
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

FROM RETRIBUTION TO REFORMATION: A CASE OF FIRST TIME OFFENDER IN THE LENS OF BNSS- Avneesh Kumar Pandey¹**ABSTRACT**

The evolution of the criminal justice system of India culminates the transition from the colonial law of code of criminal procedure, 1973² to the very own law of BharatiyaNagarik Suraksha Sanhita, 2023³. This represents the profound shift in the penal philosophy of India. The evolution of criminal justice in India has seen number of precedents, amendments and modifications which has also led to change in how state looks at different offenders. This research paper examines the transition from the retributive model which is characterised as deterrent focusing incarceration and social exclusions to the more reformatory and restorative model that prioritizes the rehabilitation and social reintegration of first time offenders. Through a detailed analysis of the BNSS and the corresponding Bharatiya Nyaya Sanhita, 2023 (BNS)⁴, the study identifies key legislative mechanisms designed to mitigate the "criminogenic" effects of the prison environment. One of the central tenets to this research is the liberalised bail framework under section 479⁵ of BNSS, which introduces a one third threshold for the release of first time undertrials and also the recognition of community service as a formal punishment under section 4⁶ of BNS. By situating these reforms within the broader context of judicial precedents, such as the landmark *Mohammad Giasuddin v. State of Andhra Pradesh*⁷, and comparing them with international restorative models like the United Kingdom's community orders, the report evaluates the potential for a more humane and efficient justice architecture. The analysis further interrogates the systemic challenges, including the severe shortage of correctional staff and the administrative vagueness of non-custodial sentencing, that may impede the realization of these reformatory ideals. Ultimately,

¹Assistant Professor at TRC Law College

²The Code of Criminal Procedure, 1973 (Act 2 of 1974).

³The BharatiyaNagarik Suraksha Sanhita, 2023 (Act 46 of 2023).

⁴The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023).

⁵The BharatiyaNagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 479.

⁶The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 4.

⁷*Mohammad Giasuddin v. State of Andhra Pradesh*, AIR 1977 SC 1926.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

the report argues that while the BNSS provides a progressive legal framework, its success depends on bridging the gap between legislative intent and the operational realities of India's overburdened correctional infrastructure.

INTRODUCTION

For over five decades, the procedural backbone of the Indian criminal justice system was the Code of Criminal Procedure, 1973⁸, a document that, despite multiple amendments, retained the rigid, deterrent-focused imprints of its nineteenth-century colonial origins. This historical framework primarily viewed punishment as a means of extracting retribution and ensuring state-controlled deterrence, often at the cost of the offender's potential for social redemption.⁹The enactment of the BharatiyaNagarik Suraksha Sanhita (BNSS), 2023¹⁰, alongside the Bharatiya Nyaya Sanhita (BNS), 2023¹¹, and the BharatiyaSakshyaAdhiniyam (BSA), 2023¹², marks a decisive departure from this legacy, seeking to replace a colonial imprint with a modern, technology-driven, and citizen-centric procedural law.

The shift from retribution to reformation is especially critical for first-time offenders. Under the traditional retributive paradigm, incarceration served as a tool for isolation, frequently leading to the "labeling" of individuals and their subsequent hardening into habitual criminals, a phenomenon where the prison serves as a "finishing school" for crime.¹³The BNSS recognizes that for those who have not previously encountered the legal system, the trauma of pre-trial detention can cause irreversible socio-economic damage, including job loss and social alienation.¹⁴

To counter these effects, the new legislation introduces safeguards such as liberalized bail thresholds and non-custodial sentencing options like community service, intended to keep first-time and petty offenders within the social fabric. This report provides an exhaustive examination of these reforms, exploring the philosophical underpinnings of the transition, the

⁸*Supra note 2, at 1.*

⁹Mudasir A. Bhat, "Prison Laws in India: A Socio-Legal Study," available at: <https://cdnbbsr.s3waas.gov.in/s37a68443f5c80d181c42967cd71612af1/uploads/2025/03/202503192054442839.pdf> (last visited on Jan. 23, 2026).

¹⁰*Supra note 3, at 1.*

¹¹ *Supra note 6, at 1.*

¹² The BharatiyaSakshyaAdhiniyam, 2023 (Act 47 of 2023).

¹³Soumya Yadav, "Reformative Theory of Punishment: A Path Towards Rehabilitation and Social Reintegration - By Walking on Path of Spirituality," 8(4) *Nat. Volatiles &Essent. Oils* 16944 (2021).

