

# COMMUNITY SERVICE

## IN PRACTICE

The documents contained herein are essentially those that have been developed by the Zimbabwe National Committee on Community Service (ZNCCS) since the introduction of the Community Service scheme in 1994.

Work and studies on alternatives to custody in Zimbabwe began in 1992. In 1994, thanks to the financial support of the European Union and the British government, Zimbabwe instituted a Community Service scheme. Zimbabwe's experience proved to be successful: in August 1997, when the scheme was officially transferred to the Zimbabwean government, more than 16 000 persons had been sentenced to community service as an alternative to custody.

The Zimbabwe model has successfully shown how to avoid some of the pitfalls and problems common to all jurisdictions and to manage the scheme in a way that is both highly effective in terms of cost to government and benefit to the community.

The Community Service scheme has won the support of an initially hostile general public within Zimbabwe and attracted considerable interest internationally. As a result, a number of African countries in the sub-region have established their own Community Service Schemes based on the Zimbabwe model, but adapted to suit their own context.

These documents were gathered at the occasion of the International Conference on Community Service in Africa, which took place on 24-28 November 1997 in Kadoma, Zimbabwe. This conference, organised jointly by PRI and the Zimbabwe National Committee on Community Service (ZNCCS), included key representatives from each National Committees for Community Service together with actors from the entire African continent and other parts of the world. It provided a forum for participants to meet and share information on progress made in their respective countries; to discuss and find solutions to common problems encountered within their community service schemes; to develop approaches to alternative measures adaptable to other African countries; and to lay the groundwork for joint actions in providing resources and mutual assistance.

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## **OBJECTIVES OF COMMUNITY SERVICE**

### **1. What is Community Service ?**

Community service is an option the court may use when it has decided that a person's offending is serious and that he/she is suitable to make reparation by constructive unpaid work in the community.

Community service should be physically and emotionally demanding of the offender in that it is a restriction of liberty, involves self-discipline and a respect for others and should engage the offender in tasks or situations that challenge his/her outlook, experience and ability.

Community service can therefore be a positive way of making an offender make reparation for offences and it can encourage personal growth and self-respect. It shows the offender that the community is affected by criminality and the community can see that offenders can make a constructive rather than destructive contribution to the community.

### **2. Objectives of Community Service primarily**

The objectives of community service, or, what a community service order hopes to achieve, involve the reintegration of the offender into the community by :

- a) enforcing the discipline of positive and demanding unpaid work
- b) ensuring that the work provides reparation to the community, making good the damage done by offending

Further to this a community service order may achieve :

- a) a reduced risk of recidivism or repeat offending
- b) an increased chance of rehabilitating the offender to acceptable social standards

In the UK the Home Office Circular N° 18 of 1989 concerning National Standards for Community Service Orders states that an order has three main purposes

- a) punishing the offender by requiring his/her to perform unpaid work, by the discipline of punctual reporting for work and loss of free time
- b) reparation to the community by requiring the offender to do work which is socially useful, which repays the community for what the offender has done and which, if possible, makes good the damage done by offending.
- c) benefiting the community by providing work which otherwise would not be done .

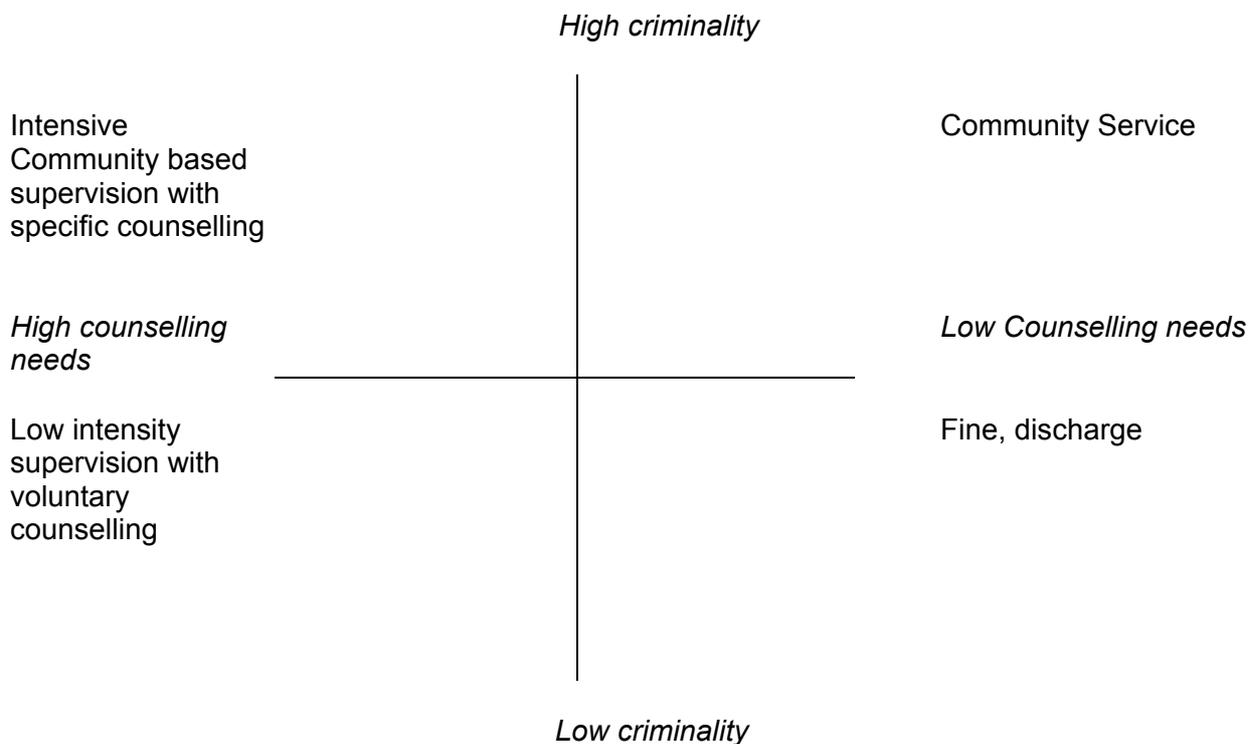
The Home Office document goes on to acknowledge, that, while a by-product of these aims is social integration, this should not take precedence over the need to comply with the requirements of the Court order encapsulating the three aforementioned aims.

The aim of community service then, is to provide a viable, disciplined and worthwhile community based sentence which may also induce rehabilitation and reduce re-offending.

However community service is not appropriate for every offender, and ensuring that the offence, the offender and the sentence are compatible within the principles of sentencing is one of the tasks required of a magistrate.

### 3. Prescriptive sentencing

To assist in establishing the appropriateness of a sentence one can use a sentencing matrix as illustrated below -



To indicate how this matrix can be used we can discuss the examples of

- a) an alcohol impaired driver
- b) a shoplifter convicted of a first offence
- c) a thief with previous convictions
- d) a rapist.

Some of you have noticed perhaps that custody is not an option within the matrix. It is acknowledged that a sentence has a wide range of considerations to take into account when sentencing, with public safety and satisfaction a priority. If an offender presents a danger to himself and/ or the community, or if the offence is so serious, and society will accept nothing less, then containment, that is custody, must be imposed. In the case of the fourth example, imprisonment is, without doubt, the only option.

#### **4. Netwidening and Gatekeeping**

However, a word of caution, sentencers must not only be aware of the need for custody where appropriate, but also the need to impose a fine or discharge rather than community service if the offence is not so serious as to warrant a community service order. Society therefore, must benefit, and will benefit from the dangers of over-using custody also.

The State, that huge entity which is responsible for maintaining the society and the individual also has a duty to support human rights and enlightened behaviour. The promotion of community service is in keeping with both. However a more pragmatic approach is based on economics, something to which a State is usually more receptive. Basically, community service is cheaper than custody. Community service can be used to stabilise prison populations without jeopardising the integrity of sentencing.

#### **Concluding remarks**

The basic principles of community service, including its purpose, nature, appropriateness and effectiveness detailed above, support the culture to develop a scheme which will provide the court with a viable option for the treatment of offenders. Indeed this intention was validated in Zimbabwe by the sentencing conference at Nyanga in 1996. Internationally, community service has been proven to be an effective, efficient and economic method of dealing with the offender, but, in applying it to the Zimbabwe criminal justice system, it is worth remembering that this approach is not new.

Custody as a reaction to offending was a phenomenon imposed during the colonial era. Prior to that community service and reparation were employed as the societal response to criminality.

Community service therefore reflects traditional justice, far more than incarcerating those who could be rehabilitated. It represents sentencing within a framework of national interest and cultural integrity.



## **COMMUNITY SERVICE AS AN ALTERNATIVE TO CUSTODY IN ZIMBABWE**

*This leaflet describes what community service is and how it was introduced as an alternative to custody in Zimbabwe.*

### **WHAT IS COMMUNITY SERVICE ?**

Community Service is an order of the court whereby the offender is offered the opportunity of compensating society for the wrong s/he has done by performing work for the benefit of the community, instead of going to prison.

- **You mean an armed robber is let out to work in the community ?**

No. Community Service is only available for certain types of offence and for certain types of offender. The serious offender who is a risk to the community will not satisfy the criteria for a community Service order. The order is aimed at specific offenders who would normally attract a short sentence and who do not pose a risk to society.

- **So the serious offender would not qualify for Community Service ?**

Precisely. The courts are given guidelines which advise them firstly which offences may qualify for a Community Service order, or any other non-custodial sentence — then they must question the offender as to his/her personal circumstances so that the court is satisfied that offender will be able and willing to complete the order. Imprisonment should always be a 'last resort' of the courts when considering sentence.

- **What if s/he doesn't qualify ?**

The court will sentence the person to a term of imprisonment.

- **What if the person satisfies the conditions, but then fails to complete the order ?**

Quite simply the individual will be brought back before the court which originally passed the order to give a reason why s/he failed to complete the order. If the court is not satisfied, the offender can be sent to prison. If community service is used as a direct alternative to imprisonment, then it acts — in effect — as a deferred term of imprisonment.

- **Why do we need Community Service, why can't we just lock people up ?**

Prisons are expensive to maintain for one thing : think of how much public money is spent on feeding thousands of people, house and clothe them and care for their basic medical needs. Secondly, most of people in prison are not 'dangerous criminals' from whom society expects to be protected. They are often poor people who have committed offences at the lower end of the criminal scale (simple theft,

damage to property) and who are not 'professional criminals'. Who benefits by simply locking them up ? The government incurs additional expense, neither the victim nor society is compensated and the prison population grows more congested. The rationale emerges that by placing the offender in an institution where s/he can do some useful work on behalf of the community (i.e. : do some good), a more positive result is obtained.

- **Such as ?**

Persons working under a Community Service order are sent to a public institution (such as a school, hospital, clinic, public place) to carry out voluntary work for a number of hours. They carry out much needed work than no-one else is employed to do (so they do not take away jobs).

- **Isn't it a 'soft option' ?**

No, not if it is properly implemented and supervised. A programme of work is drawn up with the offender around the number of hours s/he is ordered to carry out. The work is supervised and reports submitted that monitor the work carried out. If the offender is unemployed, the work will substitute for an eight hour working day ; if the offender is employed, s/he must work in his/her free time.

- **Does it take into account the interests of the victim ?**

Community Service provides a way in which the non-violent offender can compensate the community for the wrong s/he has done by carrying out a number of hours of work for the public good.

- **Isn't this just another European import ?**

On the contrary ; the institution of 'prison' is the import, prison did not exist in Africa before the arrival of the Europeans. Prior to the colonial era, the community dealt with its offenders within the community.

## **THE ZIMBABWE EXPERIMENT**

Take a concrete example : the experiment with Community Service that has been going on in Zimbabwe for the past few years. The various institutions in the criminal justice system in Zimbabwe realised they had a *problem*. They started looking for a *solution*. This is what happened.

- **The Problem**

In common with many other countries around the world, Zimbabwe's prison population had risen dramatically in recent years before Community Service was introduced, due, in part, to an increase in crime rates and also to the failure of increasing numbers of offenders to pay the fine set out by the courts who have ended up in prison. In 1992, 60% of all prisoners in Zimbabwe were serving prison terms of three months or less. The resulting congestion in the prisons caused further problems : it proved costly, sanitation broke down, conditions deteriorated to a inhuman level and prison staff were impossibly overstretched.

- **Finding a Solution**

The Zimbabwe government established a National Committee under the Ministry of Justice to look into ways of improving the situation that would reduce the use of custody without letting people off lightly. Previously, a fine was the only alternative to imprisonment but the members of the committee began looking at other alternatives such as 'community Service'

They attended international conferences on the subject, visited Community Service programmes in other countries in Southern Africa and Europe and sought information from many sources. Once the Committee was convinced of the value of the scheme, the next question was how to implement it within the Zimbabwe context, i.e. : in a way that was effective and yet sustainable.

- **Implementing the Solution**

Early on it became clear that the public needed to be persuaded of the value and effectiveness of Community Service. Members of the Committee appeared on national television to discuss it. However, action was deemed to be more effective than words. The law was amended. The National Committee set up local committees to organise the scheme in the community.

These committees were chaired by a magistrate and membership was drawn from respected members of the community, non-governmental organisations (NGOs) and representatives from key sectors in the criminal justice system (police, courts, prisons, local government, social services). Membership of these committees was voluntary, none of the persons involved in the scheme received any payment for the work they took on.

In the first year, between January 1993 and December 1994, over 3,000 people were placed on community service. They worked in hospitals, schools, children's homes, old people's homes and undertook environmental work among other tasks, or 'placements' as they were called.

- **Finding Resources**

It soon became clear to the National Committee that it would not be possible to continue to run a national system with no resources. Penal Reform International (PRI) was invited with establishing the project and finding funds to enable the Committee to administer the scheme.

In September 1993, PRI applied to the European Union and UK government for funds to appoint a national co-ordinator and twelve regional assistants to operate the scheme.

The finances were made available by PRI because of the ground that had been laid, the good co-operation between government departments, the involvement of the community through NGOs and other civic and religious groups, and on the condition that the government of Zimbabwe was prepared to take over the financing of the scheme after the three initial years of operation, always providing that the scheme was successful.

- **Training Sentencers and Raising Public Awareness**

In 1994, the National Committee conducted a series of regional training events, around Zimbabwe to raise public awareness and to train magistrates and others working in the justice system as to the purpose and operation of the community service scheme. Guidelines were produced for sentencers and forms were designed for the use of courts and institutions to monitor the offenders' performance under the terms of the order.

- **Running the System**

Staff appointed under the programme in August 1994, began at once to systematise the operation of Community Service and take up the administrative tasks necessary to ensure the courts had 'placements institutions' to which to send offenders and that

an adequate system of supervision and control was in place to ensure the smooth and effective running of the scheme.

- **National Interest**

The Committee presented the scheme to the public on its merits. However, it went further by realising the international interest that was growing in the Zimbabwe experiment and making the scheme a source of national pride.

The scepticism that initially greeted the scheme, soon turned to approbation as members of the public realised the benefits of the work done for the public good. Today, demand for 'placements' outstrips supply. The scheme has attracted considerable international interest : members of the Committee have been invited to address international conferences : and several international agencies and representatives from many countries have visited Zimbabwe to study the scheme.

Today, Uganda, Kenya, Malawi and Zambia are introducing a similar scheme, with interest expressed from Burkina Faso, Central African Republic, Congo, Lesotho, Mali, Mozambique, and Senegal. In 1996, the chairman of the National Committee (a High Court Judge) was invited to Cambodia for six weeks to conduct a familiarisation programme for the Cambodian judiciary.

- **Results**

⇒ **Stable prison population**

Up to end of July 1997, more than 16,600 offenders have passed through the scheme. The prison population which was 22,000 has reduced to 18,000 since the inception of the scheme notwithstanding an increase crime rate.

⇒ **High Attendance Rate**

Figures for the overall success rate in the period from January 1996 to November 1996 show that 80 to 90% of orders were successfully completed, comparing favourably with the rate achieved in developed countries with far greater resources allocated to the operation of the scheme

⇒ **Recidivism**

Re-offending rates of those given community service were very low in the first year of implementation when the scheme was geographically limited. Courts (nationally) have noted that offenders are not reappearing before them with the regularity they experience with ex-prisoners.

The effect on offenders' families has been positive, as those offenders who had employment prior to their conviction have been able to carry on with their jobs, doing community service in their spare time, and so able to generate income and support their families.

⇒ **Judicial confidence**

Magistrates have expressed satisfaction with the effectiveness of the scheme and the involvement of the community in its implementation. Further, they have commented positively on the constructive nature of the penalty. But the best evidence is that they have placed more than 16,000 offenders on the scheme who they might otherwise have sent to prison.

⇒ **Cost benefit**

The cost of keeping a person in prison in Zimbabwe amounts to approximately USD\$ 120 per month ; the cost of placing someone on Community Service amounts to USD\$ 20 only.

⇒ **Public benefit**

The scheme has secured public approval in Zimbabwe through its visible results. It has also promoted public debate about, and public involvement in, the nature of criminal justice and the responsibility of the community in dealing with those who offend its rules and laws.

● **The Government Takes Over The Scheme**

The Community Service scheme has operated for three years (1994-1997) with European Union and United Kingdom government funding monitored by PRI. In July 1997, the government of Zimbabwe has officially taken over financial management. An integration programme has been negotiated with the Ministry of Justice. The administration has been maintained under the new arrangement with as many staff as possible transferring to government service in the interest of continuity. The scheme, which has always been led by the judiciary, continues to be judicially driven.

● **The Role of Penal Reform International**

PRI is a international organisation committed to reducing the use of imprisonment in countries around the world and to promote international norms and standards on good prison practice.

PRI has been working in sub-Saharan Africa since 1992. It aims to assist governments by working closely with local NGOs and individuals to establish their own penal reform programmes, sharing the experience and expertise of other related countries. PRI offers technical advice and assistance with raising funds for projects. It does not establish its own structures in specific countries, preferring to work in partnership with national NGOs.

PRI does not normally take direct responsibility for long-term projects. However, the strength and commitment of the National Committee on Community Service in Zimbabwe, combined with government willingness to take over the project, persuaded PRI to do so. PRI's role remains one of encouraging local development of appropriate local initiatives and spreading good practices to other countries.

**CRITICAL FACTORS FOR SUCCESS OF ZIMBABWE NATIONAL COMMITTEE ON  
COMMUNITY SERVICE**

1. Political willingness to have and actively support a Community Service System.
2. Involvement and co-operation of all relevant ministries at a high level, particularly the ministries concerned with Social Welfare, Local Government, Home Affairs and Justice.
3. Complete autonomy of the Committees, free from Government, constraints and controls. In Zimbabwe, this was achievable because the ZNCCS (Zimbabwe National Committee on Community Service) was judicially driven and fully trusted by the government.
4. Control by the National Committee on Community Service of finance, assets, staff and implementation of the system and the prerogative to issue guidelines, and set up administrative controls.
5. A reasonable efficient and responsive court structure countrywide and the commitment of provincial and resident magistrates countrywide to actively promote the system (despite their already heavy work load).
6. Ability to form district committees nation-wide amalgamating governmental and non-governmental organisations all on a voluntary basis with a willingness and ability to implement the central policies.
7. Involvement of Supreme Court and High Court in encouraging the system i.e. agreement of Supreme Court and High Court as to the grid and guidelines plus constant issue of review judgements by High Court for guidance of magistrates.
8. Willingness of heads of institutions to participate in the scheme and properly supervise offenders placed at their institutions.
9. Commitment of the Executive Committee to ensure that all funds are honestly expended on the programme.
10. Co-operation between government and non-governmental organisations.
11. Effective control of employment contracts of staff engaged in the scheme by National Committee on Community Service thereby avoiding government bureaucracy.
12. Effective use of the media in providing positive publicity at appropriate and opportune times.

