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Challenges in Implementing Counselling Services among Non-custodial Offenders and Possible Solutions

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Abstract:

The current study aims to investigate the challenges in implementing counselling services among non-custodial offenders and possible solutions. The majority of offenders in Kenya can be dealt with effectively in the community by means of non-custodial correctional interventions such as counselling. However, there are challenges in implementing counselling services among non-custodial offenders and possible solutions. This is regardless of the fact that imprisonment should be used with utmost restraint and used as the last resort when all other sanctions have been considered and found inappropriate. In this study, mixed research methodology was used, where both quantitative and qualitative methods were utilized. The study had a target population of 37 probation officers who were counsellors: ten males, twenty-seven females and 444 probationers in selected probation stations within Nairobi County. Census sampling was used to select all 37 probation officers, While Yame formula was used to arrive at a sample size of 82 probationers. Data were collected through the use of questionnaires and interviews. Social Skills Improvement System (SSIS) Tool was used to measure psychological Adjustment of Probationers. A questionnaire was administered to non-custodial offenders serving on probation service orders and probation officers who were counsellors. The county director and regional coordinator of probation service in Nairobi County were interviewed. The study revealed that key challenges in implementing counselling services among non-custodial offenders include: lack of enough designated rooms and spaces where private counselling sessions can be held to enhance the principle of confidentiality; a cardinal rule in professional counselling, not all officers are trained in counselling field, the limited number of counsellors who have specialized in specific areas of counselling, such as drug addiction, family and marriage therapy, among others.

Keywords: Challenges, counselling services and non-custodial offenders

1. Introduction

Effective rehabilitation of offenders requires the utilization of a wide menu of evidence-based interventions. The use of group counselling services is said to assist offenders in increasing their self-direction, autonomy, and responsibility towards themselves and others and moving towards changing their faulty beliefs and actions (Humphreys et al., 2018). It is also believed that group counselling services enable offenders to develop appropriate social skills (Wilson, 2016). Individual counselling services need to utilize cognitive behaviour approaches because this plays a vital role in assisting offenders in assessing their own cognitions and how they contribute to their present circumstances. This makes them take responsibility for their actions and move towards modifying their behaviour. Khodayarifard et al. (2020) conducted a study on the effects of individual counselling services amongst male prisoners in Iran with a sample of 180 males. The findings revealed that individual therapy improved the psychological status of inmates by 15%. The limitation of this study is that it only focused on adult males; juveniles and female offenders were left out.

The problem that this study seeks to address is challenges in implementing counselling services among non-custodial offenders and possible solutions. Probation service is a Government agency involved in the administration of criminal justice specifically charged with the responsibility of implementing supervised non-custodial correctional services within the community. On the other hand, Kenya Prisons Service functions are to contain and keep offenders in safe custody, rehabilitate and reform offenders, facilitate the administration of justice and promote prisoners' opportunities for social reintegration. To decongest the prisons, non-custodial sentences such as probation and community service are used by courts as alternatives to jail terms. The population within prisons is increasing, leading to the majority of prison overcrowding. This is leading to re-offending as offenders are not able to receive individual rehabilitation because they are too many to rehabilitate. As this becomes more of a problem in today's society, the government has come up with new strategies which will help to reduce the overcrowding within the prisons. One of these

is probation, a sentence imposed by the court to the offender either after the offender has served their sentence in prison or not. Ideally, a probation sentence is supposed to give the offender a chance to change the dysfunctional behaviour while continuing with his/her usual activities in the community. The offender is accorded gainful skills that will later be used by them to become useful in society and also to stop them from re-offending.

Problems and sufferings of jail inmates in overcrowded prisons are not only uncomfortable but also destructive as prisoners who come out carry the consequences of their bad experiences to the free world after they are released. Overcrowding has several negative effects on the prison inmates. Crowding is only indirectly related to mere numbers or density of people. It is possible to feel crowded in the presence of few people or not crowded in the presence of many. Prisons are characterized by restrictions and limitations. The prison environment generally includes various factors that can adversely affect the physical and mental health of inmates.

