TRANSFORMATION OF THE AFRICAN CORRECTION/PRISON SYSTEMS: A CRITICAL AGENDA

Minister of Justice/Attorney General

Republic of Rwanda

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Introduction

• Contemporary African correction/Prison systems are not historically African responses to African problems
• Correction/prison systems inherited from colonial systems served another agenda
• The need to transform and harmonise is inevitable
2. Pre-colonial African Correctional Systems

2.1. Main characteristics

- Incarceration was rare;
- Detention of criminals, prisoners of war, slaves and others did take place but was usually secondary to some other purpose;
- Detention was not regarded as a specific form of punishment;
- Criminals in the smaller decentralized African societies were usually detained by being chained out in the open;
- Some centralized states of West Africa did possess physical prisons, used for detaining political prisoners, or accused persons awaiting trial and punishment by other means.
2. The philosophy behind the system

- Imprisonment was not regarded as a suitable form of punishment for ordinary offenders. It became widespread only towards the end of the nineteenth century.

- Compensation for the victim for common injuries was fixed in some communities like in Kikuyu law which provided “nine (9) sheep or goats had to be paid for adultery or rape, and one hundred sheep or ten cows for homicide”, regardless of the age of the victim or the wealth or intention or motive of the offender.
22. Pre-colonial African Correctional Systems (ctd)

2.2. The philosophy behind the system (ctd)

- Corporal punishment and death penalty were rarely used in the traditional societies of East Africa;
- The death penalty was regarded as an exceptional punishment of last resort, used only to protect the community from real dangerous offenders;
2. Pre-colonial African Correctional Systems (ctd)

2.2. The philosophy behind the system (ctd)

- Prisoners of war were liable to execution or were sold into slavery in some parts of Africa.
- In Rwanda, they were slowly subjected to a series of civic education trainings and transformed into Rwandans to be deployed later in war, politics and diplomacy.
- A significant punishment in pre-colonial times was to ostracize or banish the offender.
2. Pre-colonial African Correctional Systems (ctd)

2.2. The philosophy behind the system (ctd)

- **In sum, the main focus of penal systems in African traditional societies was to secure compensation for the victim, that would translate into punishment of the offender.**
- **Compensation was to restore the equilibrium of society.**
- **The family of the offender was usually held collectively liable to pay compensation for the victim.**
3. African Correction/Prison Systems in the colonial period

3.1. Main characteristics and their bases

➢ *Rapid development of imprisonment as a punishment:*
  • A comprehensive series of prisons ordinances was issued and jails built in all new administrative posts of the British territories (Freetown: 1816, Ghana:1850, Nigeria:1872 (the Broad Street Prison), Zambia(Northern Rhodesia):1924, First Prison at Fort Jesus in Mombasa for the East African British Protectorate (1894)...;
  • In French West Africa, white administrators were permitted to sentence Africans to 15 days in prison without trial.
  • A variety of facilities were provided: Within each Police precinct “security rooms” known as “Cachots”, “Maison d’arrêt” at the District level, and a larger Prison known as “Maison Centrale” for those sentenced between 6 months and five (5) years’ imprisonment in the Capital of each Colony and a larger fortified Prison known as “Pénitentier” at the federal level.
  • a very few, if any, African were educated in formal labour or trade, transport was on foot warfare was rudimentally,... these persons were mainly to suppress resistance against the colonial state.
3. African Correction/Prison Systems in the colonial period

3.1. Main characteristics and their bases (ctd)

- *Antiquated facilities, chronic overcrowding and social control:*
  - due to the struggle to establish colonial and racist control over indigenous populations;
  - A high percentage of the indigenous adult population subjected to arbitrary detention;
  - Administrative imprisonment was used to act compulsion to enforce tax collection, forced labor, or cultivation, and to provide to colonial companies with a constant supply of cheap labor;
  - African prisons were employed not only to control crime, but also to impose colonial control on indigenous population.

Such policies resulted in penal facilities which were chronically overcrowded.
3. African Correction/Prison Systems in the colonial period

3.1. Main characteristics and their bases (ctd)

- **Corporal and capital punishment:**
  - Extensive use of corporal punishment, both as an alternative to and in conjunction with imprisonment;
  - The main purpose of the colonial prison was not to promote social harmony within African society but rather to secure white sovereignty and control. For this reason, corporal punishment formed an important part of the penal systems of most colonies.
  - Corporal punishment was regarded as ideal to show the power of white colonial sovereignty upon the “brutal savage” and to guide the “childlike Native” towards civilized values.
  - Capital punishment served as a symbol of colonial domination and authority.
  - In Belgian Congo, capital punishment and public executions were permitted many years after such sentences had been outlawed in Belgium.
3. African Correction/Prison Systems in the colonial period

3.1. Main characteristics and their bases (ctd)

- **Racial discrimination in prison facilities:**
  - Discrimination and segregation of inmates on the basis of race was an important factor touching Human rights and equality;
  - Racial discrimination within the prisons of colonial Africa often manifested itself in different dietary scales which applied to different race groups, with serious consequences for the human rights of prisoners who found themselves classified in the most poorly fed groups.
3. African Correction/Prison Systems in the colonial period

3.1. Main characteristics (ctd)

➢ *Imprisonment of Women*

- According to several authors, women offenders experienced worse conditions of confinement than men;
- They were subjected to greater abuse;
- Female prisoners suffered neglect, sexual abuse, forced labor without wages and harsher exclusion than male convicts. As a result, women’s health and psychological security deteriorated dramatically in prison.
4. Post-colonial African Correction/Prison Systems

4.1. General and common characteristics

No substantial change in philosophy happened. Mainly guards changed. That time is also characterized by:

- Society had not been “civilized”, education, economies, health, civil and political rights were all in shambles
- Post World War II realities - returnees agitated for self government
- Crumbling infrastructure and overcrowding;
- Aggravation of the situation by political oppression and economic collapse;
- Continued use of corporal and capital punishment;
- Long delays in awaiting pre-trial delays;
- Lack of separate facilities for juveniles;
- Activities of prison gangs;
- The later scourge of HIV/AIDS;
- Rampant corruption
- Moral and value system decadence
Efforts to confront the challenges above mentioned are not new.

