

# **COMMUNITY REHABILITATION OF OFFENDERS IN KENYA: PAST, PRESENT AND PROSPECTS. A COMMUNICATION**

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This communication explores the practice of supervised non-custodial sanctions in Kenya since inception and provides discussion on contemporary and future prospects. Part one touches on the understanding of the concept of probation, its advent and development over the years in Kenya. Part two dwells on contemporary perspectives and part three on future prospects.

## **Key Words**

Probation, Professionalism, Rehabilitation, Reintegration, Social Work, Supervision,.

## **Introduction**

The incidence of crime and deviance has generated plenty of debate from criminologists and the general public alike. Many countries put aside considerable measures to manage the upsurge of crime and provide protection to its citizens. The world prison population attests to this fact as the current figures have reached an all time high. The world prison population currently stands at 8.75million with the United States of America leading the park at over 2 million (Home Office Research Series No. 188). From the same source, Kenya with a population of over 32 million has a prison population of over 48,000. In our case, this is a very large number that calls for measures to contain this surge particularly if it is compared to Nigeria which has 40,000 against a population of 150 million people. However, this does not mean that Kenya is a ‘punishing society’ but may indicate that our systems including the police ability to apprehend suspects and overall penal policy are skewed to favour custodial punishment.

There is no monolithic theory that best explains crime causation but a combination of biological, psychological and socio-environmental factors. Practitioners in the field of behavioural change draw their intervention techniques from this generic theoretical orientation. Although community rehabilitation of offenders was originally oriented in social and environmental reasoning of crime causation, developments in this field during the last decade have been drawn from the psycho-social

axis and especially on the cognitive behaviourism. Probation practice in Kenya and in many world jurisdictions have largely been tilting in the social category given the immense contribution of social work in the 1930s. It is during this period, in the middle of the last century that I shall examine probation practice in Kenya to its present state and the envisaged future.

### **Part One - The Concept of Probation**

Looking at Probation Service in retrospect, one would fail to give a befitting definition of probation as a concept. For instance, if the supervision of a sentence of a convicted offender and granting of freedom for a period of time under special conditions set by the court was to suffice, then much of the current practice that the service provides would fall out of this definition (Davis, 2002).

Arguably, there is no universally accepted definition that would suffice as the practice is subject to respective statutes of different states, and there is no unanimously agreed code of practice. Nevertheless, probation practice entails elements of:

- legal mandate,
- supervision and therapy,
- it must be seen as a judicial function/sentence,
- is practiced in the community where the offender is helped to re-adjust and lastly
- it is a distinct discipline within the criminal justice system (Hamai 1995).

This outfit may seem not to have changed much in Kenya although it still retains the rich English probation heritage.

Every practice has a theoretical orientation and probation practice inclined towards the positivists' explanation of crime causations in which biological, sociological and physiological factors role-play. Subsequently, the practice lies within the rehabilitation paradigm where the aim is to change the offender's social circumstances, attitude and behaviour to forestall re-offending. It is on this maxim that probation service was imported to Kenya from the English system.

Thus, the concept of supervised non-custodial sanction in this country can be said to be an exotic programme as it was imported during the colonial era. It should not escape minds of the reader that Kenya was the 'preferred' colony of the British thus most of the legislation in Britain were and still are applicable to this country.

Probation practice, which can be traced to an American philanthropist John Augustus, has not lost the original intention although currently its practice has variedly changed. The United Nations as early as 1951 described probation as consisting of “*conditional suspension of punishment while the offender is placed under supervision and is given individual guidance or treatment*”.

As Harries (1995) pointed out, providing similar services without sanctions would not be probation but social work. It must involve some element of coercion for it to qualify as probation. The social work phase of probation that has been with us over the years is a result of its development in England where church missionaries pioneered as probation officers and later the social policy associated with Gidden (1936) perfected its welfare element. I must say that to a large extent, probation practice in Kenya is still inclined to the welfare orientation with the coercive element which is currently the override feature in most developed jurisdictions subtly applied.

### **Historical Development**

Probation order which is the epitome of all supervised sanctions was established in Kenya through an ordinance in 1943 although its implementation came in 1946. I want to distance myself from the notion that it was due to the 2<sup>nd</sup> World War that there was a delay in its commencement because the war went on till 1948.