One of the greatest impediments and threats to Kenya's socio-economic development and national cohesion is the escalating rate of crime and recidivism. In the context of penal institutions, the high rate of recidivism has led to overcrowding in Kenyan prisons, which currently operate at double or triple capacity up from a population of 30,000 to over 54,000 prisoners. This translates to 55% above their official capacity (Kenya Prisons Service, 2015). Specifically, as efforts are made to curb crime and control the ever-escalating prison population in Kenya, the problem of recidivism ought to be addressed urgently by both the criminal justice system and other key players.

The Department of Probation and Aftercare Service is a criminal justice agency that is charged with the responsibility of rehabilitation, reintegration and resettlement of offenders in the community. Each year, over 10,000 offenders are placed on non-custodial sentences to benefit from the department's rehabilitation and counselling services. The need for counselling services is based on the belief that criminal behaviour is brought about by an array of factors that are unique to each individual and that it is possible for offenders to change from behaviour that harms themselves and the society to actions that are fruitful to not only to themselves but also the community. Individual, group, and family counselling services which embrace cognitive behaviour modification theory and other approaches are used to enable offenders to re-evaluate their lives and set concrete goals to effect behaviour change. However, statistics available in the department indicate a 10% increase in not only the rate of recidivism but also in the number of offenders who drop out of the program. This calls for the need for counselling services and the results of this study will guide future interventions.

Kenya's recidivism rate is at 47 percent. Kenyan prisons, like many other prisons, have experienced a high rate of recidivism despite many rehabilitation programs offered to the prisoners to lessen the recurrence of criminal behaviour as well as reduce recidivism among prison victims since they are mostly dedicated to treating the criminal behaviour by eradicating the elements or conditions that motivate them to commit criminal acts. Even after release, prisoners have continued living a life of criminality; hence, some are re-imprisoned. Time that convicts could have spent constructively in developing themselves, their families, societies and the nation in general is lost in prison. The researcher analysed both qualitative and quantitative data to determine the challenges in implementing counselling services among non-custodial offenders and possible solutions.

2. Literature Review

2.1. Challenges in Implementing Counselling Services among Non-Custodial Offenders

There are some challenges associated with the counsellor-offender counselling relationships. Larivieri (2001) posits that officers who are the correctional personnel attitude towards inmates would be associated with better work adjustment. The main challenge has to do with the attitude officers have towards counselling the offenders. Some officers have negative perceptions about prison offenders and believe in the hard and tight rules when dealing with them, which contradicts the fundamental principle of having unconditional positive regard, which is a crucial attitude in counselling (Brammer, 1993). This could be a result of poor counselling skills and the researchers, based on their professional background in counselling, have been wondering if officers are aware of the various approaches that are used in counselling offenders. To this end, Frakas (1999) believes that the orientation of correctional officers towards offenders must be examined. Reising and Lovrich (1998) also argue that individual attitudes, positional characteristics and managerial practices have an effect on correctional officers' approach to handling prison inmates. With these challenges, the relationship between the officer, who is also the 'counsellor' and the offender is at risk. Probation and prison officers deal with offenders and, therefore, should possess certain competencies, knowledge, skills and attitudes, to allow them to help offenders change maladaptive behaviour.

Gatotoh (2017) raises the question of whether Prison officers have the requisite qualifications and attitudes to match the paradigm shift in correctional services meant to be implemented in prisons. The same question can be asked about probation officers as to whether their officers are qualified to offer effective counselling services to offenders or if they have established networks where they refer cases that are above their means. Larivere (2018) claims that Correctional officers' predispositions and attitudes towards inmates would be associated with better work adjustment. Non-custodial offenders are rehabilitated within the community and so they continue performing their work normally but with some adjustments because they need to create time for reporting to the supervising officer at an agreed time. On the contrary, in a study that was carried out by Farkas (2019), it was observed that Correctional officers usually do not express punitive attitudes towards inmates and generally support rehabilitation programmes for prison inmates. This, therefore, indicates that a positive attitude towards the offender by the supervising officer is important in non-custodial rehabilitation.

