



Towards the Transformation of Zimbabwe's Corrective System

Roundtable Report Holiday Inn, Harare 6 June 2019



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Report compiled by
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Introductions: Dzikamai Bere

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The meeting commenced with some welcome and introductory remarks by the Zimbabwe Human Rights NGO Forum's Programmes Coordinator Dzikamai Bere. In his remarks, he noted that this was a discussion rooted in the quest for human dignity, especially for the most vulnerable members of the society. Bere emphasised the importance of having conversations on prisoners' rights, particularly the need to mainstream human dignity, correctional and rehabilitation aspects.

Quoting Fyodor Dostoevsky, he stated that it is true that prisons are a measure of our civilisation. Many may feel that the goal of prison transformation is too high to be achieved. Can a nation rehabilitate itself out of crime? He gave an example of the 2018 press report, which showed that the Netherlands was slowly closing prisons because the crime rate is going down. In comparison, the prisons in Zimbabwe remain overcrowded and conditions inhumane. He referred to the Forum and ZACRO study on rights behind bars to get an insight into prison conditions. He said he hoped that these are some of the issues that the new Prisons Bill would address.

Bere said that the task for the transformation of the correctional system was indeed everyone's duty. He noted that history had shown that everyone has a place in our prisons. A cabinet Minister today, a prisoner tomorrow. "It is our place to fix". He added.

"Our efforts are derived from the belief that constitutional rights belong to everyone," he concluded.

Objectives of the meeting: Ruwadzano P Makumbe

Ruwadzano Makumbe, the Forum's Strategic Impact Litigation Specialist, gave an outline of the following objectives for the meeting:

- To provide a platform for the human rights community to influence policy reform, particularly the Prisons Bill.
- To deliberate and share best practices on the actions that are to be taken and the policy changes that are required to ensure that the prison system in Zimbabwe is upgraded.
- To identify critical areas of collaboration for civil societies organisations and the government.

Legal Analysis of prisoners' rights in Zimbabwe: Wilbert Mandinde

Wilbert Mandinde, the Head of Public Interest Litigation at the Forum, gave an analysis of the state of prison rights at the moment.

The Constitution protects the rights of prisoners. The economic social and cultural rights of prisoners relate to the highest attainable standard of health — the principles which the cabinet has adopted to reform the prisons systems. Corporal punishment has been introduced for lesser offences. Finding ways of how we can incorporate regional and international standards. He noted that we could also learn from other prisoners rights. Economic, social and cultural rights have the issue of being subject to availability of resources mainly when the current economic challenges are prevailing. As a prisoner, you are affected by the deprivation of liberty. Chawira case discussed the right to life for prisoners on the death penalty and what it means. The Constitutional Court missed an opportunity to elucidate on the rights of prisoners. How then can we ensure that this right has to be enjoyed by prisoners? Open prison systems are only available for man, and there is a need to have such prisons for women. There is also a need to look into the unique requirements for pregnant woman, persons with disabilities, juveniles and girls.

The Parole Board should also be incorporated in our efforts as they have a mandate in terms of the Constitution. Corrections have been incorporated in the 2013 Constitution. There is a need to include the correctional aspect of the training of officers. Reintegration of prisoners is sacked by the government's position that they will not employ ex-inmates. There is a proper need for reforms and relook at this issue — the maintenance of connections and relationships between the prisoners and families. We should not only focus on the time that the prisoners are leaving the prisons but during the period of incarceration. Conjugal rights are also considered in other jurisdictions, and it should be something we look into with regards to reintegration. Right to legal representation as provided in the Constitution is on condition that you pay for the services yourself. It ceases to be a right as it is only limited to those who can afford. A system should be put in place to address this.

Another issue relates to the need for those who would have been detained to be tried within a reasonable time. Fair trial principles should be upheld.

Shared experiences: Unopa Makanyanga of Harambe Trust

She noted that she had an opportunity to attend a talk by Bryan Stevenson where he was talking about the power of proximity, being close to what scares and challenges you. This got her to think about the prison system in Zimbabwe. She then later adopted a 13-year-old girl who was married off at 11 years old. She stayed with the man for over six months under lock and key. She was put in a children's home, and they realised that she was eight months pregnant, but she lost the baby. She highlighted that this resulted in a direct confrontation with the justice system, which was not friendly to her. She questioned whether the system was giving the perpetrators justice. This is a community effort that requires everybody to collaborate and move towards change. The standards need to be improved through our efforts. Harambe Trust is moving towards this goal and they have partnered with ZPCS, and are working in Mazowe Farm Prison.

Unopa indicated that there is so much bureaucracy in the system, and they wanted to find out how they can communicate with the institution. They now work with the ZPCS's Pamberi-Qhubekani Trust to commercialise some of the farms. It is important that we realise that Zimbabwe has land which we should utilise for development.

