

A Restorative JUSTICE PATHWAY

to Addressing Hurdles Constraining
Social Workers' Substantive Participation
in Implementing the Pre-Trial Diversion
Programme in Zimbabwe



James Dominic Shalom Sithole

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DEDICATION

To my late parents, Mr. Misheck Sithole and Ivy Mapungwana- I share with you this piece of work; a culmination of a long dream for our most favoured family that time and opportunity could not deny.

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This research study marks a significant milestone in the development of social work knowledge base through the tireless and unwavering support of firstly, my supervisor, Dr. V.P Mangwiro. Truly, her expert guidance, patience and encouragement throughout the study cannot be quantified.

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BOOK SYNOPSIS

The study aimed at establishing a pathway to addressing the hurdles constraining social workers' effective and substantive participation in implementing the Pre-Trial Diversion Programme with particular focus on St Marys, Chitungwiza. The key objectives of the study were firstly, to explore the nature of the Pre-Trial Diversion Programme as a strategy to ensure young offenders' access to restorative justice. Secondly, it sought to identify the underlying and systemic barriers or hurdles behind social workers' ineffective or poor participation in implementing this programme. Lastly, the study endeavoured to proffer a well-informed and context-based model (pathway) that is meant to improve social workers' participation in this programme's implementation process. To this end, two theoretical frameworks- social welfare and restorative justice models- were adopted in the study as they best provide a holistic normative standard and parameter for the promotion of restorative and child-friendly juvenile justice among young offenders. Due to the study's emic nature, qualitative research approach was adopted. Accordingly, qualitative-embedded research philosophy (Interpretivism) and an exploratory case study design informed the study to allow an in-depth, ontological, inter-subjective, nuanced and deep understanding of the phenomenon under study. The study had a total sample size of twenty-one (21) participants who were purposively selected. In this light, qualitative data collection methods were utilised and these included: nine (9) in-depth interviews with social workers (diversion officers) and five (5) key informant interviews (inclusive of the police diversion officer, programme's national coordinator, public prosecutor, child protection officer and the child rights advocate from Justice for Children). One single focus group discussion was also used for more in-depth yet comparative findings. Submissions from these participants indicated that, the Pre-Trial Diversion Programme has eight functional diversion options or alternatives inclusive of police cautions, reparation, counselling, victim-offender mediation and community

service among others. More so, they reveal that, most social workers lacked the impetus to effectively participate in diversion implementation processes due to many hurdles encompassing among others, paucity of a distinct legislative framework, dominance by other professionals, poor professional recognition, budgets constraints and donor dependency syndrome, limited diversion options and poor cooperation from the juveniles and their significant others. Cognizant of these hurdles, expediting the development and enactment of the Child Justice Act, increased skilled labour, favourable and adequate resources (human, financial and material) allocation coupled with development of a robust referral system coupled with ensured involvement of significant others for improved and better outcomes.

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ACRONYMS

ACRWC	African Charter on the Rights and Welfare of Children
CPEA	Criminal Procedures and Evidence Act (Chapter 9:07)
GoZ	Government of Zimbabwe
ICCPR	International Covenant on Civil and Political Rights
JCT	Justice for Children Trust
JSC	Judicial Service Commission
LAD	Legal Aid Directorate
MACRO	Minimum Age of Criminal Responsibility
CSOs	Civil Society Organisations
CBOs	Community-Based Organisations
NGOs	Non-Governmental Organization
PTD	Pre-Trial Diversion
UNCRC	United Nations Convention on the Rights of Children
UNICEF	United Nations Children's Fund
VFU	Victim Friendly Unit
ZHRC	Zimbabwe Human Rights Commission
ZNCWC	Zimbabwe National Council for the Welfare of Children

CHAPTER 1: THE CONTEXT OF RESTORATIVE JUSTICE AS A PIVOT OF SOCIAL WORK PRACTICE

Restorative justice is at the crux of social work practice. For decades, the instrumentality of professional social workers in ensuring the promotion of restorative justice among young offenders has been underestimated. Many of these social workers have been marginally involved or even excluded from the practical restorative justice processes. With emerging and skyrocketing cases of juvenile offending due to hostile socio-economic and geo-environmental climate among other factors, there has been a collective demand for the establishment of a restorative juvenile justice system that is reformatory, rehabilitative, child-friendly and child-needs and rights-sensitive in nature. To this end, the Pre-Trial Diversion Programme (PTD) has been proposed and put in place towards promoting young offenders' access to restorative justice across nations with Zimbabwe included. This programme is opposed to attributive, retrogressive, vindictive and punitive criminal justice system that exposes these offenders to unnecessary incarceration and prosecution. Despite the existence of this programme, many young offenders still remain entangled under harsh criminal juvenile justice system. This is possibly compounded by limited involvement of child-rights and needs-sensitized social workers during the implementation of these diversion programmes. This disturbing situation has eventually exposed many young offenders to incarcerations and inhumane treatment. It is against this background that the study seeks to critically explore the hurdles constraining effective and substantive participation of social workers in implementing the PTD programmes. To this end, the chapter will firstly provide a background to the study. Thereafter, the problem statement, justification of the study, definition of key terms, the study's overall aim, research objectives and questions and finally, monograph outline and chapter summary, will be furnished.

The PTD programme is underpinned by the ethos and normative principles of restorative justice encompassing rehabilitation, protection, reformation, correction, reparation and reintegration, among others. In this context, its main philosophical ideals and goal is to divert and protect young offenders from a retrogressive and harsh criminal justice system that exposes these children to unnecessary incarceration and prosecution (Wood, 2003:2; Justice for Children, 2017; UNICEF, 2022). Ideally, in the same light, trained professional social workers would be actively involved during the implementation of these diversion programmes for effective diversion outcomes. Active involvement of these child-needs and rights-sensitive professionals within the diversion committee appears highly pertinent (Koch and Wood, 2002; UNICEF, 2020). This is critically imperative as social workers have higher awareness and knowledge with regards to children's rights, protection and theoretical foundations of early childhood development. This is in relation to how these latter factors influence human behaviour and juvenile offending in particular as compared to their fellow professionals within the same system. The participation of social workers in promoting young offenders' access to restorative justice through effective implementation of the diversion programmes seems however, more controversial across nations.

There is a sharp conflict between the ideals of restorative justice and practice as many offenders find themselves grappling under the manacles of dehumanizing treatment, incarceration and detention. To this end, poor involvement of social workers and the ineffective implementation of these diversion programmes, has seen a significant number of young offenders struggling to access restorative justice. The UNICEF Report (2022) reveals that, more than 65% (Asia), 21% (Europe), 12% (United States of America) and 82% of young offenders in Africa could not access restorative justice owing to the fragmented and poor implementation of diversion programmes. Some sources attribute poor programme implementation due to Covid-19-related impact among

other socio-economic challenges (Zimbabwe National Council for the Welfare of Children, 2022; Sithole, 2023; Mangwiro and Chitereka, 2021). More disturbing however is the fact that, most of these offenders fell within the eligibility criteria of the diversion programmes. In this light, most of these young offenders continue being exposed to punitive and retrogressive criminal justice processes. Pathetically, the latter system to a larger extent, has a nostalgia of a biased and child-unfriendly colonial criminal justice.

However, it seems highly imperative at this juncture to provide a thorough exposition of the concept and evolution of restorative juvenile justice (PTD programme in particular). This critically helps in establishing a plausible rationale for a well-informed understanding of the phenomenon under study. That is, the evolution of PTD programme as a tool to ensure young offenders' access to restorative justice coupled with the functions of social workers within the juvenile justice system is fraught with varied scholarly controversies (Wood, 2003; Botha, 2007; Steyn, 2010). Despite the existing debates between Eurocentric and Afrocentric scholars regarding its evolution, both scholars consensually agree that, the evolution of the PTD programme dates back to the 19th Century (Munzie, 2004; Koch and Wood, 2003). It was during that time that, a preliminary and distinct juvenile justice system was established in the United States around 1889. This saw the first juvenile diversion court being set in Chicago.

Subsequently, in the second half of the 20th century, children's diversion courts permeated each and every jurisdiction of the US and Western Europe (Nyazema, 2018). Netherlands in 1905 followed suit and introduced distinct penal laws for young offenders. Thereafter, Canada, England, Wales and Ireland in 1908 indorsed the Juvenile Delinquent Act and the Children's Act. This followed a further establishments of young offenders' diversion courts in their respective dominions (Hodges, 2011; Steyn, 2010). Likewise, Belgium and France also

introduced special diversion courts for juveniles around 1912. Around 1970, the United States of America accordingly introduced the pre-trial diversion programmes; arrangements that were preceded by the consequent establishment of the Juvenile Justice and Delinquent Prevention Act (JJDPa). The latter Act in this light, was to aid the implementation of the Pre-Trial Diversion Programme.

The concept of a separate juvenile justice system and PTD to this end, is an exotic theoretical and practice domain that was transplanted into Africa from the West (Mbambo, 2005; Wood, 2003). More specifically, South Africa is one of the first African countries to embrace this new child-friendly justice system in the early 1990s. This consequently birthed the establishment of an institute; the National Institute for Crime Prevention and the Re-integration of Offenders (NICRO). It is this organization that further propelled the initiation of diversion programmes in South Africa around 1990s in KwaZulu-Natal and the Western Cape. These changes later saw South Africa among other African countries, undertaking a systematic revision and recalibration of their child justice system. This was followed by the proposition of the Child Justice Bill that was later ratified into Law around 2008. These developments in the following years, influenced Zimbabwe to refocus, remodel and establish its own juvenile justice system that was tailor-made to suit the needs of young offenders (Njungwe, 2008; Vengesai, 2014).

These adjustments however, seem to have a firm reference and base from Article 37 and 40 of the United Nations Convention on the Rights of the Child (1989) that provides for the need to establish a separate juvenile justice system that addresses the particular needs of the child. This too, is in harmony with many other international and regional treaties (African Charter on the Rights and Welfare of the Child, 1999) that were later harmonized with respective local legislative blueprints used by governments in handling children's matters in juvenile justice

processes. Unquestionably, Zimbabwe is among the countries that are the signatories of these key treaties. Regardless of the government's efforts to ratify and adopt these frameworks however, the current juvenile justice system still suffers from what Nyazema (2018) conceives as an '*identity crisis*'. This manifests in the establishment of this system as both, a semi-legal and semi-welfare institutions to promote child justice. This system was highly biased towards diversion of offenders from the minority white community. To enhance this system's operationalization, Kaseke (1993:36) reveals that, the colonial regime appointed the first black probation officer in 1949 to handle the plight of juvenile offenders. Prior to that, probation officers were secured from the United Kingdom due to lack of trained personnel in the country. This was a time after the Department of Social Development (DSD), formerly the Department of Social Welfare had been established in 1948 to deal with juvenile delinquency within particularly, the white settler community.

With the increasing demand and clarion call for reform towards restorative, reformatory and rehabilitative justice, in November 2009, the Ministry of Justice, Legal and Parliamentary Affairs of Zimbabwe hinted on the introduction of the PTD Programme. UNICEF and Save the Children were and are still the key stakeholders who work with the government towards the promotion of restorative justice in many communities in Zimbabwe. Initially, it began as a pilot project and later came into fruition in 2013. This programme's key aim is to deal away with the unnecessary prosecution and incarceration of juveniles who had flooded the prisons and deprived of their welfare rights. The PTD Programme targets juveniles who commit non-serious offenses that at law, may not invoke a sentence of more than twelve months. In the same context, it has been observed that the pre-trial diversion programme that principally establishes the basis for restorative justice falls under the Ministry of Justice, Legal and Parliamentary Affairs. Under this ministry social workers (also referred to as diversion officers) work directly with juvenile offenders but with the involvement of other professionals

within the diversion committee. It should be noted however that, probation officers (also social workers) under the Ministry of Public Service, Labour and Social Welfare also work with these children yet there is no clearly demarcated operational boundary between the professionals from two different ministries. Hence, this scenario might also have a firm bearing on the PTD programme implementation thereby affecting diversion processes and outcomes.

