
USE OF COMMUNITY SERVICE AS A PENALTY UNDER SECTION 4 OF BHARATIYA NYAYA SANHITA, 2023

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“Justice need not always be served behind the bars, sometimes it holds a broom, a book, or a helping hand to restore the disrupted harmony in society.” India follows the system of retributive and reformative justice, which aims to punish for wrongdoings, and rehabilitate and reintegrate offenders and convicts into the society. Community service has been introduced as a punishment for offenders under section 4 of the Bharatiya Nyaya Sanhita, 2023 in clause (f).¹ It is a kind of punishment that requires convicts and offenders to perform service for the society or in simpler terms, undertake unpaid work for the benefit of the society at large. This reform is the first Indian statutory recognition of community service as an alternative penalty, depicting the inclination of Indian criminal laws towards reformative justice. Allowing offenders to contribute positively to the very society they harmed balances accountability and rehabilitation. Prior to the new criminal laws, only section 18(1)(c) of the Juvenile Justice Act, 2015,² permitted community service as a type of punishment for child offenders.³ Moreover, the Courts have on several occasions, under section 482 of the Code of Criminal Procedure, 1973, which provides the High Courts with the authority to provide complete justice,⁴ sentenced accused and convicts to specified hours of community service, on case-to-case basis.⁵ Although a new introduction to the legislation, it is not a new concept.

In section 4 of the Bharatiya Nyaya Sanhita, 2023, there are six categories of punishments available to courts to hold offenders liable; (a) death, (b) life imprisonment, (c) rigorous and simple imprisonment, (d) forfeiture of property, (e) fine, and (f) community service.⁶

¹ Bharatiya Nyaya Sanhita, 2023, § 4(f), No. 45, Acts of Parliament, 2023 (India).

² Juvenile Justice (Care and Protection of Children) Act, 2015, § 18(1)(c) No. 2, Acts of Parliament, 2016 (India).

³ Anurag Mishra & Yash Raj, *Community Service: A Progressive Shift Introduced By Bharatiya Nyaya Sanhita*, LIVELAW (Aug 12, 2025, 08:09 PM) <https://www.livelaw.in/lawschool/articles/community-service-bharatiya-nyaya-sanhita-indian-penal-code-juvenile-justice-act-national-crime-records-bureau-260813>.

⁴ Code of Criminal Procedure, 1973, § 482, No. 2, Acts of Parliament, 1974 (India).

⁵ Irfan Rashid & Arpit Pandey, *Community Service under the BNS: Progress, Pitfalls, and Potential*, NLIU LAW REVIEW (Aug 15, 2025, 09:15 AM) <https://nliulawreview.nliu.ac.in/blog/community-service-under-the-bns-progress-pitfalls-and-potential/>.

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

Community service has been defined in the explanation of section 23(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023, “the work which the Court may order a convict to perform as a form of punishment without remuneration, that also benefits the community”.⁷

The Bharatiya Nyaya Sanhita, 2023 has introduced community service as a punishment for six offences:-

- a) Section 202 – Public servant unlawfully engaging in trade

“Where a public servant unlawfully engages in trade, he shall be punished with community service among other penalties.”⁸

- b) Section 209 – Non-appearance in response to proclamation under section 84 of BNSS⁹

“Where a proclamation has been issued or published, and whoever fails to appear as required, shall be punished with community service among other penalties.”¹⁰

- c) Section 226 – Attempt to commit suicide to compel or restraint exercise of lawful power

“Whoever tries to restrain or compel any public servant from exercising lawful power by attempting to commit suicide shall be punished with community service among other penalties.”¹¹

- d) Section 303(2) – Theft

“Whoever is convicted of theft for the first time and where the value of the stolen property is less than five thousand rupees, shall be punished with community service, upon restoration of the property or return of the property’s value.”¹²

- e) Section 355 – Misconduct in public by a drunken person

“Whoever misconducts in public in the state of intoxication, shall be punished with

⁷ Bharatiya Nagarik Suraksha Sanhita, 2023, § 23(3), No. 46, Acts of Parliament, 2023 (India).

⁸ Bharatiya Nyaya Sanhita, 2023, § 202, No. 45, Acts of Parliament, 2023 (India).

⁹ Bharatiya Nagarik Suraksha Sanhita, 2023, § 84, No. 46, Acts of Parliament, 2023 (India).

¹⁰ Bharatiya Nyaya Sanhita, 2023, § 209, No. 45, Acts of Parliament, 2023 (India).

¹¹ *Id.* § 226.

¹² *Id.* § 303(2).

community service among other penalties.”¹³

f) Section 356(2) – Defamation

“Whoever defames another shall be punished with community service among other penalties.”¹⁴

In *State, Through P.S. Lodhi Colony v. Sanjeev Nanda*, the accused had been convicted in a hit-and-run case under sections 304 (pt. II) and 304A. The bench directed the accused to pay an amount of Rs. 50 Lakhs to the Union of India within six months of the order, which is to be utilised for providing compensation to the victims of the motor accident. A failure of which would lead to a simple imprisonment of one year. The accused was also directed to do community service for two years, and on default, would have to undergo a simple imprisonment of two years. The bench thereon also mentioned that convicts, now, voluntarily come forward to serve the society through community service. However, it is not a punishment in the real sense as the convicts will be appreciated by the society and find solace themselves by contributing to the community, especially in cases where human lives have been lost due to one’s inaction or action.¹⁵

The Delhi High Court, in *Om Kumar & Ors. v. The State of NCT of Delhi*,¹⁶ quashed an FIR under sections 323/354/452/506/34 IPC as the parties had amicably settled their dispute which had arisen when the neighbour-petitioners attacked and molested the respondent. However, the High Court directed the petitioners to plant 50 tree saplings, which are up to 3ft in height in residential local parks within the jurisdiction of Police Station Sultanpuri, Delhi, within eight weeks. A non-compliance of which would make the petitioners liable to the Delhi State Legal Services Authority (DSLSA) for Rs. 25,000/-.¹⁷

In *Parvez Shaikh v. State of Maharashtra*, the petitioners were instructed to render community service at the BARC Hospital when they sought to quash the criminal proceedings after settling

¹³ *Id.* § 355.

