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Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023: Evaluating the Promise of Undertrial Reform Against the Reality of Implementation

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ABSTRACT

*India's criminal justice system stands confronted by a crisis of constitutional proportions. With 75.8 percent of its prison population comprising undertrial prisoners, individuals incarcerated without conviction, the systemic failure to secure the right to speedy trial under Article 21 of the Constitution of India has assumed an alarming character. The enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), replacing the Code of Criminal Procedure, 1973 (CrPC), brought with it Section 479, a provision heralded as a transformative reform in undertrial bail law. By reducing the threshold for first-time offenders from one-half to one-third of the maximum prescribed sentence, and by attracting retrospective application through the Supreme Court's landmark order of 23 August 2024 in *Re: Inhuman Conditions in 1382 Prisons*, the provision generated considerable expectation. This paper critically evaluates whether Section 479 BNSS has fulfilled that expectation in its first year of operation. Employing a doctrinal methodology supplemented by empirical data drawn from National Crime Records Bureau reports, Supreme Court orders and Ministry of Home Affairs advisories, it examines the provision's legislative design, judicial interpretation and on-ground implementation across India's states and Union Territories. It finds that while Section 479 BNSS marks a meaningful improvement over its predecessor in respect of first-time offenders, it simultaneously introduces a significant regression by excluding undertrials accused of offences punishable with life imprisonment, a right that existed under Section 436A CrPC, and faces deep structural barriers that no statutory text alone can overcome.*

Keywords: *Section 479 BNSS, Undertrial Prisoners, Bail Reform, Article 21, Prison Overcrowding, Speedy Trial, Criminal Justice Reform.*

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I. INTRODUCTION

The Indian criminal justice system stands confronted by a paradox that strikes at the very heart of constitutional governance. The presumption of innocence, a principle so fundamental that it precedes codification, finds itself routinely negated by a system that incarcerates individuals not as a consequence of conviction but as a consequence of accusation. Undertrial prisoners, those held in judicial custody pending the conclusion of trial proceedings, constitute an overwhelming majority of India's prison population. According to the National Crime Records Bureau's *Prison Statistics India 2022*, out of 5,73,220 inmates across Indian prisons, as many as 4,34,302, representing 75.8 percent of the total prison population, are undertrials awaiting the conclusion of their trials, with Indian prisons simultaneously operating at 131.4 percent of their sanctioned capacity.¹

The causes of this crisis are neither obscure nor novel. Indiscriminate arrests by police, widespread ignorance of legal rights among accused persons, chronic judicial backlog, the institutional reluctance of subordinate courts to grant bail, and the practical inability of accused persons belonging to economically weaker sections to furnish surety have together created a population of incarcerated individuals whose detention bears no rational proportion to the gravity of the offences they are alleged to have committed. The Supreme Court of India took cognizance of this reality as far back as 1980, when in *Hussainara Khatoon v. State of Bihar*,² it held that the right to speedy trial is an inextricable component of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India³ and that the state cannot justify prolonged incarceration of undertrial prisoners on grounds of administrative convenience or resource constraints.

Yet four decades after *Hussainara Khatoon*, the undertrial crisis endures and in several material respects has deepened. It was against this backdrop that the Parliament of India, in enacting the Bharatiya Nagarik Suraksha Sanhita, 2023, which came into force on 1 July 2024 replacing the Code of Criminal Procedure, 1973, introduced Section 479, a provision that revises the conditions under which undertrial prisoners may be released on bail after serving a specified proportion of their potential maximum sentence. Building upon its predecessor, Section 436A of the Code of Criminal Procedure, Section 479 introduces a more favourable threshold for first-time offenders, those without any prior conviction, who are now entitled to release upon

¹ NATIONAL CRIME RECORDS BUREAU, *Prison Statistics India 2022*, at 1, 3 (Ministry of Home Affairs 2023).

² *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 98, 105 (India).

