

# COMMUNITY SERVICE IN INDIAN CRIMINAL LAW: AN EXAMINATION OF LEGAL AND PRACTICAL DIMENSIONS

*Dr. Anjay Kumar\**  
*Kaushik Katayayan\*\**

## I. INTRODUCTION

The enactment of the *Bharatiya Nyaya Sanhita*, 2023 (BNS), represents a watershed moment in the evolution of India's criminal jurisprudence. Its very title, invoking the Sanskrit term 'Nyaya', is a declaration of intent to transcend the narrow confines of punitive justice inherited from the colonial era. This jurisprudential pivot can be interpreted as a conscious act of decolonization, a departure from the retributive framework of the Indian Penal Code, 1860 (IPC), which primarily viewed crime as a transgression against the sovereignty of the state. The colonial model, focused on deterrence and control, often overlooked the needs of the victim and the community, prioritizing the assertion of state authority. In contrast, the philosophy of 'Nyaya' re-conceptualizes crime as a rupture in the social fabric, a harm inflicted not just upon an individual victim but upon the community as a whole. Consequently, the remedy must also be communal in nature. Community service, in this context, is not a lenient alternative to incarceration but an active instrument of 'Nyaya'. Community service, carried out by an individual or a group for the welfare and improvement of society, has received formal legal recognition with its inclusion in the BNS. It is now prescribed as a post-conviction penalty for six specific offences: unlawful trade by a public servant,<sup>1</sup> failure to appear in response to a declaration under section 84 of the *Bharatiya Nagarik Suraksha Sanhita*, 2023 (BNSS),<sup>2</sup> attempting suicide to obstruct or influence the exercise of lawful authority,<sup>3</sup> theft involving property valued at less than ₹5,000,<sup>4</sup> public misbehavior by an intoxicated person,<sup>5</sup> and defamation.<sup>6</sup>

The United Nations General Assembly, through the Tokyo Rules of 1990, encouraged member states to adopt non-custodial measures and ensure minimum safeguards for individuals subject to alternatives to imprisonment. Among the measures recommended is the imposition of community service as a sentencing option.<sup>7</sup> The *Oxford Learner's Dictionary* defines community service as "work helping people in the local community that someone does without being paid, because they want to, because it is part of their school work, or because they have been ordered by the court as a punishment."<sup>8</sup> In India, the BNSS provides a statutory definition under the explanation to section 23, describing community service as "work which the Court may order a convict to perform as a form of punishment that benefits the community, for which

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\* Assistant Professor, Faculty of Law, University of Delhi, Delhi, India.

\*\* Independent Researcher. LL.B., Faculty of Law, Delhi; LL.M., NIMS University, Jaipur, India.

<sup>1</sup> The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 202.

<sup>2</sup> *Id.*, s. 209.

<sup>3</sup> *Id.*, s. 226.

<sup>4</sup> *Id.*, s. 303(2).

<sup>5</sup> *Id.*, s. 355.

<sup>6</sup> *Id.*, s. 356(2).

<sup>7</sup> UN General Assembly, United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules), GA Res 45/110 (Dec. 11, 1990).

<sup>8</sup> Oxford Learner's Dictionaries, Oxford University Press, 2024, available at: <https://www.oxfordlearnersdictionaries.com/definition/english/community+service?q=community+service> (last visited on Sep. 27, 2024).

he shall not be entitled to any remuneration.”<sup>9</sup>

Legislators believe that introducing community service into the criminal justice system demonstrates that punishment can extend beyond retribution to include societal restitution and personal reform. This power, however, is vested in the Judicial Magistrate of the First or Second Class, who may impose such orders. The larger question facing modern societies is whether offenders should be viewed primarily as threats to be isolated from the public or as individuals in need of treatment and rehabilitation. Punishment, while traditionally designed to inflict pain or penalty as retribution, also serves to deter future offences, express society’s disapproval of criminal acts, and encourage the reformation and reintegration of offenders. Non-custodial measures, such as community service, aim to transform offenders into law-abiding citizens.

