

Making Community Service Work

A resource pack from East Africa



CS Form No. 12



THE UNITED REPUBLIC OF TANZANIA

IN THE COURT OF
AT OF
CRIMINAL CASE No.

COMMUNITY SERVICE ORDER

(Issued under authority of S. 3(a) and (b) of the Community Service Act, 2002)

You have been convicted of the offence of

..... under the Community Service Act, 2002. If you fail to comply with the order, you may be liable to imprisonment.

You are hereby ordered to perform community service under the Community Service Act, 2002. You must obey any of the following conditions:

1. You will not commit any offence while performing community service.
2. You will not be intoxicated while performing community service.
3. You will not use force or threaten to use force against any person while performing community service.
4. You will not be absent from your place of work or school without reasonable excuse.
5. You will not be absent from your place of residence without reasonable excuse.



Republic of Kenya PROBATION SERVICE

COMMUNITY SERVICE OFFICERS REPORT

Ref. No.			
CASE DETAILS			
Name	Charge	Gender	Age
.....	STEALING	Female	36
Penal code section	273	Court name	Nairobi Law Court, Resident Magistrate Court
Court name	Nairobi Law Court, Resident Magistrate Court	Court file no.
Previous conviction	Police station
Mention date		
Particulars of Offence		



THE REPUBLIC OF UGANDA

Community Service Programme Community Service Committal Order

In the Court at
Court Case No. of
Community Service Committal Order No.
Whereas you (Name)
..... (Address)
..... (Occupation)
..... (Date of Birth)
..... (Sex)
..... (Marital Status)
..... (Previous Convictions)
..... (Details of Offence)
..... (Sentence Imposed)
..... (Conditions of Sentence)
..... (Community Service Order)
..... (Signature of Magistrate)
..... (Date)

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Acknowledgements

This resource pack has been created and compiled by Penal Reform International (PRI) Associate Rob Allen and Becky Randel, PRI Research Assistant. The pack draws on speeches and presentations made at a series of training events for magistrates, judges, prison officers, probation officers and prosecutors supported by PRI in Kenya, Uganda and Tanzania in 2012. PRI would like to thank all of those who contributed to these events. PRI would like to thank in particular Jerim W. O. Oloo, Director of the Kenya Probation and Aftercare Department; Paul Kintu, Commissioner of the Uganda Community Service Department; and Charles Nsanze and Aloyce Musika, Assistant Directors of the Tanzania Department of Probation and Community Service who have taken the time to review and contribute to this resource pack.

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About Penal Reform International

PRI is an international, non-governmental organisation with Consultative Status at the United Nations Economic and Social Council (ECOSOC) and the Council of Europe, and Observer Status with the African Commission on Human and Peoples' Rights. It aims to develop and promote international standards for the administration of justice, reduce the unnecessary use of imprisonment and promote the use of alternative sanctions which encourage reintegration while taking into account the interests of victims.

Foreword

It is more than fifteen years since the adoption of the ground-breaking Kampala Declaration on Prison Conditions in Africa. One of its key recommendations was that community service and other non-custodial measures should if possible be preferred to imprisonment. In the years since 1996, Penal Reform International (PRI) has played an important role in helping to develop practical measures which enable courts in East Africa to avoid sending minor offenders to prison and instead require them make a positive contribution to society through unpaid public work.

Considerable progress has been made in the development of community service in Kenya, Tanzania and Uganda. Each year many thousands of petty/non-serious offenders undertake work to improve their communities rather than idle away their time in jail at the state's expense.

Community service still has many obstacles to overcome in each of our three countries, many of which have been described in a recent report by PRI – *Alternatives to imprisonment in East Africa: trends and challenges*. Nevertheless the model of community service has shown itself to be a significant and positive part of our criminal justice systems.

This resource pack contains information and material about how community service operates in our jurisdictions. We hope that this will be of particular interest and use in African countries which have not so far introduced community service as a sentencing option. We hope that these countries can learn from our experiences. The philosophy of community service has a good deal in common with traditional African approaches to resolving disputes which emphasise making amends. There is also a similarity to the extra mural penal employment which is offered in many African prison systems. But introducing community service as a sentencing option requires some specific measures of which the most important are: a suitable legal and institutional framework for the imposition and implementation of orders; funding a programme of public education; and community participation and support. This involves an investment both of thought and of resources, but one which our experience shows will rapidly produce financial and social returns.

The Kampala Declaration recommended that there should be a study of the feasibility of adapting successful African models of non-custodial measures and applying them in countries where they are not yet being used. We hope that this resource pack can assist with that process so that alternative sentences can play their fullest role in contributing to a humane and effective criminal justice system.



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About this Resource Pack

Sentencing offenders to do unpaid work of public benefit has many advantages. It is cheaper and less harmful than a short period in prison, and offers opportunities for offenders to make amends for their crime and learn skills that might help them earn a living. Community service, community service orders, or as it is sometimes called 'community payback' or 'unpaid work', is now one of the commonest alternatives to prison around the world.

In three countries of East Africa – Kenya, Uganda and Tanzania – community service has developed in its present form over the last 10-15 years. Penal Reform International (PRI) played a role in assisting with its introduction and has recently undertaken an assessment of trends in its use. The report, *Alternatives to Imprisonment in East Africa: trends and challenges*, contains information about the development and practice of community service in each of the countries.¹ Although considerable challenges have been identified, the experience of implementing community service in the three countries is well worth sharing widely.

The purpose of this pack is to provide information and material about how community service has developed in the three countries. It is hoped that the material will be of interest and use to individuals and organisations in other low income countries who want to develop similar alternatives. The material includes extracts from legislation, policy documents and research reports from the region plus examples of practical resources that are used in the implementation of community service. It draws also on speeches and presentations made at a series of training events for magistrates and judges supported by PRI and held in the three countries in the first half of 2012.

The pack is structured as follows:

Section One offers some definitions of community service and sets out arguments in favour of the sentence.

Section Two deals with how community service sentences are imposed by the courts.

Section Three deals with the implementation of orders once they have been imposed.

Section Four is concerned with public and other stakeholder attitudes to community service.

Section Five provides some short case studies to illustrate community service programmes in practice.

Section Six offers some concluding observations.

1 <http://www.penalreform.org/publications/alternatives-imprisonment-east-africa-trends-and-challenges>

Section One: Introduction

What is community service?

Community service is one form of supervised non-custodial penalty which involves an offender working without pay for a certain number of hours. The work must be challenging enough and of benefit to the community.

Community service represents a shift from more traditional methods of dealing with crime and offenders to more restorative forms of justice that take into account the interests of society, the victim and offender. Those who commit serious or violent offences should still be imprisoned for the protection of society. However, minor, petty or non-serious offenders should not be imprisoned except in deserving cases as imprisonment may turn them into potentially dangerous citizens and society may lose otherwise good people.²

'Imprisonment: breaks down marriages and other social ties; contributes to juvenile delinquency because of family detachment; and inflicts a lot of suffering to the community in general. We should desist from being conservative; embrace new reforms in the criminal justice system in order to dispense fair justice. Reforming offenders should always be our major objective in sentencing rather than focusing on just punishing. Community service as a sentence blends punishment with the rehabilitation of offenders.'

Principal Judge Hon. Justice Yorokamu Bamwine, Uganda³

The objectives of community service orders are:

- to keep non-serious offenders out of prison;
- to punish an offender by requiring him or her to do work that benefits the community where he/she resides;
- to reduce the inflow of offenders into prison thus reducing the burden of maintaining them in custody; and
- to rehabilitate the offender while ensuring he or she maintains ties with the family or retains his or her job.⁴

Part II, 3 (2) 'Community service shall comprise unpaid public work within a community, for the benefit of that community, for a period not exceeding the term of imprisonment for which the court would have sentenced the offender.'

Kenya Community Service Orders Act, 1998⁵

Part II, 5 (1) 'The community service scheme shall be organised in such a manner that it presents a challenge to the offender and the punitive element in the penalty shall be contained in: a) the time which the offender devotes in the community service work; b) the essential discipline of regular attendance, prompt timekeeping, and satisfactory work performance; and c) the prompt application of disciplinary procedures for non-compliance' (2) 'The work undertaken by the offender shall be in such manner, seen by both the community and the offender to be constructive and shall enable the offender to make reparation to the community for the offence.'

Tanzania Community Service Regulation, 2004 and amendment act, 2004

Examples of public works suitable for community service and utilised in the Kenyan system include: construction and maintenance of public works or roads of access, afforestation works, environmental conservation and enhancement works, projects for water conservation, management or distribution and supply, maintenance work in public schools, hospitals and other public social amenities, work of any nature in foster homes or orphanages and rendering specialist or professional services in the community, providing free remedial teaching in schools after normal hours, and the provision of skilled and non-

² *Role of Magistrates in the Implementation of Community Service Orders* presented by His Lordship Lawrence Gidudu at Community Service Workshop, Kampala, May 2012

³ *Opening Speech*, presented at Community Service Workshop, Kampala, May 2012

⁴ *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

⁵ For full copies of the legislation see:
Uganda Community Service Act 2000: http://www.kituoachakatiba.org/index2.php?option=com_docman&task=doc_view&gid=625&Itemid=36
Tanzania Community Service Act 2002: http://www.kituoachakatiba.org/index2.php?option=com_docman&task=doc_view&gid=79&Itemid=36
Kenya Community Service Act 1998: http://www.kenyalaw.org/kenyalaw/klr_app/frames.php

skilled labour in projects such as the construction of classrooms, making or repairing furniture in schools, digging trenches for communal water supply, opening rural access roads, digging and putting up public toilets in market places and building foot bridges among others.⁶

Why community service?

In order to deal justly and effectively with convicted offenders, courts need to be able to choose from a range of sentencing options. While imprisonment may be the appropriate response in the most serious cases, a wide range of offending behaviour is much better dealt with by non-custodial penalties. International standards requires countries to develop alternatives to prison, including community service.

'You need to move with the world trends. We need to move away from the tradition of believing in incarceration as the only way of punishment. With such innovations, it is no longer necessary to prove a Magistrate's toughness by giving the toughest prison sentence. It is better to promote reform of the offenders...The tradition of prosecution praying for harsh prison sentences as the only way of deterrence also needs to be re-examined.'

Hon. Justice J.W.N. Tsekooko, Justice of the Supreme Court, Uganda⁷

Community service programmes also serve to safeguard the family unit by giving offenders a chance to reform in the community, thus ensuring offenders take care of their families while still serving the sentence.⁸

There are also financial benefits to imposing community sentences, as evidenced by a delegate's experience in one region of Tanzania:

In February this year I consulted the Mtwara Region Prison Office and I was informed that each prisoner is entitled to get the following daily: Uji – 150g, ugali – 500g, beans – 120g, meat – 150gms, fats – 30 gms, fruits – 100 gms, salt – 30 gms, Dagaa (sardines) – 50 gms, green vegetables – 100gms. I was informed that the above requirements cost about T.sh 2500. In Mtwara on 24th January 2012 there were 457 inmates. So a simple arithmetic calculation will show that it cost T.sh 1,142,500 to feed them that day. Conversely, in January 2012 there were 123 prisoners serving in the community service programme. For only six months if they were in prison they would have cost the government over T.sh 55 million (USD\$35,200). This is a huge amount of money that was saved by placing the 123 prisoners in the programme.

In addition, the government and other public offices save a lot of money when they deploy the services of those in the programme instead of casual labourers. The Community Service Act requires those in the programme to perform the public work for only four hours which is half working hours. Assuming that the 123 prisoners serving in the programme were employed in place of casual labour and paid just 2500 daily, the Government and public offices would have saved over T.sh 40 million (USD\$25,600)

Those serving in the programme also take care of their families which would otherwise be served either by the government or other family members.⁹

Figures from Uganda also highlighted the positive financial benefits of implementing a community service programme: 'since 2001, a total of 36,556 orders have been issued translating into approximately U.sh 9 billion (USD\$3.7million) savings to the government and U.sh 2.1 billion (USD\$860,000) as efficiency savings to placement institutions in form of labour provided by offenders'.¹⁰

6 *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

7 *Closing remarks* presented at Community Service Workshop, Kampala, May 2012

8 *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

9 *Sentencing Options Available in Tanzanian Statutes – Place of Community Service Orders*, presented by Hon. S.A. Lila, J. at the Community Service Workshop, Dar es Salaam, May 2012

10 *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

Section Two: Imposing Community Service

Courts should impose community service in suitable cases. This section considers how suitable offenders are identified and the role of pre-sentence reports. It also looks at factors which inhibit the use of community service.

Identifying eligible offenders

It is important that Courts give consideration to community service in all cases where the offender is eligible. The Law restricts the use of community service for certain serious offences or offenders but in practice it appears that many minor offenders who could undertake community service continue nevertheless to receive short prison sentences. Ideally consideration should be given to imposing community service at the initial sentencing stage but practices have developed through which offenders sentenced to prison can have their sentences reviewed by a court or judge and in suitable cases replaced with a community service order.

Part II, 3 (1) 'Where any person is convicted of an offence punishable with: a) imprisonment for a term not exceeding three years, with or without the option of a fine; or b) imprisonment for a term exceeding three years but for which the court determines a term of imprisonment for three years or less, with or without the option of a fine, to be appropriate, the court may...make a community service order requiring the offender to perform community service'

Kenya Community Service Orders Act, 1998

The Community Service Act does not create a right but an eligibility to community service. This means a person may be within the correct category of offence/proposed imprisonment time but ineligible for community service if for example his character makes him unsuitable for community service. However, the decision not to channel an offender who is within the

permissible criteria for community service is a judicial decision and has to be exercised by the Court. Clear reasons must be given as to why community service has not been imposed, just as they should be given as to why it is imposed on an offender.¹¹

Identifying eligible cases for community service is done in a number of ways in Uganda and begins at the police station level. Where police arrest a person who has committed a crime, the officer responsible should identify whether the offence is minor and explain to the suspect the concept of community service. The officer should then prepare a pre-sentence report to accompany the file. Identifying eligible cases may also be done after conviction if in an offender's mitigating factors, he or she expresses a wish for a Community Service Order, giving reasons such as ill health. The court may then require a probation and social welfare officer to file a report for the Court's assessment. Where the Court feels convinced, community service is awarded.¹²

Another form of identification of eligible cases for community service is through routine visits to prison. Here inmates on remand are sensitised to the idea of community service and those who are eligible and willing to consent to community service are identified. Following this, a 'Court Mini-Session' is conducted in which the willing offenders are given Community Service Orders – this is what is known as plea bargaining.¹³ A great number of Community Service Orders have been issued using this approach. However, in Tanzania and Kenya it was mentioned that many prison officers in charge of institutions do not recommend eligible prisoners for community service due to the fear of losing men who can undertake work in the prison and in the case of Kenya when the decongestion exercise is being undertaken the officers mainly identify offenders whose prison terms are almost over hence making the review lack the intended impact. Some of the offenders also feel that they would rather be left to complete their remaining short imprisonment period rather than starting another sentence.¹⁴

11 *Sentencing Options Available in Tanzanian Statutes – Place of Community Service Orders*, presented by Hon. S.A. Lila, J. at the Community Service Workshop, Dar es Salaam, May 2012

12 *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

13 *Ibid.*

14 *Report of the Capacity Building Training Workshop on the Implementation of Community Service Programme*, Sabrina Majikata

52 (1) 'When an officer in-charge of a Prison is satisfied that a prisoner under his custody is eligible for release on community service under the Community Service Act, No. 6/2002, he shall advise the prisoner of the eligibility and if the prisoner consents to the certification being made for his release on community service, he shall certify the matter to the Court of competent jurisdiction for arrangement to be made for the release of the prisoner on community service.

