



## Criminal Social Work as an Alternative to Criminal Punishment in Indonesia Based on the National Criminal Code

Sitti Ruwaida <sup>1\*</sup>, Amiruddin <sup>2</sup>, Rina Khairani Pancaningrum <sup>3</sup>

<sup>1</sup> Master of Laws, Universitas Mataram, Mataram, West Nusa Tenggara, Indonesia

<sup>2-3</sup> Universitas Mataram, Mataram, West Nusa Tenggara, Indonesia

\* Corresponding Author: **Sitti Ruwaida**

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### Article Info

**ISSN (online):** 2583-6536

**Volume:** 05

**Issue:** 03

**May-June 2026**

**Received:** 28-03-2026

**Accepted:** 26-04-2026

**Published:** 24-05-2026

**Page No:** 162-169

### Abstract

This thesis aims to examine and analyze the concept of social work as a reform of criminal punishment in Indonesia in the National Criminal Code and to examine and analyze the suitability of social work to the principles of proportionality and justice in sentencing. This research is a normative research using a legislative and conceptual approach. The legal material collection technique uses literature studies and legal material analysis uses systematic legal interpretation by interpreting laws. The results of this study are that social work is conceptualized as an alternative to short-term imprisonment and light fines by considering various aspects such as confession, ability, consent, and the social history of the defendant. Social work is in accordance with the principles of proportionality and justice in sentencing because it provides sanctions that are commensurate with the level of error. Social work not only emphasizes retribution, but also encourages recovery and improvement through positive contributions to society. However, social work still requires more detailed and comprehensive implementing regulations so that social work can be implemented consistently and effectively by law enforcement officials.

**DOI:** <https://doi.org/10.54660/IJLL.2026.5.3.162-169>

**Keywords:** Criminalization, Social Work, Criminal Law Reform

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### 1. Introduction

Punishment is a special form of suffering, because the punishments threatened to violate criminal law provisions are imposed on perpetrators who have been proven to have committed a crime. Punishment in Indonesia previously tended to be retaliatory, with the goal of providing appropriate retribution for the crime. <sup>[1]</sup>

Based on the old Criminal Code (KUHP), hereinafter referred to as the Colonial Criminal Code, the types of criminal sanctions are regulated in Article 10, which consist of principal and additional penalties. When compared to other types of penalties, imprisonment is the type of principal penalty most often imposed by judges, <sup>[2]</sup> because the threat of punishment in the Colonial Criminal Code and Special Laws concerning criminal acts is predominantly imprisonment. The nature of imprisonment is to limit freedom of movement by placing the convict in a correctional institution. The convict is obliged to submit to, obey and carry out all applicable regulations. <sup>[3]</sup>

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<sup>1</sup> Muchlas Rastra Samara Muksin, *The Purpose of Criminalization In Reform of Indonesian Criminal Law*, *Journal Sapientia Et Virtus*, Vol. 8, no. 1, (March 2023): p. 234.

<sup>2</sup> Barda Nawawi Arief, *Anthology Criminal Law Policy, Development of the Drafting of the New Criminal Code*, 6th Edition, Kencana, Jakarta, 2017, p. 214.

<sup>3</sup> Adami Chazawi, *Criminal Law Reasoning 1: Criminal System, Criminal Acts, Theories of Punishment and the Limits of the Applicability of Criminal Law*, PT Raja Grafindo Persada, Jakarta, 2005, p. 32.

With the changing times and the increasing variety of crimes, the intended goals of prison sentencing often face challenges that hinder their effectiveness, both in terms of implementation and the approach adopted within the correctional system. The high crime rate within prisons suggests that, in the eyes of some inmates, prisons are not places of confinement but rather places for committing crimes. Inmates engage in vandalism, theft, fraud, abuse, assaults, and attacks on prison officers. As a result, former inmates often experience difficulty finding employment, struggle to reintegrate into society, lose public trust, and ultimately have the potential to reoffend, leading to overcrowding in correctional facilities.

The problem of overcrowding in correctional institutions occurs in nearly every province in Indonesia. In 2024, the Class II B Ende Penitentiary had a capacity of 175 inmates, but by April 2024, the number of inmates had reached 217, representing a 24% overcapacity. This indicates that prison capacity in Indonesia is far beyond its ideal capacity. This situation can impact the quality of guidance, health, security, and optimal fulfillment of inmates' human rights.

