



Probation and Aftercare Service

# Community sanctions for women offenders in Kenya

## Training workshop



A supplementary workshop to the  
**TRAINING PROGRAMME FOR PROBATION OFFICERS**

Prepared by Penal Reform International, in  
collaboration with the Probation and Aftercare Service



# Community sanctions for women offenders in Kenya: Training workshop

This workshop training module was produced by Penal Reform International in collaboration with the Kenya Probation and Aftercare Service as an addition to the *Training Manual for the Kenya Community Service Orders Programme*, prepared under the direction of the Kenya Community Service Orders Programme which consists of five workshops:

- Workshop One: Mixed group training
- Workshop Two: Judges and Magistrates training
- Workshop Three: Training of Community Service Orders
- Workshop Four: Training of District CSO Committee
- Workshop Five: Training of Supervisors

The primary audience for this module is probation officers.

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Cover photo: Women serving Community Sanction Orders undertaking work at a school for children with learning disabilities in Meru, Kenya. © Omar Phoenix Khan, Justice Matters, 2015.

### The Kenya Probation and Aftercare Service (KPAS) is the sole administrator of community based sanctions in Kenya.

The Department is one of the agencies that form the Kenyan criminal justice system and is specifically charged with the responsibility of implementing supervised non-custodial correctional services within the community. We are driven by the desire to reform and cause positive change in the lives of offenders. We believe that offenders can change given a second chance by providing appropriate rehabilitation and treatment interventions.

### Penal Reform International (PRI) is an independent non-governmental organisation that develops and promotes fair, effective and proportionate responses to criminal justice problems worldwide.

We currently have programmes in the Middle East and North Africa, Sub-Saharan Africa, Eastern Europe, Central Asia and the South Caucasus, and work with partners in South Asia.

To receive our monthly e-newsletter, please sign up at [www.penalreform.org/keep-informed](http://www.penalreform.org/keep-informed).

# Community sanctions for women offenders in Kenya

## Training workshop

### Primary audience

Probation officers.

### Duration



Time required:  
**4 to 4.5**  
hours

### Methodology

Brainstorm session, lecture/ presentations, facilitated discussions, group work on a case study.

### Learning objectives

By the end of the workshop, participants will:

- » Recognise the typical profile and background of women offenders in Kenya
- » Understand the challenges faced by women serving community sanctions
- » Be introduced to gender-sensitive social enquiries
- » Appreciate the different impact of community sanctions on women
- » Understand how the supervision of such sanctions should be cognisant of women's particular backgrounds
- » Identify how probation orders and community service assignments could be adapted to ensure a gender-specific approach

Overview

Research carried out in 2016 on women in Kenya serving community sanctions (community service and probation orders) showed that the backgrounds and characteristics of women offenders are different to those of men, in many aspects.

Based on this research and international criminal justice standards, the Kenya Probation and Aftercare Service (KPAS) seeks to take an approach towards women offenders that is sensitive to their specific background and needs. Social enquiries, pre-sentence reports and the supervision of community sanctions should be adjusted to this end, to ensure women can successfully complete their sanctions and fulfil their familial role, in line with the UN Bangkok Rules – the international standards on women offenders.

The aim of this training module is to sensitise stakeholders regarding the specific background and situation of women offenders, and demonstrate how social enquiries, pre-sentence reports and the supervision of community sanctions can be designed in a gender-sensitive way,<sup>1</sup> and take account of this at all levels of implementation.

As a cross-cutting issue, this half-day workshop should be delivered alongside the existing training manuals for probation officers, on their duties, guidelines and national legal framework.

Materials

- Research report from PRI/KPAS, *Community service and probation for women: A study in Kenya* (2016), available online.<sup>2</sup>
- KPAS Guidelines for Social Investigations and Pre-sentence Reports (revised 2017).
- Video: *‘Equal justice’: making community sanctions work for women in Kenya* (2016), available online.<sup>3</sup> Please check with KPAS Headquarters for a DVD or other means of playing the video.
- Model for reform: *Gender-sensitive community service and probation orders* (2017).<sup>4</sup>

Training materials:

- Annex 1: Posters on characteristics of women offenders in Kenya (page 26).
- Annex 2: Handout on PRI/KPAS research in Kenya (page 28).
- Annex 3: Case example on gender aspects (page 30).
- Annex 4: Group work – case study (page 31).
- Annex 5: Model PowerPoint presentation on Kenya research findings (page 32).

The trainer should also organise:

- Projector and speakers/sound system to show video documentary, online link or DVD.
- Flipchart and markers, loose leaf pads for participants’ use.

1. ‘Gender-sensitive’ practices are ‘practices, programs, assessments, or policies that account for the differences in characteristics and life experiences that women and men bring to the justice system and that have been tested by methodologically rigorous research and found to be effective in reducing recidivism’ (National Resource Center on Justice Involved Women, *Gender Responsive Interventions in the Era of Evidence-Based Practice: A Consumer’s Guide to Understanding Research*, p1).

2. The report can be downloaded at [www.penalreform.org/resource/community-service-and-probation-for-women-a-study/](http://www.penalreform.org/resource/community-service-and-probation-for-women-a-study/)

3. The video can be viewed online at [www.penalreform.org/resource/equal-justice-making-community-sanctions-work-women-kenya/](http://www.penalreform.org/resource/equal-justice-making-community-sanctions-work-women-kenya/)

4. PRI/KPAS, *Model for reform: Gender-sensitive community service and probation orders* (2017), [www.penalreform.org/resource/gender-sensitive-community-service-and-probation-orders](http://www.penalreform.org/resource/gender-sensitive-community-service-and-probation-orders)

5. PRI, *Short guide on the UN Bangkok Rules* (2013), [www.penalreform.org/resource/united-nations-bangkok-rules-women-offenders-prisoners-short/](http://www.penalreform.org/resource/united-nations-bangkok-rules-women-offenders-prisoners-short/)

If possible:

- Copies of PRI’s *Short Guide on the UN Bangkok Rules*.<sup>5</sup>
- The Sentencing Policy Guidelines for judges and magistrates (Gazette Notice, no. 4087).<sup>6</sup>

Preparation

- Read the PRI/KPAS report, *Community service and probation for women: A study in Kenya*.
- Check facilities to play video documentary.
- Prepare posters (see Annex 1).
- Print sufficient copies of Annex 2 (if it is not possible to show the video documentary).
- Include case example on gender aspects (in PowerPoint slides) or print sufficient copies of Annex 3.
- Print out required number of handouts for group work (three different tasks, groups of four to five participants).

