



Promoting penal
reform worldwide

www.penalreform.org

Summary Note

Alternatives to Imprisonment in East Africa: Trends and Challenges

Prison overcrowding is a serious problem in East Africa. The occupancy rate of prisons in Tanzania is over 145 percent and in Kenya and Uganda it is over 200 percent. The congestion is caused in large part by the excessive use of pre-trial detention: approximately half of those detained at any one time are awaiting justice. Congestion is also caused by the imposition of short terms of imprisonment. A significant number of people, most of whom are living in poverty, are sentenced to prison for a few weeks or even days for offences such as using abusive language, operating a small business without a valid licence, the possession of illicit 'liquor' or simple theft.

In all three countries alternative sentencing options are available in the form of community service orders and in Kenya and Tanzania probation orders can also be imposed. Community service involves suitable offenders carrying out unpaid public works, while probation places an offender under the supervision of a probation officer and can entail the provision of counselling or treatment aimed at reducing re-offending.

Kenya, Uganda and Tanzania face similar challenges with respect to ensuring the effectiveness of alternatives to imprisonment. The first key challenge relates to the way in which alternative sentences are imposed by the courts; for various reasons, alternatives are not considered for many offenders for whom the sentence might be appropriate. In order to remedy this, innovative decongestion programmes – through which eligible offenders can have short prison sentences commuted to community service after a period in custody – have been established.

The second main challenge relates to the implementation of the sentences once they are imposed. A lack of resources, particularly in Uganda and Tanzania, affects the successful placement and supervision of offenders and as a result, compliance and re-offending rates vary. Innovative initiatives which equip offenders with practical income-generating skills during their placements have been introduced in Kenya to improve outcomes and the use of volunteer probation officers has strengthened the monitoring of offenders in Kenya and Uganda.

The third challenge is to build the confidence of the public and the courts in non-custodial punishments. Although efforts were made to sensitise and educate people

when community service was first introduced, many members of the public either lack awareness about or are hostile to alternative sentencing.

Penal Reform International (PRI) is undertaking a programme of work funded by the UK Department for International Development (DFID) to assist governments and civil society organisations to address these challenges. Consequent to an initial assessment, PRI has developed 16 recommendations as detailed below.

This summary note provides a brief overview of PRI's 2012 publication titled Alternatives to Imprisonment in East Africa: Trends and Challenges. For a copy of the full report please email publications@penalreform.org or visit the publications section of our website at: <http://www.penalreform.org/publications>

PRI, February 2012

Recommendations

1. In all three countries, there is a need to collect and use data to inform the rational, humane and cost-effective use of prison.
2. The role of traditional justice mechanisms, where they conform to international human rights standards, should be further developed in dealing with minor offences.
3. Consideration should be given to revising the range of offences which carry minimum sentences in Tanzania so that alternatives can be imposed in appropriate cases.
4. Consideration should be given to how best it can be made clear that the Uganda High Court can impose community service orders, in sentencing guidelines or otherwise.
5. Consideration should be given as to whether alternative sentences could be considered for offenders with a wider range of criminal records, particularly where these involve minor crimes. Community service should for example be available as an alternative to an unpaid fine, irrespective of the number of previous convictions.
6. Newly-appointed magistrates and judges and other relevant courts and tribunals need to receive training on alternative sentences. There is also a need for continuous training which involves magistrates visiting community service sites and sharing experiences and best practices. Training and sensitisation on community service needs to be integrated in the training curriculum for key stakeholder departments and all the other stakeholders are encouraged to integrate it in their programmes.

7. Greater efforts should be made to identify eligible and potentially suitable offenders with training provided to police and prosecutors as well as magistrates, so that assessments can be undertaken in a greater number of appropriate cases.
8. There are innovative programmes which are definitely contributing to decongestion. These should be expanded with appropriate safeguards to ensure that all eligible prisoners are fairly considered for commutation of sentence.
9. A costed plan for making probation and community service available across the Tanzania should be drawn up as a matter of priority.
10. A 'training the trainers' package should be developed in all three countries and delivered to departments and agencies responsible for work placements with a requirement that placement supervisors be properly trained before they can take on the supervisory task.
11. Consideration should be given to giving responsibility for the Probation Service in Uganda to the Ministry of Internal Affairs so that it can work more closely with community service.
12. A programme of work to remind the committees of their key tasks and to provide technical assistance where possible should be drawn up by the National Community Service Orders Committee and the Probation and Community Service Departments in each of the three countries.
13. The flagship community service projects should be introduced in Uganda and Tanzania and expanded where possible in Kenya.
14. The further use of volunteers should be explored to enhance the capacity of the probation and community service officers in all three countries with exchanges of experience and practice to assist development. Capacity should also be enhanced to ensure suitable opportunities are provided to offenders with special needs including women and, where appropriate, juveniles.
15. A programme of community outreach and sensitisation should be developed by the Departments and National Committees to ensure that the community is aware of what is entailed in community service.
16. The public and media should be encouraged to propose work that offenders should do and be made aware of the work completed by offenders through open days, forums and the use of local radio. The value of such work should be calculated and disseminated.

End/