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# RETHINKING PUNITIVE JUSTICE: A CRITICAL ANALYSIS OF COMMUNITY SERVICE AS A MODE OF SENTENCING UNDER THE BHARATIYA NYAYA SANHITA, 2023

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## ABSTRACT

The adoption of community service as a punishment option was suggested for more than 40 years by Law Commission studies and expert committees in India; nonetheless, the idea stayed on paper until the Bharatiya Nyaya Sanhita (BNS), 2023 was passed. Community service is one of the six recognised punishments listed in Section 4(f) of the BNS; and it has only been applied to six minor infractions so far. The retributive punitive tradition of the Indian Penal Code, 1860, the reformist suggestions of the Law Commission and the Malimath Committee, and the final, restrictive codification of community service are all traced in this article. It compares the Indian reform to similar non-custodial sentencing policies in South Africa, the United States, and England and Wales. It contends that although the BNS reform has true symbolic value, it is structurally flawed because the legislature has not established the institutional framework of pre-sentence evaluation, probation supervision, and authorised work sites that similar jurisdictions consider essential. The paper concludes that community service runs the risk of becoming a statute book provision that is mostly absent from courtroom practice unless the Bharatiya Nagarik Suraksha Sanhita, 2023, and its subordinate rules are amended.

**Keywords:** Community Service; Bharatiya Nyaya Sanhita, 2023; Restorative Justice; Sentencing Reform; Non-Custodial Punishment; Reformatory Theory of Punishment.

## INTRODUCTION

In Indian criminal law, the concept of punishment has never been static. The Indian Penal Code 1860, which was drafted under Lord Macaulay's guidance, was intentionally retributive and deterrent in its design. It acknowledged that the only appropriate punishments were death, transportation (later life imprisonment), imprisonment of any kind, forfeiture of property and fine.<sup>1</sup> Even as the theoretical understanding of punishment advanced around them, Indian trial courts continued to work within this restricted list for more than 150 years. The Supreme Court maintained that "the focus of interest in penology is the individual and the goal is salvaging him for society" and that "infliction of harsh and savage punishment is a relic of past and regressive times," starting with the landmark case of *Mohd. Giasuddin v. State of Andhra Pradesh*.<sup>2</sup> However, aside from a distinct probation statute that functioned independently of the substantive penal code, the statute itself provided sentencing courts with no non-custodial means of implementing this rehabilitative ideology.

For the first time, the *Bharatiya Nyaya Sanhita, 2023 (BNS)*, which took the place of the IPC on July 1, 2024, is removed from this exclusive list. The *Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS")* defines community service as work that a court may order a convict to conduct for the benefit of the community without compensation.<sup>3</sup> The reform has been welcomed in official and academic commentary alike as a long overdue embrace of restorative sentencing.<sup>4</sup> Section 4(f) includes community service as a sixth category of punishment. Both official and scholarly opinion have praised the move as a long-overdue acceptance of restorative sentencing. However, a closer examination of the BNS uncovers a provision with a limited reach that is only applicable to six minor infractions, lacks sentencing guidelines, and is not backed by any special monitoring or supervisory apparatus under the BNSS. Using the statutory text, the legislative history of Indian sentencing reform, judicial rulings, and comparative data from South Africa, the United States, and England and Wales, this article conducts a critical, doctrinal analysis of community service as a form of punishment under the

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<sup>1</sup>The Indian Penal Code, 1860, Section - 53 (as originally enacted; repealed and replaced by the *Bharatiya Nyaya Sanhita, 2023*, w.e.f. 1 July 2024).

<sup>2</sup> *Mohd. Giasuddin v. State of A.P.*, (1977) 3 SCC 287 : AIR 1977 SC 1926.

<sup>3</sup> The *Bharatiya Nyaya Sanhita, 2023*, No. 45 of 2023, Section - 4(f), read with the *Bharatiya Nagarik Suraksha Sanhita, 2023*, No. 46 of 2023, Section - 23, Explanation 1 (India).

<sup>4</sup> See, e.g., PRS Legislative Research, *The Bharatiya Nyaya Sanhita, 2023 (Bill Summary)*, available at <https://prsindia.org/billtrack/the-bharatiya-nyaya-sanhita-2023> (last visited 31 Aug. 2026); *Community Service: Insights from Bharatiya Nyaya Sanhita, 2023*, available at <https://www.legalbites.in/bharatiya-nyaya-sanhita/community-service-insights-from-bharatiya-nyaya-sanhita-2023-1083175>.

