

COMMUNITY SERVICE AS A NON-CUSTODIAL PUNISHMENT UNDER INDIA'S NEW CRIMINAL LAW: PROMISE, GAPS, AND THE PATH TO IMPLEMENTATION

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ABSTRACT

The introduction of community service under India's new criminal laws marks an important change in the country's approach to punishment. Indian criminal justice has traditionally relied on different theories of punishment, including retributive, deterrent and reformatory theories. At the same time, the system continues to face serious concerns such as prison overcrowding and repeated offending. In this context, community service provides an alternative to imprisonment for certain offences and may support a more rehabilitative approach to sentencing. This research examines the place of community service in the Indian criminal justice system and evaluates its potential as a non-custodial form of punishment. The study uses a doctrinal research methodology. It examines relevant statutory provisions, judicial decisions, government reports, and scholarly writings. The study also considers the development of different theories of punishment and uses selected approaches from the United States, the United Kingdom and Singapore for comparative analysis. The study argues that the introduction of community service is a positive step towards a more humane and rehabilitative system of punishment. However, its success will depend on effective implementation. The present framework raises important concerns relating to clear sentencing standards, judicial consistency, supervision, monitoring and the availability of adequate resources. These concerns may affect the uniform and effective use of community service across India. The research therefore suggests that legislative recognition alone is not sufficient. Judges and other stakeholders require proper guidance and training for the consistent application of community service. Effective monitoring and supervision mechanisms are also necessary. In addition, greater

public acceptance of rehabilitative forms of punishment is important for the long-term success of the reform. The study concludes that, if supported by appropriate institutional and judicial measures, community service can become a meaningful part of India's criminal justice system and contribute to a more balanced approach to punishment and rehabilitation.

Keywords: Community Service; Indian Criminal Justice System; Sentencing; Non-Custodial Punishment; Rehabilitation; Restorative Justice; Comparative Criminal Law.

I. INTRODUCTION

Indian criminal law has long drawn on retributive, deterrent, and reformatory theories of punishment, and it has increasingly leaned toward correction over pure retribution as the preferred aim of sentencing.¹ Imprisonment, however, remains the default mode of dealing with offenders even for minor and non-violent wrongs, and this default carries a heavy institutional cost. As of the end of 2023, India's prisons held 5,30,333 inmates against a sanctioned capacity of 4,39,119, giving a national occupancy rate of 120.8 percent, with several states such as Delhi running at nearly 200 percent of capacity.² The bulk of this population, close to three out of every four prisoners, consists of undertrials rather than convicts, many of whom spend months or years in custody for offences that would not, on conviction, attract a long custodial term.³ Overcrowding of this kind degrades hygiene, strains prison staff, and works against the reformatory purpose that the Supreme Court itself has repeatedly asked criminal law to serve.⁴

It is against this background that the Bharatiya Nyaya Sanhita, 2023 (BNS), which replaced the Indian Penal Code, 1860 with effect from 1 July 2024, introduced community service as a distinct category of punishment for the first time in the history of Indian criminal legislation.⁵ Section 4 of

¹Concept of Punishment and Its Justification in Indian Criminal Jurisprudence, 12 Eur. Econ. Letters 1 (2024), <https://www.eeet.org.uk/index.php/journal/article/download/3747/3355/4247>.

²National Crime Records Bureau, Ministry of Home Affairs, Prison Statistics India 2023 (2025); Soumya Pillai, Drop in Inmates, Additions but Indian Prisons 120% Full, Delhi Jails Most Overcrowded at 200%—NCRB Data, The Print (2025), <https://theprint.in/india/drop-in-inmates-additions-but-indian-prisons-120-full-delhi-jails-most-overcrowded-at-200-ncrb-data/2754893/>.

³Vision IAS, National Crime Records Bureau's (NCRB) Prison Statistics India (PSI) 2023 Report (Sept. 30, 2025), <https://visionias.in/current-affairs/news-today/2025-09-30/social-issues/national-crime-records-bureau-ncrb-prison-statistics-india-psi-2023-report>.

⁴In Re-Inhuman Conditions in 1382 Prisons, (2016) 3 SCC 700 (India).

