

“COMMUNITY SERVICE AS A PUNISHMENT UNDER BNS: A STEP TOWARDS REFORMATIVE JUSTICE IN INDIA”

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Abstract

The Bharatiya Nyaya Sanhita, 2023 (BNS) marks a significant shift in India’s criminal justice philosophy by introducing community service as a form of punishment—an alternative to imprisonment for certain minor offences.⁵³⁴ This development indicates a move toward reformatory justice, which focuses not on retribution but on rehabilitation and reintegration of offenders into society.

This research critically examines the jurisprudential foundation, legislative framework, and practical implications of community service as a penal measure. It explores whether this change truly reflects a reformatory turn or merely serves as a procedural adjustment. The study evaluates global practices, judicial trends, and institutional readiness in India to understand the feasibility and effectiveness of community service within the Indian context.

The paper concludes by highlighting the need for clear guidelines, judicial sensitization, and robust administrative mechanisms to ensure that community service achieves its intended objectives of restorative justice and respect for human dignity.

Keywords: Community Service, Bharatiya Nyaya Sanhita, Reformatory Justice, Sentencing, Human Rights, Criminal Law.

GRASP - EDUCATE - EVOLVE

⁵³⁴ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 4(f), Gazette of India (India).

Chapter I. Introduction

“To deny an offender a chance to reform is to deny society a chance to heal.”

Anonymous

1.1 Background of the Study

The evolution of criminal law in India has long been rooted in retributive and deterrent theories of punishment, largely influenced by colonial-era codes⁵³⁵. With the introduction of the Bharatiya Nyaya Sanhita, 2023, India has begun transitioning toward a more progressive and humane criminal justice framework. A landmark feature of this reform is the introduction of community service as a form of punishment—a first in Indian statutory law.⁵³⁶

Community service, as a non-custodial sentence, allows offenders to contribute positively to society while being held accountable for their actions. This aligns with the philosophy of reformatory justice, which seeks to rehabilitate rather than punish the offender, ensuring their eventual reintegration into society. Globally, community service has been accepted as an effective penal measure in various jurisdictions like the United Kingdom, Canada, and South Africa.

In India, this concept introduces new dimensions to sentencing, bringing with it questions about feasibility, implementation, judicial discretion, and human rights considerations. It is within this framework that the present study seeks to understand whether community service, as introduced under the BNS, is a genuine step toward reformatory justice or a token gesture lacking practical clarity.

1.2 Statement of problem

Despite the inclusion of community service in the BNS, there is uncertainty surrounding its implementation, monitoring mechanisms, and

judicial interpretation. There is a lack of clarity about:

- The nature of offences eligible for community service,
- Institutional infrastructure to supervise such punishments,
- Uniformity in judicial sentencing involving community service.⁵³⁷

Hence, there is a need to critically analyze whether this legal provision can achieve its reformatory goals or remain underutilized.

1.3 Objectives of the Study

1. To study the evolution and concept of community service as a penal sanction.
2. To analyze the provisions of the Bharatiya Nyaya Sanhita, 2023 regarding community service.
3. To examine the theoretical foundation of reformatory justice in Indian criminal jurisprudence.
4. To identify challenges in the implementation of community service as punishment in India.
5. To propose recommendations for effective adoption and judicial use of this reformatory measure.

1.4 Research Questions

1. What is the concept and purpose of community service in criminal law?
2. How does the BNS, 2023 incorporate community service as a form of punishment?
3. What are the theoretical and human rights justifications behind this reform?
4. What are the practical and legal challenges in implementing community service in India?
5. Can community service serve as an effective tool for reformatory justice in the Indian context?

1.5. Hypothesis

The inclusion of community service as a punishment under the Bharatiya Nyaya Sanhita, 2023 reflects a shift towards reformatory justice

⁵³⁵ K.D. Gaur, Textbook on Indian Penal Code 9 (Universal Law Publishing, 8th ed. 2020)

⁵³⁶ Bharatiya Nyaya Sanhita, No. 45 of 2023, Gazette of India (India).

⁵³⁷ National Crime Records Bureau, Prison Statistics India 2022

in India, but its success depends on judicial acceptance, institutional readiness, and clarity in execution.

