Uganda's Path To Decarceration: *Who Is Failing The Process?*

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ABSTRACT

This article critically examines the journey towards curtailing of mass incarceration in Uganda. It situates the debate within broader concerns of access to justice, human rights, and sustainable approaches to crime prevention. The article interrogates the structural and systemic limitations of Uganda's prison system, highlighting chronic overcrowding, deplorable living conditions, underfunding, and persistent violations of the dignity of incarcerated persons. The study further explores the high rates of recidivism, the inefficacy of prisons as spaces of rehabilitation, and the disproportionate burden borne by vulnerable groups such as women, juveniles, and the indigent, who are often victims of unequal access to legal representation and social justice, engaging with both historical and contemporary critiques of incarceration. It emphasizes the need for Uganda to rethink its penal philosophy and align with restorative and transformative justice models that emphasize community-based alternatives, reconciliation, reintegration, and crime prevention over retribution.

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1.0 INTRODUCTION

"***It is no longer enough to question why people are in prison; we must begin to ask what kind of society creates the need for prisons at all.***" *Angela Y. Davis*

Every 10th of August, Prisoners' Justice Day is observed globally. This movement which began in Canada in 1974 is intended to revolutionize the fight for the rights of prisoners. It is also intended to commemorate and to remember all the people who have died of unnatural deaths while in incarceration.[2] The first Prisoners' Justice Day was held at the Milhalven Institution on in 1975, on the first anniversary of Edward Nalon's death. In addition to a day of mourning, six prisoners took part in an eighteen-day hunger strike. In 1976, August 10 was recognized as a Memorial Day where prisoners would strike in opposition to the use of solitary confinement and to protest inmate conditions within the prison system by going on a one-day hunger strike and refusing to work.[3]

According to the Institute for Crime & Policy Research, as of May 2024, the total worldwide prison population stood at 10.99 million.[4] However, this was projected to be more than 11.5 million if numbers estimated to be held in detention centers in China and in prisons camps in North Korea are included.[5] There are nearly 1.8 million prisoners in the United States of America. China holds almost 1.7 million prisoners (plus an unknown number in pre-trial detention and other forms of detention).[6] Brazil has almost 840,000 prisoners, India 573,000, and the Russian Federation over 433,000. There are over 314,000 in Turkey, over 274,000 in Thailand, over 265,000 in Indonesia

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[2] Zinn Education Project, *Prisoner Strike Leads to Prisoners' Justice Day,* https://www.zinnedproject.org/news/tdih/prisoner-strike-leads-to-prisoners-justice-day/, accessed on 23rd September 2025, pg.1.

[3] Zinn Education Project (n2 above) 3.

[4] Institute for Crime & Justice Policy Research (ICPR), at Birkbeck, University of London., *Prison populations continue to rise in many parts of the world, with 11.5 million held in prisons worldwide*, https://www.icpr.org.uk/news/2024/prison-populations-continue-rise-many-parts-world-115-million-held-prisons-worldwide, accessed on 23rd September 2025, pg.1-3.

[5] Institute for Crime & Policy Research (n4 above) 2.

[6] Institute for Crime & Policy Research (n4 above) 3.

and almost 233,000 in Mexico.[7] The countries with the highest prison population rates – the number of prisoners per 100,000 of the general population – are El Salvador (1,086 per 100,000), followed by Cuba (794), Rwanda (637), Turkmenistan (576), American Samoa (538), the United States (531) and Tonga (516). By contrast, just under half of all countries and territories (49%) have rates below 150 per 100,000.[8] In much of the world, prisoner numbers are rising steeply in some regions.[9] Since 2000, the total prison population of South America has more than tripled in size (an increase of 224%), while that of western Asia has more than doubled (an increase of 141%), and Oceania's has almost doubled (an increase of 84%).[10]

As seen from above, across the globe, penal systems are undergoing intense scrutiny for their failures to deliver justice, reduce crime, or effectively rehabilitate offenders. In Uganda, the situation is not any different from other countries grappling with prison congestion. The prison system established during colonial rule and maintained with minimal reform has come under significant criticism due to its severe overcrowding, underfunding, and human rights abuses. The country currently ranks among the top ten globally in terms of prison congestion, with occupancy levels reaching as high as **360%,** housing over **79,000 inmates** against an official capacity of **22,000.** [11]

This state of Uganda's prison system reflects a punitive justice model inherited from colonial British governance, one focused more on social control than reintegration.[12] Despite constitutional guarantees and legislative frameworks, such as the Prisons Act 2006,[13] many incarcerated individuals remain in **extended pre-trial detention**, sometimes for years, in conditions deemed inhumane by international standards. For example, **Luzira Maximum Security Prison**, designed for 1,700 inmates, currently houses over **8,500.**[14] This means that the existing legal safeguards are not effectively enforced, resulting in a justice system where prisoners endure overcrowding, poor

[7] Institute for Crime & Policy Research (n4 above) 1.
[8] Institute for Crime & Policy Research (n4 above) 1-3.
[9] Institute for Crime & Policy Research (n4 above) 3.
[10] Institute for Crime & Policy Research (n4 above) 3.
[11] World Prison Brief, 'Uganda' https://www.prisonstudies.org/country/uganda, accessed 26 July 2025, pg. 2.
[12] Wikipedia, *Uganda Prisons Service*,' https://en.wikipedia.org/wiki/Uganda_Prisons_Service, accessed 26 July 2025, pg. 7.
[13] Prisons Act 2006, Laws of Uganda.
[14] Uganda Prison Service, '*Luzira Maximum Security Prison,'* https://en.wikipedia.org/wiki/Luzira_Maximum_Security_Prison accessed 26 July 2025.

sanitation, inadequate healthcare, and prolonged uncertainty about their legal status.[15] It reflects a systemic gap between constitutional promises and the lived realities of detainees, effectively normalizing violations of human dignity and international human rights standards.

Human rights organizations have consistently raised concerns about the physical and psychological toll on prisoners.[16] A 2011 report by **Human Rights Watch** exposed the systemic forced labor, torture, and denial of healthcare in Ugandan prisons.[17] Inmates are often subjected to hard labor without pay, live in severely overcrowded cells, and face high exposure to communicable diseases due to lack of hygiene and medical facilities.[18] The current penal framework disproportionately affects the poor, the mentally ill and marginalized populations. With most prisoners being **remand inmates** not yet convicted but held due to bail restrictions or case backlogs the constitutional notion of "innocent until proven guilty" is routinely undermined.[19] Moreover, the prison budget remains strained. According to a **Nile Post 2025 investigative report**, most prison facilities are underfunded, understaffed, and structurally collapsing.[20]

It is in response to all these systemic challenges, that this research, in furtherance of the growing body of legal scholars, human rights advocates, and international justice actors' advocates for **prison abolition** not as an overnight dismantling of incarceration, but as a phased transformation towards non-custodial and community-based justice. Abolitionist movements contend that imprisonment as practiced today is incompatible with restorative justice, dignity, and social reintegration.[21] Countries such as Finland and Norway have demonstrated the efficacy of de-

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[15] Penal Reform International, *Overcrowding*, https://www.penalreform.org/issues/prison-conditions/key-facts/overcrowding/, accessed on 23rd September 2025, pg.3.
[16] Penal Reform International (n15 above) 4.
[17] Human Rights Watch, 'Uganda' in *World Report 2025* (HRW 2025) https://www.hrw.org/world-report/2025/country-chapters/uganda accessed 26 July 2025, pg.5.
[18] Human Rights Watch, Uganda (n18 above) 5.
[19] Uganda Prisons Service, '*Annual Reports'* https://www.ugandaprisons.go.ug/view_report.php accessed 26 July 2025.
[20] Nile Post, '*Inside Prisons: Overwhelmed and Underfunded Facilities'* (Nile Post, 2024) https://nilepost.co.ug/special-reports/239313/inside-prisons-overwhelmed-and-underfunded-facilities accessed 26 July 2025.
[21] Daniel Willyam da Silva Cordeiro, *The Penal Abolitionism and Restorative Justice: Utopia or A Developing Reality?* https://www.antoniocasella.eu/restorative/SilvaCordeiro_2014.pdf, accessed on 20th August 2025.

carceration strategies that center on **rehabilitation, education, and community service, etc.** over punishment most especially imprisonment.[22]

Therefore, this article interrogates the **historical origins** of Uganda's prison system, evaluates the **legal and institutional frameworks** governing incarceration, assesses the **socioeconomic and human rights implications** of mass incarceration, and explores **viable alternatives** informed by global best practices and local realities. Ultimately, it proposes systematic recommendations that can act as a **phased roadmap** towards the progressive abolition of use of custodial penalties in Uganda in order to uphold justice without perpetuating cycles of violence and exclusion in the criminal justice system.

1.2 THE COLONIAL ORIGINS OF UGANDA'S PRISON SYSTEM

Before colonial rule, justice in Uganda was primarily **community-based and restorative,** administered by clan elders, chiefs, or councils. Offenses were addressed through rituals, compensation, and reconciliation, *not incarceration.* Punishments like ostracism or symbolic fines were common, with no structured prison system.[23] The concept of prisons came with colonization. The word "prison" comes from the Old French word *prisoun*, meaning "captivity" or "imprisonment," which in turn derives from the Latin prehensiōnem (seizing, arresting) and the verb prehendere (to take). The term evolved through Middle English before becoming the "prison" we use today, a public building for confinement and custody. [24]

Therefore, the prison system in Uganda is a colonial inheritance designed to discipline and control rather than rehabilitate.[25] Introduced by the British, the Prisons Ordinance of 1958 institutionalized imprisonment as the primary form of punishment.[26] This model of retributive justice, anchored in

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[22] John Todd & Richard Ugelvic, *Rehabilitation and re-entry in Scandinavia*, https://www.researchgate.net/publication/335794235_Rehabilitation_and_re-entry_in_Scandinavia, accessed on 14th July 2025, pg. 13.

[23] O A Stephens, *A Comparative Study of Prison Systems in African Countries* (2018) https://www.scribd.com/document/515010190/A-comparative-study-of-prison-systems-in-African-countries-O-A-Stephens-2018 accessed 26 July 2025

[24] The Museum of British Colonialism, *Manufacturing Death Worlds: The Prison System in Uganda*, https://museumofbritishcolonialism.org/manufacturing-death-worlds-the-prison-system-in-uganda/, accessed on 12th July 2025, pg.3.

[25] The Museum of British Colonialism (n24 above) 3.

[26] The Museum of British Colonialism (n24 above) 4.

colonial authority, was retained after independence with very little structural or philosophical change.[27] This explains why Uganda's prison system remains largely punitive, with minimal focus on rehabilitation or reintegration. The colonial legacy embedded in its structure has made it resistant to transformative reforms, meaning that even modern legislation has not fundamentally altered its orientation toward discipline and control rather than human rights based correctional practices.

