From Prison to Community: Reconstructing Community Service Sentencing as *Ius Constituendum* in the Reform of Indonesia's Criminal Procedure Code

Asis[1], Bisma Ainul Yakin[2], Muhammad Farhan Arhabi[3], Muhamad Zainal Arifin[4]

[1]Faculty of Law, Universitas Airlangga Surabaya, Indonesia
[2]Faculty of Law, Universitas Airlangga Surabaya, Indonesia
[3]Faculty of Law, Universitas Airlangga Surabaya, Indonesia
[4]Faculty of Law, Universitas Airlangga Surabaya, Indonesia
✉ Corresponding email: asis-2023@fh.unair.ac.id

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Abstract

Community service sentence is a form of non-custodial punishment aimed at shifting the orientation of penal policy from a retributive approach towards a more corrective and restorative one. This type of punishment provides an opportunity for perpetrators of minor offenses to amend their wrongdoing through tangible contributions to society without having to serve imprisonment. However, to date, the regulation of community service sentencing remains legally unregulated within the Indonesian criminal procedural system, particularly in the Criminal Procedure Code (KUHAP). This legal vacuum has resulted in the absence of an adequate legal basis for judges and law enforcement officials to impose and implement such a sentence. This article aims to examine community service punishment as a form of ius constituendum, namely, law that ought to be enacted in the future, within the framework of KUHAP reform. By employing normative and conceptual approaches, this article explores the urgency, rationality, and regulatory direction of community service sentencing within the national penal system. The findings indicate that the inclusion of community service punishment in the forthcoming KUHAP is crucial to realizing a more proportional, humane penal system that aligns with the principles of corrective justice and the demands of a modern criminal justice system. This article further argues that the current legal vacuum reflects the unresponsiveness of Indonesia's criminal

justice system, and calls for a responsive legal framework in line with the theory of responsive law, ensuring that legal reforms are attuned to evolving societal needs and values of justice.

Keywords: Community Service Sentence; Indonesian Criminal Procedure Code; Ius Constituendum, Imposition of Criminal Punishment; Restorative Justice

Introduction

The issue of overcrowding in correctional institutions is a structural problem that has long overshadowed Indonesia's criminal justice system (Saputra & Isnawati, 2022). According to data from the Directorate General of Corrections of the Ministry of Law and Human Rights, as of mid-2024, the number of inmates in correctional institutions across Indonesia has exceeded more than twice the available ideal capacity. The total capacity of all correctional facilities and detention centers in Indonesia can only accommodate 135,561 individuals, whereas the number of incarcerated prisoners has reached 266,828 persons. (Subagyo, 2021). The significant disparity serves as a crucial indicator of the urgent need to reformulate the penal system, which should not rely solely on imprisonment as the primary form of punishment. This condition has serious implications for the quality of inmate rehabilitation, the effectiveness of correctional programs, and the fulfillment of the fundamental rights of prisoners, including the rights to health, education, and humane treatment, as guaranteed by the Constitution and international human rights instruments (Darwis, 2020).

Overcrowding is not merely the result of an increase in crime rates, but is rather caused by a penal system that remains heavily oriented toward imprisonment (Sartini et al., 2022). In practice, imprisonment has become the primary form of punishment imposed for nearly all types of legal violations, including minor offenses that should ideally be addressed through more proportional and effective approaches. This pattern reflects that the penal policy adopted by the Indonesian criminal justice system remains predominantly retributive in nature (Azhar, 2022), that is, it focuses on retribution for the crime committed, rather than promoting the social reintegration of the offender and the restoration of the victim (Sartika et al., 2022). As a result, prisons have

become mass detention facilities rather than rehabilitation institutions aimed at constructively transforming the behavior of offenders.

In response to various criticisms and global developments in penal reform, Indonesia, through Law Number 1 of 2023 on the National Criminal Code (KUHP), seeks to introduce a new paradigm in its sentencing policy. This paradigm is grounded in the principles of corrective and restorative justice, which position punishment as a means to rehabilitate offenders, restore the losses suffered by victims, and prevent the recurrence of criminal acts in the future (Sulung, 2023). One of the concrete manifestations of this transformation is the regulation of non-custodial sentences, such as community service, probation, conditional sentencing, and the imposition of certain measures as stipulated in Article 65 paragraph (1) and Article 85 of the Criminal Code (Abdullah, 2024). These articles stipulate that community service sentences may be imposed on defendants who commit criminal offenses punishable by imprisonment of less than five years, and only if the judge imposes a prison sentence of no more than six months or a fine not exceeding category II (Rp10 million).