On the other hand, regardless of the availability of diversion options, many juvenile offenders still find it difficult to access these diversion services and end up facing incarceration. This options generally include reparation, counselling, group conferencing and victim-offender mediation among others. Appalling evidence presented by Justice for Children (2021) shows that, about thirty-seven (37) young offenders were identified and received through a survey of three (3) prisons. The same survey indicates that, twenty-nine (29) of these offenders had been remanded and identified at various prisons. That is, at Bulawayo Remand there were 13 juveniles, Mutare Remand, 3 juveniles; Chikurubi prison, 1 juvenile; and Harare Remand, 12 juveniles. More disturbing is the situation that, among these young offenders, merely two (2) had been given custodial sentences and were placed at Chinhoyi and Chikurubi Prisons. More so, almost sixty-eight percent (68%) of the offenders had been seriously incarcerated from initial arrest in police cells. Worse still, most of these juveniles had committed minor offenses (loitering during lock down and food theft among others) that would not even attract the sentence of more than twelve (12) months. To this end, these offenders could qualify for diversion rather than incarceration and detention that according to the Criminal Procedure and Evidence Act (Chapter 9:07) should be last resort.

Chitungwiza is one of the first districts where PTD programme was launched. Despite that fact, lots of children in Chitungwiza particularly in St Marys (where juvenile offending is rife) still find it difficult to

access restorative juvenile justice. On one hand, this is possibly because, the options before the courts are confined to caution, reprimand, suspended and postponed sentence, supervision and institutionalization (Mangwiro and Chitereka, 2021). On the other hand, many scholars attribute this problem to ineffective and poor diversion programme implementation that sidelines and ritually involve social workers in the diversion processes (Steyn, 2010; Sithole, 2021; Mangwiro and Chitereka, 2021). In the same vein, screening and assessment that must be primarily conducted by child-rights and needs sensitized professionals (social workers in particular) is now being ritually taken for granted by magistrates among other court officials. On the same note, committal to institutions for those who might have been caught with minor cases has become a common form of disposal yet institutions are not comprehensively equipped to make individualized responses meant to meet specific problems of juvenile offenders (UNICEF, 2020; Sithole, 2021). Other scholars support that, this scenario is compounded by the fact that, Zimbabwe has a fragmented child justice system (Mangwiro and Chitereka, 2021; Sithole, 2021). That is, there is no distinctive legal framework to inform the operationalization of the PTD Programme. Again, the absence of a distinct Child Justice Act for young offenders (although there is the currently proposed and approved Child Justice Bill among other legal reforms to settle the matter) is another factor that is affecting the implementation of this programme in Zimbabwe. It is against this background that, the study seeks to explore the constraining systematic factors impeding social workers' effective or active participation in implementing the PTD Programme in Zimbabwe.

By the very nature of their profession, social workers are highly trained and sensitized in early childhood development, human behaviour and children's needs and protection rights as stipulated in the Children's Amendment (No.8) Act (2023) and Section 81 of the Constitution ((No.20) Act of May 2013) among other international policy blueprints (UNCRC, 1989 and ACRWC, 1999). Thus, with increasing clarion call

and demand for the establishment of a distinct child-friendly and reformatory juvenile justice system (Article 37 and 40 of the UNCRC, 1989) in form of the PTD programme, the active involvement of social workers becomes unequivocally indispensable towards promoting these offenders' access to restorative justice. Nonetheless, the active and effective participation of these child-needs and rights-sensitized professionals is being ritually taken for granted; with most of the tasks they should assume overtaken by other professionals within the PTD Committee. These professionals particularly lawyers, magistrates, police officers, psychologists, sociologists, development studies-based professionals. Yet these professionals practically, appears to be less knowledgeable and partly insensitive to the actual children's unique needs, development concerns and protection aspects as compared to their counterparts (social workers). This scenario has consequently exposed most juveniles (almost 68%) in conflict with the law to continued yet unnecessary detention, incarceration and inhuman treatment (Justice for Children Trust and UNICEF, 2022). This situation presents itself as a tragic betrayal of these children's golden right to child-friendly, restorative justice, equal and fair treatment before the law enshrined in the aforementioned laws. Hence, the study seeks to explore the constraining factors impeding social workers' effective or active participation in implementing the PTD programme in Zimbabwe. Thereafter, well-informed and evidence-based measures (also presented in form of a model) that are meant to improve the effective participation of social workers in providing equitable access to restorative justice among young offenders in Zimbabwe are suggested and provided.

The study critically explores the hurdles constraining social workers' effective participation in implementing PTD programmes for young offenders in Zimbabwe. This is meant to establish the link between social work and restorative juvenile justice towards ensuring child-rights and needs-sensitive practice. Lucidly, it is evident that Zimbabwe still has a dearth of research on the concept of restorative juvenile justice in relation to social work practice. This is with particular reference to the

impeding factors behind ineffective implementation of the PTD programme. Within social work domain, very few researches have partly attempted to explore the effectiveness of this programme. A practical example is Nyazema's (2018) study only focused on the effectiveness of the PTD options in curbing recidivism. In the same light, there are Tembo's (2018) and Moira's (2017) studies that merely focused on how available laws and policies influence juvenile justice administration in Zimbabwe. This research gap thus, renders the study area on restorative justice and social work coupled with the hurdles impeding PTD programmes implementation somewhat or comparatively grey; and hence under-researched.

However, one might still argue that most of these latter researches were conducted in one and the same location of Chitungwiza including Sithole's (2021) study. Yet still, it can be closely noticed that the former researches predated the Covid-19 pandemic era that saw a keen rise in juvenile offending due to the impact of this pandemic. The latter study that was carried during the Covid-19 era only focused on antecedent factors inhibiting young offenders' access to pre-trial diversion services. This includes Mangwiro and Chitereka's (2021) study that tended to mainly focus on the general assessment of the juvenile justice system from a 'desk-review' point of view. Consequently, these studies do not account for the specific barriers impeding the implementation of the PTD Programmes from a social work perspective. Worse still, both studies could not provide a practical model or framework towards the enhancing and cementing the implementation of diversion programmes to improve offenders' access to restorative justice. Thus, this disturbing and considerable deficit of literature has seriously defected and negatively implicated evidenced-based and well-informed decision-making in programme remodelling, policy reform and advocacy coupled with institutional change in macro-social work practice. The study will significantly contribute towards a substantially broadened social work knowledge base particularly on restorative

juvenile justice and social work. It is this knowledge that will help in enlightening and educating all key stakeholders who work either directly or indirectly with young offenders on the ethos and pathos of restorative justice. These stakeholders mainly include professional social workers (probation and diversion officers) among other professionals (magistrates, prosecutors, police officers, lawyers) within the interdisciplinary framework. Eventually, this will promote and enhance a child-rights and needs-sensitive approach to juvenile justice administration for competent and effective practice. More so, the study will capacitate these stakeholders while ensuring active participation of social workers in diversion processes towards effective programme implementation for the betterment of these young offenders' plight. In the same context, the study will help in advocating for the professional recognition of social workers and the centrality of their participation in influencing young offenders' access to restorative justice. In terms of education, the study will influence and inform tertiary education institutions to adjust and review and refocus their curriculum with particular focus on social work and law (restorative justice) coupled with child welfare policy and practice.

At a technical and programming level, the study will inform the Government of Zimbabwe on the need to fully capacitate the Ministry of Justice, Legal and Parliamentary Affairs and the Department of Social Development through the allocation of adequate financial resources, recruitment of more diversion officers (social workers) proportional to the juvenile offending caseloads. In the same context, cooperation between these key ministries will be enhanced and strengthened. At a policy level, the study will also highlight the loop-holes within the juvenile justice system with particular reference to the pre-trial diversion programme. As a result, these pitfalls will inform policy and programme review, reform and further adjustments for effective programme implementation coupled with the establishment of a more resilient and

robust programme. This is particularly in relation to the expedition of the harmonization, realignment and enactment of policies and laws that seek to promote reformatory, rehabilitative, protective and restorative justice among juvenile offenders in Zimbabwe. Finally, the study will also help to inform communities on their contribution and role in preventing and responding to juvenile offending. Eventually, the gap between service users (young offenders) and providers (responsible stakeholders) will be bridged.

The main aim of the study is to establish a pathway to addressing the hurdles impeding effective participation of social workers in PTD Programme implementation in Zimbabwe: Case of St Marys, Chitungwiza. The specific objectives of the study are:

1. To explore the nature of Pre-Trial Diversion Programme as a strategy in ensuring young offenders' access to restorative justice in Zimbabwe;
2. To identify the hurdles impeding social workers' effective participation in implementing Pre-Trial Diversion Programme in Zimbabwe;
3. To suggest a model meant to enhance social workers' effective participation in promoting young offenders' access to restorative justice.

The key questions guiding the study are:

1. What is the nature of Pre-Trial Diversion Programme as a strategy in ensuring young offenders' access to restorative justice in Zimbabwe?
2. What are the hurdles impeding social workers' effective participation in implementing Pre-Trial Diversion Programme in Zimbabwe?
3. What model can be established to enhance social workers' effective participation in promoting young offenders' access to restorative justice?

Definition of Key Terms

Social Workers: In the context of the study, refers to trained and registered professional social workers who have been involved in pre-trial diversion processes towards promoting young offenders' access to restorative justice. The straightforward phrase 'diversion officer' could not be used in this research topic (though emphasised in the study) for the sake of particularity and avoidance of confusion as police officers (under Victim-Friendly-Unit) also bear the same title (diversion officers).

A Child/Juvenile: any person or human being below the age of eighteen (18) years (Section 81 of the National Constitution of Zimbabwe Amendment (No.20) Act of May 2013).

Young/Juvenile Offender: Any person below the age of 18 years who is in conflict with the law; particularly, minor offenses in the context of the study (Wood, 2003; Steyn, 2010).

Pre-Trial Diversion Programme: a child-friendly and restorative programme comprised of options or sub-programmes that include reparation, counselling, rehabilitation and vocational training, family group conferencing, police cautions, victim-offender mediation and community service among others (Save the Children and UNICEF, 2013).

Juvenile Justice System: Legislative yardsticks and guidelines, norms, policies, procedural mechanisms and provisions, institutions and bodies specifically applicable to juvenile offenders who are at (or above) the minimum age of criminal responsibility (Fountain and Woolard, 2020).

Social Work practice: is an academic discipline and practice-based profession designed to enhance individuals' functioning through their knowledge of human behaviour and enhance people's full potential, and to allow them to cope with daily stressors in a health way; being guided by values of social justice and service above self among others (NASW, 2008; IFSW, 2014; Oko, 2008).

Diversion: The conditional channelling of juvenile offenders from the formal judicial proceedings towards a unique way of resolving the matter that enables many – possibly most – to be dealt with by non-judicial bodies, thereby curbing the negative effects of formal judicial proceedings and a criminal record, provided that children's rights and legal safeguards are fully respected (Save the Children and UNICEF, 2013; Wood, 2003).

