

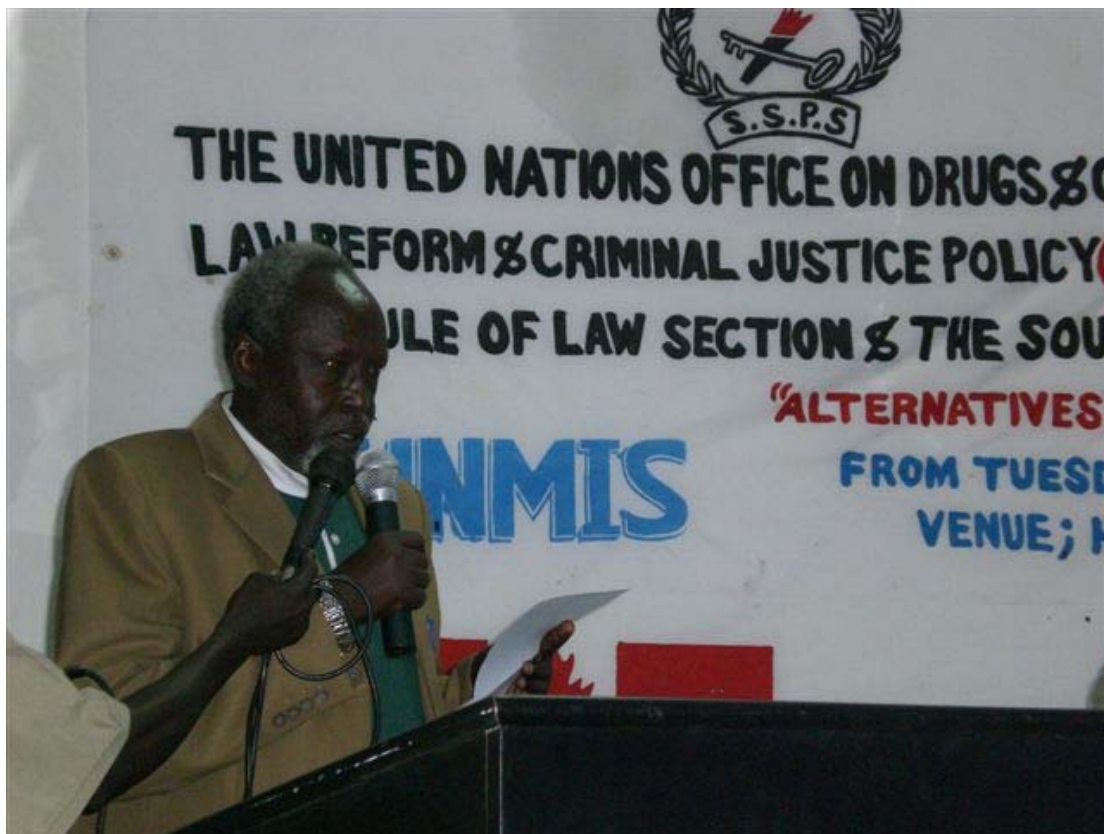


SOUTHERN SUDAN PRISONS SERVICE BULLETIN

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Planning for the Development of Alternatives to Imprisonment and Promoting Early Releases of Prisoners

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At the June 2008 National Workshop on Alternatives to Imprisonment and Early Releases of Prisoners, held, in Juba, various options for addressing the problem of prison overcrowding and for developing alternatives to prison were considered. During the discussion, which took place over two and a half days, several types of strategies were reviewed to reduce the unnecessary use of prisons to address various social problems and public safety issues. In the end, there was a consensus that the following ten general strategies could form the backbone of an overall strategic plan to promote alternatives to imprisonment in Southern Sudan.

Strategies

1. Decriminalization
2. Reducing the number of prisoners on remand
3. Reducing the number of offenders in prison for failing to pay a fine
4. Reducing the number of people in prison for failing to pay compensation to victims
5. Reducing the number of people in prison for failure to pay a debt (civil)
6. Removing all mentally ill individuals from prisons and placing them in a mental health institution
7. Encouraging diversion from the formal criminal justice system
8. Encouraging the implementation of non-custodial sentences
9. Encouraging the use of temporary releases from prisons
10. Encouraging the early release of offenders, when appropriate, with proper supervision

Within each one of these core strategies, we can begin to identify some action that should be taken. For the strategy to be effective, leaders from many sectors need to be involved, including: the judiciary, the Ministry of Legal Affairs and Constitutional Development, the Southern Sudan Police Service, the Southern Sudan Prisons Service, traditional Chiefs, the community, and Parliament. The strategies should be implemented so as to help alleviate the difficult situation of various vulnerable groups in prison, especially juveniles, pregnant women, lactating mothers, women with young babies, those without sufficient family support, elderly, and disabled or mentally ill individuals.