The correctional database system also shows that in 2025, North Sumatra Province had a total capacity of 15,673 people, with 32,156 prisoners and convicts, ranking first. East Java Province was second with a total capacity of 14,387 people, but with a total occupancy of 27,188 prisoners and convicts. Riau Province was third with a capacity of 4,583 people, with 15,933 prisoners and convicts.<sup>[4]</sup>

The impact of *overcapacity* in correctional institutions has given rise to problems, such as the March 2025 incident in which the people of Southeast Aceh were shocked by the escape of 52 inmates from the Kutacane Class IIB Penitentiary. Similarly, on May 8, 2025, inmates at the Muara Beliti Class IIB Penitentiary rioted after resisting a raid on cell phones and narcotics.<sup>[5]</sup> Both incidents occurred due to *overcapacity* in correctional institutions, triggering security disturbances and impacting public order.

Given the persistent *overcrowding of correctional institutions* and the negative impacts of prisons, it is not surprising that there is much criticism of prison sentencing. These ongoing prison problems demonstrate that Indonesia needs reform of its criminal law. As a manifestation of this reform, Law Number 1 of 2023 concerning the Criminal Code (KUHP) was ratified. Hereinafter referred to as the National Criminal Code. The philosophical foundation of the National Criminal Code is clearly evident in the considerations, which consider that the National Criminal Code is based on Pancasila and the 1945 Constitution of the Republic of Indonesia and is adapted to modern legal paradigms.

In an effort to modernize the criminal justice system, the National Criminal Code has introduced changes to the principal penalties, one of which is the introduction of community service. Community service is essentially an alternative to imprisonment, particularly short-term imprisonment and/or fines. A short-term sentence can be defined as imprisonment of less than six months.<sup>[6]</sup> Social

work punishment in Indonesia has been regulated in Article 85 paragraph (1) to paragraph (9) of the National Criminal Code, however in this article there are still regulations that are not clear enough so that there is a lack of clarity in the norms, especially in the mechanisms and guidelines for implementing and supervising social work punishment, therefore further implementing regulations are needed.

A study on social work punishment needs to be conducted to find out in detail about the concept of social work punishment in the National Criminal Code, because social work punishment is classified as a new punishment in the criminal system in Indonesia. This social work punishment system is certainly different from the previous sentencing approach used in Indonesia. Therefore, based on the background outlined, in this study, the author will examine and analyze the concept of social work punishment as a reform of the Indonesian National Criminal Code and analyze its suitability to the principles of proportionality and justice in sentencing.

## 2. Research Methods

The research method used is normative legal research. Normative legal research is conceptualized as what is stated in legislation (*law in books*), or law is conceptualized as rules or norms. Normative<sup>[7]</sup> legal research usually only recognizes secondary data, which includes primary legal materials, secondary legal materials, and tertiary legal materials. This research will focus on the study of legislation related to community service. The approach used in research This is approach legislation (*statute approach*) and conceptual approach. The analysis of legal materials used is systematic legal interpretation, namely by interpreting the law, in this case the author analyzes Law Number 1 of 2023 concerning the Criminal Code or the National Criminal Code, specifically Article 85 which regulates community service penalties.

## 3. Discussion

### 3.1. The Concept of Social Work as a Reform of Criminal Procedure in Indonesia in the National Criminal Code

In the development of criminal law in Indonesia, the punishment in the National Criminal Code shows a shift from absolute theory to relative and combined theory. This development shows that the purpose of punishment in the National Criminal Code is directed at preventing criminal acts with the ultimate goal of realizing social welfare and re-achieving disturbed social harmony. Punishment is no longer understood as a means of revenge, but as a corrective, restorative, and rehabilitative instrument aimed at restoring social balance, protecting the interests of victims, and guiding perpetrators so they can return to functioning responsibly in society.

The reform of criminal penalties in the National Criminal Code is also reflected in changes and developments in the types of criminal sanctions. Article 64 of the National Criminal Code states that criminal penalties consist of principal penalties, additional penalties, and special penalties

<sup>4</sup> Correctional Database System, <https://sdppublik.ditjenpas.go.id/>, 2025, Accessed on November 13, 2025, at 23:53.

