Implications of Community Service Sentencing for Prison Overcrowding and the Effectiveness of Offender Rehabilitation in Indonesia

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Abstract

Law Number 1 of 2023 concerning the Criminal Code, in force since 2 January 2026, makes community service a principal penalty, and many expect it to ease prison overcrowding and support the rehabilitation of offenders. This article asks what the sentence implies for overcrowding in correctional institutions and how effective it can be for rehabilitation. It uses normative legal research that combines statutory analysis with official population data, published reports on early practice, and international studies, and it applies a transparent stock-and-flow calculation. Correctional units held 283,484 persons against a capacity of 154,715, an occupancy of 183.23 percent. Because Article 85 reaches only offences threatened with less than five years of imprisonment, where the judge would impose at most six months of imprisonment or a small fine, the direct effect on occupancy is small: removing the excess by replacing six-month sentences would need about 257,538 such replacements every year, while the 218 decisions published by late May 2026 could free about 109 places. International studies indicate that community service is at least as good as short imprisonment in preventing re-offending, so its value lies mainly in avoiding the harm of short custody and in the quality of guidance. The article proposes six indicators for monitoring substitution, completion, reconviction, and guidance capacity.

Keywords: *community service; prison overcrowding; rehabilitation; net-widening; National Criminal Code*

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2nd International Conference on Islamic Community Studies (ICICS)
Theme: History of Malay Civilisation and Islamic Human Capacity and Halal Hub in the Globalization Era
https://proceeding.pancabudi.ac.id/index.php/ICIE/index

Introduction

Prison overcrowding is a daily reality of Indonesian corrections. The public database of the Directorate General of Corrections shows that all correctional units together held 283,484 detainees and convicted prisoners against a capacity of 154,715 places, so occupancy stood at 183.23 percent and the system housed 128,769 more persons than it was built for [1]. The pressure is concentrated in the units for adults. Overcrowding is not only a question of space. The United Nations handbook on the subject warns that it starts a downward spiral of congestion, demotivated staff, and worsening conditions that affects the whole criminal justice system [2], and a prison under that strain is a poor place to pursue the purpose of guiding convicted persons that Article 51 of the Criminal Code states [3, Article 51].

Indonesian doctrine has long treated the crowding of prisons as a reason to look for sanctions other than imprisonment [4, pages 96–97], and it has criticised short imprisonment for the stigma it leaves [5, page 60]. Law Number 1 of 2023 concerning the Criminal Code, called here the National Criminal Code, widens the principal penalties to five kinds, including community service (Article 65 paragraph (1)), and Article 85 allows a judge to replace a short prison term or a small fine with unpaid work for the community [3, Articles 65 and 85]. Scholars writing before the Code came into force already presented community service as a means of limiting overcrowding [6], [7], and a 2026 study of its implementation keeps that expectation [8].

An expectation is not evidence. Two questions remain open. The first concerns reach: how many places can a sentence with the thresholds of Article 85 free in a system with this population? The second concerns quality: does community service rehabilitate, and under what conditions? Early practice shows why both matter. By 26 May 2026 the decision directory of the Supreme Court contained only 218 community service decisions from 35 district courts, and 108 of them came from a single court [9], while the Ministry of Immigration and Corrections reported 968 locations for carrying out the sentence, 94 Griya Abhipraya, and 1,880 partners [10].

This article therefore asks two questions. First, what implications does community service under Articles 65 and 85 of the National Criminal Code have for reducing overcrowding in correctional institutions? Second, how effective can community service be for the rehabilitation of offenders, and under which conditions? Its contribution is threefold. It sets the reach of Article 85 against current population data through a transparent stock-and-flow calculation, it reads international controlled and quasi-experimental research against the Indonesian provisions, and it proposes indicators with which both questions can be answered with data in the coming years.