This monograph comprises five chapters and they are all chronologically presented. Chapter one has mainly focused on the introduction and background to the study. The chapter, canvassed through a historical approach, has fully explored the evolution of

juvenile justice system and the diversion programme. The plight of young offenders and the circumstances surrounding ineffective implementation of PTD programme have also been established. This was done to provide a rationale for the study. Thereafter, the study delved into literature review (presented in Chapter 2). In the chapter, theoretical frameworks (restorative and welfare models) underpinning the study have been critically examined. This was followed by a thorough literature review informed by the aim and objectives of the study through a funnel approach (from international to local level). This greatly helped in establishing the research gap. Accordingly, Chapter three (3) was provided and the chapter mainly focused on the research methodology informing the study. The study thus, has been informed by qualitative research methodology. As such, it followed that, the research paradigm, design, sampling and data collection methods underpinning the study have therefore been informed by qualitative research. In the same chapter, research ethics have also been presented coupled with the limitations of the study as the researcher revealed how he addressed them. Chapter was proceeded by Chapter four (4) and the chapter has mainly focused on data presentation, analysis and discussion. Finally, there is chapter five that offered a summary of the study findings including conclusions that were drawn from the findings of the study. More so, the chapter has also provided the measures (recommendations) and proposed model coupled with the study implications in relation to social work practice. In the same context, the areas for future studies have also been presented.

The chapter has introduced the study to establish the research context. The background of the study (through the historical approach), problem statement, justification of the study, significance of the study, study aim, objectives coupled with the definition of key terms, have all be clearly presented.

CHAPTER 2: THE DISCOURSE OF RESTORATIVE JUVENILE JUSTICE

The chapter seeks to review relevant literature in the corpus of scholarship on the discourse of restorative juvenile justice with much emphasis on the hurdles constraining effective participation of social workers in implementing the PTD Programme. While informed and guided by the study's key objectives, an in-depth review of related literature is done at global, regional and finally, local level. Thus, the key objectives underpinning the study encompass firstly, an assessment of the nature (purpose or goals, available diversion options, involved stakeholders, applicable legislative frameworks and source of support or resource support base) as a tool to promote restorative juvenile justice among young offenders. Secondly, the study endeavours to establish the factors impeding social workers' effective participation in implementing the PTD Programme and finally suggest possible measures towards improvement. This literature review process will help to orient the study to the current research gap within the juvenile justice system. This is in as far as social workers' substantive participation within the PTD programme is concerned. More so, the chapter shall also present two theoretical frameworks (the social welfare and restorative justice models) informing the study. These two models are integrated in the study as they comprehensively provide normative guide or parameters for in-depth, well-informed, context-based and holistic assessment, analysis and presentation of the phenomenon under study. Lastly, the chapter summary is also provided.

The study has adopted the social welfare (welfarist) model. While it is deeply embedded in the Person-In-Environment (PIE) and child rights legal theories (UNCRC, 1989 and ACWRC, 1999 in particular), it acknowledges the role played by the environment in influencing juvenile crime and behaviour (Kaseke, 1993; Harvagovan, 2013). The environment to this end, relates to the socially constructed

circumstances (poor parenting, poverty, mental health condition or lack of access to basic needs among others). All these factors can influence juveniles' behaviours in a negative way. Hence, a need for more rehabilitative and welfarist approach to the resolution of these juveniles' plight for better and improved social outcomes (Sibisi, 2020; Gxubane and Mellish, 2020). In this context, it appreciates the doctrine of '*parents patriae*' (courts' responsibility in protecting juveniles) and '*doli incapax*' rule that children have no capacity to commit crime as compared to their adult counterparts. This model also values the best interest of the child in all processes concerning his/her welfare. In the same context, the model puts particular emphasis on role of social workers (custodians of the courts, the state and children) in safeguarding and protecting vulnerable children in need of care (Vengesai, 2014; Tembo, 2018; Nyazema, 2018). That is, the model mainly it stresses the centrality of considering the needs and welfare rights of the juvenile in the process of addressing the problem in question (unacceptable behaviour or crime). These welfare needs and protection aspects generally encompass: the emotional, psychological, physical, mental, social, economic, cultural and political coupled with the geo-environmental factors or dimensions.

As such, this model best suited the study as it sets the normative guide for restorative juvenile justice promotion among young offenders in Zimbabwe particularly, and across the globe in general. Its doctrine of '*parens patriae*' advocates and provides for a separate juvenile justice system (PTD programme in this context) that is tailor made to the unique and sensitive needs and welfare of juvenile offenders (Vengesai, 2014; United Nations, 2016; Wilson, Olghere and Kimbrell, 2017). The latter position is in line with the provisions of Article 37 and 40 of the UNCRC (1989) for better outcomes (regarding access to restorative justice) among young offenders. To this end, this model establishes an opportunity for the researcher to explore the extent to that the PTD Programme (in terms of its nature or structure) is child-friendly, child rights and needs sensitive. The social welfare model also provides the lenses for the researcher to explore if the involved stakeholders in

implementing the PTD programme are competent enough in addressing the plight of these juvenile offenders. This is in as far as juveniles' protection and welfare needs are concerned. The social welfare model thus, suggests diversion, probation, supervision and institutionalization in juvenile homes and foster homes (Mangwiro and Chitereka, 2021:184). This is opposed to the criminal justice model that emphasises on punishment and accountability.

On the same note, the best interest of the child considered by this welfarist model is in tandem with the provisions (key child rights principles) of the Children's Amendment (No.8) of 2023, UNCRC (1989) and ACRWC (1999) to that (the latter two frameworks) Zimbabwe is a signatory. To this end, this model clearly provides for the need to ensure active and full participation of child rights, needs and welfare sensitive professionals (social workers being the most instrumental ones) in implementing diversion programmes. This will consequently lead to equitable and ensured access to restorative justice among young offenders. Nonetheless, adoption of this model alone could not have fully help and guide the researcher to fully conceptualize and explore the phenomenon under study. This is so because this model seems to partly neglect and/or trivialize among others, the concept of 'responsibility' (accountability) that comes as a result of committing a crime and more importantly, even before committing any crime (prevention of crimes). This latter scenario has necessitated the integration of the restorative justice model that gap-fits the identified loop-holes for well-informed understanding and exploration of the phenomenon under study.

The study also adopted the restorative justice model. This model comprehensively provides the framework for the promotion of restorative justice among juvenile offenders. Being grounded in socio-criminology, moral and intellectual development research, this model was popularized by Zehr, among other theorists (Berg, 2012; UNICEF, 2013; Sithole, 2023). In Justice Service Commission's (2016) view, this

model views restorative juvenile justice (PTD programme) as a system that constitutes three (3) fundamental pillars. Firstly, there is engagement, participation or involvement of an enlarged circle of parties who have a stake to the offence in question. Social workers in this context, are part of this circle of parties in as far as young offenders' access to restorative justice (diversion services) is concerned. The second pillar is harm and needs that must be balanced with obligations. The final pillar is 'obligations' that must emanate from the harm posed; that then implies responsibility and accountability for the harm caused. The latter two pillars differentiate this model from the above adopted model (welfarist). More interesting about this model is that, it stresses the centrality of reparation, rehabilitation, restoration, crime prevention, corrective justice, reintegration, healing, reconciliation and mediation in addressing juvenile offending (Wong et al., 2016; Mangwiro and Chitereka, 2021:184; Wilson et al., 2017). The model is also hinged (just like the welfarist model) on the '*doliincapax*' and '*parens patriae*'.

In this context, this model highly suited and applied in the study due to its vividly insightful and rich philosophical tenets and assumptions (as explained hereunder) on restorative justice. That is, the integration of the model's key pillars (three) becomes key in firmly establishing a conducive room for a broader, comprehensive and holistic account or deep exploration of the phenomenon under study. The latter in this context, relates to the exploration of key barriers behind limited participation of social workers in implementing the PTD programme in Zimbabwe. According to Martin (2005), the model also provides a more rehabilitative and reformatory approach to the promotion of juvenile justice. Just like the welfarist model that is built on '*doliincapax*' and '*parents patriae*' doctrines (as highlighted above), the restorative justice model presents itself as a protectionist model. That is, it views minors or juveniles as physio-cognitively incapable of committing crimes; hence vulnerable. As such, it best suited the study as it highlights the importance of social workers' participation in implementing any restorative justice programme (diversion programme) for effective and

quality outcomes. Social workers' effective participation in this light, becomes indispensable as they are highly trained and sensitized to better handle these children in a more constructive, restorative, protective and rehabilitative manner.

More so, the model also it advocates for a distinct juvenile justice system (informed by a robust legislative blueprint) that is compatible with meet juveniles' unique and diverse needs. Again, this model like the former one, emphasises on the significance of incorporating child rights concepts (the best interest of the child, right to life, survival and development, non-discrimination and right to be heard) in all juvenile justice processes as the primary considerations (Bazemore and Schiff, 2005; Singh, 2022; Promise, 2023). In this context, it views social workers as key custodians mandated by law and the state to defend the protection rights and needs of vulnerable children in conflict with the law. Hence, lack of effective participation among these child rights, needs and welfare-sensitive social workers' in the diversion process can impede and defect the aimed diversion outcome. Therefore, this model greatly helped the researcher to fully and contextually explore the underlying factors inhibiting social worker from effectively participating in the PTD Programme implementation process in Zimbabwe.

In its whole phenomenal sense, the PTD Programme as posited by Davis and Busby (2006:102) cited in Kleinhans (2013:44) aims at encouraging young offenders to accept responsibility for the damage they might have caused through their behaviour. This is achieved through diverting them from the formal court procedures that involve prosecution, incarceration and punishment. Being tailor made to suit juveniles' unique needs and welfare, the PTD programme strives to prevent juvenile offending and reoffending or recidivism (Skelton and Tshehla, 2008:53). In Kleinhans's (2013:44) views, the main purpose of diversion programme (in whatever form or structure) encompass but not limited to ensuring young offenders' access to reformatory, rehabilitative, corrective, preventive, protective and restorative justice. Consequently,

this will help in preventing the juveniles from having a criminal record while promoting their dignity and well-being. Finally, this also might contribute towards developing these young offenders' sense of self-worth and ability to contribute to society (United Nations, 2016; Oliveira and Alvarez, 2023; Sithole, 2023).

It should also be noted that, these diversion programmes (as discussed hereunder) may differ in content and structure (involved stakeholders, applicable laws, options, alternatives and eligibility criteria) from one country to another. Yet still, most of these diversion programmes, in overall, share the same objectives as indicated above. In the interest of the study however, diversion practices in other countries have been considered with the purpose of gaining a global and regional view on restorative justice and social work. This is with much focus on the key factors impeding the effective participation of social workers in implementing these diversion programmes. By so doing, insightful lessons might be drawn from the experiences of others, and providing a point of departure regarding Zimbabwe's diversion programmes. As such, the countries discussed hereunder were chosen for review because they have been operating diversion programmes for many years, some in the absence of well-trained social workers and a legal framework for diversion just like Zimbabwe. This was also the case in South Africa prior to the implementation of the Child Justice Act 75 of 2008 in April 2010.

Wong and Wing Lo (2010:8) cited in Kleinhans (2013:39) attest that, restorative justice was introduced to Hong Kong, China in 2002. This concept was seen as a way to divert youth offenders away from the punitive and retrogressive criminal justice system. The 2000s has to this end, ushered in, the increased alternatives to the courts and new community-based diversionary options in Hong Kong, China (Wing Lo, Wong & Maxwell, 2006:11). The Police Superintendents Discretion Scheme is utilised in diverting young offenders who might have committed minor offences away from the criminal justice system.

Kleinhans (2013:39) reveals that, even though there were no restorative justice programmes around the 1990s and 1980s, the young offenders who were warned by police could be required to attend aftercare supervision. Police could also refer them to support services and require them to attend counselling sessions (Wing Lo *et al.*, 2006:11). Thus, it can be closely observed that, social workers' participation was not that much emphasised on; thereby leading to poorly implemented restorative justice programmes.

