

PARTICIPANTS' PAPERS

THE ROLE OF CORRECTIONAL FACILITIES IN ENHANCING THE REHABILITATION OF NON-CUSTODIAL OFFENDERS IN KENYA

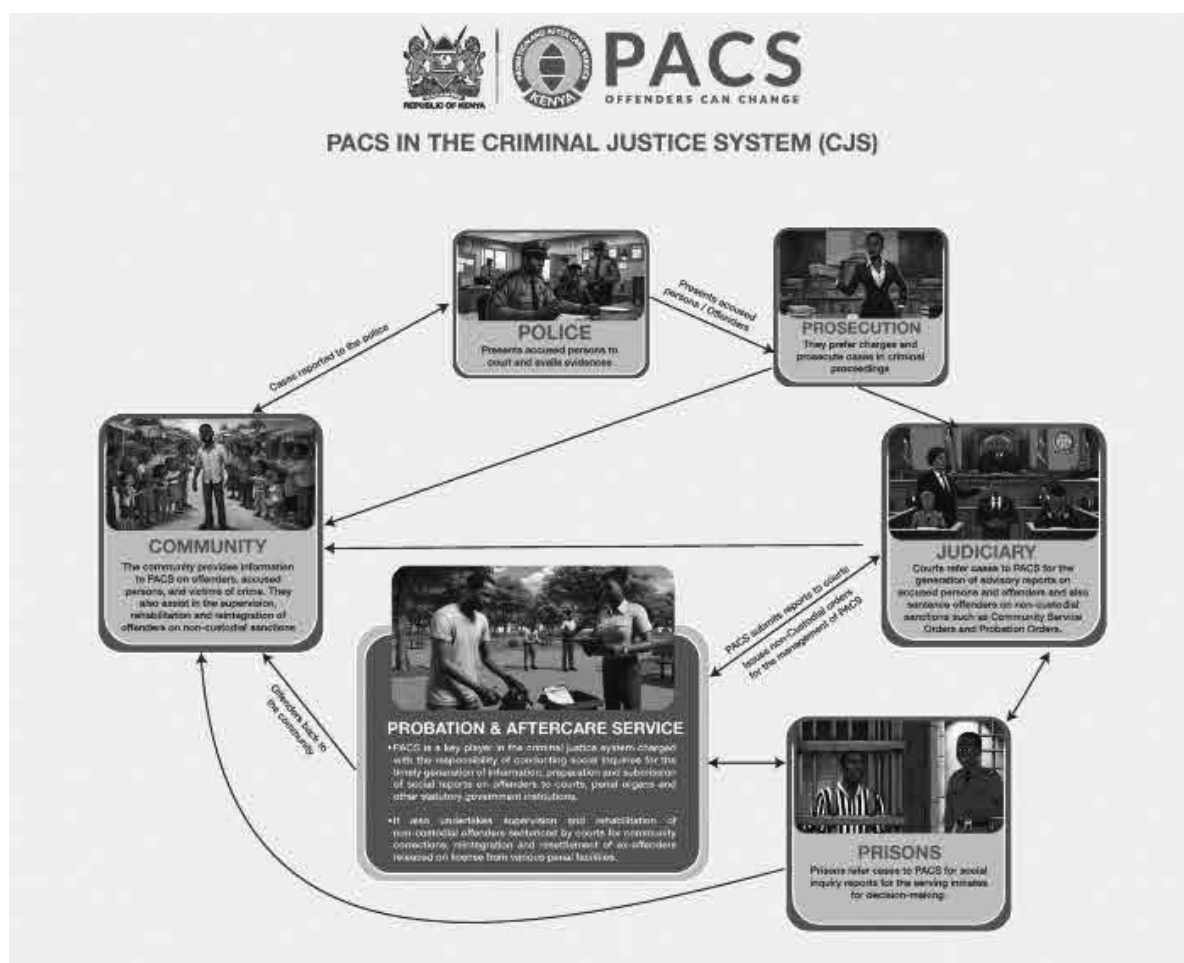
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I. CORRECTIONAL FACILITIES FOR NON-CUSTODIAL OFFENDERS

A. Introduction

Kenya's probation system (Probation and Aftercare Service) plays a central role in non-custodial offender management, treatment and administration of justice in Kenya by executing its broader mandate of conducting social inquiries, provision of reports to courts and penal institutions, supervision, rehabilitation, reintegration and resettlement of offenders back to the community. Through its services, PACS ensures adherence to the rule of law and upholding public safety.

