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Community service under the new criminal justice system: A study of reformative justice under The Bharatiya Nagarik Suraksha Sanhita, 2023

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Abstract
Community service is a new penalty that has been implemented in the Bharatiya Nyaya Sanhita, 2023, and the Bharatiya Nagarik Suraksha Sanhita, 2023. This study explores community service as a reformative punishment strategy, paying special attention to Section 23 of the BNSS and Section 4 of the BNS. The study's primary goal is to investigate whether community service may aid in the rehabilitation of offenders and serve as a viable substitute for incarceration for minor offenses. This study uses a doctrinal and comparative research methodology that examines existing legal literature, legislative provisions, parliamentary reports, and judicial decisions. Additionally, it draws comparisons between the community service systems used in the United States and the United Kingdom and the Indian framework.
According to the study, community service is a positive step toward restorative and reformative justice. However, the existing framework does not specify the kind and length of community service, supervision, monitoring systems, or penalties for non-compliance. These gaps may result in inconsistent implementation by courts. Hence, the research recommends the creation of strict rules, the nomination of monitoring authorities, regular working hours, and adequate monitoring systems. The rehabilitation of criminals and a reduction in India's jail overcrowding can both be achieved by the efficient execution of community service.

Keywords: Community service, Bharatiya Nyaya Sanhita, 2023, Bharatiya Nagarik Suraksha Sanhita

Introduction
On July 1, 2024, the Indian Penal Code 1860, the Code of Criminal Procedure 1973, and the Indian Evidence Act 1872 were replaced by the Bharatiya Nyaya Sanhita (BNS), 2023, the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, and the Bharatiya Sakshya Adhiniyam (BSA), 2023, which went into effect on July 1, 2024. This was the largest restructuring of India's criminal justice system since independence. With a stated emphasis on protecting citizens, defending victims' rights, ensuring swift justice, and most pertinently to this research reforming and reintegrating criminals, the Union Government offered these three laws as a substantial reorientation of criminal law, not simply as a renaming endeavor. The acceptance of "community service" as a formal form of punishment is one of the many changes brought about by this new framework. It represents a conceptual change from the purely retributive and deterrent model inherited from colonial-era law to a reformative and restorative philosophy of criminal justice. For the first time in Indian penal history, section 4 of the BNS outlines community service as a punishment for a select group of minor offences, such as defamation, misbehavior in public by a drunk person, non-appearance in response to a proclamation under summons, and attempt to commit suicide in order to compel or restrain a public servant from performing official duty. In turn, Section 23 of the BNSS grants first- and second-class Magistrates the authority to impose community service sentences and defines community service as work that a court may order a convict to carry out for the community's advantage without receiving payment. This isn't a completely new idea in Indian judicial practice; for decades, trial courts have informally ordered those guilty of minor infractions to plant saplings, sweep public areas, or work in hospitals and shelter homes, usually by using probationary authority under the Probation of Offenders Act, 1958, or their inherent sentencing discretion. What is new is the specific, codified legal acknowledgement of community service as a separate penalty within the substantive penal code itself, placing it on an equal footing with imprisonment and a fine. This research examines this transition in detail, placing it in the larger theoretical controversy between theories of retribution, deterrence, prevention, and rehabilitation, and wonders if the statutory language of the BNS and BNSS is sufficient to put this rehabilitative aim into practice. The fact that India's jails are still overcrowded and that a disproportionately large portion of the imprisoned population consists of undertrial prisoners who have been accused of minor and non-violent crimes makes the investigation more urgent. Hence, alternatives to short-term imprisonment, such as community service, not only have philosophical importance for reformative penology but also have significant practical value for easing prison overcrowding and reducing the social and economic expenses associated with custodial sentences for petty and first-time offenders.
Furthermore, since the BNS and BNSS were just implemented in July 2024, the community service provision in trial courts is still in its early stages of development and operation. This makes it an ideal time to conduct a doctrinal review of its statutory design before implementation methods become firmly established. Five broad movements characterize this paper's progression. It starts with the objectives that guide the investigation, then moves on to the rationale and background of the study. It then undertakes a review of ten literature sources, primary legislative materials, parliamentary reports, judicial precedent, and academic and comparative commentary after declaring the research's goal in a single, focused statement. The paper closes with a comprehensive explanation of the subtopics

required to comprehend the functioning, promise, and limitations of community service as a practice.

A new criminal code in India will employ a reformative sentencing instrument.