⁵Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023 (India); PRS Legislative Research, The Bharatiya Nyaya Sanhita, 2023, <https://prsindia.org/billtrack/the-bharatiya-nyaya-sanhita-2023>.

the BNS now lists six categories of punishment that a court may impose: death, imprisonment for life, rigorous or simple imprisonment, forfeiture of property, fine, and community service.⁶ The inclusion of community service, even though it is presently confined to six petty offences, signals a shift in the philosophy underlying Indian sentencing law, away from an exclusive reliance on incarceration and fine and toward a punishment that asks the offender to repay a debt to the community through unpaid, supervised work.⁷

Statutory recognition, though, is only the starting point. A punishment that exists on paper does not automatically translate into a punishment that courts use, offenders complete, and communities benefit from. This paper is concerned with that gap between recognition and implementation. It asks whether community service, as currently framed under the BNS, can function as a genuine and workable non-custodial and rehabilitative punishment in India, and it asks what legal and institutional measures would be necessary for community service to be applied with reasonable consistency across courts and states.

The paper argues that the introduction of community service marks a meaningful, if modest, step toward a more rehabilitative approach to punishment in India, but that its long-term success will depend on factors that lie largely outside the four corners of the BNS itself: clearer sentencing standards, consistent judicial application, dependable supervision and monitoring arrangements, adequate institutional capacity, and a degree of public acceptance that non-custodial punishment is not synonymous with letting offenders go unpunished. Absent these conditions, the reform risks becoming a provision that exists in the statute book without meaningfully changing sentencing practice on the ground.

To examine this argument, the paper adopts a doctrinal method of legal research. It relies principally on the text of the BNS and the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), on decisions of the Supreme Court and High Courts touching on reformatory sentencing and prison conditions, and on government reports, parliamentary committee findings, and data published by the National Crime Records Bureau. It draws, in addition, on scholarly commentary published in

⁶Bharatiya Nyaya Sanhita, 2023, § 4, Act No. 45 of 2023 (India).

⁷Use of Community Service as a Penalty Under Section 4 of Bharatiya Nyaya Sanhita, 2023, Indian J.L. & Legal Rsch. (2025), <https://www.ijlrr.com/post/use-of-community-service-as-a-penalty-under-section-4-of-bharatiya-nyaya-sanhita-2023>.

Indian law reviews and legal journals between 2024 and 2026, since community service under the BNS is a recent reform on which academic and practitioner literature is still developing. To situate the Indian position within a wider frame, the paper undertakes a limited comparative study of community service and unpaid work sentencing in the United Kingdom, the United States, and Singapore, three jurisdictions with long-established community sentencing regimes. The comparison is not intended to suggest that India should transplant any one model wholesale; rather, it is used to identify institutional principles that Indian policymakers may reasonably draw upon. The paper proceeds in six parts. Following this introduction, Part II situates community service within the broader theoretical shift toward community-based punishment. Part III examines the specific statutory framework under the BNS. Part IV considers the practical difficulties likely to attend implementation and draws lessons from comparative practice. Part V sets out recommendations for strengthening the framework, and Part VI concludes.

II. The Shift Towards Community-Based Punishment

Punishment theory in criminal law has traditionally been organised around three broad justifications. Retributive theory treats punishment as a deserved response to wrongdoing, proportionate to the harm caused.⁸ Deterrent theory treats punishment instrumentally, as a device to discourage the offender and others from repeating the conduct.⁹ Reformatory theory, by contrast, treats punishment as an opportunity to change the offender's conduct and reintegrate that person into society as a law-abiding citizen.¹⁰ The Supreme Court gave early and influential voice to the reformatory strand of this thinking in *Narotam Singh v. State of Punjab*, where Justice Krishna Iyer observed that a reformatory approach to punishment should be the object of criminal law, so as to promote rehabilitation without offending community conscience and to secure social justice.¹¹ A similar sentiment informed the Court's reasoning in *Babu Singh v. State of Uttar Pradesh*, where the emphasis on restorative and developmental measures over pure incarceration was underlined in the context of bail and sentencing discretion.¹²

⁸Reformatory Theory of Punishment, Academike (Mar. 14, 2019), <https://www.lawctopus.com/academike/reformatory-theory-of-punishment/>.

⁹Supra note 8.

¹⁰Supra note 8.