³ INDIA CONST. art. 21.

serving one-third rather than one-half of the maximum sentence prescribed for the alleged offence.⁴

The provision attracted immediate and significant judicial attention. In a landmark order dated 23 August 2024, the Supreme Court of India in the ongoing matter of *Re: Inhuman Conditions in 1382 Prisons* held that Section 479 would apply retrospectively to all undertrials across the country, including those whose cases were registered prior to 1 July 2024, directing jail superintendents nationwide to proactively identify and process applications of eligible undertrials and calling upon all states and Union Territories to submit affidavits detailing compliance within two months.⁵ As of 22 October 2024, however, only 19 of the 36 states and Union Territories had filed the requisite compliance reports, with the Ministry of Home Affairs finding it necessary to separately issue an advisory to Chief Secretaries of all states urging proactive and fair implementation, a step that itself speaks to the depth of administrative inertia that continues to characterise India's prison administration.⁶

II. THE UNDERTRIAL CRISIS IN INDIA: A STATISTICAL OVERVIEW

The magnitude of India's undertrial crisis is best understood through the lens of official data. The National Crime Records Bureau's *Prison Statistics India 2022* reveals that out of 5,73,220 persons confined across Indian prisons, 4,34,302, constituting 75.8 percent of the total prison population, are undertrials awaiting the conclusion of their trials.⁷ This figure acquires greater significance when read alongside the fact that Indian prisons operate at 131.4 percent of their sanctioned capacity, making overcrowding not merely an administrative inconvenience but a constitutional concern directly implicating the right to life and dignity under Article 21.⁸

The crisis is not uniformly distributed. Certain states bear a disproportionate burden. Uttar Pradesh, with the largest prison population in the country, recorded an occupancy rate exceeding 170 percent, with undertrials constituting the overwhelming majority of its confined population.⁹ The situation of women undertrials deserves particular attention: of 23,772 women inmates across Indian prisons, 18,146, representing 76.33 percent, are undertrials, a figure that the Supreme Court specifically highlighted in its November 2024 directions in *Re: Inhuman Conditions in 1382 Prisons*.¹⁰

⁴ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India), § 479.

⁵ *Re: Inhuman Conditions in 1382 Prisons*, 2024 SCC OnLine SC 2695 (India).

⁶ Ministry of Home Affairs, Advisory to Chief Secretaries on Implementation of Section 479 of the Bharatiya Nagarik Suraksha Sanhita (Oct. 2024).

⁷ NATIONAL CRIME RECORDS BUREAU, *supra* note 1, at 1.

⁸ INDIA CONST. art. 21; NATIONAL CRIME RECORDS BUREAU, *supra* note 1, at 3.

⁹ *Id.* at 17.

¹⁰ *Re: Inhuman Conditions in 1382 Prisons*, 2024 SCC OnLine SC 3621 (India).

Long-term detention without trial compounds the crisis further. Approximately 8.6 percent of undertrials as of 31 December 2022 had been in prison for more than three years, a duration that in many cases exceeds the sentence they would have received upon conviction for the very offence they are alleged to have committed. This inversion of justice, where the accused serves a de facto sentence prior to any finding of guilt, strikes at the foundational presumption of innocence that underlies the criminal justice system.

The Law Commission of India in its 268th Report identified judicial vacancies, inadequate legal aid infrastructure, and the absence of a robust bail ecosystem as the principal drivers of undertrial accumulation.¹¹ The inability of accused persons from economically marginalised backgrounds to furnish surety or engage competent legal representation ensures that pretrial detention functions, in practice, as a punishment disproportionately visited upon the poor.

III. FROM SECTION 436A OF THE CODE OF CRIMINAL PROCEDURE TO SECTION 479 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA: LEGISLATIVE EVOLUTION

Section 436A of the Code of Criminal Procedure, inserted by the Code of Criminal Procedure (Amendment) Act, 2005, provided that an undertrial who had served one-half of the maximum period of imprisonment specified for the alleged offence could be released on bail by the court, subject to furnishing a personal bond with or without sureties.¹² The provision operated as a statutory recognition of the constitutional right to speedy trial and was intended to provide relief to undertrial prisoners who had languished in custody for disproportionately long periods. However, while it expressly excluded persons accused of offences punishable with death, it extended its benefit to those accused of offences punishable with life imprisonment.

