

REPORT ON VISIT TO PRISONS IN ZIMBABWE BY PROFESSOR E.V.O. DANKWA, SPECIAL RAPPORTEUR ON PRISONS AND CONDITIONS OF DETENTION

Introduction and Acknowledgement

At its 20th Ordinary Session which was held at Grand Bay, Mauritius from 21-31 October 1996 the African Commission on Human and Peoples' Rights appointed me as Special Rapporteur on the above subject and charged me with the responsibility of revising the Draft Terms of Reference of my office which was considered by the Commission at that session. Taken the view that a report to the 21st Session on my activities over 6 months which consisted of only procedural matters should be less than adequate, I decided to study the prison regime and related matters of one of the State Parties to the African Charter on Human and Peoples' Rights.

My decision for so doing stemmed from the fact that whatever controversy there might be on the text to be revised the study of prisons as contemplated by me would be incontrovertible function of my office. Whatever portions which are exercised from the original draft or amended, the study of prisons will remain.

I was further fortified in my decision by the unanimous decision of a Consultation on the Draft Terms of Reference and matters connected therewith held in Banjul, The Gambia from 8-12 January 1996 that a visit to the prisons of a country was a course of action worthy of pursuit.

Being the first visit, and having to be planned within a short time, I took into account, in the selection of country, factors such as language with which I am familiar, the likelihood of agreement from the relevant officials for my visit, the co-operation I was likely to get from the state officials and NGOs working in the area of my study as well as good communication and road network which would make possible the accomplishment of much within a relatively short time.

Mr. L. Chigwida, Commissioner of Prisons, Zimbabwe and other officials were ready to receive me within a very short time of notification of my interest in visiting prisons in Zimbabwe. They extended to me every assistance I needed, and thus eased the burden of my task considerably.

February 1995, the Attorney-General, Mr. P.A. Chiwamasa found time to have discussions with me, on the subject of my instant visit in particular and the Commission in general. Mr. Y. Omerjee, Secretary for Justice, Legal and Parliamentary Affairs briefed me about the open nature of Zimbabwean prisons especially its prisons regime including the efforts being made to sustain a

humane penal system. My understanding of the subject of my study was broadened by meetings with J. G. Mutombikwa; Mr. Mhiribidi, Director of Social Welfare and one of his deputies Mrs. Dhiembeu who has responsibility for child welfare. The Deputy Commissioner of Prisons, Washington Chimbeza and Mr. T. Mahema, Chief Magistrate contributed in no small measure in this direction.

Generally non-governmental organisations provide additional perspectives to matters within their domain, and I found those in Zimbabwe no exception. Indeed it was my fortune to have found NGOs working in the area of penal reform. But I am indebted to Mr. Chigwida, Commissioner of Prisons, who scheduled meetings with the NGOs for me at which there were no government. I acknowledge the assistance I had from Samuel Myanibo and Ernest Maigwara, Chief Executive and President respectively of Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender; Peter Mandianike, Executive Director of Prison Fellowship; and John Reid Rowland, Chief Legal Adviser of Legal Resources Foundation. To Officials of Harare, Chikurubi and Kadama Prisons and many others I express my gratitude.

Mr. Ahmed Othmani, Chairman of Penal Reform relied on his knowledge of personnel in the penal system in Zimbabwe to set in motion the planning of my visit, and I am extremely grateful to him.

Charter Basis for Appointment of Special Rapporteur

That prisons in Africa as elsewhere have serious problems was put beyond dispute by the First All-African Conference on Prison Conditions which was held in Kampala, Uganda from 19 to 21 September 1996. Restriction of the Liberty of the individual and problems arising out of it or related to it are par excellence human rights problems. Studies and researchers such as a Special Rapporteur will undertake, will contribute towards the solution of the problems. Therein lies the justification for the appointment to my present office, and Article 45.1 (a) provides a legal basis, for the creation of the Office of Special Rapporteur on Prisons and Conditions of Detention:

"The functions of the Commission shall be:

1. To promote Human and Peoples' Rights and in particular: (a) To collect documents, undertake studies and researches on African problems in the field of human and peoples' rights."