In the same vein, Kleinhans (2013:39) reveals that, many issues were raised in relation to the restorative justice approach's implementation. Some of these encompassed that, restorative justice might be a breeding ground for crime, and mediation could be influenced by political parties in Hong Kong. As argued by Wong and Wing Lo (2021:8,11,12), this approach was practiced and experimented with in schools and in some welfare organisations with learners who had behavioural problems and with juveniles. Nonetheless, there was uncertainty pertaining the implementation of this approach as a diversion alternative or option in Hong Kong. This was because it was an unfamiliar concept that had no firm regard for the incorporation of child-rights and welfare sensitized professionals particularly social workers. More so, these diversion programmes had no specific legislative framework to underpin their operationalization; a situation that eventually saw many young offenders exposed to re-offending and unnecessary detention and dehumanization.

Regarding Australia, Clancey and Howard (2006:377,378) aver that, many diversion programmes have been introduced to deal with the plight of young offenders. That is, through the use of Drug juvenile courts for example, there has been an increase in diverting drug-using offenders to treatment. These Drug courts were developed to particularly address the skyrocketing cases of drug-using juvenile offenders on the principle that the law is viewed as the therapeutic

agent. Kleinhans (2013:40) supports that, by addressing the substance abuse issues, the criminal behaviour could be stopped or mitigated. This is so because, substance abuse is considered to be one of the leading factors to criminal activities (possession of illegal substances, theft, and violence due to the effect of the substance on the brain). According to Clancey and Howard (2006:381) however, only a limited number of juvenile offenders from the communities were in diversion schemes. Most of these diversion schemes still could not be effectively implemented due to among other factors, ritual and/or complete exclusion of social workers in the diversion processes. As a result, this scenario would eventuate in these offenders' limited access to diversion services. Hence, likely to result in fewer offenders having the opportunity to be rehabilitated, thus contributing to recidivism and so continuing the cycle of crime (Kleinhans, 2013:40). In this context, the reasons or factors behind poor participation and involvement of social workers in diversion processes however, are not fully accounted for.

Considering diversion in Hungary and Budapest, Kleinhans (2013:41) postulates that, there is no formal system of diversion, although it might not necessarily imply that diversion is not practiced. To this end, Vandi (2007:37) reveals that, in implementing these diversion practices (that involve the settling of minor cases) the key stakeholders involved are parents, relatives, care-givers of victims and juvenile offenders in police stations, customary courts or even with community and religious leaders. Parental and family involvement in diversion programmes is pertinent as it aids to a more successful intervention and thereby decreasing re-offending or recidivism. In this regard, active participation of social workers in implementing these diversion programmes is not clear; neither is it something significantly provided for in Hungary's legal theory. Hansen (2006:1) cited in Kleinhans (2013:41) supports that, there is no separate legal system for juveniles in Hungary, hence, restorative justice cannot be used frequently. The lack of a legal system

for juveniles results in many youths being excluded from the opportunity to be rehabilitated.

In Asia, there have been significant attempts in recent years to deal with juvenile offenders outside the criminal justice system particularly in Singapore and Japan. Chen Zhang, Choo & Lim (2009:139) show that, various diversion services and programmes (including juvenile homes) have been utilised in these Asian countries to rehabilitate young offenders to reduce recidivism. Chen Zhang *et al.* (2009:139) cited in Kleinhans (2013:41) reveals that, the diversion programmes designed and adopted in Singapore and Japan to rehabilitate young offenders encompass guidance programmes, community service orders, weekend detention orders, periodic training orders and probation orders. Someda (2009:84) agrees with Chen Zhang *et al.* (2009:139) that, besides the latter mentioned programmes, there exists other diversion programmes (informed by a clear legal framework) to assist juveniles and their families in Singapore. These include the Streetwise Programme, Youth Family Care Programme and School-Probation-Courts. These programmes are operationalized within a legal framework (the Children and Young Persons Act). Added to the list of programmes is the drug court. The latter serves as a diversion alternative that targets non-violent drug abusers without serious anti-social tendencies in Japan (Someda, 2009:83). The aforementioned programmes are however ineffectively implemented as a result of poor involvement of professionals (particularly social workers) who are highly sensitized to the unique needs and welfare rights of these offenders. This has consequently saw many of these young offenders side-lined and exposed to recidivism and torture against the international law (UNCRC, 1989 among others).

In the United Kingdom (UK) and America, there are many diversion programmes meant to address the plight of juvenile offending in a more restorative and reformatory manner. For instance, there is the wilderness adventure programmes that is a 21-day diversion programme. In Walsh

and Russell's (2010:222) view, this programme was developed particularly in Minnesota, America (later spread to the UK) to assist young offenders address issues that led to their anti-social behaviour. Other diversion practices in the USA incorporate restorative justice programmes where young offenders are held responsible for the caused harm as a result of crime committed (Ellis, 2005:378). It should be noted that, these diversion programmes do not differ much from the diversion programmes in Australia among other Africa countries. Nonetheless, it is uncertain whether it is implemented in the same way and to what extend the resources differ between programmes in the different countries (Kleinhans, 2013:42). In terms of implementation, Kratcoski and Edelbacher (2009: 210,211) argue that these diversion schemes are applied partially or totally through the involvement of police and guardians. That is, when diversion is applied totally, the police do not act and only give the youth a warning. In partial diversion, the police refer youth who have committed minor offences to a programme. In the USA, just like in Hong Kong, the police are involved in managing diversion programmes. In UK on the other hand, social workers seem to assume an instrumental role (as provided in their legal frameworks) though dominance by other stakeholders particularly cannot be repudiated. To this end, one might clearly notice how social workers have not been actively and effectively involved in implementing diversion programmes. Little if any, in this context is known with regards to the constraining factors behind their ineffective participation in implementing such key programmes.

To this end, some similarities and differences can be noted from the discussions above. That is, Hong Kong and the USA capitalise on the use of police to manage diversion programmes. Secondly, the restorative justice approach is practised as a form of diversion in Hong Kong, Hungary and the USA. Thirdly, diversion in all the above discussed countries focus on rehabilitation and non-punitive measures in assisting these young offenders. More so, a legal framework for juveniles governs

diversion practices in all the aforementioned countries except Hungary. Again, drug courts are used as a form of diversion to address drug problems of young offenders in Asia and Australia because of the link that has been established between substance use and crime. Lastly, family involvement is encouraged by diversion practices in all the countries discussed as this contributes to the success of the intervention. On the far end, except in the UK, the effective participation of social workers in implementing the diversion programmes is not clearly accounted for. Most pathetic is the existence of scarcity of considerable literature with regards to the hurdles impeding their effective involvement in diversion implementation process.

Concerning most African countries within the Southern African Development Committee (SADC), there has been also some significant efforts in establishing diversion programmes that address juvenile offending in a restorative and rehabilitative manner (Moir, 2013; Vengesai, 2014; Nyazema, 2018, Sithole, 2023). These countries include Botswana, South Africa, Mozambique, Tanzania and Zambia. With the coming of the UNCRC (1989), the Beijing Rules and the ACRWC (1999), to that these countries are signatories, various diversion programmes have been designed. Most of them however, have been highly influenced by the western juvenile justice philosophy, ideology and doctrines (clearly provided in their western child rights legislative blueprints). However, Kleinhans (2013:64,65) reveals that, in as much as these programmes seek to accomplish the same goal, they may partly differ in structure, design and scope. Yet still, Zimbabwe's diversion programme seems to be more alike with that of South Africa particularly in design and scope. Some scholars like Vengesai (2014) and Nyazema (2018) even contend that Zimbabwe's juvenile justice system taps more from that of South Africa that is thought to be one of the African countries with a robust and distinctive juvenile justice system (underpinned by the Child Justice Act 75 of 2008). More so, the participation of social workers in the diversion programmes implementation process is highly emphasised. Thus, below is a table

(Table 2.1) that shows the profile of the PTD programme for South Africa.

Table 2.1: South Africa's Diversion Alternatives/Options (*Wood, 2003:6 cited in Nyazema, 2018:13-14*)

Level One	Level Two	Level Three
1. Oral or written apology.	1. Oral or written apology.	(Child must be 14 years and Below)
2. Formal caution- with or Without condition.	2. Formal caution- with or without condition	
3. Supervision or guidance Orders. (3 months)	3.Reporting order (6months)	
4. Reporting Order (3 months)	4.compulsory school attendance orders (6months)	1. Referral to a programme with a residential element (6 months)
5. Compulsory school attendance order (3 months)	5.Family time order (6months)	2. Vocational or educational centre placement order (Max35hrs/week, 6months)
6.Family time order (3months)	6.Positive peer association (6months)	3. Community service (250hrs, 12months)
7. Positive peer association order (3months)	7. Good behaviour order (6months)	4. Counselling or therapy in conjunction with any of the above option
8. Good behaviour order (3 months)	8. Place prohibiting order (6months)	
9. Place prohibiting Order (3months)	9. Counselling or therapy (6months)	
10. Counselling or therapy (3months)	10.Vocational or educational centre placement order (max 5hrs/week, 6months)	
11. Vocational or educational centre placement order (max 5hrs/week, (3 months)	11.Community service (50hrs, 6months)	

12. Symbolic restitution	12. Service or benefit to victim(s)	
13. Restitution of specific object.	13. Compensation payment R500	
	14. Service or benefit or payment to an organisation	
	15. Family group conference or victim offender mediation	
	16. Combination of any two above options.	

As indicated above, there are various diversion options and programmes available for each diversion level. All these options depend on the nature of the crime committed, age of the offender, socio-economic, physical and cognitive circumstances among other determinant factors. More so, these diversion programmes are implemented by a committee of professionals or stakeholders including the diversion officers (social workers), police, psychologists and/or medical practitioners, prosecutors and magistrates. All these stakeholders should be knowledgeable about all available options so that they can ensure that a child is referred to an option that is in their best interest and will be most beneficial for the rehabilitation and developmental needs associated with the child's offending phenomenon for effective intervention.

The Pre-Trial Diversion (PTD) evolved from the observation that the disposition of cases involving young offenders was not good enough, with many juveniles being without cause prosecuted and incarcerated (UNICEF, 2018; Bhaiseni, 2018). The PTD is provided for in Articles 37 and 40 of the UNCRC that reflect that there should be a separate juvenile justice system to best deal with the plight of young offenders. In this regard, they should not be treated in a brutal and inhuman manner. According to Mangwiwo and Chitereka (2021) the Pre-trial diversion programmes comprise part of a restorative justice framework and PTD

in Zimbabwe was introduced in 2009 when UNICEF and Save the Children instituted a pilot project that was then formally adopted by the government in 2016 through the Ministry of Justice, Legal and Parliamentary Affairs. In May 2013 the government launched the PTD programme (started with Chitungwiza initially). through the support of partners (Save the Children and UNICEF among others). The programme aims at finding better ways of dealing with cases of juvenile delinquency for crimes not considered serious outside the formal justice system.

The PTD programme thus, is a national programme that ensures all children who commit non-serious offenses (bullying, shop lifting, theft, public fighting, truancy and substance abuse) in both rural and urban areas have equal access to restorative justice. This programme is currently shifting to focus on even some serious offenses (assault, murder and armed robbery). This is done through institutionalized rehabilitation and community service among others especially if the juvenile falls under the age-range that falls under the '*doliincapax* rule'. Since 2016, a considerable number of children in conflict with the law have been diverted from the formal criminal justice system and are supported in their rehabilitation (UNICEF, 2019b). The introduction of the Pre-Trial Diversion programme led to the development of various diversion options that were put in place to avoid the juveniles to appear before the formal justice system that often resulted in the juveniles being exposed to the influence of hard-core criminals (JCT, 2017). The following diversion options are being implemented in the Zimbabwean pre-trial diversion programme: reparation, counselling, victim offender mediation, police cautions, family group conference and constructive use of leisure time and community service.