Duration

Approximately four hours.

Structure



45 minutes	<b>Session 1</b> <b>Introduction</b> Introduction, brainstorm and presentation of research findings on women serving community sanctions in Kenya.	30 minutes
30 minutes	<b>Session 2</b> <b>Video and discussion</b> Interactive activity and discussion around video documentary.	15 minutes
45 minutes	<b>Session 3</b> <b>Social enquiries and pre-sentence reports</b> Presentation on social enquiries for women offenders, activity on gender aspects and experience of probation officers in Kenya.	75 minutes

<b>Coffee break</b>
<b>Session 4</b> <b>Supervision of community sanctions for women in Kenya</b> Presentation on findings from study on challenges faced by women serving community sanctions.
<b>Session 5</b> <b>Case study</b> Group work, presentation and discussion of case study.

6. Sentencing Policy Guidelines for judges and magistrates (Gazette Notice, no. 4087), [www.kenyalaw.org/kl/fileadmin/pdfdownloads/Sentencing\\_Policy\\_Guidelines\\_Booklet.pdf](http://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Sentencing_Policy_Guidelines_Booklet.pdf)



## Session 1

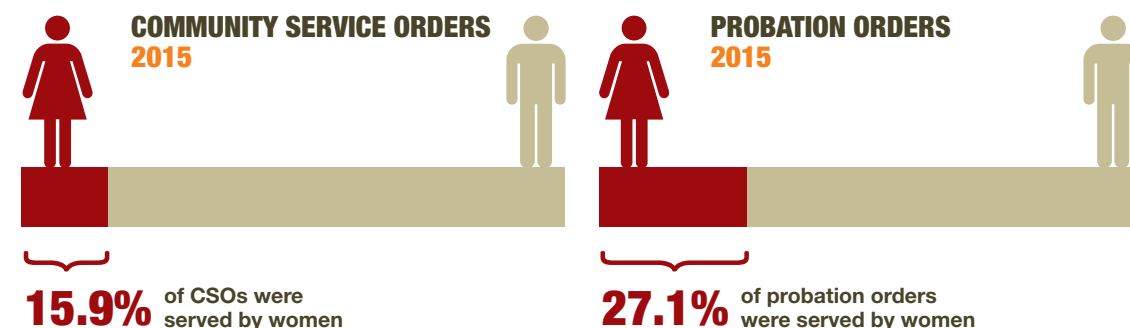
## Introduction

## Why are we focusing on women offenders?

**Lecture/presentation**

Use the notes below.

Women who come into conflict with the law are a minority. They usually make up 10 per cent or less of prison populations, and a small proportion of offenders who are serving non-custodial sanctions. This is true in Kenya where the number of women serving non-custodial sanctions constitute less than a quarter. The number of women serving community service orders or probation orders rose to 9,101 in 2015. This number includes the high number of women serving one-day community service orders (CSOs).



Women are not unaccountable for their criminal behaviour, but at the same time they face discrimination in society, and this is mirrored in criminal justice systems. Patriarchal structures, economic dependence and a lack of education in many countries shape women's lives. In many cases, discrimination against them directly or indirectly contributes to the offence committed.

**Definition****Sex**

The term 'sex' (male/female) is used as a biological term, describing physical attributes and chromosomes that are universal.

**Gender**

The term 'gender' refers to the socially constructed roles, behaviours and attributes society attaches to and considers 'appropriate' for men and women.

Because males make up the majority of prisoners and offenders, penal systems and policies, training of criminal justice actors, prison regimes and non-custodial alternatives to prison have usually all been designed and implemented for men. For too long, issues specific to women offenders – due to their sex or because of their roles in family and society and the perceptions they face (gender issues) – have been overlooked in penal policies.

In December 2010, the United Nations General Assembly adopted a new criminal justice standard which filled a gap in international guidance on gender aspects. These are the UN Rules on the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, known as the 'Bangkok Rules'.<sup>7</sup>

The Bangkok Rules give guidance not only on the treatment of women in prison, but also on how their specific background and pathways to prison need to be taken into account in sentencing and when handing down and supervising non-custodial measures and sanctions.

A gender-sensitive system recognises, for example, the damaging impact imprisonment has not only on women, but also on their children and families. Such an approach also needs to take into account that many women have faced violence, often within the family. Such abuse may have been a factor in offending and also makes them more vulnerable when in contact with the criminal justice system ('revictimisation'). Also, research demonstrates that women are particularly affected by poverty, and a majority of women in conflict with the law commit minor, non-violent crimes. This means that imprisonment in such cases may not be necessary as a means of protecting society.

The Bangkok Rules:

- Encourage the development and use of non-custodial measures and sanctions for women.
- Encourage such measures and sanctions to be 'gender-specific'.

This workshop session intends to look at why gender-sensitive alternatives to imprisonment are needed, and secondly, what this means in practice.

One principle that must be kept in mind is that international law stipulates that **imprisonment should be used as a last resort** (see UN Tokyo Rules<sup>8</sup> and Bangkok Rules).

## Characteristics of women offenders

**Brainstorm**

Before introducing the gender-sensitive social enquiries, sentencing and supervision of community sanctions further, invite the participants to brainstorm, posing the following questions:

**'What is the profile of women offenders in Kenya?'**

**'What are their typical characteristics?'**

Invite participants (in pairs or small groups) to write down any characteristics they can think of. A hint can be given if the task proves unclear or difficult for the participants, such as 'Think of things such as age, family or education, typical offences, etc.'

After 15 minutes, the facilitator should reveal two posters from **pages 26–27** (concealed until this point) which list known characteristics. Participants should be invited to walk around the room to one of the posters, to read and discuss.