Although formally introduced into Indian law only recently, community service has long been discussed in legislative reports and judicial recommendations, with judges historically exercising discretion to impose such penalties to ensure justice. In *T.K. Gopal v. State of Karnataka*,<sup>10</sup> the Supreme Court emphasized that while punishment must be imposed for criminal acts, offenders must also be afforded opportunities for reform, human dignity, and sympathy, underscoring reformation as key to preventing recidivism and fostering repentance. Similarly, in *Nidhi Kaim v. State of Madhya Pradesh*,<sup>11</sup> the Court held that dishonesty cannot be excused with the mere passage of time and that society deserves restitution from wrongdoers. In this case, the Court proposed that doctors who secured admission to medical colleges through fraudulent means should serve the nation for five years without regular salary or benefits. Justice Abhay Manohar Sapre also noted that community service as an alternative to imprisonment is increasingly gaining recognition worldwide, offering greater benefit to society.

In the 156<sup>th</sup> Law Commission Report,<sup>12</sup> The practicability of community service as a punishment was discussed comprehensively. The provisions of the IPC (Amendment) Bill, 1978, where community service was clearly and satisfactorily illustrated with clear guidelines, were taken into context. The report also recommended that persons above eighteen years of age convicted of an offence punishable with imprisonment of either description for a term not exceeding three years or with fine or with both, and the court, instead of sending him to prison, assign him/her a community service order, which was in line with the provisions of the IPC (Amendment) Bill. However, the same was never implemented.<sup>13</sup>

The Juvenile Justice Act, 2015, also incorporates community service as a rehabilitative measure.<sup>14</sup> It provides that when a child, regardless of age, is found guilty of committing a petty or serious offence, or a child under sixteen years of age has committed a heinous offence, the Juvenile Justice Board may direct the child to perform community service. Such service must be supervised by an organization, institution, or designated individual or group identified by the Board, ensuring compliance with existing labour laws.

Despite its rehabilitative intent, critics contend that community service may lack the

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<sup>9</sup> The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023), s. 23.

<sup>10</sup> (2000) 6 SCC 168.

<sup>11</sup> (2017) 4 SCC 73.

<sup>12</sup> Law Commission of India, “156th Report on Indian Penal Code” (Aug. 1997).

<sup>13</sup> Government of India, “Committee on Reforms of Criminal Justice System” (Ministry of Home Affairs, 2003).

<sup>14</sup> Juvenile Justice (Care and Protection of Children) Act, 2015 (Act 2 of 2016), s. 18.

punitive element traditionally associated with punishment, potentially reducing offender accountability. Concerns have been raised that influential individuals may exploit community service provisions, undermining its credibility and reformative purpose. Detractors argue that, as an alternative sanction, community service does not impose a strict penalty and may fail to convey the seriousness of the offence. Internationally, community service has been widely adopted as a sentencing measure in jurisdictions such as the United Kingdom, the United States, and several European nations. Research indicates that non-custodial punishments are less stigmatizing, facilitate rehabilitation, and enable smoother reintegration of offenders into society.

This study examines the role of community service within the Indian criminal justice framework, arguing that its inclusion marks a progressive step towards offender reform and rehabilitation. It further explores the feasibility of extending community service to other minor offences while emphasizing the need for detailed guidelines and provisions to ensure effective and equitable implementation.

## **II. DECONSTRUCTING ‘NYAYA’: BEYOND PUNISHMENT TO SOCIAL JUSTICE**

The introduction of community service under the BNS is firmly rooted in the principles of restorative justice,<sup>15</sup> which stands in stark contrast to the traditional retributive model. Retributive justice is backward-looking, asking three primary questions: What law was broken? Who broke it? What punishment do they deserve? Its primary objectives are deterrence and incapacitation, achieved through sanctions like imprisonment and fines. Restorative justice, however, is forward-looking and relationship-focused. It asks a different set of questions: Who has been harmed? What are their needs? Whose obligation is it to meet those needs? Its core tenets are accountability, reparation, and reintegration.