¹¹*Narotam Singh v. State of Punjab*, AIR 1978 SC 1542 (India).

¹²*Babu Singh v. State of Uttar Pradesh*, (1978) 1 SCC 579 (India).

These three theories are not mutually exclusive, and community service illustrates why. When a court orders an offender to clean a public park, assist in a hospital, or work on an environmental project, the sentence carries elements of all three justifications at once: it imposes a burden proportionate to the offence, it signals disapproval in a manner intended to deter, and it gives the offender a constructive, supervised task through which reform and reintegration can occur.¹³ Community service therefore need not be pinned exclusively to one theory of punishment; it draws its legitimacy from occupying a middle ground between retribution and rehabilitation, and this hybrid character is part of what has made it attractive to legal systems seeking alternatives to short custodial sentences.¹⁴

The relevance of this hybrid punishment to India is heightened by the specific pressures facing the Indian prison system. Short-term imprisonment, of the kind typically imposed for petty and first-time offences, rarely achieves genuine reform. It disrupts an offender's employment and family life, exposes first-time offenders to hardened criminals, and adds to an already overburdened prison population without a correspondingly clear public safety benefit.¹⁵ The Standing Committee on Home Affairs, in its report on prison conditions, infrastructure, and reforms presented to Parliament on 21 September 2023, flagged overcrowding, staff shortages, inadequate food quality, and insufficient budgetary allocation as continuing structural problems in Indian correctional facilities.¹⁶ Non-custodial sanctions such as community service respond directly to these pressures. They keep low-risk, first-time offenders out of an already strained prison system, they avoid the social and economic costs of severing an offender from employment and family, and they ask the offender to make a visible, constructive contribution to the community that was affected by the offence, which is a form of reparative justice that pure incarceration cannot offer.¹⁷

¹³Community Service Under the BNS: Progress, Pitfalls, and Potential, NLIU L. Rev. Blog,

<https://nliulawreview.nliu.ac.in/blog/community-service-under-the-bns-progress-pitfalls-and-potential/>.

¹⁴Community Sentencing in India: A Reformatory Approach to Criminal Justice, Jus Corpus (Aug. 27, 2024),

<https://www.juscorpus.com/community-sentencing-in-india-a-reformative-approach-to-criminal-justice/>.

¹⁵Supra note 14.

¹⁶Standing Committee on Home Affairs, Prison Conditions, Infrastructure and Reforms (Rajya Sabha Secretariat, Sept. 21, 2023), discussed in Reimagining Punishment: Institutionalising Community Service in India's Penal Framework, SCC Online Blog (Feb. 9, 2026), <https://www.scconline.com/blog/post/2026/02/09/community-service-india-penal-framework-reimagining-punishment/>.

¹⁷Community Service in India: A Transformative Alternative to Custodial Punishment, BNB Legal (Dec. 9, 2025), <https://bnblegal.com/article/community-service-an-appropriate-punishment-as-a-custodial-sentence/>.

It is against this broader shift in penal philosophy, from a system centred on confinement toward one that makes room for community-based and restorative alternatives, that the statutory recognition of community service under the BNS takes on its significance. The idea itself is not new to Indian legal discourse. The Indian Penal Code (Amendment) Bill, 1978 had proposed inserting a new Section 74A into the IPC to formally recognise community service as an alternative punishment; the Bill was passed by the Rajya Sabha but lapsed on the dissolution of the Lok Sabha in 1979 before it could become law.¹⁸ The idea resurfaced in the Law Commission of India's 156th Report on the Indian Penal Code in 1997, though the Commission at that stage expressed reservations about the practical difficulty of supervising offenders on community service and suggested that open-air prisons might better serve the same correctional purpose.¹⁹ It took until 2023, nearly half a century after the first legislative attempt, for community service to find its way into a binding statute.

III. Community Service under the New Indian Criminal Law Framework

The Bharatiya Nyaya Sanhita, 2023 received presidential assent on 25 December 2023 and came into force on 1 July 2024, replacing the Indian Penal Code, 1860 as the principal substantive criminal statute in India.²⁰ Section 4 of the BNS enumerates six categories of punishment available to a court: death, imprisonment for life, rigorous or simple imprisonment, forfeiture of property, fine, and, for the first time, community service.²¹ Community service itself is not defined within the BNS. The definition instead appears in the accompanying procedural code, the Bharatiya Nagarik Suraksha Sanhita, 2023, whose Explanation to Section 23 describes community service as work that a court may order a convict to perform, without remuneration, for the benefit of the community.²² This cross-referencing between the substantive and procedural codes is itself worth noting, since it means that a practitioner reading the BNS alone would not find out what community service actually entails.