(2) The Court to which the matter has been certified under subsection (1) of this section, shall cause an inquiry to be carried out in accordance with the provisions of section 3 of the Community Service Act, No. 6/2002, and if satisfied that community service order shall be made, it shall proceed to make the order and issue a release warrant in accordance with the provisions of this Act.'

Tanzania Prisons Act, No. 34/1967

This is carried out in urban Uganda through the following process:

- Visit prisons as a team comprised of a prisons officer, a magistrate in charge of community service and a prosecutor to give assurance that this is an inter-agency programme;
- Explain to the suspects about its benefits and those eligible;
- Record all those who are willing to change plea irrespective of whether they are befitting or not;
- Inform suspects that their cases would be evaluated in due course and those found befitting will be listed for a session; and
- Scrutinise files one by one and identify the befitting offenders and carry out a session.

The timing of sessions is important owing to the expected large numbers; sessions are conducted early in the morning so that the suspects go and work immediately. It was noted that for urban settings it was practically impossible with the current infrastructure and lack of resources to give an offender work he has to do for many days, hence the adoption of the approach.¹⁵

Identifying eligible offenders already imprisoned: The Kenya Community Service Order Prisons Decongestion Programme

The aim of the prison decongestion exercise is not only to reduce the excess prison population but also to identify illegal or excessive sentences. The National Chairman of Community Sentence Orders, either in his motion or being moved by the prisons authority, and other regional Judges exercising their judicial review powers, identify suitable cases for review from the list submitted by the prison authority and direct probation officers to conduct and submit comprehensive social inquiry reports to guide in the review process. The probation officers' reports must include the victim's attitude and establish if there are any risks the prisoner may face when released. There are clear guidelines which have been developed to guide both the prisons and probation officers since there are certain offences such as corruption, defilement, rape, and robbery with violence which are not considered.

The offenders may be released to the community to complete the remainder of their sentence on community service or probation under their supervision. Also, they must ensure post-release supervision plans for these offenders are put in place and their progress is continuously monitored and documented. Magistrates provide support by: ensuring proceedings of the cases identified are availed to the Judge without delay; ensuring orders are signed and offenders released to continue with the alternative sentence. The Judge's role is to peruse the files together with community service reports filed and upon exercising his judicial discretion may either release or not release the offender to serve the balance on community service. Judges also release certain offenders without further orders as their sentences are reduced to the period served.

In November 2011, we carried out a decongestion exercise targeting 13 prisons and managed to release 3009 offenders on community service. 1143 offenders were found unsuitable either because of an adverse recommendation by the community service officers or the Judge exercising his discretion against release.¹⁶

¹⁵ *Community Service in the Urban Settings in Uganda: A Buganda Road Court Experience* presented by Matenga Dawa Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

¹⁶ *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

Pre-sentence reports

Pre-sentence reports help the Courts come to the judicial decision as to whether or not to sentence someone to community service. Pre-sentence reports are an important source of information for courts about the suitability of an offender for community service and probation orders. Whether prepared by a probation, community service or police officer, pre-sentence reports assist courts to reach their sentencing decision by providing background information about the offender's family, previous offences and conduct, the victim and community attitude towards the offender, employment and other circumstances. Where appropriate, information about the potential community service placement for the offender can also be provided.

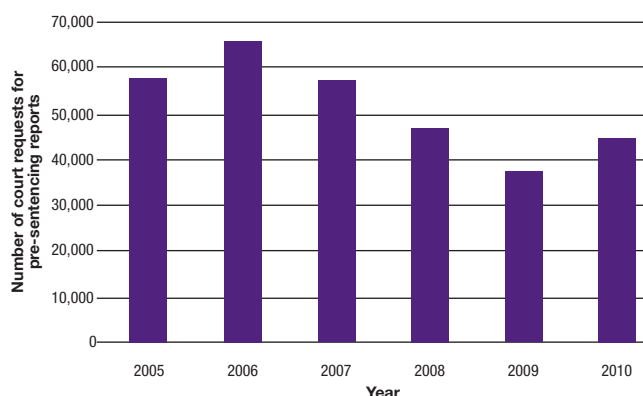
Part II, 3 (3) 'Where a court determines that a community service order should be made, it may, before making the order, direct a community service officer to conduct an inquiry into the circumstances of the case and of the offender and report the findings to the court.'

Kenya Community Service Orders Act, 1998

Part II, 3 (2) 'Before passing a community service order, the court shall consider the circumstances, character and antecedents of the offender and ask him or her whether he or she consents to the order.'

Uganda Community Service Act, 2000

Number of court requests for pre-sentence reports in Kenya¹⁷



The considerations for a Magistrate when deciding on community service are expressed under Part III, Article 18 of the Tanzania Community Regulations Act, 2004, and can be seen in the pre-sentence report form.

Specifically, this includes the Court taking into account the age of the offender, whether the accused is a first offender, the nature of the offence and whether the offender has a family or dependants. The court has to consider also the attitude of the offender to the offence, the attitude of the community to the offender and the offence, the offender's willingness to be placed on a Community Service Order and whether the offender has a fixed abode or employment. Other considerations include the health status of the offender, the distance to the nearest placement institution, whether the offender if placed on community service will be a threat to the community, the character of the offender and importantly the availability of a supervising officer.¹⁸

The strategic plan of the Kenyan Probation Service provides a good description of the purpose of pre-sentence reports and how to carry them out:

Purpose: To provide courts and other penal institutions with adequate social information on offenders for appropriate sentencing and penal review board's decision-making respectively.

¹⁷ Kenya Probation Service (2010) *Feedback 2005–2010*

¹⁸ *Sentencing Options Available in Tanzanian Statutes – Place of Community Service Orders*, presented by Hon. S.A. Lila, J. at the Community Service Workshop, Dar es Salaam, May 2012

Specific Activities:

- Gathering basic offender information from court files and other relevant documents.
- Interviewing accused persons, victims/ complainants and other relevant persons.
- Conducting social investigations at the offender's home, place of work, residence and any other relevant institutions.
- Assessing mitigating and aggravating circumstances.
- Compiling social reports.
- Submitting the social reports to courts and other penal institutions.¹⁹

Magistrates in Uganda however, noted the lack of pre-sentence reports they receive, which 'delays the administration of justice to the offenders as the sentencing magistrate has to first grapple with the prosecution and the offender to elicit information upon which to rely on before giving the orders'.²⁰ Further reports suggest that one of the reasons for this is the negative attitude by investigating officers which explains why they don't prepare pre-sentence reports. They believe in the desires of complainants which are always custodial sentence and often times these complainants have invested a lot of money

in the investigating officers to investigate, such a person cannot again promote a sentence that would in the complainant's opinion look lenient.²¹ In order to combat this, proper capacity building for officers and sensitisation for the public should be provided to explain the benefits of community service and its results. (For more information see Section 4.)

However, in Tanzania the problem identified was that few of the reports were written to an acceptable standard and many did not contain enough adequate information to help the court assess the feasibility of the community service or the need for supervision on release from custody.²² In addition, it was also identified that some magistrates do not like receiving social inquiry reports because they believe that the recommendation made by a probation officer will interfere with the authority of the Court.²³ In this case, inter-agency training and awareness needs to be undertaken to give each party a better understanding of the role of the other.

Resources

Format for pre-sentence report (Tanzania)

[Completed] Community Service Officer's Report (Kenya)

¹⁹ Kenyan Office of the Vice President and Ministry of Home Affairs (2008) *Probation Service Strategic Plan 2008–2012*

²⁰ *Community Service Implementation in Rural Settings in Uganda: Best Practices and Challenges* presented by His Workshop Jesse Byaruhanga, Chief Magistrate at Community Service Workshop, Kampala, May 2012

²¹ *Community Service in the Urban Settings in Uganda: A Buganda Road Court Experience* presented by Matenga Dawa Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

²² *Social Enquiry Reports* presented by Salma Fundi, Probation Officer, ILALA at the Community Service Workshop, Dar es Salaam, May 2012

²³ *ibid.*

Resource: Format for pre-sentence report (Tanzania)

Community Service

GN: No. 87 (contd.)

CS Form No. 1

THE UNITED REPUBLIC OF TANZANIA

THE MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT No. 6/2002)

FORMAT FOR PRE SENTENCE REPORT/SOCIAL ENQUIRY REPORT

(This Report is Confidential and is meant for the Community Service Programme only)

Court: Criminal Case No. Location:

Date SER Required:

PARTICULARS OF THE OFFENDER:

Name:

Age: Sex: Tribe: Place of Birth:

Marital Status: Education: Religion:

Employment:

Current Address:

• Village: Ward:

• Street: House No.

• Local Government Leader:

• District:

FAMILY RELATION:

Name	Occupation	Address
Father:
Mother:
Guardian:
Offence:
Source of Information:
Particulars of Offence(s):
Previous Offence(s):
Social Background Information:
Risk of Future Offending:

RECOMMENDATION:

.....

.....

PLAN:

.....

.....

.....

Signature: Date:

Community Service Officer

Resource: [Completed] Community Service Officer's Report (Kenya)



Republic of Kenya
PROBATION SERVICE
COMMUNITY SERVICE OFFICERS REPORT

Ref- No. -----					
CASE DETAILS					
Name	-----	Gender	Female	Age	36
Charge	STEALING				
Penal code section	273	Court file no.	-----		
Court name	Nairobi Law Court, Resident Magistrate Court	Police station	-----		
Previous conviction			Police file No	-----	
Mention date	-----	Plea	Guilty	Remanded/Bonded	Bonded
Particulars of Offence					
Circumstances of Offences	In her course of duties at the complainants firm conspired with others to steal the said consignment of cement. Appears to have been lured by prospects of economic gain and the relatively low risk involved in the theft.				
Source of information	Site Engineer with ----- one -----, the foreman one -----, The security Manager one -----, the offenders husband, a neighbour one-----, the area chief -----, the Investigating Officer and perusal of the Court file				
PERSONAL DETAILS					
ID/No		Marital Status	Married	Education	-----
Occupation	Clerk	Tel	-----	Religion	-----
Disability	None				
BACKGROUND INFORMATION					
Father		Mother		Spouse	
Dependants	1. ----- (Child 1) 2. ----- (Child 2) 3. Parents				
Siblings	1. ----- (Sibling 1) 2. ----- (Sibling 2) 3.				
Family Type	Extended	Guardian	-----	Contact Person	
District	-----	Town	-----	Landmark	
Division	-----	Estate	-----	Nearest Shop	-----
Location/Chief	-----				
Sub location/ ass. chief	-----				
Village/Village Elder	-----			Nearest Market	-----
Nearest School	-----			Prominent Person	-----

Ref. No. KBU/2011/11/18					
Change of residence	----- to -----				
OTHER DETAILS					
Conduct/Character	Generally described as being hard working, responsible and reliable				
Health Status	Suffers from a chronic condition				
Drug & Substance Abuse	No history of substance abuse				
Home Environment	She remains in good terms with her husband. They are in good standing both the extended families	Economic Means	Currently Unemployed		
Community Ties	Husband and children reside in -----, Husband employed in ----- town as a truck for ----- Contractor	Leisure	Cooking and Women Groups		
Employment	Previously in ----- at the Port as Clerk for ----- . Was working for ----- Construction Company at their Ware House in ----- . She has since lost Job.	Social Status	Wife and Mother		
VICTIM INFORMATION					
Name		ID No		Gender	Male
Relationship	Employer		DOB	-----	
Victim Attitude	Bitter with offenders action due to huge loss incurred and demands compensation for the same.				
Family Attitude	Shocked and in disbelief of the offender's action. They are willing to assist offender make restitution.				
Community Attitude	She not well known in the community. How her neighbours did not have anything adverse to say about her. Likewise her colleagues were shocked and surprised they say it was unexpected.				
CONCLUSION					
Summary	The offender before the court is a 35 year old 1st offender and mother 2 young children. She appears remorseful and has indicated willingness to compensate the complainant. She also suffers from a chronic condition as attested by treatment records attached. Can serve community service at the ----- Health Centre.				
Intervention Strategy	Explore possibility of restitution agreement of favourable terms to both parties.				
Recommendation	Community Service				
Author	2006045391				
Date		Signature			

Explaining community service to offenders

It is important that offenders understand whether they are eligible for community service and what is involved in an order if one is imposed.