¹⁴Vivek Kumar Gupta, "Alternative sentencing in India: The legal dimensions of community service under the Bharatiya Nyaya Sanhita, 2023," 5(2) *International Journal of Criminal, Common and Statutory Law* 65 (2025).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

specific procedural innovations introduced by the BNSS, and the judicial guidance that shaped these developments.¹⁵The study further analyzes implementation challenges presented by India's correctional infrastructure, where occupancy rates often exceed 120%, and evaluates the potential of the new laws to foster a truly reformatory environment.¹⁶

THE PHILOSOPHICAL EVOLUTION: FROM PUNISHMENT TO HEALING

The historical trajectory of criminal justice in India has moved from a system based on private vendetta and physical force to a state-regulated administrative framework.¹⁷In the pre-colonial and early colonial eras, punishment was largely retributive, grounded in the idea of "just deserts" that a person who commits a wrong deserves to suffer a penalty in proportion to the moral blameworthiness of their conduct.¹⁸This retributive theory focuses on moral accountability and the vindication of justice through the infliction of pain.¹⁹However, the modern era has seen the emergence of the reformatory theory, which views crime as a "pathological aberration" and the criminal as a person capable of redemption through rehabilitation.²⁰

The Mulla Committee (1980-83) and the Krishna Iyer Committee (1987) were instrumental in advocating for this shift, arguing that the primary objective of punishment should be the protection of society through the rehabilitation of the offender.²¹The BNSS formalizes many of these recommendations. This transition is not merely a legislative change but a redefinition of the state's relationship with the accused, prioritizing individual dignity and the potential for a fresh start.

Theoretical frameworks of punishment in the Indian context

¹⁵*Ibid.*

¹⁶Amir Suhail, "Community Service As Sentencing Alternative: Towards A Reformatory And Restorative Criminal Justice System In India," *Live Law*, Jan. 5, 2026, available at:

<https://www.livelaw.in/articles/reformatory-dimension-of-community-service-bharatiya-nyaya-sanhita-analysis-516964> (last visited on Jan. 23, 2026).

¹⁷*Supra note 9, at 2.*

¹⁸AnushkAmrit, "Reformatory Theory of Punishment," 3(2) *Indian Journal of Law and Legal Research* 1 (2022).

¹⁹Vijay Lakshmi Mishra and Dr. Krishna Mohan Malviya, "Concept of Punishment and Its Justification in Indian Perspective: An Overview," 15(3) *European Economic Letters* 3022 (2025).

²⁰Zubair Ahmed, "Jail reforms in India: A study of Indian jail reform committees," 1(3) *International Journal of Multidisciplinary Education and Research* 1 (2016).

²¹SaloniMaheshwari and Surbhi Agrawal, "Legal Backdrop of Prison Reforms," *iPleaders*, Oct. 24, 2019, available at: <https://blog.ipleaders.in/legal-backdrop-prison-reforms/> (last visited on Jan. 23, 2026).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

The Indian penal philosophy utilizes a combination of justifications tailored to the nature of the offense and the offender.²² While the BNSS maintains retributive and deterrent elements for serious crimes like terrorism and organized crime, it explicitly carves out a reformatory path for first-time and petty offenders.²³

The retributive approach focuses on moral accountability and is retained for heinous crimes.²⁴ In contrast, the reformatory approach prioritizes rehabilitation and social reintegration for first-time and non-violent offenders.²⁵ The deterrent approach aims to reduce crime through the fear of penalty, achieved in the BNSS through technology and strict trial timelines.²⁶ The preventive approach uses incapacitation to prevent repeat offenses, while the newly integrated restorative approach focuses on repairing harm to victims and the community through measures like community service.²⁷

Restorative justice marks a significant development in India's legal landscape. Unlike retributive justice, which focuses on the offense against the state, restorative justice views crime as a wrong against another person and the community.²⁸ The goal is to reestablish balance and repair harm through dialogue, restitution, and community engagement.²⁹

Judicial Guidance on Reformation

The legislative intent of the BNSS is deeply rooted in decades of judicial innovation.³⁰ In the landmark case *Mohammad Giasuddin v. State of Andhra Pradesh* (1977)³¹, the Supreme Court emphasized that the state should "rehabilitate rather than avenge".³² The Court argued that criminality is a curable deviance and that prisons should serve as "correctional houses"

²²*Supra* note 19, at 3.