It is acknowledged that the commissioner of prisons was appointed the 1<sup>st</sup> Chief Probation Officer’ given that the programme was docked in his organization and that there were no trained probation officers in Kenya then. The colonial government later instituted several policy measures that guided the training and deployment of the assistant probation officers who were largely Africans. The department was later moved to the ministry of community development enabling the service to superintend over Approved Schools, Remand Homes and accord aftercare supervision. This development saw the principal probation officer also become the Chief Inspector of Approved Schools. This function was to remain with the department till 1969 when Children and Young Persons Act was enacted. Later organizational positioning saw the department move to the judiciary in 1952. There were several amendments to the probation ordinances before the first government of independent Kenya finally establishing the current Probation of Offenders Act Cap 64, Laws of Kenya.

There is largely nothing critical in these early historical developments but for one thing; that there was much interest by the colonial administration in probation as a sentence and a function. Comparatively, there has been very minimal government involvement in terms of organizational and practice/professional changes. This is an interesting phenomenon as it may mean probation being seen as an auxiliary player in the core justice administration in this country.

During these early phases there was significantly no difference in practice compared to the English system.

### **Development of Probation Values and Professionalism**

It would be difficult to discern precisely when professionalism became recognizable in our practice here in Kenya. But two main features towards professionalism can be recalled. First, the colonial home office had to import probation officers from abroad to induct new African probation officers. Two, the Kenya government in later years purposefully initiated elaborate social work training for probation officers at Jeans School, Kabete (later named the Kenya Institute of Administration KIA) which became a dominant institute for public service training including the training of probation officers till 1990. How and what was shaping this professionalism in the early era?

Around the world, probation practice was taking the queue from scientific social work. It was characterized with the use of psychoanalytic skills to ‘diagnose’ and ‘treat’ offenders. In essence, it took the medical model where the offender was seen to require curative treatment approach. Secondly, the probation officers took additional role as experts in this area to educate the magistrates and to identify suitable cases for community supervision. Thirdly, report writing became an integral part of probation workload as the courts moved gradually from tariff sentences into consideration of individual, social and domestic circumstances of the offender. Evidently this was a major break from the classical approach to punishment to a positivist’s appreciation of crime causal factors. This development also saw the intrinsic and fundamental social work rubrics of “advise, assist and befriend” which were to become the core probation values for decades.

Garland (1997) captures this scenario when he states that:

Probation was the exemplar, the paradigm of welfarism approach, to dealing with crime and offenders. It emphasized rehabilitation, reintegration, individualized casework, resettlement and that it was a social approach to a social problem. The problem of crime was understood to be a problem of individuals and families in need of help and support, of communities that were disorganized and disadvantaged.

This was the beginning of professionalism that was to remain the epitome of probation till mid 1970s when the whole penal rehabilitation agenda was challenged and discredited by researchers (Martinson 1994). However, while this revelation caused a lot of jittery in other jurisdictions, it did not derail the practice in Kenya.

Two observations can be made about this phase. There were no major political directions or interference beyond the colonial era. This may be attributed to the fact that for all this period since independence, Kenya had been under one party rule. Secondly and which is the case to date, the subject of corrections in Kenya has not attracted interest from the academicians who would act as catalysts and advocate change from research and literary criticisms. Perhaps this is why the Service has largely been invisible in its operations, save for the Community Service Orders Programme.

### **Part Two - Issues as They Are**

A lot of water has passed under the bridge since probation was started here in Kenya. The middle and current phase of Probation Service starts from 1990. This year/period is chosen to represent the middle age for three main reasons. One, it marked the 'death' of 'professional' training which for about two decades had been the hallmark of induction into probation work undertaken in KIA. Two, there were good intentions made from within the department to streamline probation work without limiting the over protected 'discretion' enjoyed by probation officers to date. This was through the introduction of National Standards Manual. Three, additional functions were introduced i.e., Aftercare Programme and Community Service Orders the latter being a substantive legislation or sentence aimed at expanding the realm of non-custodial sentencing options as well as making the community appreciate supervised sanctions through the pay back system associated with it.

Perhaps phasing out of the elaborate training for probation officers was the main 'interference' in the service that occurred in the department without the realization of its consequences. Entrants to the service are now recruited directly and no adequate training is given upon joining. Is it not watering down the practice/service? Human resource is the foundation of performance without which no realistic results can be achieved. The probation values and the social work approaches that I have discussed above are no longer the hallmark of practice but rather a hackneyed and rudimentary of applications that are neither social work oriented or based on firm ideological base.