¹⁸Community Service as a Sentencing Alternative: Towards a Reformatory and Restorative Criminal Justice System in India, LiveLaw (Jan. 10, 2026), <https://www.livelaw.in/articles/reformative-dimension-of-community-service-bharatiya-nyaya-sanhita-analysis-516964>.

¹⁹Law Commission of India, The Indian Penal Code, Report No. 156, vol. I (1997), cited in *supra* note 18.

²⁰India's New Criminal Laws (BNS, BNSS, BSA): What Changed and When They Took Effect, Niyam Blog (June 11, 2026), <https://niyam.ai/blog/new-criminal-laws-bns-bnss-bsa>.

²¹*Supra* note 6.

²²Bharatiya Nagarik Suraksha Sanhita, 2023, § 23 expl. 1, Act No. 46 of 2023 (India); *supra* note 13.

Community service under the BNS is presently available for only six specific offences, and the manner in which it applies differs from one offence to the next. It is available as one of several alternative punishments, at the court's discretion, for a public servant unlawfully engaging in trade under Section 202, for non-appearance in response to a proclamation issued under Section 84 of the BNSS as punished under Section 209, for an attempt to commit suicide with the intention of compelling or restraining a public servant from exercising lawful power under Section 226, for misconduct in a public place by a person who is drunk under Section 355, and for defamation under Section 356(2).²³ For each of these five offences, the word "or" in the relevant provision makes clear that community service sits alongside imprisonment and fine as one option among several, leaving the sentencing court free to choose whichever punishment it considers appropriate.²⁴ The sixth offence is different in character and, arguably, more significant in practice. Under the proviso to Section 303(2), where a person is convicted for the first time of theft involving property worth less than five thousand rupees and the offender returns or restores the value of that property, community service is not merely an option but the punishment the court must impose; the section leaves no discretion to instead order imprisonment.²⁵ Given how common petty, first-time theft is likely to be at the level of magistrates' courts, this single provision may end up accounting for the largest share of community service orders passed under the BNS.

The statute leaves several matters of practical significance largely unaddressed. It gives no indication of the kind of work an offender may be asked to perform, though commentary on the provision suggests that courts are likely to draw on tasks such as street cleaning, assistance in hospitals, work in social welfare programmes, or participation in environmental projects, depending on the offender's skills and the needs of the local community.²⁶ It gives no fixed range for the number of hours or the duration over which the service must be completed, unlike, for instance, the forty to three hundred hour range fixed by statute in England and Wales for an

²³Community Service in BNS, Drishti Judiciary, <https://www.drishtijudiciary.com/to-the-point/bharatiya-nyaya-sanhita-&-indian-penal-code/community-service-under-bns>.

²⁴Community Service in India's Criminal Law: A Reform Without a Roadmap, Square Circle Blog (Feb. 10, 2026), <https://squarecircleblog.org/2026/02/10/community-service-in-indian-criminal-law/>.

²⁵Supra note 24.

²⁶Community Service: Insights from Bharatiya Nyaya Sanhita, 2023, Legal Bites (Nov. 25, 2024), <https://www.legalbites.in/bharatiya-nyaya-sanhita/community-service-insights-from-bharatiya-nyaya-sanhita-2023-1083175>.

equivalent unpaid work requirement.²⁷ It gives no detail on who is meant to supervise the offender, how compliance is to be verified, or what consequence follows if an offender simply fails to turn up. These are not marginal gaps. They go to the heart of whether a sentence of community service can be enforced with any consistency.