Prisons in Africa codified criminality, rounded by black workers in efforts to maintain colonial rule; their success allowed them to survive the end of the European occupation.[28] In Uganda, the British built the first colonial prisons in the 1890s. By the 1930s, there were approximately 300 penal institutions spread across the country. The majority of these were smaller "lockups," jails, and prisons run by local government authorities. Uganda as a protectorate instituted Buganda Kingdom as part of the leadership structures, replicating them forcefully across different smaller nation-states organized around ethnicity. The Uganda Prison Service was the most formalized, introduced by the 1903 Prisons Ordinance, and provided a legislative framework and the first blueprint for the modern prison.[29] It mapped out a strict hierarchy for prison officers; a dense clerical infrastructure; dietary scales differentiated by race; and guidelines for separating different types of offenders.[30] The Prison Service also reflected the racial hierarchies, with British officers serving in the senior positions, Asians in clerical roles, and Ugandans in the lowest ranks. This culture manifests within the structural anti-blackness of the disciplinary system. The purpose of incarceration shifted as it was less about rehabilitation and more about discipline, deterrence and resource extraction, including forced prison labor to build roads and plantations additionally, the Penal Code laws were introduced by the British and enacted in Uganda in 1934.[31] This shows that the colonial prison system in Uganda was never intended to serve the interests of rehabilitation but rather to ensure that Ugandans provided cheap and coerced labor for the benefit of the colonial state and settler economy.

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[27] The Museum of British Colonialism (n24 above) 6.
[28]Michael W Tuck, '"The Rupee Disease": Taxation, Authority, and Social Conditions in Early Colonial Uganda' (2006) 39(2) *The International Journal of African Historical Studies* 221 http://www.jstor.org/stable/40033859 accessed 26 July 2025.
[29] The Museum of British Colonialism (n24 above) 3.
[30] The Museum of British Colonialism (n24 above) 2.
[31] The Museum of British Colonialism (n24 above) 7.

In **1950,** the first formal **Prisons Training School in Luzira** was inaugurated, open to African staff.[32] The **Prisons Ordinance of 1958**, revised in 1964, established legal structures and facilitated the appointment of the first African Commissioner of Prisons in **1964**, two years after independence[33] This explains why even after independence, Uganda's prison system retained much of its colonial character, with reforms focusing more on replacing personnel than transforming the underlying punitive philosophy.

The 1970s and early 1980s were periods of **brutal repression**. Prisons like **Makindye** became military facilities for political accidents inhumane abuse, extrajudicial killings, and torture was rampant.[34] Civilian prisons were overwhelmed; some held **tenfold their capacity**, leading to starvation, disease, and death. Child and mentally ill detainees were held without due process; rights abuses persisted unchecked.[35] This was under the brutal Idi Amin's regime and the broader rise of militarism. Prisons became extensions of state violence rather than institutions of justice.[36] The collapse of civilian oversight entrenched a culture of impunity, turning overcrowded prisons into sites of suffering that reflected the fusion of carceral and military power in service of authoritarian rule. One wonders if this is why prisons in Uganda today continue to function less as spaces of rehabilitation and more as instruments of state power, marked by chronic overcrowding, neglect, and the recurring detention of political opponents in ways that echo their authoritarian and colonial past.

As an end to this tale of repression and militarized incarceration, hope for transformation was placed in the hands of the National Resistance Army (NRA) government, which carried the promise of a new political order. In the 1990s, following international pressure, Uganda under the National Resistance Movement (NRM) began reforms. The **Constitution** of the Republic of Uganda, promulgated after massive citizenry consultations, Uganda guaranteed rights such as *protection of personal liberty, freedom from torture,* and *access to justice.* Subsequent years saw

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[32] Uganda Prisons Service, 'Home Page' https://www.ugandaprisons.go.ug accessed 26 July 2025.
[33] Ibid7
[34] Wikipedia, 'Makindye Prison' https://en.wikipedia.org/wiki/Makindye_Prison accessed 26 July 2025.
[35] The Museum of British Colonialism (n24 above) 3.
[36] Michael W Tuck, '"The Rupee Disease": Taxation, Authority, and Social Conditions in Early Colonial Uganda' (2006) 39(2) *The International Journal of African Historical Studies* 221 http://www.jstor.org/stable/40033859 accessed 26 July 2025.

adoption of **Prisons Act,**[37] aligning prison administration with UN General Assembly Standard Minimum Rules for the Treatment of Prisoners,[38] codifying prisoner rights, dignity, education, work, health access, and non-discrimination.[39]

Significant modernization began in **1988** under J.A.A. Etima and accelerated after **2005** under Commissioner General Johnson Byabashaija.[40] Progress includes infrastructure upgrades, prison farm mechanization, vocational training, adult literacy, and religious programming. Impressively, Uganda reduced recidivism from about **56.6% in 1986** to approximately **13.4%,** one of the lowest globally. Meanwhile, remand population dropped from over **65% to below 47%.**[41]

By mid-1968, UPS operated about **30 prisons with 3,000 staff,** growing to an establishment of 49,000 staff by 2016. Luzira Maximum Security built for 1,700 inmates now houses over **8,500,** exposing chronic congestion.[42] Kitalya Maximum Security Prison, opened in **2020**, aims to decongest Luzira but also symbolizes continued investment in prisons rather than alternatives.[43]

Currently, Uganda has 266 prison units, as well as 19 regional administration units, one academy and training school, and 43 district administrative units. In total, the Uganda Prison Service oversees a structure of 266 prisons, with 19 regional administration units, and other smaller units.[44]

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[37] **Prisons Act Cap 325, Laws of Uganda.**
[38] United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), resolution / adopted by the General Assembly, A/RES/70/175.
[39] JD Mujuzi, 'Prison Conditions in Uganda: The Role of the African Commission on Human and Peoples' Rights' (2012) 12(2) *African Human Rights Law Journal* 465 https://www.ahrlj.up.ac.za/mujuzi-jd-2012-2 accessed 26 July 2025.
[40] Wikipedia, 'Uganda Prisons Service' https://en.wikipedia.org/wiki/Uganda_Prisons_Service accessed 26 July 2025.
[41] Nile Post, 'Uganda Prisons Slash Recidivism, Empower Inmates through Reform' (Nile Post, 2024) https://nilepost.co.ug/news/261417/uganda-prisons-slash-recidivism-empower-inmates-through-reform accessed 26 July 2025.
[42] Wikipedia, 'Luzira Maximum Security Prison' https://en.wikipedia.org/wiki/Luzira_Maximum_Security_Prison accessed 26 July 2025.
[43] Wikipedia, 'Kitalya Maximum Security Prison' https://en.wikipedia.org/wiki/Kitalya_Maximum_Security_Prison accessed 26 July 2025.
[44] *About Uganda Prisons Service*, *Uganda Prisons Service*, (accessed 29 July 2025) https://www.ugandaprisons.go.ug/about-us.php.

The average age of prisoners in Uganda is between 18 years to 35 years, whereby among these convicts are 29, 728, the remands are 27,787 and the debtors are 123. There are also those that are 36-59 years of age and 60 plus.[45]

Prisons spokesperson Frank Baine recently stated that the current prisons are built for about 23,000 inmates. But as of today, there are 79,277 prisoners more than three times their capacity. Of these, 41,784 are convicts, 36,996 are on demand and 527 are debtors. An additional 293 are children and their mothers. The Prisons Service employs 14,916 staff across 269 prisons nationwide, which are divided among 19 administrative regions.[46] This explains why, although some offenders may indeed deserve custodial sentences, the overwhelming number of young people aged 18–35 within Uganda's prison population raises serious concerns about lost human potential and the wider economic cost. With over 79,000 inmates under the Uganda Prison Service equivalent to the population of a small town the system is effectively warehousing a significant portion of the country's most productive age group, diverting them from contributing to national development. The impact is profound because families are destabilized, communities lose able-bodied members, and the economy suffers as thousands of youths, who could be working, innovating, and paying taxes, instead languish in overcrowded facilities with little chance of rehabilitation or reintegration.

The biggest challenge in law remains the continued detention of juveniles in adult prisons, contrary to both national legislation and international child rights standards, which emphasize the separation of children from adult offenders. There are seven operational Remand Homes, one Rehabilitation Centre, and one Reception Centre in Uganda, which include Naguru Remand Home in Kampala District, Mbale Remand Home in Mbale District, Arua Remand Home in Arua District, Ihungu Remand Home in Masindi District, Fort Portal Remand Home in Kabarole District, Gulu Remand Home in Gulu District, and Kabale Remand Home in Kabale District. A new remand home is currently being constructed in Moroto District. In addition, the Ministry also runs other children's institutions, including Kampiringisa National Rehabilitation Centre (KNRC) in Mpigi District,

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[45] *Canon Dr Johnson O R Byabashaija*, '*Administration of Justice Through the Lens of Stakeholders'* (Paper, 25th Annual Judges Conference, Uganda Judiciary, February 2024) (accessed 29 July 2025) https://www.judiciary.go.ug/files/downloads/Administration%20of%20Justice%20Through%20the%20Lens%20of%20Stakeholders%20by%20Can.%20Dr.%20Johnson%20O.R.%20Byabashaija%20Commissioner%20General%20of%20Prisons.pdf.

[46] Simon Masaba, '*Experts want better handling of prisoners with mental illness' New Vision* (Kampala, 6 August 2025) 3.

Ruti Vocational Rehabilitation Centre in Mbarara District, and Naguru Reception Centre in Kampala District.[47]

Additionally, in 2023, Gorreth Namugga, the Vice Chairperson of PAC (Parliament's Public Accounts Committee) disclosed that the Uganda Prisons Service was grappling with severe overcrowding, holding 55,765 more inmates than its designed capacity and requiring UGX 24 billion annually to address the congestion crisis. Her key notes were; "these numbers comprise inmates' welfare and heighten health risks due to poor sanitation, the most affected prisons being Isingiro, Yumbe, Hoima Main prison, Kibale Prison and Fortportal Main Prison." She also noted basing on the Auditor General's report that the ongoing crisis violates Uganda Prisons' Strategic Development Plan 2020-2025 which aims to provide secure, humane custodial services and transform inmates into law-abiding, productive citizens. The inmates lack adequate uniforms, blankets, mattresses and the dignity of female prisoners is greatly compromised with this congestion. [48]

Mariam Wangadya, the Chairperson of the Uganda Human Rights Commission once highlighted that a large percentage of the prisoners in Uganda's prisons should not be there at all and several of the country's jails are housing more than three times as many people they were designed to hold. She was quoted saying; "Prisoners quarrel over restrooms ad toilets because everything is overworked."[49]

Prof Rhoda Wanyeze, the Dean of MakSPH, in her report stated that the prevalence of active TB in Ugandan prisons is alarmingly high, particularly among those recently incarcerated. She called the 48 percent latent TB infection rate a crisis, warning that the poor health conditions in prisons could easily turn latent cases into active, contagious disease. She also added that stress, malnutrition and overcrowding are all contributing to TB becoming active and spreading within

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[47] **Ministry of Gender, Labour and Social Development (Uganda),** *Annual Statistical Report on Remand Homes, Rehabilitation and Reception Centres (Financial Year 2017/18, November 2018)* (accessed 29 July 2025) https://mglsd.go.ug/wp-content/uploads/2020/01/FINAL-ANNUAL-STATISTICAL-REPORT-ON-REMAND-HOMES-2017-2018-GODWIN-Autosaved.pdf.