**AIMS AND OBJECTIVES OF THE NATIONAL COMMITTEE ON COMMUNITY SERVICE IN UGANDA AS ADOPTED BY THE INAUGURAL MEETING: KAMPALA 19TH - 20TH NOVEMBER 1996**

**1. Name**

The name shall be "The National Committee on Community Service in Uganda".

**2. Composition**

Key ministries, departments and civil society groups shall be represented in the National Committee.

**3. Executive Committee**

Shall be elected an executive committee with the functions of Chairperson, vice-chairperson, Secretary, treasurer and two (2) committee members;

**4. Aims and objectives**

The National Committee on Community Service in Uganda seeks to harmonise the operations of each component to the criminal justice system, i.e. the police, the judiciary, probation services and the prison; and by so doing aims to promote the ideals of community service as an alternative form of sentencing. Its aims and objectives therefore are :

1. To develop ways and means of reducing the use of imprisonment and enhance the use of non-custodial sanctions which encourage rehabilitation, social re-integration and take into account the interests of the victims and the community;
2. To develop methods of operation which encourage and promote involvement and co-operation of all relevant ministries and departments at a higher level and all components of the criminal justice system in Uganda and in the region;
3. To advocate and ensure enactment of all necessary amendments to the law that will facilitate the development of community service as an alternative form of punishment;
4. To promote ideals of community service and undertake educational and training programmes on community service for the general public and concerned government departments and non-governmental organisations;
5. To lay down the foundations of a community service programme and issue guidelines
6. To promote co-operation between governments and non-governmental organisations in the field of community service;
7. To carry out research on Uganda's cultural norms and values that will strengthen the community oriented sentencing;

8. To advocate and promote the strengthening, of those departments and institutions in the monitoring and implementation of community service programmes;
9. To devise mechanisms for the proper implementation of a scheme of community service and to form organisational structures at national, regional and district levels that would be autonomous and would amalgamate government and non-government institutions, all on voluntary basis;
10. To build a healthy financial reserve for the continued running of the committee by raising funds nationally and internationally;
11. To take any other steps that seek to further the foregoing aims and objectives.

## PLAN OF ACTION ON THE INTRODUCTION OF COMMUNITY SERVICE IN UGANDA

Welcoming, the political willingness to introduce a community service scheme in Uganda and the involvement of all competent ministries at a high level as well relevant community groups,

Given, its full endorsement to the policy statement of the Uganda Law Reform Commission on the subject,

The first conference on the introduction of Community Service in Uganda, held at Kampala on 19 and 20 November 1996, resolves as follows;

### 1. Establishment of a National Committee

**A NATIONAL COMMITTEE ON COMMUNITY SERVICE** shall be established. It shall have full autonomy and be free from government constraints. This Committee shall be judicially driven and fully trusted by the government. It shall have control of finance, assets and implementation of the scheme and the prerogative to issue guidance, and set up administrative control. The Committee shall also ensure that all funds entrusted it are honestly expended on the programme. It shall further exercise effective control on employment contracts of staff engaged in the scheme.

### 2. Establishment of regional and district committees

As the scheme expands, regional and district committees shall be established, nationwide amalgamating governmental and non-governmental organisations all on voluntary terms, with a view to implementing the central policies. These committees shall be chaired by senior judges and comprise those representatives of organisations represented at the National Committee. They shall further include local council leaders and other influential persons in the local community who shall be co-opted into the scheme. These committees shall hold regular meetings and shall be tasked with identifying suitable placement institutions and ensuring the smooth running of the scheme in their areas.

### 3. Involvement of the judiciary

Effective steps, including appropriate training and publicity, shall be taken to actively promote the community service scheme with the judiciary countrywide and to ensure the commitment of regional and resident magistrates, despite their already heavy workload.

The Supreme Court and the High Court shall be involved in supporting the scheme, i.e. through agreement between these courts on the grid (showing the correlation between imprisonment and community service in hours) and guidance as well as constant issue of review judgements by high court for guidance of magistrates.

### 4. Involvement of the public and local communities

In order to enhance the prospects of better re-integration of offenders into society and better internalisation of social values, the local population, in particular the local councils, shall be actively involved in the rehabilitation of offenders through community service and counselling.

### 5. Involvement of the media

In order to sensitise the community and bring about positive change of societal attitudes towards the advantages of the community service scheme, effective use shall be made of the media in providing adequate publicity at appropriate and supportive times.

#### **6. Involvement of NGOs**

NGOs should be involved in the implementation of the community scheme at all levels. They shall also be involve in policy decision in an advisory capacity.

#### **7. Enactment of a Bill**

With a view to ensuring a legal basis for the introduction of community service as a penal sanction in Uganda, a bill on the subject shall be enacted as soon as possible. The Uganda Law Reform Commission deserves to be commended on the proposed draft already prepared. It shall be requested to proceed expeditiously with the finalisation of this important work.

#### **8. Research**

Action-oriented research on the subject shall be promoted, bearing in mind the need to explore appropriate ways and means how to advocate and implement the new community service scheme in Uganda in the best possible manner.

## **POLICY STATEMENT ON COMMUNITY SERVICE IN UGANDA**

The first conference on introduction of Community Service as a Penal sanction in Uganda, held at Kampala on 19 and 20 November 1996, is convinced that Uganda needs a more effective and humane system of penal sanctions which would promote non-custodial measures and strengthen community involvement in criminal justice. Such a system would have the further effect of decreasing, the number of prisoners to reduce overcrowding and redress the harm done to victims of crime by providing the means of rehabilitating offenders in society through useful community work.

At present, the tendency to impose imprisonment as a principal penal sanction rather than other forms of punishment appears to stem from the anxiety of the public that holds the view that no justice is done if offenders are not sufficiently secured in custody. Hence, if they are not imprisoned, the public feels aggrieved when they return to live within society with the added risk of insecurity. Therefore, there is need to sensitise the public on the advantages of community-based sanctions.

This situation has been exacerbated because the probation service does not function fully and needs to be strengthened. The lack of an effective probation service has deprived the courts of information upon which they would safely pass non-custodial sentences and, indeed, array for supervision or help with regard to payment of fines and compensation, in addition to mediation and reconciliation.

However there are good reasons for advocating, the promotion of non-custodial measures, including community service, as penal sanctions. First, non-custodial measures have considerable potential value for the community. Crime and its effects are a great financial burden to Uganda. The administration of criminal justice is expensive. Many non-custodial measures, including community service, cost less to implement than custody. Specifically the cost of enforcement of the sentence may be less than the cost of imprisonment. In addition, indirect financial benefits may result from a reduction in the social costs of imprisonment and a reduction of crime, not to speak of community development and victim redress. This would also be in line with traditional customs and practices of conflict resolution.

Secondly, custodial measures may have negative effects on those subjected to them. Imprisonment cannot be considered an appropriate sanction for a wide variety of offence and many types of offenders, in particular those who are not likely to repeat offence, those convicted of minor crimes and those needing medical, psychiatric and social help. Imprisonment severs community ties and hinders reintegration into society. It reduces the offenders' sense of responsibility and their ability to make own decisions.

Avoiding custodial measures, therefore, enhances the prospect of better reintegration of offenders into society and better internalisation of social values as well as active involvement of the local population in the rehabilitation of offenders.

A range of non-custodial measures, including community service, have the unique advantage of making it possible to exercise control over an offender's behaviour while allowing him or her to evolve under natural circumstances. This offers opportunities for the development of the offenders' sense of responsibility, reducing the likelihood of further

crime and helping offenders to become responsible citizens who benefit society. The existence of Local Councils in Uganda provides an excellent basis for the introduction of community service.

The efforts to promote non-custodial measures and, in particular, introduce community service as a penal sanction in this country are in line with United Nations recommendations, contained in the United Nations Rules for Non-Custodial measures (The Tokyo Rules) of 1990.

Positive experience with the introduction of community service has been made in many countries all over the world, including a number of African states, such as South Africa, Lesotho, Swaziland and Zimbabwe. Other African countries are showing increased interest to introduce community service in their sentencing options, including Kenya, Malawi and Zambia. Exchange of experience and a process of learning from each other are highly desirable and should be encouraged.

**Zimbabwe National Committee on Community Service  
Guidelines for magistrates**

Community service as a non-custodial alternative, came into existence following the promulgation of the Criminal Procedure & Evidence Amendment Act, 1/92. It provides an alternative to imprisonment and is particularly beneficial to first and youthful offender. It gives the offender the opportunity to reflect on his wrongdoing. Most importantly, the offender is not only kept out of prison where he would otherwise get into contact with the worst elements in society but he is also made to pay reparation for his wrongs to society. It can be an exacting form of punishment and is not intended to be an easy way out for convicted persons.

Community service can have a positive effect on the ever increasing prison population. The Prisons Department is on record as saying that approximately \$550 is spent on every prisoner per month. The option therefore can save the taxpayer considerable sums of money. Of importance is also the fact that the convicted person avoids the stigmatisation that normally flows from imprisonment and is able to continue tending for his family. He retains his employment despite his conviction. Family ties are also maintained.

**1. The 12 months guidelines**

a) The 12 month guideline remains the starting point.

b) Any person sentenced to an effective -prison. sentence of 12 months or less is to be regarded as a non-serious offender. It is the non-serious offender, who is, the target. Any such person is liable for community service, provided he meets the laid-down criteria. Use of the term "petty offender" can result in confusion and should be avoided.

c) It is the effective prison term that is relevant. As long as the effective prison term is 12 months or less, community service can be considered. The fact the accused is also given the benefit of a suspended sentence over and above the effective prison sentence is irrelevant.

**2. Proper enquiry**

a) **There must be a proper enquiry in all cases.** Before sentencing an accused to do community service, the presiding magistrate must have before him all necessary background information. The information should be provided by the investigating officer in the docket. The Commissioner of Police has already indicated that all investigating officers will assist in this regard. The Prosecutor may also ask the investigating Officer to provide additional information. Most importantly, where a Provincial Community Service Officer is available, (previously known as the Community Service Officer) such officer should be asked to provide the necessary details. A legal practitioner may also provide information relating to his client but the Court need not to accept such information before verification by either the prosecutor or the provincial community service officer or the Clerk of Court where a provincial community service officer is not available.

b) **The enquiry must be recorded.** It is important that the questions put to the accused and his response thereto are all recorded. Any other information provided by the prosecutor or the provincial community service officer should likewise be recorded. It is not sufficient to simply make an order that an accused person performs a certain number of hours at a particular institution without showing that decision is reached.

c) During the inquiry, the trial magistrate is to look into the following:

i) *Whether Accused has a fixed abode.* A person who has a fixed abode is likely to complete his community service.

(ii) *Whether Accused is a family man.* A family man is likely to complete his community service. Community service will also enable him to continue fending for his family.

(iii) *Whether he is employed.* This includes employment within the informal sector but subject to such a proof as the trial magistrate may deem appropriate. A person who is employed is not likely to abscond. The community service order should however take into account the fact that he is employed. If the accused is likely to lose his employment following his conviction this should also be taken into account especially if this results in a change in the accused's place of abode.

(iv) *Whether the accused is a first offender.* This is important. As a general rule, first offenders should not be sent to prison unless the nature and magnitude of the offence is such that only such a sentence is warranted. Subsequent offenders can also be considered provided the previous convictions were for minor offences and the Court is satisfied that the Accused can benefit. In short subsequent offenders can be considered where there are special mitigating features and provided the institution is made aware of the previous convictions (and is willing to accept the offender). It maybe advisable for subsequent offenders to be required to carry out community service at a police station or at the Court to minimise any possible difficulties.

(v) *Whether the accused is a youthful offender.* Care should always be taken to ensure that youthful offenders are sent to prison only at last resort.

(vi) *Distance to the nearest institution.* It is important that the institution is as near to the Accused's place of residence as is possible (and if the accused is of limited means should be with reasonable walking distance).

(vii) *Age of the Accused person.* Common sense should be exercised in imposing community service on juveniles and on the very old. Juveniles attending school should not be made to do Community service during school hours. The nature and type of work to be performed should also be related to their capacity. It is felt that it is an important topic and more detailed guidelines are being prepared and will be distributed in the near future.

(viii) Attached as Appendix 'A' is a draft questionnaire to assist Magistrates during the inquiry. It is recommended that it be utilised in all cases where an effective prison sentence of 12 months or less is imposed.

### **3. Imprisonment a last resort**

Imprisonment is to be regarded as a last resort. As directed by the Chief magistrate, in Circular 7/95 which was recently re-distributed, reasons must be given in all cases where a sentence of 12 months or less is imposed why community service is not appropriate.

### **4. Offences for which Community Service is not appropriate**

There is a need for a careful exercise of discretion on the part of Magistrates. Some offences are by their very nature not suitable for community service as this is a Community-based sanction. Offences such as murder, rape, armed robbery with violence, car theft (or cattle) should not be considered for community service, even if the sentence is within the 12 months guideline.

Special caution should be exercised in imposing Community service for offences such as robbery, culpable homicide, infanticide, abortion, etc. Only where the mitigatory circumstances are very compelling should Community service be considered.

### **5. Community Service as an alternative to a fine**

Community service can be imposed as an alternative to the prison term imposed as an alternative to the payment of a fine. The number of hours should follow the recommended grid. In other words, community service should not be imposed as a direct alternative to the payment of a fine.

Community service should be imposed in such cases only if it is quite clear that the accused will not be in a position to pay the fine in which case he will end up serving the alternative sentence. Where an accused is able to pay the fine, community service should not be imposed. Where an accused person raises the fine after sentence, then he should appear before the magistrate and advise that he would like to pay the fine instead so that the Magistrate can regularise the position within the institution.

## **6. Community Service when an accused is on employment**

When an accused person is employed, special care should be taken to ensure that the order does not result in the accused losing his employment, thereby defeating one of the objectives of Community service orders. In such cases, Community service should be ordered after normal working hours or during weekends. This must be done by arrangements with the institution concerned. When an accused person finds employment during the performance of Community service, the Community service order should be varied.

## **7. Grid of hours for community Service orders**

a) There is now a new grid of Community service hours. This is to replace the old grid. This grid of hours has been prepared after consultation with Judges of the Supreme Court and the High Court and all Magistrates. It allows for a measure of flexibility in the number of hours to be served. A copy of the new grid is attached in Appendix B.

b) The minimum number of hours will be 35 hours but in exceptional cases a lower number can be ordered. Under no circumstances should community service of less than 7 hours be imposed, but magistrates should be reminded that in terms of the Criminal Code, imprisonment of less than 4 days is not permissible.

## **8. When is Community Service at Court or at Police Station appropriate**

When the reliability of the offender is in question, the offender could be made to do community service at either the court itself or at a Police Station as indicated in paragraph 7 above. Ordinarily sentencing accused persons to do community service at either the Court or the Police Station should be avoided. The work at either place should be manual and not clerical.

## **9. Match the offender to the institution**

There is a need to match the offender to an appropriate institution e.g. a doctor being made to do community service at a local clinic, a mechanic or electrician being made to fix electrical appliances at an old age home, etc. It is not advisable to order offenders to do clerical duties at the Magistrates court. Again Magistrates are urged to exercise common sense in making such placements.

## **10. Explain what Community Service means**

Before sentencing an accused to do community service, the trial magistrate should carefully explain what community service entails and what the alternative would be. The informed consent of the accused should be sought. If the accused does not consent, then community service should not be imposed.

## **11. Case authorities on Community Service**

A paper on case law by Judges Garwe and Bartlett was distributed at the Magistrates' Workshop at Masvingo last October. This was recently distributed by the Chief Magistrate. Magistrates are urged to familiarise themselves with the cases cited.

## **12. Correct wording of Community Service orders**

Community service orders must be correctly worded in order to obviate possible confusion. To assist Magistrates, a copy of the pro-forma of a community service order is attached as Appendix 'C'.

## **13. The institution must be willing to accept the offender**

Before sentencing an accused person to do community service, there must be confirmation that the institution is willing and able to take the offender. A situation where some institutions have more offenders than they really need or where some institutions which could benefit do not have such offenders must be avoided.

## **14. Up to date register of Community Service orders to be kept**

The Provincial Community Service Officer or in his absence the Clerk of the Court is to keep an up-to-date register of offenders performing community service at each institution. The Provincial Magistrate should ensure that this register is properly checked at the end of each month by a magistrate. An example of what the Register should contain in respect of each order is attached as Appendix 'D'.

## **15. Supervision of provincial Community Service orders**

It is the responsibility of each Provincial Magistrate to ensure that the Provincial Community Service Officer is properly supervised on a day-to-day basis. If any serious problems are encountered, the Provincial Magistrate must contact the National Co-ordinator immediately.

## **16. Submission of form CS/2**

The trial magistrate should ensure that the Provincial Community Service Officer or in his absence, the Clerk of Court actually submit form CS/2 to the institution. In addition to the duties indicated in paragraph 14 above, it is important that all Provincial Magistrates and Resident Magistrates regularly check the records to ensure that this is done.

## **17. Check completion of order**

The Provincial Community Service Officer or where he is not available the Clerk of Court must keep track of the community service order and ensure that it is actually carried out and that form CS/8 from the institution is returned to the Court and thereafter forwarded to the National Co-ordinator. Where an offender is in default, a warrant of arrest should be issued immediately.

## **18. Inquiry on default**

Where an accused is re-arrested having- failed to complete his community service, the Magistrate must undertake an inquiry into the default. If no good reason exists, the trial magistrate can then sentence the accused to undergo a proportionate term of imprisonment. If the accused gives a good reason for his default, the Magistrate, in his discretion, can order the accused to go back to the institution to complete his community service.

## **19. Contact with supervisors**

The provincial/Resident Magistrate should have an updated list of the names and contact telephone numbers of the supervisors under whom the offenders are to carry out Community service. The supervisors should be contacted regularly and invited to district meetings to find out how the programme is operating.

## **20. Supervisors guidelines**

The Provincial/Resident Magistrate should ensure that all Supervisors are provided with the amended supervisor's guidelines. All Magistrates should also familiarise themselves with the supervisors' guidelines in order to be able to give sound advice.

## **21. Regular meetings of Districts Committees**

There is need for regular District Committee meetings. Ideally this should be chaired by the Provincial/Resident, Magistrate. It is suggested that such meetings be held every-month.

## **22. Visits to institutions by Magistrates**

The Provincial/Resident Magistrate is to visit institutions possible to discuss the Performance of the offenders with the supervisors of institutions. This can be done for example on the journey back from circuit. Other members or the District Committee should also be encouraged to do the same.

## **23 Expansion of the Community Service programme**

The Provincial/Resident Magistrate and the Provincial- Community Service Officer should endeavour to expand the programme by approaching new institutions and encouraging the supervisors of such institutions to embrace the programme. The supervisors should also be encouraged to participate at District Committee meetings. The Provincial/Resident Magistrate as well as the Provincial Community Service Officer should engage in local discussions and should address gatherings.

