

Community Service Order Punishment: Alternatives in The Criminal Law System From *Maqāṣid al-Sharī'ah* Perspective

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Abstract: *This study aims to analyze Community Service Order (CSO) punishment within the criminal law system through the lens of Islamic law, using a multi-dimensional approach. As an alternative to detention, CSO punishment is expected not only to achieve the rehabilitation of offenders but also to provide broader benefits to society. This study explores how the concept of maqāṣid al-sharī'ah with a multi-dimensionality approach—which includes social, economic, and cultural analysis—by looking at the relevance of maqāṣid al-sharī'ah and a comprehensive view of the concept of community service order punishment to achieve a balance between justice, rehabilitation, and social welfare. A multi-dimensionality approach is used to study community service order punishment from social, economic and cultural aspects. The results of the study show that Community Service Order Punishment are not only in line with the principles of maqāṣid al-sharī'ah, but also have the potential to increase the effectiveness of the rehabilitation of perpetrators, reduce detention costs, and increase the positive contribution of perpetrators to society. This study concludes that Community Service Order Punishment can be a more humane and effective alternative in the criminal law system, which is in line with Islamic values and supports the welfare goals of society as a whole.*

Introduction

In 2023, the World Prison Brief reported that the number of inmates in various correctional institutions across Indonesia reached 275,518. This figure places Indonesia seventh in the world for the highest inmate population, following Turkey, Russia, India, Brazil, China, and the United States. The problem that arises is overcapacity. The overcrowding in the Correctional Institution caused various riots and fires. (Anugra & Susanti, 2024) The overcapacity condition in this Correctional Institution not only causes security problems such as riots and fires, but also has a negative impact on the physical and mental health of inmates. Several national media reported that many of the inmates were affected by skin diseases and even tuberculosis and not a few experienced the impact of overcapacity prisons. (228 Warga Binaan Lapas dan Rutan di Jambi Terjangkit TBC, t.t.)

In ancient times, crimes were often met with brutal physical punishments, such as execution by cruel methods or other severe penalties (Igrački et al., 2023). As time goes by, the view of crime and punishment begins

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to change. In the era of the Enlightenment, for example, a more humanist thinking emerged in handling criminal acts.(Jouet, 2023) Experts are beginning to question the effectiveness and ethics of cruel punishments. They propose a penal system that focuses more on the rehabilitation and resocialization of offenders, in the hope that offenders can return to becoming productive members of society. In the modern century, the approach to crime and punishment is increasingly developing with new discoveries in the fields of criminology and psychology.(Shuai & Liu, 2023) Today, many legal systems adopt a more balanced approach, which not only takes into account the need to punish criminals but also considers human rights and the need to protect society. Prison sentences, for example, are no longer only a tool to separate offenders from society, but also as a means of providing training and rehabilitation.

The primary legal framework for criminal law in Indonesia is the Criminal Code (KUHP). Originally known as the *Wetboek van Strafrecht voor Nederlandsch-Indie* (WvSNI), it was first introduced in Indonesia through the *Koninklijk Besluit* (Royal Decree) No. 33 on October 15, 1915, and officially came into effect on January 1, 1918 (Azizy et al., 2023). This Criminal Code, a remnant from the Dutch colonial era, was crafted to align with the social and political circumstances of the time in the Dutch East Indies (Poeze, 2023). Since its implementation, the Criminal Code has undergone continuous revisions and updates to stay in line with societal changes and the evolving dynamics of Indonesia.

One of the new criminal penalties introduced in Indonesia's Law No. 1 of 2023 on the Criminal Code is community service. The inclusion of community service in the 2023 law is rooted in the broader arguments for criminal law reform in Indonesia (Faisal et al., 2024). According to him, there are three key reasons behind the need for this reform: First, political reasons. This involves the necessity of aligning criminal law with the country's constitution and the democratic principles upheld by Indonesia. (Soedirjo & Jaya, 2023) In this regard, criminal law reform aims to ensure that the legal system aligns with the spirit of reform, which prioritizes the protection of human rights and the promotion of social justice. This crime was also introduced as a more humane alternative and in accordance with democratic values, compared to prison sentences which are often seen as too repressive. *Second*, the reasons are sociological. This reason rests on changes in the social structure and dynamics of Indonesian society. Because with the times, there has been a change in the way people view justice and punishment. Punishments that are rehabilitative and constructive, such as community service order punishment, are considered more in line with the needs of modern society that prioritize social development and reintegration for perpetrators of crimes.(Lin dkk., 2023) In addition, community service order punishment also aim to reduce the negative stigma that is often attached to former prisoners, by providing opportunities for them to contribute positively to society. *Third*, practical reasons. This reason has to do with the efficiency and effectiveness of the criminal justice system. Prison sentences, while still relevant for certain crimes, often burden an already overcrowded prison system.(Rizki dkk., 2024) With the existence of community service order punishment, the burden on correctional institutions can be

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reduced, while perpetrators of criminal acts can still be given meaningful and educational punishments.

From an economic standpoint, prison sentences are often viewed as stifling the creativity and productivity of inmates, as they are confined throughout their sentences (Arandjelović, 2023). As long as the inmate is confined in the prison, all expenses are charged to the State. This creates a significant financial burden on the state budget because the costs for the maintenance of facilities, the provision of food, the health and safety of inmates are enormous. In addition, the productive potential of inmates who should be able to be used for activities that are beneficial to the community, is simply gone. Criminals that prioritize prison sentences also ignore the potential economic contribution of prisoners. If inmates are provided with skills training and the opportunity to work during their sentences, they can generate income that not only helps themselves but also eases the burden on the state.