[48]Parliament Watch, '55,000 Extra Inmates Strain Uganda's Prisons' (Parliament Watch, 2024) https://parliamentwatch.ug/news-amp-updates/55000-extra-inmates-strain-ugandas-prisons/ accessed 26 July 2025.

[49]DevelopmentAid, 'Uganda's Overcrowded Prisons Trigger Human Rights Violations' (2024) https://www.developmentaid.org/amp/news-stream/post/185846/ugandas-overcrowded-prisons-trigger-human-rights-violations accessed 26 July 2025.

and beyond prison walls. This was during the launch of the report by the Makerere University School of Public Health on May 15, 2025.[50]

The Uganda Human Rights Commission also revealed findings about the treatment of inmates in Ugandan prisons, including forced labour and meager pay. According to its 27th Annual Report on the state of Human Rights and Freedoms in Uganda, prisoners are paid as little as UGX 100 per day for unskilled labor, UGX 250 for semi-skilled labor and UGX 500 for skilled labor. The report also highlighted allegations that inmates are often forced to work even when sick. [51] UPS employs an estimated **49,470 staff,** but only about **29.1%** of posts are currently filled, with major vacancies in healthcare, probation, and rehabilitation units. [52]

The Annual Budget for Uganda Prisons Service (UPS) was about UGX 356 billion in the 2024/2025 financial year budget and now it is about UGX 590 billion in 2025/2026 financial year budget.[53] Despite this, UPS continues to demand even more resources, largely because overcrowding, poor facilities, and staffing gaps remain unresolved. Yet the economic implications are significant: allocating nearly six hundred billion shillings to prisons alone means diverting scarce public funds away from critical sectors such as healthcare, education, youth employment, and agricultural development—areas that directly impact national productivity and poverty reduction. In effect, the state is investing heavily in sustaining an ever-expanding carceral system rather than channeling these resources into addressing the root causes of crime, which would arguably yield greater long-term benefits for the economy and society.

The present conditions in Uganda's prisons reveal a system plagued by congestion, legal inefficiencies, health emergencies, forced labor, and inadequate infrastructure. These issues erode human rights, violate constitutional standards, and underscore the urgent need for **non-custodial**

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[50]Monitor, 'Half of Uganda's Prisoners Infected with TB – Report' (Daily Monitor, 2024) https://www.monitor.co.ug/uganda/news/national/half-of-uganda-s-prisoners-infected-with-tb-report-5043494 accessed 26 July 2025.

[51] Parliament Watch, 'UGX100 a Day: The Price of Prison Labour in Uganda' (Parliament Watch, 2024) https://parliamentwatch.ug/news-amp-updates/ugx100-a-day-the-price-of-prison-labour-in-uganda/ accessed 26 July 2025.

[52] Parliament Watch (n51 above) 2.

[53] **Uganda Ministry of Finance, Planning and Economic Development**, *Uganda Prisons Service: Sector Spending Agency Budgets and Performance Report* (Financial Year 2023/24) (accessed 29 July 2025) https://budget.finance.go.ug/sites/default/files/Sector%20Spending%20Agency%20Budgets%20and%20Performance/Uganda%20Prisons%20Service_17.pdf.

alternatives, legal reform, and **restorative justice approaches** not just reform, but fundamental transformation. Despite reforms, Uganda's prison system remains rooted in colonial logic: radicalized hierarchies, mandatory labor, and punitive norms endure. Many corrupt or neglected facilities remain outside Kampala, and daily regimes still include forced labor and corporal discipline for minor infractions.[54] Up to date, Uganda's penal laws and procedures continue to reflect punitive ideologies, despite mounting evidence that incarceration is ineffective in addressing the root causes of crime or in rehabilitating offenders. This persistence of outdated penal philosophies has led to an entrenched carceral culture within the justice system.

This history **from tribal reconciliation to colonial repression, post-colonial brutality to rehabilitation efforts** illustrates how imprisonment is neither traditional nor inherently just in Uganda. Instead, it reveals prisons as tools of control, colonial legacy and ostensible order. Contemporary reforms under the Uganda Prison Services offer hope but progressive abolition requires disrupting these structures completely, not simply reforming them.

1.3 THEORETICAL FRAMEWORK

Theories of criminal law seek to explain the purpose and justification of punishment within society. They provide the philosophical and moral basis upon which criminal liability is imposed, and sanctions are enforced. Broadly, these theories fall into two categories: **retributive theories**, which view punishment as deserved for wrongdoing, and **utilitarian theories**, which justify punishment to deter crime, rehabilitate offenders, or protect society.

Whereas there exist several theoretical perspectives on crime, punishment, and justice, this study adopts the abolitionist framework to critically examine Uganda's reliance on punitive incarceration and to explore restorative and community-based alternatives. Other prominent theories include classical criminology, which emphasizes rational choice and deterrence; positivist criminology, focusing on biological, psychological, and social determinants of criminal behavior; social

[54] Human Rights Watch, *Even Dead Bodies Must Work: Health, Hard Labor and Abuse in Ugandan Prisons* (HRW 2011) https://www.hrw.org/report/2011/07/14/even-dead-bodies-must-work/health-hard-labor-and-abuse-ugandan-prisons accessed 26 July 2025.

disorganization theory, which links crime to structural inequalities and community breakdown; strain theory, which highlights the pressures that drive individuals toward criminal acts; labeling theory, emphasizing the social construction of deviance and the impact of societal reactions; conflict theory, analyzing crime as a result of social and economic inequalities; feminist criminology, which examines gendered dimensions of crime and justice; and restorative justice theory, which advocates for repairing harm through reconciliation and community engagement.

Abolitionist theory represents a radical critique of the conventional penal system and argues for a profound transformation in how societies understand and respond to harm, crime, and justice. Rooted in critiques of punishment and incarceration, abolitionist theory challenges the structural, moral, and social underpinnings of prisons, contending that punitive approaches are inherently ineffective, dehumanizing, and counterproductive to societal well-being. Early thinkers in this domain, such as Angela Davis, Ruth Morris, and Mariame Kaba, have argued that prisons reproduce social inequalities, particularly along lines of race, class, and gender, and fail to address the root causes of violence. Davis situates the prison as an extension of systemic oppression, linking mass incarceration to historical practices of racialized control,[55] while Morris emphasizes the transformative potential of community-based restorative practices as alternatives to imprisonment.[56] Kaba extends these ideas to contemporary contexts, advocating for abolition not as the absence of justice but as the presence of social structures that pre-empt harm and prioritize care, healing, and accountability outside carceral confines.[57]

Abolitionist theory has evolved through several intellectual and practical phases. Its origins can be traced to early penal reform movements and critiques of the prison industrial complex, particularly in the United States and the United Kingdom. In the 1960s and 1970s, abolitionist thought intersected with civil rights, feminist, and anti-colonial movements, highlighting the disproportionate targeting and incarceration of marginalized populations. Scholars such as Loic Wacquant have analyzed the punitive turn in neoliberal states, illustrating how prisons operate as mechanisms of social control rather than rehabilitation.[58] This evolution demonstrates a shift from moderate reformist perspectives focused on improving prison conditions—to a radical vision that

[55] Angela Davis, *Are Prisons Obsolete?* (2003), pg.10.
[56] Ruth Morris, *Can Justice Be Done?* (2000), pg.8.
[57] Mariame Kaba, *We Do This 'Til We Free Us: Abolitionist Organizing and Transforming Justice* (2021), 4.
[58] Loic Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (2009), 19.

calls for the dismantling of punitive institutions and the reimagining of justice through restorative, community-centered approaches.

At its core, abolitionist theory posits that harm cannot be effectively addressed through coercion and isolation. It challenges traditional definitions of crime as merely a violation of law and instead frames it as a disruption of relationships and social trust. This perspective informs the advocacy for restorative justice frameworks, which seek to engage victims, offenders, and communities in processes of accountability, dialogue, and reconciliation. John Braithwaite articulates that restorative justice emphasizes repairing harm, restoring social cohesion, and reintegrating offenders into society, rather than inflicting punishment for its own sake.[59] By prioritizing dialogue, mediation, and community involvement, abolitionist approaches aim to create sustainable solutions that reduce recidivism, empower affected communities, and restore dignity to all parties involved.

One of the strongest points of abolitionist theory is its focus on addressing the root causes of harm and violence. Unlike punitive systems that often exacerbate social inequities, abolitionist approaches advocate for structural interventions such as access to education, healthcare, housing, and employment that prevent crime from occurring in the first place. Davis argues that prisons perpetuate cycles of violence, destabilize communities, and fail to rehabilitate individuals, demonstrating the necessity of alternative frameworks that prioritize social justice. [60]Similarly, Ruth Morris emphasizes that community-based interventions can achieve accountability while fostering empathy, responsibility, and social cohesion, showing that restorative processes are not only ethically sound but also practically effective.[61]

However, abolitionist theory has faced criticisms and challenges. Critics argue that the theory is idealistic and lacks pragmatic mechanisms for addressing serious or violent crimes, questioning how societies would protect citizens without conventional forms of detention. Some scholars contend that restorative approaches may not fully satisfy victims' needs for justice or retribution, particularly in contexts where communities are fragmented or where social inequalities are

[59] John Braithwaite, *Crime, Shame and Reintegration* (1989), pg.5.
[60] Angela Davis, *Are Prisons Obsolete?* (2003), pg.9.
[61] Ruth Morris, *Can Justice Be Done?* (2000), pg.6.

extreme.[62] Additionally, the dismantling of prisons without parallel investment in social infrastructure risks leaving gaps in accountability and public safety. Despite these criticisms, proponents argue that these challenges do not invalidate abolitionist theory but instead highlight the necessity of comprehensive, multi-layered approaches that integrate prevention, social support, and restorative mechanisms alongside minimal, carefully structured interventions for high-risk cases.

Abolitionist theory also intersects with international human rights frameworks, linking the critique of incarceration to global standards of dignity, fairness, and humane treatment. Instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules), the Tokyo Rules on non-custodial measures, and the Bangkok Rules for women prisoners resonate with abolitionist principles by promoting alternatives to incarceration, gender-sensitive interventions, and the prioritization of rehabilitation over punishment. These frameworks reinforce the normative basis for abolition, providing both a legal and ethical rationale for shifting away from punitive models. In practice, abolitionist-inspired initiatives have emerged globally, ranging from community accountability programs in New Zealand and Canada to restorative justice circles in Uganda and South Africa, demonstrating the adaptability and relevance of the theory across diverse cultural and legal contexts.

In a nutshell, the theoretical framework of prison abolition rests on a multi-dimensional critique of punitive justice, informed by historical, social, and ethical analyses. It emphasizes that prisons are not neutral or necessary instruments of justice but rather socially constructed mechanisms that reproduce inequality, undermine human dignity, and fail to prevent harm. The evolution of the theory from early reformist critiques to contemporary abolitionist advocacy—underscores a growing recognition of the need for justice systems that are relational, restorative, and community-centered. While challenges and criticisms remain, the framework provides a robust conceptual foundation for exploring alternatives to incarceration, advocating for systemic change, and promoting justice that is equitable, humane, and socially constructive.