Applications/practice by probation officers is pegged on tradition and heritage which unfortunately is first fading with the old officers retiring from the service. This has further been compounded by the fact that for almost a decade, there had been an embargo on staff recruitment by the government. This has however been succumbed with the recruitment of 210 new probation officers in the last one year or so. But the beckoning question remains what they bring aboard in terms of probation practice/knowledge in the absence of elaborate training framework? This lot is the third generation probation officers who should heavily be invested in if the profession is to meet the challenges of the 21<sup>st</sup> century.

National Standards Manual for probation officers was introduced in 1993, more or less the same time as in England and Wales Probation Service. But its application has not been watertight owing to issues of resource base, probation officer rigidity and unwillingness to let off their supposed discretionary powers. Mechanism of enforcing this ideal which is a quality assurance tool has therefore been limited. Theoretically it is believed that it's full enforcement although would interest other criminal justice agencies especially the police, would result in many offenders being breached hence ending up in droves in prison. These assertions have been documented by many criminologists in the area of community corrections.

The spirit of national standard is the setting of minimum standards of practice for all aspects of probation work including conducting social inquiries and indulging the clients. In which case, it is a managerial tool that aims at bringing uniformity in the practice and reducing personal prejudices among the practitioners. A cogent discussion of this tool can be saved for another forum but it suffices to note that its overhaul and full implementation is long overdue if indeed professionalism is of essence.

I wish to state that we need to re examine departmental objectives, re-arrange them in order of priority thus making them demand oriented.

### **Aftercare Services**

The main aim of aftercare support to ex-convicts is to fore-stall re-offending thereby reducing crime levels and facilitating reintegration and resettlement of the offenders in the community. However there are also other plausible reasons which are considered.

1. The offenders not only *deserve* punishment but also *opportunity* to build crime free life upon release from penal systems.
2. From a narrow probation perspective, institutionalization is believed to cause more harm to the offenders as they become more exposed to more criminal culture. Thus, little rehabilitation is believed to be effected on offenders while in prison. The essence of Aftercare is therefore to turn round this situation by providing support for resettlement and reintegration.
3. Conversely, Aftercare may be seen to be a continuation of the rehabilitation efforts started while in prisons.
4. Ex-prisoners are believed to suffer various kinds of distress and should be helped on the basis of common humanity. The involvement of voluntary and faith based organizations in Aftercare work may be seen in this light.

Probation service in Kenya has been running the Aftercare supervision since the colonial times but the scope was narrow and only confined to juveniles. This function now includes supervision of psychiatric offenders as well as ex-borstal inmates. Post-penal resettlement and reintegration is provided to ex-long term prisoners. Borstal authorities now enjoy full support from the department with the compulsory initial and pre-release reports that must be obtained from the probation officers.

One of the recent initiatives by the Probation service in Kenya which if implemented will turnaround offender reintegration is the development of an Aftercare Policy. This document which has been developed through a government taskforce envisages a more inclusive approach to offender rehabilitation and reintegration. It also proposes an enactment of Aftercare of Offenders Act which will bolster the Policy instrument.

### **Community Service Orders**

Community Service Orders programme is the most well known programme in the department yet it is the youngest of all. The objectives of this programme are easier to appreciate by the members of the public since offender payback is evident. The programme is also easy to demonstrate and is tangible. It is also much easier to evaluate its effectiveness compared to probation orders.

The success of CSO can be attributed to initial support given by Penal Reform International who did the funding and training of probation officers who double as community service officers. Nevertheless, there is need for the work performed by the offenders to be more demanding and

quantifiable for the public to see its effectiveness. Other rehabilitative feature of community service orders like Restorative Justice (RJ) is yet to be introduced in Kenya. However, there is potential room for RJ given that we still have many of our communities practicing traditional ways of conflict resolution which is a feature in RJ.

### **Current Organizational Arrangement**

Probation service though an old department in the government can be said to be in its formative stages in terms of organizational development. It is only a decade and a half ago that the title of the head of the organization changed from Principal Probation Officer to Director of Probation Services. Unlike in other jurisdictions, it has largely been at the core of criminal justice administration although it did sojourn within the judiciary in its formative years. The department is placed under the central government which provides the much needed funding. But this may also be construed to mean that there may not be the desired independence and civil latitude experienced in other jurisdictions.