Supervision is an essential component of community-based correction with the primary objective of enforcing compliance with the conditions of release to minimize risk to the public and to reintegrate the offender into a law-abiding lifestyle. Lax supervision and failure to deal firmly with those who persistently violate the terms of release can bring an entire system into disrepute in criminal justice (Killinger & Cromwell, 2018). Probation is both an agency and a sanction to further the goals of community correctional service. It is a court-oriented sanction where an adjudicated offender is placed under the control, supervision and care of a probation officer in lieu of imprisonment so long as the offender or probationer fulfils certain standards of conduct. In the discharge of its judicial function, it is today based on careful assessment and differential supervision, taking into consideration court services, case management, correctional services, community supervision, cognitive behaviour programming, conflict resolution, collaboration and partnership construction, community safety –safe reintegration (International Centre for Criminal Law Reform and criminal justice policy, 2016).

2.2. Theoretical Framework

This study will be based on Cognitive Behavioural Theory (CBT). Albert Ellis and Aaron Beck discovered the cognitive dimensions of human behaviour by focusing on the thoughts and beliefs of disturbed and anxious clients (Hough, 1998). The fundamental presumption is that individuals contribute to their own psychological difficulties by being responsible for the manner in which they see the world around them. According to them, behaviour modification is possible through the use of instructional treatment that is based on cognitive restructuring. A rearrangement of an individual's self-statement will lead to a parallel reorganization of that person's conduct. The goal of a cognitive behaviour framework is to correct an individual's distorted or incorrect cognition and encourage the development of new cognitive abilities to alter their behaviour. In the field of behaviour modification, Meichenbaum (1977) identifies three distinct mechanisms of change as follows;

Phase 1 self-observation: The clients/offenders become more self-aware due to this exercise. Their self-talk is marked by critical comments and images of themselves that they replay in their heads. Their willingness to listen to oneself is an essential component in this situation. It entails a heightened sensitivity in their thoughts, emotions, psychological responses, and the way they behave with other people in social situations. They start to understand that they are not 'victims' of their bad thoughts and emotions but rather that they are the ones who are contributing to their own sadness by their actions. An offender who views him/herself as a brute is likely to feel and behave like one! What you think and believe is how you act and become.

Phase 2: Starting new dialogue: The clients learn to pay attention to the maladaptive behaviours they engage in, and they start to become aware of chances for adaptive behaviour alternatives that lead to changes in cognitive functioning, emotional state, and behaviour. Through counselling interventions and challenging by the helper, the offender begins to interrogate the negative self-image he/she has about the self, what he/she has been labelled by others in society and may now see the real self, the possibility of changing for the better and imagines how life would be as a changed person. The negative talk begins to disappear and a new self emerges.

Phase 3: Learn new skills: Learning new skills is the focus of the third phase, during which clients acquire more effective means of coping, which they then put into practice in real-life scenarios. As a result of their altered behaviour, others around them respond to them in various ways. The creation of rehabilitation programmes that have therapeutic purposes should be the primary focus of all correctional institutions. Through cognitive restructuring, offenders accept responsibility for their behaviours and create clear objectives to affect behaviour change. Cognitive Behaviour Theory and therapy are the essential components in the process of aiding offenders to re-evaluate their lives, which is why it is so important. In the context of offenders undergoing rehabilitation, the incorrect cognitions they now hold both excuse their antisocial conduct and explain why they have committed various offenses (manslaughter, assault, stealing, drug and substance abuse, among others). The primary question that will be investigated in this research is whether or not offenders who have participated in therapy on an individual, group, or family level are in a position to analyse their own thoughts, feelings, body sensations and behaviours. The issue that brings them into contention with the community will be easier to pinpoint with this information.

It is also anticipated that offenders would be able, with the assistance of counselling services, to recognize suitable pro-social activities and choose objectives with the intention of generating new alternatives. Offenders acquire new techniques for dealing with stressful events and practice them in real-world scenarios. For instance, it is anticipated that individuals who have been convicted of violent crimes such as assault or manslaughter may be able to recognize new techniques for controlling their feelings of rage.