[62] Maruna, S., & Immarigeon, R., *After Crime and Punishment: Pathways to Offender Reintegration* (2004), pg.8.

1.4 THE REGULATORY FRAMEWORK OF PRISON SYSTEM IN UGANDA

Whereas there exist non-custodial and alternative measures to imprisonment, Uganda's legal and policy frameworks remain overly reliant on custodial sentences. This is even though the Constitution guarantees fundamental rights such as fair trial, presumption of innocence under Article 28, right to liberty under Article 23 and protection from inhumane treatment in Article 44. Additionally, the Prisons Act,[63] which is the primary statute governing the Uganda Prisons Service has key provisions that establish the objectives of imprisonment, such as rehabilitation, reintegration, and humane treatment, regulates prisoner rights, grants power to the Commissioner General of Prisons to oversee the management and operation of prisons and recognizes non-custodial measures such as parole and community service, though these are underutilized. Implementation of these critical provisions is weak due to underfunding, poor staffing and lack of oversight. Under the **Act**, Uganda also introduced two key institutions, the **Prisons Authority**, responsible for overall policy advisory and staffing decisions and the **Prisons Council** tasked with oversight and discipline. These bodies were operationalized in **2008** as part of the decentralization of prison administration.[64]

The **Justice, Law and Order Sector (JLOS)** established in 1999 serves as a cross-institutional governance and policy coordination platform. JLOS comprises 18 agencies including the Judiciary, Office of the Director of Public Prosecutions, Uganda Prison Service (UPS), and Uganda Human Rights Commission (UHRC). Through multi-year Strategic Investment Plans (SIPs I–III), JLOS has driven legal reforms, case backlog reduction, and improved human rights culture across justice institutions,[65] and under SIP III (2012–2017), JLOS actors succeeded in reducing average remand duration from 24 to **15 months** and decreasing recidivism to fewer than 30%.[66] The Magistrates Courts Act,[67] and Criminal Procedure Code Act,[68] provide rules on arrest, detention, bail, sentencing and remand. They often result in excessive remand due to rigid bail

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[63] Prisons Act Cap 325, Laws of Uganda.
[64] Uganda Prisons Authority, 'Functions of the Prisons Authority' https://prisonsauthority.go.ug/about-us/functions-of-the-prisons-authority/ accessed 26 July 2025.
[65] Judicial Service Commission, 'Justice Law and Order Sector Overview' https://www.jsc.go.ug/jsc/justice-law-and-order-sector-overview accessed 26 July 2025.
[66] Government of Uganda, 'Justice, Law and Order Sector (JLOS)' https://govinfohub.go.ug/index.php/justice-law-and-order-sector-jlos/ accessed 26 July 2025.
[67] Magistrates Courts Act Cap 19, Laws of Uganda.
[68] Criminal Procedure Code Act Cap 122, Laws of Uganda.

conditions and slow adjudication. The Community Service Act,[69] introduces non-custodial sentences for petty crimes however it does not have a consistent application in the judicial system.

The Children Act,[70] provides for the separation of child offenders from adults, promotes rehabilitation, diversion and restorative justice for children. It also establishes remand homes and rehabilitation centers under the Ministry of Gender. However, as already noted, one wonders why in practice, many juveniles are still detained in adult facilities due to infrastructure and budget limitations.

Uganda is party to various regional and international treaties which form part of the broader legal framework like the Universal Declaration of Human Rights (UDHR) which advocates for the Right to dignity and fair trial,[71] International Covenant on Civil and Political Rights (ICCPR) which caters for the protection from arbitrary detention,[72] Convention Against Torture (CAT) also prohibits torture in all detention settings,[73] and the African Charter on Human and Peoples' Rights that emphasizes human dignity and humane treatment of detainees.[74] Uganda is also a signatory to numerous international instruments focused on prisoner rights and reform, including: The **United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules)**,[75] the **Tokyo Rules** (non-custodial measures), the **Bangkok Rules** (treatment of women prisoners),[76] and African human rights instruments such as the **Kadoma,**[77] and **Ouagadougou declarations**.[78] Despite these commitments, national policies and institutional practices seldom comply fully with these international benchmarks (e.g. regular consular contact, gender-sensitive treatment, forced

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[69] Community Service Act Cap 115, Laws of Uganda.
[70] Children Act Cap 62, Laws of Uganda.
[71] United Nations General Assembly, *Universal Declaration of Human Rights*, A/RES/217(III), adopted 10 December 1948.
[72] United Nations General Assembly, *International Covenant on Civil and Political Rights*, A/RES/2200A (XXI), adopted 16 December 1966, entry into force 23 March 1976.
[73] United Nations General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, A/RES/39/46, adopted 10 December 1984, entry into force 26 June 1987.
[74] Organization of African Unity, *African Charter on Human and Peoples' Rights*, adopted 27 June 1981, entry into force 21 October 1986.
[75] United Nations General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)*, A/RES/70/175, adopted 8 January 2016.
[76] United Nations General Assembly, *United Nations Standard Minimum Rules for Non-Custodial Measures (The Tokyo Rules)*, A/RES/45/110, adopted 14 December 1990.
[77] Penal Reform International, *Kadoma Declaration on Community Service Orders in Africa*, adopted at the International Conference on Community Service Orders in Africa, Kadoma, Zimbabwe, 24–28 November 1997.
[78] African Commission on Human and Peoples' Rights, *Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa*, Ouagadougou, Burkina Faso, 20 September 2002.

labor). The 2015 adoption of the Mandela Rules, while largely symbolic, provides leverage for advocacy on improved prison policy and safeguards, particularly regarding healthcare standards and legal aid access.[79]

Based on the above framework, significant judicial reforms emerged from the landmark ***Susan Kigula and 416 Others vs. Attorney General*** *Constitutional Petition Case No.6 of 2006*,[80] which rendered death sentencing non-mandatory and mandated life imprisonment in the absence of execution within three years. The case spurred legislative change and highlighted the need to reform sentencing practices.[81] This case provides a broader rationale for the abolition or radical reduction of prisons, emphasizing that excessive reliance on incarceration often violates constitutional rights such as the right to life, personal liberty, and human dignity. Prisons, instead of rehabilitating offenders, frequently perpetuate overcrowding, abuse, and social marginalization, undermining the principles of justice and proportionality. This is because by shifting focus toward non-custodial measures, restorative justice, and community-based alternatives, the justice system can uphold fundamental rights while addressing crime in ways that are socially constructive and economically sustainable.

There is also gender- and child-sensitive normative frameworks influencing practice. The United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders,[82] oblige prison authorities to adopt gender-sensitive policies from hygiene provisions to childcare and non-discrimination.[83] However, Uganda's justice system struggles to meet these due to limited female-focused infrastructure in women's prisons and lack of specialized training.[84]

More recently, Uganda, with **support from UNODC**, initiated the development of a **prisoner classification system** aimed at better risk assessment, individualizing case management, and preventing radicalization within prisons. This initiative aligns with the best global practices but

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[79] Penal Reform International, 'What Does the Adoption of the Mandela Rules Mean for Prison Reform?' (PRI, 2015) https://www.penalreform.org/blog/what-does-the-adoption-of-the-mandela-rules/ accessed 26 July 2025.
[80] ***Susan Kigula and 416 Others vs. Attorney General*** *Constitutional Petition Case No.6 of 2006*
[81] Wikipedia, 'Susan Kigula' https://en.wikipedia.org/wiki/Susan_Kigula accessed 26 July 2025
[82] *UN Economic and Social Council Resolution 2010/16: United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)*, E/RES/2010/16, 22 July 2010.
[83]
[84] Ibid32

remains in early stages of implementation.[85] UPS has also started piloting digital records and ICT-driven case tracking to reduce remand durations, monitor parole eligibility, and streamline legal aid referrals but limited funding has hampered national rollout.

Despite these robust legal instruments, implementation remains weak. The **Prisons Authority** plays an advisory role but lacks adequate enforcement capacity. The Prisons Council has seldom met in recent years due to budget constraints, limiting internal accountability.[86] Likewise, the **Chief Justice chaired Case Backlog Committee** reduced remand durations in urban centers but failed to reach rural courts, sustaining delays.[87]

The **Uganda Human Rights Commission (UHRC)** was established under the 1995 Constitution of the Republic of Uganda to promote and protect human rights and freedoms in the country in recognition of Uganda's violent and turbulent history that had been characterized by arbitrary arrests, detention without trial, torture and brutal repression with impunity on the part of security organs during the pre and post-independence era. The Uganda Human Rights Commission was established under the provisions of Article 51(1) of the 1995 Constitution of the Republic of Uganda and its functions and powers were operationalized under the Uganda Human Rights Act of 1997.[88] It conducts prison inspections and releases reports. However, it only has monitoring authority not enforcement power and courts and prisons often ignore its recommendations.[89]

Though the legal framework offers restorative justice possibilities via non-custodial provisions, **restorative models** remain only marginally recognized in legislation and policy. The draft

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[85] UNODC, 'Uganda Develops Prisoner Classification Framework' (UNODC Eastern Africa, 2024) https://www.unodc.org/easternafrica/en/Stories/uganda-develops-prisoner-classification-framework.html accessed 26 July 2025.

[86] Uganda Prisons Authority, 'Functions of the Prisons Authority' https://prisonsauthority.go.ug/about-us/functions-of-the-prisons-authority/ accessed 26 July 2025.

[87] Local Development Partners Group, 'Justice, Law and Order Sector' https://www.ldpg.or.ug/groups/justice-law-and-order-sector/ accessed 26 July 2025.

[88] **Uganda Human Rights Commission,** *'UHRC Mandate'* (Uganda Human Rights Commission, accessed **7 August 2025)** https://uhrc.ug/about/uhrc-mandate/#:~:text=UHRC%20Mandate.

[89] Wikipedia, 'Uganda Human Rights Commission' https://en.wikipedia.org/wiki/Uganda_Human_Rights_Commission accessed 26 July 2025.

Traditional Justice Policy, 2021 seeks to formalize traditional dispute mechanisms like *mato oput* and *kayo cuk*, [90]but constitutional safeguards and legislative mechanisms remain pending.

Uganda's legal and policy framework for prisons showcases ambition and alignment with international human rights standards but is hampered by poor implementation, budgetary constraints, and weak oversight. While the Prisons Act 2006, JLOS sector reforms, and non-custodial statutes lay a strong foundation, much work remains. Effectively abolishing prisons or transitioning toward more restorative justice systems demands not only new laws, but functional institutions, enforcement mechanisms, judicial training, and sustainable resource allocation

Uganda has a progressive legal framework on paper but implementation, oversight, and resource gaps severely undermine the humane and rehabilitative intent of these laws. This highlights the urgency of shifting from incarceration toward community-based and restorative alternatives that better align with constitutional values and international standards.