<sup>5</sup> Udik Fajar, *Prison Riots and Prison Escapes Are Symptoms, the Real Threat Is Overcrowded*, Ministry of Immigration and Corrections of the Republic of Indonesia, May 2025, <https://kemenimipras.go.id/publikasi-2/kolom-opini/kerusuhan-di-lapas-dan-kaburnya-narapidana-adalah-gejala-ancaman-sebenarnya-bernama-overcrowd-ed>, Accessed on December 15, 2025, at 12:50.

<sup>6</sup> Siti Hawa & Pudji Astuti, *Short-Term Imprisonment for Elderly Prisoners (Case Study at Tuban Class IIB Penitentiary)*, Vonum: Jurnal Hukum, Vol. 6, No. 3, (July 2019), p. 3.

<sup>7</sup> Amiruddin and Zainal Asikin, *Introduction to Legal Research Methods*, 11th edition, Rajawali Pers, Depok, 2020, p. 118

for certain crimes as stipulated in the law.<sup>[8]</sup> Criminal main arranged in Article 65 paragraph (1) of the National Criminal Code. Criminal main consists of on :

1. Criminal prison ;
2. Criminal cover ;
3. Criminal supervision ;
4. Criminal fines ; and
5. Criminal Work social.

Order criminal main determine heavy lightness fall criminal Work social is criminal non - prison terms. Criminal Work social order lastly, placed as form more criminal light compared to with criminal prison Because No remove freedom in a way full, but limit in form obligation For do work useful social for public.

More explicitly, community service penalties are regulated in Article 85 of the National Criminal Code. Article 85 paragraph (1) states that: Community service penalties can be imposed on defendants who commit crimes that are punishable by imprisonment for less than 5 (five) years and the judge imposes a maximum imprisonment of 6 (six) months or a maximum fine of category II. The category II fine is regulated in Article 79 paragraph (1) letter b, namely a maximum of IDR 10,000,000.00 (ten million rupiah).

Based on Article 65 paragraph (1) of the National Criminal Code, it can be seen that that criminal Work social placed in order fifth in arrangement criminal principal. Although categorized as criminal principal, will but in implementation criminal Work social This is form criminalization alternative. This is based on the explanation of Article 65 paragraph (1) which states that criminal cover-up, criminal supervision and criminal Work social in essence is an implementation model criminal as alternative from criminal prison. More carry on also explained in explanation of Article 85 paragraph (1) which states criminal Work social can implemented as alternative criminal prison term short and light fines. So that criminal Work social This No intended as choice main, but rather used as alternative from more criminal heavy namely to criminal prison and criminal penalties fine.

In second chapter it also confirms that Community service is an alternative sanction to imprisonment, particularly short-term imprisonment, given that imprisonment is a last resort in dealing with crime and/or a light fine. Community service can be used as an alternative to a fine as long as the fine imposed by the judge on the defendant does not exceed a category II fine. This article also indicates that community service is directed at types of crimes classified as crimes with a relatively low level of seriousness.

From Article 85 paragraph (1), it can also be withdrawn meaning that criminal Work social No can applied to the type action criminal threats criminal his prison over 5 (five) years, the judge sentenced criminal prison more from 6 ( six ) months, the judge sentenced fine on category II, threat criminal prison over 5 (five) years and the judge sentenced criminal prison not enough from 6 months or fine category II, threat criminal prison under 5 (five) years and the judge sentenced criminal prison over 6 ( six ) months or fine on category II.

The National Criminal Code's provision of community

service as an alternative to imprisonment and fines embodies the principle that in certain situations, imprisonment should be avoided and replaced with non-imprisonment punishments.<sup>[9]</sup> These specific situations, in which imprisonment should be avoided, should be avoided if the following conditions are found:

1. The defendant is a child;
2. The defendant is over 75 years old;
3. The defendant committed a crime for the first time;
4. The losses and suffering of the victims were too great;
5. The defendant has paid compensation to the victim;
6. The defendant did not realize that the crime he committed would result in major losses;
7. The crime occurred due to very strong incitement from another person;
8. The victim of the crime encouraged or instigated the crime to occur;
9. The crime is the result of a situation that is unlikely to be repeated;
10. The defendant's personality and behavior ensure that he will not commit another crime;
11. Imprisonment will cause great suffering to the accused or his family;
12. It is estimated that coaching outside of correctional institutions will be successful for the defendant;
13. Imposing a lighter sentence will not reduce the serious nature of the crime committed by the defendant;
14. The crime occurred within the family; and/or
15. Criminal acts occur due to negligence.<sup>[10]</sup>