The Trust provides vocational training for prison inmates. They also focus on the mentors who are the prison officers, building capacity of these officers as they have a psycho-social role in the rehabilitation and transformation of prisoners. We should not forget the prison officers as they play a vital role in the rehabilitation and transformation of prisons. The training that Harambe Trust provides is accredited by an academic institution, and they, therefore, get certificates which enhances their CVs.

She indicated that they have noted with worry that prisoners provide prison labour which they are not compensated for and this should be addressed as a means to ensure that when prisoners leave prison, they have some income to facilitate their reintegration into society.

Comments from participants

There is overcrowding in our prisons, and there should be an action to address this problem. The operation of prisons in Zimbabwe is regulated by the Act and its regulations. Some of the issues that are of concern are provided for in the Act and the Regulations and it is therefore essential for us to find ways to hold the responsible authorities accountable.

Challenges put across by Harambe are real, and there is need for change, which change will result in transformation. There is need to change the language in our lobby and advocacy efforts and use progressive language. Prisons are correctional facilities and should be called as such. There should also be a balance on the protection of the rights of inmates and the rights of the victims.

It is also essential for us to reflect on the efforts that are being done on reforming the lives of inmates and ex-inmates as an issue and dimension of offender rehabilitation in prisons or outside. It is also important that we broaden sphere to non-serious offenders serving from outside prisons under the community service program.

Freedom beyond walls: Naison of Team in Africa

The project Freedom beyond walls looks at the reintegration of ex-inmates into society. Team in Africa realised that this was overlooked in our society, and there was a need to assist ex-inmates to lead healthy and full lives outside of prison. Currently, they are working with inmates who would have achieved educational qualifications while in prison. There has been a documentary made on the life of Reuben Chigumira who was in prison for 20 years. The documentary was shot at Harare Central Prison. Rehabilitation is mostly being done by the rehabilitation department, but the prison system itself is not mainstreaming rehabilitation. From

the testimonies of the ex-inmates like Chigumira, it is clear that there has not been much change in the prison system over the years. The challenges that they faced 20 years ago still remain.

Team in Africa is also working with Itai Soza, who is now an ex-inmate. When he left prison, he walked out with nothing, making it a challenge to sustain life out of prison. They are helping them to have projects that can provide some income to support themselves and their families. The documentary that they are working on is another means of getting revenue for them. They have also recorded a live DVD for Devine voices who are at Harare Central Prison. Team in Africa is now working on another episode of the documentary working with Kansile Kansile, an ex-inmate who was born in prison and was later sentenced to 25 years in prison.

Team in Africa has also approached the Ministry of Justice on how ex-offenders can be employed. This is to address the issue of reintegration into society.

Panel Discussion

CSOs play a crucial role, and we need to collaborate in our work to avoid duplication of initiatives. Principles are currently underway, and the Bill is presently being worked on. The Bill focuses on restorative and rehabilitative justice. It provides for the need to establish functional correctional centres. We should, therefore, engage the relevant authorities for the challenges that we come across.

There is need for CSOs to challenge the failures by the government to implement what the law says. The fight is to change the culture, and the law is not going to do that for us. The law can only do so much, and it is for us to follow up on whether legal provisions are being honoured by the government and the various departments.

Community service is another means of ensuring rehabilitation as these offenders are allowed to be in the community and give back while they reform. To date, there are about 300 000 court orders that have been issued. Community service probationers are part of the community. Parole Board is being resuscitated, and it is essential that our interventions engage them.

Plenary

The mindset of individuals in terms of implementation needs to change and realise that prison transformation is a community effort. There is no law that disqualifies prisoners from voting; our role is to identify what needs to be done. Parole is automatic when a prisoner reaches the minimum period required, which is currently five years. The proposed Bill extends the criteria for Parole Board members. Policies will not change the system; what is needed is comprehensive human rights education training for prison officers and community service officers. We can learn from other jurisdictions such as Kenya where Amnesty International implemented training for police officers.

There is also a need to involve the Ministries working closely with prisoners on rehabilitation. Young offenders need to be prioritised, particularly their needs. There is also a need to lobby

with correctional officers to implement what is in the law. Child justice Bill is specifically for juvenile offenders. There will be public consultations for this Bill, and it is crucial for us to attend and make our contributions based on our experiences. There is also need to be assertive in our programming. The Pre-Trial Diversion (PTD) program was an opportunity to ensure that there is effective rehabilitation. The PTD has been implemented, but it was only for those who commit minor offences. PTD does not cover those who commit serious crimes like rape, robbery and murder.

The gap is in the implementation of the legal provisions; the Magistrates' Act places an obligation to inspect prisons and make recommendations. This should be followed through. The prison Inspectorate Unit also has this obligation, and these bodies should be held accountable.

Action Points

- To develop a position paper on the Prisons Bill and make contributions during the public consultations and also lobby with the Clerk of Parliament of Zimbabwe for policy reform that complies with international standards.
 - To collaborate with the Parole Board of Zimbabwe and develop an action plan on initiatives aimed at the rehabilitation of prisoners.
 - To conduct training and workshops for prison officers on how international human rights standards should inform the work that they do.
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