The Prisons

Zimbabwe has 40 prisons, and "the official holding capacity of all the prisons is 16,000" (E. Mupfiga, Characteristics of Criminal Offenders in Zimbabwe During 1991 (1993) p. 4). A recent amnesty reduced a prison population of 22,000 to 16,000, but the rising trend of criminality makes overcrowding an ever present problem for the 11 million people of Zimbabwe including 4,000 prison officers 300 of which are professionals such as doctors, nurses and artisans.

Consistent with a universal trend, female prisoners in Zimbabwe with their low figure have

lesser fear of overcrowding. Although females constitute 51% of the national population they account for only 5% of the total prison population.

Indeed at Kadoma Prisons a small female section with a holding capacity for 30 had 17 prisoners with 8 officers. However this is to be contrasted with Chikurubi Female Prison which had 375 inmates although its capacity is 287; and in 1991, Mupfiga calculated that female offenders admitted into prisons represented 8.6% of total admission (op.cit. p.7). In terms of space, male prisoners at Kadoma Prisons had more room than planned for: 564 occupied space constructed for 670. They also had a staff of 160.

As partial solution to the problem of overcrowding a former military barracks with a holding capacity of 6,000 has been acquired.

Remand

Out of the total of 16,000 prisoners 4,500 of them were on remand. 4,000 of the latter figure may generally be on remand for 6 months, and the remaining 500 beyond six months. At Kadoma Prison while some prisoners on remand may stay for less than one year, others stay for 12 or 18 to 24 months. It was said that screening by psychiatrists to determine the mental state of entrants is not fast enough and it accounted in part for long demand; delay by the police and prosecutors being the other major contributory factor.

At Chikurubi Female Prison and Kadoma Farm Prison, prisoners on remand were distinguishable from those serving sentences by their uniform, and at the latter by sitting arrangement when I met and talked to them in a Hall about my assignment.

Labour, Trade and Skills

Harare Prison has an impressive set of workshops which provide training and working at known trades by the inmates. A mechanic section gives training in engine-tune ups, engine overhauls, suspension, steering overhauls, gearbox repairs, brakes overhaul, wheels, clutch overhauls, auto-electric and general service. A Prison Officer who is a qualified mechanic, and was assisted by five other officers with similar qualifications, was in charge of the mechanics section. Understudying the officers were 37 prisoners. Most of these had no previous knowledge of mechanics, but, as part of the scheme they would be trade-tested by the Ministry of Higher Education and the successful ones issued with certificates which would enhance their prospects of employment, or give them the confidence to start their own small trade.

Under a welding section were moulding and forging sectors. There were also a panel beating and spray painting section.

A carpentry section whose supply of logs comes from prison farms make filing shelves for the Ministry of Justice, and repair furniture of the Prisons, Army and Ministry of Justice. Corner stands, beds and display cabinets, chairs and doors are also made at this carpentry. 74 prisoners in the carpentry had 2 prison officers as supervisors. A prisoner with experience in carpentry shared his skills with his mates.

Television sets, wireless and iron were repaired at an electrical repair wing of the workshop. Carving engaged the attention of some prisoners. A large tailoring shop with 106 machines had

170 prisoners working in it. Some of the items sown were male and female prison Officers uniforms, gowns for judges, magistrates and prosecutors. Others were prisoners' uniforms, computer covers, hospital theatre towels and nurse aid uniforms. The skills imparted to the prisoners went beyond sewing to repair of sewing machines.

A book binding section had upholstery and cobblers wings. Pneumatic tyres served as material for making sandals for prisoners. 75 prisoners worked under 2 officers with qualification in the trades being learnt. As regards the binding of books, the Ministry of Education supplied materials with which books of government schools were bound.