Objective

- To follow the emergence of community service as a sentencing choice in Indian criminal law, as well as contrast it with its handling under the former Code of Criminal Procedure, 1973 and Indian Penal Code, 1860. Method, 1973.
- To analyse Section 4 of the Bharatiya Nyaya Sanhita (BNS), 2023, and Section 23 of the Indian Penal Code, 1860, on offences against the State. the Nagarik Suraksha Sanhita (BNSS), 2023, and to identify the offenses and circumstances under which Service to the community may be mandated.
- To gauge the efficacy of community service as a tool for restorative and reformative justice, as opposed to solely retaliatory and dissuading punishment.
- To analyze the implementation gaps, such as the absence of legal regulations, in the new clauses on oversight organizations, length of employment, monitoring procedures, and consequences of noncompliance.
- Compare India's legal strategy with the community service and probation systems of the countries of Australia, Canada, and New Zealand. The United States and the United Kingdom.
- To examine the reformative justice judicial philosophy created by Indian courts before codification, and its impact on the BNS/BNSS's drafting.
- To investigate the constitutional component of reformative punishment in light of Article 21 of the Constitution. India's Constitution.
- To assess the importance of community service in alleviating the burden of prison overcrowding and incarceration during the trial.
- Propose administrative, procedural, and policy protections for effective enforcement. India's orders for community service.

Statement of the Issue

Although community service has been an informal sentencing practice in Indian courts for decades, it was not codified or officially recognized by statute until the BNS and BNSS. Nevertheless, the new rules don't exactly describe the kind, types, duration, oversight organization, surveillance system, or ramifications of failing to adhere to community service. This creates implementation uncertainty, risks inconsistent application across Magistrates and States, and raises the fundamental question of whether the reform is

a symbolic legislative action that lacks the administrative framework necessary to make it effective, or a substantive move toward reformative justice.

Importance of the Study

Because community service is one of the few instances of decarceration that are incorporated into India's new substantive and procedural criminal laws, this study is important. Due to the large number of undertrial prisoners and overcrowding in jails, non-custodial options for minor crimes have significant administrative, human rights, and penological importance. A doctrinal examination of these provisions at this early point of implementation might aid in the identification of structural flaws before they solidify into entrenched practice and inform the creation of guidelines by High Courts, rules by State Governments, and training modules for the subordinate judiciary. The study also contributes to the greater comparative literature on non-custodial punishment by placing the Indian experiment next to significantly more developed systems in the United States and the United Kingdom.

Limitations and scope

The research is methodological and examines parliamentary papers pertaining to Section 4 of the BNS and Section 23 of the BNSS, as well as secondary academic and journalistic comments. It does not include basic empirical field data, such as statistics at the court level on the quantity of community service orders issued, or interviews with convicts, Magistrates, or supervisors.

Because such implementation statistics are still emerging in the interval after the July 2024 debut of the new codes and are not yet methodically published, authorities are not yet methodically publishing them. The comparative discussion of the UK and the United States focuses only on their administrative and statutory architecture and does not include a thorough empirical analysis of the outcomes of those systems.

Hypothesis

This study is based on the operational assumption that the provision of community service under Section 4 of the BNS and Section 23 of the BNSS, while representing a genuine and welcome philosophical move toward reformative justice, is currently under-specified as a matter of statutory drafting, and that this under-specification—rather than any deficiency in the underlying reformative philosophy—is the primary impediment to its effective and consistent implementation in Indian trial courts.

Aim of the study

The primary goal of this study is to critically evaluate whether the implementation of community service under Section 4 of the BNS and Section 23 of the BNSS truly puts the reformative theory of punishment into practice or whether, in its current form, it is merely a symbolic legislative action that lacks the administrative and procedural infrastructure required for efficient implementation.

To be more precise, the study intends to:

Within the historical and theological growth of community service, pinpoint the community service provision. punishment theories that are restorative and reformative in India.

- Analyze the exact statutory language, breadth, and restrictions of Sections 4 BNS and 23 BNSS.
- Evaluate the procedural safeguards surrounding the issue, or lack thereof. imposition, monitoring, and implementation of community service orders.
- Draw comparative lessons from probation and established community service systems abroad, particularly in both the United States and the United Kingdom.

- Evaluate the constitutional foundation of reformative penalties and their compatibility with Article 21 of the Indian Constitution.
- Provide High Courts, State Governments, and other stakeholders with useful, actionable advice. and the judiciary in establishing rules and regulations for the effective performance of community service sentences.

Methodology for Research

The study employs a doctrinal (black-letter) legal research approach, relying on statutory interpretation of the BNS and BNSS, reports from the Parliamentary Standing Committee on Home Affairs, government press material, judicial precedent, and analytical commentary from law reviews and legal journals. To compare the community service and probation frameworks in India with those of other nations, a comparative technique is also used

to identify institutional design aspects that Indian policymakers may take into account when framing implementation regulations in the United States and the United Kingdom.

Literature Review

We looked over the ten references listed below to place this study in the context of current legislative materials, parliamentary reports, judicial precedent, and academic remarks about community service and reformative justice. Every source is evaluated for its analytical contribution to understanding the BNS/BNSS community service provisions' potential and drawbacks, not merely for its descriptive material.