7. The Rules are known as the 'UN Bangkok Rules' because they were initiated by the Government of Thailand. HRH Princess Bajrakitiyabha of Thailand played a pivotal role in their development. The Bangkok Rules are available at [www.penalreform.org/priorities/women-in-the-criminal-justice-system/international-standards/](http://www.penalreform.org/priorities/women-in-the-criminal-justice-system/international-standards/).

8. United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules), adopted in 1990 and available at: [www.un.org/documents/ga/res/45/a45r110.htm](http://www.un.org/documents/ga/res/45/a45r110.htm).



### Lecture/presentation

Now that participants have been introduced to the characteristics of women offenders, deliver this presentation on international findings as well as more detailed findings from the 2016 study on women serving community sanctions in Kenya, conducted within a joint project by Penal Reform International and the Kenya Probation and Aftercare Service.

Use the notes below.

Research has shown that the backgrounds and characteristics of women offenders in Kenya are similar in many aspects to women offenders in other countries.

### Characteristics and relevant issues identified in global studies on women offenders:

- A higher rate of women offenders – compared to men – commit only minor and non-violent offences.
- Women tend to have fewer opportunities in schooling and for economic independence, while at the same time they are ultimately left to cater for their children and families.
- Women may be compelled into committing offences by their partners.
- There is a high rate of women in prison on drug-related offences, but most play marginal roles in the drug trade (for example, as small-scale drug traffickers, or ‘drug mules’).
- The ‘feminisation of poverty’ seems to be a reason why the number of women in the criminal justice system is increasing.
- The rates of women with mental health issues is higher than for men, likely linked to the high rate of violence and abuse they experience throughout their lives. Mental health issues are often misinterpreted as ‘risk factors’ for offending.
- Women may commit a violent offence against their husband or partner after years of domestic abuse, seeing no other way out.
- When detained, mothers experience more psychological stress and anxiety as a result of being separated from their children, than fathers do.
- Offenders/prisoners are an ‘unpopular’ group in society overall, but the social stigma against women offenders is even higher than for men.



For an overview of research on women offenders and prisoners at an international level see PRI’s briefing, *Women in criminal justice systems: the added value of the UN Bangkok Rules*.<sup>9</sup>

9. Available online at [www.penalreform.org/resource/women-in-the-criminal-justice-system-the-added/](http://www.penalreform.org/resource/women-in-the-criminal-justice-system-the-added/).

## Research findings on women serving community sanctions in Kenya

### Types of offences

Women are arrested and detained for different offences than men. Many of the women who were serving a community service order (CSO) or probation order (PO) who participated in the study by PRI/KPAS were arrested for behaviour that was linked to their role in their family, and to poverty. The top four offences were:

- Brewing and selling *chang’aa*: Alcohol Drinks Control Act
- Collecting firewood or cutting grass: Forest Act/Wildlife Conservation Act
- Failing to construct a toilet: Meru by-laws
- Theft

### Reasons for offending

**Poverty: The majority of women interviewed said offending was linked to economic need**

For example, women convicted of selling *kangara* and *chang’aa* (illicit alcoholic drinks) without a licence said they committed the offence because:

- Brewing is a steady source of income
- Could sell from home while taking care of their children at the same time
- Could obtain the ingredients on credit and pay the supplier after selling the drinks

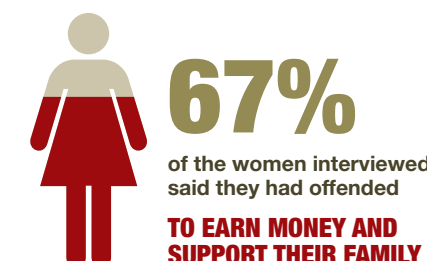
The women who were convicted for removing forest produce under the Forest Act were also driven by economic reasons, as they rely on firewood for cooking. In a few cases, women interviewed revealed that they sold the surplus firewood they had collected to meet other basic needs.

The offenders who had been convicted under the Wildlife Conservation and Management Act said that they were cutting grass in the park to feed their animals during a drought. Some said that their animals died while they were in pre-trial detention, illustrating both the severe shortage of fodder as well as the wider impact of their detention.

The cases of the women convicted for failure to construct toilets also highlight the interplay between poverty and heading a household. The women could not afford to hire workers to construct the toilets and they could not do it by themselves.

### Other reasons

Other reasons given for committing offences were related to anger management issues, provocation and stress, often linked to conflicts in the family.





For more detailed information and statistics see the full research report at: [www.penalreform.org/resource/community-service-and-probation-for-women-a-study/](http://www.penalreform.org/resource/community-service-and-probation-for-women-a-study/)

The study included surveys and interviews with magistrates and judges, as well as women who had served community sanctions in 10 regions of Kenya, which were selected to be as representative of the country as possible. The report describes the background and characteristics of women who serve community sanctions in Kenya, then presents the findings of the research and explains the challenges faced by women serving community service and probation orders. Recommendations are given, based on the Bangkok Rules.

## What do the Bangkok Rules and other relevant laws say about non-custodial sanctions?

### Rules 57–66 of the Bangkok Rules stipulate:

- States and authorities need to develop and implement gender-sensitive alternatives to imprisonment. This means they need to recognise that many female offenders do not pose a risk to society and that imprisonment has a disproportionately negative impact on their rehabilitation and their children's lives.
- Non-custodial sentences are preferred for pregnant women and women with dependent children.
- At the sentencing stage, mitigating factors should be considered. These include:
  - Severity and nature of the criminal conduct.
  - Caretaking responsibilities – this applies not just to children but to any other family members the woman cares for.
  - Background factors such as domestic violence and poverty.
  - Lack of criminal history.



Imprisonment should only be considered where the offence is serious or violent and/or the woman represents a continuing danger to society. Any decision to imprison a parent must ensure that the best interests of any children can be met; for example, that there is appropriate alternative care.

### General Comment by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) is a group of experts mandated by the African Charter on the Rights and Welfare of the Child to monitor and report on the fulfilment of child rights in Africa.

