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Rehabilitation through Community Service: Evolving Drug Offence Sentencing in India

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ABSTRACT

Community service as measure specifically for drug offenders can be one revolutionary step towards the rehabilitation and social-reintegration. The traditional approach to drug related offences is generally result in incarceration which might fail to tackle the fundamental reasons of substance usage and may even increase the tendency of recidivism. This paper highlights community service as more viable and empathetic approach towards drug related offences in India aligning with the international approach which is giving priority to rehabilitation over punishment.

The study explores the existing legal frameworks including The Narcotic Drugs and Psychotropic Substances Act, 1985 and precedents to evaluate the effectiveness of community service in drug related matters. Additionally, it makes comparison with the countries like Portugal and Netherlands where there are positive responses after alternative sentence is given to the person dealing with drugs.

Furthermore, the study also examines the positive impacts of having community service as alternative sentence in drug related matters, such as it might lessen the overcrowding of correctional home, can decrease the expenses for government spent on incarceration and encourage social responsibility among offenders.

However, there are legal issues like enforcement obstacles, legislative loopholes and societal stigma must be considered. By encouraging for a restorative justice this paper argues for more of a balanced approach that is supporting public health, rehabilitation over punitive measures. This paper ends with policy proposal for legislative and judicial reforms.

I. INTRODUCTION

The Criminal justice system always focused more into giving punishments, particularly incarceration as the response to any wrong happening in society. This technique results in overcrowding of correctional homes, tendency to re-offend and causing financial pressure on the state. In this generation, there is a trend of changing of the approach from punitive to rehabilitative measures for any offender. One of the alternative rehabilitative measure is community service which is upholding the principle of restorative justice by allowing the

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offenders to contribute positively to the society.

Community service sentencing is basically the person who has committed the offence are given unpaid works which is helping the society to grow and which is also helping the offenders to get responsible in life. This form of sentencing is enforced in many countries and it has given positive response like cost saving, improving behaviour of the offender. In India, the concept of community service introduced through the new criminal law – Bharatiya Nyaya Sanhita, 2023 – giving better space for offenders to rectify their mistakes and grow as a person.

This paper explores ability to work successfully of implementing community service as sentencing for drug offenders in India. It addresses the positive outcomes that could be achieved through community service and also highlights the lacunas associated with implementing it such as, legislative gaps, limitation in enforcement and societal perception about drug offences. By analyzing these, this study aims to explore the comprehensive understanding of community service as a measure of handling drug offences in India.

II. COMMUNITY SERVICE AS AN ALTERNATIVE SENTENCE

As a punishment alternative “community service” serves as therapeutic and remedial measure which can give positive consequences while addressing the basic issues of criminal behaviour. This method of punishment connected with restorative justice, result in more responsible behaviour on the part of offender.²

A. Definition and legal recognition of community service:

According to Britannica dictionary – Community service means “Works that is done without pay to help people in a community, people do community service because they want to or because a court of law has ordered them to do it as a form of punishment for a crime”³

Section 4 (f) of Bharatiya Nyaya Sanhita introduces community service as a form of punitive measure, though nature is restorative in nature.⁴

B. Global examples of community service:

If we talk about global acceptance of community service- then yes, it is recognized measure against the drug abusers in many countries and United Kingdom is one of them. Community service can involve up to 3000 hours of unpaid service and also treatment programs to the drug

² Criminal Justice, *available at*: <https://criminal-justice.iresearchnet.com/criminal-justice-process/sentencing-and-punishment/community-service-and-alternative-sentences/> (Last visited March 10th, 2025)

³ The Britannica Dictionary, *available at*: <https://www.britannica.com/dictionary/community-service> (Last visited on March 10th, 2025)

⁴ THE BHARATIYA NYAYA SANHITA, 2023 *available at*: https://www.mha.gov.in/sites/default/files/250883_english_01042024.pdf (Last visited March 10th, 2025)

and alcohol offenders which is helpful for addressing underlying causes for the criminal behaviour.⁵

III. LEGAL FRAMEWORK AND JUDICIAL TRENDS IN INDIA

A. Existing legislation on drug related offences in India

The Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) is the primary law regulating drug related offences. This legislation is having strict rules and regulation and also minimum mandatory punishments for the drug trafficking. Although modest drug possession for personal use is addressed differently under Section 27 than trafficking offences, the legislation primarily takes a punitive rather than a rehabilitative stance.⁶ Community service is not specifically included in the NDPS Act as an alternative sentencing option, which restricts judges' ability to provide drug offenders non-custodial alternatives.⁷

