

A Study on the Criminal Justice System in India: Need for Reforms with Special Reference to the Policy of Punishment and Sentencing

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Abstract: *The criminal justice system of India, though rooted in a constitutional promise of fair and equal treatment, continues to struggle with an outdated and inconsistent approach to punishment and sentencing. Unlike several common law jurisdictions that operate under structured sentencing guidelines, Indian courts exercise wide, largely unstructured discretion in awarding sentences, resulting in significant disparity for similarly placed offenders convicted of similar offences. This paper undertakes a doctrinal examination of the policy of punishment and sentencing in India, tracing its historical and philosophical foundations, evaluating the recommendations of the Malimath Committee (2003) and the Committee on Draft National Policy on Criminal Justice headed by Prof. N.R. Madhava Menon (2007), and assessing the sentencing-related changes introduced by the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023, which replaced the colonial-era Indian Penal Code, the Code of Criminal Procedure, and the Indian Evidence Act with effect from 1 July 2024. The study finds that while the new criminal law framework introduces limited reformist measures — most notably the statutory recognition of community service as a mode of punishment — it simultaneously expands mandatory minimum sentences, thereby narrowing judicial discretion in the opposite direction rather than structuring it. The paper argues that India still lacks a comprehensive, statutorily backed sentencing policy and concludes with recommendations for the enactment of sentencing guidelines, establishment of a permanent Sentencing Commission, judicial sentencing training, and greater use of non-custodial and restorative alternatives to address prison overcrowding and undertrial detention.*

Keywords: Criminal Justice System, Sentencing Policy, Punishment, Judicial Discretion, Bharatiya Nyaya Sanhita, Sentencing Guidelines, Prison Reform, Restorative Justice