

Transformation of the Public Prosecution Service as the Supervisory Authority for Community Service Orders Under the National Criminal Code

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Abstract

The enactment of Law No. 1 of 2023 (National Criminal Code/KUHP), replacing the colonial-era Criminal Code, marks a significant transformation for the Prosecutor's Office. The institution must now shift from only executing imprisonment sentences to actively supervising community service punishments in public spaces. The prosecutor's authority to execute court decisions is reaffirmed in recent regulations, including Article 349 paragraph (2) of Law No. 20 of 2025 on the Criminal Procedure Code (KUHAP). Nevertheless, the lack of comprehensive technical guidelines for the supervisory mechanism continues to pose ongoing challenges. This issue was examined through normative legal research with statutory and comparative approaches to assess the regulatory framework and the prosecutor's role in executing final and binding (*inkracht*) court decisions. While a Prosecutor General's Guideline exists, supervision regulations are broad and lack a specific mechanism for enforcing community service orders. The current system combines community service supervision with conditional punishment and probation, yet still treats community service as a separate category, despite its weaker implementation. The lack of supervision



outside working hours increases the risk that offenders may avoid oversight, making the system overly dependent on their good faith.

KEYWORDS

public prosecution; community service order; national criminal code; criminal justice system

Introduction

The Indonesian criminal law system has long been trapped in the shadow of the Dutch colonial legacy, as reflected in the *Wetboek van Strafrecht voor Nederlandsch Indie* (W.v.S.v.N.I.). This codification consists of 569 articles organized into three books: Book I, General Rules; Book II, Crimes; and Book III, Violations. Following several amendments to Law No. 1 of 1946, the *Wetboek van Strafrecht voor Nederlandsch Indie* was renamed the "*Wetboek van Strafrecht*" (Criminal Code, KUHP). Despite these amendments, the fundamental structure and character of the Criminal Code remain rooted in the colonial criminal law paradigm, which prioritizes a repressive approach.

The codification of criminal law reflected the values of early 20th-century colonial society, which emphasized a retributive paradigm and prioritized imprisonment as the main instrument of state retribution. The original Criminal Code, derived from the W.v.S.v.N.I., came into force in the Dutch East Indies in 1918. Since that time, Indonesian criminal law has been unified. Thus, the Criminal Code serves both to codify and to unify criminal law in Indonesia.¹

Relying on imprisonment as a primary tool to combat crime does not consistently yield positive or appropriate outcomes. The use of imprisonment for minor offenses is often viewed as a disproportionate application of criminal law, contradicts the principle that criminal law

¹ Barda Nawawi Arief, *Pelengkap Bahan Kuliah Hukum Pidana 1* (Semarang: Pustaka Magister, 2012), p.g. 16-17.

should be a last resort. Prioritizing criminal law policy in regulating societal behavior undermines this foundational principle.²

This excessive reliance on imprisonment highlights the need for significant criminal law reform. Punishment should focus on rehabilitation and restoring the offender's well-being, rather than solely on personal suffering. The traditional punitive system should be replaced with an approach that balances societal interests with those of the offender. Indonesia has made progress by enacting legal reforms that take into account both the seriousness of the offense and the offender's background.

The enactment of Law No. 1 of 2023 on the Criminal Code marks the culmination of efforts to decolonize Indonesian criminal law. The new Code adopts a more humane *daad-daderstrafrecht* approach, necessitating balanced regulation and implementation. Its neo-classical framework aims to harmonize objective factors, such as actions and external circumstances, with subjective factors, including the perpetrator's mindset and intentions.³

The reform represented a sustained initiative that commenced in 1958 with the establishment of the National Legal Development Institute (LPHN) and continued with the First National Law Seminar in 1963, which addressed the Draft Criminal Code. Indonesia has now achieved the codification of criminal law that aligns with national values.⁴ The National Criminal Code reflects current legal developments while maintaining recognition of living law in Indonesian society. This renewal demonstrates a shift in the politics of criminal law by incorporating Indonesian values.⁵

² Setyo Amirullah, "Sanksi Pidana Kerja Sosial Sebagai Alternatif Pemidanaan Terhadap Tindak Pidana Pencurian Ringan Berdasarkan Undang-Undang Nomor 1 Tahun 2023," *Syntax Idea* 6, no. 11 (2024): 6755–73, <https://jurnal.syntax-idea.co.id/index.php/syntax-idea/article/view/10066>.

