

# Different alternatives to imprisonment criminology essay



## **1. INTRODUCTION**

Alternatives to imprisonment are a new approach globally in corrections. Following the World War II, penal authorities began to doubt the wisdom of keeping the prison alone as the primary correctional strategies. According to Todd, Clear & Braga, (Todd, 1995, p. 80) provides that “ community-Based Correctional approaches grow in become common for second and third time criminals to receive sentences of probation with certain conditions established by the court and where the same felons is on the community service programs”. The focus here is on alternatives to imprisonment by looking it through internationally accepted standards. The authors of this paper will focus on the following alternatives to imprisonment: community service, periodical imprisonment, correctional supervision, house arrest/ electronic monitoring and day-parole.

## **2. DIFFERENT ALTERNATIVES TO IMPRISONMENT**

### **2. 1 Community Service**

Community Service is an alternative the court may use when it has decided that a person’s offence is serious and that he/she is suitable for making compensation by productive unpaid work in the community. Community Service should be physically and emotionally demanding of the offender in that it is a restriction of freedom, involves self-discipline and a respect for others and should engage the offender in tasks or situations that challenge his/her attitude, experience and ability.

Community service can therefore be a positive way of making an offender compensate 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. (ZNCCS Service, 1997, p. 4)

Legal framework for alternative non-custodial sanctions is highlighted in international guidelines and national legislation as provided by Bukurura (Bukurura, 2003, p. 82). On international level it is provided for in the United Nations Standards Minimum Rules for non-custodial measures (Nations, 1990). In the United States of America for instance, community-based sanctions are crucial of the United States criminal justice system.

Professionals have constantly demonstrated their willingness to adopt evidence based practice.

According to (Melvor, 2004) who described community service in Belgium, Netherlands, Scotland and Spain in co-operate perspective by stating that, “ current criminological research is particularly interested to know if they are not witnessing a punitive turn which seems to western democracies today than few decades ago. The new punitive literature and study on the culture of control have fuelled an ongoing debate and research on this question. Community service order was for the benefit of the community as it was introduced in Spanish legislation with the 1995 criminal code of that country”.

The Uganda Correctional Service also introduced the Uganda Community Service Bill, 1998, with its main objectives to provide community service for persons who commit minor offences, in order to reduce overcrowding in Prisons, to rehabilitate prisoners in the communities by doing productive

work and to prevent minor offenders mixing with hard core criminals. The bill further seeks to empower a court which convicts a person of a minor offence, to direct the offender, with consent of the offender to perform community service as an alternative to imprisonment. (Service, 1998, p. 1)

The first initiatives in the Community Service Orders started with National sensitization seminar that was held in 2002 and attended by Regional Governors, line Ministries, Home Affairs, and Justice, Prisons and Correctional Service and heads of Criminal Justice System. (Coordinator, Consultative Visit Report, 2002, p. 1) The proposed Bill on Community Service Orders in Namibia introduces various provisions that may facilitate the implementation of Community Service Orders in the country. It is important to note that from sentencing point of view, Community Service Orders is an option employed in appropriate cases to keep an offender out of prison. Accordingly a relationship exists between the imprisonment that might have been imposed and the Community Service Order that is to be served instead. (Coordinator, Namibia Community Service Orders, Manual, 2005, p. 5)

## **2. 2 Periodical Imprisonment**

The court can direct an offender to stay in Prison on weekends or at night between 18h00 and 06h00.

A sentence of periodic imprisonment is a sentence of imprisonment during which the committed person may be released for periods of time during the day or night or for periods of days, or both, or if convicted of a felony, other than first degree murder, a Class X or Class 1 felony, committed to any county, municipal, or regional correctional or detention institution or facility

in this State for such periods of time as the court may direct. Unless the court orders otherwise, the particular times and conditions of release shall be determined by the Department of Corrections, the sheriff, or the Superintendent of the house of corrections, who is administering the program.

(b) A sentence of periodic imprisonment may be imposed to permit the defendant to:

(1) Seek employment

(2) Work

(3) Conduct a business or other self-employed

(4) Attend to family needs

(5) Attend an educational institution

With regards to periodical imprisonment, the Namibian Correctional System is in line with the abovementioned definition.

## **2.3 Correctional Supervision**

It is a sentence which is served within the community and not in the Prison.

A person who is serving a sentence of Correctional supervision is known as a probationer.

The aim of Correctional supervision is to provide a means of rehabilitation within the community, thus preserving the important links which the offender may have with his or her family or community. Correctional

supervision allows, or encourages the offender to be employed. While imprisonment results in a loss of employment and the offender's failure to support his or her dependants and result in additional costs for the State. Since offenders are in the community, they are able to make decisions and take responsibility for their life. Offenders are also encouraged to take steps towards correcting their criminal behaviour through participation in rehabilitative programmes.

