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Policy Brief 1

Protecting the right to human dignity in prisons

Executive Summary

The right to human dignity is one of the fundamental rights afforded to a human being by virtue of being human irrespective of nationality, race, gender, religion, ethnicity and sexual orientation. Human dignity is a universal concept referred to in Zimbabwe's Constitution. At international law level, there are a number of instruments that protect the right to a prisoner's human dignity. These include the United Nations Standard Minimum Rules on the Treatment of Prisoners (also known as the Mandela Rules) and the Bangkok Rules. Zimbabwe is bound by the above cited international instruments. Thus, the State has an obligation to ensure that prisoners are treated in a manner that respects their human dignity. These obligations have been domesticated by means of certain provisions that are entrenched in the Zimbabwean Declaration of Rights (Chapter 4 of the Constitution)¹. Section 51² of the Constitution of Zimbabwe recognises the right of every person to have their human dignity respected and protected regardless of their circumstance. People who are convicted of crimes are also entitled to have their dignity respected and protected in terms of Section 51 of the Constitution.

The right to dignity for prisoners entails that citizens are to be treated humanely even when they are in detention. It recognises that incarcerated people are valuable and deserve to be treated with dignity. The right to human dignity entails absolute prohibition of torture, provision of adequate material conditions (including sufficient food, water and access to healthcare), security of prisoners in detention and operating fair and just rules and procedures, which do not

¹ [Constitution of Zimbabwe Amendment \(No. 20\) Act, 2013](#)

² [Constitution of Zimbabwe Amendment \(No. 20\) Act, 2013](#)



discriminate, but rather



promote



respectful relations between staff and detainees. This policy brief will discuss how the right to dignity in prisons is being respected and implemented in Zimbabwe's prisons.

Problem description

The baseline study conducted by the Research and Advocacy Unit (RAU) reveals that Zimbabwe's prison and correctional services system is currently in violation of the right to human dignity and does not meet international norms and standards to which Zimbabwe subscribes in a number of respects. The study reveals that Zimbabwe prisons have physical structures which are in sorry state exposing prisoners to inhuman and degrading living conditions. The prison system is not structured to handle vulnerable groups such as women, children and people with disabilities. The infrastructure was specifically built to accommodate male prisoners only, thereby making prison conditions unbearable and discriminatory in nature to the female offenders. Regrettably, these conditions do not meet the basic human rights needs of the female offenders, children accompanying their mothers and people with disabilities. This has also affected juveniles who are housed in the same cells with adults due to inadequate infrastructure. The Zimbabwe Prison Correctional Services is not well equipped to deal with people with disabilities. People with disabilities face difficulties in communicating with the justice delivery system unless it is provided in a mode that is accessible to them. Thus, having the appropriate support to cater for their special needs is important to ensure that they have access to justice on an equal as others.

In addition, inmates are entitled to government support in the form of basic necessities essential for their welfare and development. For confined female there is inadequate sanitary wear and other sexual reproductive health rights services. Additionally, findings from research undertaken



government has been struggling to fully meet the basic needs of inmates, especially with respect to their rights to health, food and nutrition, clothing, shelter, safe environment and recreation due to constrained economic space. As a result of the overcrowding of prisons, there is no correct proportionality between the ZPCS staff and inmates. This has forced the ZPCS to cut down the hours inmates can spend outside their cells. The shutdown time is 16:30 pm which is too early for one to sleep, it is suppressive and an adjustment should be made so as to allow the inmates more time out of their cells.

More so, in relation to dignity there is also the issue of employment after one has served their sentence. When an inmate is released they are integrated into the community and one of the key necessities is finding means to survive. In many cases they try to find employment however, employment opportunities are scarce because most employers have strict policies which do not accommodate ex inmates. This discrimination enhances stigmatization, despite one having a criminal record they should not be denied their right to employment prospects which should be awarded to all equally. Thus, strategies geared towards changing employment policies which do not accommodate employment of ex-inmates should be formulated both in the public and private sector. It should be taken into cognisance that rehabilitation is not so that ex inmates become employable but its main aim is for them to be self-sustainable after their sentence.

Furthermore, in the draft Prison Act Bill there are stipulated provisions that specifically cater for children accompanying their mothers to prison however, there are no food allocations for them they have to share their mother's portion. They are also not given clothing and other materials to cater for their welfare. Therefore, it can be noted that, the prisons budgetary lines do not include children accompanying their mothers to prison. The Zimbabwe Prisons Correctional Service (ZPCS) should also construct special accommodation for pregnant women and lactating mothers which caters specifically for their needs and those of their children. Safe homes should also be

³ Precious Sibongile Mtetwa (2017) A Critical Analysis of the Government of Zimbabwe's obligation to Uphold the Rights and Welfare of Children Living with their Incarcerated Mothers: A Case Study of Chikurubi Female Prison, Post Graduate Diploma in Child Sensitive Social Policies, Women's University in Africa

their mothers to prison so that they will not be exposed to prison life. The prison budget should cater for the welfare of children.

Recommendations:

The following is therefore recommended:

- The Ministry of Justice, Legal and Parliamentary Affairs should review the Prison's Act for it to be in line with international practice.
- There is need for strict adherence and implementation of legislation in prisons on the treatment of inmates following international and domestic human rights principles.
- There is need to improve living conditions for all inmates.
- The correctional officers should be trained on a human rights based approach treatment of prisoners
- Provision of access to clean portable water and sanitation for hygiene purposes.
- Provision of specialist services like gynecologists to women, pediatricians for the children as well as palliative care.
- The Treasury should adopt child programming in budgeting in order to meet the basic needs of children accompanying their mothers to prison.
- There is need for a gender responsive budgeting mechanism to be put in place.
- Establishment of the open prison system for pregnant and lactating mothers as well as juveniles.
- The Zimbabwe Prisons and Correctional Services should develop and implement clear guidelines outlining the conditions that are appropriate for the admission of children of incarcerated mothers.
- The Zimbabwe Prisons and Correctional Services should ensure the separation of juvenile offenders from adult offenders.
- There is need for the adjustment of the shutdown time from 16:30 pm to give inmates a considerable amount of time outside the cells.

- The prison population should be decreased by issuing parole or pardon for inmates serving sentences for minor offences and establishing new prisons.
- The State should focus on improving the lives of inmates with disabilities by developing disability friendly infrastructure ramps and the provision of sign language interpreters and Braille material.