1. **Press Information Bureau, Ministry of Home Affairs, Government of India, "Highlights of New Criminal Laws," July 30, 2024.**

Community service was included as a penalty for the first time under Section 4 of the BNS, 2023, according to this official press release. It was expressly designed to promote "personal growth and social responsibility" and to give criminals the opportunity to "learn from their mistakes" and "positively contribute to society."

As the main governmental source, it establishes that the reform's legislative intent is restorative rather than solely punitive, setting the normative foundation for this study's investigation into whether the provision's design aligns with its stated aim. However, the paper is promotional in nature and does not address the operational challenges of the reform. Against which the actual statutory text and subsequent implementation may be evaluated, its worth for this study is mostly in establishing the stated legislative intent.

2. **PRS India's Bill Track Report states, "The Bharatiya Nagarik Suraksha Sanhita, 2023" PRS Legislative Research.**

Key changes from the CrPC, such as those to procedural timelines, Magistrates' sentencing powers, and undertrial detention, are highlighted in this often referenced report on legislative tracking. It highlights the disparities between legislative language and administrative practice by placing the delivery of community service inside the larger reorganization of magistrates' authority under the new Sanhita and pointing out uncertainties the drafters left unanswered, making it a valuable unbiased secondary source. Given that PRS reports are created for politicians and are fairly apolitical, they are especially helpful for establishing an unbiased baseline explanation of statutory revisions, against which more argumentative academic commentary can be examined. 2023. Rajya Sabha Secretariat, 247th Report on the Bharatiya Nagarik Suraksha Sanhita Bill, 2023, by the Parliamentary Standing Committee on Home Affairs. The Standing Committee's report is the primary legislative-history document that clarifies the reasoning for Section 23 of the BNSS, which authorizes first and second-class Magistrates to order "social restitution" via community service. Although the report itself does not specify the implementation process, an omission that this study regards as a crucial research gap, the Committee's discussions demonstrate that the drafters took inspiration from community service sentencing models used in the United States and the United Kingdom. Although the report is silent on the "how," which is analytically significant for the implementation critique developed in the subtopics section, it is treated as authoritative on the "why" of the reform in this study as the closest accessible record of legislative intent.

3. **"Community Service Under the BNS: Progress, Pitfalls, and Potential," NLIU Law Review, National Law Institute University, Bhopal, January 2025.**

In a detailed doctrinal dissection of Section 4 BNS and Section 23 BNSS, this law-review commentary points out that community service is only offered for a small number of minor offenses and does not pay the offender. This study analyzes the sufficiency of the reform, which is limited by its small offense list and lack of specified work categories or hours, even though the authors claim it is a positive symbolic step toward restorative justice. One of the first extended academic studies of the clause since the new codes went into effect, its prompt release date makes it useful for monitoring how legal research's evaluation of the reform has changed with the accumulation of implementation experience.

4. **Ankit Kumar & Bijendra Shandilya, "Sentence without Bridle: Community Service Gaps in BNSS and BNS," LiveLaw, August 2026.**

This recent publication contends that community service under the BNS/BNSS is permitted to run "loose from the day it is imposed to the day it collapses," pointing out two structural shortcomings: first, courts lack statutory guidance on what community service should include when they impose the sentence, and second, there is no set punishment when a convict fails to carry it out. The most direct literature on the implementation issue examined in this study strongly supports the core hypothesis that the reform is procedurally underdeveloped, albeit welcome. It is the most recent of the reviewed sources, and it also gives the clearest indication of how the lack of implementing rules has started to show itself as a practical issue for trial courts more than two years after the provision was implemented, supporting the urgency of the recommendations offered later in this paper.

5. **Justice V. R. Krishna Iyer, judicial opinion in Mohd. Supreme Court of India, Giasuddin v. State of Andhra Pradesh, (1977) 3 SCC 287.**

Justice Krishna Iyer articulated a reformative theory of punishment in this historic decision, maintaining that the purpose of a sentence should be the rehabilitation of the

offender rather than retribution, and pushing courts to view the offender as a patient rather than merely an object of punishment. This precedent is fundamental to India's penological and constitutional acknowledgment of reformative sentencing, and it serves as the jurisprudential framework through which this study assesses the BNS/BNSS community service provisions. Its ongoing quotation in subsequent case law attests to the longevity of reformative sentencing philosophy in Indian constitutional jurisprudence, offering a doctrinal bridge between judge-made sentencing theory and the eventual legislative codification addressed in this study. The ruling was made almost five decades before the legislative reform.

6. **Committee on Reforms of Criminal Justice System (Malimath Committee), Report of the Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs, 2003.**

The Malimath Committee report, though pre-dating the BNS/BNSS by two decades, recommended a shift in the Indian criminal justice system's orientation from a purely adversarial and retributive model toward one balancing victim rights, deterrence, and offender reformation, and specifically discussed community-based alternatives to short-term imprisonment. It provides the historical policy lineage that anticipates, and arguably prompted, the eventual statutory recognition of community service in the 2023 codes.The report is also useful for this study because it explicitly linked sentencing reform to the practical problem of prison overcrowding, a connection this paper revisits in the subtopic on prison overcrowding and non-custodial alternatives.