1.5 RATIONALE FOR DECARCELATION IN UGANDA

Uganda's **1995 Constitution of Uganda as amended** enshrines protections against torture, arbitrary detention, and guarantees the right to a fair trial. Yet over **50% of inmates are held without conviction,** a situation that clearly infringes **Article 23(4)** on the presumption of innocence and **Article 44** rights to personal liberty.[91] A Human Rights Watch investigation described conditions in prisons as those that amount to **cruel, inhuman, and degrading treatment** forced and unpaid labor, beatings, denial of healthcare, and unsanitary living conditions. These

[90] *Mato Oput* is a traditional Acholi justice ritual, literally meaning "*drinking the bitter root*," used to resolve serious crimes such as murder or grievous bodily harm. The process emphasizes restorative justice, where the offender admits responsibility, compensates the victim's family often through cattle or other forms of restitution and participates in communal rituals symbolizing reconciliation. The ceremony is witnessed and validated by the community, reinforcing social cohesion and prioritizing healing, reintegration, and the restoration of relationships over retributive punishment; *Kayo Cuk* is another Acholi traditional justice mechanism, literally meaning "*cutting the branch*," which addresses lesser offenses or interpersonal conflicts. It focuses on mediation and resolution between parties through apologies, symbolic gestures, or minor compensation. The process is preventive and reconciliatory, aiming to repair social bonds and maintain harmony within the community, rather than impose punitive measures.

[91]Human Rights Watch, 'Uganda: Forced Labor, Disease Imperil Prisoners' (HRW, 14 July 2011) https://www.hrw.org/news/2011/07/14/uganda-forced-labor-disease-imperil-prisoners accessed 26 July 2025.

conditions violate standards articulated in the **Mandela Rules**,[92] to which Uganda is a state party, underscoring a fundamental breach of both domestic and international legal obligations.[93]

Multiple investigations reveal that tuberculosis (TB) and HIV prevalence among inmates is nearly **twice** that of the general population. Overcrowded prisons with cells filled to 30 times their intended capacity enable rapid disease transmission. Illnesses are often untreated or misdiagnosed, exacerbating public health risks when sick individuals are released back into communities. Preventing these health crises requires reducing the incarcerated population and improving conditions an objective at odds with continued mass imprisonment.[94]

Maintaining each inmate in Uganda costs far more than supervising non-custodial alternatives. International and Ugandan reports note that funds spent on prisons yield poor rehabilitative outcomes and create spiraling recidivism cycles. Meanwhile, community service, probation, or restorative justice programs not only cost less but generate social value through restitution and vocational training. An abolitionist shift encourages reinvestment in mental health, education, and poverty reduction areas that effectively address root causes of crime.[95]

Uganda's current carceral system is historically rooted in colonial structures designed to suppress dissent and control labor. Forced agricultural labor in prisons, radicalized disciplinary practices, and criminalization of poverty-related offenses (e.g. vagrancy, idleness) reflect **structural anti-Black violence**, perpetuated through weak laws and punitive norms.[96]

Punitive incarceration does not yield reductions in crime. Global meta-analyses show that **restorative justice and diversion programs** significantly reduce recidivism compared to prison-based sanctions, especially among juvenile and non-violent offenders. Uganda's own internal

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[92] UN General Assembly, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) : resolution / adopted by the General Assembly*, A/RES/70/175, 8 January 2016, https://www.refworld.org/legal/resolution/unga/2016/en/119111 [accessed 20 August 2025]
[93] ibid
[94]DevelopmentAid, 'Uganda's Overcrowded Prisons Trigger Human Rights Violations' (2024) https://www.developmentaid.org/news-stream/post/185846/ugandas-overcrowded-prisons-trigger-human-rights-violations accessed 26 July 2025.
[95] Ibid
[96] IntechOpen, 'Chapter 1177917' https://www.intechopen.com/chapters/1177917 accessed 26 July 2025.

reforms such as vocational training and re-education have decreased recidivism rates from over **50% in the 1980s to about 13.4% today** in institutions like Luzira.[97]

Criminal justice scholar Angela Davis argues that such prison systems are extensions of systems of oppression not frameworks of rehabilitation. Abolition challenges these inherited hierarchies and places justice firmly under the control of communities rather than the state.[98]

Additionally, the reliance on custodial sentences in Uganda disproportionately impacts marginalized populations: the poor, mentally ill, women (often detained with infants), and political opponents. Journalistic and civil society reports note widespread abuse of **criminal statutes like "rogue and vagabond"**, used to cage vulnerable individuals. The Susan Kigula case illustrates the deep injustice of mandatory death sentences for murder later ruled unconstitutional, affirming that not even capital punishment aligns with dignity-based jurisprudence.[99]

While Uganda has adopted reforms via the **Prisons Act, JLOS strategic plans,** and **Community Service Act**, implementation remains partial. Community service orders and probation schemes are underfunded; traditional justice systems remain informal; legal aid structures are fragmented; and prison reports show persistent human rights violations despite oversight efforts by the **Uganda Human Rights Commission.**[100]

Countries such as **Norway, Finland, and the Netherlands** demonstrate that decarceration combined with social welfare investments reduces crime, improves reintegration, and lowers recidivism. African experiences like Rwandan **Gacaca courts** or Kenyan restorative justice programs highlight culturally congruent methods to resolve harm without incarceration. Uganda has co-sponsored UNODC restorative justice guidelines and is a signatory to multiple regional human rights instruments, positioning it within a global trend toward non-carceral justice.[101]

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[97] Nile Post, 'Opinion: Prisoners in Uganda Live in Filthy, Unhealthy Conditions' (Nile Post, 2024) https://nilepost.co.ug/news/102873/opinion-prisoners-in-uganda-live-in-filthy-unhealthy-conditions accessed 26 July 2025

[98] Angela Y Davis, *Are Prisons Obsolete?* (Seven Stories Press 2003).

[99] Wikipedia, 'Capital Punishment in Uganda' https://en.wikipedia.org/wiki/Capital_punishment_in_Uganda accessed 26 July 2025.

[100] US Department of State, 'Uganda 2016 Human Rights Report' (2016) https://www.refworld.org/reference/annualreport/usdos/2016/en/109718 accessed 26 July 2025.

[101] UNODC and others, *International Instruments and African Models on Penal Reform* (2024)

Abolitionist theory, rooted in transformative and restorative justice philosophy, holds that incarceration often symbolizes state violence, generating further alienation rather than healing. Transformative justice emphasizes addressing root causes of harm such as poverty, inequality, and trauma through participatory, community-led processes. Abolition reframes accountability as restoration; it seeks deep changes in how society relates to conflict and accountability, not mere expansion of policing power[102].

The abolition rationale is not an abrupt abolition of prisons but a **phased, strategic approach:** stagnating prison construction, expansive decarceration, and ultimate excarceration through decriminalization and diversion. This path is supported by Uganda's existing legal base (e.g. Community Service Act, probation statutes), planning frameworks (e.g. JLOS), and civil society practice. By shifting toward non-custodial mechanisms, restorative justice, and social prevention strategies, Uganda can reclaim constitutional commitments and uphold justice with dignity.

The call to abolish prisons in Uganda is not utopian; it is grounded in pragmatic and moral imperatives. Prisons have not proven to be effective deterrents, as evidenced by persistent recidivism and the criminalization of poverty. Economically, the prison system is unsustainable. In 2025, the Uganda Prisons Service operated under a constrained budget that suffered a UGX 8.5 billion reduction, leading to severe compromises in food provision, medical services, and rehabilitation programs [103](New Vision, 2025). On a moral level, the continued incarceration of vulnerable groups—including pregnant women, children, and the mentally ill—in inhumane conditions starkly contradicts Uganda's human rights commitments and constitutional guarantees.

Abolitionists argue that prisons have been reformed since their very inception; however each wave of reform has done little to meaningfully change the nature of imprisonment. Despite reform, prisons around the world remain sites of immense cruelty and containment facilities for the poor, minorities, mentally ill, addicts and political dissidents. Reform generally works to pump more funds, resources and personnel into the prison system, thus cementing its position in society. In

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[102] Reddit, 'Can a Prison Abolitionist Please Help Me?' (Reddit, 2021) https://www.reddit.com/r/Anarchy101/comments/pv3jie/can_a_prison_abolitionist_please_help_me/ accessed 26 July 2025.

[103]Finnish Criminal Sanctions Agency, *Open Prisons in Finland* (2023) https://www.rikosseuraamus.fi/en/index.html accessed 26 July 2025

fact, reform efforts have often contributed to the expansion of the carceral system by, for example, building more prisons to solve overcrowding, creating special prisons for women and children, increasing funding and staffing, outsourcing prison functions to for profit corporations and increasing the surveillance of prison populations.

These efforts claim to improve the lives of prisoners but in fact serve to build the prison system and suck investment, in terms of effort and funds, from other public programmers that could meaningfully improve society and thus reduce crime First, reform fails to address the colonial history of prisons, their repressive aims and decolonial imperatives. Second, reform is unlikely to succeed since the very nature of prison encourages abuse and makes accountability unlikely. Finally, even if reform was successful in its own aims, the reformed prison would still cause unjustified human rights violations.

The nature and design of prisons make human rights violations inevitable. Prison walls serve two distinct functions: to lock people away from society, and to keep society out. Only very few members of our societies have been inside prisons, police jail, or any other places of detention and most people have no desire to know what the reality of life behind bars looks like. The general public and the press rarely visit prisons, preferring not to think of what happens within their walls, and when they do, their movement is generally confined to specific areas where they are not exposed to the true horrors endured by prisoners. Additionally, prisoners enjoy close to no social or political capital, especially given high crime rates in much of Africa and the fact that many prisoners in Africa are members of groups with little power, such as the poor and ethnic minorities.

Prisons are autocratic and undemocratic by nature. There are extreme power imbalances in prisons, both between prisoners and staff as well as amongst prisoners themselves. These strict hierarchies are enforced with violence, rape and other forms of coercive power. Power imbalances make prisoners particularly vulnerable to abuse as does that fact that prisoners depend entirely on others for their survival

The best prisons confine people in cages for years at a time, isolated from their loved ones and subjected to near constant surveillance and control over every aspect of their lives. Such treatment infringes on important rights such as dignity, liberty, privacy, family and has socio-economic

implications for themselves and their families due to the loss of income prisoners suffer during and after imprisonment.

In fact, studies show that individuals who have served time in prison are more likely to reoffend than those who were granted non-custodial sentences, even when controlled for types of crime, criminal history and other factors. A study of 231 rehabilitation programmes in prisons found that with only a few exceptions, they were all unsuccessful at preventing recidivism (the return to criminal activity after release from prison). In many instances, prisons directly contribute to aggravating these factors by causing prisoners to lose their jobs, face difficulty in getting new jobs upon release and weakening their support structures outside of prison due to time away and stigma. Additionally, many prisoners are forced to join gangs, use violence to defend themselves or prove themselves and endure sexual violence to survive in prison, thus cementing toxic and violent masculinities and leading to them being more likely to commit crimes upon release. More importantly, imprisoning individuals fails to address any of the systemic root causes of crime, such as poverty, trauma, mental illness, and gang affiliation, views about women or addiction[104].