Article 70 paragraph (1) is one of the basic considerations in giving social work as an alternative to criminal punishment. This provision shows that criminal punishment is not carried out rigidly, and social work is a more appropriate alternative to imprisonment to be given to the accused by taking into account humanity, the personal circumstances of the accused, the level of culpability, and the situation and conditions that underlie the crime.

The imposition of social work sentences by judges is also regulated in Article 85 paragraph (2) which states:

In imposing a social work sentence, the judge must consider:

1. The defendant's confession regarding the crime committed;
2. the defendant's work ability;
3. the defendant's consent after an explanation of the purpose and all matters relating to the community service sentence;
4. Social history of the accused;
5. Protection of the defendant's work safety;
6. The religion, beliefs, and political convictions of the accused, and
7. The defendant's ability to pay the criminal fine.

In its definition, social work punishment is simply a punishment given through social work.<sup>[11]</sup> Social work punishment is a type of punishment where the convict fulfills

<sup>8</sup> Article 64 of Law Number 1 of 2023 concerning the Criminal Code.

<sup>9</sup> Endri, *Community Service as an Alternative to Imprisonment*, 1st Edition, Kencana, Jakarta, 2024, p. 9

<sup>10</sup> Article 70 Paragraph (1) of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>11</sup> Ika Wahyu Setyawati, *Reconstruction of Community Work Sentencing for Minor Crimes as an Effort to Prevent the Recurrence of Minor Crimes in Indonesia*, *Jurnal Recidive*, vol. 2, no. 1, (January-April 2013), p. 47

his sentence by carrying out the prescribed social work.<sup>[12]</sup> In the explanation of Article 85 paragraph (1) which contains regulations regarding social work punishment, it explains that the implementation of social work punishment can be carried out in hospitals, orphanages, elderly homes, schools, or other social institutions, with as much as possible being adapted to the profession of the convict. This type of implementation is still general, because there is no specific explanation regarding the type of work that must be done. The absence of an explanation of this type of work will potentially give rise to differences in practice and inconsistencies with the expected development goals.

Furthermore, Article 85 paragraph (2) also forms the basis for consideration in imposing community service sentences. The imposition of community service sentences takes into account the defendant's confession to the crime committed<sup>[13]</sup>. In this case, the defendant must first admit to the act committed. This is a form of cooperation and the defendant's willingness to take responsibility for the crime committed.

The imposition of community service must also take into account the defendant's work capacity<sup>[14]</sup> while serving the sentence. This aims to determine the extent of the defendant's ability to fulfill the obligations imposed on him. This is also related to the provisions in Article 70 paragraph (1) letter b regarding defendants aged over 75 years, which indicates that age is a factor in determining a prison sentence for a defendant. With this consideration, it is hoped that the judge will be able to assess and provide community service sanctions that are appropriate to the defendant's age, physical, mental and situational conditions.<sup>[15]</sup> This is also to avoid excessive workloads or even work that cannot be carried out by the defendant.

The judge's imposition of community service must also obtain the defendant's consent.<sup>[16]</sup> The defendant's consent is necessary to prevent any conflict with the constitution and international conventions prohibiting forced labor. Furthermore, the defendant's consent is a prerequisite for ensuring the defendant's readiness to perform the community service appropriately and responsibly, as community service is performed without compensation or wages.

Furthermore, when imposing community service on a defendant, the judge must also consider the defendant's social history.<sup>[17]</sup> The defendant's social history is necessary to assess the defendant's background and their physical and mental readiness to serve their sentence.<sup>[18]</sup> The defendant's social history can encompass various aspects of the defendant's life to provide a clearer picture of the defendant's social circumstances. These include family circumstances, education, psychiatric history from a psychologist or psychiatrist, factors underlying the crime, and whether the defendant has previously been convicted. Repeated criminal offenses indicate that the rehabilitation process through previous criminal penalties has not yielded optimal results. Exceptions to the application of community service to

recidivists are an effort to maintain the effectiveness of the objectives of punishment. Community service is essentially given to perpetrators who still have the opportunity to correct their mistakes, emphasizing the rehabilitation aspect rather than the retaliatory aspect.