7. **Criminology, Penology, and Victimology by N. V. Paranjape, Central Law Publications, Allahabad (latest edition).**

Community service and probation are located within the reformative and restorative schools of penal theory in this traditional Indian penology textbook, which also describes the classical theories of punishment—deterrent, retributive, preventive, and reformative. In this study, it offers the theoretical framework used to determine if the BNS/BNSS laws truly operationalize reformative theory or simply append the language to a punitive structure that is otherwise unaltered. Additionally, because it is a pedagogical book that is frequently used in Indian law schools, it reflects the accepted, mainstream understanding of penal theory, which may be used to effectively categorize a new statutory clause like Section 23 BNSS. and assessed.

8. **Literature on community service/community payback orders, including the Powers of Criminal Courts (Sentencing) Act 2000 and the Criminal Justice Act 1972 (UK).**

With the aid of a committed probation service that assesses appropriateness, assigns supervised work placements, and enforces breach proceedings, the community service order in the UK, established in 1972 and later reorganized into the "community payback" scheme, is one of the world's earliest statutory models for unpaid labor as a criminal sentence. Literature comparing this scheme emphasizes the institutional infrastructure, such as breach courts, hour tracking, and intake assessment, that the Indian provision currently lacks, establishing it as a valuable comparative benchmark for the recommendations made in this study. This study may also determine which characteristics of the British model's five-decade history have shown themselves to be sustainable and transferable, as opposed to characteristics that are particular to the UK's own probation administration and may not be immediately duplicated in India.

9. **Literature on community service as a condition of parole from the American Bar Association and U.S. state probation, in Federal and State sentencing guidelines commentary.**

In the United States, community service is typically imposed as a condition of probation or as an alternative sentence for low-level offenses. It is administered through probation departments that track hours, verify placements, and can revoke probation for non-compliance. India's BNS/BNSS reform will need similar institutional backing—like community service cells or probation officers—to be effective, as shown by this body of comparative sentencing literature, which reinforces this study's contention that the effectiveness of community service depends largely on a supportive administrative apparatus. Additionally, the American method's decentralized, state-by-state variation demonstrates that community service can be provided via a variety of institutional frameworks—probation departments, non-profit partnerships, or court-annexed cells—giving India a menu of possibilities rather than a single model to adopt. The aforementioned literature, when combined, suggests that community service under the BNS and BNSS represents a true philosophical shift toward reformative and restorative justice, but that it is not yet supported by the institutional and procedural mechanisms that similar jurisdictions have established over decades. The following part thoroughly covers the numerous subtopics needed to comprehend this shift and its real-world ramifications

Theories of Punishment

From Retribution to Reformation Classical penology identifies four main theories of punishment: the deterrent theory, which aims to deter crime by instilling fear of punishment; the retributive theory, which considers punishment to be a fair and proportional response to misconduct ("an eye for an eye"); the preventative theory, which aims to incapacitate the offender from committing the crime again, such as through incarceration; and the reformative theory, which sees the offender as a product of social circumstances who can be rehabilitated and reintegrated into society. It aims to reform the offender's behaviour while also repairing the damage done to the community by replacing incarceration or fine with unpaid, socially beneficial labour. Community service fits squarely within the restorative and reformative traditions. Rather than just on punishment imposed by the state, restorative justice, a closely related but analytically separate notion, stresses rebuilding the connection between the offender, the victim, and the community, usually via reconciliation, restitution, or acts that benefit the community. Even if the study suggests that the statutory text places a greater emphasis on the rehabilitative goal of the offender's own moral improvement than on structured victim-offender restoration, the community service provisions in the BNS/BNSS draw from both of these traditions. While this combined character is not inherently flawed—in fact, most modern sentencing

regimes incorporate elements from several theories—it does imply that Indian courts applying Section 23 BNSS must use interpretative judgment to decide which goal, reform or restoration, should prevail in a particular case, in the absence of a clear statutory instruction to the contrary of legislative direction.

Historical Background: Previous Community Service before the BNS/BNSS

Before the codification in 2023, Indian courts lacked a clear legislative authority to impose community service as a punishment. But the Probation of Offenders Act of 1958, which permits courts to release certain criminals on probation of good conduct in lieu of sentencing, sometimes subject to requirements that informally mimicked community service, like orders to assist in local welfare work, produced functionally comparable results. Constitutional tribunals, notably using the reformative approach

Even though the IPC and CrPC themselves lacked a dedicated community service provision, Justice V. R. Krishna Iyer's jurisprudence, which was developed in the 1970s, consistently highlighted rehabilitation over retribution in sentencing philosophy. Recognizing the disproportionate impact of imprisonment on first-time and petty offenders, as well as the overcrowded prisons, the Malimath Committee (2003) and follow-up law reform discussions advocated for the adoption of community-based sentencing alternatives. In a number of reports on sentencing policy, the Law Commission of India also pointed out the lack of a structured, graded sentencing system as a flaw in the Indian system.