In November 2013, the Committee adopted 'General Comment No. 1', which provides guidance to states on 'children of incarcerated and imprisoned parents and primary caregivers'.

The General Comment:

- Reiterates that children whose primary caregivers are involved with the criminal justice system have the same rights as other children.
- Emphasises the importance of an individualised, informed and qualitative approach (based on actual information about affected children and involving professionals who work with such children).
- Requires authorities to actively consider applying alternatives to pre-trial detention and to sentences of imprisonment when offenders are parents or primary caregivers of children.



See PRI/ACERWC's Short guide to the General Comment at: [www.penalreform.org/resource/short-guide-general-comment-no1-children-incarcerated-imprisoned/](http://www.penalreform.org/resource/short-guide-general-comment-no1-children-incarcerated-imprisoned/).

### Kenya's Sentencing Policy Guidelines

The 2016 Sentencing Policy Guidelines have sought to inject a gender-sensitive approach to sentencing, and took into account the UN Bangkok Rules. In particular, the Guidelines require judicial officers to – in the sentencing process – consider caretaking obligations, the background and family ties of female offenders, pregnancy, and breastfeeding.

The Guidelines single out female offenders as one of the 'categories of offenders requiring further consideration', and accordingly call on judicial officers to opt for non-custodial sentences in the absence of aggravating factors.

The Guidelines point to the UN Convention on the Rights of the Child, demanding courts to consider the best interests of the child when making a decision that concerns children (i.e. sentencing of a parent or caregivers).

They also point to the African Charter on the Rights and Welfare of the Child (to which Kenya is a State Party), which provides that 'States Parties...shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall in particular: (a) ensure that a non-custodial sentence will always be first considered when sentencing such mothers.'



#### Definition

##### Best interest of the child

The 'best interests of the child' principle is enshrined in the UN Convention on the Rights of the Child. It requires that all interactions with a child, and any decision-making that affects a child, must take their best interests into account.

30 minutes

## Session 2

# Video and discussion

## What are the benefits of keeping women out of prison?



### Short interactive activity

The facilitator invites all participants to stand up. They are asked to think of one benefit of keeping women out of prison. The facilitator invites them to raise their hands to explain their idea. Whoever can name a benefit gets to sit down – until all participants have sat down. The facilitator can give brief comments on the reasons given.

The facilitator can then explain any benefits that were not mentioned by the participants, for example:

- Social and economic cost of detention is avoided.
- Alternatives are more effective than imprisonment in preventing reoffending.
- High percentage of women have committed minor, non-violent offences, and are not a danger to society.
- Keeping families together.
- Parental support of children: more adults imprisoned means more children are left without parental support and become vulnerable.
- Consequences of imprisonment are avoided: these include family breakdown, stigma, loss of job and home, health consequences (mental health and physical health impact).
- An alternative sentence can 'pay back' society for an offence committed, e.g. through community work, and it is more likely that the offender can compensate the victim – which will address the victim's rights in a more effective way than a prison sentence would.

### Video documentary

The short documentary (10 minutes), *'Equal justice': making community sanctions work for women in Kenya*, gives an overview of what the benefits are for keeping women out of prison. It also gives some insight into the barriers they may face in meeting the conditions of their non-custodial sanctions.



### Video documentary

Play the video on women serving community sanctions in Kenya.

After playing the documentary, the facilitator should pose the following question and moderate a discussion among participants to give feedback on the issues presented in the video. This leads into the next presentation, which covers social enquiries and pre-sentence reports, based on the findings of the research in Kenya and on the UN Bangkok Rules.

**'What might be the differences for women when serving community sanctions – compared to male offenders?'**



The video is available at: [www.penalreform.org/resource/equal-justice-making-community-sanctions-work-women-kenya/](http://www.penalreform.org/resource/equal-justice-making-community-sanctions-work-women-kenya/), or request a DVD from KPAS Headquarters.

If facilities for playing the documentary are unavailable, give each participant a copy of the two-page summary of the research findings instead (see page 28).



45 minutes

## Session 3

# Social enquiries and pre-sentence reports

## Social enquiries of women offenders



### Lecture/presentation

The facilitator should give each participant a copy of the *KPAS Guidelines for Social Investigations and Pre-sentence Reports*, which were revised in 2017 to reflect the research findings on women offenders in Kenya.

Use the notes below.

### Are social enquiries different for women offenders?

Social enquiries and the drafting of pre-sentence reports for magistrates are some of the key tasks of probation officers. The content of these reports is crucial for magistrates/judges' decisions regarding sanctions.

Therefore, it is important that any aspects specific to the background of the woman's offence is included in this report, such as caretaking obligations (children and other family members), physical and mental health and experiences of violence. The underlying causes and motivation to commit the offence are also relevant; for example poverty, protecting children or the impact of family conflicts.

The aim of social investigations in the light of a pre-sentence report is outlined in the *Guidelines for Social Investigations and Pre-sentence Reports*, as follows:

- Appraise the background, personality and conduct of the offenders, in the light of the offence committed.
- Identify the criminogenic factors at play (the offender's needs and risk factors).
- Evaluate the seriousness of the offence and the impact on victims in order to determine a proportionate sanction.
- Identify the likely impact of a sentence on any dependants (children or any other dependent members of the (extended) family).
- Engage families, employers, partnership organisations and significant others in the community to gain a broader understanding of the offender.
- Identify and arrange for partnership with organisations that can aid the process of eventual rehabilitation.
- Gain knowledge of the culture and resources available in the local communities.
- Propose cogent measures necessary to address the identified needs and forestall the risk of reoffending by including an appropriate sentence.

## Interviewing women offenders

When interviewing women offenders, a few easy steps could be taken to cater for women's specific backgrounds:

- Times of the interview or appointment can be determined in a way that does not negatively interfere with the woman's caretaking obligations, and the woman can be consulted to this end.
- Privacy can be ensured during the interview and probation supervision. Women offenders may be reluctant to give information about their background because of stigma and shame, or because they are not used to speaking out for themselves.
- Enough time should be allocated to ensure all issues of relevance can be discussed.
- Female clients will feel more confident and therefore open up more, if the reasons and context for questions are explained to them.
- When interviewing family members of female offenders, keep in mind that there may be a history of violence or other abuse.