In Islamic law, criminal offenses are referred to as *jinayah*. According to Abdul Qadir Audah, *jinayah* encompasses actions prohibited by Sharia, whether they relate to life, property, or other matters (Audah, 1992). *Jinayah* encompasses various forms of offenses and crimes regulated in Islamic law, including penalties that must be applied. Islamic criminal law distinguishes between several types of crimes, namely *hudud*, *qisas*, and *ta'zir*. *Hudud* is crimes that have a fixed punishment and are determined by Allah, such as adultery, theft, and drinking *khamr*. Punishments for *hudud* are usually severe and aim to provide a deterrent effect and maintain morality and order in society. *Qisas* are a type of punishment associated with commensurate retribution, especially in cases of murder or severe persecution. (Aisyah, 2023) The basic principle of *qisas* is "an eye for an eye, a life for a life," but Islam also encourages forgiveness and the provision of compensation (*diyat*) as an alternative. Pardon by the victim's family or the provision of compensation shows the mercy and humanity aspects of Islamic law. (Mohamed, 2023) *Ta'zir* includes offenses that do not fall into the category of *hudud* or *qisas*, and the punishment for *ta'zir* is determined by the authorities based on certain policies and considerations. *Ta'zir* punishment can be in the form of fines, imprisonment, or other forms of punishment that are considered appropriate to the level of the crime committed. (Khan, Saleem, dkk., 2023) The *ta'zir* system is more flexible in law enforcement and adjustment of punishment to the social context and conditions of the perpetrator. Although it has different characteristics from the secular criminal law system, the basic principles in *jinayah* law are more about the importance of balancing punishment and forgiveness, as well as the need to provide opportunities for perpetrators to repent and improve themselves. In the modern context, many Muslim-majority countries seek to integrate the principles of *jinayah* law into their national legal systems, while still respecting the universal values of human rights.

From a *jinayah* perspective, the punishment of social work or community service can be classified as a form of *ta'zir* punishment. *Ta'zir* encompasses penalties not explicitly defined in Islamic law, allowing for judicial discretion in determining the appropriate punishment. In this framework, judges have the flexibility to tailor the punishment to the specific crime, with the goal of rehabilitating the offender, protecting society, and

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preventing future offenses. In this context, judges may opt for community service as a more lenient and humane alternative to imprisonment or corporal punishment. This type of penalty also helps to reduce social stigma for offenders, as they continue to live within the community while contributing positively, instead of serving time in prison.

Community service orders, as a modern form of legal sanction, have garnered significant attention in academic discourse. In *At-Tasyri' Al-Jina'i Al-Islami*, Abdul Qadir Audah emphasizes that a primary goal of Islamic criminal law is to reform offenders and reintegrate them into society as better individuals. Community service orders, which involve offenders in activities that benefit society, align with Islamic principles as they offer an opportunity for offenders to make amends through productive work. (Audah, 1992) Muhammad 'Adnan, in his book, asserts that Islam does not only aim to punish criminals but also seeks to prevent future crimes. (Azzabar, 2022) Community service orders, as an alternative punishment, are considered more effective in some cases than imprisonment due to their educational nature and their ability to reduce the social stigma commonly associated with former prisoners.

In *Crime and Punishment in Islamic Law: A Fresh Interpretation*, Mohammad Hashim Kamali explores the concept of restorative justice within Islamic law. He argues that community service orders can be seen as a form of restorative justice because they require offenders to actively participate in making amends for the harm caused to society (Bennett, 2023). According to Nur Insani et al., Islamic law has flexibility that allows adaptation to different social and cultural contexts. Community service order punishment can be seen as the application of the principle of *ta'zir*, where judges have the freedom to determine the punishment that is most appropriate to the circumstances and level of crime. (Insani dkk., 2024) This flexibility allows Islamic law to remain relevant and effective in facing modern challenges. In line with the explanation above, M. Musa at al., found that community service order punishment can reduce the burden on the prison system which is often overcapacity. By providing alternative punishments that do not require detention, the state can allocate more effective resources for the rehabilitation and reintegration of offenders into society. (Musa dkk., 2023) In his research from a penological perspective, Hazairin realized that criminal effectiveness is not only measured by the severity of punishment, but also by its ability to prevent recidivism. (Khan, Nisar, dkk., 2023) He highlighted that rehabilitative approaches such as probation are often more successful in reducing the rate of recidivism compared to other conventional punishments. This is because this approach not only puts perpetrators in social isolation, but also provides guidance and monitoring that can help them change their negative behaviors.

To the best of the author's knowledge, no prior research has specifically examined community service order punishment through the lens of maqāṣid al-sharī'ah using a multidimensional approach. Therefore, this study aims to analyze community service order punishment by exploring and incorporating various aspects of maqāṣid al-sharī'ah through a multidimensional lens. This research is expected to contribute significantly to the development of legal policies that are more responsive and aligned with Islamic values within the criminal justice system.

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Method

This study employs a descriptive method with a multidimensional approach to analyze community service order punishment in the context of *maqāṣid al-sharī'ah*. Primary data were obtained from academic literature, legal documents, and reports, including case studies related to community service order punishment. Primary data includes among them, the law of the republic of Indonesia number 1 of 2023 about criminal law book chapter 65 e. about community service order punishment. While secondary data are articles and books related to community service order punishment. Data analysis was carried out using thematic analysis methods, where data were encoded, grouped based on key themes, and interpreted within the framework of *maqāṣid al-sharī'ah*. A multi-dimensionality approach is used to evaluate whether regulations, such as the new Criminal Code, reflect the social needs of the people of Indonesia. For example, whether the law supports social welfare, prevents social injustice, and accommodates existing social dynamics is applied to analyze social, economic and cultural dimensions to understand how community service order punishment can meet the objectives of *maqāṣid al-sharī'ah* comprehensively. The research procedure includes the preparation stage with an initial literature review. Then data collection through documentation studies. Then the data analysis stage uses thematic analysis and multi-dimensionality approaches, as well as reporting research results. The research is expected to provide a comprehensive understanding of the relevance of community service order punishment within the framework of *maqāṣid al-sharī'ah*, as well as provide practical recommendations to increase the effectiveness and humanization of the punishment system.