Implicitly backing the argument for alternatives such as community service. Thus, the BNS and BNSS formalised a reform that had been partially predicted in judicial practice and had been promoted for a long time in policy circles but had never before received clear legislative approval.

Statutory Framework: Section 4 of the BNS, 2023.

Along with death, life in prison, prison (rigorous or simple), property forfeiture, and a fine, "community service" has been introduced for the first time in Indian penal history as one of the penalties that offenders are subject to under Section 4 of the Bharatiya Nyaya Sanhita, 2023. Community service is limited by the BNS to a small number of offenses, such as attempt to commit suicide with intent to compel or restrain a public servant from performing official duty; appearing or being in a public area while intoxicated and causing annoyance; theft of property valued under a prescribed threshold where the property is restored or its value returned; and defamation. Notably, the BNS leaves the actual definition of "community service" to the procedural code, rather than doing so itself.

23rd Section of the BNSS, 2023 Statutory Framework

The sentencing powers of Magistrates are covered in Section 23 of the Bharatiya Nagarik Suraksha Sanhita, 2023. In accordance with subsection (2), a magistrate of the first class may impose a term of imprisonment not to exceed three years, a fine not to exceed fifty thousand rupees, or both, or community service. Under subsection (3), a Magistrate of the second class may impose a sentence of community service, a fine of no more than ten thousand rupees, or both, or imprisonment for a term of no more than one year. The definition of "community service" provided at the conclusion of the section is work that a court may mandate a offender to undertake as a kind of punishment that helps the community and for which the offender is not allowed any payment. For the first time, community service has been explicitly defined in an Indian procedural code. Two crucial points are made clear: first, that the labor must be unpaid, setting it apart from paid employment or labor programs; and second, that the benefit must go to the community as a whole rather than to any private party, distinguishing it from private restitution or compensation to a single victim.

Legislation drafting gaps:

Even with this codification, a number of important issues are left unanswered by the statutory framework. Neither the BNS nor the BNSS provides a list of accepted community service activities or criteria for determining what constitutes community service. Instead, it is left entirely to judicial discretion on a case-by-case basis. Neither statute specifies the length or amount of community service that must be performed for a specific offense.

Unlike imprisonment or fine, which have specified maximum limits, offense has none.

There is no defined supervising organization accountable for designating, supervising, validating, or reporting on the completion of community service, such as a probation officer, municipality body, or a devoted community service cell. Most importantly, neither the BNSS nor the BNS lays out the penalties for a defendant who neglects or declines to carry out their court-ordered community service, denying courts a statutory mechanism comparable to the breach proceedings found in US and UK community service/probation systems. Each of these gaps, which constitute the main implementation issue examined in this study, is explored in greater depth in the recommendations that follow later in this section.

Conceptual Difference between Restorative and Reformative Justice

Although they are frequently used interchangeably, reformative justice and restorative justice are conceptually different, and the difference is important when evaluating the BNS/BNSS program. Offender-centric reformative justice focuses on the moral and behavioral rehabilitation of the offender to prevent relapse, using community service as a corrective, character-building exercise. In contrast, restorative justice is relationship-focused: it attempts to correct the harm done to the victim and the community, usually through victim participation, restitution, or reconciliation processes, and views the offender's labor as recompense to the community for the harm caused rather than simply as personal correction. With its mandate of unpaid work "for the benefit of the community" and the absence of a victim-participation mechanism, the BNS/BNSS regulations are more akin to a reformative model with restorative undertones than a completely restorative justice framework, like those seen in victim-offender mediation programs or sentencing circles in some Western countries. For example, a more completely rehabilitative design may have offered the victim the chance to propose or approve the sort of community service, or a formal admission of harm by the offender as part of the sentencing procedure—elements that are missing from the current statutory text.

Judicial Philosophy Preceding the Reform

Indian constitutional courts anticipated and, in a sense, prepared the ground for the BNS/BNSS community service provision through decades of reformative sentencing jurisprudence. In Mohd. Giasuddin v. State of Andhra Pradesh (1977), Justice Krishna Iyer held that a therapeutic, rather than an "in terrorem," outlook should guide sentencing, treating the offender as a patient requiring correction rather than as an object of vengeance. Similar reformative reasoning appears in later judgments dealing with probation, parole, and open prisons, all of which reflect an evolving judicial consciousness that incarceration is not always the most just or effective response to minor and non-violent offences.The BNS/BNSS provisions can therefore be read as a long-delayed legislative ratification of a reformative philosophy that Indian courts had already been developing through interpretation and sentencing discretion for nearly half a century. This continuity between judicial philosophy and legislative codification also suggests that Indian courts, drawing on this inherited jurisprudence, may be relatively well-placed — compared to entirely novel statutory concepts to interpret and apply the new community service provisions purposefully, even in the absence of detailed implementing rules.

