CERTAINTY OVER SEVERITY: RETHINKING PUNISHMENT AND CIVIC COMPLIANCE IN INDIA

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ABSTRACT

India's contemporary criminal-law framework contains extensive prohibitions and a wide range of sanctions, yet the mere existence of a penal provision does not, by itself, ensure compliance. This article argues that, particularly for high-volume civic offenses, the more important problem is not the absence of severity but the uncertainty of detection, enforcement, and institutional follow-through. The argument is developed through four connected lenses. First, classical theories of punishment, Kantian retribution, Benthamite utilitarianism, and Beccaria's emphasis on certainty and promptness, show why punishment must remain bounded by legality and proportionality while retaining a credible relationship between prohibited conduct and its consequences. Second, Douglas North's institutional account explains why formal rules do not automatically become effective social norms. Third, the Bharatiya Nyaya Sanhita, 2023 (BNS) is examined through its general fine provision and selected civic-order offenses. Finally, comparative material from the United States, England and Wales, Australia, and Canada is used not to claim a single superior model, but to identify institutional devices that India can adapt. Indian authorities, particularly Soman v State of Kerala and Manoj v State of Madhya Pradesh, demonstrate the consequences of leaving sentencing standards to the judiciary's fragmented development. The article concludes that India's more defensible reform agenda is to improve certainty, proportionality, administrative capacity, and transparency rather than increase punishment.

Keywords: sentencing; certainty of punishment; deterrence; proportionality; civic offenses; Bharatiya Nyaya Sanhita; institutional design; criminal justice.

1. INTRODUCTION

Nullum crimen sine lege, no crime without law, is a foundational legality principle.[1] It requires that criminal liability rest upon a pre-existing legal rule rather than retrospective judicial creation. The principle, therefore, has a second institutional implication. Once conduct has been defined as criminal, the credibility of that rule depends not merely upon the severity of its sanction but upon the public's ability to understand the prohibition and the state's ability to enforce it consistently.

This question is particularly important in relation to everyday civic regulation. Traffic violations, obstruction of public ways, public nuisance, and similar conduct may appear minor when each incident is viewed in isolation. Yet high-volume violations can affect the ordinary conditions under which public life is organized. The central question is consequently not whether every civic violation should attract a harsher punishment. It is a matter of whether the existing legal system makes compliance sufficiently predictable and non-compliance sufficiently consequential that the legal rule can operate as a meaningful social norm.

The Crime in India 2023 report records 62,41,569 cognizable crimes in India in 2023, comprising 37,63,102 IPC crimes and 24,78,467 crimes under Special and Local Laws (SLL). Registrations increased by 7.2 percent over 2022, while the registered crime rate rose from 422.2 to 448.3 per lakh population.[2] The report also records an increase in cases classified as obstruction on a public way under section 283 IPC, from 93,548 in 2022 to 1,51,469 in 2023, and an increase in Motor Vehicle Act cases from 94,450 to 1,91,828.[3] These figures are significant for the present inquiry. Still, they must not be treated as direct evidence that the underlying incidence of offending increased by the same amount. NCRB expressly cautions that police registration data are not equivalent to the actual incidence of crime and that changes may reflect registration practices and other social or institutional factors.[4] The figures therefore establish a substantial volume of recorded offending, not by themselves a causal proof that weak punishment produced more crime.

The distinction matters. A policy argument that reads higher registration as evidence of failed enforcement risks using the data beyond what they can support. The stronger claim is narrower: where high-volume civic offenses continue to generate large numbers of registered cases, the design of the sanctions and enforcement system warrants scrutiny. If detection is uncertain, adjudication is delayed, and the sanction is either too low to affect behavior or too indeterminate to be predictable, increasing the statutory maximum may have little marginal deterrent effect.

This article, therefore, advances a structural proposition: India's compliance deficit should be addressed through greater certainty of enforcement, clearer sentencing parameters, proportionate sanctions, and stronger institutional delivery, rather than through an undifferentiated escalation of penal severity. The proposition is not that severity is irrelevant. Serious offenses may require severe punishment. The claim is that severity cannot substitute for certainty and institutional capacity.