‘Experience from prison visits shows that suspects believe it’s those who have money who can be given community service and hence those without money don’t bother until one visits them to tell them it’s free. This is food for thought and an area for investigation and research’.²⁴

Ignorance and fear among suspects; they are never sure of their fate before pleading guilty. There are cases of suspects being assured that their offences are befitting for community service but only to reach the Court and be given long custodial sentence that threatens other would-be beneficiaries. ‘For example, when I had a file and asked a colleague who was going to take pleas to give the person community service, in turn the colleague gave three months imprisonment because the suspect asked for the sentence on the argument that who told the suspect community service was demanded the way he did.’ In order to counter this problem, constant sensitisation of a suspect’s right from police while in court’s premises and prisons about the existence of community service as an alternative to custodial sentence, outlining offences befitting.²⁵

There have been instances where first-time offenders that plead guilty are further remanded, yet the offenders suit the other criterion requirements considered before issuance of a community service order. This has affected the programme because on sensitisation of inmates, those that have fallen prey always discourage eligible offenders from considering community service.²⁶

This was identified especially as an issue among illiterate offenders; ‘A number of suspects appearing before the courts are illiterate and do not therefore appreciate the benefits of community service. The Court has to set aside time to educate and explain to both the complainants and the suspects the benefits of community service and that it is a form of punishment like any other’.²⁷

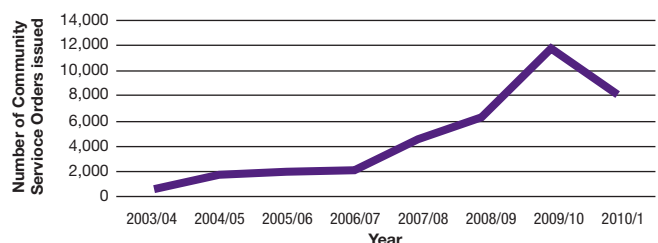
‘Before making an order the court sentencing an offender shall explain to the offender in a language that he understands the purpose and effect of the order and in particular his obligations.’

Tanzania Community Service Act, No.6 of 2002

Use of community service orders

Community service orders can be given for periods of up to two or three years but it is important that offenders are not made subject to over-onerous requirements which they are unlikely to complete. It is important too that orders are not imposed in a way which overloads the resources of the probation or community service department and reduces the quality of supervision and rates of compliance.

Community Service Orders issued in Uganda²⁸



²⁴ *Social Enquiry Reports* presented by Salma Fundi, Probation Officer, ILALA at the Community Service Workshop, Dar es Salaam, May 2012

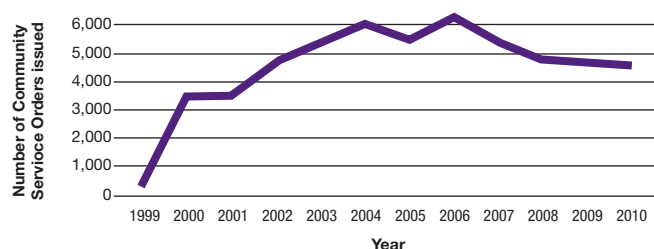
²⁵ *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

²⁶ *Ibid.*

²⁷ *Community Service Implementation in Rural Settings in Uganda: Best Practices and Challenges* presented by His Workshop Jesse Byaruhanga, Chief Magistrate at Community Service Workshop, Kampala, May 2012

²⁸ *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

Community Service Orders issued in Kenya²⁹



In Uganda, the Community Service Department's emphasis is inclined towards the quality of community service orders, which encompasses successful completion, tangible work to benefit the institution and offender skill-building.³⁰ Therefore, community sentencing requires that before the person is committed, he or she should be asked about his or her specialisation or what work he or she can perform. This is in the interest of matching skills with the type of work in order to best ensure completion of the sentence and to best benefit the community and the offender.³¹

In order to make sentences the most successful it was suggested that offenders should not be sentenced to serve more than one year as it leads them to get tired and they end up absconding, hence making the sentence ineffective.³² In addition, it was noted that an equivalent default sentence should always be stated when imposing the sentence in order to enhance compliance.³³

The department has also noted that most courts only issue community service orders after the disbursement of funds.³⁴

Part II, 4 (1) 'The community service order shall be performed for a period of not more than six months and the offender shall not work for more than eight hours a day.'

Uganda Community Service Act, 2000

Part II, 9 'Each community service scheme shall provide placements which can accommodate offenders with inescapable commitments relating to paid employment and education.'

Tanzania Community Regulation, 2004 and amendment act, 2004

In contrast to the legislation in Uganda, in Kenya the regulations for community service state the working hours for community service and when these are to be performed are negotiable depending on an offender's circumstances and availability to carry out the work, especially those in education or employment. However, it must not be less than two or more than seven hours per day, even if desired by the offender. The maximum time a person may be on community service is the term of imprisonment for which the court would have sentenced the offender and therefore, will never be longer than three years.³⁵

Resources

Community Service Order (Tanzania)

Community Service Committal Order (Uganda)

²⁹ *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

³⁰ *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

³¹ *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

³² *Performance of Community Service Orders in Local Jurisdictions* presented by Hon. L. Mutende, Chief Magistrate, at Community Service Workshop, Mombasa, February 2012

³³ *Magistrate's and State Attorney's Training on Community Service: Key Undertakings* presented by Herbert Arinaitwe, PSCO, Community Service Department, at Community Service Workshop, Kampala, May 2012

³⁴ *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

³⁵ *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

Resource: Community Service Order (Tanzania)



CS Form No. 12

THE UNITED REPUBLIC OF TANZANIA

IN THE COURT OF

AT

CRIMINAL CASE No. OF

COMMUNITY SERVICE ORDER

(Issued under authority of S. 3(a) and (b) of the Community Service Act, 2002)

You have been convicted of the offence of

.....

..... C/S.....

You are hereby sentenced to Imprisonment for which you are ordered to serve under the Community Service Act. Your sentence will be converted into hours. (as per Reg. 27 of Community Service Regulations). If you fail to obey any of the provisions of this order you will be brought before this court and punished for the offence.

The following are the provisions which you are ordered to obey:

1. You will present yourself for work as instructed by the Community Service Officer.
2. You will co-operate with the Supervisor by following his/her instructions at all times.
3. You are required to be of good behaviour, honest and truthful during the period of your Community Service Order.
4. You are required to work for a full session and remain on site until released by the Supervisor.
5. You are required to report to the Community Service Officer any change of address, employment or residence.
6. Your Community Service Officer will require you to attend appointments to discuss the progress of your Community Service Order.
7. Any variation of instruction will only be communicated to you by your Community Service Officer/Supervisor.
8. You will not associate with persons of questionable behaviour.
9. You will abstain from any form of illicit or intoxicating substance.
10. You will reside at
11. Additional Conditions

.....

Given under my hand and the seal of the court this

Day of (Date) at

.....
Judge/Magistrate

Order understood and receipt acknowledged

Signature

Resource: Community Service Committal Order (Uganda)



THE REPUBLIC OF UGANDA

CS1

Community Service Programme

Community Service Committal Order

In the Court at

Court Case No of

Community Service Committal Order No

Whereas you

(First Name/Second Name/Surname)

have been convicted of the offence of

..... contrary to section of

And whereas the court has explained to you the terms of an intended order for community service which you have agreed to undertake in place of a sentence of imprisonment of (prison sentence);

You are hereby ordered during a maximum period of six months to undertake

..... hours of community work under the supervision of

..... (name of supervisor) of

..... (name of placement institution)

at (address of placement institution).

This means that if during the community service period you fail to obey any of the provisions of this order, you will be brought before this court and may be sentenced for the offence.

The following are the conditions which you are ordered to obey:

1. The nature of the work you will be required to undertake is as follows:

.....

2. You will present yourself for work assignment as instructed by the supervising officer,

starting on (day of week),

the (date). You shall work for days per week

and hours per day. The hours ordered should be completed

by (date six months after the start of the order).

You shall not work for more than 8 hours a day and 40 hours a week.

- 3 In the event of any difficulty resulting from a change in your circumstances the supervisor officer or probation officer will inform the court for appropriate action. In the event that the officers refuse to pass on your concerns, you may report them personally to the sentencing court.

I hereby declare that I have understood the conditions of the order of the court and its effects and that I fully accept them.

Signed (Offender)

Given under my hand and seal of the Court this day

of At

Signed(Judge/Magistrate

Court Seal

N. B. Copies of the pre-sentence report and the community service order have to be sent to the District Probation Officer. The offender and the supervisor shall receive copies of the community service order.

Section Three: Implementation of Community Service

When orders are imposed, it is important that they are implemented speedily and effectively. This section looks at the hours of work, how orders are supervised and the role of placement institutions. It also considers how additional support can be provided for offenders on community service orders, and the questions of follow-up and non-compliance. The section ends by emphasising the importance of collecting data about performance.

‘The achievement of the above objectives [objectives of community service] depends entirely on the implementation mechanisms available and the social setting where the offence is committed.’

*Matenga Dawa Francis, Magistrate, Uganda*³⁶

Types of community service

Community service can include a wide range of unpaid work provided that it is undertaken for the benefit of the public.

“Community service” shall comprise unpaid public work within a community... ‘public work’ shall include but not be limited to:

- i) Construction or maintenance of public roads or road of access;
- ii) Afforestation works;
- iii) Environmental conservation and enhancement works;
- iv) Projects for water conservation, management or distribution and supply;
- v) Maintenance work in public schools, hospitals and other public social service amenities;
- vi) Work of any nature at a foster home or orphanage;
- vii) General cleaning and related activities;
- viii) Rendering specialist or professional services in the community and for the benefit of the community;
- ix) Other manual works as may be approved from time to time.’

Tanzania Community Service Act, No.6 of 2002

Placement institutions

Offenders subject to community service orders may be directed to work either under the direct supervision of the probation/community service department or for another organisation, usually called the placement institution. This might be a school, hospital, court or other public body.

Part III, 21 'All organisations or institutions offering community service placements for offenders shall be required to comply with the following basic requirements, namely: a) to inform the Community Service Officer about the nature of work the organisation or institution proposes to offer the offender; b) to make available to the Community Service Scheme a supervising officer; c) to apply the same standards of working relationship with offenders as they apply with other members of staff or volunteers; d) to ensure the availability of sufficient work to occupy the offender during agreed working sessions; e) to ensure that all absences and instance of significant misconduct are reported to the Community Service Officer within one working day; f) to ensure that an attendance sheet detailing hours of work undertaken for each session, is completed on a daily basis and forwarded to the Community Service Officer on a weekly basis; and g) to adhere to all health and safety regulations.'

Tanzania Community Service Regulation, 2004 and amendment act, 2004

In both Kenya and Tanzania, either the probation officer can approach institutions and give them a work placement application form to fill in or, if an institution needs the services of offenders, it can approach probation officers and request that offenders be placed there on community service. The institution must inform the officer about the nature of work the organisation intends to give the offender and it must be ensured that there is sufficient work to be performed by the offender throughout his or her sentence in the agreed time. The placement institution must offer the offender the same standards of working relationship as they apply to other members of staff.³⁸

However, a few issues have been identified through the implementation of community service, for example, the number of tangible work or community service projects is still lacking in many districts. In Kenya this problem is more acute in urban centres than rural areas. In all the countries certain placement institutions are not willing to take community service offenders.³⁹

Resources

Work Placement Application (Tanzania)

Work Placement Confirmation (Tanzania)

Work Instructions Form (Tanzania)

Work Recording Sheet (Uganda)

The identification and establishment of viable community service projects at the local level is important in implementing community service as this has the additional benefit of promoting community service among the public and the communities it is designed to support.³⁷

³⁷ *Magistrate's and State Attorney's Training on Community Service: Key Undertakings* presented by Herbert Arinaitwe, PSCO, Community Service Department, at Community Service Workshop, Kampala, May 2012

³⁸ *Obligations of placement institutions* presented by Judith Charles, Probation Officer, at the Community Service Workshop, Dar es Salaam, May 2012

³⁹ *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012; *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

Resource: Work Placement Application (Tanzania)

Community Service Regulations

GN. No. 87 (cont.)
C.S. Form No. 13

THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF HOME AFFAIRS
TANZANIA COMMUNITY SERVICE PROGRAMME (ACT No. 6/2002)
WORK PLACEMENT APPLICATION

PART I: PARTICULARS OF WORK PLACEMENT

(To be filled by the Head of Placement Agency)

1. Name of Placement Agency
 2. Address of the Placement Agency
 3. Number of Work Placements available
 4. Type of Work
 5. How long will the work be completed?
 6. Are there any specialized needs? (e.g. Teachers, Medical Doctors, etc.)
 7. Can the work be performed by disabled offenders?
 8. Is the work available fit for both male and female offenders?
 9. (If so specify how many offenders of each sex).
 10. What type of working tools are available? Specify
 11. Name of Contact Person and Telephone Number
- SignatureDate

HEAD OF PLACEMENT AGENCY

PART II: NAMES OF ALLOCATED OFFENDERS

(To be completed by the Community Service Officer)

NAME	OFFENCE	COURT & CR CASE NO.
1
2.
3.

Signed Date

COMMUNITY SERVICE OFFICER

NB: (1) This form shall be filled in triplicate.

- (ii) Part I of this Form should be filled by Heads of Placement Agency requiring offenders for community service and submitted to the Community Service Officer.
- (iii) Part II of this Form is to be completed by the Community Service Officer, and the original shall remain with the Community Service Officer. The duplicate shall be retained by the Sentencing Court and the triplicate is to be forwarded to the Placement Agency.

Resource: Work Placement Confirmation (Tanzania)



CS. Form No. 1(a).

THE UNITED REPUBLIC OF TANZANIA

THE MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (Act No. 6/2002)

WORK PLACEMENT CONFIRMATION

(To be Completed by the Community Service Officer)

This is to confirm that a place is available for the offender named below:

Name:

Age: Sex: Tribe: Religion:

Address:

Occupation:

Court

Criminal Case No.:

Offence:

Name and Address of the Placement Agency:

.....

.....

.....

Type of Work:

Area:

Signature: Date

(Community Service Officer)

To be attached to the Community Service Officer's Pre-sentence Report

Resource: Work Instructions Form (Tanzania)

CS. Form No. 2



THE UNITED REPUBLIC OF TANZANIA

THE MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT NO. 6/2002)

WORK INSTRUCTIONS

This form must be completed by the Community Service Officer and Supervising Officer with copies to the Sentencing Magistrate/Judge and to the Chairperson of the District/Ward/Village Community Service Community Service Committees.

PART: 1 (To be completed by Community Service Officer)

Name:

Age: Sex: Tribe: Religion:.....

Marital Status:

Court and Criminal Case No

Offence:

Sentence: Date

You were today made subject to a Community Service Order for a period of (hrs)

You are required to report to your Supervising Officer (name)

.....

at on.....

..... for work assignment

Signature: Date

(Offender)

Signature: Date

(Community Service Officer)

CS. Form No. 2

PART II:
(To be completed by Supervising Officer (Head of the institution)
after receiving the Offender)

I confirm that the above offender reported to me as instructed to undertake Community Service and arrangements have been made for him/her to work as follows:

Brief Work Description:

.....