Even before the BNS came into force, Indian courts had, on occasion, ordered community service using their inherent and statutory sentencing discretion under the Code of Criminal Procedure, 1973, and its successor. In *Parvez Jilani Shaikh v. State of Maharashtra*, decided in 2015, the accused was directed to render community service at a hospital run by the Bhabha Atomic Research Centre.²⁸ In *Sunita Gandharva v. State of Madhya Pradesh*, decided in 2020, the court held that a condition requiring community service could be attached to bail under Section 437(3) of the Code of Criminal Procedure, 1973, as one of the “other conditions” the section permits a court to impose in the interest of justice, provided the condition matched the offender’s capacity and willingness to perform it.²⁹ These decisions show that Indian judges have long been willing to use community service as a sentencing or bail tool where the statute allowed room for judicial innovation, which suggests that the BNS’s codification of the punishment builds on an existing, if scattered, judicial practice rather than inventing an entirely new concept.

The absence of statutory guidance on eligibility criteria beyond the bare text of each offence also raises a question of judicial consistency. Since community service is offered as an alternative to imprisonment or fine in five of the six offences, two magistrates dealing with materially similar facts could reasonably arrive at different sentences, one choosing a short term of imprisonment and the other choosing community service, without either being in error, because the BNS supplies no criteria to guide that choice beyond the bare wording of the offence.³⁰ This is not a new problem in Indian sentencing law, which has long been criticised for the wide, largely unstructured discretion it leaves to trial courts, but it becomes more pointed with community service because the punishment is unfamiliar to most magistrates, prosecutors, and defence counsel, and

²⁷Criminal Justice Act 2003, c. 44, explanatory notes para. 523 (UK); Sentencing Act 2020, c. 17, § 200 (UK), discussed in *What Is a Community Order?*, Sentencing.uk (Mar. 25, 2026), <https://sentencing.uk/guides/community-order-explained>.

²⁸*Parvez Jilani Shaikh v. State of Maharashtra*, cited in *supra* note 23.

²⁹*Sunita Gandharva v. State of Madhya Pradesh*, cited in *supra* note 23; Code of Criminal Procedure, 1973, § 437(3) (India).

³⁰*Supra* note 24.

unfamiliarity tends to produce caution and, in turn, underuse.³¹ The overall effect is that the BNS gives formal legal recognition to a community-based punishment, but the effectiveness of that recognition depends on the institutional and judicial framework surrounding its implementation, a theme examined further in Part IV.

IV. Implementation Challenges and Comparative Perspectives

A. Implementation Challenges

The most immediate implementation problem is the one already flagged in Part III: the absence of clear sentencing standards. Because the BNS gives courts unstructured discretion to choose between imprisonment, fine, and community service for five of the six eligible offences, sentencing outcomes are likely to vary not according to any principled distinction between offenders but according to the individual inclination of the magistrate hearing the case.³² This matters because inconsistency of this kind undermines the equality that criminal sentencing is meant to embody, and it also undermines public confidence in the punishment itself. If community service is sometimes imposed for a given fact pattern and sometimes not, without any visible criterion explaining the difference, both offenders and victims are entitled to ask why.³³

A second and closely related problem concerns supervision and monitoring. Neither the BNS nor the BNSS specifies which authority is responsible for identifying suitable placements, supervising an offender's attendance, verifying that the ordered hours have actually been completed, or reporting non-compliance back to the sentencing court.³⁴ In the United Kingdom, this function is performed by the Probation Service, which sets up unpaid work projects in consultation with sentencers and local communities and enforces attendance through a dedicated compliance process.³⁵ India currently has no equivalent institution with a clear statutory mandate to perform this role for community service under the BNS. Without a designated supervising authority, a

³¹K. Bharath Chandra & K. Sita Manikyam, *The Roadblocks to Community Service as Punishment and How to Overcome Them*, Int'l J. Legal Rsch. & Analysis (Mar. 27, 2025), <https://www.ijlra.com/details/the-roadblocks-to-community-service-as-punishment-and-how-to-overcome-them-by-k-bharath-chandra-prof-dr-k-sita-manikyam>.

³²Supra note 31.

³³Supra note 24.

³⁴Supra note 24; supra note 31.

³⁵HM Inspectorate of Probation, *Unpaid Work*, <https://hmiprobation.justiceinspectorates.gov.uk/our-research/evidence-base-probation-service/specific-types-of-delivery/unpaid-work/>.

sentence of community service risks becoming, in practice, unenforceable: an order that exists on paper but that no one is responsible for making sure the offender actually performs. This matters because an unenforced sentence is worse than no sentence at all, since it signals to offenders and to the public that non-custodial punishment carries no real consequence.