Furthermore, community service sentences are also regulated to have an implementation structure involving a Community Counselor (PK) from the Correctional Center (Bapas) as the supervisor, and the prosecutor as the overseer of the community service execution (Epprillianti, 2021). This penalty aligns with the spirit of decriminalization and de-penalization, which seeks to place offenders of minor crimes into a process of social rehabilitation rather than merely punishing them physically through imprisonment. Therefore, community service can be seen as a concrete form of punishment that is not only focused on deterrence but also on efforts to restore the social relationship between the offender and society (Igo et al., 2022).

Although community service penalties have been introduced normatively, the main challenge faced is the absence of comprehensive implementation guidelines within the criminal procedural law system (Jamilah & Disemadi, 2020), particularly in the Criminal Procedure Code (KUHAP). This has the potential to create ambiguity regarding the roles of the involved institutions, as well as weaken the effectiveness of implementing alternative sentencing policies

(Prasetyani, 2023). As seen in Indonesia's experience with the application of probation and community service penalties under Law No. 11 of 2012 on the Juvenile Criminal Justice System (UU SPPA), their implementation has been very limited, with studies showing that more than 90% of criminal decisions for children still result in imprisonment (Bariah et al., 2017).

The failure of implementation is generally caused by the lack of detailed regulations, the law enforcement paradigm still oriented towards deterrence, and the insufficient coordination and supporting infrastructure. Therefore, to ensure the effectiveness of community service sentences within the Indonesian criminal justice system (Parera, 2024), it is essential to map institutional roles, strengthen technical regulations, and foster synergy between relevant institutions, particularly between the prosecutor's office and Bapas (Correctional Centers). Before the enactment of the 2023 Criminal Code (KUHP), the implementation of alternative sentencing had already been recognized and practiced in Indonesia's criminal justice system (Anarki, 2023). One form that had been applied was probationary sentences, as regulated in Articles 14a-f of the old KUHP. Although regulatory space for this had been available, the reality is that the application of such alternative sentences remained very limited in judicial practice. The dominance of imprisonment as the primary choice for criminal sanctions persists, even for minor offenses (Muhammad Fariza, 2024).

However, there have been some positive practices that demonstrate the wise application of probationary sentences by judges, who consider factors such as the degree of fault, the social impact of the offense, and the potential for the offender's rehabilitation (Yunus, 2021). These practices should be documented and more widely disseminated to serve as a reference for other law enforcement officers, including prosecutors, legal advisors, and community counselors. Thus, judges' considerations in imposing probationary sentences could become both a normative and practical guide to foster a more progressive sentencing culture focused on corrective justice.

Furthermore, strengthening discourse on the judges' considerations when choosing non-custodial sentences can act as a catalyst for shifting Indonesia's criminal justice system paradigm from a retributive model to a more restorative

and humanistic one (Rahmawati & Nurcahyo, 2020). Therefore, within the framework of implementing the 2023 Criminal Code, it is crucial to continue encouraging the creation of implementing regulations that not only provide legal instruments but also build a mindset that supports the application of alternative sentencing as a new norm in the national criminal justice system.

Several court decisions in Indonesia have reinforced the importance of adopting a more humanistic and proportional sentencing approach, one that does not prioritize imprisonment as the sole form of punishment. These rulings serve as concrete evidence that, in practice, judges have started to consider non-custodial alternative sentences, referring to educational values, restorative justice, and the sociological context of the cases they face. Below are five rulings that illustrate a new direction in sentencing (Abdullah, 2024):

1. *Decision Number 1/Pid.C/2015/PN Tbt*

In this case, the court emphasized that sentencing should not be used as a means of revenge or merely to inflict suffering on the defendant. Instead, punishment should serve as a tool for education, allowing the defendant to improve themselves. In its consideration, the court also emphasized that the degree of the defendant's fault should be the main factor in determining the severity of the punishment. Moreover, to maintain consistency and fairness, the court took into account the importance of avoiding disparity in sentencing for offenders who committed similar offenses.