.....

.....

Full list of work to be undertaken:

1.
2.
3.
4.

Material and Equipment to be used:

1.
2.
3.
4.

Date of commencement:

Sentence:



THE REPUBLIC OF UGANDA

CS 2

COMMUNITY SERVICE PROGRAMME

WORK RECORDING SHEET

Name of Offender	Date of Commencement	Name of Supervisor
------------------	----------------------	--------------------

Address of offender Work Placement

Hours per day	Days per week	Weeks	Total Hours
---------------------	---------------------	-------------	-------------------

[illegible]

Date of attendance	Time of arrival	Time of leaving	Hours worked	Hours left	Comments	Offender's Signature	Supervisor's Signature	Monitoring Visit Signature, Date & Comments

This is a true record of hours worked.

Supervisor's signature Offender's signature

Order On-Going/Completed/Terminated (If terminated, date & reason)
Delete as appropriate

This form should be maintained by the supervisor to show an accurate record of attendance and hours worked by the offender. Each completed sheet should be forwarded to the District Probation Officer.

Supervision of offenders

Community service officers have an important role in ensuring that placements are available for offenders and, once orders are imposed, in monitoring compliance.

Part III, 13 'For the purposes of supervising offenders under this Act, the court shall, in consultation with the relevant community service orders committee, appoint supervising officers and one supervising officer may be appointed for several offenders.'

Kenya Community Service Orders Act, 1998

Part IV, Second Schedule (section 12) 'Community service officers shall perform the following duties: a) identify suitable work placements; b) oversee the work and progress of offenders; c) ensure that community service orders are complied with and that the scheme works smoothly; d) apply to the court for review of orders; e) facilitate or promote reconciliation of offenders and the community; f) ensure that safety conditions are satisfactory for both the community and the offenders serving under community service orders; g) guard against discriminatory practices in dealing with offenders; h) maintain confidentiality of information on or relating to offenders; i) undertake counselling of offenders for rehabilitation and liaise with other persons or organisations of persons dealing with similar problems; j) keep an up-to-date record of offenders' performance and appraisal of the same; k) submit periodic reports to appropriate or relevant community service orders committees and the coordinator in respect of offenders; l) provide pre-sentence reports to the court; and m) coordinate the activities of the Committees and the courts in relating to community service orders.'

Kenya Community Service Orders Act, 1998

An issue identified in the countries that must be tackled properly to ensure community sentencing is effective is adequate supervision. For example, the previous community service sanction in Kenya (the extra mural penal employment sentence) 'suffered greatly from poor supervision and coordination due to the inadequacies in the system such as poor record keeping and insufficient personnel to keep track of the offenders which created opportunities for abuse'.⁴⁰

Representatives from rural areas highlighted a lack of human resources as an issue in implementation in their district, specifically a limited number of probation officers, community development officers and supervising officers. Most probation officers are urban-based and appear to be mainly preoccupied with District assignments, workshops etc and therefore pay less attention to Court activities. The community development officers who by virtue of their work would ensure follow up of community service offenders are very thin on the ground. The few who are there are committed to the sub-counties where they are attached to and are taken up by other duties such as planning, supervision of government projects and budgeting for the sub-counties. The Court-appointed supervisors lack sensitisation and as a result, we receive reports that some take offenders to work in their gardens and others are paid off by offenders. Other offenders hire labour to do community service for them thereby grossly abusing the orders.⁴¹

The Kenya Probation Service mission statement highlights the role of the service as a whole, and specifically, the activities and objectives of their role in supervising those on community service:

40 Implementation of Community Service Orders Programme: The Kenyan Experience presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

41 Community Service Implementation in Rural Settings in Uganda: Best Practices and Challenges presented by His Workshop Jesse Byaruhanga, Chief Magistrate at Community Service Workshop, Kampala, May 2012

Mission Statement

Vision: To excel in the management of Correctional Services within the community.

Mission: To provide quality social enquiry reports to courts and penal institutions, supervise non-custodial court sanctions, offer appropriate rehabilitation and reintegration services to offenders in the community and in probation institutions for peaceful co-existence.

Our Core Values:

- strong belief in the ability of people to change
- prompt response to the felt needs of our clients
- treating people fairly, openly and with respect
- underscoring the importance of taking personal responsibility for conduct
- responsive interventions in the lives of clients

- acknowledging the underlying importance of integrity and confidentiality
- Motto: Offenders can change!

Supervision of non-custodial court orders

Purpose: To ensure that offenders serve their sentences as required and to protect the community.

Specific activities:

- Discuss the supervision orders with the offenders.
- Draw offender supervision plan.
- Monitor community service projects.
- Maintain current information and data on offenders.
- Review the supervision plans.
- Provide regular progress reports.
- Enlist volunteer probation officers' services.⁴²

Supervision of certain categories of offenders was also reported as a challenge, for instance, offenders in urban areas, pastoral regions, islands, and border areas. This means that often courts are reluctant to issue community service orders in these areas citing the possibility of defaulting.⁴³

In addition, a lack of adequate vehicles in most field stations was also reported as making it hard to properly supervise and implement community service. Field officers are not able to reach their clients in the villages as required in the shortest time possible in order to avoid the delay of justice which in turn leads to overcrowding of prisons. In major urban areas courts mainly make community service orders short-term sentences of one day. It is a challenge transporting these offenders to work in centres that are far away from the courts. However, to mitigate this programme, in Kenya it has been proposed to the

government to purchase trucks to be used for that purpose.⁴⁴ Furthermore, in cases where there are only a few referrals it becomes uneconomical to transport them to the work site.⁴⁵

In Kenya, while it is appreciated that currently the Government allocates funds to the programme; it has not been sufficient to meet the needs of the programme satisfactorily. For example, the District Committees which are the backbone of the programme are not properly facilitated to conduct field projects inspection and other monitoring activities; it is de-motivating when members of the committees have to dig deep in their pocket to attend the meetings.⁴⁶

Similarly in Uganda, it was identified that monetary remuneration for the key actors to mitigate on the expenses of moving around to supervise and follow

⁴² Kenyan Office of the Vice President and Ministry of Home Affairs (2008) *Probation Service Strategic Plan 2008–2012*

⁴³ *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

⁴⁴ *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

⁴⁵ *Performance of Community Service Orders in Local Jurisdictions* presented by Hon. L. Mutende, Chief Magistrate, at Community Service Workshop, Mombasa, February 2012

⁴⁶ *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

up the offenders and attendance of the monthly meetings may help to combat this issue.⁴⁷

‘Now is the time to run away from numbers and concentrate on the quality of the orders issued. I am aware there have been challenges with supervision/ follow up of community service orders issued and getting feedback from the placement institutions. This is partly due to the thin staffing of the department,

but all efforts are being made to address these shortcomings.’⁴⁸

One way to address a shortfall in human resources is through the use of volunteer probation officers. In Uganda this is being encouraged, with a target having a volunteer/probation officer or community service officer at each court.⁴⁹ Kenya has already begun utilising volunteer probation officers, known in the country as Assistant Probation Officers.

Assistant Probation Officers

The Assistant Probation Officers (APO) programme was started in 2005 as an initiative of the Department in order to address shortcomings identified in general offender supervision and to expand the department’s coverage in the community. The programme is entirely voluntary and based on individual free will to serve and thus does not provide an opportunity for employment. APOs are trained on elementary probation work at the initial point before being advised to formally apply for engagement upon which they are provided with letters of appointment to serve for a renewable period of three years. This training has largely been supported by the Governance, Justice, Law and Order Sector Reform Programme (GJLOS-RP).

Achievements of the APO programme

- More than 300 individuals underwent training as APOs, the majority of them being trained by the GJLOS-RP.
- Resource materials, namely a training manual, code of conduct and practice guidelines have been developed.
- The programme has been expanded in all marginalised districts including the Nakuru county and all busy counties in Nyanza and Western regions.

- 64 mobile phones and 900 bicycles procured by the GJLOS-RP and 42 bicycles sourced from well-wishers have so far been provided to the APOs.
- The programme has been evaluated by independent consultants.
- The programme nevertheless, experienced challenges which are still insurmountable. These include lack of budgetary support from the government for transport reimbursement of expenses incurred while carrying out their tasks, training to sharpen skills and resource materials.

Impact of the APO programme

- Relative ease and closer supervision of offenders in APO areas
- Reduced offender absconding in APO areas
- Increased confidence by courts on non-custodial sentences
- Speedy generation and preparation of reports
- Greater reach of probation services in the community

Total number of APOs: 141 male, 40 female (181 in total).⁵⁰

Resources

Community Service Admissions Register (Tanzania)

Community Service Orders Register (Uganda)

47 *Community Service Implementation in Rural Settings in Uganda: Best Practices and Challenges* presented by His Workshop Jesse Byaruhanga, Chief Magistrate at Community Service Workshop, Kampala, May 2012

48 Remarks by Her Lordship Lady Justice Flavia Senoga Anglin, Chairperson, National Community Service Committee

49 *Magistrate’s and State Attorney’s Training on Community Service: Key Undertakings* presented by Herbert Arinaitwe, PSCO, Community Service Department, at Community Service Workshop, Kampala, May 2012

50 Kenya Probation Service (2010) *Feedback 2005–2010*

Resource: Community Service Admissions Register (Tanzania)

CS FORM NO.11

TANZANIA COMMUNITY SERVICE ADMISSION REGISTER

SIGNATURE OF COMMUNITY SERVICE OFFICER							
REMARKS							
DATE OF RELEASE							
DATE OF STARTING CS							
PLACEMENT AGENCY							
PREVIOUS EMPLOYMENT							
NUMBER OF PREVIOUS CONVICTIONS							
TRIBE							
EDUCATION							
ADDRESS							
MARRITAL STATUS							
RELIGION							
AGE							
SEX							
HOURS TO BE SERVED							
REMISSION							
SENTENCE							
DATE OF CONVICTION							
OFFENCE							
COURT & CC No.							
NAME OF INMATE							
S/N							

Resource: Community Service Orders Register (Uganda)

COMMUNITY SERVICES ORDER REGISTER

District Court Name

CS Order Number	Name of offender	Age & Sex	Court Number	Offence	Date of Sentence	Placement Institution	Total number of Hours	Number of Hours to be worked per day	Type of work	Supervisor's Name Tel Contact	Comments

NB: Once this page is filled, please send the duplicate to the appropriate Regional office.

Address: HEAD OFFICE Plot 75 Jinja Road P. O. Box 7191, Kampala, Uganda Tel: 0414 258 402 / 0414 236 467 Fax: 0414 341 643/0414342 378

Email: ncsp@mia.go.ug cspugandayahoo.com Web: www.mia.go.ug

WESTERN REGIONAL OFFICE Mbarara High Court Tel: +256 485 420 151 CENTRAL REGIONAL OFFICE Plot 75 Jinja Road Tel: +256 414 232 253

EASTERN REGIONAL OFFICE Mbale High Court, Republic Road Tel: +256454431 355 NORTHERN REGIONAL OFFICE Gulu High Court Tel: +256 471 432 264

Additional support for offenders on community service

While community service is a punishment, it also provides an opportunity to pay back for wrong-doing and to learn a skill which can help to rehabilitate an offender. If an offender stands to gain something positive from community service they are more likely to comply.

‘This is very key to behavioural change if we are to stop seeing the same faces being brought before our courts repeatedly. Offenders need to be supported to become better citizens by all those around them like family, local leaders and the community.’

Hon. Justice J.W.N. Tsekooko, Justice of the Supreme Court, Uganda⁵¹

Community service punishes with the aim of reforming offenders. This has currently been enforced by a social reintegration approach which gives assurance that offenders will be followed up at placement institutions and their homes to provide psychosocial support and foster rehabilitation and reconciliation with the victim.⁵²

The rationale for integrating social rehabilitation and reintegration in community service implementation is to:

- promote community involvement in implementation of community service;
- enhance awareness about community service and its benefits;
- involve local structures in helping offenders to acquire the attitudes and behaviour that result in functioning productively in society;
- increase compliance with Community Service Orders;
- contribute to crime prevention;
- reduce chances of recidivism; and

- promote credibility of the programme and confidence of the judiciary in the sentence.

And with specific objectives to:

- correct offending behaviour;
- equip offenders with knowledge and skills to enhance rehabilitation;
- promote social responsibility and positive social values;
- enhance the social acceptance of offenders in the communities through civic education, capacity building and psychosocial support; and
- promote social cohesion and reconciliation between offenders, victims and community members.⁵³

In Uganda, the activities conducted by the Social Reintegration Unit (as part of the Community Service Department) include offender follow up at the placement institution, counselling, skills empowerment, home visits and sensitisation. Counselling offenders as they serve sentences has enhanced successful order completion; while home visits facilitate reintegration, keep offenders’ behaviour in check and encourage community involvement.⁵⁴

The Kenya Probation Service also run ‘flagship projects’, which were launched in 2009/10 and aim to provide community service placements that integrate a rehabilitative approach. The projects are primarily designed to equip offenders with relevant practical skills for the entire duration of the community service sentence with the objective to ensure that offenders gain skills which they can make use of rather than relying on petty crime for their upkeep. The nature of the projects and the skills offered vary depending on the project type. For example, there are those that are intended to equip offenders with skills in small animal production such as rabbits, bee-keeping, fish, poultry, dairy goat farming and the like. Others include skills for modern farming methods such as green houses, while there are those that target

⁵¹ Closing remarks presented at Community Service Workshop, Kampala, May 2012

⁵² Opening Speech, presented by Principle Judge Hon. Justice Yorokamu Bamwine, at Community Service Workshop, Kampala, May 2012

⁵³ Integrating Social Rehabilitation and Reintegration in Community Service, presented by Shifa Katutu Mpabaisi, Principal Community Service Officer, at Community Service Workshop, Kampala, May 2012

⁵⁴ Community Service Implementation: Status and Emerging Issues presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

brick-making. Flagship projects therefore provide opportunities for offenders to engage in lawful, gainful employment thereby reducing poverty among the offending population which is one of the major causes of crime. In this regard, flagship projects are an important instrument to aid the government in delivering its vision 2030 goals especially in the area of employment creation and poverty reduction as well as providing a secure and conducive environment for investment by lowering the crime rate to propel economic development. Additionally, other than skills transferred to offenders which is the primary concern, the projects are also a source of government revenue through the income raised from sale of products from these projects. There is also an element of communal benefit which is realised from the availability of these products that are sold to the members of the community at slightly subsidised prices. Since inception, Kshs 13,291,451 (USD\$160,000) has been spent in implementing community service flagship projects.⁵⁵

Work in Uganda has identified strategies that can be used in order to make these kinds of programmes as successful as possible:

- partnerships and collaborative frameworks with civil society and the private sector;
- stakeholder engagement;
- effective referral to support agencies on different needs;
- establishment of peer support groups;
- sports, music and drama;
- crime prevention strategies;
- personal risk assessment/criminogenic needs;
- strength-based approach (maximise use of existing structures); and
- continuous support during and after sentence.