Built in 1928 the workshops must have served over the years to make the Harare Prison not only a place of detention but a setting where some appreciable measure of rehabilitation of the offender could be expected of those who worked there.

Chikurubi Female Prison which was established in 1967 has set up projects for the training of the inmates through on a small scale. Training is given in typing from the intermediate to the advanced stages. Computer literacy is also encouraged. Prison Officers also can take advantage of these projects to either learn or improve their skills in the above areas.

A sewing section was under two officers, and uniforms of female officers were sown here.

A knitting section produced jerseys, some of which were said to be worn by the inmates during the winter months of May-August.

It is noted that a clinic is attached to the female wing while the Chikurubi maximum security prison which began operation in 1979 has a hospital attached to it.

Chikurubi Farm Prison

Under the command of Superintendent Mutongi, a farm manager oversees dairy animals and piggery which provide food for inmates of Zimbabwe prisons.

Unlike the prisons at Chikurubi and in Harare, Kadoma Prison was built after the independence of Zimbabwe. With 122 hectares of arable land reduced under cultivation, farming is the main activity at this prison. It has also a diary of 70. The excess produce of the farm is made available to other prisons. Maize is the main crop grown here, but an orchard and a vegetable garden make a balance diet attainable.

Grass on the compound of government institutions is cleared by the inmates.

Young Offenders and Juveniles. Young Offenders (13-25 years old) who are sentenced to 3 or more years of imprisonment are sent to a prison at Gweriu called "Whawha Prison" where they are trained in skills such as welding, carpentry and mechanics. They are also encouraged to take the "O" and "A" Levels examination with the assistance of "teacher-prisoners".

In Zimbabwe juveniles are under the jurisdiction of the Social Welfare Department. Within this Department, a Deputy Director is responsible for child welfare. The Department has facilities for detention of juveniles before trial. Juveniles may appear before both criminal and juvenile courts but in the case of the former the hearing may be without the public. After trial juveniles are placed either in homes or reformatory. There are 8 government homes which

accept the care of children while NGOs and Churches have 40. The latter are concentrated in the urban areas. Each of the 10 administrative provinces has at least one home. There are about 3,000 juveniles in all the institutions.

If a child under 18 is arrested, the Police refer the case to the Department of Social Welfare if investigation and custody when necessary. Reports on the child compiled by the Department help the court decide on an appropriate sentence for him/her. The 200 officers of the Department throughout the country are all probation officers. The release of the child to the parents may be recommended by the Department get involved with the parents in the supervision of the child. One of the recommendations may be the caning of the child.

Juveniles are detained for a maximum of 3 years during which they will be educated. Those who are beyond the control of social workers are kept in a juvenile wing of prisons. Such must have been the case of 7 convicted juveniles who were at Kadoma Prison.

Community service currently in operation in Zimbabwe has not been extended to cover juveniles although the Social Welfare Department is involved in the community service with magistrates.

Community based care of children has been tried in Zimbabwe. 11,000 children have been identified within this context as requiring care. A prominent category among them are orphans. In a district in Mashingo Province the Department of Social Welfare tried to revive the community's interest in looking after children in need.

Community service

Concerned about overcrowding in prisons resort was had to community service. It started in 1994, and a success rate of 90% is claimed, and the scheme is catching on. Opening the High Court Session in February 1997, Chidyausiku J. exhorted judges to impose non-custodial sentence as far as possible (Sunday Mail 22 February 1997).

A National Committee on Community Service first constituted in 1992 by the Minister of Justice originally had representatives from a number of ministries. Presently it consists of a High Court Judge, the Commissioner of Prisons, a representative of ODA, Chief Magistrate of the biggest Magisterial district and representatives from the Ministry of Social Welfare, Police and non- governmental organisations such as Prison Fellowship, Zimbabwe Association for Crime Prevention and Rehabilitation of the Offender and Legal Resource Foundation.

The National Committee on Community Service meets once a month on the last Thursday in each month.