Probation officers play key roles, including preparing pre-sentence reports, supervising offenders, facilitating community service, therapeutic interventions and supporting reintegration, among others. They ensure compliance with court orders (Probation Orders, Community Service Orders and Aftercare), liaise with stakeholders and promote restorative justice to reduce reoffending and enhance public safety.



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B. Legal Provision on the Establishment of Probation Hostels

The correctional facilities for non-custodial offenders' rehabilitation in Kenya are known as probation hostels. These facilities are temporary homes for probationers whose home environment is not suitable for community rehabilitation. The probation hostels are run by the Probation and Aftercare Service (PACS) department. Probationers are non-custodial offenders placed by law courts to serve probation orders from a minimum period of six (6) months to a maximum period of three (3) years.

The facilities provide abode for probationers who cannot be adequately rehabilitated in their home settings due to various problems provided for by section 5(2) in the Probation of Offenders Act Cap 64, Laws of Kenya.¹

Probation and Aftercare Service experienced its first placement of an offender (female offender) in a probation hostel in 1957. Later, there were cases of young male offenders or boys who were committed to probation hostels for rehabilitation and training for vocational programmes for self-reliance upon release.

If a case is suitable for a probation order but where the home environment is not conducive for a child or a youthful offender, a probation officer may recommend that the child or the youth be placed in a probation hostel. Before making a recommendation for committal to a probation hostel, the probation officer shall provide the child or youth with information regarding probation hostels and seek the child's consent to reside in a probation hostel.²

1. Functions of the Probation Hostels

- i) Offer rehabilitative programmes responsive to assessed criminogenic needs of offenders for smooth reintegration and resettlement back to the community to forestall recidivism;
- ii) Provide temporary accommodation for needy probationers whose home environments are not conducive; and
- iii) To prepare the offender for reintegration into the community.

2. Design and Physical Environment of Probation Hostels

The design and physical environment of probation hostels for young offenders play a crucial role in supporting rehabilitation, ensuring safety and promoting positive behavioural changes. The environment is conducive to personal development, respect for authority, social reintegration and accentuates the beauty of nature as follows:

- i) Be as homelike and comfortable as possible, providing young offenders with a sense of dignity and belonging;
- ii) Focus on the safety and security of both probationers and staff with secure entrances, effective surveillance systems and protocols to prevent unauthorized access;
- iii) Have counselling and accommodation rooms designed to foster positive peer interaction and conflict resolution;
- iv) Provide for recreational facilities that promote growth and development;
- v) Promote privacy and respect for personal space.

3. Offenders Suitable for Committal to Probation Hostels

Ideally, an offender who is initially deemed suitable for probation may also be considered a potential candidate for placement in a probation hostel. However, to ensure that hostels admit only the most appropriate clients, the following checklist must be observed by the committing stations:

¹ Probation of offenders Act Cap. 64.

² NCAJ Throughcare and Aftercare procedures for Statutory Children institutions in Kenya, April 2023

- i) Has the probationer provided informed consent to reside in the hostel?
- ii) Have the probationer's relatives or significant others consented to the hostel placement?
- iii) Has the officer in charge of the station been formally notified of the potential hostel placement?
- iv) Was a case conference convened to deliberate on the matter before the case officer recommending hostel committal to the court?

