

# PROACTIVE ENGAGEMENT OF THE COMMUNITY IN OFFENDER TREATMENT AND REHABILITATION

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## I. INTRODUCTION

The rationale for community involvement in offender treatment stems from the fact that offenders come from the community and are only in detention facilities for a relatively short period of time, with the exception of the minority serving sentences for life or under death sentences – which many countries are under considerable pressure to abolish. Secondly, offences are committed in the community and have, among others, the consequence of severing relationships not only between the offender and the victim, but among community members, beginning with the immediate family members of both the victim and offender. Thirdly, offenders inevitably go back into communities after serving their detention sentences and therefore have to inevitably interact with community members. Finally, involvement of the community in offender treatment maintains the link between the offender and the community and to an extent eliminates isolation and stigmatization that the offender and his or her immediate family suffer. This therefore calls for well thought-out strategies to involve the community in the rehabilitation of offenders to pave way for the eventual reintegration of ex-offenders into the community.

Detention of offenders is perceived by most individuals affected by crime and communities at large to be a means of meting out punishment to the offender for whatever offences he or she may have committed. This view results in ill treatment of offenders, contrary to the agreed standard treatment of offenders. In reality, the perception should be shifting towards: firstly, offenders' being in detention is punishment in and of itself because of restrictions imposed on their liberty; secondly, offenders' being in detention is for purposes of treatment and rehabilitation so that by the time they are released back into the community, they are reformed, law abiding and responsible citizens respecting the rule of law. A successful shift of perception will go a long way in realizing the full integration of ex-offenders in the community. It is therefore of paramount importance that the community recognizes its role in the rehabilitation of offenders and continues to play an active role in the lives of offenders during their stay in detention, in the treatment and rehabilitation process and eventual reintegration into the community.

There are different categories of community members, civil society organizations, private sector enterprises, faith-based organizations and government departments that need to work together to attain successful rehabilitation of offenders and full integration into the community. This will reduce repeat offending and, consequently, deal in part with the problem of congestion in detention facilities.

## II. CATEGORIES OF COMMUNITY MEMBERS AND SERVICES THAT THEY RENDER FOR OFFENDER TREATMENT AND REHABILITATION

The individuals and groups that need to be involved in the treatment and rehabilitation of offenders can be broadly categorized into the following:

- (i) Family, friends and colleagues of the offender;
- (ii) Complainants and victims of crime;
- (iii) Community leaders;

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- (iv) Community members;
- (v) Civil society organizations, faith-based organizations and volunteers;
- (vi) Government;

#### **A. Family, Friends and Colleagues of the Offender**

This category is the closest to the offender and, in most cases, due to their association with the offender, they directly or indirectly suffer the consequences of the crime committed. Often they are stigmatized by the community because of their association with the offender and the immediate family also suffers from the socio-economic effects of the absence of the offender and the role he or she was playing in the family and social network.

As a result, this category sometimes reacts by distancing themselves from the offender and do not want to be associated with him or her for purposes of being accepted by the wider community that may have been negatively affected by the crime. Sometimes it is for purposes of safeguarding themselves against being isolated by the community. This explains why some offenders are never visited by family and friends during their time in detention. In so-doing, family, friends and colleagues miss out on the role they would have played in assisting the offender to access justice and in the whole process of treatment, rehabilitation and reintegration of offenders.

It is important to note that this group is the most important category that must play an active role in the treatment and rehabilitation process of offenders by: providing necessary support to assist in accessing justice; providing social, emotional and economic support to the offender; maintaining the link between the offender in detention and the outside world; and the eventual acceptance and support for the ex-offender after serving his or her detention sentence.

Failure of family, friends and colleagues to offer the above mentioned support is in part responsible for the prolonged stay of an offender in detention, hence creating overcrowding in detention facilities. It is also contributory to repeat offending.