In terms of justice and retribution for victims, many argue that prisons fail on this front too. Carceral systems leave little room for reconciliation or reparation that might give victims closure, and in fact systems based on restorative justice and non-custodial sentences repeatedly report greater levels of satisfaction and closure for victims as well as decreased symptoms of post-traumatic stress.[105]

Important to note, prison abolition does not require immediate closure of all prisons. Instead, it is a long-term movement that aims to gradually reduce the role that prisons play by creating alternative structures of safety and justice so that eventually prisons may cease to exist completely. Since prisons do not exist in isolation but are supported in their repressive aims by an entire system of pressures and inadequate support that pushes people towards criminality, our alternatives to prison must also consist not of a single institutional replacement but of a constellation of alternative strategies. An important starting point in crowding prisons out of our societies is decriminalization

[104]Sohela Surajpal, 'Prison Abolition as a Decolonial and Human Rights Imperative in Africa' (2020) SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3741129
[105]A Skelton and M Batley, 'Restorative Justice: A Contemporary South African Review' (2008) 21(3) *Acta Criminologica* 40.

and decarceration. This, entails reducing the areas of life in which the carceral system and prisons play a role through reducing the use of pre-trial detention, decriminalizing petty and minor offences, drug use, immigration and sex work for example. Crimes that target the poor or homeless should also be struck down, such as bylaws that criminalize vagrancy, begging and squatting. Those in prison for such offences should be released. As shown above, in some countries in Africa reducing pre-trial detention and releasing those accused convicted of minor offences would amount to more than 80% of the prison population being freed. These are important first steps in reducing the role of prisons in the public imagination by building consensus around the idea that punishment is not necessarily an appropriate response to social problems.[106]

The Ugandan system is structurally violent, financially wasteful, and socially harmful. It criminalizes poverty, perpetuates colonial logic, and fails to meet international human rights standards. Prison abolition is not about removing accountability but about building a justice system that restores, rehabilitates and heals.

1.6 COMPARATIVE ANALYSIS WITH OTHER JURISIDICTIONS

Across the world, various countries have pursued innovative strategies to reduce reliance on incarceration, improve justice outcomes and address structural causes of crime. While each context differs, Uganda can draw significant lessons from global experiences to inform its path toward prison abolition or radical reform. These include Norway, Netherlands, Rwanda and Canada.

1.6.1 Norway

Norway is widely regarded as a global leader in humane corrections. The country's prisons prioritize rehabilitation, dignity and reintegration featuring private rooms, educational opportunities and counseling services. Officers are trained to act as mentors, not merely security enforcers. Norway has one of the lowest recidivism rates in the world; in 2018 the reconviction rate was 18% within two years of release, with a recidivism rate of 25% after five years. The country also has one of the lowest crime rates on Earth. Norway's prison system houses

[106] SohelaSurajpal(n10)

approximately three thousand offenders.[107] Punishment in Norway is less about the infliction of pain and more about the creation of opportunities to live differently.[108]

The key lessons from Norway's experience are that treating prisoners with dignity, providing education and rehabilitation opportunities, and fostering supportive staff-prisoner relationships can drastically reduce recidivism while enhancing social reintegration. Norway's model shows that the purpose of punishment can shift from inflicting pain to creating opportunities for offenders to change their lives, illustrating the effectiveness of humane, rehabilitative approaches over traditional punitive systems.

1.6.2 The Netherlands

A study conducted by the Universities of Leiden (Netherlands) and Portsmouth (UK) found that the number of people in prison in the Netherlands fell from 94 per 100,000 citizens to 51 per 100,000 between 2005 and 2016.There are a number of different aspects to consider when examining the fall in the number of prisoners in the Netherlands, including sentencing policy in the courts, the overall crime rate, the work of the judicial authorities, the costs of incarceration and resocialization, and the overall legal situation. The number of people receiving custodial sentences from the courts has fallen significantly in the Netherlands. In 2005, Dutch courts-imposed prison sentences on some 8,305 convicted criminals. Ten years later, only 4,540 offenders were sent to jail. Studies show that the decrease in custodial sentences was seen across the full spectrum of criminal activities. Another major factor in the Netherlands is the fall in the number people being held in pre-trial detention. The study shows that 21,029 spent time on remand in Dutch prisons in 2005, with that number falling to 13,350 by 2016 a decrease of 37%. Since 2006, state prosecutors in the Netherlands can handle some cases without the involvement of a judge and even impose non-custodial sentences, such as fines or community service. It's a change that was introduced to speed up the judicial process and reduce the workload for judges.

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[107]Wikipedia, 'Incarceration in Norway' https://en.wikipedia.org/wiki/Incarceration_in_Norway accessed 27 July 2025

[108]John Pratt, 'Scandinavian Exceptionalism in an Era of Penal Excess: Part I' (2008) 48(2) *British Journal of Criminology* 119 https://doi.org/10.1093/bjc/azm072

The reform meant that fewer cases ended up in court, where suspects would have faced a possible custodial sentence. This in turn contributed to the overall fall in prisoner numbers.[109]

The Dutch experience illustrates several critical lessons for decarceration: first, reducing reliance on custodial sentences across a wide range of offences can substantially decrease prison populations; second, minimizing pre-trial detention through procedural reforms safeguards individual rights while preventing unnecessary incarceration; third, empowering prosecutors to apply non-custodial measures helps to expedite the justice process, reduce systemic burdens, and promote more proportionate responses to crime. Collectively, these measures demonstrate that thoughtful, evidence-based reforms, coupled with alternatives to imprisonment, can achieve significant decarceration without compromising public safety or justice.

1.6.3 Rwanda

Following the 1994 genocide, Rwanda adopted Gacaca courts, a traditional community justice system to process over one million cases. These courts emphasized confession, apology, and community service, rather than incarceration. While not without criticism (e.g., issues of due process), Gacaca offered a restorative and participatory justice model that resolved conflict at scale without overburdening prisons.[110] In the Gacaca system, communities at the local level elected judges to hear the trials of genocide suspects accused of all crimes except planning of genocide. The courts gave lower sentences if the person was repentant and sought reconciliation with the community. Often, confessing prisoners returned home without further penalty or receiving community service orders. More than 12,000 community-based courts tried more than 1.2 million cases throughout the country. The Gacaca trials also served to promote reconciliation by providing a means for victims to learn the truth about the death of their family members and relatives. They also gave perpetrators the opportunity to confess their crimes, show remorse and ask for forgiveness in front of their community. The Gacaca courts officially closed on 4 May 2012.[111]

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[109]DW, 'The Story Behind the Netherlands' Empty Prisons' (2024) https://www.dw.com/en/the-story-behind-the-netherlands-empty-prisons/a-70544397 accessed 27 July 2025

[110]Phil Clark, *The Gacaca Courts, Post-Genocide Justice and Reconciliation in Rwanda* (Cambridge University Press 2010)

[111]United Nations, 'Justice and Reconciliation' (UN, 2014) https://www.un.org/en/preventgenocide/rwanda/assets/pdf/Backgrounder%20Justice%202014.pdf accessed 27 July 2025

The experience of the Gacaca courts offers important lessons for justice systems grappling with mass incarceration and post-conflict reconciliation. It demonstrates that community-based, restorative approaches can process large caseloads efficiently while promoting accountability, healing, and social reintegration. From this, other countries, including Uganda, can learn that alternatives to imprisonment—grounded in participation, confession, and reconciliation—can reduce prison overcrowding, foster social cohesion, and address the root causes of conflict and harm without relying solely on punitive measures.

1.6.4 Canada

In the Canadian criminal justice system, judges must take into consideration the individual circumstances of the person before them in court to determine a fit and fair sentence. If you identify as Indigenous and are charged with a crime, the judge must apply Gladue principles when you're in a criminal court. Gladue principles are a way for the judge to consider the unique circumstances (experiences) of Indigenous peoples. These unique circumstances include the challenges of colonization you, your family, and community faced and resisted as Indigenous people, and continue to affect you today. These challenges include racism, loss of language, and removal from land, Indian residential schools, and foster care. These challenges are called Gladue factors.

In 1999, in a case called *Gladue,* the Supreme Court of Canada said that colonialism creates challenges for many Indigenous people, and they are more likely to be sent to jail. The criminal justice system failed Indigenous people. Gladue principles try to address these failures and make sure judges don’t repeat the same mistakes that add to discrimination. Judges must consider Gladue factors when they make decisions about you. Judges must consider options other than jail to help you address the challenges you face. For example, you might participate in a restorative justice program to help you work with those your crime affected and repair the harm done. Gladue principles also require judges to make decisions that are appropriate to your particular Indigenous heritage or connection. This means judges must consider: your community’s perspective on the situation, their needs, and their suggested alternatives to jail. Your community can be the Indigenous community where you live or come from, but it’s also your support network or the people you interact with. If you live outside an Indigenous community and aren’t connected to one, you still have a community, the laws, practices, customs, and legal traditions of your Nation

or the Nation where the alleged offence took place and ways of making decisions that are sensitive and appropriate to your culture.

For example, your community could provide the court with a suggestion they deem to be meaningful to the community and that they believe would help you. They can also help to support you with the suggested alternative to jail. The judge might still decide to send you to jail. If you are sent to jail, the judge must respect Gladue principles to decide how long you'll be in jail and your probation.[112] The lessons from Gladue principles are that justice systems must recognize and address historical and structural inequities, consider the unique circumstances of marginalized groups, and integrate restorative and community-based approaches. By doing so, courts can reduce over-incarceration, promote culturally sensitive and fair sentencing, repair harm to both victims and offenders, and strengthen social cohesion. This approach demonstrates that alternatives to imprisonment, when tailored to the offender's cultural and social context, can achieve justice more effectively than purely punitive measures.

1.6.5 Finland

Finland's penal reforms were guided by the principle of "penal moderation" the belief that punishment should be proportionate, humane, and used only as a last resort. The Finnish experience shows that high incarceration is not necessary for public safety; social investments and restraint in punishment are more effective. Finland offers one of the most compelling examples of successful decarceration in Europe. From the 1950s to the early 2000s, Finland reduced its incarceration rate by over 60% from one of the highest in Western Europe to one of the lowest.[113] The key lessons from Finland's experience are that humane, proportionate sentencing, strong social support systems, and a focus on rehabilitation over punishment can dramatically reduce incarceration rates while maintaining public safety. This underscores the potential of decarceration

[112]Legal Aid BC, 'Gladue Rights' https://aboriginal.legalaid.bc.ca/courts-criminal-cases/gladue-rights accessed 27 July 2025

[113]Tapio Lappi-Seppälä, 'Penal Policy in Scandinavia' in Michael Tonry (ed), *Crime and Justice: A Review of Research*, vol 36 (University of Chicago Press 2007) 217.

strategies to create more equitable and effective justice systems without compromising societal security.

1.7 Sentencing Norms in Uganda.

Sentencing norms are established standards, principles, and guidelines that shape how courts determine appropriate punishments for criminal offences. They serve as a framework to ensure that sentences are consistent, proportionate, and fair, considering the seriousness of the offence, the harm caused to victims, and the culpability of the offender. These norms provide judges and magistrates with reference points for balancing individual circumstances with societal interests, thereby reducing arbitrary or disproportionate sentencing. In Uganda, sentencing norms are informed by both statutory provisions and judicially developed principles, including the triad principle, which considers the gravity of the offence, the circumstances of the offender, and the interests of society. By guiding judicial discretion, sentencing norms not only promote predictability and uniformity in punishments but also serve as instruments for implementing broader criminal justice policy, shaping rehabilitation, deterrence, and restorative approaches within the legal system.