1.6 Methodology

This research adopts a doctrinal and analytical methodology. It involves:

Critical analysis of BNS provisions,

Comparative study with other jurisdictions,

Review of scholarly literature, UN documents, and Law Commission reports,

Examination of judgments and case laws relevant to reformatory sentencing.

1.7 Scope and Limitations

The study focuses specifically on the concept of community service as introduced under BNS, 2023. While it discusses broader themes of reformatory justice, it does not delve into other forms of alternative punishments or procedural reforms outside the scope of BNS.

Chapter 2: Evolution of Sentencing and Reformatory Justice in India

2.1 Historical Development of Sentencing in Indian Criminal Law

The Indian criminal justice system, inherited from the colonial framework of the Indian Penal Code, 1860, emphasized retributive and deterrent forms of punishment. Imprisonment, fines, and capital punishment were the dominant sentencing methods.⁵³⁸ The primary aim was to instill fear and ensure obedience to colonial rule, rather than focus on rehabilitation or reform.

Post-independence, India retained the IPC with minimal changes. However, over the decades, the judiciary and lawmakers gradually recognized the importance of reformatory principles. Key constitutional values such as justice, dignity, and equality began influencing sentencing trends. Courts increasingly emphasized the individualization of punishment

based on the nature of the crime and the character of the offender.⁵³⁹

2.2 Emergence of Reformatory Justice in India

Reformatory justice is a theory that focuses on changing the behavior and mindset of offenders, with the goal of reintegrating them into society as responsible citizens. Unlike retribution, which seeks revenge, or deterrence, which seeks fear, reformatory justice seeks transformation.

Influential jurists like Justice V.R. Krishna Iyer and Justice P.N. Bhagwati were strong advocates of this approach. Through landmark decisions, Indian courts began acknowledging the need for alternative punishments. For example, in *Mohd. Giasuddin v. State of Andhra Pradesh* (1977), the Supreme Court emphasized that sentencing should consider the possibility of reform and not merely focus on punishment.⁵⁴⁰

2.3 Legislative Developments Towards Reformatory Justice

Several legislative reforms and committee reports over the years laid the foundation for non-custodial punishments:

Probation of Offenders Act, 1958: Allowed first-time and minor offenders to be released under supervision instead of being imprisoned.⁵⁴¹

Juvenile Justice Act: Focused on the rehabilitation of juveniles rather than their punishment.⁵⁴²

Malimath Committee Report (2003): Strongly recommended reforms in sentencing, including the adoption of alternatives like community service.⁵⁴³

Law Commission Reports: Repeatedly highlighted the need to decriminalize minor

⁵³⁸ K.D. Gaur, Textbook on the Indian Penal Code 34–36 (Universal Law Pub. 2020).

⁵³⁹ *Sunil Batra v. Delhi Admin.*, (1978) 4 SCC 494.

⁵⁴⁰ *Mohd. Giasuddin v. State of Andhra Pradesh*, (1977) 3 SCC 287.

⁵⁴¹ Probation of Offenders Act, No. 20 of 1958, § 3, India Code (1958).

⁵⁴² Juvenile Justice (Care and Protection of Children) Act, No. 2 of 2016, § 18(1)(c), India Code (2016).

⁵⁴³ Government of India, Report of the Committee on Reforms of Criminal Justice System (Malimath Committee Report), Ministry of Home Affairs (2003).

offences and encourage reformatory punishments.⁵⁴⁴

These developments set the stage for a more humane approach to criminal justice in India.

2.4 Introduction of Community Service under BNS, 2023

In India, the idea of community service as a form of criminal punishment is relatively new and not widely implemented until recently. Its earlier presence was limited to juvenile justice, particularly under the Juvenile Justice (Care and Protection of Children) Act, 2015. Under Section 18(1)(c) of the Act, the Juvenile Justice Board is empowered to direct a child in conflict with the law to perform community service, provided the board considers it an appropriate corrective measure.⁵⁴⁵ This provision marked the initial legislative acceptance of community service in Indian criminal jurisprudence.