³ Aldian Prayogi Siregar and Nelvitia Purba, "Analisis Yuridis Terhadap Terjadinya Tindak Pidana Ringan Di Serdang Bedagai (Nomor: 12/Pid. C/2024/PN Srh)," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 3 (2025): 2178–89, <https://doi.org/https://doi.org/10.61104/alz.v3i3.1584>.

⁴ See *Perjalanan Panjang RKUHP Di Indonesia*. Can be traced on <https://indonesiabaik.id/infografis/perjalanan-panjang-rkuhp-di-indonesia>. Accessed Januari, 20, 2026.

⁵ Aulia Rizka Estiningtyas, Ulfatul Hasanah, and Rusmilawati Windari, "Comparison of the Legal Regulation of the Rechterlijk Pardon in Indonesia and The Netherlands,"

The renewal is evident in the embodiment of Indonesian values in the National Criminal Code, which marks a shift in the politics of criminal law.

Theories of punishment have evolved. Stanley E. Grupp identifies four main schools: retributive theory, which focuses on retribution for the victim; deterrence theory, which seeks to uphold justice and prevent future offenses; rehabilitative theory, which aims to help offenders recognize and correct their behavior; and reintegrative theory, which prioritizes restoring relationships among the perpetrator, victim, and society through community involvement to promote social order and harmony.⁶ The focus of punishment has shifted from retributive justice to corrective, rehabilitative, and restorative justice. These approaches are consolidated in the first book, serving as control mechanisms for the second book and for criminal law provisions outside the Criminal Code.⁷

As society becomes increasingly complex, overreliance on imprisonment is beginning to expose the limitations of correctional institutions. Data from the Directorate General of Corrections (Ditjenpas) as of December 2025 shows that overcrowding reached 84.52%, with the number of inmates in prisons and detention centers nationwide reaching 276,136, far exceeding the ideal capacity of 149,651.⁸ This situation is clear evidence that the retributive system inherited from the colonial era is no longer relevant, having instead increased the state's fiscal burden and given rise to more professional criminals. Furthermore, many oversight mechanisms intended to protect prisoners' rights still have fundamental weaknesses, rendering them ineffective. This situation not only undermines

Jurnal Suara Hukum 6, no. 1 (2024): 55–75, <https://doi.org/10.26740/jsh.v6n1.p162-186>.

⁶ Ivan Aditya Mileniawan and Mitro Subroto, “Analisis Penerapan Community Based Correction (CBC) Oleh Beberapa Negara Di Dunia,” *Jurnal Pendidikan Dan Konseling* 4, no. 2 (2022): 157–62, <https://doi.org/https://doi.org/10.31004/jpdk.v4i2.3961>.

⁷ Antony and Ampuan Situmeang, “Dari Kolonial Ke Konstitusional: Dekolonialisasi Hukum Pidana Indonesia Dengan KUHP Nasional,” *Proceedings Series on Social Sciences & Humanities* 23 (2025): 141–48, <https://doi.org/10.30595/pssh.v23i.1559>.

⁸ See *Statistik Jumlah Penghuni Lembaga Pemasyarakatan Dan Rumah Tahanan*, can be traced on https://sdppublik.ditjenpas.go.id/#chart_statistic-panel. Accessed Januari, 1, 2026.

the credibility of the existing system but also has the potential to trigger human rights violations and abuses within correctional institutions.⁹

A fundamental distinction exists in the classification of criminal sanctions. Article 10 of the previous Criminal Code restricted principal penalties to fixed categories, including the death penalty, imprisonment, detention, and fines. In contrast, Article 65 of the National Criminal Code expands principal penalties to include imprisonment, detention, supervision, fines, and community service, reflecting a more flexible, humane, and progressive approach.¹⁰ Restricted imprisonment, supervision, and community service are established as alternative punishments to conventional imprisonment. The National Criminal Code also designates the death penalty as an alternative sanction. The Code incorporates the principle of *ultimum remedium*, indicating that criminal sanctions are to be imposed only as a last resort.¹¹

One key result of this shift is the introduction of community service as a primary form of punishment. Article 85 of the National Criminal Code allows community service as an alternative to imprisonment for offenses punishable by less than five years' imprisonment.¹² Judges may impose up to six months in prison or a category II fine, either of which can be converted to community service.

This decision requires the convict to contribute positively to society while retaining full freedom, thereby avoiding the negative impacts of stigmatization and desocialization commonly associated with imprisonment. Community service exemplifies integrative punishment by balancing the interests of the perpetrator, the victim, and the community.

⁹ Anis Widyawati et al., "The Urgency of Supervision Institutions in Implementing Prisoners' Rights as an Effort to Restructure Criminal Execution Laws," *Jambura Law Review* 7, no. 1 (2025): 127–51, <https://doi.org/10.33756/jlr.v7i1.27595>.