²³Sushil Kumar Jha, "Passing of Criminal Law Bills in the Parliament: A missed opportunity for reform," *Bar and Bench*, Dec. 25, 2023, available at: <https://www.barandbench.com/columns/passing-of-criminal-law-bills-in-the-parliament-a-missed-opportunity-for-reform> (last visited on Jan. 23, 2026).

²⁴*Supra* note 19, at 3.

²⁵*Supra* note 20, at 3.

²⁶*Supra* note 14, at 2.

²⁷Dr. D Radhika Yadav, "Paradigm shift in Indian Penology: Operationalizing community service under the Bharatiya Nyaya Sanhita, 2023 – challenges," 11(2) *International Journal of Law* 72 (2025).

²⁸Poonam Tamrakar and Ashwani Kumar, "A Comparative Analysis of Community Service Punishment with Open Prison in Indian Criminal Justice System," 6(1) *Indian Journal of Law and Legal Research* (2024).

²⁹Juan G. Villaseñor and Mariah Bauguess, "Restorative Justice: A New Conversation for Victims and Offenders," 108(3) *Judicature* 32 (2025).

³⁰*Supra* note 13, at 2.

³¹*Supra* note 7, at 1.

³²"Humanizing Sentencing: Insights from *Mohammad Giasuddin v. State of Andhra Pradesh*," *CaseMine*, available at: <https://www.casemine.com/commentary/in/humanizing-sentencing-insights-from-mohammad-giasuddin-v.-state-of-andhra-pradesh/view> (last visited on Jan. 23, 2026).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

rather than places that "ache the soul". This "therapeutic" approach contrasts with traditional punitive measures, which the Court criticized as "relics of past and regressive times".

Judicial metabolism has increasingly assimilated these creative ideas into sentencing practices.³³ In *Narotam Singh v. State of Punjab* (1978)³⁴, the Court established that a reformatory approach to punishment ought to be the primary objective of criminal law to rehabilitate offenders without offending the community conscience. This principle of individualized sentencing ensures that the punishment fits the criminal as well as the crime, a philosophy that is now statutorily anchored in the BNSS through liberalized bail and non-custodial sanctions.

BNSS SECTION 479: REDEFINING BAIL AND THE RIGHTS OF THE FIRST-TIME UNDERTRIAL

Perhaps the most impactful procedural reform for first-time offenders in the BNSS is the overhaul of bail provisions for undertrial prisoners.³⁵ Historically, Indian prisons have been characterized by a high proportion of undertrials—individuals accused of crimes but yet to be convicted—who often languish in detention for prolonged periods due to systemic inefficiencies.³⁶ This stagnation not only violates the "presumption of innocence" but also leads to severe overcrowding and the hardening of non-violent individuals.³⁷

The "One-Third" Threshold: A Liberalized Regime for First-Timers

Section 479³⁸ of the BNSS replaces Section 436A³⁹ of the CrPC and introduces a revolutionary "one-third" rule specifically for first-time offenders.⁴⁰ Under the previous CrPC regime, an accused person generally became eligible for release on a personal bond only after spending half of the maximum period of imprisonment for an offense.⁴¹ The BNSS retains

³³*Id.*

³⁴*Narotam Singh v. State of Punjab*, AIR 1978 SC 1542.

³⁵"Bill Summary: The BharatiyaNagarik Suraksha Sanhita, 2023," *PRS Legislative Research*, Aug. 11, 2023, available at: <https://prsindia.org/billtrack/prs-products/prs-bill-summary-4277> (last visited on Jan. 23, 2026).

³⁶"Highlights of New Criminal Laws," *Press Information Bureau*, July 31, 2024, available at: <https://www.pib.gov.in/PressReleaseDetailm.aspx?PRID=2039055> (last visited on Jan. 23, 2026).

³⁷JharnaAkram, "Bridging Justice and Health: The Impact of Criminal Case Delays on Prisoners' Well-Being," 13(7) *International Journal of Creative Research Thoughts* b443 (2025).

³⁸*Supra note 5, at 1.*

³⁹The Code of Criminal Procedure, 1973 (Act 2 of 1974), s.436A.

