

GROUP 2

MULTI-STAKEHOLDER COOPERATION TO PROMOTE VAWC OFFENDER REHABILITATION AND PREVENT REOFFENDING

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I. INTRODUCTION

Sex crimes and personal safety cases cause serious damage to a victim's mind and body. These acts are likely to become serious incidents and have a major impact on security and society, especially where offences pertaining to violence against women and children are concerned, and, hence, the need to prevent them. Various research has found out that deterrence will not rehabilitate criminals. Much effort has gone into the change of terminology prevalent in the criminal justice system such as 'corrections' instead of 'prisons'; 'offenders' instead of 'criminals'; 'children in conflict with the law' instead of 'juvenile offenders' and the derivation from traditional sentences of imprisonment to that of non-custodial measures.

Accordingly, we now look at rehabilitation *vs* punishment; therapeutic *vs* jurisprudential involvement; and all forms of alternative measures/programmes in lieu of imprisonment; to explore the best methods of social reintegration for the victims and the offenders alike. This is because violence against women and children (VAWC) has become a serious issue both internationally and nationally. It is said to cost millions of dollars a year and mainly affects the prosperity of a country. The lack of cooperation among the major stakeholders –the police, court and corrections systems as well as the multiple institutions providing services–costs a lot of finances to a state. It has been proved that the money spent in the criminal justice system has failed to produce the end result envisaged by the policymakers. Hence the fairly novel concept of multi-stakeholder cooperation approach by states contributes to the adherence of the 2030 Agenda for Sustainable Development in particular Goal 5.2 and Goal 16.2 as a method of 'policy' being translated into 'action' in each respective jurisdiction. Multi-stakeholder cooperation, as suggested hereinafter, will immensely contribute to the better utilization of finances as well as the facilities made available to each institute in rendering their respective services in order to organize the structure of the criminal justice system responsible for dealing with acts of violence committed against women and children where different stakeholders play their roles to achieve a common goal.

II. ISSUES AND CHALLENGES

A. General

In this context, multi-stakeholder cooperation to promote VAWC offender rehabilitation and prevent recidivism plays a prime role and the services provided by relevant multiple institutions are of essence. The victims and offenders vary from family members to strangers. The victims and offenders include males and females; adults and children; first timers and recidivists. However, it is observed that there is no separate category identified for VAWC offenders in the criminal justice system. The type of offences committed involve physical, sexual, psychological (mental), abuse and/or violence, including domestic violence. Understanding the overall picture of the case is vital for rehabilitation as the protection of the victim and rehabilitation of the offender becomes a hand-and-glove situation. In contrast, the various social welfare system may categorize the VAWC offenders, once admitted into their system.

Each rehabilitation programme must be country specific and individual specific as its impact is vital for the final result. The type, target group and quality will result in the total programme impact. The first issue is the social stigma. Once offenders become stigmatized, it is difficult to obtain jobs or reintegrate into their community. The second is the lack of places to live upon release, such as, safety houses, schools and workplaces. There is a high rate of crime due to lack of funds to promote after-care facilities and to create more infrastructure, which implies that the treatment process is not sustained.

B. Recidivism

Recidivism is caused by lack of aftercare services and discrimination by society after release. Plagued by social and economic crisis, where former offenders have little chance to have successful reintegration into society due to various social stigmas that exist in systems is a key factor for recidivism. They go back to the same area, same undesirable peers and criminal enterprises. It becomes a vicious cycle of arrest, conviction, sentence and a repeat of those elements. Factors that have been known to contribute to recidivism include ineffective intervention programmes, inadequate follow up after release, insufficient coordination and cooperation among related agencies, inadequate resources and infrastructure for youth rehabilitation services. Either the training facilities are inadequate to provide vocational skills that help them to build better career paths or there is bare use of the existing ones.