This study employs a descriptive method with a multidimensional approach to analyze community service order punishment within the framework of *maqāṣid al-sharī'ah* (Gerring, 2017). Primary data were collected from academic literature, legal documents, reports, and case studies related to community service order punishment (Gerring, 2017). Key sources of primary data include Indonesia's Law No. 1 of 2023, specifically Chapter 65 e. on community service order punishment. Secondary data consists of relevant articles and books on this form of punishment. The data was analyzed using thematic analysis (L. Haven & Van Grootel, 2019), where information was encoded and categorized based on key themes, then interpreted through the lens of *maqāṣid al-sharī'ah*. The multidimensional approach was applied to assess whether regulations, such as the new Criminal Code, meet the social needs of Indonesian society—specifically, whether the law supports social welfare, prevents injustice, and responds to societal dynamics. This analysis covered the social, economic, and cultural dimensions to determine how community service order punishment aligns with the objectives of *maqāṣid al-sharī'ah*. The research process involved an initial literature review, data collection through document analysis, and data analysis using thematic and multidimensional approaches, followed by reporting the findings. (Naeem et. al., 2023) This study aims to provide a thorough understanding of the relevance of community service order punishment within *maqāṣid al-sharī'ah*, while offering practical recommendations to enhance the effectiveness and humanity of the criminal justice system.

Results and Discussion

Multi-dimensionality Approach

Initially, this feature was developed by Jasser Auda to enhance the understanding of *maqāsid* and to avoid reductionist views and binary classification thinking (Auda, 2022). As a contemporary scholar, Auda critiques the traditional approach to *maqāsid*, which often relies on fragmented analysis and rigid categorizations of Islamic legal concepts. This results in a narrow and sometimes irrelevant understanding of the times and the complexity of modern life. This feature tries to provide awareness that the real thinking mechanism must depart from a schema that is connected to each other. Jasser Auda introduced a multi-dimensionality approach to looking at maqasid, emphasizing the importance of the interconnectedness between different aspects of life. (Auda, 2008) With this approach, maqasid is no longer seen as an isolated entity but as part of an interconnected network, allowing for a more holistic and contextual analysis.

Multi-dimensionality represents a transformative perspective on analysis. In the context of *maqāsid*, it expands the scope of examination by considering various dimensions that both influence and are influenced by Islamic law (Firmansyah et al., 2023). This approach encourages scholars to not only focus on the individual goals of the law but also to understand how these goals interact and support each other in achieving communal well-being and the common good. At first, classical maqasid was shackled by certain schools or only thought under the manhaj (methodology) of the school. Many classical scholars are bound to a particular frame of mind, which often limits exploration and innovation in understanding maqasid. (Hefni dkk., 2022) The product of thinking outside of its manhaj is only considered as something else (the other), and is often ignored or considered invalid. This hinders the development of maqasid science and limits a broader and inclusive understanding of the goals of *sharī'ah*.

The multi-dimensionality approach introduced by Jasser Auda makes *maqāsid* more dynamic and adaptable to changing times. For instance, a study by Hashem and Shukri examines Islamic criminal law using this multi-dimensionality approach (Hashem, 2024). using empirical data to evaluate whether punishment in criminal law meets *sharī'ah* objectives such as justice and rehabilitation. (Shukri & Azalan, 2023) The study included a statistical analysis of the effectiveness of punishment in reducing crime and encouraging social reintegration. These studies show how Jasser Auda's multidimensional approach can be applied in a variety of fields, using empirical data to draw more in-depth and contextual conclusions. This approach opens up space for dialogue and integration of various perspectives, as well as a more comprehensive and relevant understanding of Islamic law in the contemporary context. (Firmansyah dkk., 2023) Through this feature, maqasid can develop into a more effective instrument in facing the challenges and needs of modern society, while maintaining the essence and original purpose of *sharī'ah*. Logically, this feature is a necessity for awareness of understanding criminal law. Because an incomplete approach to look at aspects related to a criminal law results in a rigid view and ignores the complexity and interrelationship

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between the various elements that make up the criminal law. Therefore, to truly understand criminal law, a more flexible and inclusive approach is needed. Multi-dimensionality seeks to show that criminal sanctions are a complex network consisting of various elements that interact with each other. With this approach, we not only observe the law separately, but also understand how each of its elements contributes to the overall system. For man will only come to an adequate understanding of everything on the basis of his relationship with the complete absoluteness built on the legal system.

Understanding the law necessitates awareness of the close relationship between individuals and their lived realities. By recognizing that everything is interconnected, we can appreciate and maintain balance. That way, a complete understanding of the law certainly has an impact on an open legal system or a law that can accept surprises from the facts experienced by humans. The laws that grow from this understanding are dynamic and adaptive, able to accept and respond to changes that occur according to what humans experience. Strictly speaking, multi-dimensionality is the scope of laws that are built on empirical ones. This approach not only looks at human reality from one dimension only, but also integrates various dimensions such as social, economic, and cultural. By considering these dimensions, laws can effectively connect empirical experiences with existing values and traditions. Therefore, multi-dimensionality serves as a vital foundation for cultivating legal awareness that reflects the complexities of human life.

Community Service Order Punishment In the Context of Maqāṣid Al-Sharī'ah with a Multi-dimensionality

According to Indonesia's Law No. 1 of 2023 regarding the Criminal Code, community service order punishment can be applied to defendants who commit offenses punishable by less than five years of imprisonment. In such cases, the judge may impose a prison sentence of no more than six months or a maximum fine of Category II. When determining this punishment, the judge must consider several factors, including the defendant's confession of the crime, their ability to work, their consent after being informed about the purpose and details of the community service punishment, the defendant's social background, workplace safety protection, the defendant's religion, beliefs, and political views, as well as their capacity to pay the fine. (*JDIH Mahkamah Agung RI*, 2023.)

Additionally, the implementation of community service order punishment must not be commercialized. This type of punishment requires a minimum of 8 hours and a maximum of 240 hours of community service. The punishment can be carried out for up to 8 hours per day and can be completed in installments over a maximum period of 6 months, considering the convict's work schedule and other beneficial activities. The execution of community service punishment, as mentioned in paragraph (5), is specified in the court's decision. The court's ruling also includes instructions that, if the convict fails to complete all or part of the community service without a valid reason, they must either repeat the punishment, serve all or part of the prison sentence that

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was replaced by the community service, or pay the fine that had been substituted by the punishment, or serve a prison sentence in lieu of the unpaid fine. Supervision of the punishment is conducted by prosecutors, while guidance is provided by community supervisors. (*JDIH Mahkamah Agung RI*, 2023.)