2. THEORETICAL FOUNDATIONS: FROM JUST DESSERT TO CERTAIN ENFORCEMENT

2.1 Kant: punishment as a requirement of justice

Kant's retributive theory begins from a fundamentally non-utilitarian premise. Punishment is justified because an offender has committed a wrong, and justice requires that the wrong be answered through lawful punishment. In the Doctrine of Right, Kant rejects the idea that punishment should be imposed merely as a means of producing a socially desirable consequence.[5] His well-known discussion of the murderer illustrates the point: punishment is owed to the offender as a matter of justice, even if the community could imagine instrumental reasons for dispensing with it.

This theory provides an important limit to the present argument. A state cannot justify every increase in punishment by asserting that greater severity will produce better compliance. Punishment must remain connected to the offense and the offender's responsibility. The demand for certainty must therefore not become a demand for automatic or excessive punishment. Certainty means that the legal consequence is credibly attached to prohibited conduct; it does not mean that every offender must receive the maximum available sanction.

Kant consequently supplies the paper's first constraint: enforcement must be certain without becoming arbitrary. The legitimacy of punishment is damaged both when culpable conduct is ignored and when the state imposes punishment that is detached from the legal and moral gravity of the offense.

2.2 Bentham: utility, notice, and the limits of punishment

Bentham's utilitarian account approaches punishment differently. Punishment is itself an evil because it imposes pain; it is therefore justified only where its consequences produce a sufficient countervailing benefit. In the Introduction to the Principles of Morals and Legislation, Bentham identifies circumstances in which punishment should not be inflicted, including cases in which it would be groundless, inefficacious, or otherwise unprofitable.[6] His treatment of ex post facto punishment and defective notice is especially relevant to legality: punishment cannot effectively guide conduct where the legal rule was not capable of informing the person beforehand.

This produces a second proposition. The rational design of a sanction depends not merely upon its nominal size but upon whether the person subject to the law can understand the prohibited conduct and anticipate a meaningful consequence. A sanction that exists on paper but is rarely imposed may generate little deterrent effect. Conversely, an uncertain sanction can produce arbitrariness rather than responsible compliance.

Bentham, therefore, supports a calibrated rather than severity-maximizing approach. If a modest sanction is imposed consistently and promptly, it may serve as a stronger deterrent than a severe sanction that is rarely detected, applied inconsistently, or delayed for years. The relevant policy variable is the expected consequence of non-compliance, not the statutory maximum considered in isolation.

2.3 Beccaria: certainty and promptness

Cesare Beccaria makes the relationship between certainty, promptness, and deterrence explicit.[7] In of Crimes and Punishments, he argues that the certainty of punishment has a stronger deterrent significance than its excessive severity. That delay weakens the mental association between the prohibited act and its consequence. The point is not that punishment must be instantaneous, but that a legal system that separates conduct and consequence by excessive delay weakens the communicative function of punishment.

For a high-volume civic offense, this insight is particularly important. If a person expects detection to be unlikely, adjudication to be remote, and the eventual sanction to be uncertain, the existence of a severe statutory maximum may contribute little to day-to-day compliance.

The practical question becomes whether the state can make the consequence of violation sufficiently foreseeable.

Beccaria therefore links the paper's two central ideas: proportionality prevents punishment from becoming excessive, while certainty and promptness make lawful punishment credible. Neither principle can be replaced by the other.

2.4 North: formal rules and social norms

Douglas C. North's institutional theory provides the bridge from punishment theory to compliance.[8] North describes institutions as the constraints that structure human interaction and distinguishes formal rules from informal constraints such as norms, conventions, and socially transmitted expectations. A legal rule becomes institutionally effective not simply because it has been enacted, but because actors and enforcement institutions organize behavior around it.