Section 479 of the Bharatiya Nagarik Suraksha Sanhita retains the essential framework of Section 436A while introducing two significant modifications. First, it reduces the threshold for first-time offenders, defined as persons who have never been convicted of any offence in the past, from one-half to one-third of the maximum prescribed sentence.¹³ This represents a meaningful liberalisation of bail entitlement for a category of accused persons who, by definition, present the lowest risk of recidivism. Second, and far more controversially, Section 479 excludes from its ambit not only those accused of offences punishable with death but also

¹¹ LAW COMMISSION OF INDIA, Report No. 268: Amendments to the Criminal Procedure Code, 1973 — Provisions Relating to Bail, at 12 (2017).

¹² The Code of Criminal Procedure (Amendment) Act, 2005, No. 25, Acts of Parliament, 2005 (India), § 436A.

¹³ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India), § 479.

those accused of offences punishable with life imprisonment, a category that was expressly protected under Section 436A of the Code of Criminal Procedure.¹⁴

This regression has attracted sharp criticism. The clause-by-clause statement of objects and reasons accompanying the Bharatiya Nagarik Suraksha Sanhita Bill, 2023 as tabled in Parliament offers no justification for the removal of this entitlement.¹⁵ The practical consequence is that a significant category of undertrial prisoners, many of whom are accused of offences carrying life imprisonment as the maximum sentence, are now categorically excluded from statutory bail relief that was available to them prior to 1 July 2024.

IV. THE SUPREME COURT'S INTERVENTION: *RE: INHUMAN CONDITIONS IN 1382 PRISONS*

The judicial history underlying the undertrial crisis predates the enactment of the Bharatiya Nagarik Suraksha Sanhita by more than a decade. The matter of *Re: Inhuman Conditions in 1382 Prisons* originated from a letter addressed to the Supreme Court by former Chief Justice of India R.C. Lahoti, raising concerns regarding four critical issues afflicting Indian prisons: overcrowding, unnatural deaths of prisoners, understaffing, and the absence of reformatory schemes for first-time offenders and juveniles. The Supreme Court converted the letter into a suo motu writ petition and has since exercised continuous supervisory jurisdiction over prison conditions across the country.

The enactment of the Bharatiya Nagarik Suraksha Sanhita presented the Court with an opportunity to significantly advance the cause of undertrial reform. In its landmark order dated 23 August 2024, a bench of Justice Hima Kohli and Justice Sandeep Mehta held that Section 479 would apply retrospectively to all undertrials across the country, irrespective of whether their cases were registered before or after 1 July 2024, directing jail superintendents nationwide to proactively identify eligible undertrials and process their applications through the concerned courts within three months. All states and Union Territories were directed to file affidavits furnishing details of the number of eligible undertrials, applications made, and actual releases effected.

The hearing of 22 October 2024 revealed a deeply unsatisfactory state of compliance. Only 19 of 36 states and Union Territories had filed the requisite affidavits, and the Court observed that the process of identification of eligible undertrials was "somewhat deficient" in several

¹⁴ *Id.*

¹⁵ Statement of Objects and Reasons, the Bharatiya Nagarik Suraksha Sanhita Bill, 2023, Gazette of India (Aug. 11, 2023).

jurisdictions, directing Undertrial Review Committees in each district to assume a more proactive role and calling upon District and State Legal Services Authorities to mobilise panel advocates and paralegal volunteers to assist in identifying eligible prisoners. On 19 November 2024, the Court issued further directions specifically prioritising the identification and release of women undertrials, recognising their particular vulnerability within the prison system.¹⁶

The Ministry of Home Affairs simultaneously launched a Special Campaign on Constitution Day, 26 November 2024, urging states to identify and process applications of eligible undertrials under Section 479, with state-wise compliance data subsequently published by the Press Information Bureau.¹⁷

V. THREE GREY AREAS CREATED BY SECTION 479

Despite its reformatory intent, Section 479 of the Bharatiya Nagarik Suraksha Sanhita introduces three significant areas of legal ambiguity that courts and prison administrators are yet to authoritatively resolve.

A. Exclusion of life imprisonment undertrials

The most consequential grey area concerns the exclusion of undertrials accused of offences punishable with life imprisonment. Under Section 436A of the Code of Criminal Procedure, such accused persons were entitled to apply for bail upon serving one-half of the maximum prescribed sentence. Section 479 silently withdraws this entitlement, placing life imprisonment undertrials at par with those accused of capital offences.¹⁸ No legislative justification accompanies this withdrawal. Given that offences carrying life imprisonment under the Bharatiya Nyaya Sanhita, 2023¹⁹ are numerous, the practical consequence is the categorical exclusion of a substantial undertrial population from statutory bail relief.