Literature Review

2.1 Overcrowding and alternatives to imprisonment

International standards present community service as one among several alternatives to imprisonment. The Tokyo Rules, adopted by the United Nations General Assembly in 1990, recommend non-custodial measures [11]. The United Nations handbook on alternatives to imprisonment says that effective alternatives reduce overcrowding, but it also lists net-widening among the pitfalls to be avoided [12]. A later handbook brings together the many causes of overcrowding and stresses strategies across the prison system and the wider criminal justice system [2].

Indonesian doctrine arrives at a similar place. Ismaidar observes that criminal law protects legal interests such as life, body, liberty, and property, and therefore reflects the character of the society that uses it [13, pages 21–22]. Gea and Ismaidar describe punishment as the infliction of suffering that creates stigma, which is why it must remain a last resort, and they note that criminological research produced new sanctions, among them supervision and

community service, whose choice should fit the nature of the offence [5, pages 59–60 and 164–165]. Ismaidar treats punishment as an instrument for balancing the protection of society and the guidance of the offender [14, page 11]. The book on restorative justice by Hasibuan and others uses the crowding of prisons as one reason for the shift toward restorative approaches, although its figures date from 2020 [4, pages 96–97]. Ismaidar and Rahmayanti, writing on the protection of children, recall that depriving a child of liberty is allowed only as a last resort [15, page 19], so the preference for responses short of imprisonment has an earlier root in Indonesian law.

2.2 Evidence on community service and re-offending

Research that compares community service with short imprisonment is not large, but its designs are strong. Table 1 summarizes the studies used in this article. In sum, the best-controlled studies find no advantage for short custody and sometimes a modest advantage for community service. The research comes from countries with small prison populations, mature probation services, and community service used as a substitute for short custody, so its transfer to Indonesia has to be made with care.

Table 1. Selected research comparing community service with imprisonment

Study	Setting and design	Main finding
Killias, Aebi, and Ribeaud [16]	Switzerland; 123 convicted persons randomly assigned to community service or prison of up to 14 days	No difference in later employment or social life; re-arrest was more frequent after prison; prisoners held less favourable attitudes toward the sentence and the justice system
Killias, Gilliéron, Villard, and Poglia [17]	The same trial, followed for 11 years	Re-offending was tentatively more common after prison but not significantly so; ex-prisoners did not fare worse in employment or marriage; short custody was not shown to be more harmful
Wermink and others [18]	Netherlands; 4,246 adult offenders; matched samples from official records, followed for up to eight years	Significantly less recidivism after community service than after short imprisonment, in the short and the long term; robust to a test for hidden bias
Villettaz, Gillieron, and Killias [19]	Systematic review of 14 high-quality studies, including three randomised trials and two natural experiments	Imprisonment was no more effective than community-based sanctions; most studies favoured non-custodial sanctions, but pooled experimental studies showed no significant difference, and weaker designs may reflect selection
Nagin, Cullen, and Jonson [20]	Review of research on custodial sanctions and re-offending	Evidence suggests that imprisonment does not reduce later offending and may slightly increase it
McIvor [21]	Scotland; research programme on community service from 1986 to 1991	Offenders who found the experience rewarding were less often reconvicted

Source: compiled by the authors from the studies cited in the table.

2.3 Conditions for rehabilitation and the risk of net-widening

The risk-need-responsivity model of Andrews, Bonta, and Hoge holds that rehabilitation works when the intensity of intervention matches the risk of re-offending, when it targets the needs linked to offending, and when the method suits the person [22]. Community service is not itself a treatment programme in this sense. It is a punishment whose rehabilitative value depends on how it is carried out. The combined theory of punishment, which Indonesian doctrine uses to read the purposes of punishment, joins prevention, guidance, and restoration [23, pages 58–62], and it sits with the rule that punishment may not degrade human dignity, a value that human rights doctrine treats as inherent and universal [24, page 1]. Work ordered by a court is accepted under the International Labour Organization convention on forced labour only when it is done under the supervision and control of a public authority and the person is not placed at the disposal of private parties [25].