The Indian compliance problem can therefore be framed as an institutional coordination problem. Where formal rules prohibit conduct but enforcement is irregular, selective, or delayed, the formal rule may fail to shape informal expectations. Individuals may learn that the practical cost of violation is lower than the statutory language suggests. This does not establish that every violation is caused by weak enforcement; it does establish why the effectiveness of law cannot be assessed solely by reading the statute book.[8]

This plural account of punishment is also reflected in Farhad Malekian's comparative taxonomy, which identifies deterrent, retributive, protective, preventive, restorative, and rehabilitative functions among the purposes attributed to punishment.[26] The present argument does not adopt Malekian's Islamic or international-criminal framework wholesale; rather, the taxonomy reinforces the narrower point that punishment may pursue multiple ends, making institutional calibration necessary when those ends compete.

The theoretical framework can now be stated precisely. Kant limits punishment through justice and responsibility; Bentham asks whether punishment is useful and properly notified; Beccaria emphasizes certainty and promptness; and North explains how rules become embedded in, or fail to become embedded in, social behavior. Together, they support a model in which compliance depends on a credible, lawful, and institutionally delivered sanction rather than on severity alone.

3. THE BNS AND THE DESIGN OF CIVIC SANCTIONS

The Bharatiya Nyaya Sanhita, 2023, replaced the Indian Penal Code as India's principal penal code and expressly recognizes community service as a punishment available under section 4. The BNS therefore reflects a broader conception of sanctions than imprisonment and fines alone. This is relevant because different forms of offending require different regulatory responses.

Section 8(1) provides that where no sum is expressed to which a fine may extend, the fine is unlimited but shall not be excessive.[10] This provision is important for two reasons. First, it prevents the absence of a specified ceiling from amounting to an unlimited license for arbitrary punishment by expressly imposing a non-excessiveness constraint. Second, however, it leaves substantial quantum-setting discretion where the legislature has not fixed an amount. The policy question is whether further sentencing guidance is necessary to make that discretion sufficiently structured and predictable.

The problem is clearer when the BNS's civic-order offenses are read together. Section 281 criminalizes rash or negligent driving or riding on a public way that endangers human life or is likely to cause hurt or injury, punishable with imprisonment for up to 6 months, a fine of up to ₹1,000, or both. Section 285 concerns acts or omissions concerning property that cause danger, obstruction, or injury on a public way or public line of navigation and carries a fine of up to ₹5,000. Section 292 provides a fine of up to ₹1,000 for public nuisance not otherwise punishable under the Sanhita. In contrast, section 293 makes repeated or continued public nuisance after an injunction punishable by up to six months' simple imprisonment, a fine of up to ₹5,000, or both.[11]

These provisions demonstrate that the BNS does not simply lack sanctions. Rather, it contains sanctions that vary considerably in structure, and some high-volume civic offenses carry comparatively modest monetary maximum penalties. That observation should not be converted into the claim that the statutory penalties are necessarily ineffective. Deterrence depends on detection, enforcement, adjudication, offender characteristics, and the actual probability and timing of sanctions. The more defensible criticism is that the law would benefit from clearer sentencing criteria and administrative mechanisms that make low-level sanctions predictable and consistently deliverable.

The NCRB data reinforce the need for scrutiny without proving causation. Obstructions on public ways recorded 1,51,469 cases in 2023, compared with 93,548 in 2022. Motor Vehicle Act cases rose from 94,450 to 1,91,828. At the same time, the NCRB's own caution states that an increase in police registrations is not synonymous with an increase in the underlying incidence of crime. The paper, therefore, treats these figures as evidence of enforcement volume and regulatory demand, not as a simple measure of moral decline.

More importantly, the NCRB data show that enforcement capacity itself varies by offense. In 2023, the national charge-sheeting rate for IPC cases was 72.7 percent. In the 19 metropolitan cities covered in Volume I, the IPC charge-sheeting rate was 51.7 percent. At the same time, the Motor Vehicle Act showed a 100.0 percent charge-sheeting rate and a 98.7 percent conviction rate in the metropolitan-city snapshot.[12] This variation is highly relevant to the certainty thesis: the institutional performance of a sanction cannot be inferred merely from the penalty stated in the statute.

The better reform question is therefore not "How high should the fine be?" but "What combination of detection, fixed or guided penalties, adjudication time, appeal mechanisms, and judicial oversight will make the sanction proportionate and predictable?" A higher fine without a credible enforcement mechanism may raise the theoretical maximum. A structured fine schedule, by contrast, can reduce unnecessary variation while preserving judicial discretion where culpability genuinely differs.