2. *Decision Number 53/Pid.B/2020/PN Kla*

In this decision, the court emphasized that sentencing should be viewed as a process of restoring social harmony, rather than as a primary tool for repressive punishment. The actions of the defendant were considered not to arise from malicious intent, and during the trial, it was revealed that reconciliation had occurred between the defendant and the victim's family. The judge also referred to the Supreme Court Circular (SEMA) No. 1 of 2000, which underscores the importance of imposing a sentence that is proportional to the level of fault and the character of the crime. As such, a more lenient approach was chosen in this case.

3. *Decision Number 107/Pid.B/2014/PN Ttd*

The court provided a comprehensive consideration by examining the defendant's profile as a whole. In addition to the defendant's young age and pregnancy, there was also the fact that the defendant had shown deep remorse. The Social Research Report (Litmas) from the Community Counselor also became a basis for the court to determine that the defendant deserved the lightest possible sentence. Social factors, including a good relationship with the victim and the defendant's cooperative attitude, were strong reasons for the judge to avoid imprisonment.

4. *Decision Number 175/Pid.B/2016/PN Kla*

In this case, the defendant's actions, which involved a physical push, occurred in the emotional context of a long-standing domestic conflict. The court judged that the defendant's actions did not result in extraordinary harm and did not cause severe injury. The judge also took into account that the victim was six months pregnant and hoped that the parties involved could forgive each other. This decision reflects a sentencing approach that considers the complexity of personal and social relationships between the parties, rather than just the legalistic aspect.

5. *Decision Number 278/Pid.B/2020/PN Sbg*

This decision reflects the values of restorative justice, with a focus on reconciliation between the defendant and the victim. Based on the trial facts, both parties had reconciled and forgiven each other. In such circumstances, custodial sentences were considered irrelevant because the objective of social recovery had already been achieved. The use of alternative sentencing was chosen to prevent overcrowding and maintain the effectiveness of social rehabilitation for the defendant.

These five decisions strengthen the argument that Indonesia's criminal justice system has opened the door to a new paradigm in sentencing. With the introduction of alternative sentences, such as probation and community service, in the 2023 Criminal Code (KUHP), it is essential that such progressive practices be promoted, supported by adequate technical regulations, and serve as references in legal education and training for law enforcement officers (Wijaya,

2022). This is a critical step toward a more humane, fair, and responsive criminal justice system that meets the needs of society.

In addition to the five aforementioned decisions, several prior studies have examined community service sentences from various perspectives. First, the study by Rudi Hartono Nainggolan highlights the benefits of community service sentencing in reducing prison overcrowding and compares its implementation to practices in countries such as the Netherlands and Portugal (Nainggolan, 2025). Second, the research by Rafsanjani et al. emphasizes the urgency of community service sentencing through a progressive legal perspective (Rafsanjani et al., 2023). Subsequently, Setyo Amirullah focuses more specifically on the challenges of implementing community service sentences in cases of petty theft, including the judges' responses in imposing such sentences (Amirullah, 2024). Fourth, the study by Ahmad Fikri provides a comparative analysis between Indonesia and the Netherlands, focusing on the need for implementing regulations and monitoring mechanisms, although it does not elaborate in detail on what such implementing provisions should entail (FIkri, 2025). Meanwhile, Mushaddiq and Tarmizi position community service sentencing as a response to the failure of imprisonment and as an alternative form of punishment within the framework of the new criminal law system (Mushaddiq & Tarmizi, 2024).

This research introduces novelty by emphasizing the urgency of regulating community service sentencing within the Indonesian criminal procedural law system, as well as proposing an ideal model for the regulation of community service sentencing in the context of Criminal Procedure Code reform, particularly as an implementing regulation. Based on these issues, the research questions to be raised are: (1) What is the urgency of regulating community service sentences in the Indonesian criminal procedural law system? (2) What is the ideal model for regulating community service sentences in the reform of the KUHAP?.

Research Method

This research uses a normative juridical approach with the support of a conceptual approach (Sunggono, 2003). The normative juridical approach is