BNS.

### **Theoretical Foundations: Locating Community Service Between Retribution and Reform**

The traditional arrangement of classical conceptions of punishment places deterrence and incapacitation in the middle of a spectrum with retribution at one end and reform at the other.<sup>5</sup> Deterrent theory views punishment as a tool to deter future offences by both the offender and society at large; reformatory theory views punishment as a chance for the offender's moral and social rehabilitation and retributive theory views punishment as a morally justified response to wrongdoing, proportionate to the seriousness of the offence.<sup>6</sup> Community service does not fit comfortably into any one of these categories. It has a retributive dimension because it imposes a real cost on the offender, such as unpaid labour and the public visibility of the sentence; it has a reformatory dimension because it directs the offender's labour toward a socially beneficial end and, ideally, toward social reintegration; and it has a restorative dimension, which sets it apart from the other three classical theories in that it aims to partially repair the harm the offence caused to the community.<sup>7</sup>

This restorative aspect sets community service apart from probation or a suspended sentence, both of which defer punishment in exchange for good behaviour without demanding any affirmative act of repair. As it has evolved globally, restorative justice views crime as an injury to a victim and a community rather than just a breach of the state's abstract authority. It also looks for remedies that heal the harm rather than just inflicting suffering on the perpetrator.<sup>8</sup> This concept is implemented in a very straightforward way through community service: the offender's unpaid labour is, at least conceptually, directed toward the community that paid for the offence rather than the state's criminal justice system.

Even without the legal tools to put reformatory sentencing into practice, the Indian judiciary had shown a preference for it in theory well before 2023. Krishna Iyer, J., writing for the Court in *Mohd. Giasuddin*, noted that since cruel detention "merely produces laceration of the offender's mind, the criminal justice system must shift from a purely retributive, "in terrorem"

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<sup>5</sup> See generally H.L.A. Hart, *Punishment and Responsibility: Essays in the Philosophy of Law* (2d ed., Oxford Univ. Press 2008).

<sup>6</sup> See P.S.A. Pillai, *Criminal Law 4-9* (K.I. Vibhute ed., 14th ed., LexisNexis 2019) (discussing the deterrent, retributive, preventive and reformatory theories of punishment).

<sup>7</sup> See Gwen Robinson & Fergus McNeill, *Community Punishment: European Perspectives 1-14* (Routledge 2016).

<sup>8</sup> See Howard Zehr, *Changing Lenses: Restorative Justice for Our Times 177-214* (25th anniversary ed., Herald Press 2015).

approach to a rehabilitative one.<sup>9</sup> In this way, the BNS's implementation of community service might be interpreted as a belated legislative catch-up with a judicial philosophy that existed for almost 50 years prior to it. The courts had expressed this attitude, but they lacked a statutory mechanism to regularly implement it.

### **The Long Road to Recognition: Legislative Proposals Before the BNS**

In Indian law-reform discourse, the concept of community service as a legal penalty is not new what is new is its implementation. The Law Commission of India acknowledged the need for alternatives to incarceration as early as its 42nd Report of 1971. These alternatives included probation, fines, and community service, especially for minor, non-violent offences. The commission cautioned that an over-reliance on custodial sentences contributed to prison overcrowding without a corresponding rehabilitative return.<sup>10</sup> The Indian Penal Code (Amendment) Bill, 1978, which suggested community sentencing for offences carrying a sentence of less than three years in prison with prescribed labour hours ranging from forty to one thousand, was a partial statutory manifestation of the recommendation.<sup>11</sup> The Bill lapsed with the dissolution of the Lok Sabha and was never revived.

In its 154th Report of 1996, the Law Commission revisited the issue and suggested expanding the scope of community service, especially for first-time offenders and those convicted of minor offences.<sup>12</sup> The Commission re-examined the issue a year later in its 156th Report on the Indian Penal Code, but it took a more circumspect stance. Although it acknowledged the reformatory potential of community service, it voiced concerns about the administrative burden of ongoing monitoring and supervision that such a scheme would impose. Overall, it seemed to favour the current open-prison model over community service as a correctional tool.<sup>13</sup> Later commentators have argued that this reservation was itself a missed opportunity, since it treated administrative inconvenience as a reason to abandon the reform rather than as a problem to be solved by building the necessary infrastructure.<sup>14</sup> In its 2003 report, the Committee on Reforms of the Criminal Justice System, led by Justice V.S. Malimath, recommended community

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<sup>9</sup> Mohd. Giasuddin, *supra* note 2.