Community service embodies these restorative principles in a uniquely practical manner. First, it promotes genuine accountability.<sup>16</sup> Unlike the passive experience of incarceration, community service requires active effort from the offender. By performing unpaid work for the benefit of the community, the offender is made to acknowledge the social debt incurred by their actions and take concrete steps to repay it. Second, it facilitates reparation. The service performed directly benefits the community, serving as a symbolic and practical form of repairing the harm caused. This aligns with the expiatory theory of punishment, wherein the offender atones for their wrongdoing through service. Third, and most critically, it fosters reintegration. By keeping the offender within the community and engaging them in pro-social activities, community service prevents the alienation and stigmatization associated with imprisonment. It allows the offender to develop skills, build positive relationships, and cultivate a sense of civic responsibility, thereby reducing the likelihood of recidivism.

While the philosophical shift towards ‘Nyaya’ provides the moral and jurisprudential justification for community service, its adoption is also driven by a powerful pragmatic imperative: the systemic and escalating failure of India’s carceral system. Indian prisons are plagued by chronic overcrowding, housing populations far beyond their intended capacity,

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<sup>15</sup> Deeksha Dabas, “Decolonisation of IPC: The Paradigm Shift in India’s Criminal Justice System with Idea of ‘Nyaya’ Under BNS”, *SCC OnLine Blog* LME 6 (2024).

<sup>16</sup> Khush Brahm Bhatt, “Transforming Justice Community Service as Punishment in Bharatiya Nyaya Sanhita, 2023 and its Impact on Offenders Mindset”, available at: <https://www.linkedin.com/pulse/transforming-justice-community-service-punishment-nyaya-brahmbhatt-gd7df> (last visited on Aug. 18, 2024).

which leads to inhumane living conditions and strains state resources. The National Crime Records Bureau’s “Prison Statistics India” report consistently highlights this crisis, revealing occupancy rates that often exceed 100% across the country.

Furthermore, prisons in India have largely failed in their rehabilitative mandate. Instead of being centers for reformation, they are often described as “dens of criminality” or “schools of crime,” where first-time and petty offenders are exposed to hardened criminals, potentially leading to further radicalization rather than rehabilitation. The high cost of maintaining this vast and ineffective prison infrastructure places a significant burden on the public exchequer. The introduction of community service is, therefore, a logical and necessary response to these deep-seated institutional crises.<sup>17</sup> It offers a cost-effective alternative that can help decongest prisons by diverting non-violent, low-risk offenders from custodial sentences. This reform is not merely a product of high-minded legal philosophy but also a consequence of the stark fiscal and logistical unsustainability of the existing system. The confluence of a progressive, restorative ideology and the urgent need for a practical solution to prison overcrowding has created the political and legal momentum for this landmark reform.

One of the drawbacks of community service is believed to be the discriminate and unfair application of this punishment on offenders. The discretionary power on the courts for deciding the term and scheme of the punishment has also been a cause of concern. Another major concern is who should be eligible for community service and how it should be decided by the courts. As per the BNS, it is only limited to petty offences, first time offenders, defamation, etc. One other reason is as to how exactly community service can ensure reintegration of the offender into the society. A clear definition and providing proper guidelines for community service will ensure that the goals and the objectives of community service will be fulfilled, it will enable the offender as well as those responsible for overseeing its execution comprehend the purpose and intended outcome. It should satisfy the scope and nature of the service, such as types of activities, duration, and target beneficiaries. This issue will be taken up later.

### **III. THE STATUTORY FRAMEWORK OF COMMUNITY SERVICE IN INDIA**

The Indian criminal justice system has undergone numerous reforms over time, with several bills and amendments introducing alternative measures such as open prisons, probation, parole, and rehabilitation programs. The recent inclusion of community service as an additional sentencing option is a welcome step toward diversifying correctional strategies. The push for such alternatives is largely driven by the chronic issue of prison overcrowding and the system’s historically limited focus on rehabilitation. Although community service has been recommended in earlier reports and discussions, it was not implemented at the time due to concerns that India’s legal and administrative framework was not adequately prepared to support such a measure.