At a lower level a District Committee composed of the local or provincial magistrate, representatives of the Police, Prison, Local NGOs, Civil leaders as well as representatives from the Ministry of Social Welfare supervise the service.

Funded for the first 18 months with the funds from the European Union, ODA provided the funds for a similar period thereafter with effect from August 1997 the Government of Zimbabwe will take it over.

Community Service operates throughout the country, and relies for its successful

implementation mainly on volunteers. A mark of its success is the request from its study from diverse countries like Swaziland, Lesotho, Malawi, Zambia, Kenya, Cambodia and the government of Trinidad.

New guidelines have been issued, in consultation with the judiciary as in the case of earlier ones to guide the courts in administering the scheme. There are guidelines for supervisors also. A training programme has been carried out for supervisors with a view to achieving uniformity of treatment of offenders who are sentenced to Community Service.

I visited two locations where Community Service was being performed.

RUTSANAN CLINIC

Located about 15 kilometres from Harare, the Sisters in charge of the clinic stated that first offenders are sentenced by the court to 60, 180 or 300 hours. An offender who reports for community service is counselled by the Sisters under whose supervision he/she signs for the hours done each day. One such offender was seen working in a garden of the clinic at the time of my visit.

As far as possible the skills of the offender are utilised: an electrician or painter will be assigned jobs in their areas of expertise. 18 offenders had been sent to the clinic of which number 3 defaulted.

GLENVIEW CLINIC

It is located about 20 kilometres from Harare. Offenders sent here work either 3 weekdays or 2 weekends.

Finally I attended a meeting of the National Committee which reviewed the past and looked into the future after foreign support ceases.

TRAINING

Chikurubi Training Depot

It offers in-service training. Initial training, promotion and refresher courses. Conversion Courses are also run by the depot. They enable technicians to join the Prison Service at the appropriate level.

The Depot also trains dogs for use within the prison service. Attached to the depot is an 800 acre maize farm which is under the headship of a female officer. 900 male prisoners work under the female prison officer's supervision.

Legal Resources Foundation has been involved in training some Police Officers at the request of the Commissioner of Prisons. A Training of Trainees 5-10 May 1996. It was limited to 20 senior Police Officers drawn from all over Zimbabwe because of limited financial resources. Three objectives were to be met by the Workshop (training): (a) human rights education; (b) trainees were to be equipped to train others; and (c) highlighting the rights of specific groups of prisoners - juveniles, women and the elderly.

Six months after the workshop an evaluation exercise was undertaken to assess the impact of the training.

A second workshop with in-depth training of techniques of human rights education and substantive human rights involving mere prison officers is being planned.

Prison Fellowship International This NGO facilitates visits of relatives to prisoners. It also has an economic outreach, GEO-GLOBAL ECONOMIC OUTREACH. Under this scheme 104 families have been given loans. The scheme which was embarked upon on discovery of the plight of families of prisoners has been a success. In terms of repayment of loans, rate of over 80%.

ZIMBABWE ASSOCIATION FOR CRIME PREVENTION AND REHABILITATION (ZACRO)

It has been registered as a charitable institution in 1968 with branches throughout the country. ZACRO works closely with the Police and Prison administration. It aims at the rehabilitation of the offender and the prevention of crime. ZACRO involves the community and individuals on the pursuit of its objectives. It also targets the youth, and organises street boys to sew and learn how to make soap. Thereafter they are placed in commercial entities. Those taught these trades are either ex- or non-offenders. In schools, ZACRO is concerned about drug and alcohol abuse.

ZACRO passes on to the governments complaints of prisoners. A noticeable change for the better resulted from making government aware of maltreatment by prison officers of those awaiting trial as well as convicts.

Poor quality plates were also replaced about five years ago when ZACRO brought it to the government's attention. ZACRO also claimed some credit for the extension of vocational training from male to female prisoners.