employed to examine the applicable legal norms, particularly regarding the concept and urgency of regulating social work punishment within the national penal system, as well as its relevance in the reform of criminal procedural law in Indonesia. This approach involves reviewing legislation, particularly Law No. 1 of 2023 concerning the Criminal Code (KUHP), as well as the norms in the current criminal procedural law, namely the Criminal Procedure Code (KUHAP). Moreover, the Criminal Procedure Code (KUHAP), as the prevailing procedural criminal law, has yet to accommodate the implementation of this type of punishment, thereby necessitating reform through the Draft Criminal Procedure Code (RUU KUHAP), which constitutes part of the ius constituendum within the Indonesian criminal procedure law system. The conceptual approach is used to analyze theoretical ideas and philosophical principles regarding punishment, restorative justice, and ius constituendum in Indonesian criminal procedural law (CSA Teddy Lesmana, 2019). This research also uses a prescriptive analysis to offer progressive ideas on the importance of explicitly regulating social work punishment in the upcoming KUHAP. The data analyzed includes primary legal materials such as laws, draft laws, and court decisions, as well as secondary legal materials such as legal literature, journals, articles, and previous research findings (Ahmad et al., 2024). The analytical technique used is qualitative analysis, focusing on legal reasoning to formulate juridical arguments and relevant legal policy recommendations. Thus, this study seeks to offer a normative and comprehensive solution to the legal vacuum regarding the implementation of community service punishment, while simultaneously promoting the reform of criminal procedure law toward a more humane, adaptive, and responsive system in addressing future challenges of penal policy.

Results and Discussions

Overcrowding and the Crisis of Indonesia's Penal System

Overcrowding not only reflects a crisis in physical capacity (Rado & Badilla, 2021), but also a paradigm crisis in the penal system that still focuses on

imprisonment as the primary sanction, including for minor offenses and non-violent crimes. As a result, imprisonment is no longer a rehabilitative instrument (Andhiya Moza Faris & Dian Rachmat Gumelar, 2024), but rather has the potential to become a source of recurring criminalization (recidivism).

In addition to the retributive approach, one of the causes of the high level of overcrowding in detention centers and correctional institutions in Indonesia is the practice of overcriminalization driven by the existence of "rubber" articles in legislation (Dunan & Mudjiyanto, 2022). These articles open up broad interpretive spaces, often used to ensnare actions that are essentially civil or administrative in nature but are interpreted as criminal acts.

A concrete example can be found in Article 27 paragraph (3) of the Electronic Information and Transactions Law (UU ITE), which regulates defamation through electronic media (Zhafira et al., 2023). This article is often exploited not for objective law enforcement but as a tool for revenge or intimidation, particularly by those in positions of power or influence. There is a tendency for the complainant to come from elite groups such as public officials, businessmen, or public figures, while the reported party is often a vulnerable group or ordinary citizens who face limitations in accessing legal aid and justice fairly.

This phenomenon not only creates inequality in the law enforcement process but also contributes to the rising number of detainees who could have been resolved through alternative mechanisms such as mediation or administrative sanctions. In other words, criminal sanctions for such cases should not automatically lead to imprisonment (Widya & Subroto, 2022). Another case can be seen in Article 86 of Law No. 43 of 2009 on Archiving, which imposes a maximum prison sentence of 10 years for individuals who unlawfully destroy archives (Ghazala & Erni, 2022). Ironically, this criminal threat is equivalent to that for severe assault resulting in death as regulated in the Criminal Code. This comparison shows how the discourse on criminalization in Indonesia is still disproportionate (Ali & Setiawan, 2021), as it imposes a heavy imprisonment burden for administrative acts that are non-violent and do not threaten life.

Such conditions further emphasize the urgency of implementing community service sentences as a more rational and proportional alternative (Rafsanjani et al., 2023), especially for minor offenses and cases that do not directly affect public safety or security. This means that reforms in the penal system should aim to reduce the burden on correctional institutions and avoid unnecessary imprisonment, while upholding the principles of humane and contextual justice.

The overcrowding problem in correctional institutions and detention centers is also inseparable from the political policy of punishment applied and the law enforcement officers' perspective on legal violations and the legal responses considered legitimate (Robin, 2024). In practice, law enforcement efforts, such as detention during the investigation stage, are often based on the subjective reasons of the officers rather than proportional objective considerations of the threat level posed by the offense.

There is also a tendency to measure the success of handling a case by the success of imprisoning the offender for as long as possible. This paradigm reinforces the dominance of punitive sentencing in the justice system while neglecting other possibilities that are more restorative or rehabilitative. One of the most concerning examples is the high number of prison sentences for drug users (Fatahilla et al., 2022), even though rehabilitation options are legally available as a more appropriate and humane form of treatment.

On the other hand, the general public still holds the view that sentencing is solely intended to reform the offender and protect public interests (Saraya, 2022). However, in practice, judges tend to impose sentences solely due to the mandate of the law, rather than as a result of a comprehensive consideration of the offender's characteristics, the level of wrongdoing, or potential rehabilitation that could be achieved without imprisonment. This is also reinforced by the belief among some judges that the harsher the punishment imposed, the greater the deterrent effect.

