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# THE DECRIMINALISED CITIZEN COERCION, CONSTITUTIONALISM, AND THE FINANCIALISATION OF COMPLIANCE UNDER THE JAN VISHWAS (AMENDMENT OF PROVISIONS) ACT, 2026

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## Abstract

The Jan Vishwas (Amendment of Provisions) Act, 2026 reorganises the relationship between the Indian citizen and the regulatory state. Amending 784 provisions across 79 central enactments administered by 23 Ministries—decriminalising 717 in the name of *ease of doing business* and recalibrating 67 for *ease of living*[1]—the Act consummates a decade-long migration from custodial to administrative enforcement. This article argues that the reform is doctrinally significant but constitutionally incomplete. Decriminalisation does not extinguish state coercion; it transmutes its currency from corporal restraint to economic extraction. By relocating adjudication from an independent magistracy to executive Adjudicating Officers, mandating triennial escalation of penalties, and enabling recovery as arrears of land revenue, the Act risks substituting the financialisation of compliance for the criminalisation of conduct. Testing the framework against Articles 14, 19 and 21, the proportionality standard of *Modern Dental College* and *Puttaswamy*, and the limits on tribunalisation, it proposes calibrated safeguards drawn from the United Kingdom, Australia, the European Union and the day-fine tradition.

**Keywords:** *Jan Vishwas Act 2026; decriminalisation; administrative adjudication; responsive regulation; proportionality; Article 21; financialisation of law.*

[1]The Jan Vishwas (Amendment of Provisions) Act 2026, Presidential assent 7 April 2026; Gazette of India 8 April 2026; key provisions notified w.e.f. 15 May 2026: Press Information Bureau, 'Lok Sabha and Rajya Sabha Pass Jan Vishwas (Amendment of Provisions) Bill, 2026' (2 April 2026). The Government counts 79 Acts; PRS records 80: PRS, 'The Jan Vishwas (Amendment of Provisions) Bill, 2026' (Bill Track).

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# I. Introduction

Indian regulatory law has long carried a colonial reflex: the routine attachment of criminal liability, including imprisonment, to technical and non-violent defaults. A trader who failed to maintain a register, a resident who drew water irregularly, or a commuter whose licence had lapsed could be treated, in principle, as an offender against the criminal law.[2] This penal saturation overwhelmed the subordinate judiciary, legitimised pervasive inspector discretion, and converted compliance into an occasion for rent-seeking.[3]

The Jan Vishwas (Amendment of Provisions) Act, 2026 is the most ambitious legislative response to that inheritance. Building on the Jan Vishwas (Amendment of Provisions) Act, 2023—which decriminalised 183 provisions across 42 central Acts administered by 19 Ministries[4]—the 2026 Act extends the project across the statute book. Its stated philosophy is a transition from *structural suspicion* to *trust-based governance*.[5][6] The legislative history is itself instructive: the Bill of 2025, confined to seventeen Acts, was referred to a Select Committee of the Lok Sabha chaired by Tejasvi Surya, whose report of 13 March 2026 recommended extending the exercise to sixty-five further Acts; that Bill was withdrawn on 17 March 2026 and replaced by the consolidated Bill of 2026.[7]

Two questions organise this article. First, does the wholesale conversion of offences into civil infractions genuinely reduce state coercion, or merely change its form?[8] Second, does the migration of adjudicatory power from independent magistrates to executive officers satisfy the

[2]On over-criminalisation as a structural feature of Indian regulation see PRS Legislative Research, 'Vital Stats: Decriminalisation of Minor Offences' (PRS 2024); Observer Research Foundation, 'Decriminalising India's Business Laws' (ORF 2022).
[3]Ministry of Finance, Department of Financial Services, 'Statement on Decriminalisation of Minor Offences for Improving Business Sentiment and Unclogging Court Processes' (Government of India, June 2020) (identifying decriminalisation of minor economic offences as a governance priority).
[4]The Jan Vishwas (Amendment of Provisions) Act 2023, received Presidential assent 11 August 2023; Press Information Bureau, 'Lok Sabha passes Jan Vishwas (Amendment of Provisions) Bill, 2023' (PIB, 27 July 2023).
[5]Statement of Objects and Reasons, The Jan Vishwas (Amendment of Provisions) Bill 2026 (Bill No 5 of 2026, Lok Sabha).
[6]The intellectual lineage of the reform includes the Economic Survey 2019-20 (Ministry of Finance) vol 1, ch 9 ('Undermining Markets: When Government Intervention Hurts More Than It Helps') and the Company Law Committee, Report on Decriminalisation of Compoundable Offences under the Companies Act 2013 (Ministry of Corporate Affairs 2019).
[7]PRS Legislative Research, 'The Jan Vishwas (Amendment of Provisions) Bill, 2026' (Bill Track) (recording introduction in Lok Sabha 27 March 2026, passage 1 April 2026 (Lok Sabha) and 2 April 2026 (Rajya Sabha)); Select Committee on the Jan Vishwas (Amendment of Provisions) Bill 2025, Report (Lok Sabha Secretariat, 13 March 2026).
[8]The framing draws on the literature on the migration from penal to administrative sanctioning: see Carol Harlow and Richard Rawlings, Law and Administration (4th edn, CUP 2021) ch 8-9 (administrative justice and the sanctioning state).