#### **B. Complainants and Victims of Crime**

This is category that is the most directly affected by the crime committed and may be vital in providing information for timely completion of investigations and making themselves available as witnesses for the prosecution. Unfortunately, especially in developing countries, once a crime is reported, complainants and victims tend not to cooperate with the administrators of justice to provide necessary information for expeditious disposal of cases.

On the other hand, if the needs and concerns of this category of the community are not adequately addressed, they may pose a challenge to successful reintegration of the offender. This often manifests if they are not willing to accept the outcome of the due process of the administration of justice and/or failure to accept reconciliation and reintegration of the offender in the community. The result is often revenge, which only creates other offenders.

Unfortunately, this category is often ignored in reintegration of offenders into the community. There are also few interventions to address their concerns. In instances where the concerns of this category are addressed they are relatively more responsive to efforts of reintegration of offenders into the community. This therefore calls for proactive engagement with victims and complainants and focusing on providing a linkages and relevant feedback between them and the offender. In some instances a meeting before release of the offender helps to ward off any fears and apprehension on either side.

#### **C. Community Leaders**

In every community there are traditional leaders, civic leaders and opinion leaders who are influential and may play an important role, especially in the reintegration of ex-offenders in the community. This category may be very helpful in promoting reconciliation between the offender and the aggrieved party. They may also be helpful in quelling animosity and revenge by the complainants and victims of crime. On the other hand, they are very helpful in allowing the ex-offender to resettle in the community. While offenders do actually reform with successful treatment, communities take a long time to accept that

an ex-offender has reformed and as such, they tend to resist their settlement and reintegration in the same community. Therefore community leaders are very instrumental in negotiating for reintegration of ex-offenders in their communities of origin.

#### **D. General Community Members**

In addition to the support that community leaders offer for successful reintegration of ex-offenders into the community, the involvement of the general community is also called for. Not only will they allow for reintegration, but their involvement also allows for greater success of other measures against overcrowding such as diversion, sentencing alternatives to detention such as community service and parole, as well as early release.

The existing gap however is that often, communities are not prepared to receive ex-offenders and continue holding old perceptions about the ex-offender. This is often manifested by resistance to reintegration of the offender in the community.

On the other hand, it is important to note that the ultimate beneficiary of successful offender rehabilitation is the community itself because it will achieve the goal of crime reduction. Furthermore, community members will be under less stress to meet the costs of social services which they inevitably incur indirectly in caring for those affected by crime, including services to family members who may not be able to care for themselves if a family member is in detention or paying for rehabilitation services for victims of crime.

Community members are also helpful in providing assistance to promote access to justice. They may act on behalf of either the victim of crime or the alleged offender to provide evidence in courts of law or even stand as sureties for eligible offenders to access bail and hence reduce overcrowding.

This therefore calls for aggressive and continuous community sensitization on the benefits of community involvement in the treatment and rehabilitation of offenders and role of the community in promoting access to justice. Civil society organizations play a vital role in providing this service.

#### **E. Civil Society Organizations, Faith-Based Organizations and Volunteers**

These are also part of the community because employees or volunteers are community members. Interventions by this category often arise due to an existing gap in government service provision or as efforts to complement services provided by government. As earlier noted, government institutions, especially in developing countries, are often constrained by limited financial and human resources.

Sometimes civil society organizations and faith based organizations use volunteers who are rehabilitated ex-offenders. These provide examples and hope which motivate offenders to reform and follow through treatment regimes. This category also provides specialized services like half-way houses for offenders for whom negotiations for resettlement and reintegration into their communities are still ongoing.

This category also takes on roles to provide services that are necessary but may not be provided by government, for example advocacy and community awareness on issues of offender treatment and rehabilitation. The case of the Paralegal Advisory Services in Uganda will provide examples for this.

#### **F. Government**

It is important to recognize that governments alone, although responsible for detaining offenders, they cannot adequately provide all the required services for the treatment and rehabilitation of offenders. As such, government institutions responsible for detention of offenders need to adopt an open door policy that allows other stakeholders to play a role in the treatment and rehabilitation and eventual reintegration of offenders into the community. However as a prerequisite, governments need to ensure that adequate resources, both financial and well trained and facilitated human resources, are made available to institutions responsible for detention.