4. CASE LAW: SENTENCING DISCRETION, PROPORTIONALITY AND INSTITUTIONAL DELIVERY

4.1 Soman: the absence of sentencing guidelines

Soman v State of Kerala is central to the argument because the Supreme Court directly confronted the difficulty of sentencing discretion.[13] The appellant was a retail vendor involved in the sale of spurious liquor adulterated with methyl alcohol; one person died, and several others suffered serious illness. The trial court imposed two years' rigorous imprisonment on each count. The High Court enhanced the sentence to five years, taking into account the consequences of the offense. The Supreme Court held that the consequences were relevant to sentencing and that the High Court was justified in considering the death penalty. Still, it ultimately reduced the appellant's sentence to three years, the statutory minimum under section 57A(2)(ii), in view of parity with a co-accused whose sentence had been reduced.

The significance of Soman is not that consequences are irrelevant. It is the opposite: consequences can legitimately affect the seriousness and therefore the sentence. The deeper institutional point is the Court's observation that sentencing was the weakest part of criminal justice administration and that India lacked legislative or judicially laid-down guidelines to assist courts in determining appropriate punishment. The judgment also referred to earlier decisions recognizing proportionality, deterrence, and rehabilitation as relevant sentencing considerations.

A critic might respond that Soman addresses individual sentencing discretion in serious offenses and says nothing about routine civic compliance. That objection is correct if the case is used as direct empirical evidence of a systemic enforcement gap. It is not correct to use Soman more modestly as evidence of a structural problem in sentencing design: where the law leaves substantial discretion without sufficiently articulated principles, the relationship between offense, consequence, and sanction becomes less predictable. The case, therefore, supports the narrower reform proposal of clearer sentencing guidance, not the sweeping claim that Soman proves widespread non-enforcement.

4.2 Manoj: procedure as institutional delivery

Manoj & Ors v State of Madhya Pradesh further illustrates the importance of institutionalizing sentencing principles. The three accused were convicted of three counts of murder committed in the course of a robbery and sentenced to death; the High Court confirmed the sentences. The Supreme Court held that the trial and appellate courts had failed to provide an effective sentencing hearing under section 235(2) CrPC and issued detailed directions on the collection and consideration of mitigating material, including background, psychological, and prison-related information. The Court ultimately commuted the death sentences to life imprisonment for a minimum of twenty-five years.[14]

Manoj should not be presented as proof that trial courts generally disregard sentencing law. Its significance is more specific. It shows how a principle may exist in precedent yet require operational procedures to be applied consistently. The case, therefore, strengthens the institutional side of the argument: a sentencing rule is only as effective as the procedures, information, and responsibilities that enable compliance with that rule.

The anticipated counterargument is again important. Manoj concerns capital sentencing, an exceptional category, whereas civic offenses involve high-volume, lower-level enforcement. The answer is not that the two are equivalent. Rather, the institutional lesson is transferable: where discretion has significant consequences, rules need implementation mechanisms. For civic offenses, those mechanisms may take the form of standardized penalty schedules, electronic adjudication, written reasons for departures, time limits, and accessible review, rather than death penalty mitigation reports.

4.3 Bachan Singh and Shatrughan Chauhan: severity without structure is insufficient

Bachan Singh v State of Punjab remains important because the Supreme Court upheld the constitutionality of the death penalty while restricting it to the "rarest of rare" cases and requiring special reasons.[15] The judgment demonstrates that the availability of a severe sanction does not eliminate the need for principled constraints on its imposition. The constitutional legitimacy of the punishment depends, in part, on structured judicial reasoning.

Shatrughan Chauhan v Union of India illustrates a different institutional problem: delay.[16] The Supreme Court held that inordinate and unexplained delay in the disposal of mercy petitions can justify commutation because prolonged delay may violate Article 21. The case is not authority for the proposition that all delayed enforcement is unconstitutional. It is, however, a powerful reminder that the temporal dimension of punishment matters. A sanction delivered after excessive institutional delay can cease to serve the same legal and communicative function it would have if imposed through a timely process.