Efforts to integrate this form of punishment into the Indian Penal Code (IPC), however, were not entirely new. As early as 1978, the Indian Penal Code (Amendment) Bill was introduced in Parliament. One of its major recommendations was to incorporate non-custodial sanctions, including community service, as an alternative to imprisonment under Section 53 of the IPC.⁵⁴⁶ Unfortunately, this bill did not pass, and the proposal was shelved.

Nonetheless, Indian courts have repeatedly emphasized the importance of reformatory justice. The Supreme Court of India, through various landmark rulings, has stressed that punishment should serve the goal of reforming the offender, especially in cases involving minor or non-violent crimes. In its 156th Report, the Law Commission of India endorsed these views and recommended the inclusion of several alternative punishments to incarceration. These included:

1. Community Service
2. Removal from Office

3. Order to Pay Reparation

4. Public Censure⁵⁴⁷

The Bharatiya Nyaya Sanhita, 2023 (BNS) has now formally incorporated community service as one of the recognized punishments under Section 4, Chapter II, alongside imprisonment and fine.⁵⁴⁸ Furthermore, Section 23 of the Bharatiya Nyaya Suraksha Sanhita, 2023 (BNSS) defines community service as “...the work which the Court may order a convict to perform as a form of punishment that benefits the community, for which he shall not be entitled to any remuneration.”⁵⁴⁹

This aligns with the expiatory theory of punishment, which emphasizes that offenders should contribute positively to society as a form of atonement for their wrongdoing.

Chapter 3: Provisions of Community Service under BNS, 2023

3.1 Meaning and Definition of Community Service

Community service is a form of non-custodial punishment where an offender is ordered by the court to perform unpaid work for the benefit of the community. It serves as an alternative to imprisonment, primarily for non-serious and first-time offences. The purpose is not only to penalize the offender but also to encourage rehabilitation and social reintegration.

According to the United Nations Standard Minimum Rules for Non-custodial Measures (Tokyo Rules, 1990), community service means “work performed by the offender for a specified period of time to the community without any remuneration.”

3.2 Legal Provision under BNS, 2023

Community service has been introduced as a punishment under specific sections of the BNS, providing judges with the discretion to award such sentences in suitable cases.

⁵⁴⁴ Law Commission of India, 156th Report on the Indian Penal Code (1997).

⁵⁴⁵ Id.

⁵⁴⁶ Indian Penal Code (Amendment) Bill, Bill No. 31 of 1978 (India).

⁵⁴⁷ Law Commission of India, 156th Report on the Indian Penal Code (1997).

⁵⁴⁸ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 4, Gazette of India (India).

⁵⁴⁹ Bharatiya Nyaya Suraksha Sanhita, No. 46 of 2023, § 23, Gazette of India (India).

For example: Section 4(f) of the BNS includes “community service” in the list of punishments that may be awarded by courts.⁵⁵⁰

Offences under BNS, 2023 Punishable with Community Service

The BNS provides community service as an alternative or additional punishment for the following offences:

1. Section 202 – Unlawful trade by public servant

Punishable with imprisonment up to 1 year, fine, or community service.⁵⁵¹

2. Section 209 – Non-appearance in response to a proclamation under Section 84 of BNSS

Punishable with imprisonment up to 3 years, fine, or community service.⁵⁵²

3. Section 226 – Attempt to commit suicide to compel or restrain exercise of lawful power

Punishable with imprisonment up to 1 year, fine, or community service.⁵⁵³

4. Section 303(2) Proviso – First-time theft of property valued under ₹5000, if the offender restores the property

Court may consider community service as a punishment.⁵⁵⁴

5. Section 355 – Misconduct in public by a drunken person

Punishable with 24 hours’ imprisonment, fine up to ₹1000, or community service.⁵⁵⁵

6. Section 356(2) – Defamation

Punishable with imprisonment up to 2 years, fine, or community service.⁵⁵⁶

These inclusions reflect a transformative shift in India’s penal philosophy, acknowledging that not all offences require incarceration, and that public-oriented punishments can achieve both

deterrence and reformation in a more socially constructive manner.

3.3 Significance of Inclusion

First-Time Recognition: This is the first time Indian criminal law has codified community service as a legal punishment.

Promotes Rehabilitation: Rather than imprisoning petty offenders, the law now encourages reform through meaningful social contribution.