Sharī'ah serves as a legal framework aimed at protecting public interest and preventing harm. This concept has been explored by various Islamic jurists, including Izz bin Abd al-Salam (Salām, 2003), Ibn Taymiyyah (al-Halim, 1983), and Ibn Qayyim al-Jauziyyah (al-Jawzīyah, n.d.). Every punishment determined by Islam contains certain wisdom and aims to bring good, both for the convicted person and for their families and society. For example, the punishment of stoning for adultery convicts, in the context of hudud, is not only aimed at punishing the perpetrators of the offense, but also provides a reminder to the public who witnessed the execution.

In addition to serving as a form of retribution, the implementation of punishment in Sharī'ah also functions as an educational and preventive measure. Properly applied punishment can restore order after a violation and instill a sense of security within the community. For example, in the case of theft, the punishment of cutting off the hand is applied not only to punish the perpetrator, but also to demonstrate the strictness of Islamic law in protecting people's property. Islamic jurists emphasize that the principles of mercy and mercy must always be considered in the application of *sharī'ah* law. Harsh punishments such as stoning and cutting off hands are only applied after meeting very strict conditions and strong evidence. This shows that Islam values justice very much and ensures that no individual is punished without a valid reason and clear evidence.

Maqāṣid al-Sharī'ah refers to the intentions or purposes established by Islamic law in formulating provisions. This concept embodies the notion of *maslahah*, which signifies the benefits aimed at preserving humanity both in this world and in the hereafter. In other words, *maqāṣid al-sharī'ah* is the principles that are to be achieved for the benefit of mankind. Changes in laws that occur over time and place always aim to protect the public interest, provide benefits, (Zahrah, 1958, hlm. 28) and avoid damage or crime. Islamic law is designed to be flexible and adaptive to changing times, so that it remains relevant in maintaining the welfare of mankind. As Allah SWT says in the Qur'an, "O man! There has come a rebuke to you from your Lord and healing of hearts, and guidance and mercy for the believers". (*Surah Yunus - 57-67*, t.t.) This verse emphasizes that Islamic law and *sharī'ah* maqasid aim to provide reprimands, healing, guidance, and mercy to mankind, especially for those who believe. *Maqāṣid al-Sharī'ah* is the main foundation in the application of Islamic law which always strives to achieve goodness and benefit for all mankind. (Bhat, 2023) Not only that, *maqāṣid al-sharī'ah* also ensures that Islamic law must remain relevant and able to answer the challenges of the times, while maintaining morality and community welfare.

The aforementioned verse illustrates that heinous or criminal acts can be effectively prohibited through the implementation of Islamic law. Islamic law aims to prevent and overcome various forms of crime and vices through the application of fair and *sharī'ah* punishments. In this context, Islamic law is not

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only a deterrent but also a mechanism to restore order and justice in society. The harm of mankind cannot be achieved by doing new evils. On the contrary, *maslahah* will only be achieved through good deeds and the application of *sharī'ah* principles aimed at maintaining the welfare and benefit of the community. (Mubarak dkk., t.t.) Furthermore, Islamic jurists argue that the essence of *sharī'ah* is to protect the welfare of mankind. This means that every rule and provision in *sharī'ah* is aimed at maintaining the welfare and benefit of the people. However, if a crime occurs, then the punishment for the violation is mandatory. This punishment aims to uphold justice, provide a deterrent effect, and prevent the recurrence of crimes in the future. Islamic law not only serves as a tool of punishment but also as a means to create a just, safe, and prosperous society. Islamic jurists continue to emphasize the balance between the prevention of crime and the execution of punishment in order to achieve the main goal of *sharī'ah*, which is the benefit and welfare of mankind.

In the framework of Islamic law, there exists a punishment known as *ta'zir*, which is outlined in *sharī'ah* texts. According to Zuqay and Bagsyam, *ta'zir* refers to punishments that are not explicitly defined by *sharī'ah* in terms of type and proportion, leaving their determination to the discretion of the ruler or judge (Bagsyam & Zuqay, 2023). *Ta'zir* allows for more flexible law enforcement and in accordance with the conditions and needs of the community. (Rahimzai & Mushfiq, 2023) The punishment of *ta'zir* must be applied by paying attention to *maqāṣid al-sharī'ah*, which is the main objectives of *sharī'ah* which include the protection of religion, soul, intellect, descendants, and property. By fulfilling the requirements of *maqāṣid al-sharī'ah*, the punishment applied will be fair and effective in safeguarding the public interest. A fair government must ensure that every punishment applied not only punishes offenders but also educates and prevents future crimes.

In applying punishment, it is crucial for the government to consider the social and cultural context of the community. Punishments must be relevant and acceptable to the people to effectively achieve their primary goal: the public good. Implementing just and fair punishment contributes to the creation of a harmonious, secure, and prosperous society. Judges must see punishment as a divine duty, where every crime warrants a suitable penalty, serving as a lesson to deter others from committing similar offenses. Therefore, the punishment handed down must align with the goal of protecting the public interest, following the principle of *maqāṣid al-sharī'ah*. Alongside this, Islamic law also aims to safeguard individual freedoms, such as freedom of thought, opinion, belief, and religion. (Marboe, 2018) These individual rights are part of *maqāṣid al-sharī'ah*, which seeks to protect both life and intellect. By safeguarding these rights, Islamic law strives to maintain a balance between personal freedoms and the broader interests of society.

The punishment imposed must also consider aspects of justice and humanity. Judges are responsible for ensuring that the penalties given are not merely forms of retaliation but also efforts to rehabilitate and reintegrate the perpetrator into society. Thus, the application of punishment in Islamic law not only aims to punish the perpetrators of crimes but also to protect society and promote the values of justice and benefit. (Karimullah dkk., 2024) A fair judge must consider all of these aspects in sentencing, so that Islamic law can

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serve as a tool for creating a harmonious, safe, and prosperous society. Within the framework of *maqāṣid al-sharī'ah*, every punishment must be designed and implemented with the ultimate goal of safeguarding the welfare and benefit of the community. Individual freedoms protected by Islamic law also play an important role in creating an environment where everyone can thrive and contribute positively. Thus, Islamic law not only regulates punishment but also how to create a just and prosperous society based on the principles of *maqāṣid al-sharī'ah*.