1 Decriminalization

- 1.1 There should be a process to consider the decriminalization of certain conducts currently defined as crimes
- 1.2 All levels of government, local chiefs and community must be involved in the process of decriminalization
- 1.3 There should be concrete measures to encourage the informal resolution of conflicts

2 Reducing the number of prisoners on remand

- 2.1 Developing better case-flow through the management of cases and their timely disposition (through better information sharing and greater cooperation between the various agencies involved)
- 2.2 Developing of a chain-link management system (court users committee) in prisons
- 2.3 Putting in place a case tracking system (information management system)
- 2.4 Setting in place a process for regularly informing the judiciary about pending cases and the offenders detained while awaiting disposition (Jail delivery; possibly weekly by OIC prison)
- 2.5 Training and using paralegal advisers to help offenders know, understand, and enforce their rights under the law (e.g. seek bail, etc.)(With support from civil society, e.g. the IRC).
- 2.6 Reviving the legal aid service
- 2.7 Offering specific training to police officers
- 2.8 Promoting the greater use of bail and sureties to release more offenders while awaiting trial
- 2.9 Imposing a limit of the length of the pre-trial process particularly in the

case of juveniles (and/or minor offences) – perhaps by legislation.

- 2.10 Creating the function of a court liaison officer within each prison to facilitate case-flow management and assist the courts and other agencies that commit individuals to remand.
- 2.11 Ensuring that each prison has a contact point for the coordination of all remand cases with all relevant actors, perhaps with the assistance of an inter-agency a coordinating committee

3 Reducing the number of offenders in prison for failing to pay a fine

- 3.1 Making sure that law reflects clearly the difference between a “fine”, a “compensation order”, and a “restitution order” and that the consequences of default in each case are defined fairly and clearly.
- 3.2 Helping individuals apply to courts for different arrangements for paying the imposed fines (e.g. inform individuals about their right to apply to the court; facilitate applications to the courts - through the help of a paralegal; design a simple form for applying to the courts)
- 3.3 Making sure that people are not imprisoned simply because they are poor and are unable to pay a fine but implement a fine option programme whereby offenders can work off the fine in the community when they do not have the means to pay the fine.
- 3.4 Development by the Judiciary of guidelines for judges on how to determine the length of stay in prison that can be imposed for default of payment of fines.
- 3.5 Encourage use of pre-bail reports.

4 Reducing the number of people in prison for failing to pay compensation to victims

- 4.1 Consider the possibility of remunerating the work of offenders (in the community) and using the proceeds when appropriate to compensate the victims.
- 4.2 Developing and strengthening the role of traditional leaders in mediation mechanism to help the offender and the victim work out an arrangement for payment of compensation that does not involve detention.
- 4.3 Ensuring that the law specifies a time limit on imprisonment for offenders who cannot afford to pay compensation

5 Reducing the number of people in prison for failure to pay a debt (civil)

- 5.1 Encouraging the use of mediation
- 5.2 Creating an obligation for judgment creditors to pay for the upkeep of the prisoners (with a limit to the length of the sentence of imprisonment) (Including amending the civil procedure to include this provision)
- 5.3 Giving the power/authority to the local Chiefs to settle cases through mediation.
- 5.4 Encouraging the use of community service orders.
- 5.5 Creating a greater awareness among the community of the issues associated with the use of incarceration for failure to pay a debt.
- 5.6 For that already in prison, through either the UNDP Access to Justice Programme or any *pro bono* programme, initiating constitutional reference cases in court and moving the court to determine the situation

of people who are imprisoned for failure to pay a debt.