The formal induction of community service into India’s penal code is a cornerstone of the BNS, 2023. Section 4(f) of the *Sanhita* explicitly lists “community service” as the sixth form of punishment, placing it alongside traditional sanctions such as the death penalty, imprisonment for life, imprisonment (rigorous and simple), forfeiture of property, and fines. This codification marks a definitive departure from the past, where community service, despite

<sup>17</sup> Lokesh Mittal and Sanighdha, “Petty Crimes and Community Service: A Socio-Legal Critique of The Bharatiya Nyaya Snahita”, available at: <https://ijlsi.com/wp-content/uploads/Petty-Crimes-and-Community-Service.pdf> (last visited on July 24, 2025).

being utilized by the judiciary, lacked a clear statutory anchor in the primary penal law.

The BNS strategically applies this new sanction to a select group of six offenses, which are primarily minor, non-violent, or pertain to public order, reflecting a cautious and targeted implementation. This approach aligns with international best practices, which typically reserve community-based sentences for offenders who do not pose a significant threat to public safety.<sup>18</sup>

A critical legal nuance lies in the nature of the punishment. For five of the six offenses, community service is presented as an *alternative* sanction, indicated by the conjunction “or,” granting the judiciary the discretion to choose it over imprisonment or a fine. However, for petty theft under the proviso to section 303(2), it is the sole *mandatory* punishment, provided the offender is a first-time convict and makes restitution for the stolen property. This distinction is significant, as it signals a legislative intent to make community-based reparation the default response for minor property crimes, while allowing for judicial flexibility in other specified cases.

#### ***A. Judicial Approaches to Community Service***

Since the statute books of Indian criminal law do not explicitly define or elaborate the scope of community service, its contours can currently be inferred only from judicial precedents and comparative practices adopted in other jurisdictions. India may benefit from studying countries where community service has been successfully implemented, examining both the structure of such programs and the types of services assigned to offenders. The nature of community service varies across regions and countries, influenced by the availability of work and the individual skill set of the offender, which plays a critical role in assigning tasks that are both meaningful and rehabilitative. Broadly, community service encompasses a wide range of activities, including sweeping streets, assisting in religious institutions, tree planting, volunteering at old-age homes and hospitals, and similar acts of public service, all of which are commonly ordered by courts worldwide. In India, judicial discretion has similarly shaped the practice, with courts assigning offenders diverse forms of service tailored to the facts and circumstances of each case. Some of the cases in which community service has been recommended and sentenced are: In *Santa Singh v. State of Punjab*,<sup>19</sup> the Justice Bhagwati opined that the judiciary should incorporate creative sanctions while sentencing taking into account the holistic approach creating a situation where its beneficial for both the offender and the society at large. These observations from the judiciary is seen as paving way for an alternative to incarceration. In *State v. Sanjeev Nanda*,<sup>20</sup> a case of causing death by negligence, section 304A<sup>21</sup>, Radhakrishnan, J. opined that in many countries convicts in crimes related motor vehicles, have voluntarily come forward to serve the community. It may not be in true sense a punishment but it is an act of giving back to the society what they owe. This act will be appreciated by the society, and also give solace to the convict. And that incarcerating the convict in such cases may not even help the convict further. In *Nidhi Kiam* case, the court suggested that the MBBS students who were in their final year to work at the hospital after graduating for five years without pay because the students have obtained admission to the medical school by using unfair means. The act of service to be undertaken must be for the greater good of the society and thus, community service. The court was also of the opinion that

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<sup>18</sup> *Supra* note 1.

<sup>19</sup> AIR 1976 SC 2386.

<sup>20</sup> (2012) SCC OnLine SC 528.

<sup>21</sup> The Indian Penal Code, 1860 (Act 45 of 1860), s. 304A.

a wrong done cannot go unpunished, and that offenders cannot be made to feel that time will heal everything. However, in this case the opinion suggesting community service was not taken forward by the larger bench, and the admission of the students were held invalid.

In *Vishal S Awtani v. State of Gujarat*,<sup>22</sup> the High Court discussed what community service is, and whether it can be said that community service is a punishment or reparation or reformation. The Court held that community service may not be a punishment in its true sense, rather a kind of reparation. This case was filed by the petitioner keeping in view the increasing number of COVID 19 cases in Gujarat due to negligent and reckless behaviour. The petitioner argues that wearing of face mask and social distancing norms were not followed strictly and diligently. The petitioner prayed for higher fine rates for violation of these rules. The High Court held that any person violating mask and social distancing norms shall be mandated to do community service at any COVID care center run by local authorities.