## **24. Resolution of difficulties which arise**

Any difficulties or queries should in the first instance be referred to the National Co-ordinator or to the Chairman or the other members of the Executive Committee. The numbers are as follows

JUDGE GARWE	791697
JUDGE BARTLETT	791502
MR, A MSENGEZI (National Co-ordinator)	794624
MR A MCMILLAN	735694

**DRAFT QUESTIONNAIRE FOR MAGISTRATES TO ASSIST IN DETERMINING  
WHETHER COMMUNITY SERVICE IS APPROPRIATE**

*(Magistrate explains to convicted person what community service is and its advantages)*

1. (a). Do you understand Yes/No  
(b) Would you be willing to do community service Yes/No

**2. Normal place of residence**

- (a). Whether owner/tenant/stay with parents/relative (tick appropriate)  
(b). Name of parent/relative (applicable if living with parents/relatives)

**3. Whether married/separated/single/widowed/divorced (tick appropriate)**

**4. Number of dependants**

**5. Whether employed** Yes/No

**6. Name of employer**

**7. Position at work**

**8. Name of immediate Supervisor**

**9. Time commencement of duty**

**10. Knock off time**

**11 If not formally employed, what do you do for a living ?**

**12. Earnings**

**13. Whether previously convicted** Yes/No  
If yes, for what offence, date and sentence

**14. Residence from** (name of institution)

**15. Distance to be travelled**

**NATIONAL COMMITTEE ON COMMUNITY SERVICE**

**GRID OF HOURS OF COMMUNITY SERVICE AND MINIMUM HOURS**

**New National grid**

The new grid of hours of community service as related to periods of imprisonment is as follows

1 to 3 months imprisonment is equivalent to	35 - 105 hours
3 to 6 months imprisonment is equivalent to	105 - 210 hours
6 to 9 months imprisonment is equivalent to	210 - 315 hours
9 to 12 months imprisonment is equivalent to	315 - 420 hours

**Explanation**

It has been agreed that the basic hour figure for community service would be increased from 30 hours to 35 hours. This is because this increase works out numerically convenient as a multiple of 7 hours per day for a 5 day week. The old figure of 30 hours did not have that advantage.

The old grid of hours lacked flexibility. Accordingly magistrates have been given a general discretion to impose between 35 to 105 hours of community service when they would otherwise be imposing a sentence of 1 to 3 months. This gives a magistrate discretion to impose up to 105 hours of community service when imposing a suspended 1 month sentence.

The upper tier of the grid have been amended accordingly. Where the magistrate would otherwise have imposed a sentence of 3 to 6 months he should consider imposing community service for a period of between 105 to 210 hours. This means that where a magistrate considers it appropriate he might impose community service for up to 210 hours when he would otherwise have imposed a 3 months prison sentence.

The next tier of the grid would be the possible imposition of 210 to 315 hours of community service where the magistrate would otherwise have imposed a prison sentence of between 6 to 9 months. This gives a magistrate the discretion to impose up to 315 hours of community service where he would otherwise impose a sentence of 6 months iwl.

The final tier of the grid would allow a magistrate to impose community service between 315 to 410 hours where he would otherwise have imposed a sentence of 9 to 12 months. This once again gives a magistrate the discretion to impose community service of up to 420 hours where he would otherwise have imposed a prison sentence of 9 months.

The increase of the basic figure of 30 to 35 hours and the flexibility of the grid should allow magistrates a wide scope to impose an appropriate amount of community service. It should be emphasised that the grid applies whether the offender is employed or unemployed. It would be advisable, however, for magistrates to appreciate that where a person is in employment and carrying out community service after hours or over the week end that it may take a considerable period of time to complete the suggested community service hours. In these circumstances, it would not be inappropriate for magistrates to exercise their discretion by reducing the number of hours of community service to a level they consider appropriate.

## **Minimum hours**

It is important that Community service should be seen by both the offender and the public to provide a reasonable appropriate and substantial punishment for the offence committed. It is accordingly important that the number of hours of community service appropriate should be carefully considered.

In general terms the minimum number of hours of community service which should be imposed is 35 hours - the number of hours which would normally be worked in a week.

There may however be certain situations where it may be appropriate to impose a number of hours lower than the suggested minimum figure. One example will be quoted where a lower minimum may be appropriate. There may be other examples but it is emphasised that magistrates should be very careful when considering imposing a period of community service less than the suggested minimum of 35 hours.

The example situation where a lower period might be appropriate is as follows. An accused person is convicted of an offence where the magistrate would otherwise have imposed a fine in the range of \$10 - \$50 with an alternate period of imprisonment of 4 - 15 days. The accused is, however completely unable to pay any fine at all and also has no fixed abode. In other words the magistrate in imposing the appropriate sentence would have little option but not to give the accused time to pay the fine - for fear that the accused would not be seen again. In such circumstances it may well be appropriate to impose the appropriate fine and an alternative of imprisonment but suspend the operation of the sentence on condition the accused does for example 7 hours of community service.

The rationale behind the 7 hours period is that, at least ideally, the accused could be taken straight from the court to the institution - probably the court itself or a police station or nearby institution. The accused would then work for the 7 hours period during that day (or perhaps stretching into the next day) and then be released. A further rationale for the 7 hour period is that the accused having no fixed abode would not be appropriate for community service and could not be traced otherwise if allowed to leave the court before commencing community service.

There could also be quite a number of petty statutory offences where a sentence within the limits just described would be appropriate and where the accused, having no money at all and having no fixed abode would fall into the category concerned.

The practical implementation of community service for such a limited period would need to be arranged by the relevant magistrates court in conjunction with the appropriate nearby institutions.

**APPENDIX C**

**1. Form of order for suspending a sentence of imprisonment on condition the convicted person performs community service at an institute (e.g. old age home)**

12 months imprisonment of which -

a) 6 months imprisonment is suspended for 5 years on condition the accused is not convicted of any offence of which dishonesty is an element committed within that period for which he is sentenced to imprisonment without the option of a fine.

b) a further 6 months imprisonment is suspended on condition the accused completes 210 hours of community service

at \_\_\_\_\_  
(name of institution)

at \_\_\_\_\_  
(place)

on the following terms :

a) the community service starts on \_\_\_\_\_  
(i.e. 7 to 10 days after date of sentencing) and must be completed within 12 weeks of that date :

b) the community service must be performed between the hours of 8 a.m. to 1 p.m. and 2 p.m. and 4 p.m. each Monday to Friday which is not a public holiday to the satisfaction of the person in charge at the said institution who may, for good cause grant the accused leave to be absent on a particular day or days or during certain hours. Any such leave of absence shall not count as part of the community service to be completed.

**2. Form of order for suspending a sentence of imprisonment on condition the convicted person performs community service as is assigned to him (e.g. by head of department of municipality)**

12 months imprisonment the whole of which is suspended on condition that the accused completes 420 hours community service assigned to him by the person in charge of the Amenities Department of the Harare City Council (or his delegate) on the following terms :

a) the community service starts on ..... (7 to 10 days after date of sentencing) and must be completed within 24 weeks.

b) the community service must be performed between the hours of 8 a.m. to 1 p.m. and 2 p.m. and 4 p.m. each Monday to Friday which is not a public holiday to the satisfaction of the person in charge (or his delegation who may grant the accused a leave to be absent on a particular day or days or during certain hours). Any such leave of absence shall not count as part of the community service to be performed.



## **PRE-SENTENCE ASSESSMENT REPORTS**

The Community Service Officer plays a pivotal role in the Community Service system. Without the reports furnished to the court before sentence is passed, the court would be severely handicapped in its effort to consider the appropriateness of community service as a sentencing option. It is for this reason that a community service officer should be thoroughly knowledgeable on the information which should be contained in the report that he presents to court on any one particular accused person.

In the process of collating data for presentation to court, a community service officer should be broadly guided by certain acceptable parameters, but within those parameters there is great scope for variation and adaptation. An officer should exercise his discretion because as the man on the ground he is best placed to assist the court in determining the suitability of certain options. In broad outline, some of the areas which require investigation are the following.

### **1. Abode**

It would not be easy to supervise the manner in which an offender performs his community service unless he has a fixed and settled home. In the event of him absenting himself due to illness or simple default the offender should be traceable to a known physical address. An offender without a home is unlikely to perform community service in a satisfactory manner. He is unlikely to complete his community service. A person without a home is unlikely to afford regular meals and a hungry person can hardly exert himself physically. Generally speaking, therefore a person who does not have a fixed place of residence is not a good candidate for community service.

### **2. Availability of institution**

Any report made to court can only be useful if it tells the court of the availability of an institution which is willing to receive the accused and which has work of a suitable nature. The suitability or otherwise of the work available in an institution is a matter for the court to determine but in order to make such an assessment the community service officer's report must apprise the court of the nature of the work available. The report must clearly indicate whether the head of that institution has been consulted and if so is he/she is willing to have the offender carry out his community service at the institution. The needs of the receiving institution should also be established.

### **3. Distance**

The location of the institution relative to the accused's home is of great importance and so is the mode of transport available to the accused. An accused who has to walk several kilometres to reach the institution at which community service is performed is unlikely to be punctual and in most cases he will be exhausted before he starts work. It is undesirable that an offender be put to the undue expense of travelling to the place where community service is to be performed. A distinction can, in appropriate cases, be made between a rural dweller and an urbanite who, like all other workers in town has to board a bus or drive to work. Each case must be looked at in its own context. Community Service Officers must use their discretion.

#### **4. Employment**

A person who is employed is more likely to comply with his community service order. One of the advantages sought to be achieved through the imposition of community service is the avoidance of unnecessary disruption of an offender's normal life. A court which imposes community service would therefore want to know if the offender is employed and if so what his working hours are and what the distance is from his place of work to the receiving institution. The nature of the accused's employment can also be relevant depending on the circumstances. In this regard the court would also want to know if the accused possesses any particular skills.

#### **5. Social Status**

The accused's standing in his community may be of marginal relevance in that it may have a bearing on his supervision by the authorities at the institution.

#### **6. Family Status**

The court would need to know in each case if the accused is married and has children

#### **7. Supervision**

A brief background, and I emphasise brief, about the institution can also assist. In particular the court always wants to know the person under whose supervision the offender would fall.

It is not possible to list all the relevant factors and deal with them exhaustively. That is why constant liaison with the District Committee, police and the public prosecutor will always be of immense value. And, as the reporting officers become more and more familiar with the orders made by the court they will no doubt attune themselves to the court's requirements.

## CLERICAL ASPECTS AND STATISTICS ON COMMUNITY SERVICE

This paper is based on observations made on visits to some stations. The impression gained from these observations is that Magistrates and Clerks of Court seem to think that once an offender has been sentenced to community service, that is the end of the matter as far as they are concerned. This, however, is not the positions. In any case where an order is made by a Court, the Court should have an interest to know the outcome of the order.

Where a fine is imposed, the Court must satisfy itself that the fine has been paid or restitution has been made, or where an offender has been jailed the Court will need to be satisfied that the offender was lodged in prison. This is done through C.R.B. checks. Other checks which Magistrates do are the 58(2) registers, review registers, appeals registers. This is all to ensure that the process of the law has been followed through to its conclusion. The same applies with Community Service. Each station should have a Community Service Register which should be kept in the Clerk of Court's office or Community Service Officer's office (at station where these are).

Where a placement has been made, the Clerk or Community Service Officer will fill in the necessary forms (CS/2). Copies are sent to the institutions, the Community Service Officer, given to the offender, and one is retained in the record. The Community Service Officer will then send his copy to the National Co-ordinator. Immediately on placement, the details must be filled in the Community Service Register (copies of samples have been supplied to all stations).

On completion of the work, or where a breach has been committed, the relevant forms. CS/4 or CS/6 are sent back to the station. Like prison warrants or P.R.S. sheets the information must be recorded in the C.R.B. and copies filed in the record. The other copy is then sent to the Community Service Officer of the area who will in turn update his register and send the results to the National Co-ordinator.

There are many cases whose results have been received by the National Co-ordinator's office, but the Courts do not have a record of these cases having been completed or breached. Some would have been outstanding for months. Clearly in such a situation, both the C.R.B. and the Community Service Register will not have been checked. Checking is part of the supervision of the Clerk and the Community Service Officer. It is important that follow-ups are made on these cases. We must remember that institutions we use are volunteers in the Scheme and we must be seen to be active on our part.

**This does not in any way suggest that a magistrate must go and supervise community service placements.**

But Magistrates must interest themselves in what has happened to those persons whom they have placed on Community Service.

The Clerks and Community Service Officers will do the chasing up of the cases on behalf of the Magistrates. That way they will be able to keep an accurate record of how the Scheme is functioning. However, it is only a few stations with outstanding cases. For the year 1996, it has been accounted for about 90% of cases placed on Community Service. About 10% defaulted or breached these conditions. Since the programme started about

15 000 offenders have benefited from Community Service. In 1996 the input by offenders to the Community was about £2,8m and the saving to Government was about \$9m.

Police have been assisting with numbers of offenders who have served Community Service and have committed other offenses subsequently.

What the police have managed to do so far is to supply numbers of offenders who have been arrested again. The figure is below 150. It shows that the majority of the 15000 who have performed Community Service must have reformed.

Lastly credit must also go to some Magistrates who have used their discretion well in placing people on Community Service because the default rate is still low at about 10%.



DATE AT WHICH THE OFFENDER SHALL START \_\_\_\_\_

DATE AT WHICH THE OFFENDER IS EXPECTED TO END \_\_\_\_\_

NAME AND ADDRESS OF THE INSTITUTION

SUPERVISOR \_\_\_\_\_

TELEPHONE \_\_\_\_\_

SIGNATURE \_\_\_\_\_ SIGNATURE

DATE \_\_\_\_\_ DATE

Please pass on copies of this form to the Community Service officer of your area

Nota: the institution is not entitled to provide food and transport to the offender. Its co-operation in this regard is nonetheless encouraged wherever it is possible



TO THE CLERK COURT AT \_\_\_\_\_

**COMMUNITY SERVICE REPORT OF DEFAULT BY OFFENDER**

NAME OF OFFENDER                      SURNAME              FIRST NAME/S  
\_\_\_\_\_

ADDRESS OF OFFENDER  
\_\_\_\_\_  
\_\_\_\_\_

C.R.B. NUMBER \_\_\_\_\_

NAME AND ADDRESS OF  
INSTITUTION  
\_\_\_\_\_  
\_\_\_\_\_

**This is to advise that the above named offender has defaulted his community service for the following reasons (give details)**  
(e.g. failed to report for work, persistently late for work, failed to perform work properly)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**The action I have taken so far is as follows (give details)**  
(e.g. I have warned him that the matter is being referred to the court, I have continued to give him work, I have sent him home, I have advised the Community Service Officer).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I request that the matter be brought before the court with the community service being cancelled if the court sees fit.**

DATE \_\_\_\_\_ SIGNATURE \_\_\_\_\_

FULL NAMES \_\_\_\_\_

CONTROLLER AT INSTITUTION \_\_\_\_\_

TO THE CLERK COURT \_\_\_\_\_

COMMUNITY SERVICE REPORT FOR VARIATION OF CONDITIONS

NAME OF OFFENDER                      SURNAME              FIRST NAME/S  
\_\_\_\_\_

ADDRESS OF OFFENDER  
\_\_\_\_\_  
\_\_\_\_\_

C.R.B. NUMBER \_\_\_\_\_

NAME AND ADDRESS OF  
INSTITUTION  
\_\_\_\_\_  
\_\_\_\_\_

**This is to request that the conditions of the community service order imposed on the offender be varied as follows (give details)**

(e.g. Offender presently directed to work Monday, Tuesday, Wednesday, but I request this be varied to Thursday, Friday, Saturday/Offender's present hours are 6 p.m. to 8 p.m., but I request this be varied to 7 p.m. to 9 p.m.)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**In the meantime the action I have taken is as follows (give details)**

(e.g. I have informally authorised the offender to change his day or to change his times as follows...)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I request that the matter be brought before the court as soon as possible**

DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

FULL NAMES \_\_\_\_\_

CONTROLLER OF INSTITUTION \_\_\_\_\_



## **NATIONAL COMMITTEE GUIDELINES ON COMMUNITY SERVICE PROGRAMME AS AFFECTED BY CRIMINAL PROCEDURE AND EVIDENCE AMENDMENT ACT 1997**

### **1. New options for Community Service Orders and other changes**

*The Criminal Procedure and Evidence Amendment Act 1997* introduces various change to the law and this circular offers guidelines as to the imposition of community service in the light of these new provisions. However at the outset it will be helpful to recall that from a sentencing point of view community service is an option employed, in appropriate cases, to keep an offender out of prison. Accordingly, a relationship logically exists between the imprisonment that *might* have been imposed on the community service that *is to be served instead*.

It should be recalled too that the National Committee has already issued guidelines incorporating a grid which shows how the number of hours of community service to be imposed may be assessed by reference to the related period of imprisonment shown on the grid.

In detail, the Act authorises the imposition of community **service** :

#### a) *as an alternative to a fine* (New section 347)

Previously, though this was possible under the Act, it was not encouraged and courts were directed to observe caution.

A new provision of the Act however now provides specifically for this form of order and guidelines are offered in the circular in respect of this form of order.

#### b) *as a direct order* (New section 350 A)

This form of order of community service was not previously permitted under the Act. A new provision now specifically provides for it and guidance on this form of order is offered in this circular.

The Amending Act now provides formally for revocation and amendment of community service orders and the breach of such orders.

(New section 350 C and 350 D).

This circular offers guidance in these matters.

### **2. Community service may be imposed as an alternative to a fine** (e.g. 100 fine suspended on condition accused performs community service.)

#### **A. *When to impose it - when is it appropriate***

- a) In keeping with the general basis for imposing community service mentioned at the outset of this circular - namely that the objective is to keep the offender out of prison - it follows that where the offender is clearly able to pay a fine it would be inappropriate to impose community service even as an alternative to the fine. On the other hand where a fine is the appropriate sentence but the offender clearly cannot pay the fine, which the court has determined upon, then community service would be an appropriate alternative to the fine.

Where the court imposes a fine but authorises community service as an alternative, naturally the possibility exists that the accused may find the money for the fine, pay it and then be discharged from community service. If this happens there is no anomaly. It was envisaged as a possibility and in fact gives effect to the court's basic intention anyway : to keep the accused out of prison.

- b) However caution must be used. There are limited resources for community service not only in the number of placement institutions which are available but also in the number of the personnel able to administer the community service orders. Accordingly this type of order should be used where the accused genuinely cannot find the money and would therefore have to go to jail where there is no alternative.

### **B. *How to impose it - how many hours?***

It is not practicable to set out a grid showing the relationship between a fine and community service for the reason, that a fine means different things to different persons depending on their means to pay it. A fine of £50 is not the same thing to a poor man as it is to a rich man.

However in trying to relate a fine to community service a general practical approach would be for a court to employ a series of logical steps. Firstly the court would determine the amount of the fine that is appropriate. Then the court would assess the ability of the offender to pay the fine. If it determines that he simply does not have the means to pay it, the next task is to determine an appropriate number of community service hours to impose as an alternative.

In determining the amount of hours, the court should now have regard to the notional period of imprisonment that would be applicable should the fine not be paid. (In other words the question is what would have been the period of imprisonment that would have been imposed in default of payment of the fine for the offence concerned.)

Having arrived at this notional period of imprisonment, the court may then, applying the grid, work out the appropriate hours of community service.

If it needs to be stated in short, it may be put this way. A general approach should be to have regard to *what would be* the period of imprisonment *that would be* imposed if the fine was not paid and to use that as a basis for assessing the related number of hours of community service.

In the result a court would generally be applying the same basis in fixing the related community service hours whether the alternative is a fine or imprisonment.

### **3. Community Service may be imposed as a Direct Order** E.g. « The accused shall render 100 hours community service ».

