



Republic of Kenya



Promoting fair and
effective criminal justice

TERMS OF REFERENCE RESEARCH

Duration: September 2015 – March 2016
(Plus participation in evaluation in October/ November 2016)

Research subject: Women serving community service and probation orders

Background:

In 2010 the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders ('the Bangkok Rules') were adopted by the UN General Assembly. They filled a long-standing lack of standards providing for the specific characteristics and needs of women offenders and prisoners.

The Bangkok Rules call for "gender-sensitive non-custodial measures" (in particular Rules 57, 58, 60, 62), recognising the history of victimisation of women offenders and their caretaking responsibilities including the harmful impact of imprisonment on children. However, little research and good practice is available giving guidance to relevant stakeholders as to how to capture gender-specific background and as to gender-specific design and implementation of non-custodial measures.

Gender-specific background refers to the typical background of women offenders. Research conducted to date in many countries, identified that this typically includes a history of domestic and sexual violence, alcohol and substance dependence and mental healthcare needs - often as a result of victimisation. These will often be accompanied by low self-esteem and poor life skills. A gender-specific design of non-custodial measures would take into account the background of the women, as well as their current circumstances, such as pregnancy, being a mother or having other caretaking responsibilities, their employment status, their place of residency and whether or not they have any support from family, among others.

Project partners:

- Penal Reform International (PRI)¹ - contracting organisation
- Probation and Aftercare Service, Ministry of Interior and Coordination of National Government, Kenya (KPS) – partner and research supervisor
- The project is funded by the Thailand Institute of Justice.

Purpose of the study:

This research project seeks to enquire into a) current practices and experiences of magistrates, probation officers and other stakeholders involved in community service and probation orders and b) experiences and recommendations of women offenders who have served community orders or been placed under probation orders.

The study is intended to answer the following key research questions, among others:

- To what extent are gender concerns informing placement of women in community service and on probation orders?
- Are gender-specific considerations (sufficiently) explored and taken into account in pre-sentence reports and community sanctions?
- What types of work can women be assigned to within community service programme that are suitable and safe, but not gendered?
- Do and how do women's familial roles impact on community service placements and (compliance with) probation orders?
- How can victimisation or drug or alcohol dependency be addressed in community service placements? How has the experience of community service improved or hindered the circumstances of women offenders?

Research objective:

The research will be the basis to develop guidance in terms of how to incorporate gender aspects in pre-sentence reports, how to design and implement gender-sensitive community service and probation orders.

The developed guidance will be subjected to a test, adjusted as appropriate and the lessons learned shared within the region – and within the international community. Research findings and lessons learned will be incorporated into training materials.

Methodology

The researcher will be expected to identify the appropriate research design, sample size, population, and procedures required to carry out this study, including analysis of secondary data such as available statistics. The researcher will be expected to develop appropriate research tools suitable for various respondents. The research will be expected to further identify appropriate analytical approaches to capture the findings of the study and that would facilitate the development of programmes to address the findings. It is envisaged that this should include a quantitative and qualitative research approaches.

Deliverables:

The research institution/ researcher is expected to deliver:

- 1) Design of research methodology, including
 - a) concept and justification for i) the number of magistrates/ judges and supervisors, ii) the number of women who have served community service or probation orders in order to deliver representational research results, including a geographical spread
 - c) Input as for quantitative data to be collected on women interviewed (Note that a sample of questions have been developed and a database created within another research project which can be adjusted/ amended for this purpose)
 - d) Survey questionnaires for all three groups of interviewees (magistrates/ judges; women offenders; policy-makers)