The Sentencing Council for England and Wales describe Sentencing Guidelines as follows: documents which set out a way for judges and magistrates to consider the seriousness of particular offences and so decide on the appropriate sentence for each case. Guidelines set out different levels of sentence based on the harm caused to the victim and how blameworthy the offender is. This means that those offences where there is a lot of harm to the victim and the offender has a high level of responsibility for the offence are sentenced most harshly and where there is little harm to the victim and the offender has a low-level role in the offence he or she is sentenced at a lower level.[114]

The introduction of Sentencing Guidelines is a significant development in Ugandan criminal jurisprudence. Over the short term, Uganda's Sentencing Guidelines should make the sentencing process more predictable. In addition, the Guidelines should serve to ensure better compliance

[114]Sentencing Council, 'What are Guidelines?' http://sentencingcouncil.judiciary.gov.uk/sentencing/what-are-guidelines.htm accessed 27 January 2014.

with the current legal requirements in the context of criminal sentencing. Over the long term, the Guidelines offer a mechanism that can implement significant policy reform.

In simple terms, Sentencing Guidelines seek to manage and inform judicial sentencing. They provide standards that should bring some level of uniformity to the sentencing process.

Former Chief Justice Benjamin Odoki issued the Constitution (Sentencing Guidelines for the Courts of (Practice) on 26 April 2013. The Sentencing Guidelines were established in exercise of the powers conferred upon the Chief Justice by Article 133(1) (b).[115] The constitution of Uganda provides that the Chief Justice "may issue orders and directions to the courts necessary for the proper and efficient administration of justice."[116]

The Hon Chief Justice His Lordship Benjamin J Odoki as he then was stated that, 'the court must have regard to the law and principles of sentencing developed by the courts over time. Judicial discretion is intended to ensure that the court imposes a sentence that fits the c1ime, taking into account the gravity of the offence, circumstances of the offender and the interest of society. This is known as the triad principle. Judicial discretion is intended to ensure that the court imposes a sentence that fits the crime, taking into account the gravity of the offence, circumstances of the offender and the interests of society, it is therefore, important that sentencing guidelines are developed to assist in the dete1mination of sentences within the criminal justice system[117].

The stated objectives of the Sentencing Guidelines are as follows: "(a) to set out the purpose for which offenders may be sentenced or dealt with; (b) to provide principles and guidelines to be applied by courts in sentencing; (c) to provide sentence ranges and other means of dealing with offenders; (d) to provide a mechanism for considering the interests of victims of crime and the community when sentencing; and (e) to provide a mechanism that will promote uniformity, consistency and transparency in sentencing." Similarly, the Sentencing Guidelines provide that the "purpose of sentencing is to promote respect for the law in order to maintain a just, peaceful and safe society and to promote initiatives to prevent crime[118]

[115]The Constitution of the Republic of Uganda 1995.
[116]Constitution of the Republic of Uganda 1995, art 133(1)(b).
[117]Benjamin J Odoki, 'Speech by the Hon the Chief Justice at the Launch of the Constitution (Sentencing Guidelines for Courts of Judicature) Practice Directions Legal Notice No. 8 of 2013' (2013).
[118]Sentencing Guidelines (Uganda) S. 5(1)

In light of these objectives and purposes, the Sentencing Guidelines direct judges to pass sentences aimed at: "(a) denouncing unlawful conduct; (b) deterring a person from committing an offence; (c) separating an offender from society where necessary; (d) assisting in rehabilitating and reintegrating an offender into society; (e) providing reparation for harm done to a victim or to the community; or (f) promoting a sense of responsibility by the offender, acknowledging the harm done to the victim and the community.[119]

Therefore, Judges play an essential role in the sentencing process by ensuring fairness**;** the cornerstone of a judge's duty, impartiality demands that rulings be based solely on law and facts, devoid of any hint of favoritism or bias. Any action that could suggest preconceived opinions or partiality to any party must be avoided at all costs. The constitution of Uganda provides that in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law[120].

Judges are supposed to follow the guidelines that are given to them by the law these guidelines help the judges to determine well the different cases before them so that they can make a good decision and not a biased one. These guidelines help to ensure that the judges can give sentences on that basis of the guidelines rather than on a discretionary basis as the judges may as well do. Therefore, the judges must follow these guidelines to help provide a reliable sentence which fits the given offence.

The Hon. the Principal Judge, His Lordship, Yorokamu Bamwine observed that, 'before a judicial officer imposes a sentence on the offender in any given case, he or she is at pains to determine which sentence is appropriate under relevant law. It is the duty of the court to evaluate all the relevant evidence to arrive, not only suitable but also fair and just sentence principles and purpose of sentencing.[121]

The trial judge has the responsibility to manage the trial proceedings from filing to final disposal. The judge must therefore be prepared to preside and take appropriate action to ensure that all

[119]Sentencing Guidelines (Uganda) S. 5(2)
[120] Article 28(1) of the constitution of Uganda 1995 as amended
[121]*Principles of Sentencing: A Global, Regional and National Perspective* (Conference, 30 August 2012, Munyonyo Commonwealth Resort Hotel, Kampala)

parties are prepared to proceed; that the trial commences as scheduled; all parties have a fair opportunity to present their evidence, and the trial proceeds to the end without unnecessary adjournments. So, when it comes to sentencing the judges must consider different circumstances such as. the gravity of the offence, including the degree of culpability of the offender; (b) the nature of the offence; (c) the need for consistency with appropriate sentencing levels and other means of dealing with offenders in respect of similar offences committed in similar circumstances; (d) any information provided to the court concerning the effect of the offence on the victim or the community, including victim impact statement or community impact statement; (e) the offender's personal, family, community, or cultural background; (f) any outcomes of restorative justice processes that have occurred, or are likely to occur, in relation to the particular case and many others.[122]

The judges before making a sentence should consider balancing the different interest that could arise from the sentence that the judge could make and these interest should be put into consideration and these include How to punish the offender, How to protect the public, How to reform and change an offender's behavior, How to ensure an offender does something to make up for his/her crime, How to reduce future criminal activity by the offender[123]. This balancing of interest helps to prevent any bad outcome of the sentence right away or in future.

The prosecutor also has an active role to play in the sentence process. It is the duty of the prosecutor to present the facts of the case at sentence. Whenever possible a statement of agreed facts should be submitted. If the offender is being sentenced after trial or hearing, the prosecutor should prepare a summary of the facts capable of being found by the judge or magistrate that is consistent with the verdict. Where facts are asserted on behalf of the offender that are contrary to the prosecutor's position on a matter of some significance to sentence, the prosecutor should identify areas in agreement and those to be determined following a hearing (often referred to as a 'disputed facts hearing')[124].

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[122] Constitution (Sentencing Guidelines for Courts of Judicature) (Practice) Directions 2013, s 6. ibid, s 55(1).

[123] Director of Public Prosecutions (NSW), 'Chapter 2 – The Decision to Prosecute' https://www.odpp.nsw.gov.au/prosecution-guidance/prosecution-guidelines/chapter-2 accessed 4 August 2025.

It is imperative to note that traditionally the courts have always used imprisonment as a means of punishment for most convicted people. With this the prison which has a certain capacity to occupy has been overwhelmed by these numbers. Courts have always had options provided for by the different statutes, giving options to punish accused people rather than imprisonment. When we look at the different alternatives these could help reduce numbers of prisoners in prison, this is because some offences can be given other alternatives like fines or community services and many others rather than imprisonment.

The first alternative is community service where means noncustodial punishment by which after conviction the court, with the consent of the offender, makes an order for the offender to serve the community rather than Undergo imprisonment[125]. This involves the accused person who has been sentenced do different activity without payment in which the community benefits and such activities include clearing bushes in village roads, cleaning hospitals and many others given by court. Here the prisoner skips prison as the whole community service is done when he or she is out of prison. Community service punishment has contributed to the criminal justice system in terms of diversion of offenders charged with minor or petty offences from imprisonment. However, it faces several challenges which limit its effectiveness and impact in the criminal justice system such as inadequate resources, lack of awareness within the public platforms to stimulate public support and participation in the application of Community Service punishment[126].

Secondly, fines are another form of non-custodial sentencing options**.** A fine is a financial penalty imposed by a court or a regulatory authority as a punishment for a violation of laws or regulations. It is a form of punishment for committing an offense. The fine as a punishment is usually stated or provided for by different statutes such as the penal code act[127]. This can be a good option when it comes to punishing an accused this is because the accused is made to pay a certain amount of money provided for by the law instead of imprisoning someone. The magistrate court act states that Where a fine is imposed by a magistrate's court under any law, in fixing the amount of the fine, the court shall take into consideration among other things, the means of the offender so far as

[125] Community Service Act, Cap 115, s 2(a).
[126]Makerere University, 'Abstract: The Sentencing Guidelines and Their Influence on the Use of Non-Custodial Punishment in Uganda' https://dspace3.mak.ac.ug/handle/10570/10721 accessed 4 August 2025.
[127] Penal Code Act Cap 128

they are known to the court; and in the absence of express provisions relating to the fine in any such law the following provisions shall apply—

(*a) Where no sum is expressed to which the fine may extend, the amount of the fine which may be imposed is unlimited, but shall not be excessive;*

(b) In the case of an offence punishable with a fine or a period of imprisonment, the imposition of a fine or a period of imprisonment shall be a matter for the discretion of the court[128]*;*

The magistrate court act provide for mitigation of penalties where it provides that a person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment.[129]

Thirdly is suspended sentence where a custodial sentence is given, but is suspended over a period of time. This means that provided no further offences are committed during the period of suspension, the offender will not have to serve any time in prison. The maximum period of suspension is 2 years.[130] Conditions can be attached to suspended sentence orders, such that the offender can engage in punishment and rehabilitation in the community during the period of suspension.

An example is where Justice Stephen Mubiru stated that "*I accordingly sentence the convict to seven years' imprisonment. The convict is to immediately serve part of the term imposed by remaining in prison custody until 31st December 2016. The rest of the sentence is suspended for a period of three years, with knowledge of the convict that when he is released into the community, he risks having the rest of the seven-year term of imprisonment restored if he commits any offence punishable by a term of imprisonment, during the three-year period (the operational period).*"[131] Therefore, the suspended sentence can help the convict get rehabilitated from the community rather than being taken to prison from which there is no assurance of rehabilitation there because of the state of the prisons.

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[128] Magistrates Courts Act, Cap 19, s 180
[129] Magistrates Courts Act, Cap 19, s 178(2).
[130]Criminal Solicitor, 'Can I Get a Suspended Sentence?' https://www.criminalsolicitor.co.uk/insights/can-i-get-a-suspended-sentence accessed 4 August 2025.
[131] *Uganda v Andama Swale*, Criminal Case No. 0131 of 2016 (unreported).

Lastly are reparation penalties whereby reparation means recompense given to one who has suffered legal injury at the hands of another to make amends, provide restitution, or give satisfaction or compensation for a wrong inflicted[132].