Reduces Prison Burden: It addresses the issue of overcrowded prisons, which often lead to criminalization of minor offenders.

Aligns with International Norms: It reflects India’s commitment to global human rights standards that advocate non-custodial sentencing.

3.4 Nature and Scope of Community Service under BNS

The BNS does not yet define the exact types of community service, nor does it outline the procedure for assigning or monitoring it. This leaves scope for judicial creativity and administrative policy-making.

In the future, community service may include:

Cleaning public spaces (roads, schools, parks)

Assisting in hospitals or care homes

Environmental activities like planting trees

Working with NGOs or municipal bodies

To implement this effectively, guidelines and monitoring mechanisms must be developed by state governments and judicial bodies.

Chapter 4: Comparative Study of Community Service in Other Jurisdictions

4.1 Introduction

Community service as an alternative to incarceration has been widely adopted across various legal systems. Different countries have successfully integrated this form of punishment into their criminal justice systems, balancing accountability, rehabilitation, and public interest. A comparative study helps in

⁵⁵⁰ The Bharatiya Nyaya Sanhita, 2023, § 4(f).

⁵⁵¹ Id., § 202.

⁵⁵² Id., § 209.

⁵⁵³ Id., § 226.

⁵⁵⁴ Id., § 303(2) proviso.

⁵⁵⁵ Id., § 355.

⁵⁵⁶ Id., § 356(2).

understanding how India can adopt best practices and avoid common pitfalls.

Below is a comparative analysis of how community service functions in different countries:

1. United States of America

Community service as an alternative sentencing measure gained popularity in the mid-20th century, particularly in California, which became the first state to implement it in 1960. Offenders have since been engaged in activities such as:

Cleaning public parks and streets,

Working in hospitals and welfare homes,

Participating in restoration and education-related initiatives.

Community service is generally imposed for non-violent offenses and is often a condition of probation. According to data from 2022, approximately 1,203 offenders were placed under community service orders in various states, achieving an impressive 80% success rate, indicating strong compliance and rehabilitation outcomes.⁵⁵⁷

2. United Kingdom

The Criminal Justice Act of 1972 officially introduced community service in England under the term "Community Payback Order". The relevant statutory framework is detailed under Sections 15 to 19 of the Act. The primary objectives of these orders include:

Repairing the harm caused to society,

Encouraging reintegration of offenders into the community,

Preventing recidivism by promoting accountability.

Offenders are required to perform unpaid work that benefits the community, such as maintaining public property, assisting in charity services, or supporting local development

programs. In 2022, around 69,491 community service orders were issued in England and Wales, demonstrating the system's extensive application.⁵⁵⁸

3. Australia

Community service orders (CSOs) are widely used in Australia, both as standalone penalties and in conjunction with fines or suspended sentences. The sanction is typically reserved for non-violent offenses such as:

Minor theft,

Vandalism,

Simple drug possession.

The implementation and structure of CSOs vary slightly across states and territories. For example, New South Wales, Victoria, and Queensland each have tailored guidelines, but all emphasize supervised, time-bound service under government or non-governmental supervision. Offenders are generally required to complete their service within 6 to 12 months.⁵⁵⁹

4. Nordic Countries (Finland, Norway, Sweden, Denmark)

The Nordic model integrates community service in both standalone and hybrid forms:

Finland and Norway treat community service as an independent punishment.

Sweden and Denmark typically attach community service to probation or conditional imprisonment.

In Finland, short community service orders can supplement suspended sentences exceeding one year. Denmark allows community service to be combined with fines or even short custodial sentences. The number of required service hours varies between 240 to 420 hours, depending on the nature of the offense and jurisdiction.⁵⁶⁰

5. Spain

Under Article 49 of the Spanish Criminal Code (1995), community service is defined as a

⁵⁵⁷ Srishiti Rohilla, Concept of Community Service as Punishment Under BNS, 2023 – A Boon or a Bane?, 3 Int'l J. Legal Stud. & Socio-Legal Sci. 62, 62–72 (2025).

⁵⁵⁸ Id. at 68.

⁵⁵⁹ Id. at 68.