According to Abu Zahrah, Islamic punishment must satisfy four key conditions. Firstly, the punishment must serve the public interest and not fulfill the personal desires or biases of the judge or any other party. Fair and objective punishment is crucial to ensure that the primary aim is the protection of society as a whole. Second, the punishment must benefit the community by acting as a deterrent to the offender and educating the public to avoid unlawful actions. This positive impact fosters social stability and harmony. Third, the punishment must be proportional to the offense, ensuring no excessive penalties are imposed compared to the crime committed. This principle of proportionality is essential for upholding justice without causing undue harm to any party. Fourth, the punishment must be administered with equality and justice for all, without any form of discrimination. Every person should receive the same treatment under the law, regardless of their social, economic, or personal background. (Zahrah, 1998, hlm. 77–78) This principle of equality ensures that Islamic law is applied fairly and impartially.

These conditions align closely with the overarching objectives of *maqāṣid al-sharī'ah*, which focus on the protection of religion, life, intellect, lineage, and property. By safeguarding the public interest, benefiting society, ensuring proportional punishment, and upholding equality, Islamic law seeks to protect these five fundamental objectives. In terms of preserving religion, fair and proportionate punishment helps maintain societal morals and ethics in line with Islamic teachings. For the protection of life, strict penalties are applied for offenses that endanger human life, deterring harmful actions. The preservation of intellect is supported by punishing crimes that harm mental and moral well-being. Similarly, the protection of lineage is ensured through penalties for actions that undermine the family or hereditary institutions. Lastly, property is safeguarded through stringent punishments for theft and robbery, protecting individual and communal property rights. In conclusion, the primary purpose of punishment in Islam is to safeguard the public interest by adhering to the principles of *maqāṣid al-sharī'ah*, namely the protection of religion, life, intellect, lineage, and property. (Rangkuti, 2018) These principles serve as the foundation for the formulation and application of all punishments, ensuring they fulfill these essential objectives.

Community service order punishment can be considered consistent with the principles of *maqāṣid al-sharī'ah*, particularly in its application to offenders of moral offenses, such as indecent public behavior (Maftuna, 2023). The purpose of this punishment is to create a deterrent effect while educating the offenders about the impact of their actions, encouraging them to improve their behavior. The punishment can be carried out within a timeframe determined by the community itself. For instance, offenders may be assigned

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tasks like collecting trash in the city. This approach allows the community to participate indirectly as observers of the punishment's enforcement. Furthermore, involving the public in overseeing and applying the punishment enhances the sense of justice and fosters social solidarity.

Community service order punishment not only imposes obligations on offenders but also yields tangible benefits for the community. By engaging violators in tasks that serve the public good, they learn to take responsibility and contribute positively to their surroundings. This practice aligns with the goals of *maqāṣid al-sharī'ah*, which emphasizes the importance of promoting societal welfare. Furthermore, community service order punishment upholds Islamic values by demonstrating that Islamic justice is applied fairly and wisely. The transparent execution of sentences, observed by the public, reinforces trust in the Islamic legal system and showcases its commitment to justice and the common good. Overall, the application of punishment within Islam, following *maqāṣid al-sharī'ah* principles, not only punishes offenders but also educates, reforms, and supports the well-being of society. (Alkharji, 2023) Thus, Islamic law plays a vital role in fostering a just, secure, and prosperous society grounded in *sharī'ah* values.

Additionally, this form of punishment helps protect the assets of the offender, their family, and the nation. Unlike fines, community service order punishment does not impose any financial burden on the violator. Instead, the offender is required to perform community service as compensation for their violation. The offender's family does not need to provide financial support, and, in some cases, the offender may even receive compensation for the social work they perform. Moreover, the government saves significant resources by avoiding the costs of detaining or imprisoning the offender. Community service as an alternative punishment also eases the strain on the prison system and redirects resources toward more productive state purposes. This illustrates that community service order punishment aligns with the goals of Islamic punishment (*maqāṣid al-sharī'ah*) and benefits both the offender and society. It not only serves to penalize but also rehabilitates the offender while making a positive contribution to the community.

Community Service Order Reviewed from the Social Side

At the end of the nineteenth century, the concept of community service order punishment as an alternative to incarceration began to be formulated in the criminal legislation of several European countries, including the Netherlands and Portugal (Monballyu, 2014). In the mid-1960s, the implementation of prison sentences in the Netherlands was heavily criticized because of the stigma of society who viewed prison sentences as no longer humane and should be used very selectively in responding to criminal acts. The crisis of prison enforcement increased in the 1970s as the prison population increased and the prison capacity in the Netherlands decreased. (Hanema, 2023) So this forced the Netherlands government to look for alternatives to prison sentences and began to impose community service order punishment since 2001 until now.

In addition to the Netherlands and Portugal, community service order punishment has been implemented in various regions around the world at

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different stages of the criminal justice system (Mukasheva et al., t.t.). Countries such as New Zealand, Germany, Costa Rica, the United Kingdom and Wales, Malawi, Ghana, El Salvador, Uruguay, Uganda, Kazakhstan, Nigeria, Zimbabwe, Sweden, and Kenya have adopted this approach. In countries such as the United Kingdom, the Netherlands, and Norway, the implementation of community service order punishment has allowed perpetrators to contribute directly to society through various community projects. By engaging in rewarding activities, such as cleaning public facilities, assisting with social programs, or caring for the environment, perpetrators not only make amends for their mistakes but also strengthen social bonds with the local community.