A person sentenced to correctional supervision remains under the supervision and control of the Department of Correctional Services until the sentence expires. Supervision takes the form of direct monitoring of the offender's movements and compliance with the sentence's conditions, as well as regular support sessions with social workers. Conditions of the sentence may include a period of house arrest; the requirement that the person be home between specified hours of the day; that he or she attends a treatment programme; self-restraint from alcohol or drugs; prohibition from leaving a magisterial district; or a certain number of hours of community service. Any or all of these conditions may be imposed. (Dissel, 1997, p. 4)

Diversion is endorsed by Section 6 of the Criminal Procedure Act, and can be used where the offence committed is relatively minor. (Justice, 1977, p. 76).

When the offender has admitted responsibility for the offence, the prosecutor can suspend the prosecution of the case upon fulfillment of certain conditions.

This is usually on the condition that the offender attends a particular treatment programme. Charges are withdrawn after the conditions have been fulfilled.

The Namibian legislation makes provision in the Prisons Act 17 of 1998 (Gazette, 1998, p. 83) Section 96 and 97 that inmates be release on parole or probation on conditions as may be determined by the Zonal Release Board.

## **2. 4 House arrest/electronic monitoring**

Home detention can be seen as an alternative to imprisonment and aims to reduce re-offending while also coping with increasing prison numbers and rising costs. It allows suitable offenders to retain or seek employment, maintain family relationships and responsibilities and attend rehabilitative programs that contribute towards addressing the causes of their offending.

The terms of house arrest can differ, but offenders are rarely confined to their houses 24 hours a day. Most programs allow employed offenders to continue to work, and only confine them during non-working hours. They can leave their homes for specific, predetermined purposes; for example visits to the probation officer or police station, religious exceptions and medical appointments. (Spohn, 2008, p. 52). Many programmes also allow the offender to leave the home during regular, pre-approved times in order to carry out general household tasks such as shopping, church services, performing Community Services or attending authorised activities. (Stinchcomb, 2005, p. 99)

House arrest in some countries such as Canada and New Zealand is often enforced through the use of technology products or services. An electronic sensor is sometimes locked to the offender's ankle known as an ankle monitor. A small portable monitoring unit that pick-up radio signals generated by offender's ankle or arm bracelet which is linked to a central computer system provides verification of an offender's whereabouts.

(Champion, 2008) The electronic sensor transmits a GPS signal to a base handset. The base handset is connected to police or a monitoring service.

If the offender with the sensor moves too far from home, the violation is recorded and the right authorities are summoned. Many ankle monitors can now detect attempted removal; this is to discourage tampering. The monitoring service is often contracted out to private companies, which assign employees to electronically monitor many convicts simultaneously. If the sensors detect a violation, the monitoring service calls the convict's probation officer. The electronic surveillance together with frequent contact with their probation officer and checks by the security guards provides for a secure environment. (Collins, 1974, p. 79)

Another method to ensure house arrest are the use of automated calling services that require no human contact to check on the offender. Random calls are made to the residence and the respondent's answer is recorded and compared to the offender's voice pattern. Authorities are notified only if the call is not answered or if the recorded answer does not match the offender's voice pattern. (Allen, 1986, p. 36).



Currently, the Namibian Criminal Justice System is not making use of house arrest/ electronic monitoring.

## **2.5 Day Parole**

It is a management mechanism preceding the parole phase to gradually assist an offender to be released into the community at his own responsibility under controlled circumstances. Day parole implies the temporary release of an offender from Prison or a Correctional institution such as a halfway house to work or study, followed by re-confinement during non- work or non-school hours. During working hours offender work for an employer and are paid for the work. (Bruyns, An overview of the Criminal Justice System and Community-Based sentences, 2011).

Currently, the Namibian Criminal Justice System is not making use of day parole.

## **FINDINGS**

Based on the literature review and own understanding of the subject area, the authors of this paper found that there is a great need for alternatives to imprisonment. Community Service as a community-based sentence, a pilot projects in the Northern region of the country has proved that it is a success in Namibia. The Namibian Correctional Service (NCS) have a draft Community Service Order Bill which stipulates clearly the conditions under which an offender had to perform Community Service. Political or religious groups must not benefit from the work allocated to inmates. (Bruyns, The impact of prison reform on the inmate population of swaziland, 2007, p. 60). An offender who has not committed a serious crime or developed a criminal

lifestyle, in the community will be able to access community support systems to assist him in rehabilitation, with the hope of preventing his re-offending.