Despite these strategies, some issues have still been identified that need to be addressed, including:

- lack of victim support programmes;

- limited involvement of local leaders and the community;
- limited partnerships;
- limited guidance and counselling;
- limited involvement of family and peers;
- aftercare services lacking – case tracking;
- no clear figures for recidivism;
- compliance;
- emphasis on popularising the programme and quantity of community service orders;
- little emphasis on rehabilitation and reintegration;
- skills development has been minimal; and
- lack of offender empowerment programmes.⁵⁶

However, current efforts to overcome these include:

- home visits – family and community support are crucial in the rehabilitation process. Community service staff visit homes of offenders that serve community service sentences to offer counselling, assess and facilitate their reintegration and rehabilitation within the community;
- reconciliatory meetings – these are organised where appropriate, to bring offenders and victims together with support from local leaders and the community;
- placement institutional follow-up;
- stakeholder training;
- community sensitisation;
- identification of peer support groups – peer support is pertinent in the social reintegration process. Offenders who have successfully completed their community service sentences, reformed and resettled in their respective communities are identified, trained and involved in encouraging and counselling those still serving sentence through experience sharing; and
- community volunteers.⁵⁷

⁵⁵ Kenya Probation Service (2010) *Feedback 2005–2010*

⁵⁶ *Integrating Social Rehabilitation and Reintegration in Community Service*, presented by Shifa Katutu Mpabaisi, Principal Community Service Officer, at Community Service Workshop, Kampala, May 2012

⁵⁷ *Ibid.*

Breach of orders

While it is important to try to help offenders comply with the terms of their order, some offenders will be unable or unwilling to do so.

Part II, 5 'If an offender commits a breach of or fails to comply with any of the conditions or requirements of a community service order, the court may, on the application of the area community service officer or supervising officer, issue summons to the offender to appear before the court at the time specified or issue a warrant of arrest for the offender to be arrested and brought before the court, as the case may be, and the court may, after hearing the offender, do any of the following: a) caution the offender and require the offender to comply with the order; or b) amend the order in such manner as may suit the circumstances of the case; or c) revoke the order and impose any other sentence under the law as the court deems appropriate.'

Kenya Community Service Orders Act, 1998

Part II, 5 'If at any time during the community service period, the offender fails to comply with the requirements of the community service order, the court may issue a summons requiring the offender to appear before it. The court shall not issue any summons requiring the offender to appear before it except on report by the supervising officer...If it is proved to the satisfaction of the supervising court that the offender has failed to comply with any of the requirements of the community service order, the court may either: a) vary the order to suit the circumstances of the case; b) impose on him or her a fine not exceeding three currency points; or c) cancel the order and sentence the offender to any punishment which could have been imposed in respect of the offence and if the court thinks fit, reduce the sentence taking into account community service already performed.'

Uganda Community Service Act, 2000

Part VII, 38 'If the offender after reasonable steps have been taken by the Community Service Officer to enable him to complete the Order, continues to perform his work below the required standards, and when formal disciplinary procedures have failed to have the desired effect, the Community Service Officer may initiate breach proceedings before a court of law'.

Tanzania Community Service Regulation, 2004 and amendment act, 2004

Put simply, the legislation empowers magistrates to review the Community Service Order under the circumstances specified. For instance, if the offender breaches the order, the court may caution the offender and require the offender to comply with the order, amend the order in such a manner as it suits the circumstances of the case, or revoke the order and impose any other sentence under the law.⁵⁸

In Kenya this is done by the community service officer applying for summons. It is important that courts are objective when inquiring into the breach; they should consider reasonable views of genuine problems and investigate the allegations. For example, if it is sickness, it should be supported by medical evidence. If the reason given is plausible then the offender should be given an opportunity to complete the community service. If no good reason is given, then the court may revoke the order and impose any other sentence.⁵⁹

However, one issue encountered in Uganda was that the police were reluctant to recover those who defaulted on their community service.⁶⁰ Therefore, coordination must be enhanced between the police and other community service stakeholders in order for them to properly realise their role in ensuring the proper implementation of community service.

Before an official breach occurs, an offender may be subject to disciplinary action while serving a community sentence for actions such as failure to attend work, being late, failure to notify a change

58 *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

59 *Performance of Community Service Orders in Local Jurisdictions* presented by Hon. L. Mutende, Chief Magistrate, at Community Service Workshop, Mombasa, February 2012

60 *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

of address or employment, failure to perform work to a good standard, quarrelling with others at the workplace, disobeying or showing disrespect to a supervising officer or other employee of the placement agency, among others. After giving a verbal and formal warning, under Tanzanian legislation the following additional disciplinary action may be taken:

- 'a) order the offender to work extra time of not more than two hours;
- b) order the offender to compensate time lost if any;
- c) if the offending habits persist, the Community Service Officer shall suspend the offender from work and proceed to institute breach proceedings in court'.⁶¹

Resources

Offence Sheet (Tanzania)

Breach of Order form (Tanzania)

Absconding Report (Tanzania)

Application for Community Service Review (Tanzania)

61 Tanzania Community Service Regulation, 2004 and amendment act, 2004

Resource: Offence Sheet (Tanzania)

CS. Form No. 10



THE UNITED REPUBLIC OF TANZANIA

THE MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT No. 6/2002)

OFFENCE SHEET FOR COMMUNITY SERVICE OFFENDERS

Name of the Offender

Charged under Reg of the Community Service Regulations

Offence

Statement of the Supervising Officer:

.....

Signature

Statement of the Offender

.....

Signature of the Offender

Findings by the Community Service Officer:

.....

Punishment awarded

.....

Signature of the Charging Officer

Resource: Breach of Order form (Tanzania)

CS Form No. 6



THE UNITED REPUBLIC OF TANZANIA

THE MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT No. 6/2002)

BREACH OF ORDER (SECTION 5)

(To be completed by Community Service Officer or Supervising Officer)

IN THE COURT OF

AT

Whereas (Name) was convicted of 'the
offence of and

.....
was placed on Community Service order by
(Court) under the Community Service Act, 2002.

For period of Years/Months

I hereby make oath and state as follows:
(Community Service Officer)

The said has failed to observe the
(Name of the Offender)

provisions of the said order in that:

I request that summons/warrant of arrest be issued
(Community Service Officer)

in respect of the said offender

Signature:
(Community Service Officer or Supervising Officer)

SWORN before me.



.....
Judge/Magistrate

Resource: Absconding Report (Tanzania)

CS. Form No. 8



THE UNITED REPUBLIC OF TANZANIA

THE MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT No. 6/2002)

ABSCONDING REPORT

(To be completed by Community Service Officer)

1. Offender's Name:
2. Court Criminal Case No:
3. Tribe Age Religion
4. Address
.....
5. Sentence and Date awarded
6. Supervising Officer
7. Date of absconding
8. Placement Agency
9. Work that was being performed by Offender
10. Steps taken to recapture the Offender.
11. Property taken by the Offender.
12. Value of the property

DESCRIPTIONS:

Height

Age

Peculiarities of Body

Colour

Distinguishing characteristics (speech, gesture, smoking etc.)

Last address
.....
.....

Local Government Leader

Signature Date

(Community Service Officer)

CC:
National Coordinator
Local Police Station
Court

OP. Dsm.

Resource: Application for Community Service Review (Tanzania)

CS. Form No. 5



THE UNITED REPUBLIC OF TANZANIA

THE MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT No. 6/2002)

IN THE COURT OF

AT

CRIMINAL CASE NoOF

APPLICATION FOR REVIEW AND VARIATION OF COMMUNITY SERVICE ORDERS BY
COMMUNITY SERVICE OFFICER/OFFENDER (S.6 OF COMMUNITY SERVICE ACT
AND REG. 40 OF THE COMMUNITY SERVICE REGULATIONS)

(To be completed by Community Service Officer)

Whereas a Community Service order was issued on by this court to
have (name of offender) placed on Community Service
under the supervision of (Name of the Supervising
Officer) And whereas circumstances have changed to make the said offender unable to comply fully with conditions
imposed in the said order:

I (applicant) apply to this court to vary or review the order
made on and to impose new conditions which the offender will be/ I am*
able to comply with without suffering much hardship and inconvenience. The reasons for his/her/my*
inability to comply with the previous conditions are as follows:

.....
.....

Signed

Community Service Officer/Offender*

Decision of the Court

Variation/ Review is allowed/Not allowed

.....

Judge/Magistrate

*Delete as appropriate

If review is allowed the new conditions are:

.....
.....

the offender will be placed under the supervision of

.....

Signed:

Judge/Magistrate

Order explained and acknowledged by:

.....

Offender

GP Dsm.

Follow-up of sentences

There is a strong case for giving feedback to courts about successes of Community Service Orders. Otherwise they will only see the failures in the form of recidivist offenders who they have to re-sentence.

A concern that was identified from all three countries was a lack of feedback regarding the outcomes (successful or otherwise) of community service orders. Supervisors do not report back whether the offender reported for his or her work or, after the completion of the work, they do not file a report.⁶²

This lack of feedback was quoted as a reason why magistrates were often reluctant to impose community service orders originally; they are not aware if they are being successfully completed or have had any effect on recidivism. Therefore, feedback should be properly provided to courts, including considering an offender reporting back after a specified period to inform court on how he or she is performing after serving his or her sentence.⁶³

In Uganda, it was said that this will now occur and courts will be provided with feedback on performance of the orders issued and the offender thereafter. With this improved monitoring mechanism, it is hoped there will be no more excuses for failing to issue community service orders.⁶⁴

In Kenya feedback is received through the various Community Service Order committees which are held twice a year throughout the country. For example, in the Mombasa Community Service Case Committee which was recently held, progress of every individual offender was reviewed and community service officers presented their reports. Supervisors from various agencies attended and also presented their reports. Amongst many other issues deliberated on, the committee seeks to ensure that what is done is beneficial to the community, offenders and victims.⁶⁵

Resources

Certificate of Completion (Tanzania)

⁶² *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

⁶³ *Magistrate's and State Attorney's Training on Community Service: Key Undertakings* presented by Herbert Arinaitwe, PSCO, Community Service Department, at Community Service Workshop, Kampala, May 2012

⁶⁴ *Opening Speech*, presented by Principle Judge Hon. Justice Yorokamu Bamwine, at Community Service Workshop, Kampala, May 2012

⁶⁵ *Performance of Community Service Orders in Local Jurisdictions* presented by Hon. L. Mutende, Chief Magistrate, at Community Service Workshop, Mombasa, February 2012

Resource: Certificate of Completion (Tanzania)

CS Form No. 4



THE UNITED REPUBLIC OF TANZANIA

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT No. 6/2002)

CERTIFICATE OF COMPLETION OF COMMUNITY SERVICE ORDER

(Regulation 41 of the Community Service Regulations)

This form must be completed by Supervising Officer and Countersigned by the Community Service Officer where the Community Service work has been ended and must be sent without delay to the Magistrate/Judge of the sentencing court with a carbon copy to the Community Service Committee Chairman of District/Ward/Village.

PART I (TO BE COMPLETED BY SUPERVISING OFFICER):

Name of Offender:

Surname:

First Name: Other Names:

Court:

Criminal Case No.:

Offence' Sentence:

Address of Offender:

Name and Address of the Institution:

Commencement date of Community Service:

Total number of hours the offender was required to work

Total number of hours actually worked by offender:

Date Community Service ended or terminated:

Signature: Date

Supervising Officer

PART II: (TO BE COMPLETED BY COMMUNITY SERVICE OFFICER):

Reasons why Community Service came to an end:

(a) Offender satisfactorily completed all hours of work as ordered by the court ()

(b) Offender committed further offences and was arrested by the police ()

(c) Offender referred back to the sentencing court because he breached Community Service conditions ()

(d) Offender fell ill and was admitted to a clinic or hospital ()

(e) Community Service was terminated for reasons other than those specified above (specify reason)
e.g. Death abscondment etc. ()

Signature Date

Community Service Officer

The organisation of community service

The organisation of community service requires administration at the national and local levels with the involvement of the judiciary and the relevant ministry responsible for non-custodial penalties.

7. (1) There shall be a committee to be known as the National Community Service Orders Committee which shall consist of:

- a) a chairman who shall be a judge of the High Court appointed by the Chief Justice;
- b) the Director of Public Prosecutions or his nominee;
- c) the Permanent Secretary in the ministry for the time being responsible for matters relating to provincial administration and internal security or his nominee;
- d) the Permanent Secretary in the Ministry for the time being responsible for matters relating to labour or his nominee;
- e) the Commissioner of Police or his nominee;
- f) the Commissioner of Prisons or his nominee;
- g) the Director of Probation;
- h) the Director of Children Services;
- i) a nominee of the Council of the Law Society of Kenya;
- j) two persons with training and experience in the criminal justice system, one of whom shall have experience in the teaching of law and the other shall be a magistrate of the first class, both appointed by the Chief Justice;
- k) the National Community Service Orders Coordinator; and
- l) five members appointed by the Minister from a panel of not less than seven names submitted by the national Committee and of whom two shall be representatives of non-governmental organisations involved in social welfare work and registered under the Non-Governmental Organisations Coordination Act, 1990 for such objectives.

8. (1) The function of the National Committee shall be to:

- a) advise the Minister and the Chief Justice generally on the proper implementation of the provisions of this Act;
- b) coordinate, direct and supervise the work of community service officers;
- c) collect and collate data on the operation of this Act for the purpose of improving the national policy on community service orders.

(2) ... the National Committee may, through the chairman, advise the Chief Justice on any need for enhanced application of the provisions relating to revision under the Criminal Procedure Code so that the courts may make better use of community service orders in the appropriate cases.

10. (1) There shall be a National Community Service Order Coordinator who shall be appointed by the Chief Justice for a period of three years, but shall be eligible for re-appointment.