#### **A. *When to impose it - when is it appropriate ?***

It may usually be more effective to impose community service in as an *alternative* because this means there is some clear and open incentive which the offender knows about in advance, i.e. he knows that if he does not perform the community service the threat of the alternative (imprisonment or fine) hangs over him.

However there may be cases where the court does not wish the offender to go to goal or does not wish him to pay a fine or even have the opportunity of doing so but positively wishes him to perform community service because of the benefit it will bring.

For example in the case of a young offender who needs to be taught a lesson and to be taught that crime does not pay : it may be counter productive to impose a fine - his father will just pay it. In such a case a *direct* order of community service might be appropriate.

Another example is that of an adult with ample means who the court does not wish to imprison. A fine would be unsatisfactory - the adult would just pay it and « feel » nothing or hardly anything. In such a case a period of community service (without the option given to pay a fine) might be appropriate.

### **B. How to impose it - i.e. how many hours ?**

The assessment of the number of hours of community service that would be appropriate when community service is applied as a *direct* order should be approached according to the same general rule explained in the last section.

The court should say to itself « *If* I were not imposing community service and *if* I were imposing imprisonment instead, what period of imprisonment would be appropriate in all the circumstances ? ». Having worked that out, the court would next say to itself « I would have imposed x months imprisonment, now what is the related number of hours of community service for that period of x months ? »

It will be seen that the result is a logical one and in keeping with the overall basic objective of community service : the object of community service is to keep the offender out of prison and so it bears a relationship to the potential period of imprisonment that might otherwise have been imposed.

As in all cases of sentencing however it is stressed that it is not being suggested that the court must work on any hard and fast lines. The final assessment will always lie within the court's discretion and will always depend on the circumstances of the case.

Nevertheless it bears repeating that the court should consider primarily the following question - what length of time will be sufficient to achieve the basic objects, namely (a) to correct the accused and to make him appreciate his responsibilities and (b) to satisfy the community in which he lives that crime does not go uncorrected.

This is of course a very general sentiment but it expresses the principle that the punishment must fit both the criminal and the crime.

The obvious factors to be taken into account are (a) the nature of the crime (b) the circumstances of the accused himself - age ; health ; standing in the community ; skills ability, etc. (c) the type of community service available and whether it is reasonably convenient or would impose undue hardship on the accused.

Taking all these considerations into account the court must then assess what would be fair and just.

#### **4. New guidelines concerning amendment and revocation and breach community service orders**

The power to amend or revoke a community service in terms of the law before the enactment of the CPE Amendment Act 1997 was somewhat uncertain and was dealt with as an administrative matter.

The new sections 350 C and 350 D inserted in the Act by the aforesaid Amendment Act now formalise the situation. The new sections should be read with the Community Service (General) Regulations 1997 S.I. N° of 1997 which lay down details of procedures to be followed.

There may be many reasons which arise for the amendment or revocation of community service order.

- a) Where difficulties or inconvenience in complying with the original order have occurred

This will probably be the most usual case and will involve such situations as transfer or relocation of the offender to another area so that reporting to the institution named in the original order has become difficult or situations where substantial changes to the original order (e.g. to the specified days or times) are required or situations where the health of the offender has deteriorated so that he cannot perform community service any longer.

In such cases the issue will normally come before the court by way of an application for amendment of the community service order under section 350 D. It should be noted that application may be made to and dealt with by *any* convenient court except that High Court Orders must be dealt with by the High Court.

- b) Sometimes it occurs that the community service order is breached by deliberate act of the offender.

For example he is obstructive and uncooperative at the work place or he fails to report for the work or he puts it beyond his power to report for work by committing other offences for which he is arrested and sentenced to imprisonment. In such cases the offender will usually be ordered to appear before the court under section 350 C.

- c) How should the magistrate handle any such cases ?

The Act, it will be noted (See Sections 350 C and 350 D) confers a wide discretion on the court to see that justice is done.

In the type of case referred to in a) the court would use its (judicial) imagination and endeavour to amend the order to suit the situation. Thus it could substitute a different place of work or change the days and times. It should be noted that if the community service order is varied so that the offender now carries out the work concerned in another district, the clerk of court should arrange to transfer the relevant records to the clerk of the new district.

Where the offender has breached the order as referred to in b) the court may « bring-in » the suspended sentence or if none was imposed it may now impose a fine or imprisonment. Of course it does not have to, for if some reasonable justification or excuse for the breach is shown the court could amend the community service order by extending it to cover any « lost » hours of work.

Attention is drawn to the fact that if a suspended sentence of imprisonment is brought in or if a fresh sentence of imprisonment is imposed, account must be taken of the number of hours already worked and an appropriate reduction must be made.

Finally, attention of those concerned is drawn once more to the Community Service (General) Regulations, 1997 which set out in Part II thereof details of various procedures to be followed in connection with community service.

## **ROLE OF COMMUNITY SERVICE OFFICERS AND DISTRICT COMMITTEES**

The Ministry of Justice decided to establish a National Committee which was tasked with formulating guidelines on how best the scheme should be properly co-ordinated and supervised. There were no guidelines then for magistrates on what to take into account in imposing Community Service. Hence guidelines were issued by the National Committee for magistrates. These also gave instructions to magisterial stations to form District Committees which would co-ordinate and supervise the scheme at local levels.

Initially clerks of court were utilised to fill in the necessary forms and send to institutions and receive them for court record updates. However clerks of court are very busy at magisterial stations and they could not and cannot follow up on offenders at institutions. District Committee members are volunteers and they cannot do this on a constant basis. It was necessary, therefore, to employ Community Service Officers (Community Service Officers) in order to provide the independent infrastructure needed to administer and provide overall supervision of the Community Service scheme on a constant and co-ordinated basis throughout the country. The 12 officers were deployed to the main provincial centres, and they are answerable to the National Co-ordinator, but on a day to day basis they operate under the provincial magistrates to whom they are accountable. Hence they are accommodated at the Magistrates' Courts and maintain a close relationship with the clerk of court.

Community Service Officers have a task to provide liaison between institutions and courts, assist supervisors of institutions in supervising offenders, set up District Committees in consultation with the Provincial or Resident Magistrates, and collate data for submission to the National Co-ordinator and ultimately the National Committee.

### **1. Role of Community Service Officer**

The following are the major duties of the Community Service Officer :

1. Seek and screen institutions to determine their interest and ability to provide suitable work assignments and supervision (This is important to ensure that the whole scheme does not lose its credibility in the eyes of the public).
2. Monitor institutions to ensure that there is adequate supervision and maintenance of necessary records to monitor compliance or non-compliance of the court order (These are checks to ensure that supervision is being done properly).
3. Monitor the offenders' work station and report back to the court.
4. Work with institutions to solve any problems arising from the offenders' placement (These are a common occurrence and Officers will need to be knowledgeable of procedure and systems in place to give advice).
5. Initiate court action against any offender who is unsuitable for the programme or who fails to comply with the conditions of the order.
6. Screen offenders on request of the courts, to determine skills, time availability, transportation and other factors affecting placements and suitability of the offender for Community Service

7. Provide offenders with further orientation on the goals of the Community Service scheme (This is done usually at placement stage when the offender appears before the officer or on visits to institutions - Officers need to be knowledgeable about the subject on Community Service).
8. Clarify with the offender reporting procedures to the assigned institution, the time frame for reporting to the programme as well as time frame for completion of the sentence (Supervisors' guidelines will need to be known by officers).
9. Arrange District Committee meetings and report on operations in the area.
10. Liaise with other organisations which have an interest in the programme to enhance its effectiveness.
11. Submit monthly reports and statistics to the National Co-ordinator.
12. Arrange seminars or workshops or other public campaigns.

## **2. Role of District committees**

District Committees are established at Magisterial stations countrywide. Members are drafted from a wide, cross-section of the communities and they do the work on a voluntary basis.

1. Most members are supervisors of institutions.
2. They hold monthly meetings to discuss the programme in their areas and solve any problems which may have arisen.
3. These committees are chaired by the Provincial/Resident Magistrate and Community Service Officer is the Secretary.
4. These committees were established on the realisation that it was essential for local communities to be involved if Community Service was to be a success.
5. Hence community leaders, heads of governmental and non-governmental organisations, local authorities were invited to participate. This also included church ministers.
6. The object of the District Committee is to identify charitable, local authorities and other institutions in the province or district where Magistrates can send offenders to carry out Community Service.
7. Members of District Committees are entitled to visit institutions where Community Service is being carried out to see if supervision is effective and that meaningful work is being carried out.
8. Like Community Service Officers, members of the District Committees have embarked on publicity campaigns. These have played a crucial role in publicising the scheme which is, to all interests and purposes, still new.
9. There are also sub-District Committees. These are based at periodical court stations. They function in the same way as the other District Committees.

## **MANAGEMENT OF THE OFFICE OF COMMUNITY SERVICE OFFICERS**

### **Introduction**

This paper presents guidelines on the management of the office of Community Service Officers.

Community Service Officers play an important role in the placement and supervision of offenders to ensure that Community Orders imposed by the Courts are carried out properly without unauthorized deviations or modifications. The Community Service Officers are the representatives of the National Committee on Community Service at local level. It is through them that the National Committee is held by the Community.

In that light, therefore, it is important that they have organised and efficiently run offices.

### **1. Co-ordination of the Programme**

As secretaries of the District Committees in their areas, it is the task of Community Service Officers to find Community Service placements (together with other members of the Committee) and in helping to monitor and supervise the Community Service orders. Community Service Officers are not expected to confine themselves to their offices and visit institutions in their towns only, but also to visit District Magisterial stations, and institutions thereat.

It is also important for Community Service Officers to visit periodical Courts and set up District Sub-Committees there. They should liaise with the Resident Magistrates in order to achieve this. Any problems faced by institutions should be tackled by the Community Service Officers.

There is no doubt that the Community Service Scheme has been a success so far. This has to all intents and purposes be largely confined to urban areas. The time has come for the programme to extend to the rural areas. It is therefore necessary for Community Service Officers to travel out into the rural areas and seek placement institutions and at the same time liaise with some government departments operating in the rural areas so that officers from such departments become members of District Committees.

There is no doubt that there is a lot of meaningful work which can be done by offenders in the rural areas. Departments are such as District Development Fund, Ministry of National Affairs, NGOs operating in rural areas, schools, missions hospitals, etc. With the opening of Resident Courts in some of these areas, there should not be a problem.

In order to achieve what has been stated above, Community Service Officers will need to plan their work carefully. One must at least when one goes to work have an idea of what they are going to spend the day doing. At the end of the day one must ask oneself if the set objectives for the day have been met. At the end of the day one should be able to account for what they have done to the National Co-ordinator and ultimately the National Committee.

It is also important that when one has set objectives and these are being implemented, there should be monitoring of the work to see to it that the set objectives are being met.

## **2. Objectives**

The objectives of Community Service orders are to reintegrate the offender into the community through :

- positive and demanding unpaid work
- reparation to the community

It is the duty of the Community Service Officers to follow up offenders at placement institutions and supervise the programme, although the institution heads will in fact be doing so on a daily basis.

The Community Service Officers should be able to get to an institution and assess whether the work arranged for the offenders is demanding, of benefit to the community and wherever possible be personally fulfilling to the offenders. The work should also be designed to secure support for the supervision of offenders in the community. It would be pointless if the work to be done was in a private place where the community has no access at all to appreciate what is being done. It is necessary to build the confidence of the community in the programme.

By this it is not suggested that offenders should be made to do what would be a substitute for « Hard labour » outside prison. When planning the work with supervisors of institutions it is important to make certain that the work will be personally fulfilling to the offenders. If this is not done the objective being sought to rehabilitate the offenders may fail as the work would have has a brutalising effect on them.

Community Service Officers must therefore check on such things when monitoring the institutions and advise accordingly. This must however be done with tact so as not to offend the institution heads.

## **3. Provincial Registers**

It is trusted that all Community Service Officers have placement Provincial Registers at their stations. These are an important tool in monitoring the success or otherwise of the programme in their provinces. This is different from a station register which all Magisterial Stations have or should have (All Magistrate Courts are under instruction to maintain such registers).

The Provincial Register, if properly maintained should tell you a story on every case on Community Service in the province. In the register must be recorded the name of the offender, the offence for which he has been convicted, the CRB number, institution, date of sentence, date to commence work, expected date of completion, actual date of completion, date of birth, sex, education, marital status, any breaches, etc.

## **4. Submission of forms**

Whenever CS/2 forms are received from stations the detail should be entered immediately before the forms are submitted to the National Co-ordinator with the Community Service Officer's reports (per Circular 2 of 1996).

It is pertinent for the Community Service Officers to check that the forms are properly and adequately filled in before they are submitted to the National Co-ordinator. The Community Service Officer must also work out the expected date of completion of the Community Service. By the same token when forms are submitted from institutions, be they for forms CS/4 or 5 or 3 and 6, these must be carefully scrutinised by the Community Service Officers.

Community Service Officers at Harare have had the daunting task of correcting forms from outside stations and this has affected their work in the Harare areas. It is therefore imperative that each Community Service Officer checks the work from his/her province.

Circular 2 of 1996 is explicit on the procedures to be followed. This needs to be adhered to. The target date for submission of reports to the National Co-ordinator is the 5<sup>th</sup> of each month. Community Service Officers are therefore advised to set their own targets with their stations on the submission of forms to their offices, so that they are attached to the reports as required by the said circular.

## THE ROLE AND FUNCTIONS OF COMMUNITY SERVICE OFFICERS

### Introduction

The role and functions of Community Service Officers are to be outlined in some *job description for Community Service Officers* which all Community Service Officers and Provincial Magistrates have provided with. Each of the functions specified in that job description would constitute an important part on the role of a Community Service Officer. It is important that the National Co-ordinator in conjunction with all Community Service Officers works out a specific programme to see that clear agreed requirements are adequately dealt with. Community Service Officers exercising their own discretion and common-sense should also be able to ensure that substantial progress are made in respect of a substantial number of those requirements without the close supervision of the National Co-ordinator.

### 1. Importance of Community Service Officer's role

The Community Service Officer will play a critical role at the Court at which he is stationed in regard to the operation of the Community Service system. Basic to the role of the Community Service Officer will be a very high degree of self-motivation and a very high degree of commitment to ensure that the Community Service sentencing option both achieves its desired aims and works with a reasonable degree of efficiency. Community Service Officers are selected by the National Committee for Community Service, who believes that they have the necessary degree of commitment and motivation to ensure the success of the Community Service system. They are expected to have a high degree of responsibility, to be able to meet the challenging opportunity their employment as Community Service Officers provides.

The primary and most important function of a Community Service Officer is to assist the Provincial or Resident Magistrate and Clerk of Court in ensuring that the administrative and practical operation of Community Service on the ground works with an acceptable degree of efficiency. It is important for Community Service Officers to appreciate that, on the ground at stations around the country effectively play the role of a Department of Community Service as supervised by the National Co-ordinator under the overall auspices of the National Committee on Community Service.

### 2. The clerical administration of community service orders

The first and most important function of a Community Service Officer is to fully understand the clerical administration of Community Service orders at the Court at which the Community Service Officer is based. The clerical function will have been carried out by a Clerk of Court assigned the administration of Community Service orders as one of his functions by the Provincial or Resident Magistrate. It is important for the Community Service Officers to appreciate that the Clerk of Court concerned will have various other functions and may well have found it difficult to allocate sufficient time to the efficient administration of Community Service orders.

It will accordingly be a basic function of Community Service Officers to ensure that there is an efficient clerical administration of Community Service orders. Much of the first week in employment might be spent making sure that the clerical administration of Community

Service orders at the Courts at which Community Service Officer are employed is understood. It should accordingly be emphasised that steps should have been taken or need to be taken without any delay in order to ensure that this function is being carried out.

**a) *Listing of all current community service orders***

The first step is to have at a cut-off date - which should have been the first day of the Community Service Officer's employment - with a list of all operational Community Service orders at the station where the Community Service Officer is based. This list can be obtained by checking the register which the Clerk of Court has. It should be double-checked by going back through the Criminal Record books for the last 6 to 9 months making note of all cases in which Community Service was ordered.

Where a Community Service was imposed there should of course be the appropriate warrant issued by the Clerk of Court and there should be an indication in the records kept by the Clerk of Court as to whether the Community Service was successfully completed, or is still being undertaken, or whether a warrant of arrest has been issued because the offender failed to attend.

**b) *Check that all current community service orders are being properly dealt with***

A first basic step to be undertaken by Community Service Officers in regard to the clerical administration of Community Service orders is to check back and see whether all Community Service sentences which have been imposed by the Courts in question have all been satisfactorily dealt with. If it is not clear from the records at the Clerks office whether the person has attended and completed Community Service this would require contacting the institution to which he was sent to establish whether Community Service had been successfully completed.

Accordingly having done the check back through the CRB records up to the date of your appointment as Community Service Officer your check would establish Community Service orders which were still being completed and those which had been unsuccessfully concluded - that is the offender did not complete his service and a warrant of arrest was required to be issued. It will of course be necessary to make sure that such warrants of arrest have been issued and if a check through the records establishes that certain Community Service orders have simply been left in abeyance, that there has been no check or follow-up through the Clerk of Court's office, then it is necessary for the Community Service Officer to ensure that the matter is properly completed, this may require the issue of a warrant of arrest.

**c) *Breakdown of current and new community service orders by maintaining a record book for each institution***

Having done the check in regard to the operation of Community Service at the Court up to the time which the Community Service Officer takes up his employment then it is important for the Community Service Officer to have an up-to-date list of Community Service orders which are currently being carried out. This would best be done by opening a book - this can be a small notebook - for each institution at which Community Service is being carried out. In this book should be listed the name of the offender, the offence of which he has been convicted, the number of hours of Community Service he is supposed to carry out and the dates and times at which Community Service should have commenced and should be completed by.

As each sentence of Community Service is completed then the Community Service Officer will be able to delete that name and note the reason for the deletion - that is successful completion of Community Service or the issuing of a warrant of arrest.

Depending on the degree to which Community Service is operating it may be necessary for the Community Service Officer to have a substantial number of small notebooks each one relating to specific institution. These notebooks will be added to and as more and more persons are referred for Community Service at the institution and the persons listed in that notebook will, as indicated, be kept listed till the Community Service is either completed or a warrant of arrest is issued and when the name of that person is deleted there will be specified the reason for completion of service.

***d) Daily liaison with clerk of court to keep record books for each institution up-to-date and to check clerical administration***

In order to keep his various notebooks for each of the institutions in his area up-to-date it will of course be necessary for the Community Service Officer at the start of each day to check with the Clerk of Court as to the imposition of any Community Service sentences the previous day and add these to his relevant notebook. It will also be necessary for the Community Service Officer to make sure that when any new Community Service orders are made that proper warrants have been made by the Clerk of Court and that those warrants have properly been forwarded to the institution concerned.

***e) Liaison with magistrates: interview with offenders immediately after imposition of sentence***

Wherever possible it would be a good idea for the Community Service Officer to liaise with the Magistrates at the station so that the Community Service Officer can be present when Community Service sentences are imposed and take the opportunity to interview the offender immediately after sentence has been imposed and explain the basis of the Community Service order.

However, at larger stations it should, be possible for the Community Service Officer to arrange for all persons sentenced to community service on that day to be required to attend at the Community Service Officer's office at a time convenient to the Community Service Officer (say 4.15 p.m.) so he can speak to them.