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constitutional minima of fairness and institutional independence? The argument proceeds doctrinally and comparatively. Part II situates the reform historically; Part III sets out its verified statutory architecture; Part IV supplies the regulatory-theory and rule-of-law frame; Part V examines the citizen-facing amendments; Part VI develops the central thesis of financialisation; Part VII undertakes the constitutional analysis; Part VIII draws comparative lessons; Parts IX and X address implementation and reform.

## II. The Colonial Genealogy of Regulatory Over-Criminalisation

The penal character of Indian regulation is not incidental but constitutive. Colonial governance treated law as an instrument of order and revenue rather than a mirror of social norms, and the Indian Penal Code of 1860 established a baseline in which the coercive apparatus of the State was the default mechanism of compliance.[9][10] That logic migrated into administrative and municipal legislation, where short custodial sentences enforced procedural obligations and codified a presumption of suspicion toward ordinary conduct.

Independence did not dismantle this architecture; the developmental state intensified it. To administer scarce commodities and a licensing economy, Parliament routinely appended imprisonment to procedural omissions under statutes such as the Essential Commodities Act 1955 and the Drugs and Cosmetics Act 1940.[11][12] Imprisonment functioned less as proportionate punishment than as a substitute for institutional capacity: lacking an administrative penalty apparatus, the State borrowed the magistracy's coercive authority. The result was a statute book in which venial defaults attracted the moral vocabulary of crime—the disproportion that *Hindustan Steel Ltd v State of Orissa* cautioned against when it held that penalty ought not to follow a merely technical or *bona fide* breach.[13]

[9]Thomas Babington Macaulay and others, A Penal Code Prepared by the Indian Law Commissioners (Pelham Richardson 1838); Indian Penal Code 1860.
[10]On the instrumentality of colonial criminal law see Upendra Baxi, The Crisis of the Indian Legal System (Vikas 1982) ch 2; Elizabeth Kolsky, Colonial Justice in British India (CUP 2010) ch 1.
[11]On the regulatory state and the 'licence-permit raj' see MP Jain, Indian Constitutional Law (8th edn, LexisNexis 2018); see also MP Jain and SN Jain, Principles of Administrative Law (9th edn, LexisNexis 2017) vol 1.
[12]The Essential Commodities Act 1955, s 7 illustrates the pattern, prescribing imprisonment for contraventions of control orders governing routine trade.
[13]Hindustan Steel Ltd v State of Orissa (1969) 2 SCC 627 [8] (discretion not to impose penalty for a technical or venial breach of obligation arising from a bona fide belief).

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## III. The Statutory Architecture of the 2026 Act

The 2026 Act is an omnibus amending statute. It revises 784 provisions across 79 central Acts administered by 23 Ministries, decriminalising 717 provisions and recalibrating 67 to ease everyday administrative friction.[14][15] Its drafting techniques are heterogeneous: outright omission of offences; removal of the imprisonment term while retaining or enhancing fines; conversion of offences into civil penalties adjudicated by executive officers; and the graduated insertion of advisories, warnings and improvement notices before any sanction attaches.[16]

Three structural features recur and frame the analysis that follows. First, the Act institutionalises *Adjudicating Officers* and *Appellate Authorities* across several enactments, transferring first-instance adjudication into the executive.[17][18] Second, it carries forward and clarifies the indexation rule of the 2023 Act: fines and penalties increase by ten per cent of the minimum amount every three years, save where a parent Act prescribes its own method of revision.[19] Third, civil penalties remain, in many statutes, recoverable as arrears of land revenue, importing the attachment-and-sale machinery of revenue law into routine regulatory enforcement.[20] Table 1 illustrates the transformation across representative statutes.