In Zimbabwe (including Chitungwiza District), there is firstly, reparation and this can be done through community work or service just like how it is done in South Africa. This is done for the benefit of the victim and it may also include reasonable compensation in cash or kind

(depending on the gravity of the matter among other considerations). Secondly, there is restorative group conferencing. In Zimbabwe, this option originated from the traditional conflict resolution techniques of the Shona, Ndebele and Ndau traditional communities. Some elements of restorative justice have formed part of African customs and traditions for many years to resolve domestic problems and to mediate during war (Steyn, 2010:102). Restorative justice is based on conflict resolution, accountability and the active involvement of stakeholders with regard to making decisions (Justice for Children, 2017; Steyn, 2005:13). Offenders are held accountable for their actions through repairing the damage they have caused. This is a healing process for the offender. In some cases, the victim's involvement in the restorative group conferencing will give them closure about the crime committed against them.

Restorative group conferencing is the process of restoring and mending harm caused by the offender, shifting the focus away from punishment. Through the facilitation of restorative justice processes, the offender is made aware of the impact of his or her actions on the victim and the community (Smit, 2010:5). The involvement of communities could contribute to breaking down negative stereotyping of offenders, so assisting them with their rehabilitation. In the same light, this conferencing can be done in form of family group conferencing. This group involves the group of people most affected by the crime, such as the victim, offender, family and friends, and supporters of the victim and offender. These parties are brought together by a trained facilitator (in most cases diversion officers to discuss how they have been harmed by the offence and how it could be repaired (Smit, 2010:12; Steyn, 2005:33). Steyn (2010:102) adds that offences cause emotional, physical and/or financial harm to victims, their families and the community. For this reason, it is considered that broken relationships must be repaired for the affected parties to move forward. When all who are affected by the offence are involved in the restorative justice process, it demonstrates to the offender the extent of the impact of their actions.

The offender's intention might not necessarily be to hurt their own family or friends, but it is important for them to be made aware of this as it will discourage them from repeating their destructive behaviour.

There is also counselling and life skills training as diversion options. These are necessary depending on the nature of the offence and facilitation is done by persons trained in this field. Counselling focus on children who have committed crimes and have behavioural, substance related and mental health-related problems and therefore need intensive counselling (UNICEF, 2013; JCT, 2017). Attendance at a particular institution for educational and vocational purposes. Vocational skills training and entrepreneurial programmes offer vocational training, such as business skills training, craftsmanship, entrepreneurial skills, computer skills, mentorship and small development and follow-up training (Hodges, 2015). There is also constructive use of leisure time that is intended to occupy the leisure time of the juvenile to prevent him from engaging in crime through boredom. This may include activities such as sports, church or youth groups and training in areas such as horticulture, carpentry and hairdressing among others. More so, the other option is Police cautions- In practice the police issue cautions in relatively minor cases.

Another critical diversion option is victim-offender mediation. The victim and the offender come together in a safe environment where they participate in a mediated discussion of the crime (Smit, 2010:10; Justice for Children, 2017). The victim is allowed to ask questions about the crime, and he or she tells the offender of its impact. The victim is also involved in developing the restoration plan (UNICEF, 2013; Smit, 2010:10). Unanswered questions could delay the healing process for victims. In most cases, such mediation gives them some closure about what had happened to them. It also helps the victim to understand the framework that had guided the offender's thinking when committing the crime. The mediation process is not focused on reaching a

settlement, but rather a signed restitution agreement. There is no action that could restore the harm done, but it is the mere thought of remorse accompanied by the action performed by the offender that makes a difference. The process of restorative group conferencing consists of three phases, namely preparation (40 hours), the conference (7 hours) and the post-conference follow-up (12 hours) (Smit, 2010c:4; Steyn, 2005:34,35). The preparation is the longest phase because more time is needed to prepare the parties involved. This will determine the pace of the intervention and serve as an indication of whether the restorative group conference will take place. The actual conference is short thanks to thorough preparation that leads to a dialogue about the offence that is formal and not long. Aftercare takes longer than the conference as it is essential to monitor the case to sustain the change that has occurred.

On the same note, the programme includes children from 10 years up to adults, with no age limit (UNICEF, 2013; Smit, 2010:1). Crimes such as non-violent property crimes and minor assaults are addressed through this programme. According to Steyn (2005:34), offenders of serious violent crimes (murder, rape, assault with intent to cause grievous bodily harm) and abuse are not suitable for restorative group conferencing. It will be more complicated to restore the emotional and psychological harm that has been caused through these crimes. Secondary victimisation could occur if the victim is brought into the presence of the offender, and it may put them in danger. Gxubane (2010:40) asserts that cases in that there is an identifiable victim are suitable for restorative justice. This will enable a face-to-face meeting between the victim and the offender, and it will be possible for restitution to occur.

Pre-trial community service is another key diversion option used in Zimbabwe. This option has been used for offenders who were convicted of serious crimes such as murder, culpable homicide, assault and homicide, and assault, and only included offenders over 15 years (Hancock, 1987:4,10). However, the diversion programme has been

revised to suit the changing needs of youth in the 21st Century. Also, it is now known as community service learning, with the emphasis on the learning element as researchers have found that community service orders do not bring about learning and behaviour change (Smit, 2010a:1). Smit (2010a:5) is of the view that the community service programme uses a combination of group and individual work to meet the specific needs of the youth offender, depending on the nature of his or her case and background. Experiential learning methods are used, including exposing offenders to community service work and structured reflection on their experiences to make sense of what they have learned. These experiential methods make the experience of learning more realistic for offenders so that they gain better insight into their problem behaviours. Presentations, worksheets and other learning materials are used by the community service coordinator to provide offenders with information. The offenders reflect on their learning experiences in groups and through reflective exercises such as writing, drawing, presentations or psycho-drama (Smit, 2010a:5). Reflection makes individuals more conscious of their thinking processes, so empowering them to control their actions. Community service programmes encourage youth offenders to respect their environment and communities (Monyatsi, 2008:35). When youth become delinquent, they often have little or no respect for themselves and others. Steyn (2005:77) and Maepa (2005:83) advocate that pre-trial community service programmes be used with other diversion programmes, the selection of interventions being determined by the needs of offenders, thus promoting a holistic approach to address problem behaviours.

The first key stakeholder is the police and he or she should use the power to arrest as a last resort (Steyn, 2010:64) and the arresting detail should consider diversion options before effecting an arrest depending on the nature and seriousness of the offence. The juvenile should be assessed within the shortest period of time and in any event, within a week and if the police decide to arrest the child, minimum force should

be used (Clancey and Howard, 2006). The police officer should also explain all the rights entitled to the child in a language that he understands and investigations should be completed urgently and promptly and notification of the arrest must be given to the diversion officer, giving all relevant details of the young person. Young offenders should not undergo identification parades or fingerprinting and where a young offender is incarcerated, the arresting detail and the officer in charge should ensure that the offender has proper food, medical treatment if required, adequate clothing, access to religious counsellors, his lawyer, parents, guardians and should be separated from adult offenders to avoid criminal contamination (Steyn, 2010:68). Where the police fail to determine whether the matter should go for diversion or not, they should prepare the docket that would be sent to the prosecutor, who upon receipt of the docket should refer the case to the diversion officer to make investigations.

Among other key stakeholders in the juvenile justice system, it should be noted that social workers play a very significant role in pursuing the course of restorative and rehabilitative justice for juvenile offenders. Some of their roles and responsibilities are outlined hereunder and they perform these roles in the jacket of either 'probation officer' or 'diversion officer'. But in the context of PTD programme, they strictly function as diversion officers under the Ministry of Justice, Legal and Parliamentary Affairs. In this capacity however, they also collaborate in one way or the other with other social workers (as probation or child protection officers) under the Department of Social Development (DSD). The diversion officer however, should immediately investigate the personal circumstances of the young person and his eligibility for diversion after notification from the police (Nyazema, 2018). Where the diversion officer is satisfied that a warning is necessary at this stage, he/she will refer the young offender to the police to be dealt with in terms of the police guidelines. According to Thembo (2018), the diversion officer would

produce a report that will be submitted to the Area Public Prosecutor for consideration and the report should contain the age of the offender, the socio- economic and demographic circumstances, the personal circumstances and contact details of relatives or guardians, the nature of crime committed, the circumstances surrounding such commission, whether the young person admits his guilt, the justification for diversion and the recommended activity to that the young person will be subject. Social workers as Probation Officers also play a significant role in diversion processes. They are employed in the Department of Social Development as hinted above. Their roles include assisting the Police to locate parents and caregivers to support the young person during questioning and to ensure that there is a safe place for the young to be released (Steyn, 2010:113). They also provide the technical support to the diversion officer to compile the assessment report coupled with supporting the Diversion Officer to identify suitable diversion options and support the young person to access any services identified (Nyazema, 2018). Bhaiseni (2016) also indicates that they assist young offenders through education, treatment and counselling to abandon anti-social behaviours and to ensure young persons on the diversion programme are duly enrolled on the relevant register by the relevant Child Protection Committee for supervision and monitoring. Again, they act as referral persons for young offenders who might have been referred to the formal justice systems so that proper support and documentation are prepared for the court, to walk the young person through the due process, in consultation with the diversion officer, where one is available (Wood, 2003:12). They also maintain a register for young persons who might have been put on the pre-trial diversion programme and to stand in for the diversion officer where the diversion officer is not available and offer secretarial services to the diversion committee when called upon to do so by the Office of the Public Prosecutor. If Pre-Trial Diversion is ordered, the social worker can take responsibility for selecting the most appropriate programme or setting,

and assisting the child to complete the diversionary measure successfully.

Another stakeholder is the prosecutor who is a representative of the Prosecutor General's Office and has the power to decide whether to prosecute or not in any matter. Reservations are made about the desirability of the prosecutor to solely decide on the suitability of an offender for diversion in an impartial manner considering that the prosecutor represents the victim's rights and is in the business of bringing offenders to trial and seeking their conviction (Steyn, 2010). The result is that there may be fewer cases for diversion hence the small multidisciplinary committee to make the decision had to be constituted as the diversion committee. There is also the Diversion Committee that consists of the Area Public Prosecutor, the Provincial or Resident Magistrate, Superintendent in charge of crime and in his/her absence a Commissioned Officer appointed by him/her to represent him for the Zimbabwe Republic Police, preferably not in charge of a station, the district child welfare officer or a senior child welfare officer in his/her absence and the Diversion Officer.

Where the committee acquiesces by majority that the young offender should be diverted, such decision should be implemented immediately by the Diversion Officer and all record of proceedings and decisions reached by the committee should be kept (Wood, 2003). Where a finding is made that the young offender is not suitable for diversion, the diversion officer should refer the case together with the assessment report to the public prosecutor who would deal with the matter in a normal way. Where a matter is before a Magistrate who is of the opinion that the matter is eligible for diversion, he should request the public prosecutor to urgently consider the matter for diversion and refer the matter to the diversion officer for a report to be made. When a report is made, the diversion committee will also be called to handle the matter.