⁴⁰*Supra note 35, at 5.*

⁴¹*Supra note 36, at 5.*

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

this "half ground" for general offenders but provides a faster exit for those with no prior convictions.⁴²

This provision is a direct response to the socio-economic vulnerabilities of first-time offenders, who may lack the resources to furnish sureties or hire competent legal aid.⁴³ By allowing release after one-third of the maximum sentence, the BNSS seeks to minimize the "chilling effect" of pre-trial detention and prevent the collateral damage caused by long-term incarceration.⁴⁴ Furthermore, the BNSS places a mandatory duty on the Superintendent of the Jail to make the application for bail on behalf of the eligible undertrial, thereby removing the burden from the marginalized accused.⁴⁵

LEGAL INTRICACIES AND POTENTIAL BARRIERS

Despite its progressive intent, Section 479 introduces new limitations that have sparked debate among legal scholars.⁴⁶ Specifically, Section 479(2) acts as a non-obstante clause that denies the benefit of default bail to any individual against whom proceedings are pending in more than one offense.⁴⁷ Critics argue that this "multiple case bar" is arbitrary and irrational, as it could be misused by authorities to keep individuals in custody simply by filing multiple FIRs for the same set of facts.⁴⁸ This provision may disproportionately affect those from marginalized backgrounds who are often targeted by police in multiple petty cases.⁴⁹

COMMUNITY SERVICE: A STRUCTURAL SHIFT IN PENAL ALTERNATIVES

⁴²MihirTejaKalle, "One Accusation Too Many: The Chilling Effect of BNSS Section 479(2)," *Crime and Justice Blog*, Dec. 4, 2025, available at: <https://crimeandjustice.blog/2025/12/04/one-accusation-too-many-the-chilling-effect-of-bnss-section-4792/> (last visited on Jan. 23, 2026).

⁴³*Supra note 23, at 4.*

⁴⁴*Supra note 37, at 5.*

⁴⁵SnehaBhambri, "Prison Reforms in India: Selected Recommendations and Guidelines on 'Capacity' by Prison Reform Committees in India," *India Justice Report*, available at: https://indiajusticereport.org/files/IJR_Recommendation_for_Prison_Reforms_in_India.pdf (last visited on Jan. 23, 2026).

⁴⁶*Supra note 42, at 6.*

⁴⁷Gautam Bhatia, "The Sentence," *Indian Constitutional Law and Philosophy*, Oct. 4, 2024, available at: <https://indconlawphil.wordpress.com/2024/10/04/the-sentence/> (last visited on Jan. 23, 2026).

⁴⁸*Supra note 35, at 5.*

⁴⁹*Supra note 42, at 6.*

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

For the first time in India's general criminal history, "Community Service" has been introduced as a formal and structured form of punishment under Section 4(f)⁵⁰ of the Bharatiya Nyaya Sanhita (BNS).⁵¹ This represents a fundamental shift in the approach to petty and non-violent crimes, acknowledging that rehabilitation through social engagement often achieves outcomes that punitive isolation cannot.⁵²

Definition and Rationale

The explanation to Section 23⁵³ of the BNSS defines community service as work which the Court may order a convict to perform as a form of punishment that benefits the community, for which the convict is not entitled to any remuneration.⁵⁴ This non-voluntary, judicially mandated labor is intended to instill a sense of responsibility and civic duty in the offender, allowing them to "pay back" to society in a constructive manner.⁵⁵

The socio-legal rationale for community service is multifaceted:

- **Reduction of Prison Overcrowding:** By diverting petty offenders from custodial detention, the burden on India's overpopulated jails (currently at 120.8% national occupancy) can be eased.⁵⁶
- **Avoiding the Stigma of Imprisonment:** Community service avoids the "branding" effect that accompanies a jail sentence, allowing offenders to maintain employment and family ties.⁵⁷
- **Economic Efficiency:** Administering community service is relatively inexpensive compared to the operational costs of high-security or traditional prisons.⁵⁸
- **Cultural Alignment:** The model resonates with the Indian cultural ethos of *seva* (service) and Gandhian principles of collective responsibility.⁵⁹

⁵⁰*Supra note 6, at 1.*

⁵¹*Supra note 14, at 2.*

⁵²*Supra note 36, at 5.*

⁵³The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 23.

⁵⁴*Supra note 16, at 3.*

⁵⁵Shivani Johri, "Concept of Community Service as Punishment under BNS, 2023- a boon or bane?," 20 *The Lawway with Lawyers Journal* (2025), available at: <https://thelawwaywithlawyers.com/concept-of-community-service-as-punishment-under-bns-2023-a-boon-or-bane/> (last visited on Jan. 23, 2026).

