Conjugal visits in African prisons: Challenges and Opportunities

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Teasing out the Issues

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A conjugal visit is a scheduled period in which an inmate is permitted to spend some time in private with a visitor, usually their legal spouse.

African Prisons are facing various challenges and in prison conjugal visits could be costly.

Alternatives are thus critical as conjugal visits have been said to maintain the bond between inmate and spouse, encourage good behaviour and support re-integration among other things.
Prison visiting programs are predicated on the idea that the maintenance of social relationships is beneficial both as a reward system for controlling inmate behaviour and as a means of increasing the likelihood of successful post release re-entry into the community.

Generally, visits are inadequate in their current forma due to various restrictions such as lack of physical contact, lack of privacy, long waits, short visits and poor environmental conditions among other things and this contributes to the small number and low quality of visits.

The situation for female inmates is worsened by a number of factors such as limited number of purpose built prison facilities which often results in their being detained in facilities that are far away from home, rejection of female offenders by society and a number of interlocking oppressions such as poverty and lack of funds to travel to prisons for such visits on the part of partners, children and relatives.
Options For improvement

- Prisons have been transformed from punishment institutions designed to fulfil the community’s revenge on the offender to institutions designed to reform, rehabilitate and reintegrate prisoners into the community so that they become productive individuals away from the world of crime as far as possible.

- In light of the above positive developments, there are four or so options which could be adopted by prisons in Africa to accommodate various types of visits for the benefit of inmates as follows:
Family visits with no barriers

- This involves a possible park atmosphere with no barriers and it is currently doable with a little creative management. Examples are as follows:

- In Zimbabwe such a visit is only available at Connemara Open Prison.

- A colleagues from Kenya shared information on Open days where inmates are allowed to spend a day with their families once in a month sharing food and quality time with limited supervision by the prison authorities.

- Uruguay Punta de Rieles Open Prison is a typical example. The prison is like a village which mimics the outside world as closely as conditions can allow. Families can visit three times per week.

- Contact visits which take place in designated areas with tables, chairs and, in some cases, games are available to play. These visits take place under surveillance and allow extremely limited physical contact—usually just a hug and a kiss, lasting under 15 seconds, upon entry and exit.

- Some facilities in the US allow for outdoor visits that include cooking and picnicking in lower-security classifications, or longer visits with family in supervised visitation rooms, but do not provide for overnight visiting.
Extended live in options

- Extended live in options with the whole family, including children, which may or may not have a conjugal element is also another option.
- Emphasis is on maintaining family relations for inmates.
- Internationally, some prisons allow families to spend a weekend with their incarcerated relative at least four times a year.
- Some Extended Family visitation programmes offer unsupervised visits that last for three to five days and take place on the facility grounds, in small apartments.
- These visits are an essential part of a child’s life because when a parent is incarcerated, it has profound consequences on the emotional, psychological, social, and financial well-being of the children left behind.
In– prison Conjugal visits

- The original concept of conjugal visits was mainly to create an opportunity for inmates to have sexual contact with spouses for a scheduled time while in prison.

- Today, the main purpose of these visits is to preserve the family unit hence they are called extended family visits.
The first programme started in 1918, when James Parchman, the warden at Mississippi State Penitentiary, then a labour camp called Parchman Farm, wanted to encourage the African–American male prisoners to work harder.

Apparently, prison officials believed African–American men had stronger sex drives than whites, and would not work as hard in the cotton fields if they were not sexually satisfied.

Today, conjugal visits are called extended family visits (or, alternately, family reunion visits) as their main purpose is to preserve the family unit.
An Open Prison is defined as minimum security prison, open camp or prison without bars in which prisoners are trusted not to escape. Inmates have the following benefits:

- Five days per month Home leave thus accessing conjugal visits at their expense.
- 10 visitors with direct contact from 10am to 3pm without a conjugal element though
- The Open Prison system in Zimbabwe has proved to be a success as very few inmates have escaped from the prison and a few if any have re-offended after passing through the system. For instance only 2.8% escapes have been recorded over a period of 15 years.
Operationalising the various options

- There has already been a paradigm shift from conjugal to extended family visits in states that offer the programme.

- Visitors, especially children, may benefit tremendously from the ability to build and sustain more meaningful relationships with their incarcerated parent or family member.

- Thus the importance of the family and community in establishment of through-care for prisoners and offenders starting from the point of reception into prison to the point of release into the community cannot be over emphasized.