A third problem is administrative capacity. Even where a supervising authority exists in principle, courts need a functioning list of approved placements, whether municipal bodies, hospitals, or non-governmental organisations willing to accept and record the work of convicted offenders, and prison or probation departments need trained personnel to coordinate between courts and these placements.³⁶ India's district judiciary and correctional administration are already stretched; the National Crime Records Bureau's Prison Statistics India 2023 report notes that Indian prisons continue to operate with an occupancy rate above 120 percent nationally, alongside chronic staff shortages, which suggests that the same institutions likely to be tasked with administering community service are already under considerable strain.³⁷ Introducing a new punishment without a corresponding increase in administrative capacity risks either overburdening existing staff or, more likely, simply not being used at all by courts wary of ordering a punishment they cannot practically monitor.

A fourth problem concerns judicial familiarity and training. Magistrates, who will handle the great majority of cases eligible for community service given that the qualifying offences are minor ones, have not traditionally been trained to assess an offender's suitability for community-based work, to calibrate the number of hours against the gravity of the offence, or to structure the sentence so that it serves a genuinely rehabilitative purpose rather than becoming a token formality.³⁸ This matters because a punishment applied without adequate judicial understanding of its purpose is likely to be applied inconsistently, or not applied at all, regardless of how clearly it is written into the statute.

A final and less legal, more social, problem concerns public perception. Indian public discourse around criminal punishment has historically equated justice with the severity of custodial sentences, and there is a risk that community service will be perceived, particularly by victims and

³⁶Supra note 31.

³⁷Supra note 2.

³⁸Supra note 24.

their families, as offenders being let off lightly.³⁹ This matters because sentencing reforms that lack public legitimacy tend to face resistance from within the system itself, including from prosecutors reluctant to seek non-custodial outcomes and from magistrates wary of public criticism, even where the reform is doctrinally sound.

B. Comparative Perspectives

Community-based punishment is considerably more developed outside India, and a brief look at three jurisdictions helps to identify the institutional features that have allowed it to function as more than a paper provision. In England and Wales, unpaid work has been available as a sentencing option since the Criminal Justice Act 1972 first introduced the community service order, and it survives today as the unpaid work requirement that a court may attach to a community order under the Sentencing Act 2020.⁴⁰ The statute fixes a clear range, between forty and three hundred hours, and requires the court to be satisfied, generally after a report from the Probation Service, that the offender is a suitable person to perform the work before the requirement is imposed.⁴¹ The Probation Service, a dedicated statutory body, is responsible for setting up projects in consultation with sentencers and local communities, ranging from environmental work to assistance in care homes, and for enforcing the requirement through a structured compliance process, with breach proceedings available where an offender fails to comply.⁴² Recent reform proposals under the Sentencing Bill 2025 go further still, introducing incentives for offenders to complete their hours through earned credit toward an earlier end date, which reflects a continuing effort to keep the sanction credible in the eyes of the public.⁴³

The United States takes a somewhat different approach. Federal law empowers a sentencing court to require a defendant to work in community service as one of the discretionary conditions of probation or supervised release under 18 U.S.C. § 3563(b)(12), and the United States Sentencing Guidelines direct that, for a felony, a defendant should ordinarily make restitution, perform

³⁹Supra note 17.

⁴⁰Criminal Justice Act 1972, c. 71, pt. I (UK); Sentencing Act 2020, c. 17, § 200 (UK).

⁴¹Criminal Justice Act 2003, c. 44, sch. 8 (UK); Sentencing Academy, Community Orders Explainer 1 (2023), <https://www.sentencingacademy.org.uk/wp-content/uploads/2023/08/Community-Orders-Explainer.pdf>.

⁴²Supra note 27; supra note 35.