Alternatives can also widen the net instead of replacing prison. Spaans studied the Dutch experience of community service for both re-offending and net-widening [26]. Aebi, Delgrande, and Marguet analysed European data from 1990 to 2010 and found that the number of persons under community sanctions and the number of prisoners both rose in almost all countries, which suggests that community sanctions often supplement prison and do not replace it [27]. Earlier Indonesian studies did not test these points. Jamilah and Disemadi, and Fajri, presented community service as a policy answer to overcrowding [6], [7], Puspitaningtyas and Kusumawati examined the replacement of prison by community service from the standpoint of human rights [28], and Khomaini proposed cooperation among judges, the correctional centre, and local government [8]. None of them measured how far the sentence can reach or tested the conditions of rehabilitation.

Research Methodology

This is normative legal research, which examines norms, principles, and doctrine to produce a prescriptive argument [29]. The statutory approach is applied to the National Criminal Code, Law Number 1 of 2026 concerning Penal Adjustment, and Law Number 22 of 2022 concerning Corrections [3], [30], [31]. The conceptual approach clarifies overcrowding, substitution, and rehabilitation, and a limited comparative approach draws on international studies and instruments. The secondary data are of two kinds. Population data come from the public database of the Directorate General of Corrections, downloaded on 10 November 2026, with the occupancy rate calculated by the authors as occupants divided by capacity [1]. Practice data come from reports of the Supreme Court and the Ministry of Immigration and Corrections and from news reports that quote officials, collected from October to 10 November 2026.

The article also uses a stock-and-flow calculation. The daily prison population is a stock that equals the number of admissions per year multiplied by the average time served in years. A sentence of six months therefore occupies half a place for a year, and replacing it frees half a place. The calculation assumes a steady state and that the full sentence is served. Four limits should be stated. The data file does not distinguish detainees from convicted persons, contains no distribution of sentence lengths, and carries no date for the figures. The share of narcotics cases comes from a news report on a government presentation [32]. The figures on early practice are reports, not a sample of decisions. Conclusions are therefore indicative, and the calculation illustrates orders of magnitude rather than predicting outcomes.

Results and Discussion

4.1 The scale and shape of overcrowding

Figure 1 shows occupancy by type of unit. The correctional institutions and the detention centres, which together hold almost all persons, stand at 185.16 percent and 198.16 percent of

capacity, and the women's institutions at 135.46 percent. Only the special institutions for children stand below capacity, at 56.46 percent. Pressure is thus concentrated where adults are held. The detention centres, which are designed to hold suspects and defendants while their cases are processed, show the highest occupancy. The data file does not separate detainees from convicted persons, so this point is an inference. If it holds, a large part of the pressure arises before sentencing, where a community service sentence cannot act, and the 2007 handbook indeed devotes a chapter to alternatives to pre-trial detention [12].

A second feature is the composition of the population. A government presentation on 8 July 2026 reported that narcotics cases made up 53.81 percent of occupants [32]. Many provisions of the Narcotics Law threaten imprisonment of five years or more, which puts them outside Article 85 paragraph (1). Abuse of a narcotic for one's own use is threatened with a lower maximum, four years for the most serious category as originally enacted [33, Article 127], so it falls inside the abstract threshold, but treatment and social rehabilitation are the more fitting response for many such persons, and how the narcotics provisions fit the new Code is itself still under study [34].