3. Materials and Methods

3.1. Research Design

This study used a descriptive research design. This research design was preferred because it describes the state of affairs as it exists and was used to answer questions that are pertinent to this study (Mugenda & Mugenda, 1999). Kombo and Tromp (2006) say descriptive studies are not only restricted to fact findings, but they often result in the formulation of important principles of knowledge and solutions to significant problems. In addition, in this study, mixed research methodology was used where both quantitative and qualitative methods of analysis were used.

3.2. Target Population

The research targeted a total population of 37 probation officers who are counsellors based at probation stations in Makadara, Milimani High Court, Milimani Chief Magistrate Court, Kibera, JKIA, Ngong, Regional Coordinator Nairobi office and County Director's office in Nairobi. Probation officers based at Mathare National and Teaching Referral Hospital and offenders whom they rehabilitate shall not take part in the study because they fall under a special category of offenders with mental illnesses and are in a hospital setting. In addition, this study will target 444 probationers who are undergoing non-custodial rehabilitation in Nairobi County. The central register was used to identify Probation interviewees and a sample of the study. The unit of analysis will be probation stations in Makadara, Milimani High Court, Milimani Chief Magistrate Court, Kibera, JKIA, Ngong, Regional Coordinator Nairobi office and County Director's office in Nairobi.

Station	Male Officers	Female Officers	Total
Makadara	1	6	7
Milimani High Court	1	5	6
Milimani Chief Magistrate Court	2	4	6
Kibera	3	6	9
JKIA	1	2	3
Ngong	1	2	3
Regional Coordinator Nairobi office	0	1	1
County Director Nairobi office	1	1	2
Total	10	27	37

Table 1: Target Population of Probation Officers Who Are Counsellors

Source: Technical Administration Section of PACS (2022)

Station	Probation Orders				Total
	Men	Boys	Women	Girls	
Makadara	222	6	22	2	252
Milimani High Court	15	0	0	0	15
Milimani Chief Magistrate Court	0	0	0	0	0
Kibera	59	15	20	5	99
JKIA	2	0	0	0	2
Ngong	51	13	9	3	76
Total	349	34	51	10	444

Table 2: Target Population of Probationers

Source: Research, Statistics and Development Section of PACS (2022)

3.3. Sample and Sampling Techniques

The systematic sampling method was used by listing all probation offenders with numbers and then individuals are chosen at regular intervals. The census-sampling technique was used on probation officers who offer counselling services and therefore, all 37 officers in the selected stations took part in the study. The researcher had chosen probation offenders as opposed to those serving under community service order because, unlike the CSO category, probation offenders do not engage in unpaid work within the community during the period they are serving a sentence, and as such, there is a clear distinction between offenders serving under CSO and those on probation sentence.

The study had a target population of 37 probation officers who are counsellors and 444 probationers in Nairobi County. The study used the census-sampling technique to determine the sample size of probation officers; therefore, all 37 probation officers who were counsellors formed the sample size and Yamane (1967) formula to determine the sample size of probationers was used as below:

$$n = \frac{N}{1 + N(e^2)}$$

Where:

n is the sample size,

N is the population size and

e is level of precision = 0.1

$$n = \frac{444}{1 + 444(0.1)^2}$$

= 81.6

Availing a sample size of 82 probationers

3.4. Instruments of Data Collection

In the realization of this study, data were collected through field study and the use of primary methods of data collection. Psychological Assessment Adjustment Tool was used to measure the psychological adjustment of the non-custodial offenders.

- Questionnaire: A structured questionnaire was administered to the probationers and the probation officers who are counsellors. In-depth interview was done with senior managers of probation, namely: county director and regional coordinator of probation service. The questionnaire was the main data collection instrument for the collection of primary data. A structured questionnaire with both open and close-ended questions and a Likert scale with multiple responses were used. As Mugenda and Mugenda (1999) point out, open-ended questions can stimulate a person to express what he considers most important. For ease of interpretation and also gathering a wide range of data.
- Interview Guide: An in-depth interview guide was prepared in advance to guide the process of interviewing County Director and Regional Coordinator of Probation Service. A key informant interview guide was used to collect the data on the opinion of these experts regarding counselling as an intervention strategy for the non-custodial offenders in selected Probation stations in Nairobi County.