**Table 1. Selected statutory transformations under the Jan Vishwas Act, 2026**

| Enactment / provision | Pre-2026 sanction | Post-2026 sanction |
|---|---|---|
| Drugs and Cosmetics Act 1940 (cosmetics in contravention) | Imprisonment up to 1 year and/or fine up to ₹20,000 | Civil penalty of ₹1,00,000 or three times the value confiscated, whichever is higher |
| National Highways Act | Imprisonment up to 5 years | Civil penalty between ₹10,00,000 |

[14]Press Information Bureau, 'Lok Sabha and Rajya Sabha Pass Jan Vishwas (Amendment of Provisions) Bill, 2026' (n 1); see also Piyush Goyal, official statement (18 August 2025) contrasting the 2026 figures with the 2023 Act's 183 provisions across 42 Acts.
[15]The scope expanded across drafts: the 2025 Bill covered roughly sixteen to seventeen Acts (288 provisions proposed for decriminalisation), which the Select Committee recommended broadening; the consolidated 2026 Act reaches 79 Acts: PRS (n 6).
[16]PRS, 'The Jan Vishwas (Amendment of Provisions) Bill, 2026' (n 6).
[17]ibid (appointment of adjudicating officers and appellate authorities).
[18]Both the adjudicator and the first appellate authority sit within the same executive department, raising the bias concern addressed in Part VII.D.
[19]Jan Vishwas (Amendment of Provisions) Act 2023, s 3; Jan Vishwas (Amendment of Provisions) Act 2026 (clarifying that where an Act prescribes its own method of revision, that method prevails). The escalator is computed on the minimum amount; the cumulative 'compounding' characterised in Part VI is analytical, not statutory.
[20]Recovery 'as arrears of land revenue' triggers the summary attachment, distraint and sale powers of State revenue codes (eg the Revenue Recovery Act 1890), historically deployed for fiscal dues rather than regulatory penalties.

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| | | |
|---|---|---|
| 1956 (rendering a highway impassable/less safe) | and/or fine | and ₹1,00,00,000 |
| Legal Metrology Act 2009 (non-standard weights / measures) | Fine, with criminal liability | Improvement notice on first default; civil penalty on second; criminal fine thereafter |
| Delhi Police Act 1978, s 102(c) | Imprisonment up to 3 months for presence in a building/vehicle between sunset and sunrise without satisfactory explanation | Offence omitted in entirety |
| Motor Vehicles Act 1988 (licence; s 166) | Licence invalid immediately on expiry; rigid limitation for accident claims | 30-day grace period post-expiry; claims admissible up to 12 months beyond the period on sufficient cause |
| NDMC Act 1994 (property tax) | Fragmented assessment; advertisement tax; criminal exposure for defaults | Building tax and vacant-land tax; Municipal Valuation Committee; Hardship and Anomaly Committee; advertisement-tax provisions removed |

*Sources: PRS Legislative Brief and Bill summary on the Jan Vishwas (Amendment of Provisions) Bill, 2026; Gazette of India (8 April 2026). Figures verified against PIB releases.*

## IV. Responsive Regulation and the Rule of Law

The reform is best understood through the responsive-regulation model of Ayres and Braithwaite, in which compliance is secured by an enforcement pyramid: persuasion and warnings at the base, escalating civil and administrative penalties in the middle, and criminal prosecution reserved for the apex of wilful or dangerous conduct.[21] The Act's graduated advisories, warnings and improvement notices—seen in the Apprentices Act 1961 and the Legal Metrology Act 2009—operationalise that pyramid, replacing a flat penal response with

[21]Ian Ayres and John Braithwaite, Responsive Regulation: Transcending the Deregulation Debate (OUP 1992) ch 2 (the enforcement pyramid).

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calibrated escalation.[22]

This is consistent with the rule of law in its Diceyan sense—the demand that coercive power be exercised predictably and without arbitrariness[23]—and with the modern administrative-law insistence that discretion be confined, structured and checked.[2425] Decriminalisation, on this view, is not regulatory abdication but a reallocation of enforcement authority away from a punitive binary toward corrective proportionality. The decisive question is whether the institutions that now wield that authority are themselves disciplined by the rule-of-law values the reform invokes—an inquiry the remainder of this article pursues.

## V. The Citizen-Facing Reforms

Four sectors illustrate the reform's promise for the ordinary citizen. In *motor-vehicle regulation*, the Act introduces a thirty-day grace period after the expiry of a driving licence, ending the fiction that a one-day lapse renders the holder an unlicensed operator, and amends section 166 of the Motor Vehicles Act 1988 to admit compensation claims up to twelve months beyond the prescribed period on sufficient cause.[2627] The latter aligns limitation with the reality of accident victims, for whom medical emergency and financial shock consume the filing window.