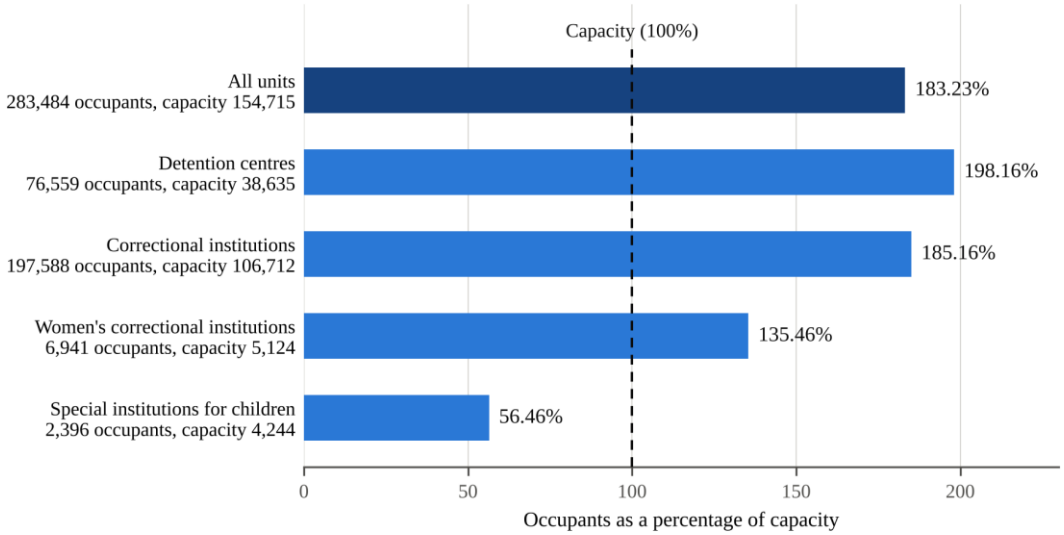


Figure 1. Occupancy of correctional units as a percentage of capacity. Source: authors' calculation from [1], downloaded 10 November 2026.

4.2 What Article 85 can and cannot reach

Article 85 paragraph (1) sets two conditions together. The offence must be threatened with imprisonment of less than five years, and the judge must be inclined to impose imprisonment of at most six months or a fine of at most category II, which is ten million rupiah. Paragraph (2) lists seven matters to be weighed, among them the confession of the defendant, ability to work, consent after the purpose and obligations have been explained, social history, occupational safety, religious and political beliefs, and the ability to pay a fine. The sentence may not be commercial, lasts between eight and 240 hours, at most eight hours a day, and may be paid in instalments over up to six months. The judgment must state the implementation, the prison term or fine that is actually imposed, and the consequence of failure, while the prosecutor supervises and the community guidance officer guides [3, Article 85]. Table 2 sets these features against their likely effects.

Table 2. Features of Article 85 and their likely effects

Feature	Effect on reach toward overcrowding	Effect on rehabilitation
Threat below five years	Excludes all offences threatened with five years or more, which include many narcotics provisions	Confines the sentence to lower-risk offending, where non-custodial responses fit
Judge would impose at most six months or a small fine	Limits the effect on population to short sentences; cases that would receive a fine free no places	Targets persons for whom short custody has shown little advantage over community service
Consent and ability to work	May reduce the number of eligible persons	Fits the placement to the person and keeps the work within the limits on forced labour
Eight to 240 hours, instalments up to six months	Low intensity; each sentence frees at most half a place-year	Protects livelihood and family ties, but the dose may be too small for programme effects
No commercial use; social institutions as placements	None	Keeps the work meaningful and the placement lawful
Prosecutor supervises, guidance officer guides	Depends on the capacity of both institutions	Quality of guidance is likely to decide any rehabilitative effect
Consequence of failure without valid reason	Return to prison or a fine for failure can add persons to the prison population	Gives the sentence credibility, but may punish those with unstable lives most

Source: analysis by the authors of [3, Article 85], with the evidence in Table 1.

4.3 Implications for overcrowding

The first implication is that the direct reach of the sentence is narrow by design. The offence gate removes the offences that dominate the narcotics share, and the sentence gate removes every case in which the judge would impose more than six months. Even within the gates the effect is small in terms of places. A person who would have served six months occupies half a place over a year, so replacing that sentence frees half a place.

Table 3 turns this into orders of magnitude. To bring occupancy down to capacity, community service would have to replace about 257,538 six-month sentences every year, which is more than the present population of all units. To bring occupancy down only to 150 percent it would have to replace about 102,823, and to reduce the population by one tenth about 56,697. Remission and early release shorten the time actually served and would raise these numbers further. Against this scale, the 218 decisions recorded in the directory by 26 May 2026 could free about 109 places even if each had replaced a full six-month term, which is less than one tenth of one percent of the 128,769 places by which the system exceeds its capacity. The comparison is imperfect, because the directory may not hold every decision and some sentences replaced fines, but it shows that community service cannot be the main instrument against overcrowding.