***f) Attendance at the institutions where community service is being carried out***

A very important function of Community Service Officers will be to make regular visits to the institutions coming under the Court at which he is based where Community Service is being carried out. The number of visits a Community Service Officer will be able to make will depend on the number of institutions where Community Service is being carried out. But it is necessary that each institution is visited at least once each week, preferably on a daily basis if possible.

On arrival at the institution the Community Service Officer will obviously have with him his notebook relating to that institution so that he will know by looking at the entries on that book precisely who is supposed to be carrying out Community Service at the institution on that day. This might be one person or if it is a large institution or overall Public Service project it may involve a substantial number of people.

***g) Liaising with supervisors and dealing with supervisors problems***

The Community Service Officer must of course introduce himself to the person in charge of the institution and in particular to the person in charge of supervising offenders carrying out Community Service. It will be a very basic function of the Community Service Officer to relate easily to and to understand and motivate the supervisor at the institution. It will not be possible for Community Service Officers to visit institutions other than on an occasional basis.

It accordingly is of importance that Community Service Officers co-operate well and effectively with the personnel at the institution in order that they are able to ensure that the

supervisors at the institution properly carry out their supervisory duties. It will be necessary for Community Service Officers to listen sensibly and sympathetically to difficulties and problems raised by the staff at the institution concerned and to address and solve those problems. It may be necessary in difficult matters for the Community Service Officers to refer queries back to the National Co-ordinator or to the National Committee on Community Service. But in most cases it should be possible to solve problems on the ground by sensible discussion and co-operation and by reference to the supervisors guidelines and to the Resident or Provincial Magistrate if necessary.

***h) Check that the offenders are properly carrying out their community service***

It will of course be necessary for the Community Service Officer in carrying out the visits to the various institutions to establish whether Community Service is being carried out by the offender and whether the offenders are adequately meeting the requirements of the institution. If the offenders are either not present or not working adequately then the Community Service Officer on reference to the supervisors guide book and if need be by reference back to the Provincial Magistrate, can then arrange for the appropriate remedial action to be taken.

This may involve discussion with the offender to motivate him to properly carry out Community Service or ensuring the issue of a warrant of arrest where the offender has not turned up for Community Service.

***i) Statistics***

In carrying out his basic functions a Community Service Officer will at the end of the month be in a position to assist the Clerk of Court in ensuring that the required statistical documents are completed and sent to the National Co-ordinator. This statistical data is of considerable importance to satisfying donors that the system is working and in providing the necessary data to improve the operation of the system.

***j) Consultation with the District Committee***

Attending District Committee meetings and addressing problems raised by the District Committee and endeavouring to resolve those problems on the directions of the District Committee will be another basic function of Community Service Officers. It is important that Community Service Officers establish a close, friendly and efficient working relationship with the members of the District Committee as this will be the most appropriate way of ensuring that the Community Service system works.

***k) Assisting the Magistrate in deciding whether to impose community service***

Where Magistrates do not have sufficient information to enable them to decide whether to impose Community Service they may decide to enlist the assistance of the Community Service Officer. This might take the form of requiring the Community Service Officer to check the residential address or certain aspects concerning the background of the offender and then reporting back to the Magistrate.

In Harare, Bulawayo, Masvingo, Mutare and Gweru the Community Service Officer may need to liaise with the designated officials of the Department of Social Welfare who are able to assist in providing assessments for Community Service placement (the names of these officials are available from the National Co-ordinator).

***l) Expanding the community service system***

Extensions and expansions to the Community Service system will also be a prime responsibility of Community Service Officers. In this regard the identification of new institutions within the Magisterial districts where Community Service can be carried out will be of substantial importance. A motivated and competent Community Service Officer would seek out institutions which he thought appropriate for the carrying out of the

Community Service and contact the persons in charge of those institutions and explain to them the benefits of Community Service.

Community Service Officers should be able to allay any doubts or fears which the supervisors of such institutions might have by carefully explaining the basis of Community Service system and by suggesting the supervisor speak to the Heads of other institutions where Community Service has successfully been carried out.

### **Conclusion**

As indicated at the start the job description should provide outlines of various other functions which will also need to be addressed by Community Service Officers. Of particular importance will be the need to educate and inform the public and provide public relations services in the form of speaking, engagements, interviews or written information. The job of Community Service Officer is undoubtedly an onerous, but challenging, one. It is one which is critical to the success of the operation of Community Service.

## THE ROLE OF PROSECUTORS

### Introduction

The enactment of community service as a non-custodial alternative has evidently revolutionised the Zimbabwean criminal justice system. Not only has it registered growth and success in its short history but, perhaps more importantly, the Zimbabwean society has accepted it as an integral part of Zimbabwe's criminal sentencing system. As attention today focuses on its further expansion, development and « fine-tuning », a question arises: Is there a role in it for prosecutors ? If so, what, how and the extent thereof.

### Generally

Most prosecutors perceive the community service scheme as an essentially and exclusively « bench » scheme ; a scheme in which they have no part, no input and no representation serve at the district prosecutor level. This unfortunate albeit justified perception has the potential to adversely affect if not later derail the otherwise immeasurable gains so far attained in the successful implementation of the programme.

In the context of our criminal justice system the indisputable reality is that prosecutors are an integral and indispensable part of that system. References to them as *officers of the court*, as *officers of justice*, etc. simply serve to underline their Role in and concern with the administration of justice.

« *The inter-relationship between the prosecution and the court is a very important one. Both are concerned with the **impartial administration of justice*** » per Fieldsend C.J. in S v Fusirayi 1981 ZLT 56 (A.D.)

This Role extends from the pre-trial stage right up to the pronouncement of sentence. At each state, his duty is to « ....dedicate himself to the achievement of justice » per Gubbay C.J. in S V Ndlovu S.C. 195/90 at 7.

From the point of view of the victim and society at large (on behalf of whom he prosecutes), and the accused, the most important and significant stage of the criminal justice system is the sentencing process. Society and the victim are not overly concerned with nor sufficiently knowledgeable about the intricate process of arriving at the verdict. What they understand and is of concern to them is, what is to be done to the offender ? Similarly, though with pronounced anxiety is the offender's concern with the punishment. What is to be his fate ? Imprisonment ? If so, for how long ? A fine perhaps ? If so, can he afford it ? Restitution ? Community Service ? etc. The sentencing stage is thus pivotal to the criminal justice system. A criminal system without some form of punishment system is not a criminal justice system.

« *It must be remembered that it is sanctions which ultimately sustain the system of criminal justice.* »

See S V Maxabu, S V Williams 1973(4)S.A. 248c at 254

A prosecutor is a part of and has a Role to play in this sentencing process. In order to properly accommodate and enhance his Role in this latter but important process, a suggestion would be that a prosecutor views a criminal trial as a two stage process : the pre-conviction stage **and** the post-conviction but pre-sentence stage. In the former, he places evidence before the court from which it can convict or acquit. In the latter he

**assists** the court in arriving at an appropriate sentence. The sentencing stage is more of an enquiry than a trial.

« ....sentence is... a distinct and separate stage in the criminal process. »

See State vs Maxaku, State vs Williams (supra) at 25G, also E. Morris « Technique in Litigation » 4<sup>th</sup> Ed., p. See p. 148 « Prosecutors Handbook » 3<sup>rd</sup> Ed.

It is in this context and with these considerations in mind that prosecutors should understand and appreciate the important Role they play **generally** in the sentencing process and in **particular**, in the community service sentence option process.

### **In particular**

Community Service as a form of sentence is suitable only for non-serious offenders. It is known fact that the majority of such offenders are not legally represented. They are mostly first offenders. As such it is usually their first (and hopefully last) exposure to the criminal court system. In all probability, standing between the offender and making the difference between imprisonment or a fine which he may not afford (in which case he goes to prison), and community service is the prosecutor's role. With his unique position, the prosecutor has the means with which to access and at times has the information with which to assist the magistrate in arriving at an appropriate sentence. It is his duty, as an officer of the court, to access and place before the court all conceivably pertinent information. Although in an appropriate case he should aggravate, he/she is still duty bound to the court to place before it factors inclusive of those favourable to the accused. **To act** otherwise is an abdication of prosecutorial responsibilities and constitutes a perversion of justice.

### **Conclusion and way forward**

The continued success and development of the community service programme requires the concerted support and co-operation of all who are concerned with the administration of criminal justice. In this, prosecutors have an important Role to play.

Information hitherto made available to magistrates as guidelines on the application and implementation of community service should be made available to prosecutors.

As a step towards a more active Role by prosecutors in the scheme **consideration should be** given to the inclusion in dockets of information specifically relevant to sentence. For example, and where possible,

- accused's proper age
- his marital status
- number of children and other dependants
- employment status (formal or informal)
- income and nature thereof (whether fixed per period or average per given period)
- savings and assets
- skills
- relationship with victim\*
- attitude of victim to form of punishment
- ability/willingness to retribute
- extent of benefit to offender
- accommodation (whether owns, rents, etc.)
- **AND OTHERS !**

**GUIDELINES FOR SUPERVISORS**  
**What to do if the offender defaults and other matters ?**

**General directions**

These guidelines only cover the most likely situations. In cases not covered, the supervisor at the institution should use his common sense and discretion to the best of his ability.

The supervisor should, at the outset, find out from the Community Service Committee (or the Clerk of Court) who the Community Service Officer for his area is and should feel free to consult and involve that person in meeting problems or difficulties that may occur.

The supervisor should appreciate that he is expected to give guidance and instruction to the offender as to how to perform the work assigned to him. The supervisor should also exercise proper control. That is, he should also check to see that the work is being properly performed. How much control will be needed depends on the circumstances of each case, for example the nature of the work, the age, education and experience of the offender and so on. The supervisor should not assign work to the offender which is beyond his capabilities both as regards his physical strength and his actual ability to do such work.

In short, the supervisor must act as a reasonable employee would and with regard to his own employees.

**FAILS TO ATTEND**

**Offender fails to show up on first day**

What to do                      *Notify clerk of court by sending him form CS/4. If there is a Community Service Officer in the area, notify such person, too.*

**Offender having started this community service stops showing up**

What to do                      *Advise Community Service Officer. Wait 2 days.*

- a) *If the offender then turns up on third day, ask him what his excuse is. If the Supervisor consider it reasonable or that he should be given another chance, warn him not to let it happen again and inform him he will have to take up the time lost anyway. If the Supervisor consider his excuse unreasonable inform the Clerk of Court on form CS/4.*
- b) *If he has not turned up by third day, advise Clerk of Court on form CS/4 and also the Community Service Officer in the area.*

## REPORTS LATE FOR WORK

### **Offender shows up late for work**

#### What to do

*Warn him that he must report on time or else his community service could be cancelled. If he is under 30 minutes late, use discretion as to whether the Supervisor will require him to make up the time. If he is over 30 minutes late, tell him he must make up the time.*

### **Offender persistently shows up late for work**

#### What to do

*Give him a final warning. Don't let it persist too long. Act after 2 or 3 occasions. If there is a Community Service Officer in the area, seek his help. If he still attends late after the final warning, advise the clerk of court on form CS/4.*

## SICKNESS

### **Offender reports for work but states that he is sick**

#### What to do

*If he wishes to go off work, allow him to do so but tell him he will have to make up the time. If he is away for more than three days tell him he will have to present a medical certificate (e.g. doctor's certificate or certificate from a clinic).*

### **Offender fails to attend but sends a message that he is sick**

#### What to do

*If the Supervisor is in contact with the offender himself (perhaps he has phoned you) then proceed as in 5. If the offender has sent a message through somebody else, then the Supervisor should advise the Community Service Officer in this area and when the offender returns to work you should proceed as in 5.*

## DRUNKNESS OR DRUGS

### **Offender reports for work but is in an unsuitable condition (e.g. under the influence of alcohol or drugs).**

#### What to do

*Use your discretion. If his condition is so bad that he cannot work send him home. When he next reports for work tell him he will have to make up the time lost and warn him that if it happens again the matter will be referred to the court. The Supervisor should also notify the Community Service Officer anyway.*

*If, despite warning(s), the offender persists in reporting drunk, etc., then the Supervisor should advise the clerk of court on form CS/4.*

## REQUEST FOR TIME OFF

### **Offender asks for time off**

#### What to do

*Use discretion. If the Supervisor consider that it is for a genuine reason (e.g. to attend a funeral, to attend a medical examination, or a job application), grant him time off, even for a few days if necessary. But he must be made to understand that the time lost will have to be made up.*

*Remember too that the privilege of « time off » cannot be abused because the total amount of community service must always be completed within the period stipulated by the court.*

## REQUEST FOR VARIATION OF CONDITIONS

### **Offender requests a permanent change in his conditions**

#### What to do

*If the offender requests a change in his hours or days or if the institution would like a change to be made because those fixed in the court order have become inconvenient for some reason or another then the Supervisor should approach the court. He should do this by notifying the clerk of court on form CS/5.*

*If however the Supervisor personally turns down his request to approach the court for a variation, the Supervisor should advise him that he is still free to make the application to the court on his own if he wishes.*

## LAZINESS, POOR WORK, QUARRELSOME

### **Offender's work is unsatisfactory or he is quarrelsome or unco-operative**

#### What to do

*The Supervisor should explain to the offender that his attitude or poor work cannot be tolerated and the Supervisor should warn him if it fails to improve the Supervisor will have to refer the matter back to the court.*

*You should call in the assistance of the Community Service Officer to speak to the offender.*

*If the default continues the Supervisor should report the matter to the clerk of court or form CS/4.*

**If the work which your institution can provide is unsuitable or inappropriate for the offender** (e.g. you only have manual labour and he is not physically strong ; you only have clerical work and his standard of education is not sufficient).

#### What to do

*The Supervisor should apply for a variation of conditions using the C.S.5 and the court may then assign him to another more suitable institution.*

## THEFT OR DESTRUCTION OF PROPERTY

### **Offender steals property at the institution or damages property**

#### What to do

*In the case of theft, report the matter to the police. In the case of damage to property, if it is deliberate, report it to the police. If it is accidental or merely carelessness then the Supervisor should warn.*

## TRANSPORT AND MEALS

### **Offender requests transport and/or meals**

#### What to do

*The institution is under no legal obligation to supply either transport or meals. Some institutions may wish to assist voluntarily with transport or meals but if the Supervisor is unable to assist him then the Supervisor should discuss the matter with the Community Service Committee in the area or the Community Service Officer.*

## PROTECTIVE CLOTHING

### **Offender requires protective clothing or tools to carry out his work**

#### What to do

*It is the responsibility of the institution to provide the offender, free of charge, with suitable tools to carry out the work assigned to him. In addition if the work requires rough manual labour then it may also be appropriate to supply overalls or other protective clothing. These matters should be discussed with the Community Service Officer.*

## GENERAL SAFETY

### **The work and the working conditions must not be unsafe**

#### What to do

*The work assigned to the offender should as explained in the GENERAL DIRECTIONS, be within the offender's capabilities. For example the offender should not be given work for which he does not have the proper skill, e.g. operating machinery or equipment ; climbing, scaffolding or ladders ; cutting trees, etc. The Supervisor should provide proper tools and protective clothing when necessary. There should be no negligence on the part of the Supervisor and proper guidance, instruction and supervision is expected.*

## CONFIDENTIALITY

### **The offender must not be deliberately humiliated**

#### What to do

*The offender should not as far as possible be segregated from other workers so as isolate him. He should, if possible be given the same clothing as other workers and be entitled to use the same facilities as they use. Obviously this is a matter involving tact and discretion. It is not suggested that deception be practised and in any case it may be inevitable that other persons at the institution will know or*

*will have to know that the offender is a convicted person. However the treatment of this issue should be handled according to the circumstances in as courteous and matter-of-fact manner as is possible.*

*If the press should visit the institution and wish to interview the offender, his consent should be obtained.*

*Remember that he is being re-habilitated, not disgraced or abused.*

## COUNSELLING

### **If the offender requires counselling and where the facility exists it may be provided**

#### What to do

*It is not required of an institution that it provides counselling. If the offender however asks for advice and guidance (or it is suggested to him and he agrees) and if there is somebody on the staff or otherwise to hand who can provide this, then suitable and appropriate counselling may be given.*

*If there is nobody available, the Community Service Officer should be asked to try and arrange counselling for the offender by some outside source.*

*Where counselling is provided it should be given outside the community service hours and should not be deducted from the hours the offender is required to serve.*

## ACCOMODATION

### **Free Accommodation should not be provided**

#### What to do

*The offender must not be allowed to make a convenience of his community service. Therefore, if free accommodation is provided there is a danger that it could abuse the scheme. Offenders should not as a rule be provided with free accommodation. Most offenders are anyway « selected » to work at a particular institute by the court having regard to the distance from their usual place of residence to the institution concerned.*

*In urgent or difficult cases where real hardship would otherwise result, consult the Community Service Officer who will advise what action to take.*

## BABY FEEDING TIME

### **An offender who has a young baby which she brings to the institution should be given reasonable facilities and time to feed the baby.**

#### What to do

*In the first place the institution should try and encourage the woman to feed her baby during tea and lunch breaks. However, if that is impossible she should be allowed to nominate a period during working hours she should like. This period is not to be deducted from the total number of hours the offender is required to work.*

## OFFENDER IS SICK OR GOES TO HOSPITAL

**The time spent by an offender in hospital or on sick leave is not deducted from community service**

What to do

*If the offender has a genuine minor illness (headache, sore throat or cold) fairness and discretion could be used in allowing him the afternoon or part of the morning off. However any prolonged period of illness whether at home or in hospital must not be deducted from the total number of hours required to be worked.*

*The Community Service Officer should be consulted in difficult cases.*

COMMUNITY WORK ON SUNDAY

**Community service should not generally be worked on a Sunday**

What to do

*The courts will usually not direct that community service be performed on a Sunday. There might however be special cases where the court has in fact directed Sundays. If this is objectionable or poses any difficulties to the institution concerned the matter should be reported to the Community Service Officer.*

SUPERVISOR SPEAKING TO PRESS

**A supervisor is not prohibited from speaking to the press**

What to do

*By voluntarily accepting an offender at the institution, the institution has indicated its support and commitment to the community service scheme.*

*So, while Supervisors are quite free to speak to the press it is suggested they avoid making statements which are totally negative or destructive of the scheme.*

*If a supervisor however has any suggestions, or even criticism which is constructive, statements in that regard are most welcome.*

USE OF TOOLS

**The offender should be discouraged from borrowing tools to use at the institution**

What to do

*The institution itself should, if possible, provide the necessary tools to be used by the offender. If they are not available and the offender offers to « borrow » some from a brother or a friend, the matter should be carefully considered.*

*Tools are generally expensive items and if the offender damages them there could be claims for compensation which may cause problems.*

*The Community Service Officer should as a rule be consulted in such cases before permission is given.*

WHEN COMMUNITY SERVICE BEGINS

**Sometimes an institute is delayed in assigning work to an offender**

What to do

*If the institute is late in assigning work the offender is still*

*entitled to be credited with the time wasted., i.e. the period that has elapsed between the time he reported for work and the time he started. Institutions should therefore exercise every effort to start the offender working at the official time.*

*If there is an unavoidable stoppage, such as a rainstorm or a break in the machinery, this also cannot be deducted from the offender's hours spent at the institution. As long as he was present and available for work he must be credited with the hours concerned.*

## NORMAL DAILY BREAKS

### **Offender should be given tea and lunch breaks**

#### What to do

*Normal tea breaks in the morning or afternoon of say, up to 15 minutes each should not be deducted from the hours worked by the offender.*

*Lunch breaks are however deducted from the hours worked.*

## CHECK IDENTITY OF OFFENDER

### **The offender may try to avoid his responsibility by sending someone else to do his work**

#### What to do

*The institution should check the identity card of the offender at the beginning of the community service. If the offender has none then some other form of identification could be asked for. In cases where there is suspicion or the offender is unable to supply any form of identification the matter should be raised with the Community Service Officer.*

## THE ROLE OF NON GOVERNMENTAL ORGANIZATIONS

In determining the role of non-governmental organisations in the Community Service programme, it is necessary to distinguish between the government's motivation for the programme and the non-governmental organisations' motivation for participation in the programme. This would remove many of the traditional objections that have been put forward in this debate.