⁵⁶*Supra note 14, at 2.*

⁵⁷*Ibid.*

⁵⁸*Ibid.*

⁵⁹*Ibid.*

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

For most offenses, the use of the conjunction "or" gives the judge discretion to choose community service.⁶⁰ However, the lack of operational details in the BNSS has led to concerns about judicial consistency.⁶¹ The law fails to specify minimum hours, project types, or standardized mechanisms for monitoring compliance, creating a risk that the punishment will be applied disparately across different jurisdictions.

COMPARATIVE RESTORATIVE JUSTICE: INDIA VS. GLOBAL MODELS

The introduction of community service in the BNS invites a direct comparison with long-standing international restorative justice practices, particularly the United Kingdom's "Community Order" system.

The United Kingdom: A Tailored Sentencing Model

Under the UK's Criminal Justice Act 2003, a "Community Order" consists of one or more of 12 possible requirements designed to address the underlying causes of offending behavior.⁶² These requirements include unpaid work (community payback), supervision by a probation officer, curfews, and mandatory drug or alcohol treatment.⁶³ The UK model categorizes orders based on the seriousness of the offense :

Low Level: Generally includes only one requirement, such as 40-80 hours of unpaid work.⁶⁴

Medium Level: Might include rehabilitative requirements and 80-150 hours of work.⁶⁵

High Level: Combined for offenses just below the custody threshold, involving up to 300 hours of work and strict curfews.⁶⁶

⁶⁰*Supra note 55, at 7.*

⁶¹*Ibid.*

⁶²Ministry of Justice, "Impact Assessment: Effective Community Services - Review of Community Sentences and Probation," Dec. 15, 2011, available at: https://consult.justice.gov.uk/digital-communications/effective-community-services-1/supporting_documents/communitysentencesprobationia.pdf (last visited on Jan. 23, 2026).

⁶³"Community Orders," *Unlock*, Aug. 6, 2024, available at: <https://unlock.org.uk/advice/community-order/> (last visited on Jan. 23, 2026).

⁶⁴"Community Orders: Sentencing Academy Explainer," *Sentencing Academy*, Aug. 2023, available at: <https://www.sentencingacademy.org.uk/wp-content/uploads/2023/08/Community-Orders-Explainer.pdf> (last visited on Jan. 23, 2026).

⁶⁵*Ibid.*

⁶⁶*Ibid.*

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

Evidence from the UK indicates that community orders are more effective at reducing reoffending than short-term custodial sentences.⁶⁷ The one-year reoffending rate for those on community orders is approximately 4 percentage points lower than those serving under 12 months in prison.⁶⁸

The United States: Accountability and Empathy

In the United States, restorative justice (RJ) programs focus on the "repair of harm" through engagement between victims, offenders, and the community.⁶⁹ RJ practices such as "restorative circles" and "victim-offender dialogue" encourage offenders to understand the human consequences of their actions.⁷⁰ Research suggests that participation in these programs can reduce recidivism rates by as much as 10% to 25%.⁷¹

The US model emphasizes that crime is not just a depersonalized breaking of the law but a wrong against another person.⁷² By placing the victim at the center of the process, RJ programs foster empathy in the offender, which is a known protective factor against reoffending.⁷³ The BNS's inclusion of community service reflects an early-stage adoption of these principles.⁷⁴

FOUNDATION OF REFORMS: THE MULLA AND KRISHNA IYER COMMITTEES

The reformative elements of the BNSS are the result of decades of research and recommendations by various expert committees:⁷⁵

The All-India Committee on Jail Reforms (Mulla Committee, 1980-83)

⁶⁷Ministry of Justice, "The impact of short custodial sentences, community orders and suspended sentence orders on reoffending," July 18, 2019, available at: <https://assets.publishing.service.gov.uk/media/5d1c732ee5274a08cdbc45c4/impact-short-custodial-sentences.pdf> (last visited on Jan. 23, 2026).

⁶⁸VibhuBakshi, "Comparative Analysis of Bail Provisions – Old Law (CrPC) vs. New Law (BNSS)," 13(1) *International Journal of Creative Research Thoughts* r43 (2025).

⁶⁹Supra note 29, at 4.

⁷⁰"The Role of Restorative Justice in Modern Criminal Justice Administration," *Park University Blog*, available at: <https://www.park.edu/blog/the-role-of-restorative-justice-in-modern-criminal-justice-administration/> (last visited on Jan. 23, 2026).