B. Definition of "first-time offender"

Section 479 extends its more favourable one-third threshold exclusively to first-time offenders, defined as persons who have never been convicted of any offence in the past. The provision however leaves critical questions unanswered. Whether an acquittal in a prior case disqualifies an accused, whether offences committed as a juvenile are counted, and whether convictions outside India are relevant remain entirely unaddressed.²⁰ In the absence of authoritative judicial

¹⁶ *Re: Inhuman Conditions in 1382 Prisons*, Suo Motu Writ (Crl.) No. 1 of 2017 (Sup. Ct. India).

¹⁷ PRESS INFORMATION BUREAU, State-wise Data on Release of Undertrial Prisoners under Section 479 BNSS (Nov. 26, 2024).

¹⁸ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India), § 479; The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, 1974 (India), § 436A.

¹⁹ The Bharatiya Nyaya Sanhita, 2023, No. 45, Acts of Parliament, 2023 (India).

²⁰ The Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46, Acts of Parliament, 2023 (India), § 479, proviso.

interpretation, jail superintendents and courts are applying inconsistent standards across jurisdictions, undermining the uniformity the provision was designed to achieve.

C. The multiple offences bar

Section 479 further provides that its benefits shall not apply to undertrials against whom cases involving multiple offences are pending or under investigation. This bar, while facially reasonable, creates serious practical difficulties. A significant proportion of undertrial prisoners face multiple FIRs, often arising from the same transaction or set of circumstances. The provision does not distinguish between multiple offences arising from a single incident and genuinely separate criminal conduct, nor does it provide any mechanism for courts to exercise discretion in deserving cases.²¹

VI. STATE COMPLIANCE: A PATCHWORK OF IMPLEMENTATION

A. Filing of affidavits and initial response

As of 22 October 2024, only 19 of 36 states and Union Territories had filed affidavits in compliance with the Supreme Court's direction of 23 August 2024, despite a clear two-month deadline.²² The Court's observation that the identification process was "somewhat deficient" in several jurisdictions understates what the data reveals: a systemic failure of prison administration to operationalise a statutory entitlement that had been in force for nearly four months.

B. Structural barriers to implementation

Prisons being a State List subject under Entry 4 of the Seventh Schedule of the Constitution of India, the Central Government possesses no direct enforcement authority over state prison administrations.²³ The Ministry of Home Affairs advisory of October 2024, however strongly worded, carried no binding legal force, leaving implementation entirely dependent upon state machinery that is understaffed, under-resourced, and largely untrained in the legal nuances of the new provision.

C. The Special Campaign and its limitations

The Special Campaign launched on Constitution Day, 26 November 2024 produced some results, with several states identifying eligible undertrials and moving their applications before concerned courts.²⁴ However, identification and actual release are distinct steps, and available

²¹ *Id.* § 479.

²² *Re: Inhuman Conditions in 1382 Prisons*, *supra* note 16.

²³ INDIA CONST. sch. VII, list II, entry 4.

²⁴ PRESS INFORMATION BUREAU, *supra* note 17.

data does not reliably capture how many of those identified were ultimately released. The situation of women undertrials remains particularly concerning: despite the Supreme Court's specific November 2024 direction prioritising their identification, no disaggregated state-wise data on women undertrial releases is publicly available.

VII. CONSTITUTIONAL ANALYSIS: SECTION 479 AND THE RIGHT TO SPEEDY TRIAL UNDER ARTICLE 21

A. The constitutional foundation

The right to speedy trial, though not explicitly enumerated in the Constitution of India, has been firmly embedded within the guarantee of life and personal liberty under Article 21 through a consistent line of Supreme Court authority.²⁵ In *Hussainara Khatoon v. State of Bihar*, the Court held that the right to a speedy trial is an essential component of the right to life and that prolonged incarceration of undertrial prisoners without trial constitutes a clear violation of Article 21.²⁶ This foundational proposition has since been affirmed and expanded in successive decisions.