The implementation of this social work sentence may not be commercialized,<sup>[19]</sup> because it is criminal in nature and for the benefit of society. This emphasizes that social work sentences are a means of social development and contribution, not as a commercialization of convicts. This social work sentence is intended as a substitute for short-term imprisonment or as a substitute for fines as stated in Article 85 paragraph (1) of the National Criminal Code.

Basically, the sanctions that can be dropped is criminal the listed items or threatened in formulation the crime in question, namely in Book II, will but the judge can also rule type sanctions others who don't listed, as long as possible according to rule general Book I.<sup>[20]</sup> In Book II of the National Criminal Code, the crime Work social No in a way direct threatened as threat in provision articles action criminal. Although thus, the judge remains can drop criminal Work social with based on guidelines criminalization and implementation criminal. Article 53 of the National Criminal Code confirms that the judge is obliged prioritize justice, even when happen conflict between certainty law and justice. This give authority for judges to choose type criminal law that reflects a sense of justice, including criminal Work social. Article 54 of the National Criminal Code becomes base that the judge must consider various condition in fall criminal to the defendant. In condition certain considerations This can leading to the election relative criminal law more light like criminal Work social if criminal prison or criminal fine felt No allows For given to the defendant. Next Article 57 also emphasizes that more severe punishments light prioritized if assessed has fulfil objective criminalization.

Next, regarding The mechanism for implementing community service sentences in Indonesia is currently still general in nature, with no specific implementing regulations in technical regulations. Discussion of the mechanism for implementing community service sentences is currently limited and can only refer to the normative provisions contained in Article 85 of the National Criminal Code.

The implementation of social work punishment is in the form of punishment carried out outside of correctional institutions by carrying out activities that are beneficial to the community. Convicts carrying out social work punishment are required to work at a predetermined time. Normatively, social work punishment is imposed for a minimum of 8 (eight) hours and a maximum of 240 (two hundred and forty) hours.<sup>[21]</sup> With the provision that social work punishment can be carried out for a maximum of 8 (eight) hours in 1 (one) day and can be paid in installments over a maximum of 6 (six) months by taking into account the activities of the convict in

<sup>12</sup> Hajairin, *Criminal Work Social : Exploration Policy Supervision In Implementation Law Update Criminal Law*, CV Global Aksara Pers, East Java, 2021, p. 19.

<sup>13</sup> Article 85 paragraph (2) letter a of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>14</sup> Article 85 paragraph (2) letter b of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>15</sup> Firmansyah, *Sanctions and Criminal Social Work in the Perspective of the Latest Criminal Code*, Eureka Media Aksara, Central Java, 2024, p. 31.

<sup>16</sup> Article 85 paragraph (2) letter c of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>17</sup> Article 85 paragraph (2) letter b of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>18</sup> Firmansyah, *Loc. Cit.*, p. 31.

<sup>19</sup> Article 85 paragraph (3) of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>20</sup> Barda Nawawi Arief, *Op. Cit.*, p. 99.

<sup>21</sup> Article 85 paragraph (4) of the Law Number 1 of 2023 concerning the Criminal Code.

carrying out his livelihood and/or other useful activities.<sup>[22]</sup> Taking into account his livelihood and/or other useful activities shows that the determination of the duration or hours of social work punishment is not carried out rigidly, but rather takes into account the condition of the convict, especially work and other activities that are useful.

The implementation of community service penalties, including the minimum and maximum time limits for the implementation of community service penalties, must be included in the court's decision. Furthermore, the judge must specify the length of the prison sentence or the amount of the fine actually imposed by the judge on the defendant, the length of the community service penalty to be served, including the number of hours per day, the time period for completing the community service penalty, and the sanctions if the convict fails to complete the community service penalty.<sup>[23]</sup>

The sanctions imposed on the defendant if the convict, without valid reason, does not carry out all or part of the community service sentence, can be in the form of the convict being obliged to repeat all or part of the community service sentence, serve all or part of the prison sentence which is replaced by the community service sentence, or pay all or part of the fine which is replaced by the community service sentence or serve a prison sentence in lieu of the fine which is not paid.<sup>[24]</sup>