¹⁴ *Id.* § 356(2).

¹⁵ *State, Through PS Lodhi Colony, New Delhi v. Sanjeev Nanda*, (2012) 8 SCC 450

¹⁶ *Om Kumar & Ors. v. The State (NCT of Delhi)*, 2024 DHC 3520

¹⁷ Prashant Jha, *Delhi High Court orders family to plant 50 saplings as condition to quash FIR*, BAR AND BENCH (Aug 16, 2025, 02:05 PM) <https://www.barandbench.com/news/delhi-high-court-orders-family-plant-50-saplings-condition-quash-fir>.

amicably with the complainant.¹⁸

In *Manoj Kumar v. State, NCT of Delhi*, the Delhi High Court ordered the accused to perform community service at the LNJPN Hospital on every weekend for one month and imposed a cost of Rs. 35,000/-, which is to be paid to the AFBCM (Armed Forces Battle Casualties Fund).¹⁹

Community service may be assigned as a punishment in cases of non-violent crimes, juvenile cases, traffic offences, financial hardships, substance abuse, and as a probation condition. Offenders must complete the pre-determined number of hours of unpaid service to the community and engage in rehabilitation programmes.²⁰ The need for community service as a punishment arose due to overcrowding in prisons. The 2022 Report of the National Crime Records Bureau highlighted that It is primarily due to the lengthy judicial processes, abundant undertrial prisoners, and the reliance on imprisonment as the principal type of punishment. The enactment of community service as penalty intends to address overcrowding by reducing non-violent offender from prison, ergo curbing burden on the prison system.²¹

Furthermore, it reduces the tendency of offenders to offend again and promotes restorative justice.²² However, for the effectiveness and long-term viability of community service as a punishment, it is essential to implement it with proper planning while addressing potential challenges. There are some essential elements for the same:

- (i) Offender-Awareness – It is essential to brief the offender of the nature, need and purpose of the community service, emphasising that it is a punishment and they are not being acquitted. This reduces petty crime and the offenders understand the consequences, if in case they do any crime in the future.
- (ii) Appropriateness and Proportionality – The punishment must be appropriately related to the crime they committed and be proportional to the crime they committed, i.e., not too excessive or too minimal compared to the crime.

¹⁸ *Parvez Jilani Shaikh v. State of Maharashtra*, 2015 SCC OnLine Bom 7171

¹⁹ *Manoj Kumar v. State, NCT of Delhi* W.P. CrL 116/2022

²⁰ Srishti Rohilla, *Concept of Community Service as Punishment under BNS, 2023 – A Boon or a Bane?*, 3 IJLSS 62, 64-65 (2025).

²¹ Mishra & Raj, *supra* note 3.

²² Rohilla, *supra* note 19.

Appropriateness is a vital factor as it not only acts as a punishment but also instils realisation within the offender of the wrong done by him / her.

- (iii) Supervision and Record Maintenance – The convict must be monitored, supervised and kept record of, to maintain standard of quality of work.²³ It ingrains in the minds of the offenders that it is not an acquittal, rather a punishment that must be complied with till it is performed and done.
- (iv) Time-Bound Punishment – There must be clear deadlines, specific hours and structured work plans to establish all the other essentials. This lays down a proper procedure and acts as a strict check upon the offenders, depicting strictness on compliance and punishments.
- (v) Post-Completion Evaluation – The offender must be assessed through a feedback mechanism of supervisors, as to whether he has complied with the punishment and whether the rehabilitation has been achieved. It inculcates an understanding in the offenders that it is important to avoid crimes to not be punished.

The introduction of community service under section 4 of the Bharatiya Nyaya Sanhita, 2023 shows a shift of Indian criminal system from a predominantly retributive justice system to a reformative and restorative system. It allows the offenders to recognise, understand and work upon their wrongdoings by contributing to the very community they caused harm to, given it was a minor, petty and non-violent crime. This punishment must be assigned more often to reduce the burden on the prisons, to give back to the society, and to learn that the society must be taken care of, rather than harmed. It not only decreases the prison overcrowding, but also reintegrates the offenders into the society, fostering accountability with rehabilitation. However, there is a need for a stronger implementation system, which includes making the offender aware of community service being a punishment, the punishment being appropriate for and proportional to the crime with specified deadlines and structured work plans, and ensuring that the offender is supervised during and evaluated after the community service hours. It must instil in them, the need to help society and avoid crimes to remain in a

²³ Priya Sharma, *Assessing Community Service Implementation as Punishment in India: Is it Truly Punitive?*, NUALS LAW JOURNAL (Aug 16, 2025, 05:09 PM) <https://nuals law journal.com/2024/12/07/assessing-community-service-implementation-as-punishment-in-india-is-it-truly/>.

harmonious community. Ultimately, justice is served best through realisation and rehabilitation paired with retribution and accountability.