B. Subsequent judicial development

In *Arnesh Kumar v. State of Bihar*, the Supreme Court addressed the practice of indiscriminate arrests, holding that arrest must be treated as a last resort and that magistrates must apply their minds independently before authorising detention.²⁷ The decision recognised that unnecessary arrest and prolonged remand are themselves violations of Article 21. Subsequently, in *Satender Kumar Antil v. Central Bureau of Investigation*, the Court issued comprehensive guidelines on bail, directing courts to decide bail applications expeditiously and cautioning against mechanical remand orders that contribute to undertrial accumulation.²⁸

C. Does Section 479 meet the constitutional standard?

Measured against this constitutional standard, Section 479 presents a mixed picture. Its liberalisation of the threshold for first-time offenders and its retrospective application, as directed by the Supreme Court, represent meaningful steps toward constitutional compliance. However, the exclusion of life imprisonment undertrials from its ambit creates a category of persons whose prolonged detention without trial cannot be justified under Article 21. The constitutional guarantee of speedy trial does not admit of exceptions based upon the severity of

²⁵ INDIA CONST. art. 21.

²⁶ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 98, 105 (India).

²⁷ *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273, 279 (India).

²⁸ *Satender Kumar Antil v. Central Bureau of Investigation*, (2022) 10 SCC 51, 78 (India).

the alleged offence; an undertrial remains presumptively innocent regardless of the punishment their alleged offence carries.

VIII. A COMPARATIVE PERSPECTIVE ON UNDERTRIAL BAIL REFORM

A. United Kingdom: statutory custody time limits and the presumption of bail

The United Kingdom's approach to undertrial detention rests upon two complementary pillars. The Bail Act 1976 establishes a statutory presumption in favour of bail, placing the burden squarely upon the prosecution to demonstrate why bail should be refused rather than upon the accused to justify their release.²⁹ This inversion of the burden, absent in the Indian framework, represents a fundamentally different constitutional orientation toward pretrial liberty.

The Prosecution of Offences Act 1985 introduced custody time limits, prescribing maximum periods within which the Crown must bring an accused to trial, failing which the accused is entitled to unconditional bail as of right.³⁰ The existence of enforceable time limits, backed by automatic release as a consequence of prosecutorial delay, creates a structural incentive for expedition that India's framework entirely lacks. Section 479 of the Bharatiya Nagarik Suraksha Sanhita addresses the consequence of delay but not its cause. It releases undertrials who have already suffered prolonged detention rather than preventing that detention from occurring in the first place.

B. United States: a cautionary tale

The Bail Reform Act 1984 introduced a system of preventive detention permitting federal courts to detain accused persons without bail where the government demonstrates by clear and convincing evidence that no condition of release would reasonably assure the safety of the community.³¹ While this framework has been upheld constitutionally, it has attracted sustained criticism for disproportionately affecting economically marginalised defendants who cannot afford monetary bail even where detention is not warranted.

Studies have consistently demonstrated that pretrial detention in the United States correlates strongly with conviction, not because detained defendants are more culpable but because detention itself compromises the ability to mount an effective defence.³² India must be cautious of replicating this dynamic. The exclusion of life imprisonment undertrials from Section 479 creates precisely this risk, a category of accused persons who, regardless of the merits of the

²⁹ Bail Act 1976, c. 63, § 4 (Eng.).

³⁰ Prosecution of Offences Act 1985, c. 23, § 22 (Eng.).

³¹ Bail Reform Act of 1984, 18 U.S.C. § 3142(e) (2018).

³² Will Dobbie, Jacob Goldin & Crystal S. Yang, *The Effects of Pretrial Detention on Conviction, Future Crime, and Employment: Evidence from Randomly Assigned Judges*, 108 AM. ECON. REV. 201, 218 (2018).

case against them, are categorically denied statutory bail relief and whose prolonged detention may itself prejudice the fairness of their trial.

C. South Africa: a constitutional rights-based model

Section 35(1)(f) of the South African Constitution guarantees every arrested person the right to be released from detention if the interests of justice permit, subject to reasonable conditions.³³ Crucially, this right is not subject to categorical exclusions based upon the nature of the alleged offence, with courts retaining discretion to refuse bail in appropriate cases rather than any category of accused being statutorily excluded from the right to apply.