In *Mahender Singh Alias Sunny v. The State*,<sup>23</sup> the Delhi High Court order community service to youngsters above the age of eighteen after quashing the FIR against them even after noting injury to the complainant as a result of the conduct of the accused by exercising its power under section 482 of the Code of Criminal Procedure (CrPC).

In *Chiraguddin v. State Govt. of NCT*,<sup>24</sup> the Delhi High Court while quashing an FIR for sending obscene message to a woman, and the matter being settled between the parties. The petitioner was asked by the Court to undertake community service for a month each at an old age home, LNJP Hospital, and an orphanage respectively. The petitioner was also asked to plant 50 trees at his own expense and nurture them.

### ***B. The Ambiguous Definition in the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023***

While the BNS establishes *that* community service can be imposed, the corresponding procedural code, the BNSS provides only a skeletal definition of *what* it entails. Section 23 of the 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”.<sup>25</sup>

This definition, while establishing the core principles of unpaid labor for communal benefit, is conspicuous in its lack of detail. It leaves critical terms like “work that benefits the community” entirely open to judicial interpretation. The legislation provides no guidance on the types of activities that qualify, the methodology for determining the duration of service, the process for matching offenders to suitable placements, or the mechanisms for supervision and verification. This legislative vagueness creates a significant implementation challenge. While it grants the judiciary valuable flexibility, it also opens the door to inconsistency, disparity, and potential legal challenges, as the nature and burden of the punishment could vary dramatically from one courtroom to another.

The formal inclusion of community service in the BNS was not a sudden innovation but rather the culmination of a long-standing trend in Indian jurisprudence. For decades, the concept has existed on the peripheries of the adult criminal justice system, primarily through

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<sup>22</sup> (2020) SCC OnLine Guj 2814.

<sup>23</sup> AIROnline 2021 Del 347.

<sup>24</sup> 2024 LiveLaw (Del) 866.

<sup>25</sup> *Supra* note 9.

two channels: statutory provision for juveniles and proactive judicial interpretation for adults. The most explicit statutory precursor is found in the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 18(1)(c) of this Act empowers the Juvenile Justice Board to direct a child found to be in conflict with the law to perform community service under the supervision of an organization or individual identified by the Board.<sup>26</sup> This provision has served as a legislative testing ground for community-based sanctions in India, establishing a precedent for a reformative approach for young offenders.

Concurrently, the higher judiciary, particularly the High Courts, has played a pioneering role in applying community service to adult offenders, often acting ahead of the legislature. By exercising their inherent powers under section 482 of the CrPC to “secure the ends of justice,” courts have innovatively imposed community service as a condition for granting bail or for quashing First Information Reports (FIRs) in cases where parties have reached a settlement. Landmark observations. This history of judicial activism reveals a deep-seated recognition within the judiciary of the limitations of traditional punishment and a willingness to innovate. The BNS, in this light, can be seen as the legislature formalizing and codifying a practice that the judiciary had already incubated and validated through its own jurisprudence.

### ***C. The Legislative Void: Absence of a Guiding Framework***

The most immediate and fundamental challenge to the successful implementation of community service in India is the legislative void at its core. As analysed previously, the BNS provides a definition so broad as to be functionally uninstructive, leaving the entire operational framework to the discretion of individual judges. This absence of a guiding framework on critical parameters—such as eligibility criteria beyond the six specified offenses, the methodology for calculating the quantum of service hours, and the principles for matching an offender’s skills to a particular task—creates a fertile ground for arbitrariness and inconsistency.