⁵⁶⁰ Id. at 69.

sentence requiring the offender to engage in public utility work. The punishment is specifically designed to align with the nature of the offense and must:

Respect the dignity of the offender,

Not result in monetary gain for any individual or entity.

The duration of service generally ranges from 31 to 180 days, and the tasks must contribute to community welfare, such as working in civic institutions, educational programs, or rehabilitation centres.⁵⁶¹

Chapter 5: Critical Analysis of Community Service in the Indian Context

5.1 Introduction

The inclusion of community service under the Bharatiya Nyaya Sanhita, 2023 (BNS) is a landmark development in India's criminal justice system. While it reflects a shift towards reformatory and human rights-centric punishment, its actual implementation in the Indian context raises various legal, administrative, and socio-cultural questions. This chapter critically analyses the feasibility, challenges, and implications of this new provision in India.

5.2 Merits of Community Service in India

Human Rights Protection

Community service helps protect the fundamental rights of offenders, especially:

Article 21 of the Constitution (Right to life and personal liberty),

Protection from the harsh consequences of imprisonment such as loss of livelihood, mental trauma, and social stigma.

Decongestion of Prisons

India's prisons are notoriously overcrowded. According to the NCRB Prison Statistics 2021, Indian jails were running at 118% capacity.

Community service can be a cost-effective alternative to incarceration for petty crimes.

Restorative and Reformatory Approach

This punishment bridges the gap between punishment and restoration. It helps offenders remain within society, promoting reformation rather than alienation.

Societal Benefit

Rather than burdening the public with the cost of incarceration, community service ensures offenders give back to society through productive work.

5.3 Legal and Administrative Gaps

Lack of Detailed Procedure

The BNS mentions community service but does not define:

The type of work that qualifies,

Who supervises the offender,

How compliance and accountability will be ensured.

This creates a legal vacuum and leaves too much to judicial discretion.

Risk of Inconsistent Application

Without clear guidelines, different judges may apply the punishment inconsistently, leading to arbitrary or discriminatory practices.

Lack of Monitoring Mechanism

There is no provision yet for probation officers or supervising agencies to manage offenders under community service, which may result in poor enforcement or misuse.⁵⁶²

Cultural and Social Resistance

In India, certain types of manual labor may be perceived as socially degrading, especially by upper castes or privileged groups. If not handled sensitively, community service could

⁵⁶¹ Srishti Rohilla, Concept of Community Service as Punishment Under BNS, 2023 – A Boon or a Bane?, 3 Int'l J. Legal Stud. & Socio-Legal Sci. 62, 62–72 (2025).

⁵⁶² Sonal Rai, Community Service as a Punishment under BNS: Provisions, Theories and Cases <https://lawfoyer.in/community-service-as-a-punishment-under-bns-provisions-theories-and-cases/>

lead to public shaming or reinforce caste-based prejudices.

5.4 Judicial Sensitization and Awareness

The judiciary's attitude and understanding of reformatory justice will play a key role in the success of community service. Judges must:

Be trained in restorative practices,

Avoid using community service as a humiliating punishment,

Ensure it aligns with the offender's capacity and dignity.

Chapter 6: Active Role of Judiciary and Future Outlook of Community Service Sentencing in India

6.1 Judiciary's Progressive Approach

The Indian judiciary has actively contributed to promoting reformatory justice by considering community service as a viable sentencing option in select cases. Over time, courts have emphasized the value of rehabilitation over mere punishment.

Key Case Laws:

Supplementary Case Laws on Community Service Sentencing in India

1. Parvez Jilani Shaikh v. State of Maharashtra (2015)

The Court directed the accused to undertake community service at the Bhabha Atomic Research Centre (B.A.R.C.) Hospital. This was an early example of community service being adopted as a non-custodial sentencing option.⁵⁶³

2. Sunita Gandharva v. State of Madhya Pradesh (2020)

The Madhya Pradesh High Court, interpreting Section 437(3) of the CrPC, held that courts can impose conditions such as community service "in the interest of justice." It emphasized that such conditions must be in alignment with the accused's capacity and willingness. The Court

also noted that community service can rekindle values of love, compassion, and responsibility in offenders.⁵⁶⁴