- The African context presents different opportunities, experiences as well as challenges. Creative initiatives in promoting effective family and community involvement in the treatment and rehabilitation of offenders are important for all African countries.

- Africa must be alive to the fact that there are already challenges to do with under resourcing of prisons and adopt measures which are practical and relevant to her situation.

- There should be a willingness to maintain contact between inmate and family for rehabilitation.
Indeed, more generally, the positive impact of visitation on both family visitors and on prisoners has been well documented. But to reap these benefits, African Prisons must be willing to invest the resources to establish, maintain and administer family visitation programs. They must also be willing to take on the liability that inevitably comes with extended, unsupervised visits.
Locally, there have been some calls for, and debates around the issue of conjugal visits.

However, conjugal visits have not been introduced as the Correctional Service is still burdened with a number of challenges which are seen as having greater priority.

These challenges are not peculiar to Zimbabwean Prisons and Correctional facilities as they apply across most African prisons.

Inmates at the only open prison in Zimbabwe have access to conjugal visits as they visit home for five days per month.

There are a number of opportunities that are associated with the Open Prison set up. For instance, the issue of knowing the number of spouses and setting parameters as to who is considered a spouse falls away once inmates are allowed to go home.

Possible violations of personal rights of inmates posed by the need to protect the inmate’s spouse from STIs are reduced as the burden is shifted to the inmate and his or her spouse.

Also regulation of visiting times, security and infrastructure are shifted from the state to the individual.
Both the Mandela rules and the Bangkok rules are clear that conjugal visits must be enjoyed by male and female inmates on an equal basis.

However, in most prisons female inmates rarely get the privileges that men get because they are usually few in numbers and suffer discriminatory policies. For instance, in Brazil female inmates rarely participate in conjugal visits.

Female inmates have more challenges to deal with already and these include, among other things lack of access to medical care which include antenatal care for those who are pregnant and those with children in prisons, there are no facilities such as pre-schools for children in prisons and sanitary wear is not readily available in most cases.
African prisons are already grappling with limited facilities for children accompanying their mothers to prison wherein there is lack of food and accommodation facilities for pregnant mothers and their children. These are mainly challenges associated with under resourcing of the services by fiscus.

The Bangkok Rules note that the principle of non-discrimination requires States to address the unique challenges that women prisoners face and to take into account their gender-specific needs.

This principle also requires States to take into account and address the disparate impact of criminal justice strategies on women and children. Thus, States have a duty to provide similar facilities for both male and female offenders.

The Open prison system seems to be the easiest way to address the issue of conjugal visits.

However, there are challenges associated with the societal expectations about reproduction as a woman’s role. Would States consider regulating the taking of contraception as a quid pro quo for family visits by female inmates, or would Correctional Services accept the reality of this role of women and take care of the resultant children?
Severe overcrowding is a common challenge in most African prisons and the prison population has been growing at a fast rate due to various reasons including the introduction of mandatory minimum sentences; overuse of imprisonment sentences; and an increase in criminal activity due to economic challenges and conflicts in some states. Additionally, many prisons are situated in old infrastructure constructed during the colonial era.

In the countries that allow extended family visits in prisons, their infrastructure has been adapted specifically to allow for this. The next question would be to ask whether African prisons are ready to provide such additional infrastructure when they suffer from other critical challenges and constraints.

Further, there is a challenge of inadequate dietary provisions as many prisons struggle to provide the very basic subsistence food such that cases of malnutrition and pellagra exist among the inmates.
Financing—Cost efficiency

- From the above discussion, it should be noted that, extended live in options and conjugal visits could be costly, because they would require institutions to construct modular or mobile homes and secure them within appropriate fencing or walls among other things.

- Political obstacles to developing family visitation programs in other States might include the difficulty of appropriating funds for prison programming, especially in times of widespread budget deficits.

- There is need for Africa to adopt options that are cost efficient in light of the various challenges that are already faced by its Prisons, Correctional or Penitentiary facilities.
For In-Prison conjugal visits, extended live in options and family visits without barriers:

The need for strict security and continuous security checks would be a challenge where prison staff might be limited in terms of numbers and have other duties to perform.

In some States, inmates and their visitors are made to line up for inspection every four hours throughout the weekend visit, even in the middle of the night for security purposes.

After the visit, both inmates and visitors are searched, and inmates typically have their urine tested to check for drugs or alcohol, which are strictly prohibited.