¹⁰ Law of the Republic of Indonesia No. 1 of 2023 on Criminal Code (hereinafter referred to as Law No. 1/23 on National Criminal Code/KUHP), art. 65.

¹¹ Afifah Firdaus and Indra Yugha Koswara, "Pembaharuan Hukum Pidana Di Indonesia: Analisis Tentang Pidana Pengawasan Dan Asas Keseimbangan," *Lex Renaissance* 19 (2024): 1–22, <https://journal.uin.ac.id/Lex-Renaissance/article/view/30211>.

¹² See Law No. 1 of 2023 on Criminal Code, art. 85 (1).

Punishment is thus intended not only to deter crime but also to facilitate rehabilitation and reintegration into society.¹³

Community service order serves as an alternative sanction, enabling offenders to remain in their communities while supporting reintegration and resocialization. Countries such as the Netherlands, England, and Greece have successfully used this non-custodial model, especially for minor offenses. Globally, it has reduced recidivism and lowered prison costs. However, its success depends on effective supervision and implementation. Without proper oversight, community service risks becoming symbolic and losing its corrective and rehabilitative impact.

Accordingly, the National Criminal Code (KUHP) assigns the public prosecutor responsibility for supervising community service punishment. This aligns with its existing role in executing final and binding court decisions. With the new Code, the public prosecutor must shift from primarily overseeing custodial sentences to actively supervising community service in public settings.

This transformation has raised concerns about the Prosecutor's Office's readiness, particularly in its coordination with Correctional Institutions (*Balai Pemasyarakatan/Bapas*) and social work organizations. Previously, prosecutorial oversight of criminal executions was largely limited to correctional institutions. Prosecutors must now provide more dynamic and coordinated supervision. This shift demands structured communication, clear operational standards, and enhanced prosecutorial capacity to oversee cases outside correctional institutions. Without sufficient institutional and regulatory support, the new oversight model may create implementation gaps for social work sentences and reduce the effectiveness of court decisions.

¹³ Muhammad Azil Maskur et al., "Effectiveness of Ship Sinking of Illegal Fishing in Term of the Improvement of Local Fishermen Income," *IJCLS (Indonesian Journal of Criminal Law Studies)* 6, no. 2 (2021): 141–52, <https://doi.org/10.15294/ijcls.v6i2.33915>.

To date, there remains a regulatory gap regarding technical guidelines for standard operating procedures (SOPs) for supervision, including evaluation mechanisms, compliance indicators, and designated locations for carrying out community service punishment. The absence of a clear technical framework risks creating disparities in implementation, misuse of discretion, and weakening the legitimacy of community service punishment as a fair penal instrument.

This article discusses community service punishment in Indonesia, focusing on two main aspects. First, it examines the Prosecutor's Office's authority to supervise community service punishment. Second, it analyzes the ideal supervision model for community service punishment in Indonesia. This analysis aims to ensure that Indonesia's criminal law transition is effectively implemented by strengthening the public prosecutor as the primary supervisor of non-custodial punishment.

Methods

This research is a normative legal research methodology to identify relevant legal rules, principles, and doctrines. The analysis employs a statutory approach and examines related regulations to evaluate the normative foundation for community service orders, the role of the prosecutor's office in executing final court decisions, and its function as the supervisor of criminal implementation. Additionally, a comparative approach is applied to assess the regulation and implementation of community service orders in Indonesia and selected other countries.

The research used a library-based method, reviewing primary legal materials, including laws and regulations. Secondary materials included books, scientific articles, and prior research, while tertiary materials comprised internet sources explaining primary legal.¹⁴ All materials were analyzed qualitatively using a descriptive analytical method.

¹⁴ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Publishing, 2020).

Result and Discussion

1. Community Service Order as an Alternative to Imprisonment in Indonesia

According to a statement in the 121st International Training Course Reports of the Course, Annual Report for 2002, and Resource Material Series No. 61, UNAFEI, in Tokyo, imprisonment does not guarantee a decrease in crime rates. On the contrary, crime can decrease if non-imprisonment sanctions are imposed. There are various forms of non-custodial sanctions in international agreements, including the *Tokyo Rules*. Under the *Tokyo Rules* initiated by the UN, the scope of non-custodial sanctions is quite broad across all stages of criminal justice, as they, in principle, avoid the crime of deprivation of liberty.¹⁵