Perhaps the most important organizational issue to consider now is how the department is placed in terms of sharing jurisdiction with other agencies in the criminal justice administration. At the moment our organizational arrangement is largely in line with the provincial administration set up. In practice, we tier more with the judiciary. In some democracies, Probation shares tier with the police divisions. Functionally, the last two are appropriate. At the moment, probation work commences at the court level thus justifying why sharing tier with the judiciary would be prudent. But in future, should probation work start prior to criminal conviction, there may be need to have probation service structured to conform to police division. Perhaps more critical is the organizational spread of the three divisions-Probation Orders, Community Service Orders and Aftercare supervision. Is the current establishment structure ideal to undertake these programmes?

The department now has a vision, a mission and a re-stated value(s) although the original creed of “advice, assist and befriend” still lingers on.

Performance contracting as a new managerial style is taking shape and is now a common feature of probation officer output.

### **Part Three - Some changes**

There are relatively minimal changes in terms of programme delivery other than the recent introduction of the performance contract by the government. But that may be at the macro level as all government departments must function in this line. What I wish to state is that issues of performance contract cannot be wished away as they are a world practice and the best way to measure performance. In fact, rating probation order completions in terms of-satisfactory, unsatisfactory and absconded- will soon cease as we give in to more scientific methods.

I will outline what I perceive as desirable and prospective for the service. We need to note that comparatively our programme out put in terms of world practices is 20years behind. Some of our dreams have been captured in our strategic plan. As professionals, we must strive to remain relevant. It is here then that I shall briefly highlight what is in vogue as we cannot re-invent the wheel but we can think out of the box and adopt.

### **Rehabilitation Programmes**

During the last decade and a half, the rehabilitation agenda which had been disclaimed by the 'Nothing Works' acclaim of the 1970's, gained rebirth to what is now referred to as the 'What Works' agenda. Researchers have come up with the findings that social work and counselling may only reduce re-offending to a limited degree and only when it is accompanied with other interventions (McGuire et al 1995). Although generic social work is still important particularly as a means to generating social capital, what is now in vogue are intervention programmes that tend to correct the thinking of the offender, thus emphasizing that the cause of crime is embedded in human cognitive. We must therefore start thinking on how to adopt this new approach that only deals with criminogenic risks and needs (not welfare support) of the offender. But we must also combine it with the social work approaches which still produce realistic results in the area of behaviour change.

The best practice approaches should be based on a specific theoretical model or approach (to increase consistency of implementation and decision-making) and be multi modelled in approach. In addition, it should be well resourced including trained personnel willing to implement the programmes

Examples of the accredited programmes that we need to introduce and add to our social work approaches are:

- Drug and alcohol treatment
- Domestic violence
- Life Skills development programmes
- Generic cognitive intervention programmes
- Aggression management

These programmes are easy to evaluate as each has specific measurable key performance indicators (KPI). The programmes work well with rehabilitation and reintegration measures. However, the generic social work approaches that stress assisting offenders to solve their personal problems must still be embedded within the current thinking. Research has shown that social work still has a place in behaviour modification (and whatever cognitive approaches employed without addressing personal problems of the offenders may not yield much in as far as re-offending is concerned.

### **Risk Assessment**

There is very minimal involvement in risk assessment in our current practice and if so it is not deliberate. This is a prospective area which has taken centre stage in probation practice in other democracies and risk analysis is important in any sphere of life.

According to Hazel Kemshall (1996), risk assessment (in offender management)

... is a probability calculation that a harmful behaviour or event will occur which involves an assessment about the frequency of the behaviour/event, its likely impact and who it will affect.

How can we increase the level of risk assessment in our practice considering that we deal with some dangerous offenders (psychiatric, murderous, robbers, etc)? Why can't we classify our clients according to risk levels? Is the current 'clinical' method based on personal judgment enough to gauge probability of re-offending? We need not over rely on static risk factors like age; sex, offence and number of previous convictions but begin to be more responsive to other dynamic and criminogenic factors which explain criminal behaviour and are best predictors of likelihood of re-offending.

The department has developed a draft prototype risk assessment tool and is in the process of developing one specific to assessing accused persons for bond/bail information. Pre-sentence report will be interesting to write with this instrument. This will forestall the current method which promotes personal /discretion/bias and 'geographical injustice'. Resource allocation will also be directed

towards more deserving areas and or offenders upon proper assessment. **THIS IS THE FUTURE OF HELPING OUR OFFENDING POPULATION**

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these challenges are intertwined while others exist in isolation. Below are some of the challenges facing prisons in Africa.