4. Rehabilitation Programmes in Probation Hostels

- Guidance and counselling;
- Life skills training includes; decision making, critical thinking, communication skills, peer resistance skills;
- Treatment programmes such as Pro-Social Modelling, Functional Family Therapy, cognitive behavioural therapy, motivational interviewing, personal awareness, group therapy;
- Vocational training which are responsive to the current market value chains, they include: basic computer, hair dressing, mobile phone repairs, carpentry, masonry, electrical wiring and tailoring;
- Adult basic literacy and continuing education;
- Recreational activities – sports, entertainment, supervised outings;
- Child play therapy.

C. Classification of Probationers in Probation Hostels

The Probation and Aftercare Service (PACS), through a situational analysis, identified key challenges in understanding the underlying drivers of offending behaviour. In current practice, probation officers utilize various tools, most notably the Preliminary Risk Assessment Tool, to assess adult offenders. While this tool has contributed to more structured and informed supervision planning, it remains a basic instrument and is not fully aligned with internationally recognized evidence-based models, as evidenced through the RNR.

Critically, the analysis revealed a significant gap in the assessment of juvenile offenders. The department currently lacks a standardized, evidence-based assessment tool specifically designed to address the developmental, psychological and social needs of children and youths in conflict with the law. Juvenile offending is influenced by unique factors such as peer influences, family dysfunctionality, environmental issues, trauma, lack of role, clear social modelling and identity development elements that require a child-sensitive and developmentally appropriate approach to assessment.

To ensure equitable, effective and efficient rehabilitative outcomes, there is an urgent need to adopt a validated assessment tool specifically tailored to juvenile offenders. Doing so would strengthen case planning, promote individualized interventions and align probation practice with international standards on juvenile justice and child protection.

However, PACS has developed internal procedures and guidelines to identify probationers suitable to be placed in probation hostels. They are classified based on the following:

- i) Sex of probationers
There are female probation hostels that are facilities specifically designed for young female offenders, which address the unique rehabilitation needs of young female probationers. Similarly, there are male probation hostels that are facilities specifically designed for young male offenders, which address the unique rehabilitation needs of young male probationers.

- ii) Age of probationers
Probationers between the ages of 12 to 17 who need more structured care, education and rehabilitation programmes qualify for admission to probation hostels.
- iii) Specialized rehabilitation needs offered by the hostel
Probation hostels have specialized rehabilitation programmes which are specific to the needs of each offender. Some of these programmes include: vocational training, formal education and life skills.

D. Rehabilitation of Offenders

Offenders in probation hostels are expected to be rehabilitated as follows:

- i) Probationers residing at probation hostels shall have access to individualized rehabilitation programmes tailored to their needs.
- ii) Rehabilitation programmes may include: vocational training, educational programmes: counselling and psychosocial therapy.
- iii) Probationers residing at probation hostels shall consent to actively participate in rehabilitation programmes as part of their probation orders.

II. CURRENT SITUATION OF PROBATION HOSTELS IN KENYA

Kenya operates six probation hostels with a combined capacity of approximately 200 residents. These include: Nairobi Boys Hostel in Nairobi, Shanzu Boys Hostel in Mombasa, Kimumu Junior and Senior Hostels in Eldoret, Nakuru Girls Hostel in Nakuru County and Siaya Female Probation Hostel in Siaya County.³

It is worth noting that only one of these hostels is designated for female probationers who are teenage mothers, teenagers expecting or teenage nursing mothers who are at Siaya Female Probation Hostel. In addition, teenage mothers who are probationers are allowed to be accompanied by their children who are aged 4 years old and below.

Probation hostels provide a range of services aimed at facilitating the rehabilitation and reintegration of offenders, which include: vocational training, equipping residents with practical skills to enhance employability. Counselling Services: Addressing behavioural and psychological needs, Formal Education Support: Assisting school-going ex-offenders in continuing their education and Social Skills Training: Preparing residents for reintegration into society. These programmes are tailored to address the individual needs of residents, promoting personal development and reducing the likelihood of recidivism.