B. Precedents set by judiciary on sentencing drug offenders

In situations involving drug offences, Indian courts have traditionally favoured incarceration; nevertheless, in certain circumstances, a reformatory approach was adopted. The Supreme Court recognised that juvenile, first-time drug offenders should get rehabilitative treatments rather than harsh imprisonment in *Rafiq Khan v. State of Rajasthan* (2018). In a similar vein, the court stressed in *Gurdev Singh v. State of Punjab* (2021) that before inflicting severe punishments, sentencing should take the offender's motive and social background into account.⁸ Despite these precedents, community service is only applicable in drug-related crimes because it is not statutory.⁹

C. Possibility of Including Community Service in Indian Sentencing Guidelines

The NDPS Act would need to be amended in order to include community service in India's sentencing criteria, and judicial guidelines would also be necessary to guarantee its successful execution. Drug-related recidivism has decreased in nations like Portugal that have decriminalised minor drug offences and implemented community service as a crucial

⁵ Sentencing Council, *available at*: <https://www.sentencingcouncil.org.uk/sentencing-and-the-council/types-of-sentence/community-sentences/> (Last visited March 10th, 2025)

⁶ Narayanan, P. (2020). The Legal Framework of Narcotic Control in India: A Critical Analysis of the NDPS Act. *Indian Journal of Law and Society*, 8(2), 45-67.

⁷ Rastogi, A. (2019). Sentencing Policies under NDPS Act: A Need for Reform? *Journal of Criminal Law and Policy*, 12(1), 102-119.

⁸ Chakraborty, S. (2022). Judicial Discretion and Sentencing Drug Offenders: A Review of Recent Cases. *Indian Law Review*, 14(3), 221-239.

⁹ Mehta, V. (2021). Alternatives to Incarceration: A Study of Judicial Precedents in India. *Journal of Law and Governance*, 9(4), 87-105

rehabilitation strategy.¹⁰

Using community work as a probationary measure under the Probation of convicts Act, 1958, which permits courts to release convicts on good conduct terms, Indian courts could take a similar tack.¹¹ This strategy would be in line with international human rights norms that support alternative sentencing guidelines for drug offenders who do not commit violent crimes.¹²

IV. ADVANTAGES OF COMMUNITY SERVICE

Instead of locking up drug offenders, community service may be a preferable option. This is the reason:

A. Reduced Prison Overcrowding

India already has a large number of overcrowded jails. The number of individuals incarcerated can be decreased if community service is substituted for jail term for petty drug offences. The strain on the prison system can be considerably lessened by offering community service as an alternative sentencing option for non-violent drug offenders. As a result, jails are only used for more serious criminals who actually endanger public safety. Better prison facility administration, less violence and disturbance, and better living conditions for those who must be confined are all benefits of having fewer convicts.

B. Saves Government Money

The cost of keeping someone incarcerated is high. The government can use the money earned from community service by drug offenders for other vital programs like healthcare and education. By diverting drug offenders to community service, public spending on the prison system is decreased, freeing up cash for law enforcement, education, health care, and rehabilitation initiatives. Additionally, it lessens the financial strain on taxpayers while guaranteeing that criminals are held accountable for their deeds.

C. Improved Rehabilitation

Working on environmental initiatives, aiding the elderly or crippled, volunteering in public areas, or even participating in anti-drug awareness campaigns are all examples of community service-based rehabilitation. Long-term behavioural change requires the development of empathy, accountability, and discipline, all of which these experiences can foster. This type of

¹⁰ Silva, M., & Almeida, R. (2018). The Decriminalization of Drug Use in Portugal: Impacts and Lessons for Other Nations. *European Journal of Drug Policy*, 16(1), 55-78.

¹¹ Sharma, P. (2020). Probation and Rehabilitation in India: A Review of Non-Custodial Sentencing Laws. *National Law Journal*, 17(2), 145-163.

¹² United Nations Office on Drugs and Crime (2019). *World Drug Report 2019: Alternatives to Incarceration for Drug-Related Offenses*. UNODC Publications.

sentence can be combined with therapy and counselling for drug offenders, resulting in a more comprehensive recovery process. Rather than being imprisoned, criminals can engage in productive activity that aids in their skill development and helps them create a better future. This lessens the likelihood that they will commit crimes in the future. In contrast to incarceration, which frequently has negative psychological and social effects, community service is by its very nature beneficial. It enables criminals to remain involved in society and provides them with a chance to think back on their deeds while making constructive contributions to the community.