In addition, community service order punishment contributes to reducing the stigma against criminal offenders. In many countries, such as Canada and Germany, social work programs are specifically designed to facilitate the social reintegration of offenders (Coppola & Martufi, 2023). Through direct interaction with the community, perpetrators of criminal acts have the opportunity to improve their self-image and rebuild trust with the community. This process helps reduce the social isolation that ex-convicts often experience, making it easier for them to be readmitted to normal social life. Furthermore, community service order punishment also play a role in creating a more inclusive and supportive environment for the rehabilitation of criminal offenders. In countries such as Australia and New Zealand, this approach has encouraged actors to develop new skills and increase their sense of social responsibility. By being given the opportunity to contribute positively, perpetrators are more likely to avoid repetition of crimes and become productive members of society. This is not only beneficial for the perpetrator, but also for society as a whole, as it lowers recidivism rates and reduces the social burden associated with long-term incarceration. (Lin dkk., 2023)

According to Emile Durkheim, punishment is fundamentally a moral process that serves to preserve the shared values and normative conventions upon which social life is based (Genel, 2023). Punishment is not only a reaction to a violation of the law but also a way to maintain and strengthen the shared values that are the foundation of society. In Durkheim's view, punishment has a dual function, on the one hand, it serves as a social control tool that regulates individual behavior, and on the other hand, it strengthens social solidarity by reaffirming collective norms and values.(Joller, 2023) Durkheim also emphasized that punishment must be understood in a moral and social context, not just in a legal or administrative framework. Punishment reflects society's moral judgment of certain behaviors and serves to show that society does not tolerate such behavior. Thus, punishment not only contains an element of deterrence, but also serves as a reminder for members of society about the importance of obeying social norms.(Genel, 2023) The form and intensity of punishment describe the strength and vitality of social solidarity. In societies with strong solidarity, punishments tend to be more severe and repressive, as violations of norms are considered a serious threat to the social order. In contrast, in societies with looser solidarity, punishments tend to be lighter and restitutive in nature, since violations of norms are considered problems that can be remedied through compensation or rehabilitation.

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Durkheim also posits that punishment serves to channel the collective emotions that arise from transgressions. When a crime occurs, it disturbs the social and moral order, prompting feelings of unrest among the populace. The sentencing process enables the public to release and manage these emotions in a controlled and structured manner (Joller, 2023). Furthermore, Durkheim observed that punishment not only serves to reprimand or punish the perpetrator, but more importantly, to communicate a message to all members of society. This message confirms that violations of collective values and norms will not be tolerated and there will be serious consequences for the perpetrators. In this way, punishment plays a role in strengthening society's commitment to social norms and strengthening social cohesion. In this perspective, punishment is an important tool to maintain and strengthen social solidarity. This solidarity is the basis of an orderly and harmonious social life. Without an effective punishment mechanism, society will find it difficult to maintain the integrity and stability of its moral order. (Fanning, 2023) Therefore, punishment must be understood not only as a reaction to an act of violation, but also as a way to reinforce and renew the values that are the basis for the sustainability of society.

More than just a tool for law enforcement, punishment serves as a mechanism for social bonding that transforms threats to the moral order into opportunities for strengthening social ties. In Durkheim's view, crime and punishment form a complex moral circuit that channels the emotional energy of anger into socially binding rituals of moral affirmation. This process shows that despite violations, the community is still able to rise up and strengthen their solidarity through meaningful punishment rituals. This approach is very relevant when we consider the concept of community service order punishment. Community service order punishment, as an alternative form of punishment, reflect the shift from repressive punishments to more rehabilitative and restorative punishments. Within the framework of Durkheim, community service order punishment aim not only to punish perpetrators but also to reintegrate perpetrators into society through work that benefits the community. (Maculan & Gil Gil, 2020) This provides an opportunity for perpetrators to atone for their mistakes in a constructive way, strengthen social solidarity and repair damaged relationships.

Community service order punishment also has a significant symbolic dimension. By involving offenders in activities that benefit society, this form of punishment reaffirms collective values of social responsibility and positive contribution. It is a form of punishment that emphasizes reconciliation and reintegration rather than retribution, thus supporting a more inclusive and just moral order. In this case, community service order punishment serve as a symbolic expression of society's commitment to rehabilitation and forgiveness, as well as reaffirming the belief that every individual has the potential to change and contribute positively. (Adams, 2023) Furthermore, community service order punishment help shift the focus from mere punishment to the empowerment of perpetrators. This gives actors the opportunity to learn new skills, build a sense of responsibility, and feel part of the community. It is not only a legal process that aims to control deviant behavior but also a social process that promotes healing and recovery. Thus, community service order

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punishment not only affect individual perpetrators but also strengthen social bonds and repair social networks damaged by criminal acts.

Authorities that impose community service order punishment not only enforce the law but also uphold moral norms by demonstrating that crime is a deviation that must be corrected through constructive and beneficial actions for society. This shows that punishment is not only about retribution but also about restoration and reintegration, which ultimately strengthens social bonds and promotes social cohesion. Community service order punishment also allow perpetrators to show their remorse and contribute back to society, which in turn improves their image in the eyes of the public and aids in their reintegration. This is a tangible manifestation of Durkheim's principle that punishment has an important symbolic dimension, in which the perpetrator is not only punished but also given the opportunity to atone for their mistakes and repair damaged social relationships.

In a democratic society, where popular sentiment and political processes can shape laws and punishments, the community service order punishment demonstrates its relevance. This program encourages community participation in the rehabilitation process, promoting justice principles that are more inclusive and responsive to the needs of all societal members. Thus, community service order punishment not only bridges the gap between law violators and society but also communicates the social values underlying justice and social cohesion. Thus, community service order punishment not only bridge the gap between individuals who violate the law and society, but also communicate the social values that underlie justice and social cohesion. Conceptually, community service order punishment shift the focus from punishment as a utilitarian instrument that solely controls behavior in a more symbolic and social direction. It shows that punishment is not only about responding to the act of offense with sanctions, but also about repairing the social damage caused by the crime. In this way, community service order punishment help in rebuilding social solidarity and strengthening the moral order, without the need to resort to harsh or repressive forms of punishment. Although criticism of Durkheim's theory highlights its weaknesses, the criminal approach to community service order punishment nonetheless offers valuable insights into how punishment can serve as a communication tool that influences public perceptions of justice and social norms. It expands the understanding of the role of punishment in maintaining social integrity and reaffirms moral authority in complex modern societies.