⁷¹*Ibid.*

⁷²Supra note 29, at 4.

⁷³Supra note 70, at 9.

⁷⁴*Ibid.*

⁷⁵Supra note 45, at 6.

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

Chaired by Justice AnandNarainMulla, this committee conducted an exhaustive review and made over 600 recommendations.⁷⁶ The committee's core philosophy was that a convict is "only under an eclipse" and has the right to return to society as a reformed member.⁷⁷

Key recommendations of the Mulla Committee that find voice in the BNSS include:

- **Separation of Prisoners:** Mandatory segregation of undertrials from convicts, and first-time offenders from habitual criminals.
- **Alternatives to Imprisonment:** Suggesting that imprisonment should not be the default for petty offenses and should be substituted with community-based reforms.
- **Correctional Staffing:** Recommendation to create an "All-India Service" called the Indian Prisons and Correctional Service focused on rehabilitation.⁷⁸
- **Living Conditions:** Establishing that prisoners have a right to proper sanitation, nutrition, and healthcare.⁷⁹

The National Expert Committee on Women Prisoners (Krishna Iyer Committee, 1987)

This committee focused specifically on the special needs of women and child offenders.⁸⁰

The BNSS incorporates several of these reforms:

- **Recording of Statements:** Mandating that statements of female victims be recorded by female police officers or magistrates to ensure sensitivity.
- **Arrest Protections:** Strengthening the requirement that women and elderly persons not be required to attend any place other than their residence for questioning.
- **Participation:** Modernizing the summons requirement to allow "any adult member" of the family, including women, to receive summons.

SYSTEMIC CHALLENGES: INFRASTRUCTURE AND THE DIGITAL DIVIDE

⁷⁶*Supra note 21, at 3.*

⁷⁷Government of India, Report of the All India Committee on Jail Reforms, 1980-83 (Mulla Committee Report), available at: <https://www.scribd.com/doc/21248287/Mulla-Committee-on-Prisons> (last visited on Jan. 23, 2026).

⁷⁸*Ibid.*

⁷⁹*Supra note 21, at 3.*

⁸⁰*Supra note 45, at 6.*

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

While the BNSS provides a progressive legal framework, its practical success is hindered by persistent systemic gaps.

The Correctional Staffing Crisis: The realization of "reformation" as a core objective requires intensive human engineering.⁸¹ However, India faces a profound nationwide shortage of probation and correctional staff.⁸² The national average ratio of correctional officer to prisoner stands at approximately 1:1,617, which makes the adequate supervision of community service or rehabilitation programs nearly impossible.⁸³ Without professional staff to monitor compliance, community service risks becoming a "symbolic" reform.⁸⁴

Overcrowding and Health Concerns: India's prisons suffer from severe overcrowding, with occupancy rates exceeding 118% nationally and much higher in states like Uttar Pradesh and Bihar.

The Digital Divide in Legal Management: The BNSS places a heavy emphasis on "electronic mode" trials and digital evidence. Ensuring digital evidence is handled without tampering and that all parties have fair access is essential for maintaining individual liberty.

NEW TIMELINES FOR SPEEDIER JUSTICE

The BNSS aims to address the extreme duration of trials and investigations that characterized the CrPC. For a first-time offender, every day spent under investigation is a day of acute stress and potential livelihood loss.⁸⁵ The law introduces binding procedural obligations with strict timelines:

- **Charge-sheet Filing:** Must be completed within 60 days (minor) to 90 days (serious).
- **Framing of Charges:** Courts are now required to frame charges within 60 days from the first hearing.
- **Progress Updates to Victims:** Police must inform victims of the investigation's progress every 90 days.⁸⁶

⁸¹*Supra note 21, at 3.*

⁸²Ministry of Home Affairs, *Report of the All India Committee on Jail Reforms, 1980-83* vol. I (1983), available at: https://www.mha.gov.in/MHA1/PrisonReforms/NewPDF/PRV1_1TO40.pdf (last visited on Jan. 23, 2026).

⁸³*Ibid.*

⁸⁴*Supra note 27, at 4.*

⁸⁵*Supra note 37, at 5.*

⁸⁶*Supra note 35, at 5.*

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

- **Delivery of Judgment:** Judgment must be given within 30 days post-arguments, extendable to 45 or 60 days.