This unfettered judicial discretion, while allowing for flexibility, poses a significant threat to the principle of equality before the law. It is conceivable that two individuals convicted of the same offense in different courts could receive vastly different community service sentences, one might be tasked with a few hours of clerical work, while another is ordered to perform months of strenuous manual labor. Such disparities could lead to a plethora of legal challenges, undermining the legitimacy and deterrent effect of the punishment itself. Furthermore, this lack of structure could inadvertently create a two-tiered system of justice. A well-resourced, articulate offender with effective legal representation may be more successful in persuading a court to grant a lenient and convenient form of community service, whereas a marginalized individual without adequate counsel may be assigned a more onerous or stigmatizing task. This outcome would directly contradict the foundational goal of ‘Nyaya’ as social justice for all.

Currently, India lacks a specialized national or state-level agency, akin to a dedicated probation service, equipped to handle these responsibilities. The existing probation system is already overburdened and under-resourced, and it is ill-equipped to take on the massive logistical challenge of managing thousands of community service sentences. This institutional deficit creates an “implementation paradox”: the BNS has introduced a modern, reformative

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<sup>26</sup> *Supra* note 14.

punishment but has failed to provide the modern administrative infrastructure required to make it work. Without a clear answer to the question of “Who will supervise?”, community service risks becoming a hollow provision, a punishment that is ordered by the courts but cannot be effectively executed, monitored, or verified, ultimately rendering it a mere formality.

#### ***D. Enforcement and Non-Compliance***

A direct corollary of the institutional deficit is the lack of a clear, standardized mechanism for enforcement and for addressing non-compliance. The BNS and BNSS are silent on the legal consequences an offender faces if they fail to report for their assigned service, perform their duties unsatisfactorily, or abandon the placement altogether.<sup>27</sup> This procedural gap is a critical weakness, as a punishment without a credible enforcement mechanism loses its coercive and deterrent power.

In the absence of a statutory provision, it is unclear what recourse a court would have. Would the offender be held in contempt of court? Would the court be empowered to impose the original custodial sentence that community service replaced? Or would it simply extend the service hours? Each of these options has different legal implications, and leaving this decision to judicial discretion further risks inconsistency. For community service to be taken seriously as a penal sanction, there must be a clear and legislated “or else” clause. A well-defined protocol for breach of a community service order is essential to ensure that the sentence has legal teeth and is not perceived by offenders as an obligation that can be shirked without consequence.

In a hypothetical scenario, consider a thief from the lower economic strata who makes a living by stealing. He is convicted and sentenced to community service. After completing the sentence, will this ensure that he does not revert to his old ways? If the court does not help him find another means of livelihood, there are chances that he will return to his previous criminal behavior, as stealing was his primary source of income. A situation like this poses a significant challenge for the courts and the criminal justice system in assessing the effectiveness and efficiency of community service.

### **IV. EXTENSION OF COMMUNITY SERVICE TO OTHER OFFENCES**

Community service could be incorporated into minor and non-violent offences, first-time offences, white-collar crimes, and select traffic and property offences. Examples include violations under the Motor Vehicles Act, 1988 (sections 179–185),<sup>28</sup> In this section, the punishment of community service can be incorporated into both sub-clauses 1 and 2. For section 79(1), which talks about willful disobedience of orders from a competent authority or obstruction in the discharge of duty empowered by the act, if no other penalty is provided offence is punishable with fine which may extend to ₹ 2,000. For this offence, community service can be imposed alongside fine. And for section 179(2), willful withholding information or giving false information knowing it to be false is punishable with imprisonment for upto three months, or fine, or with both. In this offence, community service can be included as an alternative of imprisonment.

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<sup>27</sup> Medha Joshi, “Community Service Sentence: A Paradigm Shift in the Criminal Justice Ecology”, available at: <https://www.whiteblacklegal.co.in/details/community-service-sentence--a-paradigm-shift-in-the-criminal-justice-ecology-by---medha-joshi> (last visited on June 10, 2025).

<sup>28</sup> The Motor Vehicles Act, 1988 (Act 59 of 1988).