- 2) Conducting interviews with magistrates, judges, probation officers and supervisors on current practice regarding female offenders.
- 3) Conducting interviews with women who are serving or have served community service or been on probation orders, quantitative (use of existing, adapted database) as well as qualitative (see details below), may include focus groups (experiences and recommendations of women serving such sanctions/ orders)
- 4) Conducting interviews with key policy-makers on current practice regarding female offenders
- 5) Documentation of quantitative data and interview content
- 6) Analysis of the information gathered
- 7) Delivery of a draft report (30 pages max), presentation of the draft report in a validation meeting with project partners
- 8) Incorporation of feed-back into final report
- 9) Support in arranging the production of audio-visual material (identification of suitable interview partners and locations, mindful of the principle of voluntariness and preventing re-victimisation, more guidance will be provided)
- 10) Participation in final press conference
- 11) Participation in external evaluation of the project
- 12) Financial documentation of research costs (invoices)

The response to this tender should include:

- Draft methodology, including estimate of number of interview partners, mindful of a geographical spread that provides representational research results for Kenya and the number of research assistants involved
- CV of the lead researcher and letter of motivation, including the researcher's experience with quantitative and qualitative surveys
- CVs of 2 assistant researchers
- Consultancy fee and estimate for travel expenses within Kenya (and any other expenses) when delivering the research
- Proposed consulting days
- Confirm availability on skype/ telephone for an interview prior to short listing/ selection of researcher/ research institution.

The project partners will deliver:

- Half-day induction meeting for briefing on the project, its objectives and considerations of the project partners with regard to methodology and deliverables
- Letter of intention for use with authorities/ interview partners, confirming the commission of the research, signed of executives of both, PRI and KPS, explaining the research project, its objectives and outcomes
- Supervision throughout the project (KPS and PRI)
- Provision of statistical data (KPS)
- Input and approval of research methodology (KPS and PRI)
- Provision of excel database for the collection of quantitative data of the women interviewed and arrangements for necessary adaptations (PRI)
- Support in identification of and contact with relevant interviewees (policy-making level, probation officers and supervisors) and as applicable support in arranging meetings
- Organisation of validation meeting (KPS)
- Feed-back on draft research report (KPS and PRI)
- Organisation of final press conference(KPS)
- Translation of questionnaires into Swahili (KPS)
- Identification and contracting of an external evaluator (PRI)

Budget:

A maximum of GBP 8,000.00 is available for consultancy fees, not including travel costs.

Timeline:

1. Identification and contracting of lead researcher/ research institution: Month 1 (September 2015)
2. Research design: (September/ October 2015)
3. Adaptation of PRI database (depending on decisions quantitative data women offenders) October 2015
4. Conduct of research: November/ December 2015
5. Analysis of results, drafting of report (20 pages): January and February 2016
6. Validation meeting: March 2016
7. Adaptation of report following validation meeting: April 2016
9. Preliminary testing of new guidance/ Case study: June – September 2016
10. Adaptation of training module July/ August 2016
11. Dissemination of results: press conference, stakeholder meeting, PRI network (PRI's quarterly e-bulletin, international event): September 2016
12. External evaluation: October/ November 2016

Other information:

- The working language within this research with the contracting organisation and its partners is English.
- The project will be supervised by the project partners, KPS and PRI, throughout the research, which will include participation in interviews as appropriate by staff of KPS, PRI and on occasion the donor TIJ.
- The consultancy fee will be paid in instalments as will be agreed in more detail. Travel costs will be reimbursed on a quarterly basis, upon receipt of invoices and receipt of an excel sheet listing the costs accrued (template will be provided).
- The project shall be referred to, in communication, as “PRI project in partnership with KPS, funded by the TIJ” on gender-sensitive community service and probation orders in Kenya, displaying the logos of these three organisations/ institutions involved, in all letters, questionnaires and other communication.
- The consultant/ research institution warrants that any work done will not infringe any intellectual property rights of third parties.
- The consultant/ research institution will adhere to financial policies, procurement guidelines, anti-bribery, anti-corruption and counter-fraud policies specified by the contracting organisation prior to signing this contract.

Project details:

Interviews will be documented in an anonymised way so as to ensure interviewees can share their views and observations freely.