In *municipal governance*, the Act restructures property taxation under the NDMC Act 1994 into a building tax and a vacant-land tax, establishes a Municipal Valuation Committee to recommend base values and a Hardship and Anomaly Committee to resolve grievances, and removes the advertisement-tax provisions—reducing the discretion and litigation that attended the earlier fragmented regime.[28] In *public order*, the most consequential civil-liberties gain is the omission of section 102(c) of the Delhi Police Act 1978, which had criminalised presence

[22]On graduated escalation under the 2026 Act see PRS (n 6); for the theory of 'tit-for-tat' escalation, Ayres and Braithwaite (n 12) 19-53.
[23]AV Dicey, Introduction to the Study of the Law of the Constitution (10th edn, Macmillan 1959) 188-196.
[24]HWR Wade and CF Forsyth, Administrative Law (11th edn, OUP 2014) 286-307; Paul Craig, Administrative Law (9th edn, Sweet & Maxwell 2021) ch 17-18 (control of discretion).
[25]See also OECD, Regulatory Enforcement and Inspections (OECD Best Practice Principles for Regulatory Policy, OECD Publishing 2014) (proportionality, risk-focus and responsiveness as enforcement principles).
[26]PRS (n 6); 'Jan Vishwas Bill proposes 30-day grace period after expiry of driving licence' The Print (New Delhi, 28 March 2026).
[27]The 'sufficient cause' standard is construed liberally to advance substantial justice: Collector, Land Acquisition v Mst Katiji (1987) 2 SCC 107 [3].
[28]PRS (n 6) (NDMC Act amendments). This corrects a common misdescription of the reform as a simple shift to the 'unit area method'; the Act in fact bifurcates the tax and interposes valuation and grievance committees.

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in a building or vehicle between sunset and sunrise without a 'satisfactory explanation' and exposed night-shift workers, migrants and the urban poor to up to three months' imprisonment on an officer's subjective assessment.[29] Its repeal decouples ordinary nocturnal presence from presumptive criminality and narrows the unguided discretion that vagrancy-type provisions had sheltered.

In *consumer and small-trader regulation*, the Legal Metrology Act 2009 now mandates an improvement notice for a first default, reserving civil penalty for a second and criminal fine for the persistent offender—shifting the compliance burden away from the small retailer who lacks elite legal advice.[30][31] Cumulatively, these reforms expand the citizen's zone of liberty. Yet each relocates enforcement into an administrative channel whose procedural integrity must now be tested.

## VI. From Custody to Coercion: The Financialisation Thesis

The Act's central ambiguity is that the elimination of custody does not necessarily reduce coercion; it changes its denomination. Where the State once threatened the body, it now threatens the balance sheet. Three features convert this from rhetoric into a structural concern.

First, *magnitude and uniformity*. Several penalties are steep and flat. A ceiling that an organised enterprise treats as a transaction cost may be ruinous for an informal worker or micro-enterprise; identical nominal penalties produce radically unequal real burdens.[32] Second, *indexation*. The triennial escalator—ten per cent of the minimum amount every three years—guards against erosion by inflation but, applied without an income or turnover filter, hard-wires regressivity into the penalty schedule and, where minima are periodically re-based, can operate cumulatively against those least able to track statutory change.[33][34]

[29]PRS (n 6); '2 sections of Delhi Police Act decriminalised after amendment to Jan Vishwas Bill' The Print (New Delhi, 2026) (also omitting the child-nuisance offence under s 95 and the false-fire-alarm offence). The provisions relating to the Delhi Police Act took effect from 15 May 2026.
[30]PRS (n 6) (improvement notices under the Legal Metrology Act 2009).
[31]The improvement-notice technique mirrors the graduated 'advisory-warning-penalty' sequence introduced under the Apprentices Act 1961, reflecting a deliberate statutory embrace of escalation over flat sanction.
[32]This is the 'price versus sanction' problem: where a penalty is small relative to the gain or the payer's means, it operates as a licence fee rather than a deterrent. See Robert Cooter, 'Prices and Sanctions' (1984) 84 Columbia L Rev 1523.
[33]Jan Vishwas Act 2023, s 3, as clarified by the 2026 Act (n 9).
[34]The regressive incidence of fixed-sum monetary sanctions is documented in Beth A Colgan, 'Graduating Economic Sanctions According to Ability to Pay' (2017) 103 Iowa L Rev 53; on disproportionate penalties and forfeiture see Teri Oat Estates (P) Ltd v UT Chandigarh (2004) 2 SCC 130 [33]-[37].