- Overcrowding,
- Poor living conditions,
- Inadequate prison staff, and
- Outdated prison legislation.

### *Overcrowding*

Overcrowding is one of the serious challenges affecting modern prison management in Africa. It is defined as a situation in which the physical plant accommodates more prisoners than it is made to accommodate.<sup>21</sup> Analysis of data from 27 African countries indicated that prisons in 80 percent of the countries were overcrowded while prisons in 20 percent of the countries were not overcrowded but some prisons were likely to be overcrowded because the prison population was usually not evenly distributed in all prisons of the country.<sup>22</sup>

Overcrowding has direct and indirect undesirable consequences on the enjoyment of the rights of prisoners as it entails the following undesirable conditions in prisons:

- Lack of prisoners' classification
- Unhygienic accommodation that creates conditions conducive for spreading communicable diseases like tuberculosis including HIV/AIDS
- Overburdened sanitary facilities
- Lack of access to a range of recreational activities including physical exercises, and
- Overburdened medical services

### *Poor Living Conditions*

Although poor living conditions is seen to be intertwined with overcrowding, it can exist without the other. Poor living conditions refer to the inadequacy of the physical plant in meeting the required standards of decency for human habitation, irrespective of space, clean water, adequate ventilation and toilet facilities.<sup>23</sup> This phenomenon is common in most African Prisons and is attributed to:

- Prison services have been grossly under funded

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<sup>21</sup> Kakooza, "The crisis in the Prison system: What responses? Part I." in Penal Reform International, 1997, p.27

<sup>22</sup> Walmly, p.6

<sup>23</sup> Kakooza op. cit. p.28

- Dilapidated prisons facilities whose structures are legacies of the colonial era, and
- Most prisons that were designed with male prisoners in mind and are not tailored to meet female special needs

Poor living conditions in most of the prisons in Africa bring about the following:

- Spread of communicable diseases like tuberculosis among prisoners and exposes officers to great risk of contracting diseases;
- Inability of a prison to provide three meals per day to prisoners;
- Spread of skin diseases like scabies due to overburdened ablution facilities; and
- Poor accommodation for female prisoners and juveniles that is not designed to meet their special needs

#### *Inadequate Prison Staff*

Some prisons in Africa are understaffed. An analysis of data from prisons in Africa indicate that the staff-prisoner ratio were 1:3 or less in 25 percent of the countries, 1:4-6 in 46 percent of the countries, 1:7-9 in 4 percent of the countries, 1:10-15 in 17 percent of the countries, and 1:more than 15 in 8 percent of the countries.<sup>24</sup> The staff-prisoner ratio has an implication on modern prison management. Understaffing results into:

- Inability to effectively supervise and monitor prisoners; and
- High risk activities among prisoners such as the use of drugs, physical and sexual violence and tattooing.<sup>25</sup> Such risky lifestyles can lead to the transmission of HIV/AIDS from prisoner to prisoner and pose a serious public health risk if unchecked.

#### *Outdated Prison Legislation*

Some prisons in Africa have outdated legislation that is likely not to adequately address issues related to modern prison management. Responses from 27 African countries indicate that 41 percent of the countries had at least one of the official documents that are important for the management of prisons dating 1996; 18 percent quoted documents from 1984-1994; and 41 percent with documents ranging from the 1950s and 1970s.<sup>26</sup> With the advent of the HIV/AIDS pandemic that is more aggressive in prison, one tends to wonder how some countries with outdated legislation effectively manage the scourge. For example, how do they handle the issue of compassionate early

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<sup>24</sup> Walmsley, p.6

<sup>25</sup> Reyes, 2001, p.8

<sup>26</sup> Walmsley, p.5

release for prisoners with advanced AIDS in order to facilitate care and support from their families and friends? The answer is obvious; such prisoners will be doomed to perish in our prisons contrary to Article 51 of the WHO Guidelines. Having discussed the challenges in modern prisons management in Africa, let us look at some practical solutions.