### 1. Government motivation

- Bringing down to the acceptable numbers of the prison population.
- Budgetary constraints and cost control.
- Rehabilitation of offenders

### 2. Non governmental motivation

- Humanitarian concern for the beneficiaries of the service, in this case the offenders and the community.

This puts the non-governmental organisations at par with government in terms of their main purpose. While there are motivated civil servants, bureaucratic procedures and budgetary constraints often make non-governmental organisations to surpass governments in terms of their concern for the beneficiaries of public service. From this perspective it becomes clear that governments and non-governmental organisations need to work together.

Where non-governmental organisations can provide a specialist or community view-point their involvement in supervision of the programme is advantageous. This is especially true of alternatives to custody, an increasing number of which now take a more holistic view of the offender and attempt to put together a package of measures which address the offending behaviour.

For example, Prison Fellowship is supervising/monitoring those offenders on community service, visiting them at work sites and their homes encouraging them to comply with the orders and helping them with their moral re-amoralment. Prison Fellowship is also helping in identifying possible work sites and assisting in allaying of fears from would-be beneficiaries of the programme.

### 3. Benefit from the non-governmental organisation involvement

#### a) *Testing ground*

It is anticipated that Government will take over this programme as a department. However only after the programme has proved successful and workable. The non-governmental organisation involvement is particularly significant in the taking up of such potentially risky initiatives to allow for data collection and statistical support for the programme.

There are slim chances of the police or prisons taking a supervisory role without serious consideration to budget constraints - Non-governmental organisations can do once motivated (e.g. Prison Fellowship).

This gives sufficient time for Government to avoid embarrassment should the initiative fail.

**b) Performance**

Non-governmental organisations have a reputation of providing a highly professional service of higher quality, more responsible to real needs and cheaper than their government counterparts - it would become a lot easier to maintain these standards after take-over by Government. On the whole, non-governmental organisations are small and personal organisations with the potential to be dynamic and to perform well in terms of effectiveness, efficiency and quality of service and with considerable motivation to achieve results.

**c) *Supplementing the capacity of the government***

From the perspective of Government, where statutory provision is not comprehensive. Non-governmental organisations can assist the government with fulfilling their legal and moral obligations to provide service. There will be those who believe that one of the advantages of non-governmental organisations is that they can through independent funding, operate outside government policy when this is felt to be inadequate or misguided.

By operating in this way non-governmental organisations can offer an independent, testing ground providing an opportunity to influence Government policy by demonstrating effectiveness.

## DEALING WITH THE MEDIA AND PUBLIC RELATIONS

The need for good public relations and handling the media are important topics, which every Community service officer will need to be familiar with. Indeed a training programme would be incomplete if nothing was said on the matter. In July 1995 the National Committee with the assistance of an expert from the United Kingdom conducted a three-day workshop for all the people involved in the programme.

The objective of the workshop was to educate Community service personnel on how to handle publicity so that they could actively and confidently promote Community service through the media in order to increase awareness amongst the general public and those in decision-making positions of the objectives of this sentencing option.

The need to conduct that workshop came about following a realisation that the media plays a crucial role in the administration of justice. During that workshop, procedures for dealing with the media were established. The procedures set out the roles and responsibilities of the National Committee, the National Co-ordinator and the Community service officer. A copy of the draft procedures adopted during that workshop which highlight the roles and responsibilities of the various persons involved in the programme is hereto attached.

### 1. The need for good media coverage

Although the Community service programme in this country has been in operation for almost four years and although the programme has largely been successful, it is a fact that a number of people still do not understand what the advantages of the scheme are or what it is intended to achieve. Indeed, views are still expressed in some quarters that, by introducing this scheme, government has taken the easy way out and is treating convicted persons with undue leniency. This is of course an uninformed view. As it can be appreciated, the programme largely relies on members of the public, some of whom were initially sceptical but in time have come to understand the advantages of this scheme.

Because the scheme is not always understood by the public, the National Committee has in the past taken pains to publicize the scheme and at the same time stress that the scheme is intended for non-serious offenders. Because our Community service scheme, unlike most other similar schemes, relies on the public for its implementation, its success or failure will largely depend on how members of the public perceive it. Community service is a community-based sanction, in the sense that probationers sentenced to perform Community service not only do so in the community but are also supervised by members of the same community.

For this reason, it becomes even more important that the general public and in particular community leaders and those in decision-making positions understand what this new option is all about. This is where the media comes in. Only through the media are we able to reach out to the public and explain what Community service is all about. Through the media, we can highlight the advantages of the scheme.

The need for positive media coverage cannot be over-emphasised. If the scheme, for any reason, were to get bad publicity, then there would be a very real possibility that the scheme could grind to a halt. For this reason, it is necessary that there be clearly laid down procedures for dealing with the press, particularly at this stage when most of the people are still learning about the programme. There is need to avoid a situation where

one Community service officer says something to the media which has the potential to wipe out all the good work being done by the others.

## **2. Role of the Community Service worker**

The Community service scheme was established by the government. It is not for a Community service officer to publicly contradict or question government policy on the matter. The role of the officer in promoting the scheme is confined to providing details of the scheme and educating the general public on it. Naturally, there would be nothing wrong with an officer re-stating government policy on the scheme and the objectives of the scheme.

As the people on the ground, Community service officers will have access to much of the information about the scheme and how it is operating. The officers will be aware of opportunities for good publicity (e.g. examples of particularly successful placements) and the dangers of negative publicity. Community service officers will have authority to do the following :

- Contact the local media in order to provide detail about how the scheme is operating locally. In this regard, the officer would be within his rights to provide statistics on placements, particular success stories, the number of persons defaulting and problems being encountered. It is always important to highlight what has become of those probationers who have defaulted, i.e. whether they have been re-arrested and if so what their fate has been.

- Take the local media to local institutions to see how the programme is progressing. It should be remembered that it is particular success stories that can serve to enhance public confidence in the scheme. Stories on offenders who have worked well at the institutions and whose lives have been transformed by the scheme would be particularly beneficial. However personal interviews of the probationers should be handled with caution. It is necessary that the probationers understand the full implications of such an interview and the publicity that might follow. The informed consent of the probationer should always be sought. Where the offender agrees to be interviewed, the officer should facilitate such an interview. There are a number of cases of offenders who have worked so well that they have been offered employment by the institution on completion of the Community service. A press article highlighting such a positive development would be particularly beneficial.

- Draft bulletins for the National Committee to be incorporated in any national press releases. There are occasions when the National Committee makes press releases. Obviously the National Committee can only make meaningful releases to the media if Community service officers provide information on how the programme is progressing in their areas.

- Attend local meetings and Conferences to explain the programme. It is important that Community service officers take advantage of public events and meetings to further publicise the scheme.

## **3. Word of caution**

There will be occasions when the Community service officer is not sure about the implications of making a statement to the press. In such cases, it is always best to err on the side of caution. The officer should immediately contact the National Co-ordinator for advice. The National Co-ordinator will be able to deal with most of the queries but if he too is not sure, the matter will be referred to the Executive Committee for urgent attention.

It will also be essential that any proposed event that might attract publicity be cleared with the National Co-ordinator. In urgent situations, such clearance should be obtained telephonically.

It is not the intention to have Community service workers clearing every little event with the National Co-ordinator. If the local media makes a request for statistics, provide them. If they want to visit institutions, this should be facilitated. If the press would like to interview a particular probationer, such interview should be facilitated provided always that the person being interviewed gives his informed consent and the programme is likely to get good publicity in the process.

However if there is doubt or there is a possibility of negative publicity, the matter should be cleared with the National Co-ordinator.

#### **4. The need for public relations**

For a Community service officer to be effective, good public relations will need to be maintained. The officer should be courteous to all those he comes into contact with. In particular the officer should maintain good public relations with magistrates and other officers at the local court, heads of institutions, members of the district committee and members of the public.

This much goes without saying. Indeed it has been shown through experience that the better the public relations, the brighter the chances are of having a successful programme.

## DRAFT PROCEDURE FOR DEALING WITH THE MEDIA

### Introduction

Positive coverage in the media of the Community Service scheme is an important and valuable part of public education, and working with the media is a major component of its public relation strategy. Approaches to the media which are well thought out, and which present a possible story to journalists and broadcasters in a way that enhances the reputation of the scheme can help to promote the scheme. This will also minimise the risk of negative, sensation-seeking publicity.

Community Service personnel carry a major responsibility for maintaining and enhancing the work of the scheme. In order to help them to do this, this draft procedure sets out the key roles and responsibilities for dealing with the media, and some guidelines on particular aspects of that role.

### 1. The National Committee

The National Committee should be able to :

- At any time contact the media on any aspect of community service (for instance through letters to the press) and issue press releases on developments within the scheme.
- Advise the media on issues of policy, future plans for the enhancement of the programme and on issues such as savings by the Government as a result of the scheme.
- The Chairman and any member of the Committee will occasionally appear on TV to explain the scheme and the efforts being taken to implement the scheme.
- Visit any of the provinces to make press statements.
- Deal with any problem relating to the media be it at national, provincial or district level.

### 2. The National Co-ordinator

As the person with the media on behalf of the National Committee **should :**

- Initiate contacts with the media on behalf of the National Committee.
- Contact the media in order to give details on the number of persons placed on community service countrywide, the number of offenders who have defaulted, progress of the scheme, problems being encountered, etc.
- Act as the first point of contact for the Community Service Officers where they think there is a danger of negative coverage in the media.

The National Co-ordinator should not comment, without reference to the National Committee, on issues of policy, future plans, savings by Government, etc.

### 3. The Community Service Officers

As the people « on the ground » they have access to much of the essential information about the scheme and how it is operating. They will be aware of the opportunities for good

publicity (e.g. examples of particularly successful placements) and the dangers of negative publicity. They will also be able to establish good contacts with their local media.

They have authority to:

- Contact the local media in order to provide details about how the scheme is operating locally (the numbers of offenders on community service within their province, particular success stories (once cleared with the National Co-ordinator), the numbers of offenders who have defaulted, problems being encountered, etc.).
- Take the local media to local institutions to see how the programme is proceeding.
- Draft bulletins for the National Committee to be incorporated in national press releases.

They should alert the National Co-ordinator or a member of the National Committee immediately if anything occurs which might result in negative publicity for the scheme.

#### **4. Guidance**

##### ***a) Presenting potentially negative information, such as defaults :***

Present the facts and don't try to disguise them, but always make sure that they are seen in the context of : the overall success of the scheme, the particular circumstances of the default (without going into detail), and - especially important - that the default or other problem has been dealt with swiftly and professionally.

##### ***b) Requests for interviews with offenders :***

Where a journalist wishes to interview individual offenders, either about the work they are carrying out or about their experience of the system, the following factors should be considered :

- Will this interview be of benefit to the Community Service Scheme ? If yes :
- Consider whether the offender is articulate, willing and fully aware of the possible drawbacks of the talking to a journalist. Talk to the potential interviewee, explaining the possible pitfalls and establishing that the person is genuinely willing to give the interview.

## PROPOSAL TO DEVELOP PUBLICITY/PUBLIC EDUCATION PROGRAMMES

The seminars and training workshops, « Getting the most from the media », were designed to develop :

- skills to help in approaches to the media and in presenting information
- knowledge about how the press operates ; how to develop good contacts with journalists ; and how to keep them informed about your activities.

It is now proposed that this is put to use in developing specific, targeted publicity/public education programmes at national and district level.

### 1. Method

Some consideration may be given to identifying :

- specific messages to be put across (in addition to the general one informing the public about what Community Service is, what it does, and why).
- specific audiences you wish to target (such as potential new institutions, local and national politicians, other decision makers, readers of particular newspapers).

However the main task would be to set in place programmes- with targets linked to key dates, areas of the country, particular media and so on - of publications and events and appropriate media coverage.

### 2. Publications might include :

- **General information sheet or leaflet** (*What is Community Service ?*) which could be used as background information for journalists (to make sure they have the facts) but would mainly be used to promote and explain the scheme to a wider public, potential new institutions and so on. The importance of such background information was made clear during the training workshops, particularly the need to explain why the Community Service scheme does what it does, and the benefits this brings to the community. Some of these points might be illustrated by particular success stories. It might work well set out under a series of questions : « Who gets sent on community service ? », « Why are these offenders not sent to prison ? », « What are the benefits ? ».

- **Quarterly briefing or bulletin** which would be entirely factual, outlining key statistics (and possibly some notable success stories) from the past quarter. It could be circulated to a wide range of people, both supporters and potential supporters of the scheme. It could be sent to the press with a press release drawing out the significance of the facts set out in the bulletin.

- **Annual review** which would include annual information along the same lines as the bulletin, but could also include an introduction from the chairman, reports from the regions (drawn from the regular reports from the Community Service Officers), messages from supporters and so on. This would obviously also be press released.

- **Model local (district) information sheet or leaflet** (« Community Service in X ») would be drafted to accompany the national leaflet and could then be adapted by the Community Service Officers in the areas.

The next step may be to delegate responsibility for drafting one of the above publications - or an alternative. It is important to remember that a useful and effective publication does

not need to be « glossy ». Simple, well-constructed, clearly written papers that can be produced within existing researches (budgetary but also the constraints on people's time) will do the main job that is required - making information about the Community Service scheme available to a broader public.

### **3. Events might include :**

- **visits to institutions**
- « **launches** » (such as a small seminar) when any papers are published
- marking **key dates or points** in the Community Service programme (such as an anniversary or the 10,000<sup>th</sup> offender receiving community service)
- **talks** to local groups such as churches, women's groups, farmers' clubs, colleges.

### **4. Appropriate media coverage**

In addition to telling the press (and sometimes the broadcast media) about all the publications/events mentioned above, the National Committee may also want to set specific targets such as :

- at least two (selected) issues or events to be featured on TV each year.
- developing contacts with radio (particularly Radio 2) with a view to producing a feature (using Community Service Officers, offenders, representatives of institutions and district committees, etc.).
- initiating a series of features in the press.

### **5. Summary proposal**

- That the National Committee should develop a programme of action setting out events and publications against target dates (and target audiences and media).
- That Community Service Officers, with their districts committees, should be asked to develop local action programmes which should be submitted for consideration by the national committee by a specified date.

## WRITING A PRESS RELEASE

### Introduction

The National Committee will from time to time send out press releases about the Scheme. Community Service Officers may draft bulletins to be sent out -once approved - to the local press, or to be incorporated in a press release from the National Committee. This handout sets out : some of the key points newspapers will be looking for a press release ; how to structure a press release.

### 1. Writing a press release

#### a) *Form*

Editors (especially in the local media) are more likely to use a story if it arrives in a ready to use form - that is if the story is clearly set out in the structure suggested below. Some also prefer to have it presented in their « house style » but this is unusual and would really be doing their job for them !

#### b) *Timing*

Freshness and detail are important, not just how it's written. When a story is late it is less likely to be published. Try to find out about copy dates for the media you are sending the release to.

#### c) *Addresses*

The Scheme is at a real advantage as the work in the provinces and districts by definition has a local angle which means that editors are likely to use it.

#### d) *Sources*

The reports reaching news organisations should be well-sourced. The sourcing should be above board, regular and verifiable. Facts should not be vague. Too much opinion will be disregarded and you can easily stick to the many interesting facts about the Scheme.

#### e) *Pegging the story*

Your story is more likely to get published if it is pegged on one of the opportunities for good publicity you have identified, such as a visit, an anniversary, or publication of particular statistics or a leaflet.

#### f) *Photos*

You may sometimes decide that a photo would help to tell the story, especially if you are using personal stories as the « peg » for your piece.

### 2. the structure of a press release

Although conventions for structuring a press release vary slightly, most will follow a pattern along these lines :

- A date, either just the date the press release was issued or an embargo date if you do not wish the release to be used until after an event has taken place or until a certain time.
- A heading so that news editors can see at a glance what it's about.
- Information in the first paragraph on who, when, where, what and why ;
- An invitation to the press to come to the event, where appropriate, such as « Members of the press are welcome to attend ».
- A short paragraph describing your work and what the Community Service Scheme does.
- A short quote from a suitable and influential person.
- Finally, put down a name and phone number for the media to contact if they need further information.

A model press release follows.

## MODEL PRESS RELEASE

**Embargo : 12.3 pm, Friday 14 July 1995**

### **HEAD OF NACRO COMMUNICATIONS VISITS COMMUNITY SERVICE SCHEME**

On Friday 14 July 1995 (**when**), Ms Melior Whitear, Head of NACRO Communications Department (**who**) will visit the Community Service Scheme set up under the auspices of the National Community Service programme (**what**). From 11.30 to 12.30 (**when**) she will attend a tour of Anyinstitution in Blankville (**where**) to mark the first anniversary of the successful operation of Community Service in the town (**why**).

Also attending and speaking during the visit will be Mr Very Important Person. Members of the press are welcome to attend. A full programme is attached. (**invitation to the press**).

The Community Service Scheme in Blankville has grown considerably in its first year and now places xx offenders in xx institutions. One of the offenders it has worked with is Mr First Offender. To fulfil the terms of his Community Service Order Mr Offender has been working at the Anyinstitution. Mr Offender says,

« It was my first offence and... I am glad to have been given the chance to make amends for what I have done...etc »

Mr Head of Anyinstitution says :

« Mr Offender is a good worker and we would not have been able to do xxxx without him. The system is a good one because...etc. »

Mr Provincial Magistrate commented during the visit :

« I was sceptical at first about Community Service, but I have seen how successfully it can operate as an alternative to prison and...etc. »

Ms Whitear commented about the visit :

« I am very pleased to be getting a chance to see the operation of this valuable and effective response to offenders...etc. »

**(quotations to arouse media interest/be used by the media)**

**For further information contact :**

**(contact name and number for any further enquiries)**

## POINTS FOR SUCCESS WITH INTERVIEWS

### Introduction

This handout sets out some key points that will help you with broadcast interviews. Many of them will also apply to an interview for the press. These key points are sometimes summarised as the three Cs : clarity, colour and control. In other words, make your points succinctly, but in an appealing way and - as far as possible - remain clear about what you do (and don't) want to say or do

### 1. Points relevant to both radio and TV interviews

- Think of no more than two or three key points you would like to make during the interview and try to ensure that you cover them in your answers. Think of *brief* ways of making these points ; no too many statistics, but one or two telling ones can be useful.

- Ask beforehand what questions you will be asked. If the questions would not allow you to make one or more of your key points, say so and suggest that the questions might be altered to enable you to make that point. (Do not then assume that the interviewer will stick to these questions, as he or she may alter them ; but you will at least have a general idea of the line of questioning).

- Always greet the interviewer brightly (but not unnaturally so).

- Even the most sympathetic interviewer may ask you one or more « devil's advocate » questions. Anticipate the most likely challenging questions and prepare your replies. Cover both the usual general questions (« Are you being soft ? », « But don't we need punishment », « Surely we need to deter others ») and any specific to the subject.