⁴³UK Ministry of Justice, Sentencing Bill: Probation Community Measures Factsheet (Nov. 27, 2025), <https://www.gov.uk/government/publications/sentencing-bill-2025/sentencing-bill-probation-community-measures-factsheet>.

community service, or both, unless the court has imposed a fine.⁴⁴ Unlike in England, where community service has functioned as something closer to a genuine alternative to imprisonment, American practice has generally treated it as an intermediate sanction, a condition attached to probation rather than a freestanding punishment, reflecting a system that continues to rely comparatively heavily on custodial sentencing even for lower-level offending.⁴⁵

Singapore offers a third model, and one that may be more directly instructive for India given similarities in colonial-era criminal procedure. Community Service Orders are available under the Criminal Procedure Code as a standalone sentence or in combination with other community-based orders, for offenders above the age of sixteen, and a court is required to obtain a suitability report before making such an order.⁴⁶ The scheme is administered by the Probation Service under Singapore's Ministry of Social and Family Development, which also runs the broader probation system and treats completion rates as a formal performance measure.⁴⁷ Singapore's Community Court, established in 2006, was created specifically to expand the use of such community-based rehabilitation options for offenders considered suitable for them, showing a deliberate institutional investment in making non-custodial sentencing work rather than leaving it to develop informally.⁴⁸

What these three systems share, despite their differences, is not a particular number of hours or a particular list of offences, but three structural features: a designated supervising authority with statutory responsibility for administering the sentence, a suitability assessment conducted before the sentence is imposed, and a functioning enforcement mechanism for non-compliance.⁴⁹ India's BNS framework presently has none of these three features written into it. The comparative material does not suggest that India should adopt the British, American, or Singaporean model wholesale; sentencing systems are embedded in institutional and financial contexts that differ considerably

⁴⁴18 U.S.C. § 3563(b)(12) (2024); U.S. Sentencing Comm'n, Annotated 2025 Chapter 5, <https://www.ussc.gov/guidelines/2025-guidelines-manual/annotated-2025-chapter-5>.

⁴⁵Court-Ordered Community Service, Cambridge Elements (2023), <https://www.cambridge.org/core/elements/courtordered-community-service/3907FB86B3FED20A3DE2459AAE92DD6D>.

⁴⁶Criminal Procedure Code (Cap. 68, 2012 Rev. Ed.) §§ 346–348 (Sing.), discussed in Community Based Sentencing Criminal Process, Crim. Law. Sing., <https://criminallawssingapore.org/criminal-lawyer-singapore/community-based-sentencing/>.

⁴⁷Overview of the Probation System of Singapore, Ministry of Soc. & Fam. Dev. (Sing.), https://www.unafei.or.jp/english/activities/pdf/other/Overview_of_CommunityCorrections_Singapore_E.pdf.

⁴⁸Alexander, Community-Based Rehabilitation of Offenders in Singapore, UNAFEI Resource Material Series No. 96, at 2, https://www.unafei.or.jp/publications/pdf/RS_No96/No96_VE_Alexander_3.pdf.

⁴⁹Supra notes 27, 35, 44, 46–48.

across countries. It does suggest, however, that the absence of a supervising authority, a suitability assessment, and an enforcement mechanism is not a minor drafting gap but the central reason why community-based punishment succeeds or fails as a practical matter.⁵⁰

V. Strengthening the Community Service Framework in India

The most immediate reform India needs is a clearer set of sentencing standards to guide the choice between imprisonment, fine, and community service in the five offences where the BNS currently leaves that choice to unstructured judicial discretion. This need not take the form of rigid, mechanical rules; the English practice of issuing sentencing guidelines that set out relevant factors, such as the offender's age, prior record, and the circumstances of the offence, without removing judicial discretion altogether, offers a workable template.⁵¹ The Bureau of Police Research and Development's existing handbook on the BNS could usefully be expanded, in consultation with the higher judiciary, into formal sentencing guidance specifically addressing the factors relevant to community service, so that similarly placed offenders receive broadly similar treatment across different courts.⁵²

Supervision and monitoring present a more structurally demanding problem, and the solution should not be assumed to require an entirely new bureaucracy. India already has a probation infrastructure under the Probation of Offenders Act, 1958, together with district legal services authorities and, in some states, functioning prison welfare and after-care departments.⁵³ Before proposing a freestanding new agency, the more prudent course is to examine whether these existing institutions can be given a clear statutory mandate, adequate staffing, and a designated set of approved placements, whether municipal bodies, hospitals, or registered non-governmental organisations, to administer community service orders. Only if this proves insufficient should a dedicated new mechanism be considered.

⁵⁰Supra note 24.