5.1. The Kampala Conference

In September 1996, 133 delegates from 47 countries, including 40 African Countries, met in Kampala, Uganda, to discuss Penal Reform in Africa. After deliberations, they produced the Kampala Declaration on Prison Conditions in Africa which, it was hoped, would set the agenda for prison and penal reform in Africa in the years that followed.

One positive outcome of the Kampala Declaration was the appointment of a Special Rapporteur on Prisons and Conditions of Detention in Africa.
5. Transformation of African correction/prison systems (ctd)

5.2. The Ouagadougou Pan African Conference

- **Ouagadougou Declaration on Accelerating Penal and Prison Reform in Africa.**

**Main recommendations** were:

- Develop measures reducing prison population
- Making African prisons more self-sufficient
- Promoting the reintegration of offenders into society
- Applying the rule of law to prison administration
- Encouraging best practice
- Promoting an African Charter on Prisoners’ Rights
- Looking towards the United Nations Charter on the Basic Rights of Prisoners
5.3. A brief Overview of the Rwandan experience

Rwanda shares common challenges apart from some particularities due to its unique history:

- No prison during the pre-colonial period;
- The **first and biggest Prison** was constructed in **1930**
  
  N.B: National University (**1963**) and the Kigali Hospital-CHK (**1965**);
- The Post independence penal system was used abusively by successive regimes to incarcerate political opponents especially along ethnic lines
- Prolonged periods of preventive detention were also used.
- In 1994: Following the genocide against Tutsi, the penal system had to cope with a massive influx of detainees suspected to have been responsible for the genocide.
- Prison infrastructure was not just insufficient, it was badly dilapidated.
- Conditions within Rwanda’s prisons were very poor, with a prison population five times its maximum capacity.
Government measures to address challenges:

- GACACA Courts;
- Introduction of an alternative sentence (TIG) with incentives for truthful confessions and guilty pleas;
- Abolition of the death penalty;
- Construction of more spacious and modern prison facilities (we have now four modern prisons, one hosts prisoners from Sierra Leone);
- Adoption of amended Laws on Prison’s Services;
- Transformation of the Prison Service into the Rwanda Correctional Service since 2011;
- Introduction of new programs aimed at reeducating, rehabilitating and facilitating reintegration into society.
- Exploring other ways of correcting as alternative to prisons.
5.4. Requirements for the African correction/prison systems transformation

5.4.1. Identification of major challenges

- Inadequate budget for core business delivery.
- Overcrowding – negates/undermines all plans and also impacts on safety and security of all, i.e. prisoners, facilities and community.
- Inadequate professional capacity for effective deliverance
- Public passion for custodial sanctions – hindering implementation of alternatives.
- Protection of the Public, recidivism, reform issues.
- Lack of appropriate Monitoring & Evaluation Tool Kit to measure effectiveness of core business delivery.
- Lack of appropriate/ideal Policy Frameworks as basis for professional corrections.
5. Transformation of African correction/prison systems (ctd)

5.4.2. *observation of the core business of Prisons/Corrections*

- Safe custody of all legally detained prisoners
- Elaborating Socio-psychological programs and Services for offenders;
- Wider perspective in crime prevention and control;
- Contribution to Public Security;
- Ensure conducive environment for socio-economic prosperity.
5. Transformation of African correction/prison systems (ctd)

5.4.3. Continuous review of policies that govern major areas

Examples:

- Administration;
- Offender rehabilitation/correction/reform/re-education;
- Case Management;
- Inmate Rights and the Treatment of Offenders;
- Security;
- Health;
- Discipline.
5. Transformation of African correction/prison systems (ctd)

5.4.5. **Regular alignment of Policy Issues**

Apart from Objectives and Statements on Cross-cutting Issues of Gender Equity, Combating HIV/AIDS, Prevention and Combating Corruption and Environmental Management, some policy issues should continually be borne in mind as we move forward. A few examples:
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<td>Prisons/Corrections are part of Criminal Justice System but have greatest impact on human rights of individuals.</td>
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<td>Effective Corrections must believe that offenders have potential to reform. Crime deterrence and prevention of repeat offending should be a key strategic objective of corrections.</td>
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<td>For some offenders Non-Custodial Correctional Programmes are enough.</td>
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<td>Protection of public requires correct decision making about offenders, hence need for Scientific Risk Assessment and Risk management by Prisons/Corrections.</td>
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As stated in the title of this short presentation, African correction/prison systems need to continuously be transformed, environments in which rule of law reigns, human rights respected and human beings corrected, rehabilitated, renewed and helped in regaining hope for future adventure.

The task of transforming correction/prison system cannot go alone, without transforming the whole criminal justice system and involving all stakeholders including CSOs, DPs and Private Sector.

For Africa, Countries and Correction Services must continue establishing bilateral, sub-regional and regional cooperation to harmonize systems, exchange information and enhance collaborative mechanisms to upgrade the standards.

Together we can do better!
THANK YOU