Constitutional Dimension: Article 21 and Reformative Punishment

Article 21 of the Constitution of India guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law, and Indian courts have read into this guarantee a right to live with human dignity, extending even to convicts and prisoners. Reformative sentencing options such as community service can be seen as consonant with this constitutional value, since they avoid the loss of liberty associated with incarceration and instead channel the offender's labour into a socially useful,dignity-preserving activity. At the same time, because community service is itself a restriction on the offender's personal liberty and time, any statutory scheme implementing it must ensure that the conditions of work, supervision, and enforcement do not themselves become arbitrary, disproportionate, or degrading, particularly given the absence of detailed procedural safeguards in the current text of the BNS and BNSS.

Comparative study: United Kingdom

The United Kingdom introduced the Community Service Order under the Criminal Justice Act, 1972, later reformed and rebranded as "Community Payback" under subsequent sentencing legislation. Under the British model, courts impose a specified number of hours of unpaid work (typically between 40 and 300 hours), and the sentence is administered by the National Probation Service, which conducts a pre-sentence suitability assessment, allocates supervised work placements (such as environmental clean-up, graffiti removal, or charity assistance), tracks attendance and hours completed, and can initiate breach proceedings including resentencing to imprisonment if the offender fails to comply without reasonable excuse. This structured administrative pipeline, built up over five decades, offers a model of the kind of institutional support that Indian community service sentencing currently lacks. Particularly instructive for the Indian context is the British practice of specifying a numerical range of hours proportionate to offence severity, and the existence of a dedicated enforcement court process for non-compliance, both of which are presently absent from the BNS/BNSS scheme.

United States: Comparative Research:

Community service is most commonly mandated in the United States as a condition of probation or as a separate alternative punishment for misdemeanors and low-level crimes. Federal and state sentencing laws differ on this matter. Timesheets or supervisor certifications are used to confirm hours and report noncompliance to the sentencing court, which may then revoke probation or enforce the custodial term that was originally suspended. Placements are supervised by court-approved nonprofit and governmental organizations or local probation agencies. In the same way, the American method depends on a system for administration and supervision that includes parole officers, accredited placement agencies, and structured reporting to turn the penalty from a written order into a binding, verifiable responsibility. The fact that the American system is decentralized and varies from state to state also demonstrates that there is no one proper institutional design; rather, the key commonality throughout successful systems is the existence of some verifiable chain of custody between the sentencing order and its actual execution, a feature that the Indian system has yet to create.

The Need for Alternatives to Incarceration and Prison Overcrowding

For years, India's prison system has run far over its rated capacity, with a substantial percentage of undertrial detainees awaiting trial rather than convicts serving punishments, and a significant portion of convicts imprisoned for minor, non-violent crimes. Petty offenses are typically seen as being counterproductive in penal literature: they interfere with the offender's work and family life, subject first-time offenders to hardened criminal networks, and place a constant administrative and financial load on the government without a correspondingly strong deterrent or reformative effect. Consequently, community service, as a non-custodial substitute for this group of minor offenses, fulfills a crucial decongestive role in addition to its rehabilitative and restorative goals, making its efficient execution a matter of great practical importance for criminal justice policy and prison administration in India. In the long run, an effective community service program may greatly lessen the number of petty criminals entering an already overloaded prison system, allowing institutional resources to be used for more serious crimes.

Institutions other than the judiciary, such as probation, municipal organizations, and non-governmental organizations, play a role.

Other successful community service programs don't just rely on the courts; they also rely on a network of institutions that support them. Community service can be placed and supervised by municipal and panchayat bodies, shelter homes, probation officers, hospitals, and registered non-governmental organizations, as long as a legal and administrative framework outlines their role and responsibilities. The majority of States in India currently have probation officer cadres under the Probation of Offenders Act, 1958, as well as Directorates of Prisons and Correctional Services. Rather than needing to build a

completely new bureaucracy, these existing organizations might be used or expanded to manage community service under the BNS/BNSS. This study highlights the absence of any statutory reference to such institutes in Section 23 BNSS as a significant omission that should be prioritized for future rule-making.

The Reform's Controversy and Criticism

Community service has been introduced with criticism. According to certain analysts, most criminal cases heard in Indian trial courts include offenses that are not included in Section 4 BNS' restricted offense list, rendering the reform practically useless. Additionally, others contend that there is a chance of inconsistent or arbitrary sentencing among similarly situated offenders without a specified minimum or maximum number of hours, eroding the constitutional right to equality before the law. Other people warn that community service orders may, in reality, go completely unforced without an effective monitoring mechanism, essentially functioning as a discharge of the offender rather than a real alternate punishment a criticism that is consistent with the worries expressed in the LiveLaw article that was reviewed earlier. These criticisms collectively do not jeopardize the reform's fundamental philosophy but rather reinforce the need for immediate rule-making to make it operative.