3. Manoj Kumar v. State (Govt. Of NCT of Delhi) (2022)

In this case, the accused was ordered to perform community service at Lok Nayak Jai Prakash Narayan Hospital every weekend for a month. The Court exercised discretion in tailoring a punishment that focused on rehabilitation.⁵⁶⁵

4. Porsche Accident Case (2023)

A high-profile case involving a minor accused of reckless driving resulted in a community service order. The decision drew national attention and sparked debates around the adequacy, fairness, and implementation of community service in serious offenses involving affluent offenders.⁵⁶⁶

5. Rajesh v. State of Chhattisgarh

The Chhattisgarh High Court, in a landmark judgment, substituted a 6-month jail sentence under Section 379 IPC with community service. The accused, a first-time offender, was directed to serve at a local orphanage for six months. The Court stressed the need for reformatory justice, particularly when the offense is non-violent and driven by poverty.⁵⁶⁷

6. Babu Singh v. State of Uttar Pradesh

The Supreme Court advocated for restorative justice measures like community service, meditative practices, or educational programs, highlighting their potential to rehabilitate offenders and reintegrate them into society.⁵⁶⁸

7. Ravi v. State of Haryana

In this case, a juvenile was sentenced to three years of community service at a hospital under

⁵⁶⁴ Sunita Gandharva v. State of M.P., M.Cr.C. No. 29984/2020 (M.P. HC). <https://indiankanoon.org/doc/68297532>

⁵⁶⁵ Manoj Kumar v. State (Govt. Of NCT of Delhi), Bail Appl. No. 2944/2022 (Del. HC).

⁵⁶⁶ Pune Porsche Accident Case, In re Minor (2023), Bail Order by Juvenile Justice Board, Pune.

News source: <https://www.indiatoday.in/cities/pune/story/community-service-therapy-pune-teen-in-killer-crash-gets-bail-with-conditions-2541342-2024-05-20>

⁵⁶⁷ Shivani Johri, Concept Of Community Service As Punishment Under BNS, 2023- A Boon Or Bane?, 3 Int'l J. Legal & Soc. Sci. Stud. 73, 76–80 (2023).

⁵⁶⁸ Babu Singh v. State of Uttar Pradesh, (1978) 1 SCC 579.

⁵⁶³ Pankaj Shinmar, Community service insights from bharatiya nyaya sanhita, <https://www.legalbites.in/bharatiya-nyaya-sanhita/community-service-insights-from-bharatiya-nyaya-sanhita-2023-1083175>

the supervision of a medical officer. The judgment reflected a child-centric approach, ensuring reform rather than retribution.

6.2 The Road Ahead: Vision for Community Service Sentencing in India

The formal recognition of community service as punishment under BNS can significantly reduce prison overcrowding and shift penal policies from confinement to contribution. This approach fosters a restorative justice model that encourages offenders to reintegrate into society by actively making amends. Engaging in acts that benefit the community is inherently rehabilitative. Voluntary service becomes a form of atonement, allowing offenders to acknowledge their wrongdoing while contributing positively.

Chapter 7: Challenges and Suggestions/Recommendations

7.1 Challenges in Implementation

Despite its merits, several hurdles must be addressed for effective implementation:

1. Lack of Clarity in Legal Provisions:

BNS and BNSS do not clearly define the parameters of community service, including its administration and consequences for default.⁵⁶⁹

2. Absence of Monitoring Mechanisms:

There is no structured oversight, increasing the risk of administrative lapses or offenders exploiting the leniency.

3. Risk of Corruption and Misuse:

Wealthier offenders may attempt to manipulate or bypass the system in the absence of strict controls and accountability measures.

4. Absence of Supervisory Infrastructure

There is currently no established body or mechanism to:

Monitor the completion of community service

Verify its effectiveness

Report non-compliance

Without trained probation officers or community corrections personnel, the punishment may remain merely symbolic.

5. Low Public Awareness:

Community service is often perceived as a lenient sentence due to the lack of awareness of its reformatory value, which may affect public trust in its effectiveness.