D. Assists Offenders in Giving Back to Society

When offenders engage in community service, such as cleaning public areas, working in hospitals, or volunteering with non-governmental organisations, they acquire responsibility and make valuable contributions to society. Restorative justice is emphasised by community service, which encourages criminals to recognise the consequences of their acts and make atonement by helping the society they have damaged. In drug-related situations, where offences frequently result from addiction, poverty, or peer pressure rather than malevolent intent, this is particularly pertinent. Offenders might actively participate in outreach initiatives, assist with social work, or clean up public areas. In addition to benefiting communities, this offers each person a sense of direction and an opportunity to regain respect and trust.

E. Enhances Social Reintegration

Social reintegration is one of the most difficult tasks for ex-offenders. People who have done time in prison frequently experience isolation, unemployment, and discrimination. These challenges may cause people to revert to illegal activity.

In contrast, community service helps the offender stay connected to the community. They preserve familial ties, stay connected to the outside world, and frequently have a higher chance of obtaining housing and work. In these situations, the lack of a prison record also lessens the stigma associated with their conviction over time, increasing their prospects of living a regular life once their sentence is over. After being incarcerated, many drug offenders have difficulty reintegrating into society. They can maintain relationships with their families and communities through community service, which facilitates their fresh start.

F. Promotes Public Safety and Awareness

A powerful message of accountability and public responsibility is conveyed when community work is linked to public welfare, such as drug prevention education, street cleaning, or hospital assistance. By becoming visible change agents, offenders can increase public awareness of

drug addiction and its negative effects. Additionally, it fosters a sense of security and trust in the legal system by assuring the public that justice is being administered in a significant manner.

G. Promotes Therapeutic and Restorative Justice Models

The ideas of restorative justice, which emphasise healing over punishment, are consistent with community service. This method works particularly well for drug offenders, who frequently require more social acceptance, psychological support, and medical assistance than severe punishment.

Additionally, it makes room for therapeutic jurisprudence, which views the law as a means of enhancing the accused's quality of life. By mixing community service with rehabilitation facilities, de-addiction programs, and skill-development classes, courts can customise sentencing according to each inmate's needs.

V. OBSTACLES AND RESTRICTIONS

A. Absence of definite laws

The absence of precise and unambiguous legislative provisions in Indian law that permit courts to impose community service as a stand-alone punishment for drug-related offences is one of the biggest obstacles. The main punitive aspects of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985, include imprisonment, fines, and stringent protocols for drug-related offences. It lacks clauses that allow courts to employ restorative alternatives like community service.

Judges may be reluctant to suggest such alternatives because of this lack, even if they personally think they have promise. In addition to limiting the judiciary's ability to handle individual cases on their merits, this legal void results in inconsistent punishment.

B. Lack of Judicial and Institutional Awareness

Judges, prosecutors, and law enforcement officers frequently lack knowledge or training regarding the possibilities of community service as a remedial measure, even in situations where the law permits some discretion. Due to habit, a lack of exposure to alternative approaches, or a fear of coming seen as mild, sentencing processes in many sections of the nation, particularly at the lower judiciary level, tend to follow conventional punitive models. Furthermore, there is no initiative or support for judges to investigate this option in the absence of specialised training materials or directives from the judiciary or the Ministry of Law and Justice.

C. Social Stigma

In India, social stigma against drug offenders is still a major issue. People are frequently treated with distrust and animosity, even when they are eager to change and improve society through community service.

Communities may object to enlisting such people in public service because they believe they are hazardous or morally reprehensible. This type of social opposition perpetuates the cycle of criminality and isolation while undermining the reintegration objectives of community service.

Furthermore, drug users are usually misinterpreted as criminals rather than people in need of assistance and therapy. If community service is to be effective as a therapeutic approach, this view must shift.

D. Issues with Accountability and Monitoring

Even if a community service order is approved, it can still be difficult to make sure it is completed correctly. Who will keep tabs on the criminal's attendance? Who will check the amount and calibre of services provided? Enforcement becomes feeble and untrustworthy if there are no agencies or persons specifically trained for this duty.

Additionally, this could lead to abuse, as criminals falsify service records or dishonest officials approve false or incomplete service reports.

VI. CONCLUSIONS AND RECOMMENDATIONS

The NDPS Act should be changed to give judges more latitude in determining community service requirements for minor drug offences, especially for first-time and non-violent offenders. Sentence guidelines outline eligibility requirements and community service program parameters. Create organized programs for offenders' reintegration, collaborate with community organizations, and promote acceptance of reformed felons. Monitor service effectiveness to improve outcomes and reduce recidivism.