Under Rule 8.2 of the *Tokyo Rules*, authorities/officials authorized to impose sentences (particularly judges) may choose non-custodial measures. These sanctions include verbal sanctions such as reprimands, warnings, or official statements of disapproval; conditional release; and penalties involving changes or restrictions in the convict's legal status. In addition, there are financial sanctions in the form of fines and daily fines, confiscation or orders to seize assets, and the obligation to pay restitution to victims or compensation as ordered by a court. Other alternative sentencing options include conditional sentences, probation or judicial supervision, community service, referral to a designated attendance center, and restrictions on freedom, such as house arrest. Normatively, the court may impose a combination of these sanctions, provided they are in accordance

¹⁵ Endri, *Pidana Kerja Sosial Sebagai Alternatif Pidana Penjara* (Jakarta: Kencana, 2024).

with statutory provisions, the characteristics of the crime, and the individual circumstances of the convict.¹⁶

International and regional instruments, including the Tokyo Rules and the European Probation Rules, inform the development of legislation that introduces alternatives to custodial punishment. These instruments emphasize the importance of individualized sentencing, thereby promoting rehabilitative approaches tailored to each offender's specific needs.

The 19th century marked the emergence of the concept of community service in England and the United States. During this period, society and the British justice system began developing alternative sentencing options to replace imprisonment and fines. This led to the introduction of community service. Over the years, its use grew and became common in criminal justice systems, especially in countries with Common Law traditions.¹⁷

In Greece, the Greek Criminal Code provides for community service as a form of punishment. If a court determines that a convict is unable to pay compensation to the victim or a fine resulting from the conversion of a prison sentence, despite all reasonable efforts, the court may substitute the fine, in whole or in part, with community service, subject to the convict's consent. The duration of community service in Greece varies, with a maximum of 481 to 720 hours to be completed within three years, as an alternative to a prison sentence of up to three years.¹⁸

Under the Albanian Criminal Code, community service is considered an alternative to a sentence rather than a distinct form of punishment. A judge may suspend a prison sentence of up to one year in favor of 40 to 240 hours of community service, with a maximum of eight hours per day, to be

¹⁶ United Nations Standard Minimum Rules for Non-Custodial Measures or Tokyo Rules 1990, rule 8.2.

¹⁷ Khaidarulloh, "Akomodasi Common Law System Dalam Kuhp Baru : Konsep Hukuman Kerja Sosial Sebagai Alternatif Pidana," *El-Dusturie: Jurnal Hukum Dan Perundang-Undangan* 2, no. 2 (2023): 117–31, <https://doi.org/10.21154/eldusturie.v2i1.6746>.

¹⁸ See Law No. 4619/2019 on the amendment version of Greek Penal Code, art. 82 .

completed within six months. The defendant's consent is required for this arrangement.¹⁹

In the Netherlands, community service constitutes a principal form of punishment and may be imposed independently of imprisonment. It serves as an alternative to custody for specific serious offenses, as specified by the Dutch Criminal Code. The duration of community service is limited to 240 hours and must be completed within one year of the final court decision or within six months after the sentence becomes final.²⁰ *Reclassering*, the national probation service, is responsible for supervising the implementation of community service sentences.²¹

In Indonesia, community service is classified as a principal punishment but is typically used as a substitute for short-term imprisonment or a category II fine. Under Law No. 1 of 2023 (National Criminal Code/KUHP), it serves as an alternative to short-term imprisonment, defined as detention for up to six months. The introduction of community service reflects a shift in Indonesian sentencing from an imprisonment-focused approach to one that is more proportional, humane, and socially beneficial.

Historically, community service is a relatively new form of punishment in the Indonesian criminal justice system. Therefore, it is understandable that the public is not yet fully familiar with this type of punishment, including its mechanisms and procedures for implementation. This lack of awareness challenges law enforcement to ensure the public understands that community service is a binding judicial decision. If not adequately disseminated, there is a risk that this punishment will be perceived as a "light punishment" with no real consequences. Nonetheless, as a form of

¹⁹ See Criminal Code Of The Republic Of Albania, art. 63.

²⁰ See Criminal Code of Netherlands , art. 22c.

²¹ Ove Syaifudin Abdullah, *Orientasi Implementasi Pidana Kerja Sosial Sebagai Alternatif Pidana Non-Pemenjaraan Dalam KUHP 2023* (Jakarta: Institute for Criminal Justice Reform, 2024), https://icjr.or.id/wp-content/uploads/2025/03/Buku-1-Pidana-Kerja-Sosial-Fix_REV1-1.pdf.

criminal enforcement, community service order must still be carried out factually and responsibly.