Community Service Order Punishment Reviewed from the Economic Side

Community service order punishment has demonstrated a significant positive impact on the economy in various countries that have implemented them. One of the most notable economic benefits is the cost savings associated with the criminal justice system. In countries such as the United States, the United Kingdom, and Canada, community service orders have proven to be more economical than traditional prison sentences (Tonry, 2022). The detention of a person entails high costs for facilities, food, security, and other services. By diverting perpetrators of nonviolent community service order punishment programs, the government can significantly reduce the burden on

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the budget, while utilizing these human resources for projects that benefit society. In addition, community service order punishment also contribute to increasing productivity and developing workforce skills. In countries such as Norway, perpetrators of crimes who are serving community service order punishment are often involved in public projects such as infrastructure improvements, park maintenance, or waste management. (Lappi-Seppälä, 2023)

Through these activities, offenders not only contribute directly to the local economy but also acquire new skills that can enhance their employability after completing their sentences. Thus, community service order punishment helps reduce unemployment rates and encourages productivity within society. Furthermore, community service order punishment also play a role in supporting the local economy and the social sector. In many countries, such as Australia and New Zealand, community service order punishment often involve working with nonprofits or small businesses that need additional manpower. Through this program, offenders can help reduce the organization's operational costs, so they can allocate more resources to their primary goals, such as providing social services or running community projects. This indirectly supports local economic growth and strengthens social networks within the community.

In the economic context, community service order punishment can be viewed as an effort to reintegrate offenders into the labor market. Rather than isolating them through detention, these orders allow perpetrators to contribute productively to society. Not only does it help reduce the cost of detention, but it also provides training and work experience that can improve the skills and competitiveness of actors in the labor market. In the Marxist view, this can be seen as a way to discipline the workforce while optimizing the economic contribution of the entire population, including those involved in crime. (Reyes & Reyes, 2024) By involving perpetrators of crimes in activities that benefit the community, such as community development projects or public services, perpetrators can regain the value and meaning of their positive contributions. This not only improves the mental and emotional well-being of the perpetrator, but also strengthens social bonds and solidarity in society. In the long run, this approach can reduce recidivism rates and help create a more harmonious environment.

Community service order punishment can also be viewed as an integral aspect of the ideological legitimacy of the criminal justice system. Rusche and Kirchheimer argue that the official purpose of penitentiaries often serves to reinforce ideological legitimacy (Kirchheimer, 2017). In the context of community service order punishment, this means that the state can demonstrate its commitment to rehabilitation and social justice, while actually ensuring social control and utilization of labor. This "ideological veil" helps to strengthen the authority of the state and creates the illusion that the punishment is entirely in the interest of rehabilitation and the good of society. community service order punishment must be seen in relation to other social policies. Rusche and Kirchheimer emphasized that punitive policies are not stand-alone but are integrated with broader social policies. (Kirchheimer, 2017) community service order punishment can be considered as part of social

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policies that seek to reduce poverty, improve job skills, and strengthen social solidarity. Thus, community service order punishment crimes not only function as punishments but also as a tool to achieve broader social goals.

Community service order punishment also helps alleviate the burden on the prison system, which often operates beyond capacity. By providing an alternative to incarceration, the state can reduce the number of inmates, enabling a more effective allocation of resources for the rehabilitation and care of those who genuinely require incarceration. Furthermore, decreasing prison populations can help mitigate issues such as prison violence, inhumane conditions, and high operational costs. Community service order punishment offer better rehabilitation opportunities compared to incarceration. By engaging in community service order punishment, offenders can develop new skills and improve their attitudes towards society. Well-designed social work programs can include skills training, counseling, and support for finding work after completing a sentence. This provides a stronger foundation for perpetrators to restart their lives in a more positive and productive way. While community service order punishment have many benefits, there are challenges that need to be overcome to ensure their effectiveness. For example, there needs to be a strict surveillance system in place to ensure that perpetrators are actually carrying out their duties and not abusing the freedoms they are given. In addition, it is important to avoid stigmatizing perpetrators so that they can be truly reintegrated into society. By addressing these challenges, community service order punishment can be an effective and sustainable solution in the criminal justice system.

Moving beyond basic interpretations, Rusche and Kirchheimer's framework argues that the labor market significantly influences the choice of criminal methods and their usage patterns (Kirchheimer, 2017). To that extent, the hard work of convicts provides resources that have the potential to be exploited, and their relative value has become a major consideration in criminal policy. In this context, community service order punishment can be seen as a modern adaptation of the same principle, in which the labor of criminals is used for social and economic purposes. community service order punishment allow the state to utilize the labor of criminals productively. By engaging them in work that benefits society, such as infrastructure projects, environmental maintenance, or social services, the state can reduce the operational costs associated with traditional incarceration. Furthermore, this work can generate significant economic value by improving infrastructure and public services without having to incur additional costs from the state budget. In a Marxist perspective, it reflects the state's efforts to optimize labor resources, including those involved in crime, for the sake of the broader economy. (Yoo, 2023) However, if there is a demand for labor that threatens to exceed supply, then the state and correctional institutions become less prepared to sacrifice the valuable resources needed to meet those needs. In this context, community service order punishment can be seen as a response to the dynamics of the modern labor market, where the need for productive labor remains high. Thus, criminal policy shifts from a form of punishment that damages or isolates the workforce to a more constructive and productive form.

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As part of efforts to make punishment more humane, community service order punishment offers a better alternative to detention in harsh and inhumane conditions. By involving offenders in activities that benefit society, the state can reduce the reliance on corporal punishment and severe incarceration (Faris, 2023). Community service order punishment provide more decent working conditions and a more positive environment, which not only helps the rehabilitation of offenders but also reduces violence and inhumane conditions in the penitentiary system. The relative standards of correctional institutions are often determined by the need to ensure that the punishments given are more unpleasant compared to the living conditions in free societies. However, community service order punishment allow the implementation of a more rehabilitative and humane regime without losing its disciplinary effect. By giving offenders the opportunity to work and contribute to society, community service order punishment offer a punishment model that remains firm but focuses more on rehabilitation and reintegration. (Ibrahim, 2019) Community service order punishment must also be seen in the context of broader social policies. By involving offenders in social work, the state not only reduces the burden on the prison system but also improves the skills and employability of populations that may have previously been marginalized. This creates a double effect, where the perpetrators of crimes get the opportunity for rehabilitation and the community benefits from the work done. In the long run, this can lead to reduced crime rates and improved social harmony.