Governments can then provide vocational and formal training and avail of work opportunities for detainees to help them acquire new skills or put to use their skills while in detention to enhance their employability and reintegration in the community.

### **III. THE ROLE OF THE PARALEGAL ADVISORY SERVICES (PAS) – UGANDA IN OFFENDER TREATMENT AND REHABILITATION**

The Paralegal Advisory Services – Uganda is an initiative aimed at promoting access to justice for indigent offenders in the criminal justice system. The programme provides basic legal aid services by non-lawyers including paralegals and social workers to persons in conflict with the law. The programme, although initiated and funded by some of Uganda’s Development Partners under the Legal Aid Basket Fund, is managed by one of the leading national human rights organizations- Foundation for Human Rights Initiative (FHRI).

#### **A. Foundation for Human Rights Initiative (FHRI)**

The Foundation for Human Rights Initiative has the following objectives:

- (i) Promote citizen awareness of basic human rights and duties guaranteed in the Ugandan Constitution, regional and international human rights instruments;
- (ii) Undertake research, monitoring and documentation of human rights practices;
- (iii) Promote good governance, respect for the rule of law, democracy and human rights;
- (iv) Promote access to justice through public interest litigation and provision of legal aid services.

The Foundation for Human Rights Initiative (FHRI) has made significant contributions to improved access to justice in Uganda and advocating for observance of human rights and adherence to human rights standards. Notable among the many contributions of FHRI is the advocacy for legislative reform – specifically the amendment of the Prisons’ Act (2006) which now largely conforms to the International Basic Principles for Treatment of Prisoners; advocacy against the death penalty in Uganda; and the right to reparations for victims of torture.

The Foundation for Human Rights Initiative (FHRI), through a bidding process, won the contract to manage the PAS programme, an initiative promoted by development partners, based on the organization’s contributions to the Justice Law and Order Sector in improving the administration of justice.

#### **B. The Paralegal Advisory Services (PAS) – Uganda**

As a programme under FHRI, the Paralegal Advisory Services programme provides interventions aimed at empowering the users of the criminal justice system with the end result of making them “active players and partners” in the administration of criminal justice, including, among others, interventions for the treatment and rehabilitation of offenders. More specifically, the programme fills some of the existing gaps in the administration of justice by participating in the process of decongestion, engaging in practice advocacy, and raising the visibility of the demand side of the criminal justice system.

The Paralegal Advisory Services uses a partnership approach of implementation and therefore FHRI-PAS signed a Memorandum of Understanding (MoU) with Uganda Prisons Service which directly implements eight of the existing eleven programme sites throughout the country while three programme sites are managed by grassroots civil society organizations. The programme also uses referrals to other legal aid service providers for complementary services, especially representation of cases on *pro bono* schemes.

The Paralegal Advisory Services programme activities are a response to challenges and gaps that exist in the administration of justice, namely:

- Delays in dispensing justice, especially for the indigent;
- Congestion in police cells and prisons;
- Lack of access to services of lawyers, especially for the indigent on petty offences;
- Ignorance of suspects, prisoners and the general public on procedures of the criminal justice institutions and the basics of administration of justice;
- Limited regular coordination among the criminal justice institutions in the administration of justice;
- Lack of effective linkages with the community for expeditious administration and delivery of justice.

The Paralegal Advisory Services programme relates more specifically with the Prisons Welfare and Rehabilitation Section whose mandate is very similar. In fact the relevance of the Paralegal Advisory Services is largely dependent on funding and human resource gaps in the Uganda Prisons Service.