Generally, there is no distinct legislative framework that guide and inform the operationalization of the PTD programme. Rather, during implementation, the involved stakeholders are informed and guided by various laws (as discussed hereunder) that have implication on juvenile justice administration (UNICEF, 2013; Justice for Children, 2017). That is, the programme logically depends and borrows from various fragmented legislative blueprints there are many legal instruments that seek to inform, guide and promote juvenile justice. This is regardless of the existence of the proposed Child Justice Bill that is ideally meant to specifically inform juvenile justice administration in Zimbabwe. In the context of diversion services however, the most significant legislative framework is the United Nations Convention on the Rights of the Child (UNCRC, 1989). The United Nations Convention on the Rights of the Child (UNCRC) forms the bedrock for administration of juvenile justice. Article 40 (1) – (4) of the UNCRC provide a comprehensive framework within that states are obliged to design a separate juvenile justice system.

The UNCRC covers a wide spectrum of guidelines and principles such as non- discrimination, the child's right to dignity and privacy, the need for children to respect the fundamental rights of others, and the desirability of promoting the child's reintegration and assuming a constructive role in society. This almost universally ratified Convention provided the much-needed framework for the administration of juvenile justice. Specifically, articles 37 and 40 address the issue of children in conflict with the law. Article 37 of the Convention on the Rights of the Child guarantees the juvenile offender the right to be protected against torture, inhuman or degrading treatment; capital punishment; and life imprisonment. It bars unlawful arrest or arbitrary deprivation of liberty, and that imprisonment of young offenders should only be used as a matter of last resort and for the shortest period of time possible. It also lays down conditions for the arrest, detention, and imprisonment of young offenders such as respect for the child's inherent dignity,

separation from adult offenders while in custody, maintaining contact with family, access to legal assistance, access to court, and a quick trial. The other legal framework is so called the Standard Minimum Rules for the Administration of Juvenile Justice or simply the Beijing Rules, were adopted by the UN General Assembly in 1985, and sets out minimum guarantees for young people in conflict with the law in the administration of juvenile justice by member states. These Rules are comprehensive and provide guarantees to the juvenile offender at all stages of the criminal justice process. The Beijing Rules emphasises on the need for diverting young people in conflict with the law from the formal criminal justice proceedings and the need to detain them only as a measure of last resort and for the shortest period of time possible. The Beijing Rules was a resolution of the general Assembly, so they did not have the binding legal force such as that of a Convention. Other important laws in juvenile justice issues include the United Nations Guidelines on the Prevention of Juvenile Delinquency (Riyadh Guidelines), United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules), United Nations Basic Principles on the use of Restorative Justice Programmes in Criminal Matters, and the Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines).

In Zimbabwe, there are various pieces of legislation that inform juvenile justice. These include the Children's Amendment Act (No.8) Of 2023, the Criminal Codification and Reform Act [Chapter 9:23] and the Criminal Procedure and Evidence Act [Chapter 9:07]. Zimbabwe ratified the Convention on the Rights of the Child (CRC) in 1990 and the African Charter on the Rights and Welfare of the Child (ACRWC) in 1999 and both treaties oblige the state to develop a juvenile justice system defined by the parameters set by these instruments. The recently approved Children's Amendment Act also provides for the clear roles of the probation officers in handling the cases of juveniles in conflict with the law (Section 46). This whole process is underpinned by the four main

principles: best interest of the child, non-discrimination, right to life, survival and development coupled with right to be heard or participation. The Constitution of Zimbabwe Amendment (No. 20) Act 2013 (hereafter referred as the constitution) provides rights for people alleged to have committed a crime including juveniles. Section 81 of the Constitution specifically deals with the rights of children in conflict with the law. It repeats Chapter 37 (b) and (c) verbatim by providing that children under the age of 18 must not be detained except as a measure of last resort and if detained, must be kept therein for the shortest period of time and while there, must be treated in a manner, and kept in conditions that take into account the child's age. With regards to the shortest period of time mentioned above, the provision is rather vague, for it does not specify the exact length of this shortest period of time". Nevertheless, such clarification is provided for in terms of the Children's Amendment Act. The same Section also provides for detaining children separately from persons over the age of 18. All the decisions made with regard to young persons in conflict with the law must take into consideration the best interests of the child.

Section 6, 7 and 8 of the Criminal Law Codification and Reform Act (Chapter 9:23). Pursuant to Article 17 (4) of the ACRWC, and Article 40 (3) (a) of the CRC, these sections set out a minimum age below that children shall be presumed not to have the capacity to infringe the penal law. In terms of Section 7, a child who is of or over the age of seven years but below the age of fourteen years at the time of the conduct constituting any crime that he or she is alleged to have committed shall be presumed to be *doliincapax*; that is to lack the capacity to form the intention necessary to commit the crime; or where negligence is an element of the crime concerned, to lack the capacity to behave in the way that a reasonable adult would have behaved in the circumstances unless the contrary is proved beyond a reasonable doubt. The wording of this section shows that the defence of infancy is rebuttable for young people of, or over the age of seven. The defence of *doliincapax* is not applicable

for persons over the age of 14, in terms of Article 8 of the Criminal Law Codification and Reform Act. *Doliinapax* mirrors Article 17 paragraph 4 of the ACRWC and Article 40 paragraph 3 (a) of the CRC that states that there should be a minimum age below that children shall be presumed to not have the capacity to commit criminal offences. However, all the existing gaps within the juvenile justice system in as far as restorative justice is concerned shall be compartmented once the Child Justice Bill is enacted into law.

Globally, the implementation of the PTD Programme has never been plain-sailing including. Clancey and Howard (2006:381) show that, this could be due to poor programme implementation owing to many constraints. Among them is the existence of limited diversion services. This is with particular reference to countries like UK, Hungary, Australia and Japan. Other scholars also reveal that, there is a paucity of adequately resourced diversion options and expertise to run such programmes (Clough, Lee and Conigrave, 2008:437). According to Gallinetti (2009:44) suitable diversion options are not available in all communities and also, there are often long durations between the committing of an offence and the referral of the offender to a diversion programme, that leads to clients' and their families' failure to understand the purpose of diversion. In this context, most juvenile offenders kept on struggling to access restorative justice. The above given studies also show how most social workers seem to be ritually involved in the implementation process of most diversion programme. Africa also, cannot be excluded in this context. This too, has negatively impacted the diversion process and the quality of diversion outcomes in as far as restorative justice promotion among these offenders is concerned.

Many concerns were raised with regards to the implementation of the restorative justice approach, some of that were that restorative justice may be a breeding ground for crime, and mediation could be influenced by political parties in Hong Kong. This approach was practiced and

experimented with in schools and in some welfare organisations with learners who had behavioural problems and with juveniles (Wong & Wing Lo, 2010:8,11,12). There was uncertainty regarding the implementation of restorative justice as an option of diversion in Hungary, Budapest, Hong Kong because it is an unfamiliar concept. More so, there is very limited participation of highly child-rights and protection-sensitized professionals during the implementation process. However, other practised diversion options were effective in some ways, but they lacked the restorative justice element in practice. As such, offenders were not encouraged to repair the harm they had caused and this might have contributed to offenders re-offending. Nonetheless, the factors inhibiting the participation of social workers in implementing these diversion programmes are not clearly exposed; rather they are just overgeneralized through a blanket approach (general factors for poor programme implementation).

Coming to Africa, Kleinhans (2013:62) postulates that, poor involvement of key stakeholders and cooperation in implementing the PTD programme is another key factor behind many juveniles failing to access restorative justice in many countries particularly in Africa (Malawi, Zambia, Mozambique and Zimbabwe. Diversion schemes in this vein, are presented by police, school and court programmes to youth offenders. Also, community service does not have a component in that the youth is confronted and required to take responsibility for their actions (Steyn, 2005:64). Children, who are cognitively underdeveloped, claims Steyn (2010:145), struggle with diversion programmes. A challenge in previous diversion programmes has had to deal with youths of lower intellectual abilities which is a risk factor that contributes to the delinquent behaviour of youth as discussed in the previous chapter. It is difficult for youths to gain insight into the information shared and they struggle with reading and writing in some of the activities required. To deal with such challenges, skilled and experienced staff would be needed to facilitate diversion programmes.

These challenges are some of the reasons for the need to enact and implement the Child Justice Act in Zimbabwe just like South Africa among other countries. This policy blueprint will help to ensure that all youth offenders receive service of a high standard. It could not be determined conclusively whether the desired outcomes are being achieved through diversion programmes because of a lack of appropriate measuring tools.

Some studies also show that, diversion programmes in most countries including Zimbabwe are implemented inappropriately. That is, few diversion programmes are evaluated; the methods utilized to evaluate diversion programmes are not of an acceptable quality; and diversion programmes are not enough to mitigate the re-offending of juvenile offenders (Steyn, 2005:64; Wood, 2003:1; Mangwiro and Chitereka, 2021). Also, community service does not have a component in that the youth is confronted and required to take responsibility for their actions (Steyn, 2005:64). In Zimbabwe on the other hand, Ruparanganda and Ruparanganda (2016) agree with JCT (2017) that lack of a separate juvenile justice system coupled with legal inconsistencies and absence of a robust legal framework that inform the implementation of the PTD programme is one of the key barriers to diversion service accessibility. Vengesai (2014) also argues that this lack of consistency in policy and legal frameworks to inform the operationalization of juvenile justice related programmes can be attributed to lack of political will in the context of alignment and harmonization of these child protection laws (particularly, the Child Justice Bill in Zimbabwe).

In the context of pre-trial community service, Wood (2003:2) contends that one of the criteria for such service is that the youth offender accepts responsibility for the offence. As such, persuading and enlightening these juvenile offenders to accept responsibility might require specialised expertise in childhood development among other behavioural dimensions. However, this is challenging as there is very

limited involvement of such professionals. More so, many offenders are burdened with challenges such as family violence, substance use, financial problems in their households, and so on, that contribute to their behaviour and poor motivation. Thus, to Steyn (2010:101) this is precisely what affects their willingness to accept responsibility for their actions, making it hard to modify their behaviour. More still, lack of involvement of the family is another key barrier that interferes with juveniles' access to family group conferencing in countries like South Africa and Zimbabwe (Tembo, 2018; Amani et al., 2018:483).

Other local studies also show that care-givers and parents (who are supposed to be part of the diversion process) were overburdened by competing priorities (job, caretaking responsibilities) and having to coordinate multiple probation-related appointments at various locations (Amani et al., 2018). Indeed, young offenders on probation are not only expected to meet with diversion or probation officers, but rather, may also be expected to comply with as many as nine probationary or diversionary requirements (Nemoyer *et al.*, 2014). Amani *et al* (2018) also found that social workers were aware that parents' competing responsibilities could often interfere with their ability to drive their child to probation and diversion meetings. They even acknowledged that non-compliance was often a result of parents being unable to provide transportation. However, instead of offering transportation support, they found that probation officers attempted to "remove structural barriers" by encouraging parents to seek transportation assistance from a family member or neighbour (Amani *et al.*, 2018: 483). While probation officers were aware of and chronicling existing structural barriers, parents—not probation departments—bore the responsibility of finding solutions and eliminating barriers.

Zimbabwe has never been spared on this area of lack of technical training and knowledge among the stakeholders who work in juvenile justice system (Nyazema, 2018; Thembo. 2018; Vengesai, 2014). Other

recent studies also reveal how Covid-19 lockdown restrictions have also worsened these juvenile offenders' access to diversion services especially victim-offender mediation among other services that required movement from one place to the other (UNICEF, 2020; JCT, 2021; Mangwiro and Chitereka, 2021). Social norms coupled with religio-cultural beliefs often do not recognize children as rights-holders because of their age; and these have also caused parents of juvenile offenders to opt for religious means to address delinquency (Clough *et al.*, 2008: 437). This tendency thus, is also exacerbated by discriminatory treatment of children with disabilities due to their impairment. The barriers they face in accessing diversion services are similar to, but also different from, those encountered by other children or by adults with disabilities. Some of these barriers are systemic and relate to lack of coordination between different diversion services. According to Steyn (2010:145) some are physical barriers that literally prevent children from accessing ombudsperson offices, mediation meeting rooms, court-rooms and lawyers' offices. As suggested by Thembo (2018) other barriers to diversion service are economic, such as transport costs to designated places for mediation and conferencing, while still others are procedural and arise as a result of the complexity and rigidity of the justice system processes.