These measures are also relevant when conducting probation appointments with male offenders.

## Gender aspects



### Group activity

The facilitator should present the following case study (in a handout or PowerPoint presentation) and ask participants to categorise the highlighted factors as either 'gender-related' (i.e. the role of women in society may have played a role in the offence) or 'gender-neutral' (i.e. not specific to being a female offender). This activity helps participants understand how to identify gender-specific issues. See answers on the next page.

Encourage the participants to apply the points explained earlier in the presentation.



### Case study: Charity

Charity was arrested for cutting grass in a government-protected area. She offended because she had no money to buy feed for her cattle; she had recently become unemployed as she was heavily pregnant with her third child.

Charity was detained in a pre-trial facility for nine days. Her eldest son started drinking alcohol when she was in pre-trial detention, and the community blamed her for this.





### Answers

#### Gender-related issues:

- Arrested for cutting grass (*This is related to poverty and her role in the family*).
- No money to buy feed for her cattle.
- Heavily pregnant with her third child.
- Community blamed her for this (*Women face greater stigma than male offenders*).

#### Gender-neutral issues:

- Recently become unemployed (*Important to point out unemployment was because of a gender-aspect – pregnancy*).
- Detained in a pre-trial facility.
- Eldest son started drinking alcohol.

## Probation officers



### Lecture/presentation

Use the notes below.

### Female probation officers

In Kenya, the law requires supervision of female offenders under probation orders by female officers (Probation of Offenders Act CAP 64, s.14 (2)).

This requirement is in place as a safeguard to prevent abuse or (sexual) exploitation of women offenders, because of the power dynamic between probation officers and the offenders they supervise. Also, women offenders are more likely to gain confidence and therefore open up to female officers.

In a training session with PRI in 2015, Kenyan probation officers stressed the importance of the allocation of cases to individual female probation officers. Where female officers are not available, cases could still be allocated to male officers who have benefitted from training on gender issues, for example.

### Voices of Kenyan probation officers

In April 2017, probation officers in the region of Kisumu and Nakuru piloted the revised tools and the gender-sensitive approach to social enquiries that the joint KPAS and PRI project had identified. Here are a few reactions to the new approach.

Before, I thought an offender is an offender, and it doesn't matter if they are male or female. My thinking was there is no excuse for committing a crime. But after I have gotten a change of perception. Now I take a little more time to dig deeper and find out more and what really caused them to offend.

Probation officers said that the project gave them an evidence-based backing to improve their work with women offenders. They highlighted the change in mindset and interviewing techniques:

Before, I would have brushed over issues and used closed questions, not taking time to probe and find out details. Now I engage them more and use open-ended questions – giving time to express themselves and explain. I also specifically find out gender-related issues – not just criminal. For example, I would never have asked about reproductive health before.

I used to treat them just as offenders. Now I have a better understanding; I am more sympathetic and find out who they are and why they may have committed the offence. The women have been more accepting of my questions and open up more. If you show that you want to understand they are more friendly and give more details about their life.

Probation officers noticed a change in the way that female clients related to them after adopting the new approach:

If I hadn't had the training [induction clinic], I wouldn't have gone deeper into issues and underlying problems. Before I generally looked at the offence, but now I give due consideration to other holistic aspects of their life.

Due to uncovering further information, officers were able to recommend non-custodial sentences for the women they dealt with during the trial period:

It is important to know what the international community thinks and what people's rights are, or I may even violate them unknowingly.

About the UN Bangkok Rules and the research report, the probation officers said:

15 minutes

## Session 4

# Supervision of community sanctions for women in Kenya

## Challenges women faced when serving community service or probation: key points



### Lecture/presentation

Use the notes below.



The facilitator should refer to the PRI/KPAS research report, page 17 onwards, for more details on challenges identified: [www.penalreform.org/resource/community-service-and-probation-for-women-a-study/](http://www.penalreform.org/resource/community-service-and-probation-for-women-a-study/).

### Cost and distance of travel to work station or probation appointment

- Many women struggled to save money to pay for transport to attend monthly appointments.
- Women were assigned to workplaces far from where they lived, increasing commuting time and affecting caretaking obligations. This also reduced their chances of securing casual work before/after completing their CSO work.
- The time of an appointment at the probation office might collide with household chores (e.g. preparing lunch for children), or the need to find and undertake casual work.

### Length and scheduling of community service work

- Where CSO work is not well-structured, there can be a grave socio-economic impact on women. For example, one woman explained:

“

The worst time for us is harvest time. Our crops rot away in the fields. The other house chore that is interfered with is fetching water. When we are unable to fetch water early in the morning before reporting for CSO work, we go at 1pm when the sun is scorching. Children come home from school and find the food not ready.

”

- When required to work 10 hours each week/two hours per day, the schedule left them unable to secure casual jobs, as it meant losing critical hours in the morning when casual work is available.
- Where hours were inflexible, childcare obligations were difficult to keep – children would be left unattended in some cases.

### Safety

- Some stations, e.g. police stations, were not suitable for women due to the harsh environment. In some cases, there had been reports of female offenders being asked by police officers to perform duties in private premises – compromising the safety of women.
- Women offenders should not be assigned to stations where they would be supervised by the same police officers who arrested them.

### Stigmatisation

- Communities stigmatised some of the women interviewed, which was mostly linked to the negative public perception of offenders. Furthermore, women who offend are viewed as not having conformed to the role society places on women. They face greater stigma and shame than male offenders.

### Physical and mental health

- Pre-existing health conditions can impact the type of work women can carry out as part of their CSO, as can pre- and post-natal care and breast-feeding.
- Mental health may also play a role in the type of work women can do, and stress, anxiety and depression were some of the common issues shared.

### Nature of CSO work and tools

- Heavy manual work exhausted women in some cases, so it should be considered that women often have household chores to deliver – which men may not have to carry out.
- Some women do not own basic tools to complete tasks assigned during community service, so would need to borrow from neighbours, etc., and they lacked safety equipment.