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Third, *recovery*. Because unpaid civil penalties are recoverable as arrears of land revenue, the State may proceed by attachment of property and bank accounts without a fresh, independent judicial determination of liability. The citizen who cannot pay does not go to prison; she may instead lose the assets that sustain her livelihood. The Supreme Court's scrutiny of expropriatory recovery without adequate safeguard in *Mardia Chemicals Ltd v Union of India*—where it upheld the SARFAESI recovery mechanism only after reading down an onerous pre-deposit condition and insisting on a meaningful opportunity to be heard—signals the constitutional sensitivity of recovery that bypasses ordinary adjudication.[35] The aggregate effect is a wealth-based asymmetry in which liberty and security become functions of solvency: the threat of the lock-up is replaced by the threat of asset liquidation. Table 2 sets out the structural divergence between the two enforcement paths.

**Table 2. Criminal magistracy and executive adjudication compared**

| Dimension | Judicial Magistrate | Adjudicating Officer |
|---|---|---|
| Institutional independence | Independent judiciary; security of tenure | Executive officer within line ministry |
| Standard of proof | Proof beyond reasonable doubt | Summary, preponderance-style finding of non-compliance |
| Mens rea | Generally required | Often strict; intent peripheral |
| Stigma / record | Criminal record | No criminal record |
| Speed | Slow; docket congestion | Faster disposal |
| First appeal | Sessions / High Court | Higher executive Appellate Authority |
| Recovery | Through court process | As arrears of land revenue; attachment/sale |

*Source: author's analysis of the enforcement provisions of the Jan Vishwas (Amendment of Provisions) Act, 2026.*

[35]Mardia Chemicals Ltd v Union of India (2004) 4 SCC 311 [59]-[80] (upholding summary recovery under the SARFAESI Act 2002 but striking down the 75% pre-deposit condition in s 17(2) as oppressive and reading in procedural safeguards).

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## VII. Constitutional Analysis

### A. Article 14: Classification, Arbitrariness and Proportionality

Article 14 forbids both unreasonable classification and manifest arbitrariness.[36] By aligning sanction with the gravity of conduct, the Act advances substantive equality. But uniform, flat penalties applied to economically asymmetric actors reintroduce arbitrariness through the back door: to levy an identical sum on a street vendor and an organised retailer for the same metrological lapse is to treat materially unequal persons identically, the inverse of the equality mandate.[37]

The deeper test is proportionality, now an established head of review. In *Modern Dental College & Research Centre v State of Madhya Pradesh* and again in *Puttaswamy*, the Court adopted the four-pronged standard—legitimate aim, rational connection, necessity (least-restrictive means) and balancing.[38][39] A penalty schedule indifferent to capacity fails the necessity and balancing prongs, because a less restrictive, equally effective means—capacity-graduated penalties—is readily available. The point is not abstract: in *Cellular Operators Association of India v TRAI* the Court struck down a penalty regime that was disproportionate and arbitrary in its operation, confirming that the quantum and structure of administrative penalties are themselves justiciable.[40]

### B. Article 19(1)(g): Profession, Trade and Reasonable Restriction

Penalties that threaten the viability of a small enterprise engage the freedom to practise a profession or carry on trade under Article 19(1)(g), which may be restricted only by reasonable restrictions under Article 19(6).[41] A sanction whose real incidence forecloses continued trade

[36]Constitution of India, art 14; State of West Bengal v Anwar Ali Sarkar AIR 1952 SC 75 (reasonable-classification test); EP Royappa v State of Tamil Nadu (1974) 4 SCC 3 [85] (equality and arbitrariness are 'sworn enemies'); Shayara Bano v Union of India (2017) 9 SCC 1 (manifest-arbitrariness doctrine applied to invalidate State action and legislation).

[37]On the principle that equals must be treated equally and unequals unequally see MP Jain (n 4) ch on art 14; the proposition is foundational to the classification doctrine rather than to State of AP v McDowell & Co (1996) 3 SCC 709, which is better cited for the proposition (later qualified by Shayara Bano) that a statute cannot be struck down for 'arbitrariness' simpliciter.

[38]Modern Dental College & Research Centre v State of Madhya Pradesh (2016) 7 SCC 353 [60]-[65]; Justice KS Puttaswamy (Retd) v Union of India (2017) 10 SCC 1 [310], [638] (proportionality as the standard for limiting fundamental rights); applied in Justice KS Puttaswamy (Retd) v Union of India (2019) 1 SCC 1 (Aadhaar).