(2) The National Coordinator shall also be the chief community service officer and the secretary to the National Committee.

(3) The National Committee may delegate to the National Coordinator such of its functions under this Act as are necessary to enable him to transact or perform the day to day business of the National Committee.

(4) If the National Coordinator is absent or incapacitated for any reason, the Chief Justice shall appoint a person to act in his place during such absence or incapacity.

11. (1) The Minister shall, in consultation with the National Committee, by order published in the Gazette, establish community service orders committees at district, divisional and locational levels comprising such members and to perform such functions as may be prescribed in the order.

Kenya Community Service Orders Act, 1998

In 2008, the Tanzania Probation and Community Service Department was established in the Ministry of Home Affairs; it replaced the National Secretariat of Community Service.

The objectives of the department are to:

- Decongest prisons in the country;
- Reduce the costs of running prisons in the country;
- Protect offenders' human rights;
- Prevent petty offenders from coming into contact with more serious or persistent offenders;
- Involve the community in the supervision process as well as in the process of rehabilitating offenders in the community;
- Ensure the community benefits directly from the work undertaken by offenders;
- Enable offenders to continue taking care of their families;
- Combat prison stigma by sensitising the public to accept offenders under non-custodial programmes; and
- Re-integrate offenders back into society.⁶⁶

In Uganda, the implementation of community service is the responsibility of the Community Service Department and the National Community Service Committee together with a network of District Community Service Committees. These are chaired by magistrates and are a replica of the National Community Service Committee, including local officials as well as two members of the public.⁶⁷

Gathering data and programme evaluation

Developing an effective system requires information about how well offenders are doing, the benefits of community service work and problems encountered.

Statistics are important for management planning. Proper keeping and effective use of the records enhances management, supervision and rehabilitation for offenders.⁶⁸ Magistrates should ensure that there is proper record keeping of community service data.⁶⁹

Community service programmes are likely to generate an enormous amount of data on a daily basis, which produces a major challenge in storing, retrieving and disseminating information generated by the programme.⁷⁰

Manual data storage and collection and the community service department secretariat not being linked to local community service stations via ICT proved a large challenge in Kenya. This link between local and national levels is vital to strengthen information gathering and for sending to be done efficiently via the internet.⁷¹ The department recently developed a new system, the Integrated Offender Information Management System, which is currently being piloted in seven provinces (see below and Annex I for more information).

66 Concept Paper from Tanzania Department of Probation 2011: on file with PRI, [in Penal Reform International (2012) *Alternatives to imprisonment in East Africa: trends and challenges*]

67 Penal Reform International (2012) *Alternatives to imprisonment in East Africa: trends and challenges*

68 *Management of non-custodial offenders and record keeping system* presented by Mr. Kawawa Mgungu, Probation Officer, at the Community Service Workshop, Dar es Salaam, May 2012

69 *Magistrate's and State Attorney's Training on Community Service: Key Undertakings* presented by Herbert Arinaitwe, PSCO, Community Service Department, at Community Service Workshop, Kampala, May 2012

70 *Offender Records Management System* presented by S.M.Mwangi, Principal Probation Officer at Community Service Workshop, Mombasa, February 2012

71 *The concept of and practice of community service orders in Kenya* presented by Hon. Justice Mohammed Warsame, National Chairman, Community Service Committee, at Community Service Workshop, Mombasa, February 2012

Integrated Offender Information Management System

‘The Department of Probation has finally succeeded in developing an integrated offender records management system. Buoyed by the publication of e-government policy, the department developed its internal ICT capacities in terms of personnel and hardware trainings, recruitments and procurement of requisite equipment. In conjunction with the World Bank, the government formed STATCAP whose objectives were to improve statistical capacities of data generating ministries in the government which included the justice, law and order sector departments and ministries. The system, which is online-based, goes beyond mere data management and caters for all processes from case processing through case management to case closure. It is our hope that our key partners (i.e judiciary, police, and prison) will also automate their services to enable complete integration of the criminal justice process.

Benefits of the Offender Records Management System

- The system has improved information capture from 10% to 100%. All processes are now electronic.
- Data storage has been shifted from manual files.
- Timeliness has been improved from one year to real time.
- Accuracy of data has been improved to 100% (depending on the accuracy of the data capture).
- It has reduced paperwork as manual files are being converted to electronic files.
- Analyses of data and categorisation are automated hence eliminating human errors.
- Data retrieval and sharing has been automated and exchange is online
- It has standardised the processes, contents and context of outputs.
- Probation officers’ reports have been structured allowing consumers to easily and clearly identify areas of interest.

Data and records management

In probation we produce and manage offenders’ records at three main levels:

1) case processing levels (initiation, planning, scheduling)

- **Case initiation.** This refers to the information gathered from the referring agencies. *[Courts, prisons, psychiatric units]*, newly referred cases *[charge sheets, court records]*, transferred cases *[transfer records]*, cases being reopened. *[previous records]*
- **Case planning.** Assessment of determination of risk to the community, offender and victims (low, medium, high), efficient and effective supervision strategies (how, when, by who), orientation to supervision process and strategies, expertise requirements, identification and referrals, identification of resources – within and without probation offices.
- **Case scheduling.** In case scheduling, we focus on assigning, appearing and apportioning for completing tasks. Court activities like appointments, hearings, production, discharges, diversions, variations, notices and sermons. Activities with offenders as required by the order in supervision and work performances. Activities for interventions like actors, actions, informations and outcomes.

2) case management levels (monitoring, interventions, document generation)

- **Monitoring compliance.** Meetings with offenders, case conferences and committee meetings, case review boards meetings, interviews and hearings where necessary, supervision and intervention programmes, tracking activities, conditions of release, correction activities like warrants, suspension of licenses, calculating expiry dates, payments and compensations, etc., accounting of offenders’ work and agencies

- **Document generation.** A well-structured offenders record management system should by all intentions be capable of generating documents as reports. These reports can be generated electronically or manually. In case processing and management the following reports are generated for various users: pre-sentence reports to the courts, pre-bail reports to courts, bail assessment reports to courts, pre-release reports to penal institutions, environmental assessment reports to review boards and committee, reports for judicial review, any other report focusing on the individual offender, analysed statistical information as may be required from the database.

3) case closure levels (outputs, forecasts, exit strategy)

- A case can be closed at case processing levels or case management levels due to reoffending, findings during investigations, death of the offender, diversion to other agencies, expiry of the sentence period. The records on the exited offenders are kept for some time in the system archives and can be reopened if the case resurfaces. They are also kept for research and studies.

Management information and reports are derived from the data collected at various levels of administration. The information contained in this report is based on facts emanating from data analysis and interpretation, they form the evidence of the situations reflected from individual affairs, clients and cumulatively therefore giving the overall picture of the organisation's performance. The type of reports at this level would be: specific reports on cases and staff workload; offenders' activities and behaviours; compliance with court orders; resource management; staff activities; outcome measures; financial activities.

In probation notable reports are financial and statistical returns which show the following: case load from officers and stations, number of referrals, completion in an officer and station caseload; the courts and court categories; and station cash flow and expenditure.⁷²

As with all programmes, evaluations should be undertaken on a regular basis to identify what is working well and what needs to be improved and worked upon to ensure that the programme runs more effectively. In Kenya, an overall evaluation of the community service programme was carried out in partnership with the United Nations African Institute for the Prevention of Crime and the Treatment of Offenders (UNAFRI) which facilitated the first phase of preparation tools for the evaluation. The second phase has been done by consultants from the University of Nairobi through funding from the Government. The final report is in the process of printing.⁷³

Resources

Monthly Return of Offenders Form (Tanzania)

⁷² *Offender Records Management System* presented by S.M.Mwangi, Principal Probation Officer at Community Service Workshop, Mombasa, February 2012 – See Annex I for more information

⁷³ *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

Resource: Monthly Return of Offenders Form (Tanzania)

CS Form No. 14 A

MINISTRY OF HOME AFFAIRS

TANZANIA COMMUNITY SERVICE PROGRAMME (ACT NO. 6/2002)

MONTHLY RETURN OF OFFENDERS COMMITTED TO COMMUNITY SERVICE DIRECT FROM COURT

NAME OF SCHEME FOR THE MONTH ENDED 20

REMARKS						
NAME OF SUPERVISOR						
TYPE OF WORK TO BE PERFORMED						
PLACEMENT AGENCY						
DATE OF DISCHARGE						
REMISSION						
DATE OF STARTING C.S						
DATE OF CONVICTION						
SENTENCE						
OFFENCE						
ADMITTED FROM WHICH COURT AND CC NO.						
ADDRESS						
RELIGION						
TRIBE						
SEX						
AGE						
NAME						
S/N						

..... DATE

NAME AND SIGNATURE OF COMMUNITY SERVICE OFFICER

DISTRIBUTION:

1 LOCAL COMMUNITY SERVICE COMMITTEE

1 NATIONAL COORDINATOR

Section Four: Promoting Community Service

In order to work effectively, community service needs to be accepted and preferably actively promoted by stakeholders in the criminal justice system and the wider public. In this section we look at how to win support first among those who work in the criminal justice system and second within local communities where the sentence is served.

Capacity building of professionals

Providing training for those involved in assessing offenders' suitability for community service and supervising placements is essential for a successful system.

Part XII, 47 'The Community Service Officers shall be required to have skills in law, social work and any other related skills to ensure that Community Service is delivered effectively' 48 'The Community Service Scheme shall ensure that there are training programmes to all staff involved in the Community Service Programme. Particular attention shall be paid to providing adequate induction and in-service training for community service staff. Induction and in-service training for community service staff shall take into account the need to adjust to the role of working with offenders. Training strategies shall take into account up to date research in community service and available knowledge about effective practice and quality services'

Tanzania Community Service Regulation, 2004 and amendment act, 2004

'Training is of paramount importance because it enhances the understanding of the programme by the stakeholders and increases its acceptability and usage.'⁷⁴

In Uganda the community service department noted that some stakeholders have a negative attitude towards community service. For example, some magistrates utterly refuse to issue orders and continue to send eligible offenders to prison reasoning that the sentence is not punitive enough, and some prosecutors challenge community service as a weak sentence, such as a case in 2010 where a prosecutor in Soroti appealed against a community service sentence in a minor assault. Therefore, training can be a step towards changing the attitudes of these stakeholders.⁷⁵

However, training often gets neglected due to a lack of resources: 'This [training] has not been easy to realise due to lack of enough funds'.⁷⁶

Yet it was evidenced that training or 'sensitisation' was often reported as necessary in order for community service to be utilised and seen as an effective punishment. For example, in Uganda local politicians' attitudes towards community service is negative,⁷⁷ there was apathy at the beginning from the Justice Law and Order Sector (JLOS) institutions, prisons felt community service would rob them of much needed labour, police were used to imprisonment of offenders and were therefore reluctant to provide pre-sentence reports⁷⁸ and, in addition there was suspicion by both judicial officers and prosecutors vis-à-vis other stakeholders. This manifests itself in magistrates refusing to surrender files in their possession for sessions.⁷⁹

Sensitisation of investigating officers and magistrates, which explains the role community service plays in reducing case back log which is an output on their part for measuring performance instead of seeing it as being lenient.⁸⁰

74 *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

75 *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

76 *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

77 *Community Service Implementation in Rural Settings in Uganda: Best Practices and Challenges* presented by His Worship Jesse Byaruhanga, Chief Magistrate at Community Service Workshop, Kampala, May 2012

78 *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

79 *Community Service in the Urban Settings in Uganda: A Buganda Road Court Experience* presented by Matenga Dawa Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

80 *Ibid.*

Multiple ways of sensitisation can and should be done – stakeholders should use every opportunity available to promote community service, including:

- Training for the bench should be conducted;
- The District Community Service Committees should participate in the sensitisation of local politicians using the district structures such as Council sessions;
- Formation of Project Management Committees at all levels; and
- Enhance cooperation between stakeholders at the district level.⁸¹

Training should also be continuous, as in Kenya it was identified that the number of new court orders placing offenders to serve community service orders have been going down over the years due to a substantial number of new magistrates who have joined the judiciary in the recent past and have not been trained in the understanding of the community service programme, yet the majority of these work in the lower courts which mainly deal with offences that are suitable for community service placement. Furthermore, as the longer serving magistrates who were trained at the time community service orders started, climb up the ladder to higher ranks where they increasingly deal with more serious offences that may not be suitable for community service; those left behind are not well versed with community service orders or they lack the relevant training hence the impact is reflected in the declining numbers.⁸²

Beyond gaining support for community service among stakeholders, more practical training and capacity building must be provided to those working directly with offenders on community service. In Kenya, sensitisation and training of community service supervisees has been a constant feature in the implementation of the community service programme. These trainings ensure that the supervisors understand their roles in handling offenders committed to institutions under their charge to perform the community service sentence. They

are also intended to equip them with new ideas and improve their offender supervisory skills in response to new and emerging trends in offender management. Besides, the trainings are also intended to ensure a change in attitude towards offenders so that they can be positively embraced in the society and assisted to undergo rehabilitation as they perform their sentence. A total of 3504 community service supervisors have been trained between 2005 – 2010.⁸³

Probation officers are currently provided with in-house induction courses at recruitment. This is further enhanced by various output enhancement workshops from time to time. In collaboration with the Kenya Institute of Education and other institutions of higher learning the department expects to develop a comprehensive curriculum for all probation officers. The department established Shanzu Probation Training Centre in Mombasa as a facility for capacity building. In the planned period and with the development of a training curriculum, it is expected that the probation practice will be professionalised with an increased knowledge base. Refresher courses are important in providing staff with necessary information and knowledge meant to enhance service delivery. Over the years the department has mounted refresher courses through internal workshops and specific courses. However, due to limited resources relatively few refresher courses have been carried out. Probation officers often require updated knowledge and skills in offender supervision. Such training will be undertaken to fill capacity gaps and enhance service delivery.⁸⁴

As part of this practical training, community service officers should also be trained in the reintegration of offenders: in July-Dec 2011, 520 supervisors were trained in counselling and social reintegration in nine districts of Uganda.⁸⁵

Resources

Sample Training Workshop Agenda (Tanzania)

81 *Magistrate's and State Attorney's Training on Community Service: Key Undertakings* presented by Herbert Arinaitwe, PSCO, Community Service Department, at Community Service Workshop, Kampala, May 2012