Support requirements

Economic empowerment

A critical need of women offenders is economic empowerment, to address the most common root cause of offending: poverty.



Good practice examples:

Uwezo Initiative, Kibera Station

Helping women set up small businesses. *‘Uwezo funded me to start a shop and I am doing well.’*

Table banking, Makindu Station

In this model, a donor (Philemon Ministries) contributed KES 20,000 as the principal amount. The women in this programme receive loans from the fund to expand their businesses and become financially stable, and they pay interest back into the fund. A self-help group has been established alongside the table banking project:

*‘The self-help group was registered with the Ministry of Gender and Social Services. The women meet here once a month. We encouraged them on the importance of being in a group and the Kenya Commercial Bank trained them on saving. There is minimal supervision of women for this group. Even after completing their term they remain in the group.’*

Family and community support:

This was pointed out by women offenders who noted that family support (practically and financially) is a critical component in enabling them to comply with their sentence (e.g. attend appointments or complete community service).



I hold an induction meeting with the offender and her spouse. During this meeting I explain the expectations for the offender and call for their support. For instance, I explain the number of hours that the offender is expected to work.



Probation officer

Counselling and other support programmes:

These are a critical part of helping women rebuild law-abiding lives. These should focus on empowering women (to improve their lives and deal with parenting or relationship stress, etc). Counselling may also include advice on how to better address family conflicts.



75 minutes

## Session 5

## Case study

## Case study



## Group work

## Overview

The facilitator should divide participants into smaller groups to work on the case study below. Each group should be given a copy of the case study as well as a copy of the recommendations in the PRI/KPAS report (pages 24–28).

Participants should be given a minimum of 30 minutes to discuss the case below and write down their findings. Encourage them to draw on the *Guidelines for Social Investigations and Pre-sentence reports* and the PRI/KPAS research report.

After 30 minutes, reconvene all participants in plenary and invite each group to present their findings and reasoning to the other participants in about five to seven minutes.

## Setting up the activity

The facilitator should divide participants into three groups (with about four to five participants each) and allocate one of the following questions to each of them. Ask them to discuss and prepare a flip-chart and present back to all participants after 30 minutes.

## Group 1:

Assess the *Guidelines for Social Investigations and Pre-sentence reports*, looking at the chapter on ‘Collection of social inquiry information’, and identify and mark which points are relevant to Mary’s case and why. Following this, outline what sanction you would recommend in your pre-sentence report for Mary, and the reasoning.

## Group 2:

Draft a pre-sentence report and identify what information is not available in the facts you were given on Mary’s case. What means of enquiry would you take to collect adequate information for the pre-sentence report, and to include gender aspects?

## Group 3:

In Mary’s case, identify the issues in the supervision of her community service, and outline what could be done differently to take account of her specific (gender) needs and challenges.



## Facts of the case

Mary is 23 years old and has two children, aged five and two. Her husband died one year ago and since then, she has struggled to financially provide for her two children and her sick mother, who lives with her.

She is arrested for selling *chang’aa* without a licence, for the second time in two years. She said, ‘*The first time I was arrested, it was immediately after my husband’s burial. I was in debt and needed food for my children.*’

Mary is put in pre-trial detention as she does not have any money to pay bail, and no one to ask for help. She has not seen any lawyer or legal representative. When her case is heard in court, the magistrate is given the following information in the pre-sentence report: offence, previous offences, marital status and address. Mary is convicted and handed down a community service order (CSO). The CSO conditions are to work for 10 hours over five days at a workstation, which is 30 minutes by bus from her home. Her job is to clean away all of the rubbish at a building site that other offenders – men and women – are working on.

In her induction meeting with her assigned probation officer, Mary explains that she has a bad back and struggles to walk far. She is also worried about her sick mother and children who need to be cared for. The worry of juggling all her duties are giving her sleepless nights and anxiety.

On the first day of her CSO, the supervising officer notes that Mary was late by one hour. Mary explains that she did not have any money to catch the bus so had to walk to the station. Mary is overheard explaining to one of the other offenders with whom she is working that she plans to start brewing *chang’aa* again, because she has no money and will not be able to arrive at the workstation on time if she can’t raise the bus money. She also says she is worried that she will not be able to feed her family otherwise.



The recommendations in the PRI/KPAS report (pages 24–28) are available here: [www.penalreform.org/resource/community-service-and-probation-for-women-a-study/](http://www.penalreform.org/resource/community-service-and-probation-for-women-a-study/).



### Facilitator's presentation

The facilitator should ensure the following points are covered in each of the presentations by the three groups:

- Mary is vulnerable in that she is poor and has three people in her care.
- The reason for her offending is linked to her poverty and her role in the family.
- In the pre-sentence report given to the magistrate, there is no information about the reasons for her offence, her caretaking responsibilities and economic situation. There is also no background information given as to why she has reoffended.
- Her offence is non-violent and minor.
- The CSO conditions appear to be long and harsh.
- The work station is far from her home (and requires her to have money for transport in order to serve her CSO).
- The transport costs to serve her CSO are a major challenge.
- The work is manual labour, impacting on her bad back.
- She is working with male offenders (are there any safety concerns?).
- The hours given are long and could prevent her from fulfilling her caretaking responsibilities, as well as the possibility to work to improve her financial situation.
- She is experiencing anxiety and should be offered some social support.
- Mary needs help to secure legal employment, so she can provide for her family. She needs to be economically empowered.

# Annexes

# Profile of women offenders in Kenya

A 2016 study of women serving alternative sanctions in Kenya, conducted within a joint project of Penal Reform International and the Kenya Probation and Aftercare Service, indicated that the majority of women are:

## Mothers with young children

Three quarters had children under the age of 18.

## Low educational status

Only 21 per cent had been to secondary school and none had university qualifications.

## Unskilled

Most women interviewed were semi-illiterate and unskilled.

## Low earners

The majority worked in the informal sector in agricultural and domestic activities such as hairdressing or selling household goods and food/drink. Also, there is a high percentage of women who have casual employment (rather than permanent jobs).