In fact, according to the principle of ultimum remedium, imprisonment should be the last resort when all other alternatives have been exhausted (Fitri, 2020). The lack of awareness of this principle highlights the need for a

reorientation of sentencing, including through the application of community service sentences as a more proportional, educational, and non-burdensome sanction for correctional institutions.

Responsive Law Theory in the Context of Community Service Sentencing and Criminal Procedure Reform

The Responsive Law Theory developed by Philippe Nonet and Philip Selznick serves as a theoretical framework that emphasizes the idea that law should not merely function as a repressive or instrumental tool, but rather must be responsive to social needs, justice values, and societal changes (Henry Arianto, 2010). Responsive law is characterized by its ability to absorb public aspirations, adapt to social dynamics, and correct structural inequalities and injustices. Within this framework, law is no longer perceived as rigid norms, but rather as a transformative instrument that ensures justice.

This theory is particularly relevant in critiquing the current state of Indonesia's criminal justice system, especially with regard to the community service sentencing provision in the 2023 Criminal Code (KUHP), which lacks a corresponding reform in the Criminal Procedure Code (KUHAP). Although community service has been introduced as an alternative form of punishment, the absence of detailed procedural regulations such as sentencing guidelines, implementation mechanisms, supervision, and evaluation reflects a lack of responsiveness within the legal system.

As discussed in this paper, community service punishment is grounded in a restorative justice approach, which focuses on repairing the harm caused by the offender, restoring social harmony, and engaging the offender in meaningful contributions to the community. However, such a progressive penal concept cannot be effectively implemented without a supportive and coherent procedural framework.

According to Responsive Law Theory, the absence of technical regulations in KUHAP regarding community service sentencing reveals a weak institutional response to the evolving demands of social justice and structural issues such as prison overcrowding. Overcrowding in correctional institutions is a real and

pressing structural problem that must be addressed through modern and proportionate penal policies. Without a responsive legal system and procedural alignment, progressive ideas like community service sentencing risk becoming dead letters—norms that exist only in writing but are not operational in practice.

Thus, Responsive Law Theory offers not only a critique but also a normative direction: the legal system must be restructured to anticipate and accommodate the growing demand for a more just, proportionate, and humane criminal justice system. Reforming KUHAP is therefore an imperative step to actualize the potential of community service sentencing and to demonstrate that Indonesian law is capable of evolving in accordance with the living principles of justice in society.

Challenges in the Implementation of Community Service Sentences within the Judicial System

Although the regulation regarding community service penalties has been accommodated in the latest Indonesian Criminal Code (KUHP) of 2023, its implementation in practice still faces various structural and normative challenges. These obstacles underscore that criminal law reform cannot be achieved solely through changes in substantive norms (Anwar, 2008), it also requires comprehensive readiness of the procedural law enforcement system, including procedural, institutional, and technical aspects of implementation.

One of the main obstacles in implementing community service penalties is the absence of technical provisions in the Indonesian Code of Criminal Procedure (KUHAP), particularly concerning the form, mechanism, and execution procedures of such sanctions (Lamsar, 2024). In fact, the KUHAP plays a crucial role as a legal instrument that governs the procedures for carrying out court decisions. The lack of such provisions results in law enforcement officers especially prosecutors and correctional institution officers lacking a solid legal basis to effectively implement community service penalties. Consequently, these penalties risk becoming merely "paper tigers" stipulated in regulations but non-operational in practice.

Furthermore, to date, no implementing regulations have been issued, such as government regulations, ministerial regulations, or other technical legal instruments that explicitly govern the key aspects of community service implementation (Zuraidah, 2022). This includes provisions on the types of community service that may be imposed, standards for duration, implementing institutions, as well as mechanisms for supervision and evaluation. The absence of detailed guidelines has the potential to lead to interpretive discrepancies among law enforcement officials, which in turn fosters legal uncertainty and inconsistent practices across various jurisdictions in Indonesia.

The implementation of community service penalties also demands strong coordination and synergy among institutions namely, the judges who impose the sanction, the prosecutors who execute the verdict, and the Correctional Centers (Balai Pemasyarakatan or Bapas) that oversee its execution (Hakim, 2023). Unfortunately, in practice, inter-agency cooperation remains weak and has not been systemically established. The lack of communication and coordination may result in ineffective implementation, such as unpreparedness of Bapas in providing community service programs or inadequate understanding by prosecutors of the technical instruments required for execution.