82 Kenya Probation Service (2010) *Feedback 2005–2010*

83 *Ibid.*

84 Kenyan Office of the Vice President and Ministry of Home Affairs (2008) *Probation Service Strategic Plan 2008–2012*

85 Ugandan Justice Law and Order Sector (2012) *Semi-annual Performance Report 2011–2012*

Sample Training Workshop Agenda (Tanzania)

TRAINING PROGRAMME FOR THE COMMUNITY SERVICE AND PROBATION ORDERS TO MAGISTRATES IN DAR ES SALAAM

DAY ONE

DATE	TIME	ACTIVITY	PRESENTER
13/5/2012	4.00–6.00 pm	ARRIVAL AND REGISTRATION	CS Secretariat
14/5/2012	8.00–8.30 am	Introduction and administrative remarks	ADP
	8.30–8.50 am	Opening remarks	Guest of Honour
	8.50–9.20 am	Probation and Community Service Division-The Structure	ADP
	9.20–10.00 am	International Instruments on non-custodial measures and comparative perspectives of community service orders in other jurisdictions	Mr. Rob (Representative for Penal Reform International)
	10.00–10.30 am	Tea Break	Secretariat
	10.30–11.00 am	Sentencing Options available in Tanzanian Statutes-Are all options equally used	Judge (Mh.Shaban Lila-The High court)
	11.00–12.00 am	The community service Act No.6/2002-Arrangement of sections and Obligations of Magistrate	Mh.Mgeta-RM's incharge-DSM
	12.00–12.30 pm	Functions of Community service Committees	Ms. Editha Kagaruki
	12.30–1.00 pm	Discussion	
	1.00–2.00 pm	Lunch Break	Secretariat
	2.00–3.00 pm	Discussion	Participants
	3.00–3.30 pm	Duties of supervising officer	Ms. Sabrina Majikata (PO)
	3.30–4.00 pm	Obligations of placement Institutions	Judith Charles(PO)
	4.00–4.30 pm	Rights and obligations of Cs offenders	Mr. D. Shirima (PO)
	4.30–4.50 pm	The role of Prisons Department in the implementation of Community Service act. • The prisons Act No 34/1967,S.52 and release procedure	Assistant Director ,After care Services(ADA)
	4.50–5.20 pm	Discussion	Participants
	5.20–5.50 pm	Evening tea	Participants
		End of Day One	

DAY TWO

DATE	TIME	ACTIVITY	PRESENTER
15/5/2012	8.00–9.00 am	Probation – The concept and experience from Kenya.	Mr. Clement Okech (Asst Director, Probation services Kenya)
	9.00–9.30 am	The Probation of offenders Act, Cap 247 R.E 2002 Arrangement of sections	Mh.Ritta Tarimo – Resident Magistrate
	9.30–10.00 am	Discussion	
	10.00–10.30 am	Tea Break	Secretariat
	10.30–11.30 am	The Pre-sentence/Social Enquiry Report	Ms. Salma Fundi (PO)
	11.30–12.00 pm	Roles of Probation officers in court	Mr. Twaha Issa (PO)
	12.00–1.00 pm	Discussion	Participants
	1.00–2.00 pm	Lunch Break	Secretariat
	2.00–2.45 pm	Performance of Community service Orders: Success and Challenges	ADA
	2.45–3.30 pm	Management of offenders and record keeping systems	Mr Kawawa Mgungu
	3.30–4.30 pm	Bail Information System and supervision- New approach in the Criminal Justice System	Mr.Clement Okech
	4.30–5.20 pm	Discussion	Participants
	5.20–5.50 pm	Evening tea	Participants
		End of Day Two	

Inter-agency collaboration

Training for Magistrates, prosecutors, prison officers and other stakeholders is crucial if community service is to play its full role in the criminal justice system.

Weak collaboration, coordination and networking among criminal justice players, such as magistrates, prosecutors and prisons as well as investigators was identified in the countries as holding back the progress of community service.⁸⁶ For example, sometimes there are no police files and the suspects ask for community service but as it can't be ascertained, for example, whether the exhibit was recovered or the nature of injury in relation to offences of personal nature it becomes difficult to grant community service.⁸⁷ And in Tanzania, magistrates noted that many probation officers were unaware of court rules and procedures which had been damaging cohesion between magistrates, probation officers and public prosecutors.⁸⁸

It was suggested that where a station has more magistrates, a specific magistrate should be assigned to community service activities for easy coordination.⁸⁹

'The services of any organisation are supply and demand driven chains which involve other stakeholders and partners. For the department to effectively function and offer effective and efficient services, it will partner and collaborate with other stakeholders in the criminal justice system and also in the corporate world. In order to be strategically anchored in these collaborations and partnerships,

protocols and memorandums of understanding will be entered into with like-minded stakeholders and development partners'.⁹⁰

There should be joint training comprising probation officers and magistrates so that operational issues can be addressed together during such training.⁹¹

Getting public support

Building support for community service among community leaders and the general public is an important task. Without it, it will be difficult to find placements and there is a danger of vigilantism or mob justice.

In Uganda, as in other countries, the public is convinced that imprisonment is the deserving punishment for any offender.⁹² More publicity of community service programmes will enable the public to appreciate the socio-economic benefits such as the savings realised by the work agencies and social benefits accrued by the offenders' families and the community.⁹³

A large challenge was also the fear of mob justice against those on community service because many members of the public did not feel the sentence provided justice for the crime.⁹⁴

In addition, citizens who did not understand the community service sentence often mistook it to be bribery.⁹⁵ This would also impact on the reluctance of magistrates to impose community service sentences in fear that the public would view them as corrupt.

86 *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

87 *Community Service in the Urban Settings in Uganda: A Buganda Road Court Experience* presented by Matenga Dawa Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

88 *Report of the Capacity Building Training Workshop on the Implementation of Community Service Programme*, Sabrina Majikata

89 *Magistrate's and State Attorney's Training on Community Service: Key Undertakings* presented by Herbert Arinaitwe, PSCO, Community Service Department, at Community Service Workshop, Kampala, May 2012

90 Kenyan Office of the Vice President and Ministry of Home Affairs (2008) *Probation Service Strategic Plan 2008–2012*

91 *Report of the training of magistrates on the wider application of alternative measures to imprisonment*, at Mombasa, February 2012

92 *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

93 *Implementation of Community Service Orders Programme: The Kenyan Experience* presented by Lawrence Mugambi, Senior Principal Magistrate and National Community Service Orders Coordinator, at Community Service Workshop, Kampala, May 2012

94 Ugandan Justice Law and Order Sector (2012) *Semi-annual Performance Report 2011–2012*

95 *Ibid.*

This is especially true in the case of victims of crime. 'Most of the offences they do commit are petty but grave in the eyes of the complainants, for example, injuring animals and trespassing on pasture land. While at the same time, grave ones for example, stealing of cattle, abduction of underage girls for marriage and malicious damage to property appear petty in the eyes of the complainants. Culture is a determinant of the nature of the offences presented before court'.⁹⁶ However, if done successfully victims of crime can benefit from community sentences from those who have offended against them. In the past, victims of offences have generally always been a forgotten party especially after testifying, giving evidence and securing a conviction. Any efforts that bring the victims into the picture after conviction and sentencing of the offenders need to be applauded and supported. Providing them with psychological support and involving them in the administration of justice through community service processes will go a long way to relieve the anger and hasten their healing.⁹⁷

Some examples of methods used to enhance public support for community service in Uganda include:

- Multi-lingual brochures and posters (in English, Luganda, Lusoga, Runyakitara, Acholi, Lugbara and Ateso) are continuously distributed in all districts⁹⁸;
- Radio talk shows are held to dialogue with the public⁹⁹; and
- District Community Service Committee members liaise with local leaders to disseminate information about community service using various methods, during court session, in public places, and in churches.¹⁰⁰

In Kenya, every year the department participates in the Nairobi International Trade Show, the public service week organised by the government and also publicises its activities through the departmental magazine dubbed 'Probation Bi-Annual' (see resource below). The department also established its own

website: www.probation.go.ke which has increased its universal reach. Supported by the GJLOS-RP funds, the department was also able to publicise its activities on television, radio and in newspapers.

It will be noted that the department introduced the probationers open days to serve as a forum for probationers and other clients to be able to share experiences, learn more about services offered and be informed about other cross-cutting issues affecting their lives. These activities have proved to be a very effective innovation in the department and have formed a common feature in our performance contracting targets.¹⁰¹

The figures for community service orders have risen and fallen dramatically over the years. The highest number issued in one year was 60,000. This was because of the sensitisation and publicity efforts. However, since the height there has been a steep decline. This indicates that public sensitisation efforts must be undertaken on a continuous basis to maintain impact.

'To enhance civic awareness on the administration of justice and maintenance of law and order, 18 radio talk shows were conducted, 76 spot messages were produced and run in various districts in Uganda. One Performance Management workshop targeting Registrars and Chief Magistrates in the Kampala area was held. 4000 brochures on Land Law, Succession Law and Resolution of Land disputes were printed. 950 Copies of the English version, 420 copies of the Luganda version and 500 copies of the Runyakitara version of the Citizens' Handbook were printed.'¹⁰²

Resources:

Community Service Leaflet (Uganda)
Probation Magazine (Kenya)

96 *Community Service Implementation in Rural Settings in Uganda: Best Practices and Challenges* presented by His Workshop Jesse Byaruhanga, Chief Magistrate at Community Service Workshop, Kampala, May 2012

97 *Closing remarks* by Hon. Justice J.W.N. Tsekooko, Justice of the Supreme Court/Chairperson, Judicial Training Committee at Community Service Workshop, Kampala, May 2012

98 *Community Service Implementation: Status and Emerging Issues* presented by Paul Kintu, Commissioner, Community Service Department, at Community Service Workshop, Kampala, May 2012

99 *Ibid.*

100 *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

101 Kenya Probation Service (2010) *Feedback 2005–2010*

102 Ugandan Justice Law and Order Sector (2012) *Semi-annual Performance Report 2011–2012*

Resource: Community Service Leaflet (Uganda)



Offenders working on a community road

District Community Service Committee (DCSC)

This Committee is charged with initiating Community Based Mechanisms for the effective implementation of Community Service Order at district level. The committee also performs coordination, planning, supervision, monitoring and evaluation roles that inform policy decisions. The DCSC is composed of Resident Senior Magistrate who chairs the committee, State Attorney, a representative of the Civil Society, District Police Commander, District Prisons Commander, Probation Officer, Resident District Commissioner, Chief Administrative Officer, LCV Chairperson, Town Clerk and two representatives of the Public.

The Supervisor

A supervisor is responsible for managing offenders undertaking Community Service Order by ensuring that they comply with the sentence requirements, including hours of work and nature of work. The supervisor provides feedback to the court regarding the performance of the Community Service Order during and after completion.

The Public

The Public is responsible for identifying Community Service Order projects or work where the offenders are supposed to serve their sentence and to provide feedback on the progress of the order being performed.

Community Service Department listens to the Community

The department of Community Service wants to know how the Community Service Order is performing in your community. If you know of any area in your community, which could benefit from Community Service Order, we would be pleased to hear from you. All suggestions are taken seriously and followed up.

For more information contact us on:

Community Service Department

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Eastern Regional Office

Mbarara High Court
Repubic Road
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Northern Regional Office

Gulu High Court
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COMMUNITY SERVICE ORDER

What is a Community Service Order?

A Community Service Order is a sentence where a person who commits an eligible offence is sentenced by a competent court of law to perform unpaid work within his/ her community as an alternative to a prison sentence. The unpaid work may include, among others, brick making, tree planting, toilet construction,

Who is eligible for a Community Service Order?

A person (woman or man) should:

- have committed a suitable offence
- have a fixed place of abode
- be a first time offender
- express remorse for crime committed

How does Community Service Order work?

Key stages of Community Service Order:

Stage one	A person commits an eligible offence for Community Service Order.
Stage two	A complaint is registered at the police station.
Stage three	A police officer (CID) or a designated person fills a PF103, which details the bio data and past record of the offender.
Stage four	The offender is presented to a court of law. If the person pleads guilty or if the magistrate passes judgment after full trial, a Community Service Order may be issued.
Stage five	The Offender carries out Community Service Order without pay while residing with his/ her family within the community. The work performed should be beneficial to the Community.
Stage six	The District Community Service Committee Members, Heads of Placement Institutions and the general public monitor the implementation of the Community Service Order.



A dirty drainage channel

Why Community Service Order?

Community/victim

- Promotes reconciliation between offenders and the victim
- The offender provides free labour to the community
- Encourages community involvement in the administration of justice

Offender

- Helps offenders to remain together with their families
- Fosters a sense of social responsibility for the offenders
- Rehabilitates offenders by instilling ethically acceptable behavior, which may reduce re-offending in the future

Government

- Contributes towards decongestion of the prisons
- Saves government expenditures by reducing jail costs on prisoners
- It increases public confidence in the administration of Justice

Implementation Framework

The Community Service Order is implemented by the Community Service Department under the Ministry of Internal Affairs as mandated by the Community Service Act, 2000. The Act provides for administrative structures to effectively and efficiently implement Community Service Orders, namely the National Community Service Committee, the Community Service Department, District Community Service Committee, Supervisors and the Public.



Offenders working on a community drainage channel

Administrative structures and their respective roles: National Community Service Committee (NCSC)

This Committee determines, monitors and evaluates the implementation of Community Service Order. The Committee is chaired by a High Court Judge and other members on this committee are: representative of the Directorate of Public Prosecutions, the Police Force, Prisons Service, Probation Service, Local Government, Uganda Law Reform Commission, Permanent Secretary - Ministry of Internal Affairs, Civil Society and the public.

Community Service Department under the Ministry of Internal Affairs

This department is responsible for overall implementation of Community Service Order. The department provides technical guidance to both the National Community Service Committee and the District Community Service Committees.


Resource: Probation Magazine (Kenya)

PROBATION

JUNE 2011

ISSUE No.7

BI-ANNUAL



VISION

TO EXCEL IN THE MANAGEMENT OF CORRECTIONAL SERVICES IN THE COMMUNITY

MISSION

TO PROVIDE QUALITY SOCIAL INQUIRY REPORTS TO COURTS AND PENAL INSTITUTIONS ,SUPERVISE NON-CUSTODIAL COURT SANCTIONS, OFFER APPROPRIATE REHABILITATION AND INTEGRAL SERVICES TO OFFENDERS IN THE COMMUNITY AND IN THE PROBATION INSTITUTIONS FOR PEACEFUL CO-EXISTENCCE

Section Five: Case Studies

Three short case studies are described below.