These cases collectively support a restrained conclusion. Indian law recognizes proportionality, individualized sentencing, mitigation, and the importance of timely procedure. Still, the development of these principles through individual cases does not, by itself, create a comprehensive, accessible, and predictable sentencing framework.

5. COMPARATIVE PERSPECTIVES

5.1 United States: Punitive civil sanctions as a warning, not a model

The American experience should not be presented as a straightforward success story. Kenneth Mann's account of punitive civil sanctions describes a "middleground" between criminal and civil law[17] in which punitive monetary sanctions can be used to address unlawful conduct while avoiding some of the procedural burdens associated with criminal prosecution. Mann identifies utilitarianism, deterrence, the expansion of administrative authority, and frustration with criminal procedure as among the forces behind this development. He also warns that punitive civil sanctions can create due process problems if their punitive character is concealed behind civil labels.

This is useful for India because it identifies an institutional possibility using carefully designed monetary or administrative sanctions for high-volume intermediate wrongdoing without requiring the state to convert every violation into a full criminal prosecution. But Mann cannot support the stronger claim that the United States has solved the compliance problem through certainty. Indeed, Kleinfeld's comparative account shows the extraordinary scale of American incarceration.[25] The American experience is therefore better treated as a caution: shifting punishment into civil or administrative forms can increase enforcement capacity, but procedural safeguards and proportionality in Article 21 must accompany it.

5.2 England and Wales: statutory purposes and structured financial penalties

England and Wales offer a more directly relevant institutional example. Section 57 of the Sentencing Act 2020 requires courts dealing with adult offenders to have regard to five purposes of sentencing: punishment; reduction of crime, including deterrence; reform and rehabilitation; protection of the public, including victims; and reparation.[24] The framework does not eliminate judicial discretion, but it places sentencing within an express statutory architecture.

The Sentencing Council's guidance provides a further layer of structure.[18] For financial penalties, the guidelines use bands tied to relevant weekly income, with Band F having a starting point of 600 percent and a range of 500–700 percent of relevant weekly income. The guidance also states that, where a financial penalty is imposed, it should be fair and proportionate and should not be cheaper to offend than to comply with the law. The point is not that India should mechanically copy a percentage-of-income model.[22] The institutional lesson is that the legislature and sentencing institution can articulate purposes, proportionality, and economic deterrence together.

The contrast with India is therefore one of institutional design rather than simply harshness. England and Wales do not rely on one numerical penalty for every offender. They combine statutory purposes, sentencing guidelines, judicial reasons, and appellate oversight. A similar Indian framework could retain discretion while reducing unexplained variation.

5.3 Australia and Canada: Proportionality as a constraint

Australian and Canadian jurisprudence provide useful examples of proportionality operating as a constraint on other sentencing objectives. In Veen v The Queen (No 2), the High Court of Australia held that community protection and dangerousness could be relevant. Still, it could not justify a sentence disproportionate to the gravity of the offense.[19] The case is particularly valuable because it addresses the tension between utilitarian protection and proportionality.

In R v Ipeelee, the Supreme Court of Canada reaffirmed proportionality as a fundamental sentencing principle under section 718.1 of the Criminal Code.[20] It explained that other sentencing purposes must operate within that constraint. The Court also emphasized that rehabilitation remains a meaningful sentencing objective and cautioned against treating an offender merely as an instrument for general deterrence.

These cases should not be used to claim that India lacks proportionality altogether. Indian sentencing jurisprudence clearly engages with proportionality. The more precise institutional comparison is that Canada has an express statutory proportionality provision, while Indian sentencing principles are comparatively dispersed across statutes and case law. The reform implication is therefore one of codification and accessibility, not the transplantation of foreign doctrine.

5.4 Comparative lesson

The comparative material does not establish that one jurisdiction has discovered a universal formula. It reveals three institutional choices. The United States demonstrates both the utility and danger of intermediate punitive sanctions. England and Wales demonstrate the value of statutory purposes and structured financial guidelines. Australia and Canada demonstrate the value of proportionality as a constraint on competing sentencing objectives. The common lesson is that credible punishment requires institutional architecture: rules, procedures, guidance, and review.