## Victims of violence

33 per cent indicated that they had been subjected to domestic violence at one point in their lives.

## Poor health

Many women interviewed were HIV positive or living with AIDS.



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Poster for brainstorm activity on page 7.

# Women in the criminal justice system

## Convicted of minor and non-violent offences

36 per cent of women, for example, were convicted of selling alcoholic drinks without a licence.

13 per cent were for other minor offences such as collecting wood in forests and failure to construct a toilet.

## Offending to earn a living

67 per cent said they had offended to earn money and support their family.

## Unable to access a lawyer

Only 6 per cent had access to legal representation during the court process.



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Poster for brainstorm activity on page 7.



## Annex 2

# Summary of research report



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Use this summary handout in case the video documentary cannot be shown.  
See page 12.

## Community service and probation for women: a study in Kenya<sup>10</sup>

### Background

Most women in conflict with the law are mothers, poor, and have committed minor, non-violent offences, which are often driven by poverty.

Prison is a bad option for these women, who risk losing their homes, children and health. Giving priority to non-custodial sanctions for women wherever appropriate is a guiding principle of the UN Bangkok Rules for women offenders and prisoners, the key set of international standards in this area. Probation and community service is often a much better option than prison, but like many other aspects of criminal justice systems, it is usually set up with male offenders in mind, paying little attention to the reality of women's lives.

Penal Reform International (PRI) and the Kenya Probation and Aftercare Service (KPAS) have conducted pioneering research to identify the challenges for women in completing community service sentences. There are simple adjustments probation services can make to ensure that women are not set up to fail, that their children do not suffer too, and that they gain skills or support that make reoffending less likely.

### Research findings

The research revealed that certain criminal offences have a specific impact on women, and are closely linked to being poor. For example, many women were convicted for 'cutting grass' or 'removing firewood' under the Wildlife Conservation Act and Forest Act respectively, which they had done to provide for their families (either to cook, feed their animals or sell for a small profit).

Another common offence was illicit alcohol brewing, which, like the previously mentioned offences, were committed by the women because of poverty and to support their families.

Between arrest and conviction, the majority of women were held in pre-trial detention, which had a negative impact on their lives and their families' lives, and also resulted in stigmatisation of the women.

The research findings showed that the realities of women's lives create additional/different challenges for women than for men, when they are serving community service or are under a probation order.

#### For example:

- **Length and scheduling of community service work:** Being required to work 10 hours a week over five days, coupled with commuting time, prevented casual employment (normally available only in the morning), and didn't allow adequate time to fulfil their family roles (e.g. childcare, household chores, cooking, etc).

“

A widow with a sick child went to look for help at the community service order project as [the child] could not be treated without the KES 50 required at the dispensary. The widow did not have the money as she had not done any casual work that day.

”

- **Fulfilling primary caretaking responsibilities** for children and other family members (e.g. the elderly, relatives with disabilities) was also problematic; many experienced problems organising childcare while delivering community service.
- **Stigmatisation** was experienced by some women; for example, one woman explained:

“

My son started drinking alcohol when I was in pre-trial detention. The community now blames me for this.

”

- **Transport:** Many women had problems affording transport costs for appointments with probation officers, and to travel to the place where community service orders are served.
- **Types of work at community service:** Only a couple of pilot projects enabled women to develop their skills. In a few cases women were exposed to harassment at their work station.

### Recommendations

Based on the findings and informed by the UN Bangkok Rules, 16 recommendations are given, directed to the government, judiciary, the KPAS and probation officers.

To highlight a few key recommendations at the level of the KPAS and probation officers:

1. Development and expansion of support programmes to increase the rehabilitative potential of non-custodial sanctions for women, who typically lack life skills and need help with addressing violence in their lives and mental health issues, etc.
2. Programmes to economically empower women offenders is highlighted as a key recommendation. Good practices already in place are explained in the report.
3. More work stations for women so that their allocation can be closer to home to limit the commuting time and also have a greater number of types of work, etc.

10. Penal Reform International and Kenya Probation and Aftercare Service, *Community service and probation for women: A study in Kenya* (2016), [www.penalreform.org/resource/community-service-and-probation-for-women-a-study/](http://www.penalreform.org/resource/community-service-and-probation-for-women-a-study/).

Annex 3

# Identifying gender-related aspects



Please categorise each highlighted excerpt as either:  
– gender-related, or  
– gender-neutral.

Charity was **arrested for cutting grass** in a government-protected area. She offended because she had **no money to buy feed for her cattle**; she had **recently become unemployed** as she was **heavily pregnant with her third child**.

Charity was **detained in a pre-trial facility** for nine days. Her **eldest son started drinking alcohol** when she was in pre-trial detention, and the **community blamed her for this**.

Annex 4

# Case study

Facts of the case

Mary is 23 years old and has two children, aged five and two. Her husband died one year ago and since then, she has struggled to financially provide for her two children and her sick mother, who lives with her.

She is arrested for selling chang’aa without a licence, for the second time in two years. She said, ‘The first time I was arrested, it was immediately after my husband’s burial. I was in debt and needed food for my children.’

Mary is put in pre-trial detention as she does not have any money to pay bail, and no one to ask for help. She has not seen any lawyer or legal representative. When her case is heard in court, the magistrate is given the following information in the pre-sentence report: offence, previous offences, marital status and address. Mary is convicted and handed down a community service order (CSO). The CSO conditions are to work for 10 hours over five days at a workstation, which is 30 minutes by bus from her home. Her job is to clean away all of the rubbish at a building site that other offenders – men and women – are working on.

In her induction meeting with her assigned probation officer, Mary explains that she has a bad back and struggles to walk far. She is also worried about her sick mother and children who need to be cared for. The worry of juggling all her duties are giving her sleepless nights and anxiety.

On the first day of her CSO, the supervising officer notes that Mary was late by one hour. Mary explains that she did not have any money to catch the bus so had to walk to the station. Mary is overheard explaining to one of the other offenders with whom she is working that she plans to start brewing chang’aa again, because she has no money and will not be able to arrive at the workstation on time if she can’t raise the bus money. She also says she is worried that she will not be able to feed her family otherwise.