- Do not take hostile questions personally - the interviewer is doing a job, and may actually agree with you. In any case, never react to a hectoring or bullying interviewer by losing your temper. If you keep calm and polite, you are more likely to gain the audience's sympathy. Try to treat all questions as though they were genuine requests for information.

- Answer the questions briefly and in short sentences. If you ramble on at length, the interviewer may cut you off in mid-flow before you have finished your point. If being interviewed for a news « clip », make answers particularly crisp and don't hesitate to repeat yourself in answer to questions.

- The interview may go out live or it may be recorded. If the latter, do not hesitate to stop mid-sentence if you make a mistake and ask if you can answer the question again. No one will mind, as they can edit the tape before it is broadcast. If the interview is live, press on if the mistake is a minor one, but stop in mid-sentence and correct it if it is an important one.

- If the interviewer prefaces a question with an inaccurate or distorted statement, put the record straight immediately. Then answer the questions. (However, do not waste time correcting minor inaccuracies, such as a reference to you as a « Regional Co-ordinator » rather than « Community Service Officer ».)

- **On questions of policy only** : If asked a question on something where the National Committee on Community Service does not have a view, if the interview is recorded explain the position to the interviewer. If it is live, say « That's not something that the Community Service programme has a policy on, but... ». Then try to say something which it does have a view on, which is at least vaguely relevant.

- Listen to or watch you interviews wherever possible or ask a friend or colleague to do so. Work out good and bad points and consider how to improve your answers next time.

## **2. Additional points on TV interviews**

- Dress smartly and conventionally.
- Go to the bathroom immediately beforehand to check appearance, adjust hair, tie, make-up.
- If a camera crew is coming to your office, look round the room, tidy up and remove anything inappropriate.
- If it's an outside broadcast think about the context ; for instance, don't do an interview in the rain.
- Do not get talked into doing anything for the camera that you wouldn't normally do as part of your job.

**COMMUNITY SERVICE (GENERAL) REGULATIONS, 1997**  
**Statutory Instrument of 1997**

It is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs, in terms of section 389 of the Criminal Procedure and Evidence Act (Chapter 9 :07), has made the following regulations -

**Title**

1. These regulations may be cited as the community Service (General) Regulations 1997.

PRELIMINARY

*Interpretation*

2. In these regulations -

« community service officer » means a community service officer appointed in terms of section 7 ;

« district committee » means a district committee appointed in terms of section 8 ;

« *form* » means a form prescribed in the Schedule ;

« National Committee » means the National Committee established in terms of section 3 ;

« National Co-ordinator » means the National Co-ordinator appointed in terms of section 6 ;

« supervisor » means the person referred to in section 11.

**PART I : ORGANISATION AND STRUCTURE**

*Establishment of National Committee*

3.1 There is hereby established a committee to be known as the National Committee on Community Service for Zimbabwe.

3.2 The National Committee shall consist of -

- a) a chairman, who shall be a judge of the High Court, appointed by the Minister ;
- b) a deputy chairman who shall be the Permanent Secretary to the Ministry of Justice, Legal and Parliamentary Affairs or a person appointed by the Permanent Secretary to represent him ;
- c) the Attorney-General or a person appointed by the Attorney-General to represent him ;
- d) the Commissioner of Police or a police officer appointed by the Commissioner to represent him ;

- e) the Director of Social Welfare or a person appointed by the Director to represent him ;
- f) the Permanent Secretary for Local Government, Rural and Urban Development or a person appointed by the Permanent Secretary to represent him ;
- g) the National Co-ordinator ;
- h) the Commissioner of Prisons, or a prison officer appointed by the Commissioner to represent him ;
- i) the Chief Magistrate, or a magistrate appointed by the Chief Magistrate to represent him ;
- j) such other persons as may be appointed by the Minister or co-opted by the National Committee from time to time to represent organisations which have an interest in the well-being or reformation of prisoners ;
- k) such other persons as may be appointed by the Minister or co-opted by the National Committee from time to time on account of their special skills or interest which may assist the National Committee.

#### *Functions of National Committee*

4. The functions of the National Committee shall be :

- a) to advise the Minister on community service
- b) to issue guidelines on community service to those concerned with the administration of justice and those concerned with supervising offenders placed on community service ;
- c) to conduct workshops and seminars for those concerned with implementation of community service ;
- d) generally, to supervise, co-ordinate, promote and develop community service throughout Zimbabwe.

#### *Meetings of National Committee*

5.1 The National Committee shall meet at such times and places as may be fixed by the Chairman.

5.2 The procedure at any meeting of the National Committee shall be as directed by the Chairman.

5.3 In the absence of the Chairman, the Deputy Chairman or any other member nominated by the persons present, shall preside at meetings.

#### *Appointment of Sub-Committees*

6. For the better exercise of its functions the National Committee may appoint -

- a) an executive committee in accordance with section 7 ;
- b) such other committees as it deems fit which shall have such membership and shall exercise such functions as the National Committee may direct, subject however to the right of the National Committee to rescind or amend any decision of any such committee.

#### *Executive Committee*

7.1. An executive committee which is appointed by the National Committee shall consist of -

- a) a chairman, who shall be the chairman of the National Committee or, in his absence, the Deputy Chairman of the National Committee ;
- b) the National Co-ordinator ;
- c) such other members as the National Committee may appoint from amongst its own members ;
- d) such other person or persons whom the executive committee may from time to time co-opt to assist it.

7.2 Subject to the control of the National Committee the functions of the Executive Committee shall be -

- a) to carry out the regular and ordinary business of the National Committee ;
- b) to carry out such other business of the National Committee as the latter may direct ;
- c) to report on its activities at every meeting of the National Committee.

7.3 Notwithstanding the appointment of the Executive Committee or the vesting of any functions in such Committee, the National Committee may amend or rescind any of the decisions of the Executive Committee.

#### *The National Co-ordinator*

8.1 The Minister shall, in consultation with the Chairman of the National Committee, appoint a person to be the National Co-ordinator.

8.2 The National Co-ordinator shall -

- a) subject to the directions of the National Committee co-ordinate, promote and develop community service throughout Zimbabwe ;
- b) liaise between the magistrates courts and all those concerned with the operation and promotion of community service in order to achieve an effective efficient system of community service throughout Zimbabwe ;
- c) attend meetings of the National Committee ;
- d) supervise the day to day work of the community service officers ;
- e) generally co-ordinate community service throughout Zimbabwe.

#### *Community Service Officers*

9.1 The Commissioner of Prisons shall appoint a suitable number of persons in the Prison Service to be community service officers but who shall nevertheless remain subject to the general administration and discipline of the Prison Service.

9.2 A community service officer shall, subject to the directions and guidance of the National Co-ordinator, promote, organise and foster community service within the area or district for which he is appointed.

9.3 A community service officer shall assist the magistrates courts in his area or district in the implementation of community service and shall act on the directions and advice of the provincial magistrate within whose province he has responsibilities.

#### *District Committee*

10.1 Every provincial magistrate shall appoint as many district committees as may be possible and convenient to implement community service in the districts within his province.

10.2. The chairman of a district committee shall be the provincial magistrate or any other magistrate he may nominate to represent him.

10.3 The other members of a district committee shall, so far as may be practicable consist of -

- a) the community service officer ;
- b) the public prosecutor ;
- c) the member in charge of the police or his nominee ;
- d) the district administrator for the district ;
- e) the officer in charge of the prison within the district concerned, or his nominee ;
- f) the social welfare officer for the district concerned ;
- g) such other persons from the community, including the representatives of non-governmental organisations, as may be able and willing to serve on the committee and who have an interest in, or responsibilities for, offenders and their welfare or who may otherwise be able to assist the district committee.

10.4 A district committee shall locate local institutions or other places which are suitable and willing to receive and supervise persons placed on community service and shall generally endeavour to promote and develop community service within its district.

#### *Supervisors*

11.1 The person in charge of an institution or place where an offender has been directed to perform community service shall supervise the performance of the community service concerned.

11.2 A supervisor shall -

- a) allocate work to the offender concerned as specified in the court order or, where no details have been specified, shall allocate such work as he considers suitable at the institution or place concerned ;
- b) generally monitor the performance of the work concerned and, where practicable and possible, shall offer instruction and guidance to the offender concerned in the performance of the work ;
- c) keep records and submit returns relating to the community service performed as may be directed by the clerk of court or community service officer ;
- d) exercise a discretion in regard to requests by the offender for leave of absence and a discretion generally as to the administration of community service in accordance with such guidelines as may be issued by the National Community and such advice as may be given by the local community service officer or the National Co-ordinator ;
- e) advise the community service officer or clerk of the court of any unresolved problems encountered in connection with the community service rendered at his institution so that they may be resolved.

11.3 If practicable or possible a supervisor shall arrange for counselling of the offender where a request in this regard has been made provided that where any such counselling is provided it shall not count as part of the time required to be spent by the offender on performing community service.

## **PART II : ADMINISTRATION**

### *Preliminary requirements to making an order*

12. Before making a community service order the court shall -

- a) undertake an enquiry as to the general suitability of the offender for community service ;
- b) explain the aims and objects of a community service order to the offender, the duties of the offender expected thereunder, his rights to apply to the court for any variation or revocation of the order and the consequences of any breach or non-compliance therewith ;
- c) ascertain whether or not the offender is willing to render community service and shall have regard to his attitude in finally determining whether to impose the order ;
- d) ascertain whether a suitable institution or place is available for the reception and supervision of the offender in respect of the proposed community service.

*On making an order*

13. Upon making a community service order the court shall cause a copy to be given to the offender concerned and shall cause copies to be submitted to the person in charge of the institution or place where the community service is to be performed and to the community service officer for the area.

*Form of order*

14. A community service order shall specify -

- a) The number of hours required to be worked ;
- b) the days on which work is to be performed ;
- c) the starting and finishing times of the work ;
- d) the place where the work is to be performed.
- e) where the performance of community service is a condition for the suspension of another punishment, the details of such suspension ;
- f) any other special terms or conditions of the community service order.

*Application for amendment or revocation*

15.1 An application for the amendment or revocation of a community service order shall be lodged in writing with the Registrar of the High Court or clerk of the court which made the order.

15.2 Where an applicant for an amendment or revocation requires assistance in making a written application the Registrar or clerk of court shall assist him.

15.3 An application shall -

- a) specify the name of the offender and shall refer to the criminal record book number of his conviction ;
- b) specify the grounds upon which the amendment or revocation is based and in the case of an amendment, the nature of the amendment sought ;
- c) be accompanied by any observations or recommendations which may have been made by the community service officer or the supervisor of the community service concerned.

15.4 The Registrar or clerk of court shall fix a date, time and place for the hearing of the application and shall serve -

- a) a notice of the hearing on the Attorney-General or his representative and community service officer and the offender or, if he is a minor, his parent or lawful guardian.
- b) a copy of the application on the public prosecutor or the offender or, if he is a minor, his parent or lawful guardian where either such person has not himself made the application.

15.5 At the hearing of the application the applicant, the Attorney-General or his representative and the community service officer shall be entitled to be heard by the court and, in addition,, the court may require the supervisor of the institution or place of community service or any other interested person to attend and to assist the court in determining the issued before the court.

15.6 Notwithstanding the provisions of subsections (1) to (4) where subsequent to the making of a community service order, the offender is appearing before a court in connection with other criminal proceedings, an application for the amendment or variation of the community service order may be made verbally to the court by or on behalf of the offender or the public prosecutor.

#### *Breach of Community Service Order*

16.1 Where a magistrate has reason to believe, from information on oath or otherwise, that an offender has failed to comply with a community service order imposed on him, the magistrate may issue an order in the form set out in Part I of form C.S.G.1 requiring the offender to appear before the High Court or Magistrates Court which made the order.

16.2 Where a magistrate considers it necessary for the purposes of an order referred to in subsection (1) that the offender concerned -

- a) should be arrested, he may issue an order in the form set out in Part II of form C.S.G.1 directing the arrest of the offender ; or
- b) should be further detained, he may issue an order in the form set out in Part III of form C.S.G.1, directing the further detention of the offender for a period not exceeding 14 days.

16.3 A copy of any order issued in terms of subsection (1) or (2) shall be served upon the offender concerned.

16.4 Any order issued in terms of subsection (2) shall be sufficient authority to arrest or detain the offender, whichever may be applicable in terms of the order.

#### *Forms and returns*

17. Unless otherwise prescribed in these Regulations, the forms and returns to be used in connection with the administration of community service shall be as prescribed from time to time by the National Committee with such variations as the circumstances may require.

*Condonation or Variation of Part II*

18. A court may, in appropriate circumstances, condon any failure to comply with the provisions of this Part or may permit or direct such variations as may be appropriate and no community service order or any document or revocation thereof shall be invalid on the grounds, alone, of any such condonation or variation.

**SCHEDULE FORMS**

Form C.S.G.1

COMMUNITY SERVICE (GENERAL) REGULATIONS, 1977

**PART I**

**ORDER IN TERMS OF SECTION 350 C OF THE CRIMINAL PROCEDURE AND  
EVIDENCE ACT (CHAPTER 9 :07)**

TO \_\_\_\_\_  
name of offender

OF \_\_\_\_\_  
\_\_\_\_\_  
address of offender

WHEREAS a Community Service Order was imposed upon you by the High Court/Magistrates Court\*, ( \_\_\_\_\_ ) on the \_\_\_\_\_ day of \_\_\_\_\_ 1997 which requires you to perform community service at \_\_\_\_\_ AND WHEREAS from information received it appears that you have failed to comply with the Order in the following respects :

\_\_\_\_\_  
Set out particulars of the alleged breach  
\_\_\_\_\_

YOU ARE REQUIRED to appear before the High Court / Magistrates Court\* \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 1997 at \_\_\_\_\_ to show cause why you should not be dealt with according to law.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Magistrate at \_\_\_\_\_  
Magistrates Court

\* Delete in applicable

**PART II \***

**ORDER FOR ARREST IN TERMS OF SECTION 350 C(2) OF THE CRIMINAL  
PROCEDURE AND EVIDENCE ACT (CHAPTER 9 :02)**

\_\_\_\_\_ To the member in charge Zimbabwe Republic Police \_\_\_\_\_

This is to direct you to arrest the offender named in this Order him to bring him/her before a magistrate of this court as soon as possible and in any case not later than 48 hours after his/her arrest so that the question of his/her further detention may be determined.

Date \_\_\_\_\_

Signature

\_\_\_\_\_

Magistrate

at \_\_\_\_\_

Magistrate Court

**PART III \***

**ORDER FOR DETENTION IN TERMS OF SECTION 350 C(2) OF THE CRIMINAL  
PROCEDURE AND EVIDENCE ACT (CHAPTER 9 :02)**

\_\_\_\_\_ To the Member in Charge \_\_\_\_\_

Prison \_\_\_\_\_

This is to direct you to detain the offender named in this order, unless he is admitted to bail or otherwise lawfully released, until -

- a) he is brought before the court on the date and time fixed for the enquiry referred to in Part I of this order ; or
- b) the expiry of a period of 14 days from the date specified below ;  
whichever is the sooner.

Date \_\_\_\_\_

Signature

\_\_\_\_\_

Magistrate at

\_\_\_\_\_ Magistrate Court

Signature

Extended to \_\_\_\_\_

\_\_\_\_\_ Magistrate Court

\* Note : Part II or Part III to be completed only when circumstances require.



**ZIMBABWE**

**ACT**

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To amend the Criminal Procedure and Evidence Act [*Chapter 59*], the Magistrates Court Act [*Chapter 18*], the Supreme Court of Zimbabwe Act, 1981, and the High Court of Zimbabwe Act, 1981; and to provide for matters connected therewith or incidental thereto.

ENACTED by the President and the Parliament of Zimbabwe.

Shall forthwith submit the certificate to the court that passed the sentence or to a court of like jurisdiction, and the court may thereupon, if satisfied that the person concerned is not in a fit state to receive the punishment or any part of it, amend the sentence as it thinks appropriate.

(6) Subject to this section, the manner in which and place at which corporal punishment shall be inflicted, and the person who shall inflict it, shall be as prescribed ».

Amendment of  
section 337 of  
Cap.59.

**20.** Section 337 of the principal Act is amended

(a) in subsection (1) —

(i) in paragraph (a) by the deletion of « one or more conditions, whether as to compensation to be made by the offender for damage or pecuniary loss, good conduct or otherwise, as the court may think fit to order » and the substitution of « such conditions as the court may specify in the order » ;

(ii) in paragraph(b) by the deletion of « as aforesaid » ;

(b) by the insertion after subsection (1) of the following subsection-

« (1a) Conditions specified in terms of paragraph (a) or (b) of subsection (1) may relate to any one or more of the following matters-

(a) good conduct ;

(b) compensation for damage or pecuniary loss caused by the offence :

Provided that no such condition shall require compensation to be paid in respect of damage or loss that is the subject of an award of compensation in terms of Part XIX ;

(c) the rendering of some specified benefit or service to any person injured or aggrieved by the offence :

Provided that no such condition shall be specified unless the person injured or aggrieved by the offence has consented thereto ;

(d) the rendering of service for the benefit of the community or a section thereof ;

(e) submission to instruction or treatment ;

(f) submission to the supervision or control of a probation officer appointed in terms of the Children's Protection and Adoption Act (*Chapter 33*) or regulations made under section *three hundred and sixty-two*, or submission to the supervision and control of any other suitable person ;

(g) compulsory attendance or residence at some specified centre for a specified purpose ;

(h) any other matter which the court considers it necessary or desirable to specify, having regard to the interests of the offender or of any other person or of the public generally ».

**21.**Section 340 of the principal Act is repealed

Repeal of section  
340 of  
Cap. 59

**22.**Part XIX of the principal Act is repealed and the following Part

New Part substituted for  
Part XIX

« PART XIX  
COMPENSATION AND RESTITUTION

Interpretation  
in Part XIX

341 In this part —  
« injured party » means a person who is entitled to —

- a) an award of compensation in terms of section three hundred and forty-two, three hundred and forty-three or three hundred and forty-four ; or
- b) an order in terms of section three hundred and forty-five for the restoration of property to him.

Compensation  
for loss of  
damage to  
property

342. (1) Subject to this Part, a court which has convicted a person of an offence may forthwith award compensation to any person whose right or interest in property of any description has been lost or diminished as a direct result of the offence.

(2) For the purposes of subsection (1) —

- a) if a person has been obliged as a direct result of an offence to incur expenditure in connection with any property, a court may regard the whole or any part of the expenditure as being the amount by which his right or interest in the property has been diminished, and may award him compensation accordingly ;
- b) where damage is occasioned to stolen property or to property that is the subject of an attempted theft while the property is out of the owner's possession such damage shall be deemed to have been occasioned as a direct result of the theft or attempted theft, as the case may be, of the property concerned.

Compensation  
for personal  
injury

343. Subject to this Part, a court which has convicted a person of an offence may forthwith award compensation to any person who has suffered personal injury as a direct result of the offence.



## **ZIMBABWE**

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### **ACT**

To amend the Criminal Procedure and Evidence Act  
(*Chapter 9 :07*), section 44 of the High Court Act  
(*Chapter 7 :06*) and section 121 of the Prisons Act  
(*Chapter 7 :11*), and to provide for matters connected with or  
incidental to the foregoing.

ENACTED by the President and the Parliament of Zimbabwe.