Judges can choose community service instead of imprisonment, but this option is strictly limited and must follow the rules set out in the National Criminal Code. The Code gives judges clear guidelines to follow before deciding on community service. Judges must consider important factors about the defendant and the purpose of the sentence before making this decision.

The defendant's confession of their actions and an assessment of their work capacity, the judge can determine whether to impose community service. Obtaining informed consent from the defendant, which demonstrates a clear understanding of the objectives and procedures of the sentence, is required. The judge should also consider the defendant's social background and guarantees of occupational safety and health, their religious background, beliefs, and political convictions to ensure comprehensive justice. Furthermore, an assessment of the defendant's ability to pay the fine must be reviewed when deciding the most appropriate type of sanction.²²

Judges must consider security and order within the placement institution when evaluating social history. Community service should not be imposed on recidivists, those convicted of serious crimes/extraordinary crimes, or individuals with behavioral issues such as emotional instability, a bad temper, or substance dependence. Its imposition requires careful judicial assessment to ensure the punishment is relevant, appropriate, and can be effectively carried out by the defendant.

There are clear limits on when community service can be used. It cannot be given if the crime is punishable by more than five years in prison, or if the judge imposes a sentence of more than six months. It also cannot be used if the crime is punishable by more than five years, but the judge gives less than six months, or if the crime is punishable by less than five

²² See Law No. 1/23 National Criminal Code (KUHP), art. 85(2).

years but the judge gives more than six months. These rules show that community service is meant for special cases where prison is not necessary.

Community service orders must not be commercialized. Judicial decisions stipulate that if a convict, without valid justification, fails to fulfill the obligation to complete all or part of a community service orders, the individual may be required to repeat all or part of the community service orders, serve all or part of a prison sentence instead lieu of community service orders, pay all or part of a fine instead of community service orders, or serve a prison sentence instead of an unpaid fine.

Furthermore, court decisions are required to specify the duration of the prison sentence or the amount of the fine determined by the judge, as well as the duration of the community service sentence, including the daily number of hours and the overall timeframe for completion. The decision should also mention the consequences if the convict does not finish the community service. The length of the community service must be coordinated with the agency or institution where it will take place. This helps ensure that community service does not interfere with the agency's regular work or productivity.

This policy is designed to prevent convicts from acting arbitrarily or disregarding the legal process. It also ensures that individuals remain disciplined during unpaid community service. The potential for additional penalties encourages convicts to fulfill their service obligations responsibly and adhere to established regulations.

According to the book "Criminal Social Work as an Alternative to Imprisonment" by Endri, Norval Morris, and Michael Tonry, "*the prison is a punishment exacted against freedom of movement and association; the fine is a punishment exacted against money and what money can buy; the community service order is a punishment exacted against time and energy.*"²³

²³ Endri, *Pidana Kerja Sosial Sebagai Alternatif Pidana Penjara*, page 136-137.

This perspective posits that each form of punishment penalizes the offender by depriving them of a distinct aspect of their life. Imprisonment deprives the convict of freedom of movement and association, thereby restricting participation in activities and social interactions. In contrast, a fine diminishes the offender's financial resources and limits their capacity to obtain or enjoy goods and services.

Community service is defined as a sanction that obligates the offender to dedicate time and effort to tasks that benefit society, serving as a means of accountability for the committed offense. Thus, community service should not be regarded as voluntary work, but rather as a legally regulated deprivation of time and energy intended to fulfill criminal responsibility.

National criminal law reform seeks to establish a criminal justice system that serves both as an instrument of social control and as a mechanism for social engineering. In principle, legal regulations and practical practices must align to ensure fairer punishment and a more humane approach. The primary focus is not simply on punishment, but on improving the perpetrator and helping them reintegrate into society. After committing a crime, they can become useful members of society and be accepted back in.²⁴

2. A Legal Review of the Prosecutors' Supervisory Authority in Community Service Order

The administration of justice is a fundamental component of the criminal justice system and requires coordinated efforts among law enforcement agencies. In Indonesia, the criminal justice system is structured to ensure that these agencies work together to address crime effectively. Romli Atmasasmita, in his book, argues that CSR, as a form of

²⁴ Taufiq Akbar Alfalah, "Tinjauan Pengaturan Pidana Kerja Sosial Sebagai Alternatif Pidana Jangka Pendek Menurut Undang-Undang Nomor 1 Tahun 2023 Tentang KUHP" (Universitas Sebelas Maret, 2025), <https://digilib.uns.ac.id/dokumen/detail/122052>.

law enforcement, encompasses legal aspects that emphasize the operationalization of regulations aimed at combating crime and achieving legal certainty.²⁵ This system was established to ensure that criminal law is applied comprehensively, extending law enforcement beyond investigation and sentencing to the execution of final and binding court decisions.