<sup>10</sup> Law Commission of India, The Indian Penal Code, Report No. 42 (1971).

<sup>11</sup> Priyanshi Gupta, Community Service: As a Part of Sentence in India, at 3-4 (2021), available at <https://ssrn.com/abstract=3850264>, citing the Indian Penal Code (Amendment) Bill, 1978.

<sup>12</sup> Law Commission of India, Report No. 154 (1996).

<sup>13</sup> Law Commission of India, The Indian Penal Code, Report No. 156, Vol. I (1997).

<sup>14</sup> Reimagining Punishment: Institutionalising Community Service in India's Penal Framework, SCC OnLine Blog (9 Feb. 2026), available at <https://www.scconline.com/blog/post/2026/02/09/community-service-india-penal-framework-reimagining-punishment/>.

service as a workable substitute for custodial sentences because it would lessen the strain on an already overcrowded prison system while advancing rehabilitative and restorative objectives.<sup>15</sup> The Committee's recommendation, like that of the Law Commission before it, was not translated into statutory amendment. It took a further two decades, and a wholesale replacement of the IPC itself, for the recommendation to find its way onto the statute book.

There are two reasons this history is important. First, it demonstrates that the BNS reform did not arise from a policy vacuum rather, it was based on a substantial body of expert opinion that had reached a consensus over several decades regarding the merits of community service as a sentencing option. Second, and perhaps more concerning, it demonstrates that the particular institutional issue raised by the Law Commission in 1997, the lack of a supervisory and monitoring framework was essentially ignored before the punishment was eventually implemented.

### **The Statutory Architecture Under the BNS and BNSS**

The following penalties are listed in Section 4 of the BNS: (a) death (b) imprisonment for life (c) imprisonment, which is either rigorous or simple (d) forfeiture of property (e) fine and (f) community service.<sup>16</sup> This is the first time that community service has been mentioned in an Indian general penal code. Community service is defined 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" in Section 23, Explanation 1 of the BNSS, the procedural code that replaced the Code of Criminal Procedure, 1973. The BNS itself does not define the term.<sup>17</sup>

This definition is vague and in a big way meaningless. It instructs a sentencing court that community service must: (1) be mandated by the court; (2) benefit the community; and (3) not be compensated. It makes no mention of the type of work to be done, the duration of hours to be worked, the supervisory style who is in charge of finding appropriate work and attesting to its accomplishment or the repercussions of non-compliance. Commentators have observed that in the absence of statutory guidance, the nature of the community service to be performed is left entirely to the discretion of the trial magistrate who may direct anything from street-

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<sup>15</sup> Ministry of Home Affairs, Government of India, Report of the Committee on Reforms of the Criminal Justice System (Malimath Committee) (Mar. 2003).

<sup>16</sup> The Bharatiya Nyaya Sanhita, 2023, Sec 4.

<sup>17</sup> The Bharatiya Nagarik Suraksha Sanhita, 2023, Sec 23, Explanation 1.

cleaning to hospital assistance to participation in environmental-conservation work depending on the offender's skills and the magistrate's own sense of what is fitting.<sup>18</sup>

Also, the punishment has a purposefully limited scope. As of right now, the BNS has only linked it to six offences. First, Section 202, which punishes public employees who trade illegally.<sup>19</sup> Second, Section 209, which punishes failure to show up in response to a proclamation made in accordance with Section 84 of the BNSS.<sup>20</sup> Third, Section 226, which penalises an attempt to commit suicide with intent to compel or restrain a public servant from exercising his lawful power.<sup>21</sup> Fourth, the proviso to Section 303(2), which permits community service for a first-time offender convicted of theft of property valued at less than five thousand rupees, where the offender returns or restores the value of the property.<sup>22</sup> Fifth, Section 355, which penalises misconduct in a public place by a person who is drunk.<sup>23</sup> And sixth, Section 356(2), which penalises defamation.<sup>24</sup>

A closer examination of these six provisions reveals an additional and more structural limitation that has been sharply pointed out in recent scholarship: in five of the six (Sections 202, 209, 226, 355, and 356(2)), community service is offered as one alternative among several, joined to imprisonment and fine by the disjunctive or giving the sentencing court complete and unrestricted discretion to completely disregard it.<sup>25</sup> Only Section 303(2), which addresses small theft, views community service as something more like to a legitimate alternative pathway, subject to a first-time offender's restitution. In all other cases, the reform just introduces a fourth sentencing alternative without replacing or limiting the existing monetary and custodial options, nor does it provide legislative direction on when the more recent, non-custodial option should be chosen over the previous ones.