In addition to regulatory and institutional coordination challenges, another issue lies in human resource readiness. Law enforcement officials, both within the judiciary and the correctional system, need to receive adequate training to understand the philosophy, principles, and procedures for executing community service sanctions (Taufiq, 2018). Without sufficient competence, there is a risk that community service will become merely an administrative formality without providing substantive impact for the rehabilitation of offenders or the protection of society.

Moreover, budget constraints and the lack of supporting infrastructure also present significant obstacles. The implementation of community service penalties requires sufficient budget allocation for procuring work facilities, funding programs, and covering supervision and evaluation costs (Idris, 2022). Without adequate financial and infrastructural support, the implementation of this penalty will not operate optimally or sustainably.

Thus, although normatively the inclusion of community service penalties in the 2023 KUHP reflects a shift in the penal paradigm toward a more humane, proportional, and restorative approach, its effective application is highly dependent on the overall readiness of the legal system (Negara, 2025). It requires strong supporting regulations, improved human resource capacity, institutional synergy, and public awareness regarding the importance of a rehabilitative approach in the penal system. Without these supporting elements, community service penalties risk failing to address the issue of prison overcrowding and becoming a norm that yields no real impact in the national criminal justice system (Sunarwan, 2023).

The Ideal Model for Regulating Community Service Sentences in the Reform of the Indonesian Criminal Procedure Code (KUHAP)

The reform of the national criminal law system through the 2023 Criminal Code (KUHP) has introduced a new paradigm in sentencing (Magala, 2023), one of which is the introduction of community service as a form of non-custodial alternative punishment. This type of punishment deserves appreciation in the context of a more humanistic and rehabilitative legal reform. However, its effectiveness highly depends on the support of procedural legal norms that regulate its implementation in a detailed and practical manner. Therefore, the revision of the Criminal Procedure Code (KUHAP) becomes crucial (Purwono, 2024) to accommodate the technical and operational aspects of community service sentencing.

An ideal model for regulating community service punishment within the KUHAP must be capable of integrating the substantive norms of the KUHP with the procedural norms of the KUHAP (Budi Waskito, 2018). The relationship between substantive criminal law and criminal procedural law is interdependent, wherein the absence of effective procedural norms renders substantive norms illusory or merely symbolic. In other words, without adequate regulation within the KUHAP, the implementation of community service

sentencing will be difficult to carry out consistently and fairly, and will be vulnerable to disparities in application across different regions.

a. Structured Procedural Provisions

The first point in the ideal model is the necessity for comprehensive procedural regulations. This includes the following stages:

- The imposition of community service sanctions in court decisions, based on considerations of restorative justice and the non-repetition of criminal acts;
- The execution mechanism by the Public Prosecutor as the primary executor of court decisions, which must be guided by technical and coordinative guidelines with the Correctional Center (Bapas) (TUGA, 2012);
- The strategic role of the Correctional Center in supervising and monitoring the implementation of community service sanctions, including the preparation of a work plan by the offender and monitoring the progress of its implementation.

This regulation must also contain provisions regarding the selection of proportional forms of community service that are relevant to the characteristics of the offender and the type of crime (Muksin, 2023), so as not to result in the degradation of dignity or the potential for forced labor.

b. Standard Operating Procedures (SOP) and Derivative Regulations

The second point concerns the importance of standardization in the form of nationally applicable SOPs. The presence of SOPs will serve as a technical instrument to ensure uniformity in the implementation of community service sanctions throughout the Indonesian legal territory. This is necessary to:

- Minimize disparities in implementation due to differences in interpretation among law enforcement officers;

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- Provide legal certainty for offenders, officers, and the public;
- Establish indicators for the success of sanction implementation, such as the level of compliance, social benefits generated, and the level of offender resocialization.

However, the formation of an ideal SOP is not without implementation challenges, such as the limited technical capacity of the drafting institutions, resistance from officials against procedural changes, as well as limitations in socialization and training for regional officials. To address these obstacles, practical steps that can be taken include: forming a cross-sector SOP drafting team involving academics and legal practitioners, organizing integrated e-learning-based training for law enforcement officials across the region, and conducting pilot projects in several areas to test the feasibility and effectiveness of the SOP before it is implemented nationally.