Furthermore, supervision of the implementation of community service is carried out by the prosecutor, and guidance is provided by the community counselor.<sup>[25]</sup> The Prosecutor's Office, as an institution with an executive function in the criminal justice system, has the duty and authority to implement judges' decisions and court decisions that have obtained permanent legal force.<sup>[26]</sup> This supervision by the Prosecutor's Office may be intended to oversee matters related to the implementation of community service by the convict. In this case, this can concern the number of work hours, type of work, and assessment of the convict's discipline during the community service sentence. The Prosecutor's Office is responsible for ensuring that court decisions are implemented properly.

Furthermore, regarding guidance for convicts on social work, referring to Law Number 22 of 2022 concerning Corrections, a community counselor is a correctional officer who carries out community service, mentoring, guidance, and supervision of clients, both inside and outside the criminal justice process.<sup>[27]</sup> Thus, community counselors do not only focus on guidance, but also on the social reintegration process of convicts. Community counselors provide assistance, direction, and guidance to convicts on social work so that the implementation of social work sentences is in accordance

with their abilities and in accordance with the goals of social reintegration.

In supervising and providing guidance to convicts, prosecutors and community counselors can collaborate with government agencies specializing in social work.<sup>[28]</sup> Supervision by prosecutors is a crucial step in ensuring the continued and responsible implementation of social work duties. Furthermore, the role of community counselors is also crucial in providing direction and guidance to convicts in carrying out social work as mandated by law.<sup>[29]</sup>

### 3.2. Community service sentences are viewed from the principle of proportionality and justice in sentencing.

#### 3.2.1. Analysis of Community Service Penalties Against the Principle of Proportionality

The principle of proportionality is a legal principle that emphasizes the balance between legal action and the desired goal. This principle aims to ensure that the punishment imposed on a criminal is commensurate with the seriousness of the crime.<sup>[30]</sup> This is crucial to avoid sentences that are too light or too harsh.

From the perspective of the principle of proportionality, community service can be considered more balanced than short-term imprisonment. Community service presents a more proportional solution because it still provides the consequences of punishment without completely depriving the convict of his freedom. does not automatically result in imprisonment. The concept of community service provides a constructive alternative to imprisonment, focusing on rehabilitation and social reintegration.<sup>[31]</sup> Community service involves offenders in productive activities, such as working in public facilities, skills development, and community development. The goal is to change offenders' behavior, provide opportunities to acquire new skills, and promote their positive reintegration into society.<sup>[32]</sup>

Furthermore, social work as an alternative punishment is normatively considered in line with the principle of proportionality because it considers the balance between the interests of the perpetrator, the victim and the community, as well as the state. In social work, the imposition of social work can only be applied to minor crimes with a criminal threat of less than 5 (five) years, the judge imposes a prison sentence of no more than 6 (six) months or a maximum fine of category II,<sup>[33]</sup> namely no more than Rp. 10,000,000 (ten million rupiah).<sup>[34]</sup> The imposition of social work which can only be imposed on minor crimes with a prison sentence of less than 5 years and other requirements, reflects that social work pays attention to the principle of proportionality where the imposition of punishment is in accordance with the crime committed.

<sup>22</sup> Article 85 paragraph (5) of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>23</sup> Article 85 paragraph (9) of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>24</sup> Article 85 paragraph (7) of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>25</sup> Article 85 paragraph (8) of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>26</sup> Article 30 Paragraph (1) Letter B of the Law Number 16 of 2004 concerning Attorney General of the Republic of Indonesia.

<sup>27</sup> Article 1 number 23 of Law Number 22 of 2022 concerning Corrections.

<sup>28</sup> *The Strategic Role of Community Guidance in the Implementation of the New Criminal Code*,

<https://www.kompasiana.com/Humasbapasjember405208/686f650d34777c34bb6278e4/Peran-Strategis-Pembimbing-Kemasyarakatan-Dalam-Implementasi-Kuhp-Baru, 2025, Accessed on March 10, 2026, at 23:30>.

<sup>29</sup> Rodliyah & Salim HS, *Introduction to Criminal Law Referring to the New Criminal Code (Law No. 1 of 2023)*, Sinar Grafika, Jakarta, 2024, p. 120.