Within this system, the Indonesian Prosecutors General's Office occupies a central position as an institution that bridges the investigation process through to trial. The constitutional existence of this institution is not explicitly stipulated in the 1945 Constitution of Republic of Indonesia. According to the considerations in letter b of Law of the Republic of Indonesia No. 11 of 2021 on Amendment to Law No. 16 of 2004 on the Public Prosecutor's Service (hereinafter referred to as Law No. 11/21 on Public Prosecutor Service), the Indonesian Public Prosecutor's Service is recognized as one of the institutions whose functions are connected to judicial power under the 1945 Constitution of the Republic of Indonesia.

The public prosecutor is a government institution responsible for exercising state authority in prosecution and other legal matters as defined by law. A prosecutor is a public official authorized to act as a public prosecutor, enforce final court decisions, and carry out other legal duties assigned by law.²⁶

Pursuant to Law No. 16 of 2004 on the Public Prosecutor's Service, the public prosecutor holds extensive duties and authorities within the criminal justice system. These responsibilities include conducting prosecutions, implementing judicial determinations and court decisions with permanent legal force, and supervising the execution of conditional sentences, supervised sentences, and conditional release decisions. Furthermore, the Attorney General's Office is authorized to investigate specific criminal offenses as stipulated by law. It is also mandated to complete case files

²⁵ Romli Atmasasmita, *Sistem Peradilan Pidana Kontemporer*, Cet.3 (Jakarta: Kencana, 2013).

²⁶ Law No. 11/21 on Public Prosecutor's Service, art. 1 (1) and 1(2).

through supplementary examinations in coordination with investigators before submission to the court.²⁷

At the adjudication stage, the public prosecutor must satisfy specific requirements before proposing community service as part of the charges. An offense is eligible if it is punishable by imprisonment of less than five years, and the prosecutor may request a maximum of six months' imprisonment or a maximum fine of category II. The decision must be supported by sufficient evidence that meets the standard of proof, a plea of guilt from the defendant, and a clear determination of the defendant's criminal responsibility. An objective assessment of the defendant's capacity to fulfill the requirements outlined in the verdict is also necessary. If the crime involves victims, the public prosecutor must also consider forgiveness, settlement agreements, and measures to rehabilitate victims. Because community service serves as an alternative to imprisonment or a fine, the indictment will specify imprisonment or a fine as the principal penalty rather than community service.

Furthermore, the public prosecutor is not merely a 'courier' of cases but also the main axis of the criminal justice system. A criminal decision that has become final is essentially a binding state order, so it will have no meaning if it is not executed properly. At this stage, the prosecutor is the party responsible for implementing the criminal decision. The function of the prosecutor as the executor of the criminal decision is emphasized by Article 349, paragraph (2), of Law No. 20 of 2025 on the Criminal Procedure Code. The Prosecutor implements the social work criminal decision. In contrast, the Community Guidance Officer carries out guidance for the Convict in accordance with the provisions of the laws and regulations.²⁸

²⁷ Bonifasius Petrus Sando Mokorimban, Michael Barama, and Marnan A.T. Mokorimban, "Fungsi, Tugas Dan Wewenang Kejaksaan Dalam Sistem Peradilan Pidana Menurut Undang-Undang Republik Indonesia Nomor 11 Tahun 2021," *Lex Privatum* 13, no. 4 (2024): 1–11, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/56576>.

²⁸ See Law No. 20/25 on the Criminal Procedure Code, art. 349 (2).

From a legal perspective, the prosecutor's authority in implementing court decisions demonstrates that the prosecutor serves not only as a public prosecutor in court but also as the executor of judicial decisions. Article 54 of Law No. 48 of 2009 on the Judicial Power affirms that the prosecutor is responsible for implementing court decisions in criminal cases.²⁹ Article 30, paragraph (1), letter b of Law No. 16 of 2004 grants the Prosecutor's Office constitutional authority to enforce court decisions with permanent legal force (*inkracht*). Article 30, paragraph (1), letter c, further requires the Prosecutor to supervise the implementation of certain criminal decisions.³⁰

In light of the aforementioned legal provisions, the prosecutor is the official authorized to implement court decisions. This assignment confers full responsibility for the effectiveness and success of implementation upon the prosecutor. Therefore, the prosecutor must not only perform administrative duties but also possess comprehensive knowledge of all technical procedures required for implementation, to prevent procedural errors that may compromise the rights of the convict or undermine the authority of the judicial institution.³¹

This execution and oversight authority affirms the Prosecutor's Office as *dominus litis*, controlling the entire criminal process from prosecution to ensuring the effective implementation of court decisions. This role upholds checks and balances through legal oversight, reducing the risk of maladministration or human rights violations during sentencing. Post-verdict oversight by the Prosecutor's Office is essential for legal certainty, justice, and public benefit.