6. REFORMING INDIA'S COMPLIANCE FRAMEWORK

First, India should develop a clearer statutory statement of sentencing principles. The BNS specifies available punishments, including community service, and section 8 regulates fines. Still, a general legislative framework explaining how punishment should relate to proportionality, deterrence, rehabilitation, protection, and reparation would improve transparency. Such a framework should not eliminate judicial discretion. It should require courts to identify the relevant purposes and give reasons where the sentence materially departs from structured ranges or guidelines.

Second, high-volume civic offenses should be considered for standardized or guided financial penalties, particularly where culpability and harm can be classified objectively. The aim should not be to raise fines. A penalty should be sufficiently consequential to affect behavior, proportionate to the offense, and calibrated to the offender's means where appropriate. Fixed or guided penalties should also be accompanied by safeguards against selective enforcement, including receipts, digital records, audit trails, and accessible review.

Third, enforcement should be institutionalized rather than left to ad hoc discretion. A permanent sentencing or sanctions commission could collect data on sentencing patterns, evaluate whether penalties are producing compliance, recommend revisions, and periodically review the operation of guidelines. Such a body should not replace legislative authority or judicial independence. Its value would lie in evidence-based review and institutional continuity.

Fourth, the certainty of enforcement must be measured. Policymakers should track detection rates, time from violation to adjudication, disposal rates, conviction or penalty confirmation rates, repeat offending, and disparities across regions and socio-economic groups. NCRB's data already demonstrate that enforcement performance varies across categories; a more granular compliance dataset could therefore test whether a reform actually changes behavior rather than merely increasing the number of registered cases.

Finally, any enforcement reform must guard against overcriminalisation.[23] Civic discipline should not become a justification for expanding criminal liability into every form of undesirable conduct. Where administrative or civil sanctions can achieve the regulatory objective with fewer procedural and liberty costs, they may be preferable. The legality principle remains the outer boundary: the state should clearly define prohibited conduct and the consequences attached to it, rather than rely on vague prohibitions or retrospective expansion.[27]

7. CONCLUSION

The central problem identified in this article is not that Indian criminal law lacks punishment. It is that the relationship between rule, enforcement, and social expectation remains insufficiently structured in important areas of civic regulation. The NCRB's 2023 data demonstrate a substantial volume of registered offending, including large increases in public-way obstruction and Motor Vehicle Act cases. Still, the report itself cautions against treating registration figures as a direct measure of underlying crime. The evidence, therefore, supports institutional scrutiny rather than a simple narrative of moral decline.

The theoretical framework points in the same direction. Kant situates punishment within justice and responsibility; Bentham asks whether punishment is useful, necessary, and properly communicated; Beccaria emphasizes certainty and promptness; and North explains why formal rules can fail to become effective institutions when enforcement does not shape expectations. Indian case law, especially Soman and Manoj, shows that sentencing principles become more effective when accompanied by guidance, procedures, and institutional responsibilities. Comparative experience reinforces the point: England and Wales provide structured sentencing purposes and financial guidelines; Canada and Australia demonstrate proportionality constraints; and the United States illustrates both the attractions and risks of punitive civil sanctions.

The appropriate reform is therefore neither blanket leniency nor blanket severity. India needs sanctions that are lawful, proportionate, predictable, and deliverable within a reasonable time. It needs clearer sentencing principles, guided penalties for suitable high-volume offenses, transparent enforcement mechanisms, and continuous institutional review. The objective is not to make punishment harsher for its own sake. It is to restore the connection between conduct and consequence on which the credibility of law depends.

A legal system that demands civic discipline but cannot make its sanctions reasonably certain risks weakening the very norm it seeks to establish. The more defensible path is not harsher punishment, but better institutional architecture.

ENDNOTES:

1. Bharatiya Nyaya Sanhita 2023, s 1(3) (providing that a person is liable to punishment under the Sanhita for an act or omission contrary to its provisions).