The South African Constitutional Court in *S v. Dlamini* upheld certain limitations on bail for serious offences while simultaneously affirming that any limitation must satisfy the proportionality standard under Section 36 of the Constitution.³⁴ This model, where judicial discretion rather than statutory exclusion governs pretrial detention, offers India a constitutionally coherent alternative to the blanket exclusion of life imprisonment undertrials under Section 479.

IX. RECOMMENDATIONS

A. Legislative amendments

Section 479 must be amended to restore the entitlement of life imprisonment undertrials to apply for bail upon serving one-half of the maximum prescribed sentence, reinstating the protection that existed under Section 436A of the Code of Criminal Procedure. The Legislature owes a clear explanation for any categorical exclusion that removes an existing statutory right without justification.

The definition of "first-time offender" under Section 479 must be statutorily clarified to expressly address whether juvenile convictions, foreign convictions, and prior acquittals affect eligibility. Leaving these questions to inconsistent judicial interpretation undermines the uniformity the provision was designed to achieve.

The multiple offences bar under Section 479 must be amended to vest courts with discretion to grant bail where multiple offences arise from the same transaction or set of circumstances, rather than operating as an automatic and absolute exclusion.

³³ S. Afr. Const., 1996, § 35(1)(f).

³⁴ *S v. Dlamini*, 1999 (4) SA 623 (CC) 645 (S. Afr.).

B. Institutional and administrative reforms

A dedicated national monitoring mechanism must be established under the Supreme Court's supervisory jurisdiction to track state-wise compliance with Section 479 on a quarterly basis, with non-compliant states required to appear before the Court and explain deficiencies.

Undertrial Review Committees in each district must be strengthened with adequate staffing, legal aid support, and clear timelines for identifying and processing eligible undertrial applications. Their functioning must be made subject to audit by State Legal Services Authorities.

Prison staff and jail superintendents must be trained specifically on the provisions of Section 479, including its eligibility criteria, procedural requirements, and the Supreme Court's directions in *Re: Inhuman Conditions in 1382 Prisons*.³⁵

C. Structural reforms

India must consider enacting statutory custody time limits along the lines of the United Kingdom's Prosecution of Offences Act 1985, prescribing maximum periods within which trial must commence, failing which bail is granted as of right. Addressing the cause of undertrial accumulation rather than only its consequence is essential for any lasting reform.

Disaggregated data on undertrial releases, specifically covering women, first-time offenders, and long-term detainees, must be collected and publicly published by the National Crime Records Bureau on an annual basis to enable evidence-based assessment of Section 479's implementation.

X. CONCLUSION

Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 represents a significant but incomplete response to one of the most persistent failures of India's criminal justice system. Its liberalisation of the bail threshold for first-time offenders and its retrospective application, secured through the Supreme Court's sustained intervention in *Re: Inhuman Conditions in 1382 Prisons*, constitute meaningful steps toward constitutional compliance with the guarantee of speedy trial under Article 21.³⁶

However, the provision's promise is undermined by three significant weaknesses. The silent withdrawal of bail entitlement from life imprisonment undertrials, a regression from the position under Section 436A of the Code of Criminal Procedure, lacks any legislative

³⁵ *Re: Inhuman Conditions in 1382 Prisons*, *supra* note 16.

³⁶ INDIA CONST. art. 21.

justification and creates a constitutionally vulnerable exclusion. The definitional ambiguities surrounding first-time offenders and the multiple offences bar introduce inconsistency into a framework that demands uniformity. And the deeply uneven state compliance record, with barely half of states and Union Territories responding to the Supreme Court's directions within the stipulated timeline, reveals that legislative reform without institutional infrastructure and enforceable accountability mechanisms remains insufficient.

The undertrial crisis is ultimately not merely a problem of law but a problem of governance, infrastructure, and political will. Section 479 is a necessary but not sufficient condition for its resolution. Until the legislative gaps are addressed, institutional mechanisms strengthened, and compliance made genuinely enforceable, the constitutional promise of *Hussainara Khatoon*, articulated over four decades ago, will remain only partially fulfilled.³⁷

³⁷ *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 98, 105 (India).