Table 3. Stylized stock-and-flow illustration for six-month sentences

Target	Places to be freed	Six-month sentences replaced each year
Occupancy falls to 100 percent of capacity	128,769	257,538
Occupancy falls to 150 percent of capacity	51,412	102,823
Population falls by 10 percent	28,348	56,697

Source: calculation by the authors from [1]; assumes a steady state, full sentences served, and each replaced sentence freeing half a place-year.

The second implication is that the sentence acts mainly on the flow of admissions and not on the stock. Short sentences contribute more to the number of admissions than to the number of persons present on a given day, so community service can lighten the work of reception, classification, and release and keep first-time minor offenders away from the stigma and prisonization that doctrine attributes to short imprisonment [5, page 60]. These are real benefits, but they are different from relief of the capacity deficit.

The third implication is that larger effects must come from elsewhere. Overcrowding has several causes, and the handbooks stress strategies at the stage of pre-trial detention, at sentencing, and at release [12], [2]. For Indonesia the data point to detention centres and to the narcotics share, both of which lie largely outside Article 85. Community service is best seen as one part of a package that includes a disciplined use of pre-trial detention, rehabilitation responses for drug abuse, and the instruction in Article 70 of the Code that imprisonment should as far as possible be avoided when the listed circumstances are found [3, Article 70].

4.4 Implications for the effectiveness of rehabilitation

Table 1 supports a cautious reading. Community service has not been shown to be worse than short imprisonment, and several studies find lower re-offending or better attitudes, but the best-controlled studies find differences that are small or statistically uncertain [16], [17], [19]. The practical meaning is that much of the benefit comes from what community service avoids: separation from work and family, and exposure to a prison environment that evidence suggests does not reduce later offending [20]. Matched-sample evidence in the Netherlands goes further and finds significantly lower recidivism [18], but weaker designs can reflect selection, so the Indonesian effect should be treated as a hypothesis to test and not as a result.

Beyond avoidance, the benefit depends on the carrying out. McIvor linked a rewarding experience of the work to lower reconviction [21], and the risk-need-responsivity model asks that intervention match risk and need [22]. Article 85 paragraph (2) points in this direction, because it requires the judge to weigh the social history, ability to work, and consent of the defendant. This inquiry into background also serves prevention, a point consistent with the distinction between preventive and repressive efforts that Rahmayanti draws in her criminological study of children who commit violent motorbike theft [35]. The Explanation of the article lists hospitals, orphanages, homes for the elderly, schools, and other social institutions, so far as possible matching the profession of the person. These provisions fit the idea of responsivity. The Code does not, however, require an assessment of the risk of re-offending or of criminogenic needs, and the dose of at most 240 hours is small. It follows that the sentence is better understood as a means of repair and reintegration for low-risk offenders than as a treatment programme, which is consistent with the combined theory of punishment [23, pages 58–62].

Guidance capacity is the weak point. The Government has acknowledged that only 2,686 community guidance officers are available against an ideal of 16,422 [36], which is about 16.4

percent of the need. A study of supervision in one correctional centre likewise records the classic constraints of an unbalanced ratio of guides to clients and a limited budget [37]. Without active guidance, community service risks becoming unsupervised hours of work, and the rehabilitative claim would rest only on avoidance. Formal readiness is improving. Agreements between prosecutors and regional governments exist in Central Java and in the city of Batu, and the first handover of a convicted person to a social agency took place in Bangka on 26 February 2026 [38], [39], [40]. Such agreements rest on memoranda, not statute, so their binding force is limited. Experience with another sanction that needs an implementing body shows the risk. Article 50 of Law Number 23 of 2004 on the Elimination of Domestic Violence lets a judge order an offender into a counselling programme under the supervision of a designated institution, yet Rahmayanti and Ismaidar record that, when they wrote, no court decision had imposed it and programmes were only beginning to be designed [41, pages 22–23]. A sanction that rests on an institution that is not ready can remain unused even when the statute allows it.