As a result, the punishment's practical impact is virtually entirely determined by individual judicial temperament rather than any deliberate sentencing philosophy. Two magistrates dealing with materially identical facts under Section 355, public drunkenness may lawfully

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<sup>18</sup> Community Service under the BNS: Progress, Pitfalls, and Potential, NLIU Law Review Blog, available at <https://nliulawreview.nliu.ac.in/blog/community-service-under-the-bns-progress-pitfalls-and-potential/>.

<sup>19</sup> The Bharatiya Nyaya Sanhita, 2023, Section - 202.

<sup>20</sup> Id. Section - 209, read with the Bharatiya Nagarik Suraksha Sanhita, 2023, Section - 84.

<sup>21</sup> Id. Section - 226.

<sup>22</sup> Id. Section - 303(2), proviso.

<sup>23</sup> Id. Section - 355.

<sup>24</sup> Id. Section - 356(2).

<sup>25</sup> Sentence Without Bridle: Community Service Gaps in BNS and BNSS, Live Law (2026), available at <https://www.livelaw.in/articles/community-service-gaps-bns-bnss-546915>.

arrive at outcomes as disparate as a short term of imprisonment and an order of unpaid community service, with the statute providing no principle to reconcile or even explain, the divergence. A related and as yet unresolved, question is whether community service so ordered constitutes compulsory labour within the meaning of Article 23 of the Constitution; the better view, consistent with comparative practice, is that court-ordered, time-bound, non-degrading community work imposed as a sentence following due conviction falls outside the constitutional prohibition on forced labour however, the absence of any statutory safeguard against disproportionate or degrading.

### **Judicial Practice Before Formal Codification**

It would be incorrect to claim that Indian courts had no experience with community service before the BNS went into effect. In the absence of statutory consequence, some courts had already begun experimenting with community service as a bail condition or as part of a compounded disposition using their inherent and discretionary sentencing powers. In *Parvez Jilani Shaikh v. State of Maharashtra*, for instance, the accused was ordered to perform community service at a hospital run by the Bhabha Atomic Research Center.<sup>26</sup> In *Sunita Gandharva v. State of Madhya Pradesh*, a court examined the propriety of imposing community-service-type conditions in the context of bail under the erstwhile Code of Criminal Procedure.<sup>27</sup> These pre-BNS orders were ad hoc lacking a specified statutory framework and hence inconsistent in their terms length and mechanism of execution. Their significance stems less from doctrinal precedent than from the demonstration that Indian trial courts were already striving for a sentencing instrument that the legislature had not yet explicitly provided a demand signal that the 2023 codification, belatedly, addressed.

### **Comparative Perspectives**

India was a relatively late user of community service as a formal punishment. England and Wales enacted the community service order under the Criminal Justice Act, 1972, which was later combined into the Powers of Criminal Courts (Sentencing) Act, 1973, and is now continued in the form of the unpaid labour requirement under the Criminal Justice Act, 2003.<sup>28</sup>

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<sup>26</sup> *Parvez Jilani Shaikh v. State of Maharashtra* (Bom. H.C. 2015), noted in *Community Service in BNS*, Drishti Judiciary, available at <https://www.drishtijudiciary.com/to-the-point/bharatiya-nyaya-sanhita-&-indian-penal-code/community-service-under-BNS>.

<sup>27</sup> *Sunita Gandharva v. State of Madhya Pradesh* (M.P. H.C. 2020), id.

<sup>28</sup> Criminal Justice Act 1972, c. 71 (U.K.); Powers of Criminal Courts (Sentencing) Act 1973, c. 62 (U.K.);

Since its beginning, the English model has had precisely the institutional safeguards that the BNS currently lacks: An order could be made only for an offender over a specified minimum age convicted of an offence punishable by imprisonment and only after a probation officer had prepared a social inquiry report assessing the offender's suitability for the order and the availability of appropriate work.<sup>29</sup> The number of hours of unpaid work was fixed within a statutory band rather than left to unguided discretion and a dedicated probation service was made statutorily responsible for placement, supervision and enforcement including the power to bring a defaulting offender back before the court.<sup>30</sup>

