THE PARADOX OF PRISON REFORMS

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ABSTRACT

Prison Reforms is an attempt to improve prison conditions to be more effective in the containment and rehabilitation of inmates (Wikipedia Encyclopedia). It involves improving the various aspects of imprisonment such as meals, accommodation and medical care among others. However, whereas prison reforms is a global undertaking; in some countries, particularly in the United States of America, there is in place the “less-eligibility principle”; a position that prisoners should receive no government service or programme that is of superior quality to the services or programmes available to the free citizens without charge (Bohn and Halley 1996; 347). Such services include training and other provisions that the free, law abiding members of the society can neither afford nor access. This principle however, does not guide prison reforms in developing countries such as Kenya; thus an attempt to improve the hash prison conditions, occasioned by the pressure and campaigns by the non-governmental agencies has created other problems that negate on the reformation and rehabilitation of offenders. This paper begins by assessing the typology of inmates in custody, and discusses the unintended negative effect of prisons reform: the inmates’ indiscipline as established by a University of Nairobi study (Mbugua 2011), among other intricacies of prison reforms.

Keywords: Sociology, Prison Reforms, Rehabilitation of inmates

THE THREE BROAD CATEGORIES OF INMATES

In police and prison cells, there are three broad classes of offenders, either as remands; the not yet convicted, awaiting the conclusion of their criminal cases in courts, and the prisoners; the convicted lot, those serving imprisonment terms lawfully awarded by the courts. They can be placed in three broad groups, based on their behaviour and attitudes when in and out of custody: the visibly helpless petty or situational offenders, the psychopathic criminals, and the unremorseful hardcore, capital offenders. To distinguish the three, below are their detailed characteristics.

The visibly helpless; petty, situational offenders
This group is the majority in prisons and remand homes; they form about sixty percent of the total custody population. They are normally first time offenders and are visibly scared and helpless. In most cases they are petty offenders who for example committed petty offences to meet their physiological needs, some are charged with being in possession of bhang (canibas sativa) or chang’aa (traditional liquor). In committing these crimes, they don’t carry any weapons; therefore, did not hurt anybody in the process and they don’t give the police hard time to arrest. These people are normally poor thus can’t afford legal representation in court. A majority of them commit crimes from the point of need, that is; they are forced by the unbearable circumstances or situations.

Another group in this category are those who committed felonies such as manslaughter and grievous bodily harm, normally in fights with the victims because of interactive differences, or they
were defending themselves from the victims, who attacked them first, or both of them or either one was drunk when a fight broke out. In this group also are drivers who caused fatal road accidents and other professionals like doctors, police and prison officers whose victims died or suffered great injury because of their recklessness or negligence. These offenders can be in prisons custody when already convicted and cannot afford fines or when still under trial but cannot afford bonds and cash bails. A remarkable characteristic of this category is their respect for prison rules and authorities while in custody.

The psychopathic criminals
Though this category of criminals, are guilty of the crimes committed, insanity (mental sickness) is their defence, and so they are viewed not worthy of any sort of punishment. This position is based on the McNaghten rule. The psychopaths commit such crimes as murder, assault, rape, destruction of property, arson e.g. by pyromaniacs. The Psychopaths are normally sentenced by court to prisons for safe custody i.e. to protect the society from them and vice versa as they continue with medication, and should not be as a form of punishment.

The unremorseful; hardcore, capital offenders
This is the third category of inmates in custody. They possess dreadful behavioural characteristics and engage in various crimes in which they specialise; for example, some are serial killers, bank robbers, carjackers, and burglars. Majority in this category are men, but have recruited ladies in their operations to lure, and or confuse their victims, or just help in carrying fire arms undetected. Therefore, this is the cause for the increased number of women involved in violent crimes; this is confirmed by the press report “Woman seized with 3 guns and 61 bullets in her bag.”

The majority of criminals in this category are not in crime because of poverty but greed. They have just decided to live in crime. Some are jailbirds who know their way out if arrested by police and charged in court. Because of this, they are deviant and unremorseful. They commit capital offences such as rape, murder, robbery with violence against banks, supermarkets and individuals, hired killing, carjacking, and burglary. In action, they use lethal weapons and force, and in most cases operate under the influence of drugs to make them daring. Their hands are full of blood, and they are not ashamed of it. So outside the courts, they easily talk boastfully about the same, as was reported that one of them at Shimo la Tewa prison in Mombasa, told a member of the Parliamentary Committee on Administration, National Security and Local Authorities that he would kill again. This member, talking to the press later on said, “People on death row can be daring…some are criminals and accept that they are, one in Shimo la Tewa, said his hands smelt blood and that, if released he would kill somebody again.”

This category is the most troublesome in our prisons. They are very disrespectful to the authorities and regulations.

THE PURPOSE OF PRISON REFORMS

Prison reforms entail a variety of changes that are implemented to enhance the general management of prisons and improve its conditions in line with existing national and international human rights standards. The changes are expected to influence inmates to voluntarily initiate self-transformation by acquiring lacking social and vocational skills which will enable them become productive and normally functioning citizens of society after imprisonment (Adler, F.et.al 1995).