⁵¹Sentencing Council, *Imposition of Community and Custodial Sentences: Definitive Guideline* (UK), cited in supra note 41.

⁵²Bureau of Police Research and Development, *A Handbook on Bharatiya Nyaya Sanhita*, 2023, at 16 (2024), https://bprd.nic.in/uploads/pdf/BNS_English_30-04-2024.pdf.

⁵³Probation of Offenders Act, 1958, No. 20, Acts of Parliament, 1958 (India).

Judicial and institutional training follows closely behind. Magistrates and judicial officers require structured guidance, through judicial academies and bench manuals, on assessing an offender's suitability for community-based work, on calibrating hours to the gravity of the offence, and on understanding community service as a genuine sentencing tool rather than a lenient afterthought.⁵⁴ The purpose of this training should be consistent and well-informed application of the punishment, not merely persuading judges to use it more often; a magistrate who understands both the strengths and the limits of community service is better placed to apply it appropriately than one who is simply encouraged to impose it more frequently without that understanding.

Finally, any strengthening of the framework should keep sight of the balance between accountability and rehabilitation that gives community service its distinctive value. The reform should not be sold to the public, or to the judiciary, as a softer substitute for punishment, but as a different and, for appropriate cases, more constructive form of it, one that holds the offender accountable through supervised, unpaid work while creating a realistic path back into ordinary civic life. Achieving that balance will depend on visible, well-publicised implementation, including transparent reporting on how many community service orders are made and completed each year, so that public confidence in the punishment can be built on evidence rather than assumption.⁵⁵

VI. Conclusion

The introduction of community service under Section 4(f) of the Bharatiya Nyaya Sanhita, 2023 is the first formal recognition, in nearly two hundred years of codified Indian criminal law, of unpaid, supervised work as a legitimate mode of punishment. That recognition responds to a real and well-documented problem: an overcrowded prison system in which a large share of inmates await trial for offences that do not warrant the social and institutional cost of confinement.⁵⁶ The research question this paper set out to answer was whether community service, as presently framed, can function as a meaningful non-custodial and rehabilitative punishment, and what would be necessary for it to do so consistently. The answer that emerges from the statutory text, the comparative material, and the accumulated commentary on the reform is a qualified one.

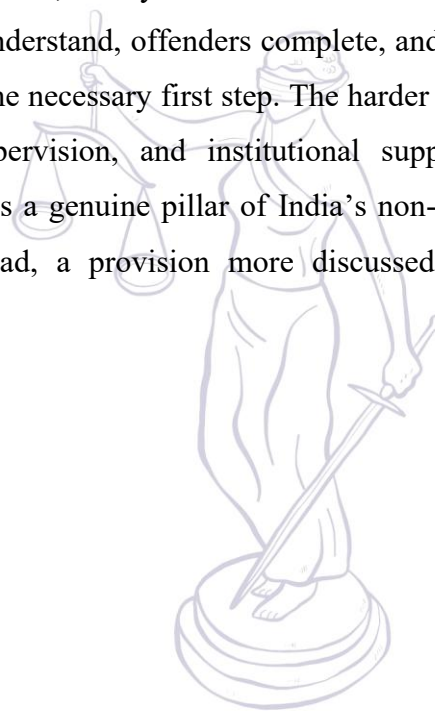
⁵⁴Supra note 31.

⁵⁵Supra note 3.

⁵⁶Supra note 2.

Community service can serve that function, but only if India builds the institutional scaffolding that currently surrounds the reform in every jurisdiction where it has taken root: clear sentencing standards, a designated and adequately resourced supervising authority, structured judicial training, and a public communication effort that treats non-custodial punishment as accountability rather than leniency.⁵⁷

The success of this reform should ultimately be measured not by the fact that community service now appears in the statute book, but by whether it becomes a routinely and consistently applied sentence that magistrates understand, offenders complete, and communities visibly benefit from. Statutory recognition was the necessary first step. The harder and still unfinished task is building the judicial guidance, supervision, and institutional support that will determine whether community service becomes a genuine pillar of India's non-custodial sentencing framework or remains, in the years ahead, a provision more discussed in law reviews than applied in courtrooms.⁵⁸



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⁵⁷Supra notes 26, 35, 44, 46–48, 51–53.

⁵⁸Supra note 18.