From the above extensively reviewed literature, it can be clearly observed that, there is very little if any, that has been fairly and sufficiently done to explore and unearth the underlying hurdles behind ineffective participation of social workers in implementing PTD Programme. In Zimbabwean context (within social work domain) particularly, there is no evidence-based and context-based research that has so far been carried to fully explore these impeding factors from a restorative justice perspective. Failure to account for these factors might grossly impede programme reform and the administration of restorative justice among young offenders; thereby leading to worsening plight of these children. This scenario therefore, radically abrogates the golden

protection and welfare rights of juveniles in Zimbabwe in particular and the world in general. Therefore, the study seeks to explore the constraining factors impeding the effective participation of social workers in implementing the PTD programme in Zimbabwe with particular focus on St Marys, Chitungwiza District (where the programme had been operating for almost a decade).

Globally, from the above reviewed literature, it appears that, no clear and robust model that has been developed yet to improve and aid the implementation of various PTD programmes. Neither is there any model currently available to improve the participation of social workers for increased access to restorative juvenile justice among young offenders (UNICEF, 2020; Sithole; 2021; Mangwiro and Chitereka, 2021). This is in exclusion of the different and various diversion programmes (as models) explored above. The ones discussed above are general diversion models to address juvenile offending and therefore, are not meant to improve the effective and efficient implementation of these diversion programmes. This is in as far as the participation of social workers is concerned. Nonetheless, various governments have made significant efforts to ensure active and full participation of child rights and needs sensitive professionals (social workers) in implementing these diversion programmes. This has been significantly witnessed in most European countries (UK, France, Canada, Hungary), Australia and the USA. Most of these governments have also sought to ensure the full implementation of the UNCRC (1989) and the Beijing Declaration among other international legislative frameworks and guidelines that seek to promote a distinctive child-friendly, restorative and rehabilitative juvenile justice system (Bhaiseni, 2016). Among these states, there is Australia, Hungary, Japan, Singapore and Britain including other countries in the Western Europe. However, USA is one of the countries that has not yet ratified the UNCRC although it has managed to establish a sound juvenile justice system. In the same light, all these governments have also developed local legislative frameworks (Children/Juvenile Acts) that are

aligned with the international policy blueprints (UNCRC included) for comprehensive and holistic administration of juvenile justice.

Furthermore, the aforementioned countries as averred by Wood (2003:20) have tried to adequately allocate resources towards the implementation of diversion programmes across their respective jurisdictions. This is also coupled with the enhancement of capacity building and training of professionals who work in the juvenile justice systems. In Africa, the ACRWC has been ratified and enforced by many governments including South Africa, Botswana, Malawi, Namibia and Zimbabwe. South Africa that is believed to be having a comprehensive juvenile justice system has since enacted the Child Justice Act (No.75) in 2008. This Act clearly established the framework within that the diversion programmes should be operationalized. More so, social workers are employed to take the fore-front in implementing these programmes for well-informed and effective outcomes. Zambia and South Africa also, have put in place within their budget infrastructure, sufficient resources (financial) towards the child protection sector (UNICEF, 2020; Save the Children, 2021). However, Vengesai (2014) avers that due to different socio-economic, politico-legal and geo-environmental contexts in that these countries thrive, the implementation of this programme has been impeded. Some of these factors include economic meltdown, lack of political will and epidemiological issues such as COVID-19-induced challenges.

In Zimbabwe, there are significant efforts to reform the current juvenile justice system and these reforms include the proposition of the Child Justice Bill that seeks to establish the separate juvenile justice system that is child-friendly. Currently, the Children's Amendment Act has been put in place to deal with all legal inconsistencies so that there is alignment and harmonisation of laws that have a bearing on children. However, there has been a delayed harmonisation and alignment of the former Bill. Of that the former Bill is the most critical one in administration of

restorative juvenile justice among young offenders in Zimbabwe. The government of Zimbabwe has since been trying to incorporate the probation and diversion officers and engage other key stakeholders like UNICEF and Save the Children in ensuring the implementation of the PTD programme. Other organisations such as CATCH, JCT, ZHRC and ZNCWC have also greatly contributed through their advocacy work towards the reduction of recidivism, child incarceration and promotion of rehabilitative and restorative justice services (Ruparanganda and Ruparanganda, 2016). However, regardless of these efforts, participation of social workers in the PTD Programme implementation process has been highly problematic. As such, this has seen many juvenile offenders still struggle to access diversion services. Therefore, this scenario has consequently necessitated the need for the study.

The chapter has sufficiently reviewed relevant literature on the discourse of restorative juvenile justice with much emphasis or stress on the barriers inhibiting effective participation of social workers in implementing the PTD programme. The theoretical frameworks informing the study have also been outlined in the chapter. This literature review has been done at global, regional and national levels in respect to the objectives of the study. To this end, this section has oriented the study to the current gaps in juvenile justice systems that would then help to answer the study's research objectives. However, the next chapter seeks to present and analyse the study's findings.

CHAPTER 3: STUDY DESIGN AND METHODOLOGY

The chapter establishes a clear and in-depth discussion of the methodological process and procedure adopted to respond to the study's key aim, objectives and research questions. Research methodology in this context, entails a process of intellectual discovery through the adoption of a procedural blueprint or strategy of enquiry. This process logically moves from the underlying assumptions to research approach, research design and data collection (Ryan, 2018:42). The chapter thus, presents the concepts of research paradigm, approach and design, study location, target population, sampling, data collection process and methods that were used in the study. The justification for the adopted methodology, rigorous ethical considerations in child-related social work researches coupled with the limitations of the study (including mitigation measures) have also been established in the chapter.

The study has adopted an interpretivist research paradigm (also referred to as anti-positivism). The concept of 'research paradigm' as posited by Kuhn (1977) cited in Ryan (2018:43) is viewed as an integrated cluster of substantive concepts, variables and problems attached with corresponding methodological approaches and tools. A paradigm therefore, suggests a structure, framework and pattern or system of academic and scientific assumptions, ideas and values (Ryan, 2018:43). Thus, the interpretivism was adopted in the study due to its compatible and rich features that best suit qualitative research. While deeply embedded in anthropology however, this paradigm has its origins in the 18th century through the work of Giambattista Vico (Flick, 2014; Ryan, 2018). On the nature of truth and reality, the interpretivist philosophy offers a relativist ontological perspective that embraces multiple realities from participants owing to their different perceptions and experiences. This position greatly enriches the study's findings as the researcher was enabled to incorporate diverse inter-subjective yet in-depth knowledge

and information surrounding the nature of PTD programme and the impeding factors behind social workers' ineffective and poor participation in implementing diversion programmes in Zimbabwe. Thus, relativist or interpretivist researchers view reality as a product of socially constructed meanings. Constructed meanings in this vein, are the categories that make up participants' view of reality and with that actions are defined. These categories encompass culture, norms, understanding, social reality and definitions of the situations (Bryman, 2008; Ritchie and Lewis, 2003). Thus, there is no single shared reality in understanding social phenomenon; that in this context is restorative justice and the involvement of social workers. This is starkly opposed to positivist researchers who mainly focuses on objective reality that is value-free.

At an ontological level, reality with regards to the constraining factors impeding effective participation of social workers in implementing diversion programmes could be easily explored and constructed through human interactions and meaningful actions. More so, at an epistemological level, the interpretivist researcher could also discover how participants make sense of the phenomenon under study in the natural setting by means of their daily routines, conversations and writings while interacting with other stakeholders within the diversion committee. These writings could be PTD Programme manuals, reports and documents. Many social realities hence, existed due to varying human experiences, including participants' knowledge, views and interpretations. In the same context, the researcher based his interpretation of the obtained information by drawing inferences and judging the match between the information gathered and some abstract pattern within the provided information. The interpretivist paradigm also stresses the need to put analysis in context while using meaning-oriented methodologies in research. By so doing, the researcher was enabled to focus on the full complexity of human sense-making as the situation emerges instead of predefining dependent and independent

variables as established within positivist research methodologies. This paradigm also provided and informed the researcher on the uses of theories or frameworks in interpretive case studies.

The study has used qualitative research approach. A research approach as suggested by Bryman and Bell (2012), establishes a framework for the collection of data, its analysis and finally, its interpretation and presentation. This data could have been drawn from a myriad of philosophical assumptions. Thus, this the qualitative approach best suits the study as it adopts a naturalistic, interpretivist and subjective approach to the subject matter under scrutiny (Denzin and Lincoln, 2003 cited in Flick, 2014). In this context, the study sought to explore the key hurdles constraining effective participation or involvement of social workers in PTD Programme implementation process. Qualitative research to this end, allowed the adoption of non-manipulative methods of collecting data (interviews included) from participants in their naturalistic and flexible contexts. This approach's key aim in this vein, is to explore and discover issues about the problem at hand; because very little is known about the problem. Again, this approach assumes that, there is usually uncertainty about dimensions and characteristics of a problem. Hence, it uses 'soft' data to get rich data (Domegan and Fleming, 2007:24). In this light, the qualitative approach best suits the study as it allowed quality assessment of issues and the provision of quality results. This approach was also adopted mainly because, besides being inductive in nature, this approach established an in-depth, deep and holistic account of issues. Again, qualitative research could allow generalizability particularly detailed context-based generations on the phenomenon under study (Ryan, 2018:44). More significantly, this approach helped the researcher to develop a complex picture of the problem, reporting multiple perspectives and identifying diverse factors interfering with social workers' effective participation in implementing PTD programme. Finally, the research could sketch the larger picture of the problem that emerged.

The study adopted the exploratory case study design due to the interpretivist and qualitative nature of the study. This design as purported by Creswell (2014) is one of the qualitative research designs that provides a comprehensive framework for evaluation and analysis of complex issues. Yin (2003:19) in this context, postulates that, “colloquially a research design is an action plan for getting from here to there, where ‘here’ may be defined as the initial set of questions to be answered and ‘there’ is some set of conclusions (answers)”. Thus, it could imply the overall strategy (whose protocol is iterative or cyclical in nature) that a researcher could select or choose to integrate the different components of the study in a logical and coherent manner (Flick, 2011; Creswell, 2014). Therefore, the case study design usually is intended to establish deeper or well-informed understanding of a given situation, starting with conceptualization and particularization of the problem while moving through several interventions and evaluations. This design also best suited the study because of its ability to draw together naturalistic, holistic, ethnographic, phenomenological, and biographic research methods in ‘a palette of methods’ (Merriam 2009:53; Ritchie and Lewis, 2003). In the same light, this design also involves an up-close, in-depth and detailed examination of a particular case(s) within a real-world context. As such, it allowed the researcher to explore in-depth, impeding factors constraining effective and full involvement or participation of social workers in implementing the PTD programme within the practical real-life context.

