should not solely focus on harsh penalties; it must also prioritize fairness and comprehension³².

SUGGESTIONS

The consistency, uniformity, and deterrent effect of mandatory minimum penalties align with the aims of the new legislation, which seeks to ensure justice. However, problems such as escalating incarceration rates, prison overcrowding, and constraints on judicial discretion, especially in light of the backlog of cases and a considerable undertrial population in India, continue to pose serious challenges. Although it diminishes judicial biases and guarantees proportionality, it risks neglecting marginalized groups. Therefore, establishing clear sentencing guidelines could be instrumental in alleviating these issues³³.

The Indian Judiciary requires a thorough sentencing act that encompasses amendments to the regulations concerning probation, parole, and community sentences. Furthermore, the creation of effective sentencing guidelines councils and the hiring of additional qualified judges are essential for the effective administration of justice. It is imperative to abolish mandatory minimum sentencing laws that frequently lead to excessively severe penalties, particularly for nonviolent crimes.

³⁰ Roberts and Julian V, Mandatory Minimum Sentences of Imprisonment: Exploring the Consequences for the Sentencing Process, 39(2) OHLJ 305,317 (2001).

³¹ <https://www.livelaw.in/lawschool/articles/mandatory-minimum-sentencing-in-indian-law-analysis-305340>, last visited June 11, 2026.

³² <https://www.livelaw.in/lawschool/articles/mandatory-minimum-sentencing-in-indian-law-analysis-305340>, last visited May 25, 2026.

³³ <https://crimeandjustice.blog/2025/10/02/exploring-the-impact-of-mandatory-minimum-sentences-in-new-criminal-laws-a-critical-legal-perspective/>, last visited May 31, 2026.

Implement evidence-based risk assessment tools to evaluate an individual's probability of re-offending and to ascertain their specific needs, facilitating more focused interventions and sentencing. Engage the community in the sentencing process through restorative justice initiatives, where affected individuals work together to discover suitable resolutions and mend the harm caused by the offense³⁴.

Many hold the view that mandatory minimum sentences are essential for ensuring societal safety. In their absence, violent offenders could evade significant penalties. In cases involving serious offenses such as human trafficking or terrorism, mandatory minimums convey a powerful message that these actions will not be accepted³⁵.

CONCLUSION

Following the discussions and deliberations outlined above, it can be concluded that the BNS represents a significant transformation in India's criminal jurisprudence. However, it risks becoming merely a superficial reform if it does not tackle the underlying issues of inflexible, one-size-fits-all sentencing. While mandatory minimums may seem attractive due to their predictability, they often act as legislative blindfolds, disregarding the variety of crimes, circumstances, and personal narratives associated with each case³⁶. Justice cannot be administered from a standardized template; it must be dynamic, responsive, and humane. Our analysis indicates that the BNS, in its current iteration, emphasizes retribution over rehabilitation and uniformity over equity. This approach, particularly in a nation where more than 77% of inmates are undertrial, exacerbates the divide between law and justice³⁷. It risks transforming prisons into mere storage facilities for despair rather than centers for rehabilitation.

What India requires is not increased punishment, but more intelligent punishment. A comprehensive sentencing policy, informed by empirical data and judicial discretion, can help close this gap. The creation of a sentencing commission, regular review processes, and the integration of restorative justice principles are not idealistic aspirations; they are constitutional imperatives. As Justice V.R. Krishna Iyer stated, "harsh laws make hardened

³⁴ Mr. Puranjay Das, Sentencing Policy in India: A Study of Criminal Justice System, 4(8) IJMRT 73,79 (2025).

³⁵ <https://crimeandjustice.blog/2025/10/02/exploring-the-impact-of-mandatory-minimum-sentences-in-new-criminal-laws-a-critical-legal-perspective/>, last visited May 30, 2026.

³⁶ M. SHARMA, MINIMUM SENTENCING FOR OFFENCES IN INDIA: LAW AND POLICY 81 (Deep & Deep Publications, 1996).

³⁷ Chandi Prasad Khamari and Prof (Dr.) Meena ketan Sahu, ReForming Justice: A Critical Examination Of Mandatory Sentencing Under The Bharatiya Nyay Sanhita (BNS) ACT, 2023, 10(6) IJNRD 90,93 (2025).

criminals”. The moment has arrived for the Indian legal system to break free from its colonial legacy and adopt a justice framework that is not solely punitive but also transformative. The future of justice should not be confined within cages; it must be liberated through compassion, context and common sense.