C. Rehabilitation

The rehabilitation process commences from the time that a complaint is made by the victim until the offender is rehabilitated and fully integrated into the society. This is, therefore, a complex and time-consuming process. The prevention processes with an intention to prevent recidivism, could commence at any of the envisaged stages such as general and specific; or at primary, secondary, and tertiary levels. The involvement of the key stakeholders such as police/prosecutor, system of courts and corrections (prisons) has to corroborate with all the services provided by multiple institutions such as probation, parole, legal-aid, human rights activists, health, education, religious priests, various NGOs, IGOs, NPOs, social welfare agencies, media including social media, community and volunteers. Legal Aid is a means to assist those without the financial capacity to engage the services of legal practitioners. Furthermore, their services could be in the form of psychological, moral and economic assistance, etc.

D. Juveniles

The juvenile justice system, consisting of both victims and perpetrators, operates according to the premise that youths are fundamentally different from adults, both in terms of level of responsibility and rehabilitation needs, usually between the ages of 10 and 20 years. The existence of the system is justified based on the need to prevent delinquency and to adopt protective measures which can guarantee opportunities to the juvenile to retake control of their lives and reintegrate into society. Poor education due to dropping out of school denies juveniles skills and knowledge to compete for socio-economic and other opportunities in the broader environment, which makes the juvenile feel useless and causes them to lose hope. As a consequence, many juveniles resort to habitual criminality.

E. Women

Most of the violent acts against women are not reported. Some of the reasons why most acts of violence against them could not reach the systems may be due to lack of knowledge to access / unavailability of assistance, absence of persons to confide in, hesitation of reporting to men including male police officers, fear of losing social / financial security and stability at home as well as the intimate relationship with the perpetrator.

III. BEST PRACTICES/RECOMMENDATIONS

In this context, if the public prosecutor could be included together with the police / enforcement unit to investigate into a VAWC incident and decide the best possible action, with an element of rehabilitation in the community of the victim and the offender, it will enhance the expedient disposal of a case. However, this could be employed in low risk, first time offenders and especially in domestic violence cases. Thus, the process of rehabilitation could commence at initial stages making the process of social reintegration very short. The assistance of the community, religious priests, psychologists and volunteer offices at this stage, working with the mutual understanding and respect for the roles played by each other would easily guide

them to apply the uniform process to achieve the end result envisaged by all, a successful rehabilitation and social reintegration of the offender who will abstain from reoffending.

Public-private partnership can be adopted with the addition of the restorative justice system. The court processes have more specific approaches at the stage of the offender entering the system of corrections, and at that stage, alternative dispute resolution methods (ADR) could be used to solve a dispute which is legally binding to facilitate recidivism prevention.

Computerizing the information and statistics compilation on a daily basis, by one state body such as the Ministry of Justice and shared among the key stakeholders is mandatory. Furthermore, general statistical information could be shared monthly by all the key stakeholders and other institutions involved will invariably facilitate the opportunity for rehabilitation and adjustment and/or development of more suitable policies by each stakeholder's institute. However, personal information of an offender or a victim may be shared on a case by case basis, depending on the institutional requirements. With a Memorandum of Understanding being formed, this could extend to obtain the services of experts available in each institute so that financial involvement could be minimized.

Under the principle of specialization in the juvenile justice system, all proceedings that involve children (under the age of 20) must be heard by a judge who specializes in juvenile justice. States must ensure that cases involving children under the age of 20, but over the minimum age of criminal responsibility, will be heard only by judges who specialize in the area and not by the regular criminal court judges, to facilitate a child's right to a competent judge. This further ensures the child's right for a competent, independent, and an impartial trial.