1. Activities of Paralegal Advisory Services and Responses to the Existing Challenges

The Paralegal Advisory Services engages in the following activities:

- Educating suspects of crime, prisoners, complainants/victims and the community on the basics of law and procedures of the criminal justice system for improved access to justice;
- Links suspects at police and prisoners in detention to the criminal justice institutions and the community through tracing of sureties, negotiating for community service sentences for minor offenders and linking capital offenders to advocates for legal representation;
- Contributing to the process of decongestion in prisons and police cells through facilitating reduction of overstay on remand, fast tracking plea of guilty cases for quick case disposal and diverting petty cases from the formal justice system;
- Contributing to change of practices within the criminal justice system through advocacy and civic engagement.

2. Achievements of the Paralegal Advisory Services

According to the most recent evaluation report (2011) of the Paralegal advisory Services 2007 – 2010 conducted by the Law and Development Partnership Consultancy firm based in UK, the following is a summary of the achievements of the Paralegal Advisory Services in Uganda.

Uganda's Paralegal Advisory Services (PAS) has been seen as a major access to justice success story in Uganda, providing cost effective 'legal first aid' to poor people caught up in the criminal justice system by:

- *Filling gaps where the criminal justice system operates in a dysfunctional manner*  
PAS does this by assisting criminal justice staff to undertake their duties more effectively – for example, supplying prison social workers with motorcycles and mobile phones to enable them more effectively to link inmates to the outside world and with the possibility of finding a surety to enable them to be bailed. PAS also assists with the overall running of the criminal justice system - for example finding lost files, and identifying cases that have been waiting longest for trial, so that they can be heard as a priority.
- *Providing basic legal advice and assistance to detainees in the criminal justice system*  
This is provided in police cells, court cells and prisons. This is done through legal advice clinics for groups of detainees, by providing one-on-one advice, and where appropriate by linking detainees to lawyers or to other organizations who can give them assistance when this is outside the scope of the PAS.

(i) *Has the PAS contributed to the process of physical and case file decongestion of the criminal justice system?*

The PAS paralegals and social workers contributed to the release of over 26,600 detainees from the criminal justice system in eleven months, an average of about 2,425 per month, or more than one release per day for each of the PAS 77 paralegals and social workers.

Levels of prison overcrowding did not change significantly over the period of PAS operations, and prison capacity continues to stand at about 225%. There has however been a significant shift in the proportion of inmates awaiting trial. Overall, prison remand figures have fallen during the period of PAS operations from 63% in 2005 to under 55% in 2010. This reduction can only in part be attributed to the PAS, which operates in 38 prisons, covering 57% of the prison population. But PAS appears to have been highly effective in reducing the number of *petty* offenders on remand, with an average of 545 prisoners being released from prison on bail each month due to PAS intervention.

(ii) *To what extent has the PAS diverted cases from the criminal justice system?*

A key aim of the PAS is to remove appropriate cases from the criminal justice system *before* they reach prison – after a suspect has been arrested but before charges are brought. Stopping such cases before they

enter the court and prison system is clearly a highly effective method of decongestion.

The single most effective PAS intervention has been at police stations - assisting suspects to access police bonds.

*(iii) Has the PAS changed practices within the criminal justice system?*

Through its engagement at the 'sharp end' of the criminal justice system, the PAS is exceptionally well-placed to identify systemic failings in the criminal justice system and through its engagement with criminal justice institutions to catalyse changes in practice within the system PAS has been responsible for some significant changes in working practices on the ground.

*(iv) Has the PAS linked the demand and the supply sides of the criminal justice system?*

The PAS has clearly provided improved access to justice for an impressive number of defendants in the criminal justice system through:

- Campaigns and public outreach – for example, radio talk shows on local radio stations;
- Paralegal advice clinics held in police stations and prisons – where paralegals and social worker provide general information to detainees about their rights and the working of the criminal justice system;
- Providing one-on-one advice to individual detainees in police stations, courts and prisons to empower them to represent themselves;
- Referring detainees charged with capital offences to lawyers willing to provide their services for free under *pro bono* schemes.

*(v) Is the PAS cost effective?*

The PAS appears to be a highly cost effective intervention. Each advice session (both legal advice clinics and individualized advice sessions) costs on average US\$2.60 per attendee.