Community Service Order Punishment Reviewed from the Cultural Side

Community service order punishment has significantly positively impacted cultures in various countries that have implemented them. One of the most notable effects is the strengthening of human values and the promotion of restorative justice. In countries such as Norway and Canada, the application of community service order punishment reflects a culture that prioritizes inclusivity and rehabilitation over mere punitive measures (Toedtman, 2024). By providing opportunities for perpetrators of crimes to atone for their mistakes through contributions to society, community service order punishment help reinforce human values, such as empathy and forgiveness, which are the basis for many cultures. In addition, community service order punishment also play a role in encouraging active participation of citizens in the community and strengthening the sense of social responsibility.

In countries such as Germany and Australia, offenders serving community service order punishment are often engaged in projects that involve direct interaction with local communities, such as environmental stewardship and assistance with social programs. This engagement not only fosters better relationships between offenders and communities but also strengthens a sense of collective responsibility, which is a vital element of many cultures. Furthermore, community service order punishment help strengthen work culture and service ethic in society. In countries such as the United Kingdom and New Zealand, community service order punishment programs are often designed to develop the employability skills of offenders while making a real contribution to society. By introducing perpetrators to the values of hard work,

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dedication, and service to others, community service order punishment not only facilitate individual rehabilitation but also reinforce a positive work culture in society. (Mbuba, 2023)

From a cultural standpoint, crime is analyzed through the influence of emotions—specifically anger, fear, and disgust—on the judgment and punishment of offenders. Research indicates that certain crimes provoke intense negative emotions that are closely linked to punitive responses. It is unsurprising that violent crimes are most strongly associated with fear. This suggests that violent offenders may receive harsher punishments than nonviolent offenders, even when accounting for the severity of the crime. Additionally, evidence shows that drug offenders elicit high levels of disgust. For instance, experimental studies reveal that drug addicts are often perceived as incompetent and lacking empathy, a reaction tied to feelings of disgust. (Kahan, 1998) As Miller points out, disgust plays a significant role in moral discourse, with moral judgments frequently expressed through disgust. Given the connection between fear, disgust, and punitive attitudes, the hypothesis is that violent and drug offenders will be punished more severely than other types of offenders, particularly those involved in property crimes.

Community service order punishment can serve as a humanistic alternative that mitigates negative emotions such as fear and disgust, often associated with violent and drug-related crimes. By shifting the focus from harsh and repressive punishment to rehabilitation through community service order punishment, this approach can reduce the stigma and dehumanization experienced by offenders. Community service order punishment provide an opportunity for perpetrators to atone for their mistakes through positive contributions to society, which can change public perceptions and reduce deep negative emotions. In the case of violent crimes, community service order punishment can help reduce the fear experienced by the community. Instead of simply isolating violent offenders, community service order punishment allow them to participate in rehabilitation programs that focus on self-control, anger management, and social skills. Through active participation in social work, abusers can demonstrate positive change that can help restore public trust and reduce the fear that often leads to harsher punishments.

For drug offenders, for example, community service order punishment can play an important role in turning disgust into empathy. Programs that incorporate substance abuse education, counseling, and job training can help drug offenders improve their lives and reintegrate as productive members of society. When individuals witness drug offenders contributing positively and actively working towards their recovery, initial feelings of disgust can give way to sympathy and support. By adopting a more rehabilitative and constructive approach, community service order punishment policies can help address the negative emotions that often exacerbate punitive attitudes. This could lead to a more humane policy change and a focus on rehabilitation, which could ultimately reduce the rate of harsh punishments and improve long-term outcomes for perpetrators and society.

By adopting community service order punishment, the criminal justice system can reduce the injustices that often arise due to racial and ethnic bias. Community service order punishment offer an alternative to punishment that

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does not depend on detention that often disproportionately affects minority groups. By giving perpetrators the opportunity to contribute to society through social work, the system can reduce the negative impact of long-term detention and provide fairer and more equitable outcomes for all racial and ethnic groups. community service order punishment emphasize relevant legal factors in determining punishment, such as the seriousness of the violation and the history of the perpetrator. By establishing clear and transparent standards for the implementation of community service order punishment, the system ensures that the sentences imposed are in accordance with the principles of formal rationality. Perpetrators are given the opportunity to improve themselves through community service order punishment, which allows them to show positive change and rehabilitation, without being influenced by extra-legal factors that are irrelevant. community service order punishment can serve as a more effective rehabilitation mechanism than traditional detention. By providing actors with skills and work experience, the system helps them to return to society as better and more productive individuals. In the context of formal rationality, community service order punishment ensure that the punishment imposed is not only retributive but also rehabilitative, helping the perpetrator to improve himself and reducing the possibility of recidivism.

Conclusion

The conclusion of this study confirms that community service orders, as an alternative to prison sentences, embody an approach that aligns with the principles of maqāṣid al-sharī'ah while providing broader societal benefits. This form of punishment allows offenders to make amends for their mistakes constructively, rather than merely serving a retaliatory sentence. Unlike prisons, which often exacerbate social isolation and heighten the risk of recidivism, community service orders enable offenders to maintain interactions with their social environments. This interaction not only improves the perpetrator's self-image in the eyes of the public, but also makes it easier for them to return to being part of a productive community after serving their sentences. In addition to social benefits, these punishments also bring economic benefits that cannot be ignored. Reducing the incarceration rate means reducing the costs that the state must bear to maintain prison facilities, including the cost of meals, security, and other necessities for inmates. On the other hand, perpetrators who are serving community service sentences can contribute positively through various forms of community service order punishment that benefit the community, such as infrastructure maintenance, environmental hygiene programs, or assistance in social services. This contribution not only helps the community directly, but also reduces the burden on the government in providing these services. In addition, the study highlights that community service order punishment has the potential to reduce racial and ethnic bias in the criminal justice system. Biases that are often present in the sentencing process can be minimized with this approach, because community service crimes offer a more flexible and common benefit-oriented option, regardless of the perpetrator's racial or ethnic background. Thus, this punishment can ensure that justice is upheld more evenly and equally across all levels of society, in accordance with the values of justice in

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Islam. The final conclusion of this study confirms that the criminal community service order is a more humane and effective alternative in the criminal law system. This punishment not only supports the welfare goals of society as a whole, but is also in line with Islamic values that emphasize justice, benefit, and protection for all individuals. This study recommends that community service order penalties be applied more widely and that policy reforms be made to maximize their benefits in legal and social contexts.

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