<sup>30</sup> Deni Setiawan, et al., *The Principle of Proportionality in the Implementation of Criminal Punishment in Indonesia*, Multidisciplinary Student Scientific Journal, Vol. 1, No. 3, (October 2024), p. 266.

<sup>31</sup> Firmansyah, *Op. Cit.*, p. 21.

<sup>32</sup> *Ibid.*, p. 27.

<sup>33</sup> Article 85 of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>34</sup> Article 79 of the Law Number 1 of 2023 concerning the Criminal Code.

Furthermore, the imposition of social work sentences has a duration of work that has been stipulated in Article 85 paragraph (4) and paragraph (5). The minimum and maximum limits of the duration of work provide clear working hours for judges to adjust the severity of the sentence to the level of seriousness of the crime and the level of guilt of the perpetrator by also taking into account the matters that must be considered by the judge as contained in Article 85 paragraph (2). Based on these considerations, the imposition of social work sentences cannot be imposed arbitrarily, but rather within a measurable and clear time span and adjusted to the characteristics and concrete situation of the perpetrator. Furthermore, from the perspective of the convict's interests, community service does not cause excessive suffering as imprisonment does. Imprisonment that restricts the convict's freedom of movement is considered disrespectful of the convict's dignity as a human being.<sup>[35]</sup> The limitation of work to 8 hours a day shows that community service is not intended as a form of excessive punishment and exploitation of the defendant's energy, but rather as a form of accountability for the defendant's mistakes while still respecting human rights and providing a more humane punishment in accordance with the intended purpose. The implementation of community service of at least 8 hours a day is based on the consideration that community service still pays attention to the convict's activities in carrying out his livelihood, so that the defendant can still support and meet his living needs.

From the perspective of victims and society, the implementation of community service by convicts reflects a social moral responsibility that can be seen clearly by victims and society. Community service provides direct benefits by carrying out community service within the community.<sup>[36]</sup> Furthermore, the involvement of convicts in community service can foster empathy and moral awareness, thereby encouraging behavioral changes in convicts and preventing recurrence of crimes. This also strengthens the function of punishment, namely reflecting balance and harmony by empowering convicts through productive work.<sup>[37]</sup>

From the state's perspective, community service is an efficient alternative to imprisonment, particularly in reducing overcrowding in correctional institutions. The goal of sentencing through community service is also related to increasing the efficiency and effectiveness of the criminal justice system. Compared with imprisonment, which burdens the state in terms of budget, management, and social impact, community service is a more proportional and economical alternative without compromising the authority of the law. Furthermore, community service also supports reforms in more rational and sustainable sentencing policies.<sup>[38]</sup>

### 3.2.2. Analysis of Criminal Social Work Against the Principles of Justice in Criminal Procedure

While previously Indonesian criminal law focused more on retributive justice, the current Indonesian criminal law, as outlined in the National Criminal Code, demonstrates that the Indonesian penal system has shifted from a solely retaliatory approach to a more comprehensive approach, incorporating elements of prevention, rehabilitation, and recovery. This is evident in the more varied provisions for types of punishment, including the inclusion of community service as an alternative form of punishment within the primary sentence.

In retributive justice, community service still meets the principles of justice because it is a form of retribution for the wrongdoing committed by the convict. Although it does not involve physical suffering or deprivation of liberty, community service still carries consequences that must be endured as a form of accountability. While serving community service, the convict is obliged to perform work that benefits the community without receiving wages as a consequence of the crime. Community service is generally imposed for minor crimes,<sup>[39]</sup> so the form of retribution is not severe, but still reflects the imposition of punishment for the perpetrator's actions. Community service is seen as a more humane form of punishment and still upholds human rights.<sup>[40]</sup>

In restorative justice, community service reflects values that emphasize restoring relationships between the offender, the victim, and the community. Community service views the offender not simply as an individual to be punished, but as a member of society with the potential to correct mistakes and contribute positively to society. In the application of community service, offenders are given the opportunity to engage in activities that benefit the community, such as volunteer work in their local area, which not only contributes to improving their image but also has a positive impact on the community.<sup>[41]</sup> These activities indirectly lead to the concept of restorative justice, which emphasizes restoring relationships disrupted by the convict's crime. Through involvement in community service activities, convicts are given the space to demonstrate remorse and rebuild community trust.