Dignity and consent complete the picture. Article 52 of the Code prohibits degrading punishment [3, Article 52], and the convention on forced labour accepts court-ordered work only under public supervision and without placement with private parties [25]. A placement that marks the convicted person with visible symbols of status would undermine reintegration even if the hours were lawful, so placement rules should forbid it.

4.5 Conditions for effectiveness and indicators for monitoring

Three risks should be managed. The first is net-widening. Article 85 replaces a fine of at most category II as well as short imprisonment, and unpaid work is more burdensome than a fine. If judges use community service for persons who would have paid a fine, the sentence would add to the load on prosecutors and guidance officers without freeing a single place, a pattern seen in Europe [27]. The duty to weigh the ability to pay a fine in Article 85 paragraph (2) and the duty to record the sentence that would otherwise be imposed are the legal safeguards. The second risk is uneven uptake. The concentration of 108 of 218 decisions in one court, which is 49.5 percent, suggests that practice depends on local initiative [9]. How far a judge may choose among the sentences the law offers, and how the choice must be justified, have been studied in Indonesia for judicial activism [42] and for the reasoning behind the interpretation of an element of an offence [43], and the same demand for a reasoned choice applies to the decision to replace a short sentence with community service. The third is fragmentation of rules among internal prosecution guidelines, circulars of the Supreme Court, corrections regulations, and regional agreements [44]. Rahmayanti's study of witnesses and victims of human trafficking shows what fragmentation can do: where rights are spread over several sectoral statutes they are hard to obtain in practice and tend to move from imperative to facultative [45, pages 154–155]. For community service, the duties on placement, funding, and safety should therefore be set in binding rules and not left optional.

Because the evidence in Indonesia is still thin, monitoring should be built into the sentence. Table 4 proposes six indicators that follow from the arguments above. They require a national register of community service sentences kept jointly by the courts, prosecutors, and corrections, and they would let the two questions of this article be answered with data by the end of the first full years of the Code.

Table 4. Proposed indicators for monitoring community service

Indicator	Definition	Question answered
Substitution rate	Share of sentences in which the judgment records the prison term or fine that was replaced, and the share that replaced imprisonment	Is net-widening occurring?
Places freed	Sentences multiplied by the avoided months and divided by twelve, by court and in total	How much capacity is released?
Completion rate	Share of persons who complete the hours within the period without conversion	Is the sentence workable?
Reconviction	Reconviction within 24 months compared with a matched group sentenced to short imprisonment	Does it rehabilitate?
Guidance contact	Contacts per person each month and caseload per guidance officer	Is guidance active?
Placement availability	Locations per region compared with sentences imposed	Is access equal across regions?

Source: constructed by the authors.

Conclusion

Community service under Articles 65 and 85 of the National Criminal Code can contribute to a more humane and better-reasoned system of punishment, but it cannot be the main answer to overcrowding. Occupancy of 183.23 percent means a deficit of 128,769 places, while Article 85 reaches only offences threatened with less than five years where the judge would impose at most six months or a small fine. The calculation shows that closing the gap by this route alone would need about 257,538 replacements of six-month sentences each year. The direct effect on occupancy is therefore small, and the more realistic benefit is a reduction of admissions and of the harm that short custody causes.

For rehabilitation, international research finds community service at least as good as short imprisonment, and some studies find it better, so its main value lies in avoiding the harm of short custody and in the quality of guidance. That quality is currently limited by the shortage of guidance officers, the reliance on memoranda for regional cooperation, and the absence of an assessment of risk and need. Four steps follow. The Supreme Court and the Attorney General should require the judgment and the prosecution file to record the sentence that community service replaces. The Government should regulate placements, funding, safety, and the ban on degrading symbols by regulation and not only by memoranda. The Ministry of Immigration and Corrections should add guidance officers and introduce a simple assessment of risk and need. All institutions should keep a national register and report the six indicators. Future research should test the hypotheses of this article with data on judgments and on reconviction after 2 January 2026.

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