Minor drug consumption cases under the Narcotic Drugs and Psychotropic Substances Act, 1985,<sup>29</sup> (sections 27<sup>30</sup> and 64A<sup>31</sup>), The provision grants immunity to a drug user if he/she volunteers to participate in de-addiction treatment. Community service while undergoing this process may be helpful to the drug user, giving him a sense of responsibility, purpose, and discipline. Offences under the BNS, such as negligent disease spread (sections 271 and 273),<sup>32</sup> the provisions punish negligent acts of people which may likely spread dangerous disease, and also punish willful disobedience of quarantine rules. These punishments prescribe imprisonment or fine. However, community service at the hospital or disease centers during times of disease outbreak may deter people from breaking the rules. This was held in the case of *Vishal S. Awtani*. Public nuisance (sections 292 and 293), the provision punishes public nuisance in cases where no punishment is mentioned by the *Sanhita*. The punishment that can be sentenced is fine, which may extend upto ₹1,000. Community service can be added as another option for people for whom the court feels that the fine mentioned is not sufficient.

These are some non-exhaustive offences where community service as a form of punishment can be added. However, on the other hand, Courts could also impose community service as a prerequisite for parole or probation, encouraging offender accountability and societal reparation.

International experiences provide valuable lessons:

- **United States:** Formal community service sentencing began in 1966 in Alameda County, California, offering unpaid labour as a probation condition. Widely applied to misdemeanours, white-collar crimes, and corporate offenders, U.S. data shows reduced recidivism and cost savings but highlights risks of unequal application.<sup>33</sup>
- **Spain:** Introduced in 1995 for fine defaults and weekend detention substitutes, community service emphasizes reparation. While implementation is generally successful, excessive orders sometimes lapse before execution, and imprisonment rates have not decreased significantly.<sup>34</sup>
- **Netherlands:** Community service is a mainstream sentencing option for property and violent crimes, supervised through a structured four-phase system involving probation officers. Statistics show a 67% reduction in property-crime recidivism and 60% in violent-crime recidivism, although prison use has not declined as expected.<sup>35</sup>
- **Malaysia:** Community service is mandatory for certain offences and young offenders, proposed as a humane alternative to corporal punishment.<sup>36</sup>

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<sup>29</sup> The Narcotic Drugs and Psychotropic Substances Act, 1985 (Act 61 of 1985).

<sup>30</sup> *Id.*, s. 27.

<sup>31</sup> *Id.*, s. 64A.

<sup>32</sup> Supra note 1, s. 271, 273.

<sup>33</sup> James R. Davies, “Community Service as an Alternative Sentence” 7 *Journal of Contemporary Criminal Justice* (1991).

<sup>34</sup> Ester Blay, “It could be us: Recent Transformation in the Use of Community Service as a Punishment in Spain” 2 *European Journal of Probation* 62-81 (University of Bucharest, Romania, 2010).

<sup>35</sup> Miranda Boone, “Only for Minor Offence: Community Service in the Netherlands” 2 *European Journal of Probation* (University of Bucharest, Romania, 2010).

<sup>36</sup> Anita Abdul Rahim, YM Tengku Noor Azira Tengku Zainudin, *et.al.*, “Community Service as an Alternative Punishment: The Extent of its Application on the categories of Crime and Offender in Malaysia” 1 *International Journal of Education and Research* 1-8 (2013).

The Indian system can replicate these models but must exercise caution. Overloading courts with community service orders at this early stage could create administrative chaos. Its use should be restricted to minor, non-violent offences, and first-time offenders, avoiding application to heinous crimes or habitual offenders. Judges should consider offender skill sets, age, willingness, and criminal history when imposing such sentences.

## **V. CONCLUSION**

Community service as a penal sanction represents a progressive and rehabilitative shift within India's criminal justice administration. Rooted in principles of restorative justice, it emphasizes rehabilitation, social reintegration, and offender accountability while offering a meaningful alternative to incarceration. By enabling offenders to contribute positively to society, this measure addresses both individual reform and broader societal needs.

Additionally, community service can alleviate the systemic challenges of overcrowded prisons, reduce costs, and promote a culture of empathy and civic engagement. While effective implementation will require robust supervision, clear guidelines, and mechanisms to evaluate its impact, its potential benefits are substantial. As highlighted in comparative studies, such as those in Malaysia, community service has proven to be a humane and constructive sentencing tool.

India's adoption of community service marks an important step toward a more human-centered justice system, one that prioritizes reform over retribution and seeks to create a balanced and socially responsible approach to criminal law.