Recommended Implementation Framework

Based on the comparative and doctrinal analysis presented above, this research recommends the following components for a successful Indian community service program:

- State Governments or the High Courts, in exercise of their rule-making authority, establish uniform norms defining accepted types of community service work (e.g., sanitation, environmental work, support for managing traffic, hospital or shelter-home aid).
- Setting minimum and maximum hours or durations for community service, similar to the sentencing standards used for fines or incarceration, based on the seriousness of the crime.
- The appointment of a supervising authority—whether an already-existing probation officer, a municipal or local agency, or a newly formed "community service cell"—that will be in charge of assigning placements, confirming attendance, and certifying completion to the sentencing court.
- Statutory or rule-based arrangements for breach actions that give the court the authority to replace the initial custodial or fine sentence when a convicted offender fails to complete the ordered community service without a valid justification.
- Sentencing standards and judicial training to aid Magistrates in applying the community service option consistently and appropriately throughout similar cases.
- In order to increase the variety and accessibility of community service placements, particularly in rural and semi-urban regions, partnership arrangements with recognized NGOs, hospitals, and municipal authorities should be established.
- Once sufficient case data has been gathered under the BNS/BNSS system, the Ministry of Home Affairs or the National Judicial Academy will do regular empirical reviews to evaluate how the rule is being used in practice.

Way Forward:

In the future, the effectiveness of community service as a restorative punishment method in India will be determined by the promptness and caliber of the rules created after the BNS and BNSS. The State Governments, via the Home and Law Departments, and the High Courts, via their rule-making authorities, are in the best position to address the holes found in this research, ideally in collaboration with current probation departments, jail administrators, and civil society organizations with experience in offender rehabilitation. A phased, state-wise deployment, accompanied

By conducting monitoring and periodically reporting to the higher judiciary, the reform's practical performance might be gradually reviewed and improved rather than being allowed to grow inconsistently through ad hoc trial-court practice alone.

Judicial Practice Illustrative of Prior Codification

Prior to the BNS and BNSS's implementation, several Indian trial courts and High Courts had, on an ad hoc basis, mandated that those found guilty of minor offenses perform community service as a condition of probation or as a mitigating factor in their sentence. Instructions to assist traffic police for a set number of days to first-time traffic offenders, to clean public parks or religious sites to people found guilty of petty public nuisance offenses, and to plant and maintain saplings for a defined period of time to young or first-time offenders are just a few of the examples cited in legal news and court practice. These instructions, despite not being considered "community service" in the statutory meaning used by the BNSS, show that Indian courts had already established an intuitive comfort with non-custodial, socially beneficial sentencing well before the idea received legislative recognition. Furthermore, even in the absence of detailed rules, judicial creativity in this area may continue to influence how Magistrates implement Section 23 BNSS.

The issue of adequacy, deterrence, and public perception

Whether community service as a form of punishment is a sufficiently severe response to criminal activity, especially for crimes like slander that might inflict serious reputational harm on the victim, is a persistent worry in public and media discourse. Critics fear that a sentence of unpaid labor, without a well-publicized and enforced record of hours and results, may be seen by the public as a lenient or even insignificant punishment, potentially undermining the deterrence role that criminal law is also expected to play. Proponents counter that a sentence's deterrent power resides in the certainty and visibility of its execution rather than only its severity: a community service order that is visibly monitored, publicly carried out, and consistently imposed against defaulters can have significant social and reputational repercussions for the perpetrator, even if they do not lose their physical freedom. The ultimate legality of the reform, in the eyes of victims and the general public, will depend on whether Indian authorities establish a visible and trustworthy enforcement mechanism, rather than on the provision's reformative philosophy, as this debate once again highlights.

The Practical Stakes of the Reform and Prison Statistics

The National Crime Records Bureau's consecutive reports on prison statistics in India have repeatedly highlighted

occupancy rates far more than 100% of the rated capacity in several States, as well as a persistently high percentage of undertrial prisoners in comparison to convicted prisoners. Even though there are no thorough post-2024 data,

While a scale specifically for community service sentencing is not yet available, the existing scale of prison overcrowding emphasizes why even a small, crime-limited community service provision has disproportionately large practical benefits.

Meaning: Every custodial sentence that is changed to community service for an eligible petty offense somewhat lessens the strain on an already overburdened custodial system while also saving the offender from the collateral social and financial costs of even a brief prison term.

Summary in Comparison: The United States, United Kingdom, and India

It is illuminating to compare the three jurisdictions addressed in this study side by side. The penalty has a defined range of hours, is administered by a specialized National Probation Service, and is supported by a formal breach court mechanism in the United Kingdom. In the United States, community service is typically connected to probation, overseen by approved placement agencies or probation departments, with probation revocation being the result of non-compliance. On the other hand, the BNS/BNSS program in India currently fails to mention the hours, a supervising authority, or a penalty for default, leaving each of these three elements to be filled in—if at all—by subordinate rules, judicial practice, or future amendment. India might not need to accept one foreign model in its entirety, as this comparison indicates. Instead, it might be able to integrate certain aspects from each—such as the UK's policy of establishing a time range that corresponds to the severity of the offense, together with a US-style reliance on current probation department infrastructure—to build a system that is suitable for Indian institutional capacity and case numbers.