These regulatory limitations present significant legal challenges for law enforcement practices. Although the regulation mandates prosecutorial oversight, this authority is restricted to conditional sentences, supervision

²⁹ See Law No. 48/09 on the Judicial Power, art. 54 (1).

³⁰ See Law No. 11/21 on Public Prosecutor Service, art. 30 (1) letter (b) and (c).

³¹ Rini Komala Wijaya, "Rekonstruksi Regulasi Eksekusi Pidana Mati Yang Berbasis Nilai Keadilan Pancasila" (Universitas Islam Sultan Agung Semarang, 2023), https://repository.unissula.ac.id/33477/1/Program_Doktor_Ilmu_Hukum_10302100241_fullpdf.pdf.

sentences, and conditional release. The public prosecutor's service Law does not explicitly mention "community service order," leaving a legal gap regarding the legitimacy of robust oversight. Consequently, prosecutors must exercise supervisory functions over community service sentences based solely on derivative regulations or internal guidelines, lacking a clear legal foundation. This circumstance diminishes prosecutors' ability to secure compliance from convicts, particularly when the risk of noncooperation or absconding is elevated.

In this capacity, prosecutors are principally interested in ensuring that the community service sentence imposed by the judge is actually carried out by the convict in accordance with the verdict. Therefore, prosecutorial supervision of the implementation of community service sentences can be understood as an integral part of the execution of criminal decisions, aimed at ensuring legal certainty, maintaining the authority of court decisions, and ensuring the effectiveness of criminal enforcement.

Although prosecutorial oversight is closely tied to the execution of criminal decisions, conceptual clarity regarding its position and scope is necessary. Establishing a clear distinction between the prosecutor's responsibilities as executor of decisions and as supervisor is essential to prevent functional overlap during implementation.

However, it should be emphasized that execution and supervision are interrelated. Execution refers to the act of carrying out a verdict. At the same time, supervision is a control function that ensures the decision is implemented in accordance with the law, without deviation, and can be verified. In community service sentences, the supervisory function is particularly crucial because it is implemented outside a closed system such as a correctional institution, in a social space with lower levels of control.

Regulatory gaps increase vulnerability to various forms of abuse, including non-compliance by convicts in fulfilling their obligations and administrative procedures susceptible to manipulation. Over time, criminal methods also evolve. Consequently, a progressive and responsive legal

system is required. Law is dynamic and must continually adapt to societal changes and emerging challenges.³²

Especially true following the enactment of the new criminal code on January 2, 2026. To expedite the implementation of these court decisions, the public prosecutor's service urgently needs to update its internal regulations to align with the transformation of national criminal law. These technical guidelines are essential for prosecutors in the field, ensuring a uniform approach to the execution of legally binding decisions, particularly for new types of punishments such as community service order.

3. The Ideal Model for Criminal Supervision of Community Service Order in Indonesia

The implementation of community service orders as alternatives to imprisonment requires a comprehensive understanding of the post-verdict stages, particularly those related to the execution and supervision of criminal sanctions. Execution involves carrying out the court's verdict, while supervision serves as a control mechanism to ensure that the verdict is implemented lawfully, without deviation, and remains verifiable. The supervisory function is especially important because community service is conducted in an open social environment, rather than within the controlled setting of a correctional institution. This context increases the risk of deviations, including non-compliance by the offender and potential manipulation of administrative procedures.

Prosecutor General's Guideline No. 1 of 2025 is a primary reference for the implementation of conditional, probationary, and community service sentences. It outlines a supervisory framework for overseeing the execution of final court decisions during the post-adjudication phase. However, the guideline addresses only general supervision methods and does not offer

³² Daniel Hasudungan Nainggolan and Ade Adhari, "Perkembangan Aturan Peralihan Dari Kitab Undang-Undang Hukum Pidana Lama Ke Kitab Undang-Undang Hukum Pidana Nasional Baru Sebagai Wujud Pembaharuan," *UNES LAW REVIEW* 6, no. 2 (2023): 5240–50, <https://doi.org/https://doi.org/10.31933/unesrev.v6i2>.

detailed guidance on the prosecutor's supervision of community service sentences.