6 Removing all mentally ill individuals from prisons and placing them in a mental health institution

- 6.1 Developing a new facility for mentally ill individuals and, in the interim, provide a special (psychiatric) ward for these individuals in hospitals.
- 6.2 Assessing the current population of mentally ill individuals and determining whether some of them could be released and managed (perhaps with medication) within the community.
- 6.3 Encouraging community peer groups and families to support to mentally ill.
- 6.4 Training selected prison officials and developing their capacity to conduct simple diagnoses of mental illness.
- 6.5 Recruiting welfare officers for reintegration purposes.
- 6.6 Creating diversionary measures for those who are not yet in prison.
- 6.7 Changing the law to prohibit the imprisonment of mentally ill people.
- 6.8 Sensitization of members of the judiciary and County Commissioners on the many problems associated with mental illness in prisons.
- 6.9 Training the police to be able to recognize mentally ill individuals

7 Encouraging diversion from the formal criminal justice system

- 7.1 Strengthening traditional courts and authorities
- 7.2 Identifying the local government and law enforcement as the leading agencies in promoting diversion

- 7.3 Identifying other stakeholders (e.g. judiciary, Ministry of Legal Affairs).
- 7.4 Sensitizing key representatives of justice agencies to need for diversion programmes.
- 7.5 Identifying all petty offences and developing an inventory of all cases in the Chiefs Authorities Act.
- 7.6 Setting up structures for mediation and reconciliation within the traditional court system.
- 7.7 Introducing a more structured restorative justice system.
- 7.8 Encouraging diversion back to the community at the police level.
- 7.9 Ensuring that petty offences are dealt with in accordance with customary practices (with full respects of the rights of the individuals concerned).
- 7.10 Encouraging mediation: petty offences should be dealt with through mediation and be resolved by the parties involved without recourse to the criminal justice system.
- 7.11 Encouraging the use of a restorative justice process and applying the principles of civil reparation.
- 7.12 Educating the population about the need to use these alternative ways of dealing with minor offences and other conflicts.
- 8 Encouraging the implementation of non-custodial sentences**
- 8.1 Introducing the use of probation orders
- 8.2 Establishing a probation department separately to manage non-custodial sentences for offenders and the lead agency should be the Ministry of Internal Affairs
- 8.3 Providing the leadership necessary for implementing non-custodial sentences by the Prisons service in collaboration with the Judiciary and Ministry of Legal Affairs, traditional Chiefs and NGOs.
- 8.4 Setting in place a range of non-custodial sentences should be set in place and, if necessary, enabled by legislation or by strengthening existing legislation and policies.
- 8.5 Affirming the principle in law and in policy that non-custodial sentences should be preferred to custodial sentences whenever appropriate.
- 8.6 Supporting and strengthening the role of paramount chiefs in helping communities deal with minor offences without referring the matter to the formal justice system.
- 8.7 Encouraging the use of suspended sentences (with or without supervisions, in particular to facilitate the payment of victim compensation)
- 8.8 Developing a probation office (within the Prisons Service)
- 8.8.1 Clarifying the law
- 8.8.2 Developing the model for the probation office
- 8.8.3 Defining the role of the probation officer
- 8.8.4 Developing the necessary policies
- 8.8.5 Training new probation officers (recruited from the Prisons service)
- 8.9 Developing a community service orders programme (perhaps modelled on the Kenyan system)
- 8.10 Training of judges on the use of non-custodial sentences
- 8.11 Providing judges with pre-sentence assessments of offenders (by developing the function of the “social investigator” perhaps within the probation office)
- 8.12 Educating the community on the importance of non-custodial sentences
- 9 Encouraging the use of temporary releases from prisons**

- 9.1 Establishing policies and process to facilitate medical or compassionate leaves/releases
- 9.2 Clarifying existing policies, regulations and legislation with respect to the process of authorizing and supervising temporary releases (Policies must be clear about who can be released, when, for what period of time, depending on the nature of the offences and the length of the sentence imposed).
- 9.3 Developing simple but effective procedures for administering the temporary release activities.
- 9.4 Encouraging the use of the “guarantee” system as provided for in the prisons regulations
- 9.5 Designing programmes to increase community preparedness

10 Encouraging the early release of offenders, when appropriate, with proper supervision

- 10.1 Developing the legal and policy or the development of an early-release discretionary system (See: the provisions of the new Prison Law).
- 10.2 Developing the capacity to supervise offenders on early release (parole), perhaps as parts of the functions of the Probation Office.
- 10.3 Offering better programmes in the prisons to prepare offenders for their release.
- 10.4 Making use of the pardon / amnesty provisions of the law.
- 10.5 Educating the population on the public safety advantages of releasing offenders under some kind of community-based supervision.
- 10.6 Addressing the need for information sharing among the justice and community agencies involved.



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