6. Judicial Discretion and Inconsistency

In the absence of clear norms, judges may apply the sentence arbitrarily, leading to unequal treatment for similar offences. The lack of precedent may also discourage judges from choosing this option.⁵⁷⁰

7. Weaker Deterrence:

Compared to imprisonment or fines, community service may be seen as less punitive, potentially failing to discourage repeat offenses.

7.2 Suggestions/ Recommendations

To enhance the utility and fairness of community service sentencing, the following steps are essential:

Define Community Service Sentencing Legally:

A clear statutory definition should outline the types of work, duration, and the penalties for non-compliance.

Establish Supervisory Bodies:

Appoint dedicated agencies to supervise, document, and report on the performance of community service by offenders.

Public Education Campaigns:

Promote awareness through case studies, media, and outreach programs to foster societal support and acceptance.⁵⁷¹

⁵⁶⁹ Sonal Rai, Community Service as a Punishment under BNS: Provisions, Theories and Cases
<https://lawfoyer.in/community-service-as-a-punishment-under-bns-provisions-theories-and-cases/>

⁵⁷⁰ Sonal Rai, Community Service as a Punishment under BNS: Provisions, Theories and Cases

⁵⁷¹ Shivani Johri, Concept Of Community Service As Punishment Under Bns, 2023- A Boon Or Bane?, Volume 3, Issue 1, <https://ijlss.com/concept-of-community-service-as-punishment-under-bns-2023-a-boon-or-bane/>

Create Fair Selection Criteria:

Establish objective, transparent criteria for identifying offenders eligible for community service to avoid bias and misuse.

Pilot Projects and Periodic Evaluation

Before national rollout, community service punishment should be tested in pilot districts, preferably urban and semi-urban areas. Data should be collected to assess:

Social acceptance

Recidivism rates

Administrative feasibility

Conclusion

The inclusion of community service as a punishment under the Bharatiya Nyaya Sanhita, 2023 (BNS) marks a significant milestone in the evolution of India's criminal justice system towards a reformatory and human rights-oriented approach. Moving away from purely retributive sentencing models, this provision offers an opportunity to correct the offender while maintaining their dignity and social integration.

The integration of community service into India's criminal justice system marks a progressive step toward restorative justice. Inspired by the philosophy of "hate the crime, not the criminal," this approach aligns with Gandhian principles of reconciliation and reform.

Community service encourages moral responsibility, empowers offenders to contribute meaningfully, and avoids the harmful effects of incarceration for minor offenses. However, successful implementation requires comprehensive legal reform, institutional support, and a change in societal perception of justice and punishment.

For this model to thrive, coordinated efforts from the judiciary, legislature, law enforcement, and civil society are imperative. If implemented wisely, community service can become a

powerful tool in creating a more humane, just, and rehabilitative justice system in India.

Bibliography

Books /Bare Acts/ Commentaries / Journals Referred

K.D. Gaur, Textbook on Indian Penal Code 9 (Universal Law Publishing, 8th ed. 2020)

Indian Penal Code, 1860

The Bharatiya Nyaya Sanhita, 2023

The Bhartiya Nyaya Suraksha Sanhita, 2023

Juvenile Justice (Care and Protection of Children) Act, 2015

National Crime Records Bureau, Prison Statistics India 2022 (2023)

ONLINE ARTICLES / SOURCES REFERRED

1. SSRN, Priyanshi Gupta, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3850264,
2. Riya Ranjan, "Community Sentencing in India: remedies and reforms", iPleaders Blog (March 4, 2021), <https://blog.ipleaders.in/community-sentencing-india-remedies-reforms/>
3. Sharma, Ravi, Community Corrections in India: Challenges and Prospects (LexisNexis 2018)
4. Garg, R. (2021) Community sentencing in India: Remedies and reforms', iPleaders. <https://blog.ipleaders.in/community-sentencing-india-remedies-reforms/>
5. Community Service under BNS <https://www.drishtijudiciary.com/to-the-point/bharatiya-nyaya-sanhita-&-indian-penal-code/community-service-under-bns>
6. Sonal Rai, Community Service as a Punishment under BNS: Provisions, Theories and Cases <https://lawfoyer.in/community-service-as-a-punishment-under-bns-provisions-theories-and-cases/>
7. Srishti Rohilla, Concept of Community Service as Punishment Under BNS, 2023 –



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