[39]Proportionality had earlier entered administrative-law review of penalties in Om Kumar v Union of India (2001) 2 SCC 386 [28]-[31], where the Court distinguished Wednesbury unreasonableness (Associated Provincial Picture Houses Ltd v Wednesbury Corpn [1948] 1 KB 223) from proportionality review of punishment.

[40]Cellular Operators Association of India v TRAI (2016) 7 SCC 703 [97]-[116] (invalidating the call-drop penalty regulation as manifestly arbitrary and disproportionate).

[41]Constitution of India, art 19(1)(g), 19(6). Reasonableness imports proportionality: Chintaman Rao v State of Madhya Pradesh AIR 1951 SC 118; State of Madras v VG Row AIR 1952 SC 196 [15] (test of reasonableness of restriction); Modern Dental College (n 19).

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for the marginal operator, while imposing only a marginal cost on the large firm, is difficult to defend as a 'reasonable' restriction once proportionality is taken seriously.

### C. Article 21: Due Process, Livelihood and Natural Justice

Since *Maneka Gandhi*, any procedure that deprives a person of life or liberty must be just, fair and reasonable, and in *Olga Tellis* the Court located the right to livelihood within Article 21.[42] The Act strengthens Article 21 by removing the threat of incarceration for non-fraudulent conduct. But where an executive officer may impose a livelihood-destroying penalty on a summary finding, the procedure must satisfy natural justice in substance, not merely in form. Although the Act mandates show-cause notice and hearing, the absence of an independent, legally trained adjudicator at first instance is a structural vulnerability, for natural justice has long been read into administrative action that affects rights.[43][44] The maxim *nemo judex in causa sua* is strained where the first appeal lies to a superior officer within the same administrative hierarchy that imposed the penalty.

### D. Separation of Powers and the Limits of Tribunalisation

Concentrating investigation, adjudication and recovery within a single executive line implicates the separation of powers, part of the basic structure affirmed in *Kesavananda Bharati*.[45][46] The Court's tribunalisation jurisprudence is directly relevant: in *L Chandra Kumar* it held that judicial review by the constitutional courts cannot be ousted, and in *Union of India v R Gandhi* it insisted that bodies discharging judicial functions must possess commensurate independence and competence in their composition.[47] An adjudicatory architecture staffed by departmental officers and appealed to departmental superiors sits uneasily with these requirements unless judicial members and meaningful curial review are built in.

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[42]Maneka Gandhi v Union of India (1978) 1 SCC 248 [48]-[56]; Olga Tellis v Bombay Municipal Corporation (1985) 3 SCC 545 [32]-[33] (right to livelihood as an aspect of the right to life).

[43]AK Kraipak v Union of India (1969) 2 SCC 262 [13]-[20] (natural justice applies to administrative as well as quasi-judicial action); Maneka Gandhi (n 22) (audi alteram partem implied even where statute is silent).

[44]Mohinder Singh Gill v Chief Election Commissioner (1978) 1 SCC 405 [48]-[58] (natural justice as a flexible but irreducible component of fair administrative decision-making); on Article 14 and arbitrariness see also Bachan Singh v State of Punjab (1980) 2 SCC 684 (Bhagwati J).

[45]Kesavananda Bharati v State of Kerala (1973) 4 SCC 225 (basic-structure doctrine); Indira Nehru Gandhi v Raj Narain (1975) Supp SCC 1 (separation of powers as a basic feature).

[46]The basic-structure restraint on legislative incursion into judicial functions was reaffirmed in IR Coelho v State of Tamil Nadu (2007) 2 SCC 1 [129]-[151].

[47]L Chandra Kumar v Union of India (1997) 3 SCC 261 [78]-[80] (power of judicial review under arts 32/226 is a basic feature); Union of India v R Gandhi, President, Madras Bar Association (2010) 11 SCC 1 [108]-[120] (independence and qualifications of members of adjudicatory bodies); see also Rojer Mathew v South Indian Bank Ltd (2020) 6 SCC 1.