Group 1:

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Group 3:

In Mary’s case, identify issues in the supervision of her community service, and outline what could be done differently to take account of her specific (gender) needs and challenges.

## Annex 5

# Model PowerPoint Presentation on research findings in Kenya





**Research towards  
gender-sensitive community  
service and probation orders  
in  
Kenya**

## Profile of women offenders in Kenya

- Women bear the bulk of responsibilities for extended family
- 85% had children
- Low education
- Majority low earners, informal sector (agriculture and domestic activities)

**26% of women interviewed experienced depression**

In this area, women shoulder most of the responsibilities. (Probation Officer)

Women are the sole providers. When serving a CSO, the family suffers. (Probation Officer)

## Disproportionate impact of specific offences on women

- 1) Alcohol Drinks Control Act 2012  
36% of women interviewed (for brewing) 
- 2) Forest Act/Wildlife Conservation Act  
18% of women interviewed 
- 3) Meru by-laws: failure to construct a toilet 



## Impact of offences

I had no money. Was I to build a toilet or pay school fees?

My husband does not care and I was expectant. Why was I the one arrested?

E.g. Meru by-laws on construction of a toilet



I was arrested immediately after my husband's burial. Building a toilet was not a priority.

## Challenges women face in serving their community sanction

- Cost and distance of travel to work station
- Length and scheduling of CSO work and appointments with probation
- Physical and mental health
- Lacking the tools for work
- Stigmatisation
- Lack of family support
- Safety at work station



## Impact of offences

### Linked to economic need

- Women convicted of selling *kangara* and *chang'aa* (illicit alcoholic drinks) without a licence said:
  - brewing is a steady source of income
  - could sell from home while taking care of their children at the same time
  - could obtain the ingredients on credit and pay the supplier after selling the drinks
- Women convicted for removing forest produce were using the wood for cooking, or to sell to meet other basic needs.



**67%**  
of the women interviewed said they had offended TO EARN MONEY AND SUPPORT THEIR FAMILY

## Challenges women face

"Since I started serving the CSO my business failed. I am now ridiculed because my children are no longer in school"

"My son started drinking alcohol when I was in pre-trial. The community now blames me for this"



"A police officer used to harass me. I resisted his advances and reported it and he was transferred"

"The CSO work interferes with their livelihoods like planting and fetching water; and with pregnancy and nursing"



## Challenges women face

### Distance, length and scheduling of community service work:

10 hours a week (2 hours a day over 5 days), doesn't include commuting time.

Casual jobs only available in the morning to earn money

Caretaking obligations during the day

Time serving CSO  
+ commuting time  
+ caretaking obligations  
+ household chores  
+ casual labour

=...?



## Challenges women face

### Nature of work

Adequate based on skills, health, not 'gendered' (i.e. thought of as 'appropriate' for women) and safe

"After all, we do the same kind of work at home" (Woman serving a CSO)



**Community service project in Maua:**  
Road construction site. Run by PAS, tangible work with visible results that benefit the community. Opportunity to learn skills

## Recommendations

- Develop support programmes for women offenders
- More work stations for women (for closer allocation to work stations to their homes)
- Economic empowerment programmes (skill-building)
- Adequate interventions for mental health issues
- Expand peer support initiatives



## Good practice

### Uwezo Initiative, Kibera:

Helping women to set up small businesses

Uwezo funded me to start a shop and I am doing well

There is minimal supervision of women in this group. Even after completing their term they remain in the group

### Table banking, Makindu:

Donor Philemon Ministries contributed to set this fund up. Women receive loans, and pay back interest. They formed a group and help each other

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# Resources

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The following resources are available on PRI's website at: [bit.ly/PRIresources](https://bit.ly/PRIresources)

## **Community service and probation for women: Lessons and recommendations based on a study in Kenya**

This briefing draws on research from Kenya and other studies on women in the criminal justice system to outline lessons and recommendations on designing and implementing community service and probation for women, in line with the UN Bangkok Rules. Available in English and Swahili.

## **Community service and probation for women: a study in Kenya**

A research report investigating the experiences and recommendations of women offenders who have served community service and probation orders in Kenya. The report identifies the challenges women face and makes recommendations for improving the gender-sensitivity of the community sanctions system.

## **Film: 'Equal justice': making community sanctions work for women in Kenya**

This short film highlights the benefits – as well as the challenges – experienced by women serving community service and probation orders in Kenya.

## **Guidelines for social investigations and pre-sentence reports**

Guidelines for incorporating a gender-sensitive approach to social enquiries and pre-sentencing reports were produced using feedback from relevant stakeholders, as well as probation offices in two pilot locations in Kenya (Kisumu and Nakuru).

## **Model for reform**

The model for reform documents the overall experiences and findings of the project implemented by PRI with KPAS in Kenya on gender-sensitive community sanctions. It lays out 10 key steps to take when replicating the project in an international context, in order to introduce a gender-sensitive approach to non-custodial sentences.

## **Blog**

Paul King'e, County Probation Director in Nakuru, Kenya, explains why a gender-sensitive approach is needed.

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## Other related resources by PRI

Toolbox  
on the UN  
Bangkok  
Rules

### **Short guide to the UN Bangkok Rules**

A short illustrated guide to the Rules and what they say.

### **Free online course – Women in detention: Putting the UN Bangkok Rules into Practice**

Combines analysis of the Rules, interactive assessments and application of the Rules to real life situations, with a certificate issued on completion.

### **A Workbook on Women in detention: putting the UN Bangkok Rules into Practice**

Adapted as an offline version of the online course, this training resource includes 10 modules that take learners through key themes, case studies, exercises and quizzes on women in detention.



A range of other resources to support the implementation of the UN Bangkok Rules are available at: [www.penalreform.org/priorities/women-in-the-criminal-justice-system/bangkok-rules-2/tools-resources/](https://www.penalreform.org/priorities/women-in-the-criminal-justice-system/bangkok-rules-2/tools-resources/)





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