Significance of Legal Access, Awareness, and Aid

The successful utilization of community service as a sentencing alternative also depends on offenders and their attorneys being aware that it exists as an alternative to jail or a fine, especially for undertrial and first-time offenders who may not have their own legal representation. The Legal Services Authorities Act of 1987 established a system of legal assistance clinics and paralegal volunteers in India. This network might be crucial in informing qualified accused individuals about the availability of community service sentences and in supporting them in presenting their case to the sentencing magistrate. Without such awareness building, there is a risk that the benefit of the reform disproportionately goes to informed and represented offenders, while unrepresented offenders, who are frequently the most susceptible, default to standard custodial or monetary penalties.

Recommendations for Future Changes to the Law

This research advises that Parliament consider expanding the list of offenses that are eligible for community service to include a somewhat larger group of non-violent, low-harm offenses; prescribing statutory minimum and maximum hours directly in the Sanhita in a future amendment to the BNS and BNSS, in addition to executive rule-making.and adding an explicit clause authorizing courts to convert a community service sentence into imprisonment or a fine upon proof of wilful default, reflecting the breach mechanisms found in the UK and US models previously discussed. This would be done rather than leaving it entirely up to subordinate regulations or judicial discretion. Before uniform rules are formed, these modifications would remove any question about the ramifications of non-compliance and lower the chance of inconsistent practice among different High Court jurisdictions.

Summary of Finding

Three general conclusions may be drawn from this investigation, bringing together the study in the aforementioned subtopics. Section 23 of the BNSS and Section 4 of the BNS's community service clause is philosophically well-founded, based on a reformative and restorative theory of punishment that Indian courts have supported in principle for close to 50 years and that international comparators like the United Kingdom and the United States have put into practice via well-developed institutional frameworks. Secondly, there are four particular ways in which the Indian provision's statutory drafting is now insufficient: the lack of defined job categories, the absence of an indicated duration or hours, the absence of a designated supervising authority, and the lack of a consequence for default. Each of these shortcomings has a ready-made comparative solution that may be used. Third, the reform's practical significance, particularly its potential to alleviate overcrowding in India's prisons and shield petty criminals from the ancillary consequences of incarceration, provides strong policy rationale for treating the conclusion of this incomplete statutory framework as an urgent administrative priority rather than just a desirable one.

Study Gap

The literature under examination concludes that community service under the BNS and BNSS represents a true philosophical break toward reformative and restorative justice, but it lacks the institutional and procedural machinery, such as designated supervising authorities, defined work hours or categories, monitoring mechanisms, and obvious penalties for noncompliance, that similar jurisdictions like the United Kingdom and Australia have. Decades have passed as the United States have progressed. There is a shortage of empirical study on how Indian trial courts have actually implemented Section 23 of the BNSS since July 2024, despite the fact that the majority of current commentary is doctrinal and comparative. This void merits additional, ideally empirical, investigation once enough implementation statistics are gathered from sample courts in different States.

Conclusion

Although Section 4 of the BNS and Section 23 of the BNSS's community service provisions are a significant step toward reformative justice in the Indian criminal justice system, they are modest. Finally, after decades of informal judicial practice, it finds codified expression in a long-standing jurisprudential and policy path, ranging from the Malimath Committee's recommendations to Justice Krishna Iyer's reformative theory. The law is in accordance with Article 21's constitutional principle of human dignity and provides a legitimate, though limited, means of alleviating

India's crowded prison system. But, as this research has shown through both the literature review and the thorough subtopic analysis, the lack of implementing regulations on the kind, length, supervision, and enforcement of community service orders runs the risk of lowering a promising reform to a symbolic gesture unless it is supported by executive rules, administrative infrastructure similar to probation, and unambiguous judicial standards derived from comparable models like the United States probation practice and the Community Payback scheme in the United Kingdom. In the end, the success of this reform will rely less on the statutory text itself than on the institutional resolve of High Courts, State Governments, and allied agencies to establish the machinery required to give it practical effect. The BNS and BNSS have in essence completed the first and most crucial step of recognizing and defining community service as a legitimate criminal sentence, thus bridging a significant gap that has existed for a long time between sentencing theory and sentencing practice in India. The executive, the judiciary, and, if required, Parliament through future amendment now have the task of finishing what the legislature has started: converting a robust reformative philosophy into a feasible, supervised, and enforceable sentencing alternative that can be consistently applied across India's trial courts. This will ensure that the promise made in Section 4 of the BNS and Section 23 of the BNSS is realized in practice, not just in the statute book's printed page.

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