Prosecutorial supervision commences upon receipt of the judge's decision. The initial phase verifies compliance with the general and specific requirements in the verdict. Early compliance is crucial for effective community service implementation and minimizing the risk of early violations. Subsequent supervision is conducted through two primary mechanisms: mandatory reporting by the convict and direct oversight by the prosecutor.³³

Mandatory reporting occurs at the local Prosecutor's Office, with the schedule and method determined by the prosecutor, including the possible use of electronic means. While this provision offers flexibility, it also requires prosecutors to enforce compliance rigorously. If the convict fails to fulfill the mandatory reporting obligation without a valid justification, the prosecutor may propose to the judge that specific requirements be amended or added, such as increasing the stringency of the reporting requirement. This measure represents a substantive form of supervision, carrying tangible legal consequences for the convict.

Direct supervision by the prosecutor is carried out through face-to-face meetings with the convict at the location where the community service sentence is served or via electronic means. This approach enables the prosecutor to directly evaluate the convict's compliance and ensure that community service activities are carried out in accordance with the verdict. To enhance the rigor of supervision and avoid mere formality, the prosecutor can also collaborate with community guidance officers, prosecutorial intelligence officers, and members of the local community to provide additional oversight and ensure the substantive execution of community service sentences.

³³ *See Prosecutor General's Guideline Number 1 of 2025 on the Implementation of Conditional Sentences, Supervision Sentences, and Community Service Order.*

Coordination with multiple stakeholders is a fundamental aspect of prosecutorial supervision. Such collaboration may involve community counselors, correctional community groups, service providers, and/or the community. Furthermore, information regarding the convict's condition, behavior, and compliance may be obtained from the convict's family and other relevant sources. These data are used to evaluate the effectiveness of the community service program and to identify early signs of potential deviations that could compromise the objectives of the sentence.

Prosecutors use monitoring results as primary indicators to determine the extent of the convict's positive behavioral changes. These findings inform prosecutorial decisions regarding the continuation, intensification, or recommendation of alternative follow-up actions related to conditional sentencing, supervision, and community service. To promote transparency, prosecutors must submit a final report on the convict's behavior and compliance to the Chief Justice of the local District Court.

While the guidelines clearly define prosecutorial supervision, practical challenges arise due to the mobility of convicts. Questions remain about how convicts are monitored after their eight-hour work shifts, as they are allowed to return home once they have completed mandatory reporting. This lack of supervision outside of working hours creates a vulnerability that allows convicts to escape, making the integrity of the convict's good faith the only reliance placed on this system, which is highly at risk. This, of course, poses a challenge for supervising prosecutors, particularly in ensuring that convicts do not abuse the existing leniency to escape before their duties are fully completed.

We need to ensure that prosecutorial supervision is conducted only during working hours. Who is responsible for supervising inmates outside of working hours? The author suggests that GPS bracelets may offer an innovative way to monitor convicts in real time. However, a detailed assessment of their effectiveness and operational methods is not provided,

as there is limited literature and technical discussion on the use of electronic monitoring devices in community service programs.

Conclusion

Community service orders in Indonesia are a new way to punish perpetrators of minor crimes (maximum sentence of 6 months) by requiring them to contribute their time and energy to the community, rather than face imprisonment. This punishment aims to make legal sanctions more humane and beneficial. Still, its application is very selective because it can only be imposed under certain conditions according to the National Criminal Code (KUHP), and requires careful consideration by the judge regarding the defendant's personal circumstances, ability to perform work, and the purpose of the punishment, of course, as well as the defendant's consent to work. So, even though they are not imprisoned, perpetrators still feel "punished" because their free time is taken away to work without pay, so they remain responsible for their mistakes without having to lose their future due to the negative effects of imprisonment.

The Prosecutor's Office serves as both a public prosecutor and an enforcer of legally binding court decisions, including the enforcement of community service. The authority of the prosecutor to execute criminal decisions is clearly established in the Criminal Procedure Code (KUHAP), the Judicial Powers Law, and the Prosecutor's Office Law. As a result, implementation extends beyond adjudication and is carried out in practice.

Although the Prosecutor General's Guidelines provide a framework for supervision, the provisions remain general and do not specifically address the mechanisms for supervising community service orders. Instead, the guidelines combine the supervision of conditional sentences with that of supervision sentences. This approach suggests that community service orders have not been recognized as a distinct category, despite the unique vulnerabilities associated with their implementation, such as the need to monitor individuals after their work shifts have ended.

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