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**Table 3. Constitutional pressure points**

| Provision | Strengthened by the Act | Residual constitutional risk |
|---|---|---|
| Article 14 | Sanction aligned to gravity of conduct | Flat, capacity-blind penalties; arbitrariness in operation |
| Article 19(1)(g) | Reduced criminal exposure for trade defaults | Penalties foreclosing marginal enterprise; reasonableness of restriction |
| Article 21 | Liberty expanded; incarceration removed | Summary penalty + revenue recovery threatening livelihood; thin first-instance process |
| Separation of powers | Decongestion of subordinate courts | Executive concentration of investigation, adjudication, recovery; in-house appeal |

*Source: author's constitutional analysis, applying Modern Dental College (2016), Puttaswamy (2017), L Chandra Kumar (1997) and R Gandhi (2010).*

## VIII. Comparative Jurisprudence

The shift to administrative penalties is a global phenomenon, and comparative practice supplies the safeguards the Indian model presently lacks. In the *United Kingdom*, the Regulatory Enforcement and Sanctions Act 2008 empowered regulators to deploy fixed and variable monetary penalties as alternatives to prosecution, but did so on the foundation of the Macrory Review, whose penalty principles require that sanctions be proportionate, aim to eliminate financial gain, be responsive to the offender's circumstances, and never operate as mere revenue generation.[4849] In *Australia*, the Regulatory Powers (Standard Provisions) Act 2014 (Cth) standardises civil-penalty enforcement but preserves the judicial monopoly over coercion: a regulator must apply to a court for a civil-penalty order and cannot itself attach property.[50]

[48]Regulatory Enforcement and Sanctions Act 2008 (UK), pt 3; Richard B Macrory, Regulatory Justice: Making Sanctions Effective (Cabinet Office 2006) [3.20] (the six Macrory Principles and seven characteristics of an effective sanctioning regime).
[49]The UK reforms built on Philip Hampton, Reducing Administrative Burdens: Effective Inspection and Enforcement (HM Treasury 2005), advocating risk-based, proportionate enforcement.
[50]Regulatory Powers (Standard Provisions) Act 2014 (Cth), pt 4 (civil penalty orders made by a 'relevant court' on application by an authorised applicant).

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The *European Union* ties administrative fines to turnover and to an express proportionality test: under Article 83 of the General Data Protection Regulation, fines must be 'effective, proportionate and dissuasive' and are capped by reference to a percentage of worldwide annual turnover, an avowedly capacity-sensitive design.[5152] *Canada*'s administrative-monetary-penalty regimes similarly embed graduated, reviewable penalties with defined criteria, while *Singapore* couples risk-based, tiered enforcement with educative first responses. Underlying several of these systems is the *day-fine* tradition of Scandinavia and Germany, where the monetary unit of punishment is expressly indexed to the offender's daily income, achieving equal punitive impact across unequal means.[535455] India's model has adopted the institutional form of administrative penalties without these calibrating safeguards—the omission this article seeks to remedy. Table 4 summarises the comparison.

**Table 4. Comparative administrative-penalty models**

| Jurisdiction | Instrument | Principal safeguard |
|---|---|---|
| India (2026) | Adjudicating Officers; civil penalties; revenue recovery | Show-cause and hearing; in-house appeal (no capacity test) |
| United Kingdom | RESA 2008 fixed/variable monetary penalties | Macrory Principles; proportionality; no revenue-raising |
| Australia | Regulatory Powers Act 2014 civil-penalty orders | Court order required before coercive recovery |
| European Union | GDPR art 83 administrative fines | Turnover-linked cap; statutory proportionality factors |
| Germany / Nordics | Day-fine (income-indexed unit) | Equal punitive impact across income levels |

*Sources: RESA 2008; Macrory Review (2006); Regulatory Powers (Standard Provisions) Act*

[51]Regulation (EU) 2016/679 (GDPR), art 83(1)-(2) (administrative fines to be 'effective, proportionate and dissuasive', assessed against enumerated factors including the undertaking's turnover).
[52]EU courts subject administrative fines to proportionality review: see Case C-501/11 P Schindler Holding Ltd v Commission EU:C:2013:522.
[53]On Canadian administrative monetary penalties see the Agriculture and Agri-Food Administrative Monetary Penalties Act SC 1995 c 40 (graduated, reviewable penalties with statutory criteria).
[54]On the German day-fine see Strafgesetzbuch §40 (the Tagessatz, fixing the daily unit by reference to net income); and the comparative treatment in Colgan (n 16).
[55]Singapore couples risk-based, tiered enforcement with educative first responses and turnover- or income-sensitive penalties across corporate, municipal and transport regulation.