Theoretical Underpinnings of Probation Hostels: The Risk-Need-Responsivity (RNR) model, developed by Canadian scholars Don Andrews and James Bonta,⁴ provides a robust theoretical and practical framework for assessing offenders and designing individualized interventions.

The RNR model is grounded in psychological and criminological theories, particularly social learning theory and cognitive-behavioural theory associated with Albert Bandura and Aaron T. Beck, respectively. It stems from the broader General Personality and Cognitive Social Learning perspective, which emphasizes that criminal behaviour is learned and influenced by individual traits, cognitive patterns and social environments. This perspective views behaviour as a product of interactions between personal characteristics and environmental factors, which can be assessed and modified through targeted interventions. The RNR model operationalizes these insights into a structured, evidence-based approach to risk assessment and offender management.

The Department uses the theoretical frameworks to structure the individualized rehabilitation programmes

³ www.probation.go.ke

⁴ James Bonta and D. A. Andrews, *Psychology of Criminal Conduct*, 2016.

that achieve behaviour modification. In application of the RNR model, the children and youthful offenders committed to probation hostels are whose home environment is not conducive for community rehabilitation or might trigger recidivism.

III. CHALLENGES FACING PROBATION HOSTELS

Despite the progress made, probation hostels in Kenya are faced with a myriad of challenges:

- i) **Limited Capacity**
With only six (6) hostels nationwide, there is insufficient capacity to accommodate all probationers in need.
- ii) **Gender Disparity**
The existence of only two female-designated hostels underscores the need for more gender-sensitive facilities.
- iii) **Resource Constraints**
Inadequate funding and staffing shortages hinder the effective delivery of rehabilitation programmes and supervision of clients. The challenge is further compounded by the fact that PACS only relies on National Government funding to operationalize these facilities.
- iv) **Lack of Halfway Homes/ Transitional Houses**
The absence of halfway homes limits transitional support for offenders moving from institutional care back into the community.

IV. POSSIBLE MEASURES TO ADDRESS THE CHALLENGES

A. Collaboration and Partnership

The Probation and Aftercare Service continues to explore partnerships with development partners, non-governmental organizations, community-based organizations and faith-based organizations to enhance the rehabilitation of offenders. For instance, the Japan International Cooperation Agency (JICA) has partnered with the Kenyan government to establish a community-based probation model focusing on the rehabilitation and reintegration of children and young persons in conflict with the law. The project aims at introducing community probation volunteers who are expected to immensely support the rehabilitation and reintegration of offenders into the community. Similarly, through the JICA volunteer programme, volunteers are being deployed to support rehabilitation programmes at the Nakuru Girls Probation Hostel and the Siaya Female Probation Hostel, fostering international cooperation and cultural exchange.

B. Deployment of Specialized Skilled Officers

PACS recruited and deployed specialized officers in various fields as a strategy for strengthening effective offender rehabilitation. Continuous deployment of such probation officers with specialized skills to various institutions will ensure that probation clients will benefit from improved training, mentorship and capacity-building efforts.

C. Capacity-Building of Probation Hostel Staff

The department should aim at a continuous exercise of capacity building of officers in areas of assessment and classification, particularly using risk, needs and responsivity approaches, motivational interviewing to enhance relational skills and desistance.

D. Development of Juvenile Assessment Tools

This initiative would focus on creating standardized, evidence-based tools to assess the needs, risks and strengths of children and young persons in conflict with the law. These tools would inform appropriate interventions, ensure individualized rehabilitation plans and support decision-making processes within the

juvenile justice system.

V. CONCLUSION

Probation hostels in Kenya play a vital role in the criminal justice system and offender management approaches by providing alternatives and more options for community-based rehabilitation for offenders. This, in the long run, assists in forestalling reoffending. While significant strides have been made in establishing and operating these facilities, challenges such as limited capacity, resource constraints and gender disparities still persist. However, it is worth noting that ongoing efforts, initiatives and international collaborations are important in addressing these issues and enhancing the effectiveness of probation hostels in promoting offender rehabilitation and reducing recidivism.