Surveys magistrates/ judges/ probation officers/ supervisors:

Research into current practices and experiences of relevant stakeholders will involve:

- a) Interviews with magistrates, probation officers and supervisors (tbc number of interviewees in order to be representational, by region)
- b) Review of offender assessment tools/ pre-sentence reports
- c) Review of Community Service Orders
- d) tbc: Review of – are there any completion reports (how many women have not completed community service and why?)
- e) Re-offending rates among women who have conducted community service

Key informants for this research are magistrates, judges, gender commissioners and heads of probation. Research tools should seek to capture data analysis on whether magistrates are more or less reluctant to give CSOs to women offenders and what type of work women are assigned with in community service.

Preliminary survey questions identified by the research partners include the following, but require completion and adaptation to the various respondents.

Magistrates, probation officers and supervisors - preliminary list of survey questions: How do pre-sentence reports currently look like and what do they include in terms of typical women-specific background and circumstances of lives (caretaking obligations, previous experiences of violence, mental health issues, drug dependency issues, reasons for committing the offence) and do recommendations on sentencing alternatives refer to them? What is the (likely) impact on children (alternative caretaking – see considerations South Africa precedent case)? How do magistrates/ judges take into account the typical backgrounds of women offenders? Which considerations are undertaken with regard to work assignments and conditions (work hours, safety, accessibility)?

For community service do placement institutions suggest/ design/ offer any work specific to women offenders? Are (women) offenders consulted on their skills/ other relevant considerations regarding the placement? Are any supplementary measures and programmes available (addressing causes of offending/ risk factors for reoffending eg victimisation, drug dependency issues, stigmatisation by family/ community, lack of confidence/ life skills etc)?

Ad Survey of women who served community service/ were on probation orders:

The survey design should include a questionnaire section (quantitative) to collect some basic data on the profile of women serving community service, collected and analysed in an anonymised way (marital status and children, other caretaking obligations (such as for elderly person or relative with a disability), age, educational level, economic status and employment, offences, experience of domestic violence or sexual violence, drug and/ or alcohol dependency) and an in-depth interview about the experiences the women have made in the process of sentencing (pre-sentence report, decision on CSO, allocation of assignment) and serving of community sentences/ probation orders.

For the purpose of quantitative data collection, a database already developed by PRI in the context of previous research can be used and adapted,⁵ to be used to illustrate the background of research findings. Tbc interviews with women who were imprisoned because they failed to comply with probation orders or to deliver community service.

Preliminary survey questions community service: How was the community service allocated to the women? Had they been asked about caretaking obligations, was their personal safety an issue? Was there any discussion on available skills, education, fitness for physical work? Were they consulted about duration and times of the community service (eg compatibility with children's school times etc)? Was there anything that women serving community service orders were struggling with while conducting the community service (eg caretaking obligations – children or other family members; stigma when conducting the service or by their families)? Did the women feel safe? Was fear of violence or humiliation in or by the

community an issue? Was getting to the place of community service and back home an issue? What are the women's views about the type of community service they were assigned with (physical work, gendered work)? What was the husband's/ spouses'/ family's/ community's reaction to the community service delivered by the woman? Did the women have the possibility to voice problems or concerns to anyone? Would they have felt comfortable raising issues with this contact (female/ male) or would they have feared repercussions e.g. for non-compliance with CSO and subsequent imprisonment? Obstacles/ risks to re-offend and support requirements to prevent such risk (break-up of family, confidence and life skills, assertiveness training programmes, Employment, health problems/ poor health condition, stigma)? Was the supervisor male or female? Would the woman have preferred a male/ female supervisor? - Questions will depend on (1) the specific objectives, (2) the research questions (3) the scope of the variables to be tested or examined. This will correspond too with type of respondents i.e. probation officers, magistrates, offenders, supervisors etc. Some pillar guide questions will also be necessary for key informants and focus group discussions.

End./