In addition, every effort must be made to enlist the participation of a child's parents/guardians in the proceedings in the juvenile justice system, except in those cases where such participation could be prejudicial to the child's best interests and an adequate defence. One of the best examples for victim evidence is the Gesell Chamber, a practice that is promoted by the United Nation Office on Drugs and Crime. The interview involves the victim, witnesses, parent/guardian, prosecutor, Guarantee Judge, psychologist, offender/suspect, defence attorney with each other being given their right in the justice system. All parties can exercise their respective rights in terms of the law. However, the recording of the victim is done *only once* and is admissible directly as evidence in the trial proceedings which leads to minimum harassment of the victim. Initial determination of the case is arrived at within 24 hours. This practice could be expanded further to include juvenile offenders to work vice versa.

As regards the unique limitations in the case of juvenile justice, the juvenile perpetrator's criminal record must be kept confidential and any information that could be used to identify the children in conflict with the law should not be made public. This may be used as a safety precaution to the juvenile victims as well to facilitate smooth social reintegration.

In keeping with the latest practices, rather than prosecuting children, alternative measures to solve controversies should be fully admissible, so far as they allow equitable decisions to be reached without detriment to an individual's rights. It would, however, be advisable to regulate the use of alternative measures in a very careful manner where the interests of minors are at stake. These alternative measures of justice assist to facilitate reconciliation between the victim and the offender, especially if it involves known parties, and can help the child re-join the community without any social stigma being attached.

The concept of juvenile classification centres assists to categorize and develop an individual rehabilitation plan to prepare and facilitate social reintegration of children in conflict with the law. The establishment of halfway houses enables moral and financial support to selected individual offenders, while services offered by the volunteer probation officers could additionally support the criminal justice system upon a case reaching the courts.

Once a VAWC offender enters the system of corrections, from the stage of registration up until the release, continuous assessment is being performed as a general practice. However, the classification using the Risk, Need and Responsivity (RNR) principle and Good Lives Model (GLM) plays an important role to carve out an individual plan for a particular offender for the rest of his/her life (life plan). In the corrections

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system, in addition to the in house educational and vocational training offered, interested private companies, NGOs and volunteers/community-based organizations that are recognized by authorities could be invited to visit/participate in the offender treatment and social reintegration programmes to eradicate the social stigma that engulfs the inmates.

The existing services of medical doctors, psychologists, nurses qualified and trained in the treatment of VAWC offenders/victims should be utilized to a maximum to evaluate each individual and offer the required support. It is advisable that doctors with a forensic science background (e.g. Judicial Medical Officer) examine VAWC offenders/victim to facilitate the pre-assessment and/or pre-sentencing reports being prepared. The psychologists could be used as probation officers or vice versa, at least on a volunteer basis, in order to facilitate the recovery pace of an offender charged with VAWC.

The police force has to act in a manner that offers them the opportunity to gain and build public trust by offering VAWC victims and offenders special care by special unit/officers available in all police stations with a view to enhancing more cooperation to prevent reoffending.

On the other hand, the cooperation between public and private organizations could be actualized during the formulation of rehabilitation programmes. With the well-established social network of private organizations, assistance in the form of financial subsidy, job opportunities and expertise sharing on life planning could be offered to rehabilitated persons.

The importance of concept of their cooperation could only be addressed with joint training of all the stakeholders, through regular discussions and monitoring. This would facilitate the uniform approach to a particular case and/or in the evaluation of the evidentiary material available to determine the end result of a given case.

The formidable nature of courts could only be changed with intensive training offered to the judicial officers in order to change their mindset to employ alternative measures to sentencing other than imprisonment.

IV. CONCLUSION

It is observed that more often the lack of understanding among stakeholders on each of their roles performed had led to the complexities that are experienced by the criminal justice system even though all of them work to achieve one common goal, individually. This could only be overcome by the mutual respect and understanding being offered to each other's role performed to ensure the safety of individuals and thereby to the society as a whole. Constructive lobbying by individuals, organizations both public and private, together with the media, inclusive of social media, could expedite the process for the officers of the multiple stakeholders involved to comprehend the vitality of their performance as a team rather than as individuals to achieve this goal for a better tomorrow for everyone.