

*Striking a balance between decongesting prisons and successful offender reintegration: a critical analysis of massive offender releases in mitigating against spread of COVID 19 in prisons*

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The World Health Organization (WHO) has deemed the Coronavirus (COVID -19) a world pandemic which has indeed brought disruptions to all spheres of life. The pandemic has brought forth a debate on the rights of the most vulnerable groups of the society inclusive of prisoners. Correctional institutions and prisons are generally characterized by among other things overcrowding and unsanitary conditions which have been highlighted by medical experts as that which can perpetuate the spread of the virus. Medical experts and human rights defenders or lawyers have called for reductions in incarceration levels to limit overcrowding and protect those individuals in custody who are at high risk of serious illness and death from COVID-19.

Generally, correctional institutions and or prisons are mandated to provide safe custody and rehabilitation of inmates and further ensuring that they go back to their societies as law abiding citizens. The ultimate measure of successful rehabilitation and reintegration of inmates is low recidivism rates by those who have gone through the correctional system and this principle is highlighted by Nelson Mandela Rules (Rule 4).

In emphasizing the importance of community involvement in prisoners' reintegration, *Basic Principles for Treatment of Offenders states that 'With the participation and help of the community and social institutions, and with due regard to the interests of victims, favorable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions'*. Notwithstanding the merits of this principle, we need to take into con-

sideration that the same community is also in dilemma of COVID 19 hence the governments need to engage a well- thought and careful approach, otherwise massively releasing inmates as seen in most jurisdictions is likely to bring more discrimination on the inmates and perpetuate further cycle of reoffending.

One of the preventive measures highlighted by WHO in mitigating the spread of COVID 19 is physical distancing of approximately 1-2 meters. With the worlds prisons being overcrowded, it has proved that the principle of distancing is not practical in correctional institutions hence one hears clarion call by all advocates of human rights and health practitioners that prisons need to be decongested to avoid the catastrophe of COVID 19 ravaging the prisons community. Indeed, it is imperative to highlight the notorious statement that good prisons health is good public health though there has been much debate as to the extent the policy makers address prisoners' health on the same principle. Those who call for the release have at least even prescribed the categories of offenders that could be released as; those who committed minor offenses, the elderly, women, juveniles and the other vulnerable classes of inmates. In adhering to the call, VOA News states that Ethiopia released more than 4,000 prisoners in an effort to slow the spread of the coronavirus. SABC reported that South African Minister of Justice and Correctional Services had announced the plan of the government to release 19000 prisoners who committed minor offenses under the parole dispensation in a bid to curb the spread of COVID 19 in prisons. According to the Zimbabwean newspaper, The Herald, 2528 prisoners were released on 4 May 2020 under the amended amnesty proclaimed by President Mnangagwa shortening their jail terms to time served. Italy released around 45,000 prisoners to stem the spread of the coronavirus.

Nevertheless, what has crossed my mind as a corrections practitioner is the fact that most of the inmates that will be released would not have gone through all the necessary prerelease processes. The question therefore is; what will be the repercussions of these massive releases that are being advocated for on these inmates? Are we likely to see higher rates of reoffending post COVID 19 because the offenders were released without proper diagnosis and consequent offender treatment? As a matter of fact, on 27 March 2021, SABC reported that “prisoners released from jail to reduce covid-19 transmission have been rearrested for crimes committed”. Offender rehabilitation studies have shown that it is imperative to address the circumstances that might have caused the inmate to commit an offense. Therefore, hurriedly releasing inmates because the states cannot afford to adhere to principles stated by WHO in mitigating against spread of COVID 19 might prove costly in the long run. Low risk offenders are often not able to participate extensively on rehabilitation and prerelease programmes making them more vulnerable to relapse. Even if the corrections system would provide best and effective rehabilitation programmes, without clear and well-structured re-entry programmes, offenders

remain vulnerable to reoffend. UNODC (2018:14) stresses on the importance of comprehensive interventions based on a continuity of care and provide support to offenders within and beyond the prison walls.

Therefore, governments need to reconsider whether it is productive that any other person who has committed a crime should be imprisoned. One lesson that one can deduct from the whole exercise is that our prisons are overcrowded with persons who have committed petty offenses, who if one were to play devil's advocate were not supposed to be imprisoned. We talk of the 'new normal' post COVID 19, and one is tempted to think of a new norm that does not heavily rely on imprisonment for those who commit petty crimes. Rather, governments should exhaust other alternatives to imprisonment as the new norm to ensure that prisons keep people who have committed serious offenses hence even if we experience another pandemic we will not be calling for massive releases because prisons are overcrowded. Furthermore, this could be an opportune time for countries to ensure that they built and capacitate prisons with good health standards.

As part of the recommendations, I strongly advocate for strengthened early releases programmes. These programmes where inmates are released based on good behavior enhance rehabilitation and reintegration prospects while at the same time reducing overcrowding. The most important aspect of these programmes is the involvement of the victim which makes the offender own up to the mistake hence rehabilitation and reintegration become a smooth process. Governments, should consider and implement alternatives to imprisonment inclusive of community sentencing especially for petty offences so that prison administration can dedicate the limited resources on the prisoners who are high risk.