The findings also have it on good authority that the rationale for community-based sentences is to keep offenders out of the Prison, and rather send them to serve their sentences in the community. This simply means that offenders remain in their communities to perform productive work in order to support themselves and their families, in other words the alternatives to imprisonment were found to be promoting family cohesion. Through serving their sentences in the community the offenders also repay victims (retribution) for losses suffered. With regards to the effectiveness of community-based sentences, the advantages and disadvantages were also thoroughly scrutinised and it is found that its advantages outweigh the disadvantages. Alternatives to imprisonment were found to be the process of reducing prison population (overcrowding). Overcrowding is found to be a general situation in Prisons when the total number of inmates in prison is beyond the authorised holding capacity. In order to address this ever increasing problem within our Correctional facilities the authors of this paper found that alternatives to imprisonment is a suitable answer to overcrowding. Alternatives to imprisonment is also found to be promoting community development through utilisation of skills possessed by the offenders other than locking them up in prisons. A good example is, when a professional such as a Medical doctor is sentence to an alternative to imprisonment the skills possessed by that particular Medical doctor can be utilised to the great benefit of the community, rather than locking him/her up in Prison, which will serve no purpose.

Community based sentences in comparison with imprisonment was found to be much cheaper. This finding is evident from the fact that offenders incarcerated have to be provided with food, bedding, clothing, water and electricity and so forth through government expenditure. On the other hand the offenders serving community-based sentence remains in the community and is responsible for his needs. Community-based sentence is furthermore found to have positive impact on recidivism in a sense that offenders are given chance to remain and serve their sentence in the community. In other words their chances of reoffending are very slim contrary to those incarcerated, while offenders who are imprisoned are mixing with hard core criminals and the programme officers do not have enough time complete rehabilitation programmes, especially when they serving short term imprisonment.

#### **4. CONCLUSION**

It is evident from the findings that alternative sentences outweigh imprisonment in terms of maintaining offender's dignity, reducing of prison population (overcrowding), promoting community development through utilisation of skills possessed by the offender other than locking them up in prisons, saving government expenditure and promoting family cohesion, and reduction of recidivism. Apart from serving all abovementioned good purposes, alternatives sentences also served as a way of avoiding mixing of the first offenders with hardcore criminals in the prisons. The offenders who are serving alternative sentences will perform positive unpaid work within their areas of home and do the kind of reparation to the community rather than ending up in Prisons. Imagine, locking up offender who committed

minor offence such as shoplifting together with hard core murderer or rapist would result in that offenders become more criminal than rehabilitated.

## **5. RECOMMENDATIONS**

Against this backdrop, it is strongly recommended that alternative sentences to imprisonment such as community service, periodical imprisonment, correctional supervision, house arrest/ electronic monitoring and day-parole be considered by Correctional Services, particularly, Namibian Correctional Service.

After studying the pros and cons of alternatives to imprisonment, this type of sentencing is just one of the positive ways of dealing with offenders. Against this background the authors of this paper strongly recommends these other alternatives as follows:

The Court sentence offenders with minor offences to alternative as such community service, periodical imprisonment, correctional supervision, house arrest/ electronic monitoring and day-parole. This type of alternatives aims to achieve and involve the reintegration of the offender as law-abiding citizens back into the community by; enforcing unpaid work, ensuring reparation to the community, reduce a risk of recidivism or repeat offending, increased chance of rehabilitating the offender to acceptable social standards.

Secondly, periodical imprisonment is recommended to be used as alternative to imprisonment as it promotes community development through utilisation of skills possessed by the offenders other than locking them up in prisons.

Thirdly correctional supervision is recommended by the authors as an alternative to imprisonment based on the reasoning that this type of alternative aims to provide a means of rehabilitation within the community, thus maintaining the important links which the offender may have with his or her family or community. Furthermore, correctional supervision allows, or encourages, the offender to be employed. Correctional supervision as an alternative to imprisonment ensures that the offender remains employed and thus able to support his or her dependents and do not result in additional costs for the State. Since offenders are in the community, they are able to make decisions and take responsibility for their life. Offenders are also encouraged to take steps towards correcting their criminal behaviour through participation in rehabilitative programmes.

Fourthly, house arrest/ electronic monitoring is recommended not to be a viable alternative to imprisonment in Namibia as this may not be in concurrence with the Constitutional provisions such as respect of human dignity and freedom of movement provided for in articles 8 and 21 respectively of the Namibian Constitution. (Government N. , 2010) page number.

Lastly, day parole is strongly recommended by the authors as a viable alternative to imprisonment since it gradually assists an offender to be released into the community at his own responsibility under controlled circumstances. Day parole implies the temporary release of an offender from Prison or a Correctional institution such as a halfway house to work or study, followed by re-confinement during non-work or non-school hours. During working hours, offenders work for an employer and are paid.

<https://assignbuster.com/different-alternatives-to-imprisonment-criminology-essay/>