- (2) Subject to any directions given by the court, an intermediary —
- a) shall be obliged to convey to the vulnerable witness concerned only the substance and effect of any question put to the witness ;
  - b) may relay to the court the vulnerable witness's answer to any question put to the witness :

Provided that when doing so the intermediary shall, so far as possible, repeat to the court the witness's precise words.

( 3) Where a support person has been appointed for a vulnerable witness, the support person shall be entitled to sit or stand near the witness whilst the witness is giving evidence in order to provide moral support for the witness, and shall perform such other functions for that purpose as the court may direct.

Weight to be given to evidence of witness for whom intermediary or support person appointed

319H. When determining what weight, if any, should be given to the evidence of a vulnerable witness for whom an intermediary or a support person has been appointed, the court shall pay due regard to the effect of the appointment on the witness's evidence and on any cross-examination of the witness ».

New section inserted in Cap. 9 :07\_

**10.** Part XVIII of the principal Act is amended by the insertion before section 336 of the following section

Interpretation in Part XVIII

« 335A. In this Part—

« Community serviced» means any service for the benefit of the community or a section thereof which an offender is required to render in terms of a community service order or an order made under section *three hundred and forty-seven* or *three hundred and fifty-eight* ;.

« Community service order » means an order under section *three hundred and fifty A.* ».

Amendment of section 336 of Cap. 9 :07

**11.** Section 336 of the principal Act is amended in subsection (1) —

(a) by the repeal of paragraph (b) and the substitution of the following paragraphs —

« (b) imprisonment for life ;  
(b1) imprisonment for a determinate period; »;

(b) by the insertion after paragraph (d) of the following paragraph—  
« d1) community service ;».

Amendment of section 337 of Cap. 9 :07.

**12.** Section 337 of the principal Act is amended in paragraph (a) by the repeal of the proviso and the substitution of-

a) « Provided that, if the High Court is of the opinion that there are extenuating circumstances or if the offender is a woman convicted of the murder or her newly-born child, the court may impose— a sentence of imprisonment for life ; or

b) any sentence other than the death sentence or imprisonment for life, if the court considers such a sentence appropriate in

all the circumstances of the case. ».

Amendment of  
section 344 of  
Cap :07

**13.** Section 344 of the principal Act is amended in subsection (1) by the deletion of « Where » and the substitution of « Subject to paragraph (a) of section *three hundred and thirty-seven*, where ».

New section  
inserted in Cap.  
9 :07

**14.** The principal Act is amended by the insertion after section 344 of the following section-

**Imprisonment for  
life**

"344A. Subject to any other law, the effect of a sentence of imprisonment for life imposed on or after the date of commencement of the Criminal Procedure and Evidence Amendment Act, 1997, shall be that the person to sentenced shall remain imprisoned for the rest of his life"

New section  
substituted for  
section 347 of  
Cap. 9 :07.

**15.** Section 347 of the principal Act is repealed and the following is substituted —

**Imprisonment or  
community service in  
default of payment of fine**

« 347 (1) Subject to this section, a court which imposes a sentence of a fine upon an offender may do either or both the following-

- a) impose, as an alternative punishment to the fine, a sentence of imprisonment of any duration within the limits of the court's punitive jurisdiction ;
- b) permit the offender, as an alternative to paying the fine, to render such community service as may be specified by the court.

(2)The period of any sentence of imprisonment imposed in terms of paragraph (a) of subsection (1) shall not, either alone or together with any period of imprisonment imposed on the offender as a direct punishment for the same offence, exceed the longest period of imprisonment prescribed by any enactment as a punishment for the offence.

(3)Where a court has imposed upon an offender a sentence of a fine without an alternative referred to in paragraph (a) or (b) of subsection (1) and the fine has not been paid in full or has not been recovered in full by a levy in terms of section *three hundred and forty-eight*, the court may issue a warrant directing that the offender be arrested and brought before the court, which may thereupon impose such sentence of imprisonment and additionally, or alternatively , permit him to render such community service, as is provided in subsection (1).

(4) Nothing in this section shall be construed as limiting the power of a court under section *three hundred and fifty-eight* to postpone or suspend any sentence.

(5)A court may exercise the powers conferred upon it by this section even in relation to an offence prescribed in an enactment which purports-

- a) to limit the duration of a sentence of imprisonment that may be imposed as an alternative to a fine ; or
- b) to permit only a sentence of imprisonment to be imposed as an alternative to a fine :

Provided that this subsection shall not apply where a

minimum penalty is prescribed in the enactment concerned as punishment for the offence».

Amendment of section 348 of Cap. 9 :07.

**16. Section 348 of the principal Act is amended-**

- (a) in subsection (1) by the insertion after « shall be imprisoned » of « or shall be permitted to render community service » ;
- (b) in subsection (6) by the deletion of « When an offender has been sentenced to pay a fine only or in default of payment of the fine to imprisonment, and the court issues a warrant under this section, it may suspend the execution of the sentence of imprisonment » and the substitution of « Where a court issues a warrant under this section it may suspend the execution of any sentence of imprisonment imposed as an alternative to the fine » ;

by the repeal of subsections (8), (9) and (10).

New section inserted in Cap. 9 :07.

**17. The principal Act is amended by the insertion after section 348 of the following section—**

Effect of part payment of fine or part performance of community service

« 348A. (1) Where part only of a fine imposed on an offender has been paid or recovered by levy under section *three hundred and forty-eight-*

- a) any period of imprisonment to be served by the offender as an alternative to the fine shall be reduced by the same proportion, as nearly as possible, as the amount so paid or recovered bears to the total amount of the fine ;
- b) any community service which the offender is permitted to render as an alternative to the payment of the fine shall be reduced to such extent as the court may determine in order to take into account the amount so paid or recovered.

(2) Where an offender renders only part of any community service he is permitted in terms of section *three hundred and forty-seven* to render as an alternative to a fine, the court may reduce any period of imprisonment which it has imposed as an additional alternative to the fine, to such extent as the court may determine in order to take into account the service the offender has rendered.

(3) A determination in terms of paragraph (b) of subsection (1) or subsection (2) shall be made in the presence of the offender concerned, and subsections (5) and (6) of section *three hundred and fifty-eight* shall apply, *mutadis mutandis*, in regard to bringing the offender before the court for that purpose

(4) No amount shall be accepted in part payment of a fine if it would have the effect of reducing the imprisonment to be served in terms of subsection(1) by a fractional part of a day. ».

New sections inserted in Cap. 9 :07.

**18. The principal Act is amended by the insertion after section 350 of the following sections—**

Community Service Orders

« 350A.

(1) Subject to this section and to regulations made in terms of section *three hundred and eighty-nine*, a court which convicts a person of any offence may, instead of sentencing him to imprisonment or a fine, make a community service order requiring him to render service for the benefit of the community or any section of the community for such number of hours as shall

be specified in the order.

(2) Where a court makes community service orders in respect of two or more offences of which the offender has been convicted, the court may direct that all or any of the hours of service specified in any of the orders shall be concurrent with those specified in any other order, and in the absence of such a direction the hours shall run concurrently.

(3) A court which makes a community service order in respect of an offender may sentence the offender to a fine and additionally, or alternatively, to imprisonment as an alternative punishment, to be paid or served as the case may be, if he fails to render the service specified in the order.

(4) A court may make a community service order in respect of an offender even if he has been convicted of an offence under an enactment which makes provision only for a fine and additionally, or alternatively, imprisonment as punishment for the offence :

Provided that this subsection shall not apply where a minimum penalty is prescribed in the enactment concerned as punishment for the offence.

Performance of  
Community service.

### **350B.**

(1) Subject to this section and to such conditions and requirements as may be prescribed, an offender in respect of whom a community service order is in force shall render the service specified in the order for the number of hours specified therein.

(2) Unless revoked, a community service shall remain in force until the offender has rendered the number of hours' service specified in it.

Breach of community  
service order

• **350C.**(1) Subject to this section, if a magistrate has reason to believe, whether from information on oath or otherwise, that an offender has failed to comply with any requirement of a community service order, the magistrate may order the offender to be brought-

- a) before the High Court, where the community service order was made by that court ; or
- b) before a magistrates court, where the community service order was made by that court ;

for the purposes of subsection (3).

(2) The magistrate may, if necessary for the purpose of an order under subsection (1), order the offender to be arrested without warrant and, unless the offender is admitted to bail in terms of Part XI, to be detained in prison.

(3) If the court is satisfied that an offender who has been brought before it in terms of subsection(1) has failed to comply with any requirement of a community service order, the court may-

a) amend or extend the order in such manner as the court thinks will best ensure that the offender renders the service specified in the order ; or

b) revoke the order and-

(i) order the offender to pay any fine or undergo any imprisonment that was imposed on him as an alternative punishment in terms of subsection (3) of section *three hundred and fifty A* ; or

(ii) where the court that made the order did not impose an alternative punishment in terms of subsection (3) of section *three hundred and fifty A*, deal with the offender for the offence in respect of which the order was made in any manner in which that court could have dealt with him ;

or

c) make such other order or direction in the matter as the court considers just.

(4) Where a court makes an order referred to in subparagraph (i) of paragraph (b) of subsection (3), the court may reduce any fine to be paid or imprisonment to be undergone by the offender concerned to such extent as the court considers appropriate in order to take into account any service the offender rendered in compliance with the community service order concerned.

(5) An offender who is dealt with by a court under the powers conferred on it by sub-paragraph (ii) of paragraph (b) of subsection (3) shall have the same right of appeal against any sentence or order of the court as if the sentence or order has been imposed in a criminal trial.

Amendment or revocation  
of community service  
order.

**350D.** (1) Subject to this section, on the application of-

a) the offender concerned or, if he is a minor, his parent or lawful guardian , or

b) the Attorney-General or a public prosecutor ;

a court may —

(i) amend a community service order ;

or

(ii) revoke a community service order and deal with the offender for the offence in respect of which the order was made in any manner in which the court which made the order could have dealt with him ;

if the court considers it would be in the interests of justice to do so having regard to circumstances which have arisen since the order was made.

(2) A community service order made by-

- a) The High Court, shall not be amended or revoked in terms of subsection (1) except by the High Court ;
- b) A magistrate, shall not be amended or revoked in terms of subsection (1) except by that magistrate or by another magistrate who has the same or greater jurisdiction to impose punishment in criminal cases

(3) A court may order an offender to be brought before it for the purposes of an application in terms of subsection (1) and, if necessary, may order him to be arrested without warrant and, unless admitted to bail in terms of Part XI, to be detained in prison.

(4) An offender who is dealt with by a court under the powers conferred on it by paragraph (ii) of subsection (1) shall have the same right of appeal against any sentence or order of the court as if the sentence or order had been imposed in a criminal trial ».

**19.** Section 389 of the principal Act is amended in subsection (2) by the insertion after paragraph © of the following paragraph-

« (d) in relation to community service as defined in section *three hundred and thirty-five A*, for-

- (i) the circumstances in which a court may not order an offender to render community service ;
- (ii) the form and content of order requiring persons to render community service ;
- (iii) information to be supplied to offenders regarding any order requiring them to render community service ;
- (iv) the manner in which offenders shall render community service. ».

**20.** The Third Schedule to the principal Act is amended in paragraph 6 by the deletion of « paragraph 5 or 6 » and the substitution of « paragraph 3, 4 or 5 ».

Amendment of  
section 389 of  
Cap. 9 :97

Amendment of  
Third Schedule to  
Cap. 9 :07.

**Doc. 25 : A Bill for an Act entitled "The Community Service Act"**

**A BILL FOR AN ACT ENTITLED THE COMMUNITY SERVICE ACT 1997 ARRANGEMENT  
OF SECTIONS**

**PART I — INTRODUCTION**

SECTION

1. SHORT TITLE
2. INTERPRETATION

**PART II — COMMUNITY SERVICE ORDERS**

3. COMMUNITY SERVICE
4. DURATION AND REQUIREMENT OF COMMUNITY SERVICE ORDER
5. BREACH OF REQUIREMENT OF COMMUNITY SERVICE ORDER
6. COMMISSION OF FURTHER OFFENCE

**PART III - AMENDMENT, REVIEW, DISCHARGE OF COMMUNITY  
SERVICE ORDERS**

7. AMENDMENT OF COMMUNITY SERVICE ORDER
8. DISCHARGE OF COMMUNITY SERVICE ORDER

**PART IV - ARRANGEMENTS FOR COMMUNITY SERVICE**

9. ARRANGEMENTS FOR COMMUNITY SERVICE
10. COMMUNITY SERVICE COMMITTEE
11. RULES
12. COMMENCEMENT

**A BILL FOR AN ACT  
ENTITLED  
THE COMMUNITY SERVICE ACT 1997**

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An Act to Introduce and Regulate Community Service By Offenders in Certain Cases, and to Provide for Matters Incidental Therewith And Connected Thereto.

BE IT ENACTED by Parliament as follows :—

**PART I - INTRODUCTORY**

**Short Title**

1. This Act may be cited as the Community Service Act. 1996.

**Interpretation**

2. In this Act, unless the context otherwise requires —

« community service order » means an order made under the provisions of this Act requiring an offender to perform work within the community for a specified period of time.

« community service period » means the period for which an offender is to perform work under the community service order.

« court » means the High Court, or a subordinate court.

« Minister » means the Minister of Internal Affairs.

« Minor offence » means an offence for which court will pass a sentence of not more than 1 year imprisonment.

« offence » means an offence in respect of which, by its nature and circumstances relating to the offender court feels proper to make a community service order.

« offender » means a person who has been ordered to undergo community service.

« supervising court » means a court which made the Community Service Order and includes courts of similar jurisdiction where the offender might subsequently reside.

« supervising officer or body » means an officer or body appointed by court to supervise the offender during the community service.

**PART II - COMMUNITY SERVICE ORDERS**

**Community service**

3. (1) Where a person is convicted of a minor offence, the court may, instead of sentencing him/her to prison, make a Community Service Order.

(2) Before passing a Community Service order, Court shall

consider the circumstances, character and antecedents of the offender and ask him/her whether he/she consents to the order.

(3) Before passing a Community Service Order the court shall explain to the offender in the language he/she understands, the effect of the order and that if he fails in any respect to comply with it, he will be liable to the original sentence.

(4) The court shall make a community service order for persons only above the age of (16).

**Requirements of community service order.**

4. (1) The offender shall be under the supervision of the supervising officer/body named in the community service order.
- (2) The Community Service Order shall contain such requirements as the court shall consider necessary for the supervision of the offender.
- (3) The court, making the community service order shall give to the supervising officer/body a copy of the order together with such documents and information relating to the case.

**Breach of requirement of community service order**

5. (1) If at any time during the community service period, the offender fails to comply with the requirements of the community service order, the court may issue a summons requiring the offender to appear before it. Provided that no such summons shall be issued except on a report by the supervising officer.
- (2) If the offender does not appear pursuant to the summons, the supervising court may issue a warrant of arrest.
- (3) If it is proved to the satisfaction of the supervising court that the offender has failed to comply with any of the requirements of the community service order, that court may, either ;
- (a) vary the order to suit the circumstances of the case, or
  - (b) impose on him or her a fine not exceeding fifty thousand shillings ; or
  - (c) cancel the order and sentence him or her for the original offence.
- (4) If a supervising officer/body uses the offender to his/her personal benefit, the officer/body shall be liable to a fine not exceeding two hundred thousand shillings.

**Commission of further offence**

- 6 (1) Where an offender is convicted of a further offence during the community service period and sentenced to a term of imprisonment, the court shall consider

the sentence which could have been passed on him or her for the original offence and may sentence him or her to an additional term of imprisonment in respect thereof and cancel the community service order. In passing a new sentence, Court shall take into account the work already performed by the offender.

- (2) If an offender who was ordered to undergo community service by the High Court is convicted by a subordinate court of an offence committed during the community service period, the subordinate court shall send a copy of the proceedings to the High Court.
- (3) On receipt of the proceedings of the subordinate court, the High Court shall cause the offender to be produced before it and shall proceed under subsection 1 of this section.
- (4) If an offender, ordered to undergo community service by a subordinate court, is convicted before the High Court of an offence committed during the community service period, or is dealt with by the High Court for an offence so committed in respect of which he was committed for sentence to that court, the High Court may deal with him, for the offence for which the order was made, in any manner in which the subordinate court or magistrate's court could deal with him if it has just convicted him of that offence.
- (5) If an offender was ordered to undergo community service by a subordinate court and is convicted by another subordinate court of any offence committed during the community service period, that latter court may deal with him for the offence for which the order was made, in any manner in which the court could deal with him if it has just convicted him of that offence.

### **PART III - AMENDMENT, REVIEW AND DISCHARGE OF COMMUNITY SERVICE**

#### **Amendment of community service order 7.**

- (1) An offender who intends to change his or her place of residence shall inform the supervising officer of his or her intention to do so.
- (2) On receipt of the information, the supervising officer/body shall inform the supervising court giving the details connected with the case.
- (3) The supervising court shall make appropriate amendments in the community service order, and inform the court having jurisdiction of the area where the offender intends to go.
- (4) The court shall give the offender a copy of the amended community service order which the offender

is required to present to the new supervising court.

- (5) Where an offender commits an offence outside his/her usual area of residence, the Community Service Order shall be enforced in his/her usual area of residence.

**Discharge of community service order**

8. (1) Where an offender has been ordered to undergo community service for a period of more than 6 months, the supervising officer/body shall give a report to a supervising court concerning the offender's performance and general conduct.
- (2) Based on the report made by the supervising officer, the supervising court may reduce the period of the community service order where the offender is of good conduct and the supervising officer recommends reduction of the period of community service.
- (3) The supervising officer/body shall give a report to court on the termination of a community service order.

**PART IV - ARRANGEMENTS FOR COMMUNITY SERVICE**

**Arrangements community**

9. (1) The Minister will notify the Chief for Justice in which areas arrangements exist for the courts to make community service orders.

**The supervising officer or body who is to be responsible for the supervision of an offender shall be the officer for the district or area for the time being named in the order in which the offender resides, or will reside, and if that supervising officer dies or is unable for any reason to carry out his duties, another supervising officer shall be appointed by the supervising court.**

**Community service commission**

10. (1) There shall be a committee to be called the National Committee on Community Service which shall consist of the following :
  - (a) A judge
  - (b) Member Uganda Law Reform Commission ;
  - (c) The Director of Public Prosecutions ;
  - (d) Permanent Secretary of Internal Affairs ;
  - (e) The Inspector General of Police
  - (f) The Commissioner General of Prisons ;
  - (g) The Commissioner for Probation ;

- (h) The Commissioner for Local Government (Local Councils)
  - (i) A member from non-governmental organisation ;
  - (j) Two members of the public appointed by the Minister.
- (2) The Chairman of the Committee shall be appointed by the members of the committee.
- (3) The functions of the Committee shall be :
- (a) To monitor the operation of the scheme in all its aspects, liaise and communicate with any office or persons responsible for the matter in issue ;
  - (b) to propose measures for effective operation of the scheme ;
  - (c) to receive and consider any complaints or views and recommend where possible on the nature of Community Service by the offender ;
  - (d) to supervise the work of the supervising body or officer and in that regard co-ordinate its activities with the supervising courts ;
  - (e) to undertake any other function as may be required of it under the law for the proper implementation of the Act.
- (4) The committee shall have District Committees whose position and functions shall be specified by the Minister in consultation with the Commission.

**Rules**

11. The Minister may make rules prescribing —
- (a) the duties of supervising body or officers ;
  - (b) the constitution and duties of the District Community Service Committees.

**Commencement.**

12. This Act shall come into force on such a day as the Minister, by Statutory Instrument, shall appoint.