Reparation is paid to a victim of a crime as compensation for things like damage to property or emotional harm. One can be sentenced to pay both a fine and reparation. If they can't afford both, the judge must order reparation only and may order lesser reparations or payments in installments. The amount of reparation ordered is usually based on information about the amount of damage, the costs for the victim, and your ability to pay.[133] From this the convicted will amend things up with the victim as he restores to the state he would have been had the convict not caused any harm on him or her. The judge decides how much reparation to order. They will consider how much damage, loss or cost the person has suffered because of the offending, as well as the offender's ability to pay.[134]

1.8 A PHASED PATH TOWARDS EMANCIPATION

Transitioning from a punitive system of incarceration to a community based, restorative justice model is a complex, long-term process. Abolition is not achieved overnight, but through a concerted phased approach, underpinned by legal reform, institutional transformation, and cultural change. One well-established strategy is the Attrition Model, developed by the Prison Research Education Action Project which outlines three overlapping stages: *Moratorium, Decarceration, and Excarceration* as explained below:

Phase 1 is Moratorium (Halt Expansion and Begin Legal Reform) whereby the objective is to cease building prisons, halt the construction of new cells or facilities and stopping the use of pf incarceration as the default response for petty offences. The key actions under this include a freeze on new prison infrastructure and budget allocations for expansions, legal review of colonial era

[132]Rüdiger Wolfrum, 'Reparation' (Oxford Public International Law) https://opil.ouplaw.com/display/10.1093/law:epil/9780199231690/law-9780199231690-e392 accessed 4 August 2025.
[133]Community Law, 'Fines – Sentencing: The Judge's Decision About Punishment' https://communitylaw.org.nz/community-law-manual/test/sentencing-the-judges-decision-about-punishment/fines/ accessed 4 August 2025
[134]New Zealand Ministry of Justice, 'About Reparation' https://www.justice.govt.nz/fines/about-reparation/ accessed 4 August 2025.

laws to decriminalize minor offenses that disproportionately fill prisons and introduce moratorium bills in parliament or formalize suspension of harsh sentencing for petty crimes. The rationale for this is to signal political commitment and prevent further entrenchment of carceral logic, setting up Uganda for substantive reform.[135]

Phase 2 is Decarceration (Release and Redirect) whereby the objective is to reduce the existing prison population through targeted releases, retroactive sentence reform, and expansion of non-custodial alternatives. The key actions here include release of prisoners, especially those that have been on remand for a long period of time, retroactive decriminalization of minor offenses and creation of restitution agreements in lieu of continued incarceration and scaling up of probation, community service and restorative justice options to absorb those released while keeping public safety intact. The rationale behind this is to rapidly alleviate overcrowding and offer immediate relief [136]

Phase 3 is Excarceration whereby the objective is to gradually eliminate incarceration as a practice by preventing people from entering the system in the first place through decriminalization, community-based alternatives and root cause prevention. The key actions include decriminalizing victimless and poverty-related offenses such as unauthorized vending, public begging and unevenly policed nuisance crimes, mandatory diversion protocols directing eligible offenders to restorative justice processes, mediation or community conferencing, investing in preventative infrastructure, and suspending pre-trial detention for all but specified high risk persons, replacing it with monitoring or restorative engagement processes. The rationale is to build a justice system focused on prevention and repair rather than cages.[137]

Throughout all these phases, the following strategies are critical for success: Community-Led Design to ensure that former prisoners, victims, and community leaders co-develop and monitor

[135]Durrell M Washington, 'Achieving Juvenile Justice through Abolition: A Critical Review of Social Work's Role in Shaping the Juvenile Legal System and Steps toward Achieving an Antiracist Future' (2021)

[136] ibid

[137]Kristin Richardson Jordan, 'The Path Towards Abolition: Dismantling a Broken System and Rebuilding from the Ground' (2020) https://kristinrichardsonjordan.wordpress.com/2020/10/19/the-path-towards-abolition-dismantling-a-broken-system-and-rebuilding-from-the-ground accessed 27 July 2025

reforms; reforms must reflect lived experience, not imposed solutions.[138] Non-reformist reforms to avoid superficial reforms that entrench the prison system, such as life sentences and advance reforms that diminish carceral power and invest in community safety infrastructures.[139] Institution building that supports prevention and reintegration like community accountability councils, restorative justice centers, and peer-based support networks.[140]

Superficial reforms may reinforce carceral institutions like expanding electronic monitoring. To counter this, Uganda must adhere to non-reformist reform principles and focus on reducing systematic power rather than reforming within the system.[141] There could be public resistance because abrupt policy shifts may provoke backlash hence phased community education and stakeholder dialogue is essential. The possibility of capacity gaps because without adequate support infrastructure such as trained probation officers and restorative facilitators, the released population may fall through the cracks.

Uganda's transition toward prison abolition must be carefully planned and phased. In the short term, the government should prioritize the enforcement of existing non-custodial sentences, expedite the resolution of pretrial cases, and provide training for judges and prosecutors in restorative justice. In the medium term, restorative justice mechanisms should be legislated into formal law, open prison models piloted, and digital court and parole management systems developed. In the long term, Uganda should gradually decommission overcrowded and dilapidated prison facilities, institutionalize community-based alternatives, and invest in civic education campaigns to build public support for a more humane justice system.

1.9 RECOMMENDATIONS

The findings of this research demonstrate that Uganda's current model is unsustainable, costly, and misaligned with both constitutional principles and indigenous justice traditions. While full

[138]Prison Policy Initiative, 'Instead of Prisons: Chapter 5' https://www.prisonpolicy.org/scans/instead_of_prisons/chapter5.shtml accessed 27 July 2025
[139]Wikipedia, 'Non-Reformist Reform' https://en.m.wikipedia.org/wiki/Non-reformist_reform accessed 27 July 2025
[140]UCLA Law Review, 'Prison Abolition: A Grounded Justice' https://www.uclalawreview.org/prison-abolition-grounded-justice/ accessed 27 July 2025
[141]Wikipedia, 'Decarceration in the United States' https://en.m.wikipedia.org/wiki/Decarceration_in_the_United_States accessed 27 July 2025

prison abolition is a long-term goal, the following short- to medium-term recommendations aim to guide policy, legal reform, and practice toward that vision.

Uganda must urgently review and repeal outdated laws that criminalize poverty and reinforce over-incarceration, such as provisions in the Penal Code Act that punish minor offenses like being idle and disorderly. Colonial laws continue to criminalize everyday survival activities, disproportionately affecting the poor and vulnerable.[142] Legal aid is an essential element of a fair, humane and efficient criminal justice system that is based on the rule of law. Legal aid is a foundation for the enjoyment of rights and freedoms, including the right to a fair trial and is a precondition to exercising rights and freedoms and an important safeguard that ensures fundamental fairness and public trust in the criminal justice process. By providing legal representation to vulnerable and marginalized individuals, it helps ensure fair trials, prevents wrongful convictions, and promotes alternatives to incarceration, thus contributing to a more balanced approach to justice and potentially reducing the need for large-scale imprisonment.[143] Training all magistrates and judges on the Community Service Act and probation provisions in the Magistrates Courts Act Cap, expanding community service and probation departments to all districts, and integrating restorative justice and diversion into adult criminal procedure not only juvenile justice. Alternative sanctions are effective only when the infrastructure and judicial confidence are present.[144] Restorative justice should move from pilot projects to full institutional integration within the criminal justice system by enacting a Restorative Justice Act to provide clear procedures, protection and funding, and embedding restorative practices within police stations, local councils and courts. Restorative justice offers culturally appropriate and trauma-informed alternatives to prison in African contexts.[145]

Abolition efforts will fail without adequate support for reintegration of former inmates or diverted offenders. The recommended actions include establishing psychological support centers for returning citizens, engaging local governments and private sector actors in supporting reintegration and launching public awareness campaigns to reduce stigma toward ex-offenders. Uganda should

[142] Branch, A. (2011). Displacing Human Rights: War and Intervention in Northern Uganda. Oxford University Press.
[143] **Parliament of Uganda**, *Report of the Sectoral Committee on Legal and Parliamentary Affairs on the National Legal Aid Bill, 2022* (National Parliament, 2022).
[144] Uganda Law Reform Commission. (2018).Discussion Paper on Sentencing and Penal Reform.
[145]Zehr, H. (2002). The Little Book of Restorative Justice. Good Books.

recognize, regulate and support customary justice systems to operate alongside formal courts. This can be done by creating community- based tribunals with jurisdiction over minor disputes and family issues and establishing safeguards to ensure women's and children's rights are upheld in traditional settings. Customary justice is Uganda's most accessible and legitimate form of dispute resolution, particularly in rural areas.[146] Public support is essential for justice reform. The perception that imprisonment equals justice must be replaced with values of restoration, dignity and accountability. The recommended actions include integrating justice education into civic curriculum at schools and tertiary institutions, partnering with media houses to broadcast success stories of restorative justice and non-custodial sentencing, and facilitating community dialogues with victims, offenders and elders on justice reform. Justice reform requires unified efforts among government ministries, civil society, cultural institutions and international actors. The recommended actions include establishing a national taskforce on non-custodial justice, chaired by the Ministry of Justice and Constitutional Affairs, with representatives from Uganda Prisons Service, Judiciary, cultural institutions and Non-Governmental Organizations and mandating cross-sectoral planning and funding for non-custodial alternatives in every justice budget. To enhance monitoring of the state of prisons, Uganda should adopt the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).[147]

1.10 CONCLUSION

The continued existence and expansion of Uganda's prison system is neither sustainable nor justifiable morally, legally, economically, or socially. The evidence is resounding, prisons in Uganda are overcrowded, underfunded, and inherently dehumanizing. They fail to rehabilitate, disproportionately target the vulnerable, and perpetuate cycles of poverty and marginalization. While some reforms have improved specific aspects, they have not and cannot transform the

[146]Okafor, O. C. (2005). Legitimizing Human Rights NGOs: Lessons from Nigeria. Africa Today, 52(2), 95–117.

[147] DIGNITY – Danish Institute Against Torture, *'Torture remains a problem in Uganda'* (23 November 2022) https://dignity.dk/en/news/torture-remains-a-problem-in-uganda/ accessed 30 July 2025. reuters.com+15dignity.dk+15dignity.dk+15

punitive DNA of incarceration itself. True justice must move beyond the bars and walls of confinement. The abolition of prisons in Uganda is not about irresponsibly freeing criminals, but about responsibly reimagining justice. It is a bold call to replace punishment with restoration, coercion with community, and isolation with inclusion. It is a vision rooted in Uganda's own constitutional principles, in the global momentum for decarceration, and in the lived realities of those most harmed by carceral injustice. Abolition is not the absence of accountability, it is the presence of dignity, fairness, and healing. Uganda must now choose whether to continue investing in institutions that break people, or to redirect its energy toward systems that build them up. In charting this new path, Uganda has an opportunity not only to right past wrongs but to lead Africa and the world toward a more humane, effective, and transformative model of justice. Uganda's journey toward prison abolition is not about releasing dangerous criminals without consequences. It is about rethinking justice in a way that is fair, cost-effective, and restorative. For Uganda, the path forward lies in phasing out mass incarceration, strengthening non-custodial frameworks, and reinvesting in communities instead of cages. The time has come to replace retribution with restoration and punishment with purpose.