### **Practical Solutions**

In the introduction, we discussed that modern prison management differ from country to country due to the prevailing circumstances. Therefore, we cannot prescribe a situation by cutting a solution in a country and pasting it in another due to different circumstances prevailing in different countries. However, we shall suggest practical solutions that have worked in Zambia in order to enable our prison system meet the challenges of modern prison management. The practical solutions that have been used are:

#### *Increasing the Prison Capacity*

Two practical solutions have proved useful in increasing the prison capacity in Zambia Prisons. There are:

- Opening new Open Air Prisons: These facilities are cheap to build and are used to decongest the main prisons. They are used as transnational centres for prisoners' community re-entry programmes.
- Renovating existing prison structures: Prisons facilities can be renovated in order to optimally utilize the available space and provide prisoners with accommodation that conform to human rights standards and have centres for the safe custody of women and juveniles. For example, in Zambia, after renovating a prison in Kitwe, we were able to decongest two prisons in Lusaka and Kabwe after transferring prisoners to the renovated prison

#### *Targeting overcrowding - the 10 point solution, Ouagadougou Declaration Action against Overcrowding*

- (i) Informed public debate;
- (ii) Using the prison as a last resort throughout all stages of criminal justice system;
- (iii) Increasing prison capacity;

- (iv) Diverting minor cases e.g. in Nigeria, chiefs handle minor cases within their jurisdictions;
- (v) Reducing pre-trial detentions;
- (vi) Developing alternatives to imprisonment – e.g. community services, extension services and release on parole;
- (vii) Reducing sentence lengths and ensuring consistent sentencing;
- (viii) Develop solutions to keep youth out of prisons;
- (ix) Treating rather than punishing drug addicts, mentally disordered and terminal ill offenders; and
- (x) Ensuring fairness for all.

#### *Improving Prison Farms and Gardens*

This practical solution has been used in Zambia to:

- Improve the prison menu;
- Employ prisoners in meaningful work; and
- Enable the service to reduce the cost of running prisons through the production of food for prisoners; consumption and sale of surplus produce to the public.

#### *Enacting Legislation*

This has ensured that the humane treatment of prisoners is institutionalized and provided by law. For this reason, the Prisons Act can be amended to ensure, among others, the following:

- The establishment of a medical structure within the prison administrative structure;
- The establishment of the Extension Services that would provide after care services to discharge prisoners;
- Provisions for terminally ill prisoners to be discharged from prison on medical grounds; and
- Introducing alternatives to custodial measures like parole to decongest prisons.

#### *Independent Inspections of Prisons*

The Prisons Service can use this to prohibit any form of torture, cruel, inhuman and degrading treatment. Independent organizations and officials do not only act as oversight institutions, but can

lobby for scarce resources on behalf of the prisons service. The following should be encouraged to conduct independent inspections:

- The National Human Rights Commission;
- International Organizations like ICRC;
- Visiting Justices; and
- Official visitors.

#### *Establishment of the Specialized Units*

Specialized units like the Chaplaincy Unit have been used to effectively rehabilitate prisoners and reduce recidivism. With the specialized units the prison experience can be used as opportune time to empower prisoners and reduce re-offending.

#### *Introduction of Prisons Day*

Prisons days have been used to create awareness to the stakeholders and the public. They have been used to address, among others, the general public's negative attitude towards improving of conditions of the prison. The Prisons Service has for the past two years held a Prisons Day as a strategy to educate the general public on the role of prisons.

#### *Developing Partnerships with Non-Governmental Organizations (NGOs)*

A Prison system should have an open-door policy to NGOs that wish to extend their goodwill in the humane treatment of prisoners. In Zambia, NGOs like In-But Free project and Prison Fellowship are currently assisting the Prison Service to realize its goal statement.

### **Conclusion**

The above challenges facing prisons in Africa clearly indicate that it is extremely difficult to ensure prisoners' right to health. This situation indeed poses great challenges in the management of prisons in Africa. However, despite the precarious situation, African countries have an obligation under the various human rights instruments to guarantee prisoners' basic rights. We therefore need to have practical solutions to address the challenges. Let us look at these practical solutions.

This paper has demonstrated that the need to manage prisons to ensure that prisoners enjoy the right to health is a universal requirement that is enshrined in various human rights instruments. These instruments prescribe standards that we should all strive to achieve. Therefore, despite the

challenges we are facing in Africa like overcrowding, poor living conditions, inadequate staff and outdated legislation, the human rights instruments cited in this paper oblige us to take immediate steps to ensure that prisoners enjoy the right to health without discrimination. This obligation in a human rights context is absolute and immediate. We therefore need to identify and adopt best practices under the obligations to respect, protect, promote and fulfilment. These obligations clearly tell us that in Africa we need penal reform initiatives that will ensure that issues that hinder prisoners to enjoy their rights are adequately addressed.

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