4. Results and Discussion

4.1. Probation Officers' Opinions on Challenges in Implementing Counselling Services among Non-Custodial Offenders

Probation Officers were asked to indicate their opinions on challenges in implementing counselling services among non-custodial offenders. Their responses were rated on a 5-point Likert scale, where:

- SA -strongly agree (5),
- A - Agree (4),
- N - Neutral (3),
- D - Disagree (2),
- SD - Strongly Disagree (1).

The result findings are shown in table 3.

	Mean	Std. Deviation
Probation officers who have positive attitudes towards non-custodial offenders would be associated with better adjustment and positive behaviour change of non-custodial offenders.	4.576	0.502
The attitude of probation officers towards counselling non-custodial offenders affects rehabilitation.	4.242	0.708
Negative perceptions about non-custodial offenders and belief in the hard and tight rules while dealing with them is an ineffective rehabilitation strategy.	4.242	0.614
Failure to apply correct counselling skills contributes to ineffective rehabilitation of non-custodial offenders	4.303	0.770
Individual attitudes, personal characteristics and managerial practices have an effect on correctional officers' approach to handling non-custodial offenders	4.152	0.712

Table 3: Probation Officers' Opinions on Challenges in Implementing Counselling Services among Non-Custodial Offenders
Source: Author (2022)

As per the study findings, the majority of probation officers strongly agreed that probation officers who have a positive attitude towards non-custodial offenders would be associated with better adjustment and positive behaviour change of non-custodial offenders (mean=4.576), failure to apply correct counselling skills contribute to ineffective rehabilitation of non-custodial offenders (mean=4.303), the attitude of probation officers towards counselling of non-custodial offenders affects rehabilitation (mean=4.242) and that negative perceptions about non-custodial offenders, and believe in the hard and tight rules when dealing with them is ineffective rehabilitation strategy (mean=4.242). In addition, respondents agreed that individual attitudes, personal characteristics and managerial practices have an effect on correctional officers' approach to handling non-custodial offenders (mean=4.152). This implies that probation officers who have a positive attitude towards non-custodial offenders would be associated with better adjustment and positive behaviour change in non-custodial offenders. Failure to apply correct counselling skills contributes to the ineffective rehabilitation of non-custodial offenders. The attitude of probation officers towards counselling non-custodial offenders affects rehabilitation and negative perceptions about non-custodial offenders, and believing in the hard and tight rules while dealing with them is an ineffective rehabilitation strategy. In tandem with the study findings, Larivieri (2001) hypothesizes that a more positive attitude towards the detainees on the part of the officers who work in corrections would be connected with improved job adjustment. The most difficult obstacle to overcome is the perspective that law enforcement professionals bring to the counselling of criminals. Some police have unfavourable attitudes about those who break the law and feel that strict and stringent laws are the best way to deal with offenders, which is in direct opposition

to the basic premise of having unconditional positive regard, which is an important attitude in counselling (Brammer, 1993). Because the researchers have a professional background in counselling, they have been questioning whether or not law enforcement personnel are aware of the different tactics that are employed when counselling criminals. One possible explanation for this is that cops lack adequate counselling abilities. In light of this, Farkas (2019) maintains that an investigation of the attitudes held by correctional staff toward criminals is necessary. Additionally, Reising and Lovrich (1998) contend that individual attitudes, positional traits, and management procedures all have a role in determining how correctional officers approach their work with incarcerated individuals. The connection between the officer who is also acting in the capacity of 'counsellor' and the criminal is put in jeopardy as a result of these issues. Officers who work in corrections and probation settings often interact with offenders and should, as a result, be equipped with particular competencies, including the information, abilities, and attitudes that will enable them to assist offenders in changing maladaptive behaviour.