The United States presents a more fragmented picture, since community service sentencing is primarily a creature of state law and varies considerably in structure across jurisdictions but its most-studied programmes for example, the New York City community service sentencing scheme evaluated by Douglas McDonald share the English model's insistence on organised placement and supervision through dedicated non-profit or probation intermediaries rather than leaving offenders to locate and perform "community-benefiting work" of their own choosing.<sup>31</sup> Singapore's statutory Community Service Order regime, likewise, operates through a case-management structure that matches offenders to approved placements and monitors attendance.<sup>32</sup>

South Africa offers a further, instructive comparator. Community service there is administered principally as a condition of the postponement or suspension of sentence or as an element of correctional supervision under Section 297 of the Criminal Procedure Act, 1977, and the Correctional Services Act, 1998.<sup>33</sup> Crucially, South African law makes it a hard requirement that no court may impose correctional supervision of which community service is typically a condition without first obtaining a pre-sentence report from a probation officer or correctional official, who assesses the offender's circumstances and recommends a suitable placement and

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Criminal Justice Act 2003, c. 44, Section - 199 (U.K.) (unpaid work requirement).

<sup>29</sup> Gupta, *supra* note 11, at 6-7.

<sup>30</sup> *Id.* at 7.

<sup>31</sup> Douglas McDonald, *Punishment Without Walls: Community Service Sentences in New York City* (Rutgers Univ. Press 1986).

<sup>32</sup> Bala Reddy, *Community Service Orders: An Alternative Sentence*, 3 *Sing. L.J.* 232 (1982), as cited in Gupta, *supra* note 11.

<sup>33</sup> Criminal Procedure Act 51 of 1977, Section - 297 (S. Afr.); Correctional Services Act 111 of 1998, Section - 1 (S. Afr.) (defining 'community service'); Department of Correctional Services (S. Afr.), *Community Corrections*, available at [https://www.dcs.gov.za/?page\\_id=317](https://www.dcs.gov.za/?page_id=317) (noting that no sentence of correctional supervision may be imposed without a pre-sentence report by a probation or correctional official).

duration.

When compared to these models, the Indian provision stands out for its omissions. There is no minimum age for punishment, no pre-sentence report, no legally mandated range of work hours, no designated supervisory authority whether police, probation or a newly formed body and no defined procedure for certifying completion or dealing with default. The BNS borrows the vocabulary of community service from a long-standing comparative tradition but not the institutional apparatus that enables that tradition work in practice. The argument made in the following two Parts focuses on the gap between adopting the label and building the apparatus.

### **Critical Analysis: The Problem of Scope**

The first and most obvious critique of the BNS reform is its limited scope. Limiting community service to six petty offenses some of which are in practical terms, rarely prosecuted with any frequency, such as unlawful trade by a public servant or non-appearance on proclamation means that the reform's real-world impact on prison overcrowding on which so much of the earlier Law Commission and Malimath Committee advocacy was based is likely to be marginal at best.<sup>34</sup> According to National Crime Records Bureau data, Indian prisons are consistently operating well above rated capacity with a large proportion of the prison population consisting of undertrial prisoners and those convicted of relatively minor offences precisely the population that a broader community-service regime could have diverted from custody. By limiting punishment to a restricted range of offences several of which are not even typical causes of incarceration, the legislature has implemented a reform with genuine symbolic value but limited decarcerating effect.<sup>35</sup> By limiting punishment to a restricted range of offences several of which are not even typical causes of incarceration the legislature has implemented a reform with genuine symbolic value but limited decarcerating effect.

The narrowness of scope is exacerbated by a second, related issue: the lack of a clear, publicly articulated concept explaining why these six offences were chosen over others of equivalent or lesser importance. Simple theft under a certain value qualifies; however, a variety of other really modest, nonviolent acts with comparable or even lower maximum terms do not. Without an articulated sentencing philosophy for example, a stated legislative preference for community

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<sup>34</sup> National Crime Records Bureau, Ministry of Home Affairs, Government of India, Prison Statistics India (2022 ed.).

<sup>35</sup> *Id.*

service in all offences with a maximum sentence below some defined threshold, subject to judicial discretion the current list appears to be the result of legislative improvisation, offence by offence, rather than a considered and generalisable policy design.

### **Critical Analysis: The Problem of Implementation**

The second and in the long run more consequential criticism concerns implementation. Four gaps deserve particular attention.

For starters, there is no statutory definition of what constitutes community service. The BNSS Explanation only states that the work must "benefit the community" and be unpaid; it does not specify what types of work qualify, what types are inappropriate for example, work involving contact with vulnerable groups or work that is hazardous or degrading or how an offender's specific skills, disabilities, gender or personal circumstances will be matched to a placement. This leaves the sentence's content to individual judicial improvisation, resulting in inconsistency across courts and on the margins, a genuine risk of arbitrary or inappropriate assignments, particularly for women and other offenders for whom public-facing work may raise legitimate safety concerns.