Plea Bargaining and Sentence Reductions

The BNSS expands and clarifies the scope of plea bargaining (Sections 289-300) to expedite case disposal.⁸⁷ Under Section 293, if an accused is a first-time offender with no prior conviction, the court has the discretion to reduce the punishment to one-fourth or one-sixth of the prescribed term. This provides a strong incentive for first-time offenders to admit guilt for minor infractions and move toward social reintegration.

CONCLUSION

The transition from the Code of Criminal Procedure, 1973, to the BharatiyaNagarik Suraksha Sanhita, 2023, marks the beginning of a new epoch in Indian criminal jurisprudence. By shifting the focus from retributive isolation to reformatory engagement, the BNSS seeks to create a justice system that is more humane, efficient, and restorative. The specific protections afforded to first-time offenders including liberalized bail thresholds under Section 479 and the introduction of community service represent a significant victory for the reformatory theory of punishment.

However, the analysis indicates that the success of this landmark legislation is not guaranteed by the statute alone. The limitations of Section 479(2), the administrative vagueness of community service, and the severe lack of correctional infrastructure pose real risks to the realization of these ideals. For the BNSS to truly transform the lives of first-time offenders, the state must move beyond legislative reform toward systemic overhaul. If implemented with the spirit of the reformatory vision, it has the potential to turn India's prisons from places of captive retribution into centers of human engineering and social redemption.

REFERENCES

1. Amir Suhail, "Community Service As Sentencing Alternative: Towards A Reformatory And Restorative Criminal Justice System In India," LiveLaw, Jan. 5,

⁸⁷Mr. J. Najimudeen, "Comparative Analysis of BNSS and CrPC: Understanding the Shifts in India's Criminal Justice Framework," 26 The Lawway with Lawyers Journal (2025), available at: <https://thelawwaywithlawyers.com/comparative-analysis-of-bnss-and-crpc-understanding-the-shifts-in-indias-criminal-justice-framework/> (last visited on Jan. 23, 2026).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

- 2026, available at: <https://www.livelaw.in/articles/reformative-dimension-of-community-service-bharatiya-nyaya-sanhita-analysis-516964>.
2. AnushkAmrit, "Reformative Theory of Punishment," 3(2) Indian Journal of Law and Legal Research 1 (2022).
 3. "Bill Summary: The BharatiyaNagarik Suraksha Sanhita, 2023," PRS Legislative Research, Aug. 11, 2023, available at: <https://prsindia.org/billtrack/prs-products/prs-bill-summary-4277>.
 4. "Community Orders: Sentencing Academy Explainer," Sentencing Academy, Aug. 2023, available at: <https://www.sentencingacademy.org.uk/wp-content/uploads/2023/08/Community-Orders-Explainer.pdf>.
 5. "Community Orders," Unlock, Aug. 6, 2024, available at: <https://unlock.org.uk/advice/community-order/>.
 6. Dr. D Radhika Yadav, "Paradigm shift in Indian Penology: Operationalizing community service under the Bharatiya Nyaya Sanhita, 2023 – challenges," 11(2) International Journal of Law 72 (2025).
 7. Gautam Bhatia, "The Sentence," Indian Constitutional Law and Philosophy, Oct. 4, 2024, available at: <https://indconlawphil.wordpress.com/2024/10/04/the-sentence/>.
 8. Government of India, Report of the All India Committee on Jail Reforms, 1980-83 (Mulla Committee Report), available at: <https://www.scribd.com/doc/21248287/Mulla-Committee-on-Prisons>.
 9. "Highlights of New Criminal Laws," Press Information Bureau, July 31, 2024, available at: <https://www.pib.gov.in/PressReleseDetailm.aspx?PRID=2039055>.
 10. "Humanizing Sentencing: Insights from Mohammad Giasuddin v. State of Andhra Pradesh," CaseMine, available at: <https://www.casemine.com/commentary/in/humanizing-sentencing:-insights-from-mohammad-giasuddin-v.-state-of-andhra-pradesh/view>.
 11. JharnaAkram, "Bridging Justice and Health: The Impact of Criminal Case Delays on Prisoners' Well-Being," 13(7) International Journal of Creative Research Thoughts b443 (2025).
 12. Juan G. Villaseñor and Mariah Bauguess, "Restorative Justice: A New Conversation for Victims and Offenders," 108(3) Judicature 32 (2025).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