Mombasa clean-up project¹⁰³

Working with the City Council, the Chair of the Community Service Committee in Kenya's second city established a programme to make a visible difference through the work of offenders on community service.

Mombasa is a major tourist attraction in the Coastal Region and the second largest city in Kenya. Tourists who visit the city stay at the south or north coast, places which are well kept and hence very clean. However, when they move to the Island, they immediately notice the lack of cleanliness. The Town Clerk has even been taken into the Court to explain the terrible state of garbage strewn across the Island. It was against this background that Mombasa Court, in conjunction with the probation department, came up with the clean-up project, launched in September 2010.

Those targeted to serve are pretty offenders placed to serve on a one-day community service order. To succeed there was a need for collaboration and networking with other organisations. The list below identifies the majority of organisations involved in the Mombasa clean-up project and what they provided or did to contribute to the community service programme.

- The Judiciary – sentences offenders
- Municipal Council of Mombasa – provided security and transport to all the clean-up sites (they also supervise the work being done together with the probation officer on the site)
- Kenya Ports Authority – donated tools
- Kenya Ferry Services – donated tools
- Ministry of Youth Affairs
- Kenya Association of Hotel Keepers and Caterers
- Mombasa Court Trust Association
- Serena Hotel – donated tools
- Sarova Whitesands Beach Hotel – donated tools
- Kenya Association of Tour Operators

- New Begin Self help Group – help with supervision
- Council of Imams
- Community Policing
- MUHURI Kenya – offer counselling services to offenders
- SOLWODI Kenya – empowerment
- JOHO Foundation – overalls with community service logo
- Reach Out – offered counselling and rehabilitation services to offenders with drug addiction problems
- MEWA – offered counselling and rehabilitation services to offenders with drug addiction problems
- Philemon Trust – trained 30 offenders in entrepreneurship

It was important to reach out to organisations because of the need for tools, means of transport etc.

Community service in Oyam District, Uganda¹⁰⁴

Oyam District is located in the mid-northern part of Uganda and has a population of about 366,200 people. It has 12 police outposts and four central police stations. Oyam took on community service in June 2006 and in 2007 realised 41 orders; 2008 gave 72 orders; 2009 gave 117 orders; 2010 84 Orders and in 2011 realised 91 Orders.

Oyam District has a total of 121 primary schools and institutions; of these, 99 have received community service orders. Placement institutions should be selected in local districts by probation officers or community leaders and members of the District Community Service Committee and should not be more than 3 km from the home of the offender.

Community service requires that before the person is committed, he or she should be asked about his or her specialisation or what work he or she can perform. This is in the interest of matching skills with the type of work. Oyam managed to give the following tasks to offenders:

¹⁰³ *Performance of Community Service Orders in Local Jurisdictions* presented by Hon. L. Mutende, Chief Magistrate, at Community Service Workshop, Mombasa, February 2012

¹⁰⁴ *Community Service Implementation in Rural Settings in Uganda: Best practices and Challenges* presented by His Worship Ochen Francis, Magistrate, at Community Service Workshop, Kampala, May 2012

1. Making bricks/moulding blocks for the institutions

For instance, Adong Polly moulded 3000 mud blocks which were used to construct three sets of grass thatched houses for Anyeke Primary School; at Acet Primary School Ogwal Chris and Aula Alex they were able to make 500 and 4000 bricks respectively. These were used to construct a change room, water tank basement and some were used to complete the parents' building.

2. Maintaining the compound

Several offenders have been sent to maintain the compound of placement institutions which include health centres, schools, police stations, sub-county headquarters and the district headquarters.

3. Planting trees

We normally request and encourage the institutions to plant trees. We planted pines in a community service tree nursery with community service offenders and distributed them to various public institutions

4. Planting flowers

This was achieved in various institutions. At Anyeke Health Center IV, flowers were planted around the wards; at Oyam Town Council, the roundabout was decorated with beautiful flowers.

5. Construction of grass thatched houses

There were several primary schools which benefited from community service via grass thatched houses. At Anyeke Primary School, there were three sets of grass thatched houses, Aloni Primary School received 3 sets of grass thatched houses, Adel Primary school was also able to receive two sets of grass thatched houses.

6. Sinking pit latrines

There were good numbers of pit latrines sunk in several sub-counties. However, this is only possible where several offenders are sent to one institution because the task cannot be done by one offender.

7. Plastering walls/cutting spear grass

Several offenders were sent to do some plastering work on the school and teachers' buildings. While others were also committed to avail grass to replace the roofs which were dilapidated.

8. Maintaining and in-filling of potholes on the roads

This was also achieved when we committed 10 offenders to work on the Agoa-Alao community road, the distance of which is five km.

Community Service Order National Afforestation Programme¹⁰⁵

The community service national afforestation programme was begun in the financial year 2008/2009. The programme considers that implementing an afforestation programme aimed at environmental conservation was an important aspect of society payback by offenders to immense benefits that a well conserved environment would have in the present and future generations as well. Besides this communal benefit, it was also aimed at benefitting offenders through skills transfer in tree nursery production and so far a number of offenders who have acquired the skills have set up nurseries where they produce tree seedlings for sale to the public as a means to earn a living. This community service programme has also established the 'Community Service National Tree Planting Day' where trees are donated to public institutions and to the community to plant on this day from our tree nurseries that are in every probation station countrywide. The yearly annual average of tree seedlings that are planted through this initiative averages 1.5 million tree seedlings. With the government projecting to increase the forest cover from the current fewer than 3% to 4% by 2012 and progressively step this up to 10% by year 2030, the community services national afforestation programme is therefore a significant contributor towards the achievement of the vision 2030 goals.

Since inception Kshs 2,109,360 has been spent in implementing the community service afforestation projects.

¹⁰⁵ Kenya Probation Service (2010) *Feedback 2005–2010*

Section Six: Concluding Observations

Community service is only one form of alternative to prison sentences. The United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) list a number of other non-custodial options including verbal sanctions, such as admonition, reprimand and warning; conditional discharge; status penalties; economic sanctions and monetary penalties, such as fines and day-fines; confiscation or an expropriation order; restitution to the victim or a compensation order; suspended or deferred sentence; probation and judicial supervision; referral to an attendance centre; house arrest; and any other mode of non-institutional treatment. Justice ministries should review the availability of these

sanctions in their penal codes to ensure the widest range of options is available to the courts.

What distinguishes community service is the fact that it offers the chance for an offender to be a contributor to society rather than a cost. In low income countries where resources are limited, this is a particularly important consideration. So too is the overcrowding which characterises many of the prisons.

In order to organise a credible scheme of community service, a certain level of resources is required.

In Kenya the Probation Service has listed a range of sources from which to mobilise funds.

Strategies of Resource Mobilisation

The department currently relies heavily on the Government of Kenya for funding. This funding is in the form of exchequer release. There have also been other sources of funding by development partners especially Governance, Justice, Law and Order Sector (GJLOS). However, this funding does not meet the full expectation of the department's activities and therefore the department will be required to aggressively diversify its sources of funding in order to achieve its obligations and mandates.

Towards this end the following strategies have been identified for resource mobilisation.

1 Government funding

The following strategies will be put in place to secure more funding from the Government:

The Department already has a wider mandate than initially envisaged and it operates on behalf of other departments. It will mainstream and incorporate them within its legal mandates and through this it is hoped such programmes will receive full and adequate funding.

The Department will strive to allocate funding on priority activities and in particular those contained in the Performance Contract and those that are core. The allocation will be guided by the Public Expenditure Review, Medium Term Plans and Medium Term Expenditure Framework to ensure that funds are properly allocated, efficiently and effectively utilised and accounted for.

The Department will constitute a fundraising committee to continually explore ways and means of raising funds especially from the private sector and other friendly sources.

In the plan period, the department will strive to maximise on its revenue base by enhancing efforts in the collection of revenue from the training centre, disposal of idle goods and assets, sale of tender documents among other things, improve the Department's accounting systems, train officers in finance and procurement procedures and regulations, undertake frequent auditing and improve monitoring and evaluation of finance and procurement processes. This will not only help improve the financial base but also constitute a check on financial management.

2 Development Partners

The Department will collaborate closely with development partners involved in criminal justice administration and in particular those that champion reforms in the GJLOS. In addition, there will be a need for fundraising from other development partners not involved in the legal and criminal issues especially those dealing with human development, environmental conservation and skills transfer among others.

3 Exploiting Untapped Areas Within the Criminal Justice System

The Department will take advantage of new unexploited areas within the criminal justice system such as: pre-bail, pre-trial, parole, halfway houses and day-care centres. In order to effec-

tively exploit these potentially beneficial areas the department will seek legal mandates and policy for their establishment, domestication and operationalisation. This will give the department additional roles and thereby attract more funding from the government and development partners. Activities in some of these new areas are entirely funded from the meagre Government of Kenya disbursements.

4 Diversification of Hostel and Day-care Centre Activities and Services

The department will strive to diversify hostel activities, trade and trainings in order to have those that can generate income and are entrepreneurial in nature. The goods and products generated from these hostels and day-care centres will be sold at competitive prices in order to generate funds for the department.

5 The Community Service Orders Afforestation Programme

This programme will be strengthened in conjunction with the Kenya Forestry Services in order to have sustainable and economically viable seedlings. The seedlings will be sold at competitive prices in order not only to generate funds but also for the purposes of establishing a revolving fund to support and sustain the programme.

6 Elimination of Wastage and Promotion of Savings

The Department will strive to eliminate wastage and promote savings and divert the saved resources to more priority areas. Towards this end, the following areas have been identified:

- Pooling of transport while on official duties
- Mainstreaming of activities and trainings
- Using departmental facilities for in-house trainings
- Prudent utilisation of resources, for example, stationery and vehicles
- Procuring cost effective goods and services

7 Computerisation

The department will move from manual data and information storage and retrieval, management and processing to a more modern, faster and efficient computer software application.

8 Decentralisation

Currently decision-making is centralised at the department's headquarters. Stations must seek some information and approvals that can be issued by the Provincial Probation Officers. At times it involves headquarter staff travelling to the districts and vice versa to sort out these issues. This is expensive and slows activities and decision-making. To this end, some level of authority will be decentralised to the provincial and districts respectively.


9 Outsourcing

In the spirit of rationalisation some services such as cleaning, security and transport will be considered for outsourcing where possible. This will ensure the department cuts cost in these areas and ensure efficient service delivery of services offered and give the department the opportunity to concentrate on its core mandate.

10 Transport

During the Plan period, the Department will embark on elaborate measures to modernise its fleet of vehicles. The Department will generally advocate for and implement the government policy on transport giving due consideration to the department's activities which are equally important as other security agencies operating within the same environment.¹⁰⁶

Annex I: Excerpts ('screenshots') from Kenya's online probation management system



REPUBLIC OF KENYA
PROBATION RECORDS MANAGEMENT SYSTEM

Cases ▾ management ▾ Reports ▾

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PROBATION/COMMUNITY SERVICE

Ref No.: AC/CNR/2010/2/

Offender's Bio Data

Gender: Male Date of Birth: 2/20/2010

Education level: KCPE Marital Status: Single

Occupation: Religion: Buddhist

Tel. No: Contact Person/Tel.:

Disabilities: Addictions:

Health status:

Family Data

Father: Mother:

Guradian: Family Type: Extended



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PROBATION RECORDS MANAGEMENT SYSTEM

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PROBATION/COMMUNITY SERVICE

Case Details

Names: ID No.:

Court: Makandara Court File Number:

Police Station: Central Nakuru Police File Number:

Charge: Guilty Plea:

Penal Code Section: Magistrate:

Particulars of offence: Mitigation:

Offence Classification: Murder Referral: After Care


Referral Date: 2/20/2010 Mention Date: 2/20/2010

Previous Ref. no. (if any):

Next Cancel

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You are logged in as: kim

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PROBATION/COMMUNITY SERVICE

Ref No.: AC/CNR/2010/24

Permanent Address

Province: District:

Division: Prominent Neighbor:

Location: Chief:

Sub-Loc: Ass. Chief:

Village: Village Elder:

Nearest Market: Nearest School:


Current Address

Town/City: Estate:

Nearest Shopping C.: Nearest School:

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PROBATION/COMMUNITY SERVICE

Serial No.: [Search](#)

Names:

Supervision

Supervisor: Quantification of Work:

Type of Work: Expected Completion Date: 2/20/2010


Additional Orders: Hostel Residence ▾

Expected Contacts: Supervision Classification: Low

[Submit](#) [Cancel](#)

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COMPLETION/DISCHARGE


Serial No.: [Search](#)

Names:

Compliance Rate(%): Exit Strategy:

Actual Contacts: Mode of Completion:


Breach: ☐ Yes ☒ No Completion Date: 2/20/2010 

Breach of Order Date: 2/20/2010  Action Taken: Nil

[Submit](#) [Cancel](#)

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INTERVENTION/REHABILITATION

Serial No.: [Search](#)

Names:

Criminogenic needs: Intervention Type:

Key Players: Treatment Program:

Resources Envisaged: Transport Referral Agency: NGOs


Time Frame: Resources Required:

[Submit](#) [Cancel](#)

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Log Out


You may search by Names, ID Number, Reference Number or Court File Number

Enter Value to search:

search

ay, February 20, 2010

You are logged:



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PROBATION RECORDS MANAGEMENT SYSTEM

management ▾Reports ▾

Change Pswd

Lo

ay search by Names, ID Number, Reference Number or Court File Number

Value to search: AC/CNR/2009/9/1

search

Nox	court file no	Court	charge magistrate	referral date	PF No	station	penal code	Mention date
NR/2009/9/1	xxx	Makandara	xxx	9/27/2009 12:00:00 AM	xxx	Central Nakuru	xxx	9/27/2009 12:00 AM

e	Gender	DOB	Id No	Education	Religion	Occupation	Telephone	Contact Te
	Male	9/27/2009 12:00:00 AM	1	1	Buthist	xxx	xxx	xxx

noX	Marital status	father	mother	Guardian	Siblings	Dependants	Disabilities	Addictions	Hea
NR/2009/9/1	Single	xxx	xxx	xxx	2	2	xxx	xxx	xxx

ict code	location	Village	Village elder	Town	Estate	Nearest Market	Nearest school
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