Second, there is no recognised monitoring authority. Comparative regimes delegate responsibility for identifying assignments, supervising attendance and certifying good completion to a specialised body usually a probation service. India already has a legislative probation structure under the Probation of Offenders Act of 1958, but that Act is neither cross-referenced in the BNS or BNSS provisions on community service, nor has it been resourced or reoriented to take on this new purpose.<sup>36</sup> In its absence, the practical burden of supervision is likely to fall unevenly and without clear legal authority on the police, court staff or NGOs and institutions willing to house offenders - none of whom have the formal powers of a probation officer to report noncompliance or recommend order modification.

Thirdly, there is no default mechanism. Neither the BNS nor the BNSS specify what happens when an offender simply fails to do the mandated service whether the penalty reverts to imprisonment or fine, a new proceeding is required or the order is just ignored in practice. This is not a trivial drafting oversight: a punishment that lacks a credible consequence for noncompliance risks being perceived as no punishment at all, undercutting both its deterrent

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<sup>36</sup> The Probation of Offenders Act, 1958, No. 20 of 1958 (India).

and restorative goals.

Fourth, there is no state or district-level administrative infrastructure in place such as a registry of approved institutions and work sites, standard forms of certification, or budgetary provisions for the minor coordination costs associated with such a plan. Recent commentary on the post-implementation experience of the BNS has observed that this gap between statutory recognition and administrative roadmap is the central obstacle to the punishment's effective use and that unless the BNSS Rules are amended to supply these missing pieces, community service is likely to remain a punishment that exists on paper but is only sporadically and inconsistently imposed in practice.

These four shortcomings, taken together, show that the 156th Law Commission Report's primary lesson -that community service requires persistent administrative commitment to be viable -was learned but not implemented by the BNS drafters. The legislature has recognised the punishment; but it has not yet constructed the machinery that gives the recognition real meaning.

### **Suggestions for Reform**

Several concrete reforms would address the gaps identified above without requiring a wholesale rethinking of the BNS's basic architecture.

First, the scope of Section 4(f) should be expanded through amendment to include a broader and more principled category of offences, such as all offences punishable by imprisonment for one or two years, subject to the sentencing court's reasoned discretion, rather than the current closed list of six named sections. This would bring the Indian provision more in line with comparative practice, where eligibility is often based on a broad threshold rather than a specific list of acts.

Second, the BNSS Rules, or new sentencing recommendations published by the High Courts, should specify a defined range of work-hours proportionate to the gravity of the offence, based on the statutory bands formerly applied in England and Wales.

Third, the existing probation framework under the Probation of Offenders Act of 1958 should be formally linked to the BNSS community-service provisions, with probation officers designated as the responsible authority for pre-sentence assessment, placement, supervision,

and certification of completion, rather than leaving these functions to improvised arrangements by individual magistrates.

Fourth, State and District Legal Services Authorities, which already have a district-level administrative footprint could be tasked with keeping a registry of approved community-service placements, municipal bodies, government hospitals, non-governmental organisations and environmental agencies reducing the burden on individual courts to identify suitable work on a case-by-case basis.

Fifth, the BNSS should specify a clear default mechanism; for example, automatic conversion of an unperformed community service order into the alternative punishment already prescribed within the same section, upon a report of noncompliance certified by the supervising authority so that the sanction's credibility is not called into question.

## **Conclusion**

The implementation of community service under Section 4(f) of the Bharatiya Nyaya Sanhita, 2023, brings an end to a policy discussion that had been ongoing for more than four decades without a legislative settlement. In that sense, it is a significant reform, consistent with a reformatory sentencing attitude expressed by the Indian judiciary as early as *Mohd. Giasuddin v. State of Andhra Pradesh* in 1977. However, the manner in which it was enacted almost exactly replicates the institutional gap that the Law Commission itself identified and hesitated over in 1997; the gap between recognising community service as desirable in principle and establishing the administrative machinery required to make it work in practice. As currently written, the punishment is limited in scope, vague in content, unsupervised in execution, and mute on the repercussions of default. Unless these gaps are filled through amendments to the BNSS and subordinate rule-making that operationalise probation-style supervision, community service under the BNS risks remaining what it has been in India for the past half-century; a punishment supported in theory but largely absent in practice.