The cost benefit of PAS can be demonstrated in relation to the release of detainees. If PAS can bring a prisoner's release forward by more than two weeks, it saves the prison service US\$20, which covers the cost of the PAS intervention. If PAS brings forward a prisoner's release by six weeks, then the saving rises to US\$60 – three times the cost of the intervention, and a return on the PAS investment of 200%. (The rate of return on PAS investment would be even higher if we took into account the economic benefit of the work the released prisoner would undertake e.g. assuming a US\$1 a day wage the rate of return would rise to 300%.)

High Court mini-sessions facilitated by PAS were even more cost effective. Seventy five case were disposed of in five days, at a cost of US\$ 1,300 (US\$ 3 million). The speedy disposal rate was due to PAS interventions and to defendants pleading guilty. If these cases had proceeded to full trial, the cost to the Judiciary (not including the Directorate of Public Prosecutions (DPP) and police) is estimated to be US\$ 35,000 (US\$ 80 million). The PAS intervention thus saved the system US\$ 33,700. As the average cost to PAS per release is US\$20, the costs in relation to the 75 defendants would have been of the order of US\$ 1,500. The cost benefit ratio is more than 1:22 – an extraordinary return on investment of over 2,000%.

*(vi) How effective is the PAS in different criminal justice institutions?*

The service that the PAS provided is clearly appreciated by all the criminal justice institutions in which it operates (police stations, DPP, courts, prisons and remand homes) at both the policy and operational level. Senior officials interviewed in all these organizations were clear that PAS is performing a valuable service, and enabling them to do their jobs better.

When working with the police and the DPP, PAS has an oversight role – to see that cases are properly handled, and the rights of detainees respected.

*(vii) How effective are the linkages between the PAS and other legal aid service providers?*

Paralegals and social workers can provide only basic legal assistance – *legal first aid*. For complex cases, and particularly capital cases which are tried in the High Court, detainees need the assistance of a

fully qualified advocate. The PAS clearly makes an attempt to connect detainees to other legal aid service providers and private advocates for *pro bono* services in these circumstances. Each paralegal makes on average just over one such referral a month. But the key problem faced by PAS is the limited availability of free legal advice from lawyers.

3. Other Initiatives in Uganda aimed at Improving Community Involvement in Offender Treatment

The Uganda Prisons Service's welfare and rehabilitation section is continuously improving with more government and civil society support to perform their role. For example, more social workers are being recruited to revamp activities of this section. The section is also co-implementing a number of civil society initiatives for the treatment and rehabilitation of offenders.

Uganda has a National Community Service Programme which aims at providing alternative sentences to detention, especially for petty offenders. This contributes to reduction of overcrowding in detention facilities as well as providing avenues for reintegration of offenders into communities with active participation of community members.

Under the Uganda Law Society, a national legal aid *pro bono* scheme is being implemented to provide offenders with advocates for representation services in courts of law. This promotes community skills – advocates to help offenders to access justice.

The civil society movement in Uganda has largely taken up responsibility for legal aid service provision, including offering psychosocial support for offenders and victims of crime through paralegals and social workers. The government, through a new pilot initiative of Justice Centres managed by the Judiciary, is slowly making its contribution.

#### IV. SUMMARY

A holistic approach to the treatment of offenders cannot be achieved without the proactive engagement of the community. Different sections of the community have specific contributions which are complementary and need to be adopted and implemented together with government efforts in offender treatment.

It has also been proven that multidisciplinary teams involving practitioners such as lawyers, social workers, paralegals, medical practitioners, psychosocial therapists are all necessary for comprehensive interventions.

On a similar note, the partnership approach to service provision between government and civil society organizations yields sustainable and comprehensive services.

Finally, given the fact that offenders are members of the community who eventually end up in the same communities after serving prison sentences, and that crimes are committed in the community with consequences being borne by different members of the community, it is inevitable that successful efforts to treat and reintegrate offenders in the community have to involve community interventions to avoid resistance and a backlash expressed by vengeful actions which could result in more crime.