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*2014 (Cth); GDPR art 83; StGB §40.*

## IX. Implementation and Early Indicators

Robust evaluation must await disaggregated data. The most immediate effect is the diversion of minor regulatory prosecutions away from the subordinate judiciary, which should relieve a docket long burdened by technical matters under food, drug and municipal statutes.[5657] The countervailing risk is administrative overload: adjudicatory capacity across 23 Ministries presupposes officers trained to conduct hearings and write reasoned orders conforming to natural justice—training that is presently uneven.[58] There is, finally, a displacement concern: discretion over the quantum of penalty, exercised within wide statutory bands, may relocate rent-seeking from the street-level inspector to the adjudication room. Whether decriminalisation reduces corruption or merely moves it upward is, on present evidence, an open question.

## X. Policy Recommendations

The reform's emancipatory potential can be secured only if administrative efficiency is disciplined by constitutional safeguards. The following priorities, distilled from the analysis and from comparative practice, are ordered by constitutional salience.[59]

| # | Recommendation | Constitutional / comparative anchor |
|---|---|---|
| 1 | Replace flat penalties with income- and turnover-graduated 'day-fine' assessment. | Art 14 proportionality; GDPR art 83; StGB §40 |
| 2 | Require a court order, or confirmation by a judicial member, before attachment or sale in recovery. | Art 21; Mardia Chemicals; Australian model |
| 3 | Constitute appellate authorities as mixed | R Gandhi; L Chandra Kumar |

[56]On baseline pendency see National Judicial Data Grid statistics and PRS, 'Vital Stats: Pendency of Cases in the Judiciary' (PRS 2024). Quantified post-enactment effects remain provisional given the 15 May 2026 commencement.

[57]On the risk that discretion-rich enforcement merely relocates corruption see Robert Klitgaard, Controlling Corruption (University of California Press 1988) ch 3 (corruption as a function of monopoly plus discretion minus accountability).

[58]On the institutional demands of administrative adjudication see Second Administrative Reforms Commission, Twelfth Report: Citizen Centric Administration (Government of India 2009); De Smith's Judicial Review (H Woolf and others, 8th edn, Sweet & Maxwell 2018) ch 7 (procedural fairness).

[59]The recommendations are consistent with the methodology of regulatory-impact assessment endorsed in OECD, Regulatory Policy Outlook (OECD Publishing 2021) and with the World Bank's emphasis on predictable, proportionate enforcement: World Bank, Doing Business: Reforming to Create Jobs (World Bank 2020).

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| | | |
|---|---|---|
| | benches including a judicially qualified member. | |
| 4 | Issue binding statutory penalty-calibration guidelines (mitigation, first-offence, self-rectification). | Confining discretion; Macrory Principles |
| 5 | Exempt primary residence, tools of trade and subsistence accounts from recovery. | Art 21 livelihood; Olga Tellis |
| 6 | Suspend triennial indexation for Udyam-registered micro-enterprises and verified low-income persons. | Art 14 substantive equality |
| 7 | Mandate a compliance-first warning and rectification window for non-hazardous procedural defaults. | Responsive regulation; Ayres & Braithwaite |
| 8 | Provide multilingual, offline grievance and legal-aid access to offset the digital divide. | Art 14/21 access to justice |
| 9 | Publish all orders, penalty quanta and disposal data on a public dashboard. | Transparency; Macrory characteristics |
| 10 | Institute an independent regulatory-impact audit of enforcement equity. | OECD Regulatory Policy; evidence-based review |

*Source: author's recommendations. The list condenses and re-prioritises the reform agenda by constitutional weight; further measures (community-service alternatives, district ombudsmen, a statutory citizen charter) merit consideration.*

## XI. Conclusion

The Jan Vishwas (Amendment of Provisions) Act, 2026 is a genuine and overdue correction to a penal inheritance that criminalised the ordinary. It decongests the courts, narrows police discretion, and lifts the threat of imprisonment from the routine transactions of economic life. But decriminalisation is not, without more, an unqualified good. By relocating adjudication into the executive, escalating penalties by formula, and recovering them through the machinery of land revenue, the Act risks substituting a financialised coercion for a corporal one—a coercion that bears most heavily on those least able to absorb it. The constitutional

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commitments to proportionality, institutional independence and procedural fairness are not obstacles to reform; they are its measure.[60] Embedding capacity-sensitive penalties, judicial participation in recovery and appeal, and transparent, confined discretion would ensure that the 'decriminalised citizen' is not merely spared the prison, but secured in liberty, livelihood and dignity within a constitutional democracy.

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[60] As Ayres and Braithwaite (n 12) caution, the legitimacy of an enforcement pyramid depends on the procedural integrity of each tier; a pyramid administered without independent oversight forfeits the trust it is meant to build.

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