4.2. Non-Custodial Offenders' Opinions on Challenges in Implementing Counselling Services among Non-Custodial Offenders

Non-custodial Offenders were asked to indicate their opinions on challenges in implementing counselling services among non-custodial offenders. Their responses were rated on a 5-point Likert scale, where:

- SA - Strongly Agree (5),
- A - Agree (4),
- N - Neutral (3),
- D- Disagree (2),
- SD- Strongly Disagree (1).

The result findings are shown in table 4.

	Mean	Std. Deviation
Probation officers who have positive attitudes towards non-custodial offenders would be associated with better adjustment and positive behaviour change of non-custodial offenders.	4.424	0.498
The attitude of probation officers towards counselling non-custodial offenders affects rehabilitation.	4.273	0.449
Negative perceptions about non-custodial offenders and belief in the hard and tight rules when dealing with them is an ineffective rehabilitation strategy.	4.349	0.511
Failure to apply correct counselling skills contributes to the ineffective rehabilitation of non-custodial offenders.	4.364	0.648
Individual attitudes, personal characteristics and managerial practices have an effect on correctional officers' approach to handling non-custodial offenders.	4.288	0.456

Table 4: Non-Custodial Offenders' Opinions on Challenges in Implementing Counselling Services among Non-Custodial Offenders

Source: Author (2022)

Based on the study findings, the majority of the non-custodial offenders strongly agreed that probation officers who have a positive attitude towards non-custodial offenders would be associated with better adjustment and positive behaviour change of non-custodial offenders (Mean=4.576), failure to apply correct counselling skills contribute to ineffective rehabilitation of non-custodial offenders (Mean=4.303), the attitude of probation officers towards counselling of non-custodial offenders affects rehabilitation (Mean=4.242) and that negative perceptions about non-custodial offenders, and believing in the hard and tight rules while dealing with them is ineffective rehabilitation strategy (Mean=4.242). In addition, respondents agreed that individual attitudes, personal characteristics and managerial practices have an effect on correctional officers' approach to handling non-custodial offenders (Mean=4.152). Similar to the study findings, Gatotoh (2017) raises the topic of whether or not correctional officers possess the necessary skills and mindsets to match the paradigm change in correctional services that is intended to be implemented in prisons. The same issue may be posed to probation officers, specifically on whether or not their officers are competent to provide effective counselling services to offenders and whether or not they have established networks to which they send cases that are beyond their resources. According to Klassen (2018), the predispositions and attitudes of correctional officials towards convicts would be connected with better job adjustment. Offenders who do not need incarceration are rehabilitated within the community. Because of this, they are expected to continue working regularly, although with some modifications. This is because they are required to make time in their schedules to report to the supervising officer at the agreed-upon time. On the other hand, it was shown in research that was conducted by Farkas (2019) that correctional personnel typically do not exhibit punitive views toward prisoners and generally favour rehabilitation programs for criminals who are incarcerated. This was one of the findings of the study. This indicates that a good attitude towards the offender by the supervising officer is vital in the process of non-custodial rehabilitation, as stated by the previous statement.

5. Recommendations

It is advised that probation officers and probationers communicate on a regular basis at least once per week in order to guarantee effective monitoring of the progress of offenders in reintegrating into society via the use of counselling services. It is proposed that more attendance centres be opened at the sub-location level and that mobile offices be introduced with assistance from a special support fund to probationers who are classified to be of low risk in order to bridge the high cost that probationers are incurring in order to keep to an appointment with their supervising officers. This is in order to bridge the high cost that probationers are incurring to keep appointments with their supervising officers.

The government should develop a training strategy that is crystal clear and will guarantee that the appropriate mechanisms are in place to provide appropriate training for all offenders who are currently serving sentences that do not include confinement in a correctional facility. This will ensure that the criminals gain the necessary skills, which will enable them to either find jobs or start their own businesses so that they can support themselves. This would have a lasting impact on reducing the crime rate and driving growth in the nation. On the other hand, probation officers need to refresh and improve their counselling skills so that they can deal with the obstacles experienced in the usage of their knowledge and abilities for the efficient delivery of services.

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