The reform interventions introduced in the world penal institutions including African countries are, in opening up prisons through open door policy, improvement of provisions to the inmates, such as housing, clothing and beddings, reviewing of penal laws, improvement of rehabilitation programs e.g. provision of social and spiritual counseling, formal education, vocational training, recreational activities and using alternative means to imprisonment to reduce prison overcrowding (KNCHR, 2005; PRI, 2001).

The open door policy has also been part of prisons reform in many countries across the globe. In African penal institutions such as in Uganda, Zimbabwe, and Nigeria, this policy has seen stakeholders’ participation encouraged and their work reflected in rehabilitation, improving prison conditions, human rights, legal reforms, access to Medicare among
others as a means of reforming the prison institutions in these countries. (PRI, 2003; KNCHR, 2005).

In Kenya, due to the deplorable conditions of prisons prior to 2001, slow legal process and administration of justice, a defective Community Service Order (CSO), inadequacies in rehabilitation programmes, overcrowding, inhibited classification of prisoners, the Kenya Prisons Department embarked on a major reform programme which led to a shift from the closed system to the Open Door Policy to foster the emerging trends in global correctional developments. This policy shift embraced strategies that involved participation of all stakeholders in the management of prisons.

THE PARADOX OF PRISON REFORMS; INMATES’ INDISCIPLINE

According to Mbugua (2011) cases of inmates’ indiscipline in Kenya has increased from what it was before reforms both in terms of the severity and the frequency of the acts. The acts of indiscipline among inmates in Kenya that were not in existence during the pre-reform period i.e. before the year 2000 but became a day to day activity in the reform era particularly with in the years 2008 to 2011 include arrogance by the inmates, and disobedience towards prisons staff, strikes, food boycotts, refusal to be searched, disobeying other lawful orders, fighting the staff, and rampant drug and substance abuse particularly the abuse of cannabis.

The main reason for this rise in indiscipline is because the inmates were not prepared for the wide range reforms as the study found out. For instance while flogging and other forms of corporal punishment for indiscipline was abolished and replaced with confinement in punishment cells in the reforms era, to most prisons staff it does not deter indiscipline compared to the former; thus the inmates ignore what is expected of them. The findings of this study collaborates an observation made by the then Western Province Prisons Boss in 2004, that the “Inmates Abuse Prison Reforms; the Comforts, Making the Level of Indiscipline to Rise in Prison Institutions”.

The study also indicates that with the prisons reforms in Kenya most inmates became more aware of their rights and demanded for them; thus the riots and boycotts.

Several of these cases of the inmates’ indiscipline such as strikes and vandalism have also been reported by the media houses, and GOK (2008) which reported that prisoners smoke rolled bang substances in some prison institutions despite the prison reforms. The common indiscipline acts in media reports include but not limited to prisoners’ protests, strikes, boycotts and vandalism. For example at Lang’ata women prison the inmates on 16/11/2010 destroyed prison properties and assaulted prison officers when they were protesting against a search for contrabands in their cells. A picture of a seriously injured Kenyan prison officer; who was beaten up by Naivasha Prison Death row prisoners on 18/06/2003 recuperating at Naivasha hospital after he lost twelve teeth and his lips

A picture of a seriously injured Kenyan prison officer; who was beaten up by Naivasha Prison Death row prisoners on 18/06/2003 recuperating at Naivasha hospital after he lost twelve teeth and his lips.
badly damaged in the incident. It has been observed that the inmates abuse prison reforms making the level of discipline to deteriorate in prisons (Picture from Mbugua 2011).

Prison reforms, and the plight of the victims of crime and correctional staff

Again, even though it’s humane and godly to uphold human dignity by providing to the inmates adequate food, clothing, personal safety, and timely medical care. We must not underestimate the agony of the victims of capital offences such as defilement, rape, robbery with violence and murder when they imagine that the people responsible for their distress live in jails as though they are on a summer holiday, more so in developing countries where a majority of people live in squalid poverty.

Paradoxically, in such harsh economic conditions; prison reforms may become a recipe for high crime rate and congestion in prisons because some individuals would rather live in jail due to bread-and-butter prison life than face the cruelty of life in freedom.

Prison reforms that only target the inmates will also create an environment where prisoners lead happier lives than the warders whose pay and living conditions remain pathetic. For instance, the poor living conditions of the warders in Kenya was accurately described in a well researched article on Eldoret prison titled “warders who live more miserably than prisoners.” At the facility, warders were living in mud walled houses with leaking roofs. The investigations by this paper showed that some warders had replaced grass thatch with iron roofing at their own cost.8

Mbugua (2011) confirms this position, he established that the poor conditions of work of prisons staff stresses them, thus they many a times provoke the inmates due transferred aggression; this in end forces the inmates to fight back. The prison officers also feel that the government is concentrating so much on improving the welfare on the inmates at their expense thus they consider the inmates to be rivals.

This paper therefore emphasises that any prisons reforms which target only prisoners is doomed to fail in ensuring that our prisoners are reformed and rehabilitated because prisoners are not meant to rehabilitate themselves nor can a mere incarceration or better life in prisons. Prisoners are imprisoned to be rehabilitated and reformed by prison officers who come into contact with them on a daily basis; thus, the reforms must also aim at facilitating the officers to achieve this goal.

REFERENCES


Foot notes:-

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