13. MihirTejaKalle, "One Accusation Too Many: The Chilling Effect of BNSS Section 479(2)," Crime and Justice Blog, Dec. 4, 2025, available at: <https://crimeandjustice.blog/2025/12/04/one-accusation-too-many-the-chilling-effect-of-bnss-section-4792/>.
14. Ministry of Home Affairs, Report of the All India Committee on Jail Reforms, 1980-83 vol. I (1983), available at: https://www.mha.gov.in/MHA1/PrisonReforms/NewPDF/PRV1_1TO40.pdf.
15. Ministry of Justice, "Impact Assessment: Effective Community Services - Review of Community Sentences and Probation," Dec. 15, 2011, available at: https://consult.justice.gov.uk/digital-communications/effective-community-services-1/supporting_documents/communitysentencesprobationia.pdf.
16. Ministry of Justice, "The impact of short custodial sentences, community orders and suspended sentence orders on reoffending," July 18, 2019, available at: <https://assets.publishing.service.gov.uk/media/5d1c732ee5274a08cdbe45c4/impact-short-custodial-sentences.pdf>.
17. Mohammad Giasuddin v. State of Andhra Pradesh, AIR 1977 SC 1926.
18. Mr. J. Najimudeen, "Comparative Analysis of BNSS and CrPC: Understanding the Shifts in India's Criminal Justice Framework," 26 The Lawway with Lawyers Journal (2025), available at: <https://thelawwaywithlawyers.com/comparative-analysis-of-bnss-and-crpc-understanding-the-shifts-in-indias-criminal-justice-framework/>.
19. Mudasir A. Bhat, "Prison Laws in India: A Socio-Legal Study," available at: <https://cdnbbsr.s3waas.gov.in/s37a68443f5c80d181c42967cd71612af1/uploads/2025/03/202503192054442839.pdf>.
20. Narotam Singh v. State of Punjab, AIR 1978 SC 1542.
21. Poonam Tamrakar and Ashwani Kumar, "A Comparative Analysis of Community Service Punishment with Open Prison in Indian Criminal Justice System," 6(1) Indian Journal of Law and Legal Research (2024).
22. SaloniMaheshwari and Surbhi Agrawal, "Legal Backdrop of Prison Reforms," iPleaders, Oct. 24, 2019, available at: <https://blog.iplayers.in/legal-backdrop-prison-reforms/>.
23. ShivaniJohri, "Concept of Community Service as Punishment under BNS, 2023- a boon or bane?," 20 The Lawway with Lawyers Journal (2025), available at:

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>

<https://thelawwaywithlawyers.com/concept-of-community-service-as-punishment-under-bns-2023-a-boon-or-bane>.

24. SnehaBhambri, "Prison Reforms in India: Selected Recommendations and Guidelines on 'Capacity' by Prison Reform Committees in India," India Justice Report, available at:https://indiajusticereport.org/files/IJR_Recommendation_for_Prison_Reforms_in_India.pdf.
25. Soumya Yadav, "Reformative Theory of Punishment: A Path Towards Rehabilitation and Social Reintegration - By Walking on Path of Spirituality," 8(4) Nat. Volatiles &Essent. Oils 16944 (2021).
26. Sushil Kumar Jha, "Passing of Criminal Law Bills in the Parliament: A missed opportunity for reform," Bar and Bench, Dec. 25, 2023, available at: <https://www.barandbench.com/columns/passing-of-criminal-law-bills-in-the-parliament-a-missed-opportunity-for-reform>.
27. "The Role of Restorative Justice in Modern Criminal Justice Administration," Park University Blog, available at: <https://www.park.edu/blog/the-role-of-restorative-justice-in-modern-criminal-justice-administration/>.
28. VibhuBakshi, "Comparative Analysis of Bail Provisions – Old Law (CrPC) vs. New Law (BNSS)," 13(1) International Journal of Creative Research Thoughts r43 (2025).
29. Vijay Lakshmi Mishra and Dr. Krishna Mohan Malviya, "Concept of Punishment and Its Justification in Indian Perspective: An Overview," 15(3) European Economic Letters 3022 (2025).
30. Vivek Kumar Gupta, "Alternative sentencing in India: The legal dimensions of community service under the Bharatiya Nyaya Sanhita, 2023," 5(2) International Journal of Criminal, Common and Statutory Law 65 (2025).
31. Zubair Ahmed, "Jail reforms in India: A study of Indian jail reform committees," 1(3) International Journal of Multidisciplinary Education and Research 1 (2016).

For general queries or to submit your research for publication, kindly email us at ijalr.editorial@gmail.com

<https://www.ijalr.in/>