Family members must undergo a background check before being allowed a visit, for some, a spouse must be registered with the prison visitor list.

In Zimbabwe, background checks are currently being done already although under special circumstances and especially for inmates with mental health issues.
Given that African prisons deal with high infection rates of HIV and sexually transmitted infections (STIs), how would prisons conduct frequent tests for STIs on inmates in order to identify those who test positive? What does our legislation provide regarding the issue of the rights of individuals to privacy? Would inmates be willing to forfeit their constitutional right to privacy in order to participate in such programmes?

The definition of marriage could be a mind boggling issue for Africa, issues such as the definition of a spouse could be an issue. Underlying legal relationships between individuals are not the same with Europe. For instance, in Zimbabwe there are three types of marriages and all of them are recognised by the law at different levels. Where should we draw the line, who is a spouse.

However, some states have adopted a liberal approach to the issue of conjugal visits, for instance, in Saudi Arabia, male inmates can have one conjugal visit each month. But that rule applies to each spouse, so men with multiple wives can have multiple visits each month.
There might be need to adopt the Saudi approach whereby reliance is made on those listed by the inmate as spouses and those with multiple wives are granted the opportunity to have them visiting at different occasions. The main question that remains however is, when should the names be listed, are additions to the list allowed during the term of sentence.

The other issue is monitoring of the visits and security. For instance, in Afghanistan, an inmate’s wife was found dead in a small private room used for inmates to see their wives and he confessed to her murder citing that it was because his mother had told him that his wife had affairs. How can such unfortunate incidences be avoided?

The American experience is that although contraceptives are provided for inmates to use during conjugal visits, children may still be conceived during such visits and this creates a situation whereby they are raised by a single parent, usually the mother. Given the high divorce rate and the high numbers of single parents, this could present a further societal problem.
For Open prisons the criteria used in Zimbabwe is such that the prisoner must have been sentenced to an effective sentence of 2 years or more, have served at least 12 months of their sentence in a closed prison and have 12 to 24 months still to serve. Further the Prisoner must have proved to be trustworthy and hardworking such that he needs little or no supervision.

Prisoners convicted and sentenced for murder, rape, carjacking, armed robbery, kidnapping, house breaking and stock theft or having used any unwarranted violence against a person do not qualify. Prisoners sentenced to an extended term of imprisonment, or life imprisonment, escapees or recidivists do not qualify for selection.

Inmates over 60 years old qualify regardless of the crime committed but do so at the discretion of the officer in charge. (‘D’ Class inmates do not qualify). Prisoners must be of fixed abode, have positive identification and must be in constant contact with the family.

Therefore, the criteria for open prisons selection is already available and could be relied on as it is almost similar to the one in countries that are offering conjugal visits already where they are an incentive for good behaviour and those inmates who are in low to medium security prisons have been identified to qualify.

A D class prisoner is defined as a maximum security risk prisoner, the inmate must have been sentenced to a period of 7 years and above.
Aerial View of Zim Open Prison
Options in General

- There is a lacuna associated with those inmates who would not qualify for open prisons and other measures. There are inmates who could be serving long term sentences yet they might not meet the open prison selection criteria. And the key question would be what does it take to provide such facilities for such inmates.

- Considerations could be made to accommodate them in extended family visit programmes in prisons. The Experience in Uruguay prisons shows that a number of inmates could be accommodated in open prisons regardless of offences committed and their sentences.
Prison policies and practices reflect to some extent the general philosophy of a country. However, in the past many prison practices originating in one part of the world have been adapted successfully to countries with other cultural backgrounds. Not automatic adoption of foreign practices but reflective adaptation is often possible. Is it not possible that in African States a more reflective and experimental attitude towards marital contacts is needed? There is room for experimentation with home leaves.

Home leaves and family residence in prison colonies place the emphasis on the whole complex of married life and family relationships—psychological and social as well as sexual. Thus they build on the original concept of conjugal visits which emphasised only the physical satisfaction of sex. It was found that internationally, the trend is toward expansion of total-family contacts.

There is a need for further research to identify obstacles, in policy or practice, to frequent and high-quality prison visits and to harmonise best practices. Administrators and academics have important roles to play in improving visitation policies, but so too do prisoners and their families, who most directly confront the difficulties of maintaining contact during incarceration.
Prison Visitation Programmes are part of the broad Correctional System which must be improved

Thank You