These SOPs must be further regulated through Government Regulations or Ministerial Regulations (Permenkumham), as implementing regulations in the form of delegated legislation from the Criminal Procedure Code (KUHAP) (Pujiyanti, 2023). These derivative regulations should govern key aspects such as reporting procedures, revocation mechanisms for community service sanctions in the event of non-compliance, and alternative sanctions in case of implementation failure.

c. Centralized Coordination and Supervision Institution

The next ideal model is the establishment of a special unit or coordination desk under the Ministry of Law and Human Rights (Saikhu, 2020), tasked as the central body for supervision and control of community service sanctions implementation. The main functions of this institution include:

- Mapping regional needs related to the location and type of community service;
- Cross-sectoral consolidation with local governments, civil society, and the business sector, to provide community

service workspaces that are non-exploitative yet productive;
- Preparing periodic evaluative reports as the basis for policy refinement.

However, the establishment of this institution certainly faces challenges, including issues of sustainable funding, the need for trained and certified professional staff, and inter-sectoral coordination that has often been hindered by sectoral egos among agencies. To address these challenges, a budget commitment needs to be specifically allocated in the state budget (APBN) and regional budgets (APBD), integration of programs with related ministries/agencies such as the Ministry of Social Affairs and the Ministry of Home Affairs, as well as the implementation of a digital-based management system to facilitate monitoring and reporting across regions. With the existence of this institution, the implementation of community service criminal penalties is no longer partial and sectoral, but can be carried out systematically, standardized, and nationally controlled, thus ensuring the sustainability and effectiveness of non-custodial sentencing policies in the long term.

d. Integration of Restorative Justice Principles and Community Participation

A humanistic ideal model must reflect the principles of restorative justice, wherein sanctions are not merely viewed as retributive measures (Hariyanto & Pradnya Yustiawan, 2020), but also as efforts to restore social relationships. Therefore:

- Forms of community service should ideally be determined through a deliberative process (community conferencing) involving the offender, the victim, and the community;
- The local community must be involved as the beneficiary of the community service, whether in the form of environmental cleanliness, social services, or public education;

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- The selection of locations and types of work must consider the dignity and safety of the offender, as well as the tangible benefits for the affected community.

In this way, community service sanctions can serve as instruments of social reconciliation and the reinforcement of mutual cooperation (gotong royong) and solidarity within society.

e. Strengthening the Capacity of Law Enforcement Officers

Lastly, to support successful implementation, the technical capacity of law enforcement officials must be enhanced (Maringka, 2022). This can be achieved through:

- Intensive training for judges, prosecutors, correctional supervisors, and Correctional Center officers on the philosophy, mechanism, and evaluation of community service sanctions (Sanusi, 2017);
- The development of implementation modules and case study simulations, serving as references in decision-making and execution;
- The establishment of an integrated information system to monitor the community service sanction process digitally and in real time.

Investment in the human resources of the legal sector becomes a strategic component in ensuring that community service sanctions are not merely codified in law, but are implemented in line with the legal ideals (rechtsidee) embodied in the 2023 Criminal Code.

TABLE 1: Conclusion Framework of the Ideal Model for Regulating Community Service Sentences in the Reformed Indonesian Criminal Procedure Code

Aspect	Conclusion

Paradigm of Sentencing Reform	The introduction of community service sentencing under the 2023 Criminal Code reflects a progressive shift toward a humanistic, rehabilitative, and non-custodial punishment model; however, its sustainability depends on comprehensive procedural regulation within the revised Criminal Procedure Code (KUHAP).
Need for Procedural Integration	An ideal regulatory model requires strong integration between substantive criminal norms and procedural law, as the absence of detailed procedural mechanisms risks rendering community service sanctions symbolic, inconsistent, and prone to regional disparities.
Structured Procedural Framework	The effectiveness of community service sanctions relies on clear procedural stages—from judicial imposition to execution and supervision—ensuring proportionality, protection of human dignity, and avoidance of exploitative practices.
Standardization through SOPs and Derivative Regulations	Nationally standardized SOPs and derivative regulations are essential to ensure uniform implementation, legal certainty, measurable outcomes, and accountability, while also addressing institutional and technical implementation challenges.
Centralized Coordination and Supervision	The establishment of a centralized supervisory institution under the Ministry of Law and Human Rights is crucial to ensure systematic coordination, national control, sustainable funding, and continuous evaluation of community service sentencing.
Restorative Justice and Community Involvement	Integrating restorative justice principles and active community participation enables community service sanctions to function not only as legal penalties but also as instruments of social reconciliation, public benefit, and communal solidarity.