PRISON TALK, THE LAW VERSUS THE PRACTISE, A REPORT ON PRISON CONDITIONS IN ZIMBABWE BY THE CATHOLIC COMMISSION FOR JUSTICE AND PEACE IN ZIMBABWE.

I came across this work in the course of my study. Although undated since work published in 1992 is cited in it, the report must have been prepared in or after that date.

A very frank and critical report, it states the prison population as 22,600 at the time of writing. It lists 41 prisons and refers to Bulawayo Prison to underscore the problem of overcrowding. Built to accommodate 445 prisoners on the occasion of the author(s) visit there were 758 inmates.

PROBLEMS

Officials of the Prison Service found overcrowding to be a problem. Consequently a judicial sentencing conference was held in 1996 to consider alternatives to imprisonment. The perennial problem of limited financial resources was also stated. While food and toiletries were available, replacement of equipment on workshops and the building of more workshops are beyond the means of the Prisons, a direct result of the financial constraints on the nation.

Sources outside official circles viewed the staying of children with their mothers throughout their sentences in prison as a serious problem. The problem is exacerbated by the fact that the immediate family are reluctant to take on the children of a convict, even is closely related to them. Some were of the view that the training of prison officers was too security oriented, and that the training should concentrate on rehabilitation. The Prison Administration Manual has to be revised for more humane provisions. Illustration of a regulation that ought to be amended for the better is the 20 minutes per month visit a prisoner is entitled to, or the one page letter per month which is the limit for a prisoner. Attempts should also be made to replicate the workshop at Harare at other prisons. To encourage society to accept convicts who are released, and to illustrate the rehabilitation of prisoners can be achieved, the Prison Administration should begin to employ ex- convicts who have acquired skills in prison.

CONCLUSION

For me to able to visit the prisons in Zimbabwe that I did at a very short notice and for the author(s) of PRISONS TALKS etc. to have access to all the prisons on Zimbabwe speak volumes of the openness of the Prison regime in Zimbabwe.

The novel institution of community service which by the end of 1996 had seen 12,000 convicts going through the scheme will no doubt have an impact on overcrowding in prisons. That others beyond Africa, in Asia and the Americas will look to Zimbabwe for reform of their penal system is reason for satisfaction and justifiable pride. Equally co-operation between governmental organisations towards a more humane prison regime is worthy of commendation. For this very reason, criticisms from the later must be taken seriously.

RECOMMENDATIONS

1. The majority of the inmates (about 97% or so) were decently attired. A minority who nevertheless should not be dismissed were found in torn prison garments. That attempts were not made to spirit them out of sight is evidence that there was no stage management.
2. The observations and criticisms contained in the Prisons Talks should receive sober reflection, and wherever necessary remedial measures should be adopted.
3. The importance of reducing the period for which prisoners are remanded should be constantly raised by the Prison Service with the Police and Prosecution authorities with a view to the latter acting to achieve this goal.
4. The decision to revise the standing orders of the Commissioner of Prisons should be carried out as has been done in the case of Prison Act, Chapter 7:11 (revised edition 1996).
5. Human Rights Training of Prison officers which was organised in May 1996 and evaluated after six months should be continued as planned.
6. Supervision of the community Service Scheme should not be relaxed for the danger of an increase in criminality is real if it is perceived by the public as a very soft option to fine or custodial sentence.
7. The prison service should help orient public attitude to accepting that rehabilitation does

occur in the prisons of Zimbabwe by employing ex -convicts whenever there is the opportunity to do so.

8. The Department of Social Welfare should consider the appropriateness of extending community service to juveniles.

9. (i) While welcoming the sentencing conference involving the judiciary in August 1996, a future conference involving the judiciary, police and prisons will advance further the redressing of the concerns which led to the former conference, and should therefore be seriously pursued.

9. (ii) Towards the same end a conference of the Bench, Bar, Faculty of Law, Police and Prison is likely to serve similar end, and the Prison Service is encouraged to take the initiative to bring it to fruition.