2. National Crime Records Bureau, Crime in India 2023, vol I, 'Snapshots (States/UTs)', xi (Table 1.1).

3. National Crime Records Bureau, Crime in India 2023, vol I, xi (Tables 1A.4 and 1A.5).

4. National Crime Records Bureau, Crime in India 2023, vol I, ix ('Crime Statistics—A Word of Caution').

5. Immanuel Kant, The Metaphysics of Morals (2nd edn, Mary J Gregor trans, Cambridge University Press 1996) Doctrine of Right, §49E, 54–56. The supplied edition contains the verbal-injury example at 55 and the murderer example at 56.

6. Jeremy Bentham, An Introduction to the Principles of Morals and Legislation (Clarendon Press 1823) ch XIII, 171–74 (groundless, inefficacious, unprofitable and needless punishment; ex post facto and insufficiently promulgated laws); see also ch XIV, 182–84 (certainty and proximity of punishment).

7. Cesare Beccaria, On Crimes and Punishments (Bobbs-Merrill 1963) 9–11, especially 9–10 (promptness) and 11 (certainty of punishment).

8. Douglass C North, Institutions, Institutional Change and Economic Performance (Cambridge University Press, 1990) 3–4.

9. Bharatiya Nyaya Sanhita 2023, s 4.

10. Bharatiya Nyaya Sanhita 2023, s 8(1).

11. Bharatiya Nyaya Sanhita 2023, ss 281, 285, 292–293.

12. National Crime Records Bureau, Crime in India 2023, vol I, xvi–xxii (disposal snapshots and Tables 17A/17B and related tables).

13. Soman v State of Kerala (2013) 11 SCC 382, especially paras 10–15, 21–27.

14. Manoj & Ors v State of Madhya Pradesh (2023) 2 SCC 353, paras 218–228; 2022 SCC OnLine SC 677.

15. Bachan Singh v State of Punjab (1980) 2 SCC 684.

16. Shatrughan Chauhan v Union of India (2014) 3 SCC 1.

17. Kenneth Mann, 'Punitive Civil Sanctions: The Middleground Between Criminal and Civil Law' (1992) 101 Yale LJ 1795, 1795–98 (criminal/civil paradigms and punitive civil sanctions); see also 1810–12 (procedural characteristics), 1845–49 (changing sanctioning philosophy and administrative expansion), 1853–54 (criminal-process obstacles), and 1863–65 (attenuated criminal prosecution and the possible role of punitive civil sanctions).

18. Sentencing Council, 'General guideline: overarching principles' (England and Wales), including the guidance that a financial penalty should be fair and proportionate and should not be cheaper to offend than to comply with the law; see also Sentencing Act 2020, s 57.

19. Veen v The Queen (No 2) (1988) 164 CLR 465, 472–77.

20. R v Ipeelee 2012 SCC 13, [2012] 1 SCR 433, especially paras 36–38.

21. Mann (n 17), 1816–22 (functional approaches and the relationship between sanction purpose and procedure), 1865 and 1869 (proportionality and procedural protections); see also Joshua Kleinfeld, 'Two Cultures of Punishment' (2016) 68 Stan L Rev 933, 938.

22. Sentencing Council, 'Imposition of community and custodial sentences' (England and Wales), Fine Band F: 600% of relevant weekly income as the starting point, with a 500–700% range, subject to the guideline's conditions.

23. Bharatiya Nyaya Sanhita 2023, s 1(3); see also Mann (n 17), 1863 (arguing that punitive civil sanctions can reduce reliance on criminal law for petty and intermediate offenses) and 1865 (proportionality concerns).

24. Sentencing Act 2020 (UK), s 57(2), as amended by the Sentencing Act 2026.

25. Joshua Kleinfeld, 'Two Cultures of Punishment' (2016) 68 Stan L Rev 933, 938 (reporting the 2007 adult incarceration rates in the United States, Germany, France, Italy, and Spain).

26. Farhad Malekian, 'Punishments', in Principles of Islamic International Criminal Law: A Comparative Search (Brill 2011) 400–403 (deterrent, retributive, protective, preventive, and rehabilitative purposes) and 402–404 (restorative, redressive, and compensatory purposes).

27. Mann (n 17), 1863–65 (arguing that punitive civil sanctions can reduce reliance on criminal law for petty and intermediate offenses while raising proportionality and procedural-protection questions).

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