Furthermore, community service is intended to prevent offenders from experiencing the negative impacts of imprisonment, especially for those committing minor crimes.<sup>[42]</sup> When linked to restorative justice, it provides space for convicts to remain within their social environment, without placing them in prison. This allows for a more effective recovery process, as convicts are not isolated from society but are instead encouraged to contribute directly.

<sup>35</sup> Ahmad Nugroho Triatmojo, *et al.*, Community Service as an Alternative Sentencing in the New Criminal Code, *Journal of Legal Sciences and Social Sciences*, Vol. 4, No. 2, 2026, p. 2843.

<sup>36</sup> Rodliyah & Salim HS, *Op. Cit.*, p. 117.

<sup>37</sup> Safaruddin Harefa, *et al.*, Transformation of Criminal Policy in the National Criminal Code: Towards a Just and Humanistic Criminal System, *Jurnal Simbur Cahaya*, Vol. xxxii, No. 2, (December 2025), p. 285.

<sup>38</sup> Ahmad Nugroho Triatmojo, *et al.*, *Op. Cit.*, p. 2834.

<sup>39</sup> Article 85 of the Law Number 1 of 2023 concerning the Criminal Code.

<sup>40</sup> Royce Wijaya Setya Putra, *et al.*, Criminal Main Point Work Social In Perspective Indonesia's New Criminal Code Makes It a Reality Approach *Rehabilitative Justice*, *Journal Qistie* Vol. 18 No. 2, 2025, p. 298.

<sup>41</sup> Taufik Akbar Al Falah, *Analysis of Social Work as an Alternative to Short-Term Criminal Procedure: The Perspective of the New Indonesian Criminal Code*, *Journal of Legal Research*, Vol. 3, No. 1, 2025, p. 156.

<sup>42</sup> Metty Ferriska R, & Karantika Surya Soviani, *Social Work Punishment in the New Criminal Code: Alternative Sentencing Oriented to Recovery*, 2026, p. 5.

On the one hand, convicts are not only punished but also directed to repair social relationships disrupted by their crimes.

#### 4. Closing

##### 4.1. Conclusion

1. Community service as a reform of criminal punishment in the National Criminal Code is criminal non - prison terms which is of a nature more light from criminal prison. Criminal Work social conceptualized as criminal alternative replacement criminal prison term short namely a maximum of 6 months and a fine light maximum category II by also considering various aspects in Article 85 paragraph (2). Even though it is not explicitly threatened in Book II, community service can still be applied as an alternative sanction as long as it meets the provisions in Book I.
2. Community service punishment is in accordance with the principle of proportionality because it imposes balanced sanctions and only imposes community service punishment on minor crimes that carry a sentence of less than 5 years, and takes into account the balance between the interests of the victim, the perpetrator, the state, and society. Furthermore, community service punishment also reflects the principle of justice, both retributively, while still containing consequences that are lived as a form of accountability for the perpetrator's mistakes, and restorative, which seeks to restore social relationships and encourage perpetrators to contribute positively to society, which can support behavioral change and social reintegration.

##### 4.2. Suggestion

1. Criminal Work social can maximized For implemented in fall criminal, especially criminal prison term short. This is remember that existence problems in the institution correctional institutions that experience *overcapacity*. Implementation criminal Work social Still need rule more implementers detailed and comprehensive specifically about form giving criminal Work social, mechanisms and guidelines implementation, as well as system supervision. Besides, it is necessary existence coordination with government area For determine locations that will be used as place implementation criminal Work social for convict.
2. Law enforcement officials, including judges, prosecutors, and community counselors, need to be provided with more in-depth training and education regarding the concept and objectives of community service. This aims to ensure that community service can be implemented as a punishment instrument oriented toward the rehabilitation, development, and social reintegration of offenders. This will ensure that community service can be applied consistently and effectively and achieve the goals of punishment.

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### How to Cite This Article

Ruwaida S, Amiruddin, Pancaningrum RK. Criminal social work as an alternative to criminal punishment in Indonesia based on the National Criminal Code. *International Journal of Judicial Law*. 2026;5(3):162–169.  
doi:10.54660/IJL.2026.5.3.162-169.

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