Capacity Building of Law Enforcement	Strengthening the technical competence of judges, prosecutors, and correctional officers—supported by training, digital monitoring systems, and practical guidelines—is indispensable to transform community service sanctions from legal norms into effective practice.
Overall Assessment	In conclusion, an ideal KUHAP-based regulatory model for community service sentencing must be procedural, standardized, coordinated, restorative, and professionally supported to ensure fairness, effectiveness, and long-term sustainability of non-custodial sentencing in Indonesia.

The introduction of community service sentencing under the 2023 Criminal Code represents a fundamental shift in Indonesia's penal policy toward a humanistic and rehabilitative orientation. This non-custodial sanction reflects an effort to reduce overreliance on imprisonment while promoting social responsibility and offender reintegration. Nevertheless, the normative recognition of community service sanctions alone is insufficient if not accompanied by clear, enforceable, and operational procedural norms. Consequently, the reform of the Criminal Procedure Code (KUHAP) becomes a crucial legal instrument to ensure that this new sentencing paradigm can function effectively and consistently in practice. An ideal regulatory model must ensure strong integration between substantive criminal law and criminal procedural law. Community service sanctions, although substantively regulated in the Criminal Code, risk being implemented unevenly without detailed procedural guidance in KUHAP. The absence of such integration may lead to legal uncertainty, discretionary abuse, and regional disparities in sentencing practices. Therefore, procedural clarity is essential to transform community service from a symbolic policy commitment into a concrete, enforceable sanction grounded in fairness and legal certainty.

The effectiveness of community service sentencing further depends on the existence of structured procedural mechanisms and nationally standardized operating procedures. Clearly defined stages—ranging from judicial imposition

and prosecutorial execution to correctional supervision—are necessary to ensure proportionality, accountability, and respect for human dignity. Standardized SOPs and derivative regulations also serve to harmonize implementation across regions, establish measurable indicators of success, and provide a clear framework for addressing non-compliance or implementation failure.

Moreover, centralized coordination and supervision play a decisive role in ensuring the sustainability of community service sanctions. The establishment of a dedicated supervisory body under the Ministry of Law and Human Rights enables systematic mapping of regional needs, cross-sectoral collaboration, and continuous policy evaluation. At the same time, the integration of restorative justice principles and community participation strengthens the social function of community service sanctions by transforming them into instruments of reconciliation, public benefit, and social cohesion, rather than merely administrative penalties. Finally, the successful implementation of community service sentencing is inseparable from the capacity of law enforcement officers responsible for its application. Continuous training, practical implementation guidelines, and the development of digital monitoring systems are indispensable to ensure consistency, transparency, and accountability. In conclusion, an ideal KUHAP-based model for regulating community service sentences must be procedurally sound, institutionally coordinated, restorative in nature, and professionally supported, thereby ensuring the long-term effectiveness and legitimacy of non-custodial sentencing reform in Indonesia.

Conclusion

The regulation of community service sanctions as a form of non-custodial punishment constitutes an urgent need in the effort to reform Indonesia's penal system. The new paradigm introduced in the 2023 Criminal Code (KUHP), which emphasizes the principles of corrective and restorative justice, must be accompanied by changes in the criminal procedural law to ensure the effective implementation of alternative sentencing. The absence of legal provisions in the Criminal Procedure Code (KUHAP) regarding the mechanism for implementing community service sanctions creates structural barriers for law

enforcement authorities and potentially undermines the effectiveness of non-custodial punishment aimed at reducing overcrowding, enhancing offender rehabilitation, and providing restitution to the community. Therefore, a reformulation of the KUHAP is necessary by incorporating clear provisions on the procedures for executing community service sanctions, division of roles between institutions such as the prosecutor's office, courts, and the Correctional Center (Bapas), as well as the development of comprehensive and applicable standard operating procedures (SOP). In addition to regulatory changes, it is also important to conduct thorough training and socialization for law enforcement officials to instill a new understanding of the importance of community service sentences as part of a more humane, fair, and efficient modern criminal justice system. These steps must be prioritized in the national legal reform agenda to create a penal system that is responsive to contemporary justice challenges. This reform effort aligns with the vision of a responsive legal system as envisioned by Nonet and Selznick, where the law evolves to meet the demands of justice and social relevance.

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Competing Interest

None.

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