More still, it provided the researcher with a level of flexibility by allowing greater spontaneity and adaptation of the interaction between the researcher and the study participants. Thus, the case study maintained deep connections to fundamental values and intentions, hence ‘particularistic and heuristic’ (Merriam, 2009:46; Flick, 2011). The latter attributes might not have been easily and readily offered by other qualitative designs such as narrative and historical research designs coupled with grounded theory. To this end, this design enabled the

researcher to best understand the phenomenon of restorative juvenile justice and social workers' participation; and finally respond to the study's objectives. On the same note, this design also allowed research findings to emerge from the key themes inherent in the raw data of the study. In the same light, it provided a clear framework for investigating the phenomenon under study and prioritising its exploration until a depth of understanding was achieved. Thus, Creswell (2009:183) supports that this in-depth understanding is accomplished through paying attention to every detail shared by study participants through the use of in-depth and key informant interviews and focus group discussions.

The study was conducted in St Marys that is part of the locations under Chitungwiza District. While it is also nicknamed 'Chi-town', this location is approximately 30 kilometres (19 miles) of the Harare Central Business Centre (CBD). St Marys is therefore one of the townships (among Zengeza and Seke) that were established when Chitungwiza as a district was formed in 1978. It is worth noting that, having been recently declared an urban centre, Chitungwiza is currently expanding to cover other locations such as Dema among others. Hence, the need to focus on a specific location for well-informed study. According to HDI Report (2018), as of February 2021, St Marys alone had a total population of approximately 210 000 people with almost 25% of this total population being children and youths. The selection of the study location is necessitated by the observation that, Chitungwiza is the first district where the preventive, rehabilitative and restorative PTD programme was launched hence, this could enable the researcher to easily reach the target population and obtain rich findings. More so, a huge number of juvenile offenders from this location remain entangled in harsh criminal justice system while reports of recidivism, detention (that must be a last resort in legal sense) and juvenile(s) incarceration have seemed to reach intolerable proportions. More so, there are reports that, poor implementation of the programme due to ritual involvement of social workers in the diversion process cannot be repudiated.

However, given the researcher's limited time for the study, the researcher had to mainly focus on St Marys where juvenile offending seems to be rife. Hence a need to account for the barriers constraining the effective participation of social workers in PTD implementation process to present a case for law and programme reform.

Target population as suggested by Ritchie and Lewis (2003) is a certain group of the population sharing similar characteristics. This group is usually identified as the intended or objective audience for research. To this end, the researcher primarily targeted social workers who are working under the restorative juvenile justice system (PTD programme) in particular. Due to the limited number of social workers under PTD programme (Ministry of Justice), the study thus, also made use of social workers who through CATCH and Justice for Children, have also been working with young offenders under diversion programme. Secondly, the study also targeted other professionals within the diversion committee (magistrate, prosecutor, victim-friendly unit officer) who work with social workers in diversion processes. This secondary group included key stakeholders from various government ministries and departments but bearing a significant stake on restorative juvenile justice promotion in Zimbabwe. Thus, these general participants and key informants have been selected as they have a strong influence and first-hand experience and contact with the PTD programme and juvenile offenders.

The researcher adopted purposive sampling to select participants for in-depth interviews and Focused Group Discussions (FGDs). The emic nature of the study has invoked the adoption of this non-probability sampling method. This sampling technique as asserted by Ritchie and Lewis (2003), is one of the non-probability sampling techniques that is mostly applicable in qualitative studies. In this light, it implies judgmentally subjective and deliberate choice of an informant on the basis of the qualities, expertise or experiences one possesses. Unlike the probability sampling methods (quantitative research-friendly), this

method seldom emphasises on statistical or mathematical power. It rather focuses on comprehensive and in-depth exploration of social phenomenon under study. The latter referred phenomenon in this context, is a thorough exploration of the key factors constraining effective social workers' participation in PTD implementation process. It is however worth noting that, prior to the selection of a sample, the researcher firstly, defined a sample frame and to achieve this, a flow population was used. Sample frame according to Bryman and Bell (2015) and Flick (2014) is an act whereby samples can be generated by identifying people in a particular setting such as an organisational setting, meetings, conferences or rallies. In the context of the study therefore, stakeholders' committee meetings among other conferences on child protection in Chitungwiza Hall provided the researcher with the opportunity to draw samples that objectively suits the characteristics of the target population.

This was, however, achieved through the help of the CATCH Justice for Children and more importantly, Ministry of Justice under that the PTD lies. To this end, the researcher purposefully selected nine (9) social workers for in-depth interviews (under Ministry of Justice) who are still (or those who have been) working under the PTD programme. For key informant interviews, five (5) key informant interviewees were purposely selected from the Ministry of Justice (2), Department of Social Development (1), Ministry of Home Affairs particularly, the Victim-Friendly Unit (1) and the other one (1) from a CSOs' representative, Justice for Children. These key informants were in this regard, selected mainly for the researcher to tap into their lived yet rich work experiences and expertise on restorative juvenile justice in relation to social workers' participation in implementing the PTD programme. As for FGDs, seven (7) social workers (who have been working under the PTD programme for at least three years) were also purposively selected. Through this focus group discussion, the researcher sought to establish a more open and comparative assessment of their responses on the key

barriers to social workers' effective participation in PTD programme implementation process.

Sample size as viewed by Flick (2014) is the total number of subjects in a study. The sample size of the study was 21 participants (inclusive of 9 participants for in-depth interviews, 5 key informants and 1 FGD that was made up of 7 participants.) As recommended by Creswell (2014), the researcher maintained a reasonably small size to allow rich and vivid exploration of the phenomenon under study that would later result in saturation. In the context of qualitative research, it is saturation that determines the sample size. The researcher thus, achieved this through 'contrast analysis' that as supported by Schutt (2006:349) entails the determination of nuanced differences to predict specific variations or similarities between participants' views; with the aim of ascertaining whether their views are being reflected in the data or not.

The researcher used a combined set of various qualitative methods (both primary and secondary) to fully gather data. Data collection in this context, is a methodological process of gathering and analysing specific information to proffer solutions to relevant research questions and evaluate results. This process to Flick (2014) is procedural throughout and validated standards and techniques and methods are used. In the context of the study, these included interviews, FGDs and documentary review (PTD manual, reports from Justice for Children, and UNICEF coupled with child-related laws informing juvenile justice). The 'cross method' that is a once-off task (Patton, 2001; Creswell, 2012) to this end, was fully adopted by the researcher. This enabled the researcher not to ensure reliability and validation only, but more so, to deepen and widen his understanding while producing innovation in conceptual framing coupled with explanation of the richness and complexity of the phenomenon under study by studying it from more than one point. These methods thus, are fully explained hereunder with their justifications in aiding reliable, in-depth and deeper collection of data from participants.

Being one of the most effective techniques used in interpretive and qualitative studies, in-depth interviews were used by the researcher to obtain subjective analysis of the hurdles constraining the effective participation of social workers in implementing PTD programme in St Marys, Chitungwiza, Zimbabwe. The researcher, while guided by the interview guide, managed to fully explore the beliefs, opinions, attitudes and lived experiences of the participants. The latter mainly refer to the social workers within the restorative juvenile justice system in particular. To design the interview guide nonetheless, the researcher upheld Rubin and Babbie's (2011) recommendation that the researcher should consciously draft and ask questions in the same manner or sequence to maximize comparability of responses. This enabled the researcher to ensure that data are gathered from all participants on all relevant issues surrounding the study. Thus, in-depth interviews were done with 14 participants (inclusive of 9 social workers and 5 key informants). These selected key informants were inclusive of the VFU representative (police diversion officer), child protection officer under DSD, PTD programme's National Coordinator and prosecutor (under Ministry of Justice) and one child rights advocate from the Civil Society Organisation (Justice for Children). These informant interviews lasted for almost an hour at the Pre-trial Diversion Offices, Chitungwiza near the magistrate court.

As a result of these interviews, the researcher managed to obtain sound and well-informed information that richly responded to the study's key aim and objectives. The use of in-depth interviews in the study was basically hinged on the fact that, this technique allowed the collection of data in a deeper way as opposed to what questionnaires could have done. It should be noted however that, these in-depth interviews spent almost 1 hour and were conducted at Chitungwiza Community Hall where all the target population conveniently gathered. In the same light, this technique provided a high degree of flexibility to the researcher. As such, this the researcher was allowed to collect dynamic and

comprehensive data without restriction. This might not have been the case with close-ended questionnaire that limit participants' view and focus more on quantity (Flick, 2014; Ryan, 2018). However, emerging themes and questions during the interview process were closely converged within the subsets of the collected data.

Focused Group Discussion (FGD) as asserted by Patton (2002:385), is a form of an interview with a judicious number of people (6-8) who cross-pollinate ideas over a phenomenon or problem. In a bid to triangulate and compliment data, the researcher also had to use 1 FGD. More focus group discussions could have been logically most appropriate but, the researcher found out that, just after in-depth interviews with the social work diversion officers and key informants, data had almost reached saturation. Hence, one FGD sufficed as it could only gap-fit, cement and validate the findings in a more comparatively open-ended set-up for deep and rich data. To achieve this, the researcher took into cognisance Flick's (2010:192) caution that dominance by other participants should be prevented by the researcher through encouraging participants to be collectively involved; of that the researcher did. To this end, through this FGD (20 minutes in length), the researcher was able to generate diversified discourse on the hurdles impeding effective participation of social workers in implementing PTD programme in Zimbabwe. This discussion took place at Chitungwiza community Hall where the general Child Protection Committee (stakeholders) meetings are held. The different experiences of these participants on the diversion programmes implementation process thus, were successfully captured. In the same light, the researcher managed to observe how interactions influenced other participants' views and ideas (Rubin and Babbie, 2012). This could not have been achieved by the use of solely, in-depth and key informant interviews. As such, these participants as mentioned above, partly included some of the participants who had been used for in-depth interviews to validate the obtained data and compare responses among the involved participants. The pre-designed FGDs thus, was utilised to

guide the discussions and they lasted for approximately thirty (30) minutes.

As part of secondary data, the researcher utilised document review to obtain relevant information that provides insights into the phenomenon under study. As recommended by Bryman and Bell (2015:25), the researcher used PTD programme manual, child-related laws and policies, reports on juvenile offending and justice from the Ministry of Justice among other organisations working with these juveniles. These documents also included e-materials on various websites such as that of Veritas, Justice for Children Trust, Save the Children and UNICEF, among others. These secondary e-sources were of great importance in providing some partial information to the study's aim and objectives. This data collection tool thus, also helped the researcher to serve time and unnecessary travelling costs to some of these agencies as it these documents are easily accessible.

The researcher initially engaged the Ministry of Justice, Legal and Parliamentary Affairs through a formal letter writing requesting for authority to conduct research; and permission was granted. Thereafter, the researcher entered the research field where after informed consent, he made use of the interview guides he had designed. The first one was generally meant for the in-depth interviews with social workers (General Interview Guide) while the other one (Key Informant Interview Guide) was meant for key informant interviews. These guides covered the study topic, purpose and the researcher's identity among other key information. They also contained about twelve (12) and thirteen (13) open-ended and unstructured questions (respectively) to be administered to the participants. These questions were sequentially arranged and informed by the study aim and research objectives and questions. Each question could take the maximum of approximately five (5) minutes; making the total time length of about one (1) hour for the general in-depth interviews with social workers. Regarding the length of

time for key informant interviews, the researcher spent almost ten (10) to fifteen (15) minutes (on each interviewee) on all the provided questions. More so, the researcher used the Focused Group Discussion Guide (FGDG) that also constituted about twelve (12) open-ended questions informed by the study's aim and objectives. This guide also incorporated some of the key features (topic and purpose of the study among others) provided on the interview guides. This discussion took about fifteen twenty (20) to thirty (30) minutes. In this light, the researcher allocated the total number of two (2) hours and thirty (30) minutes for the whole data collection process. It should be noted that, these guides were underpinned by the principle of clarity, readability, simplicity and use of understandable terminology (Creswell, 2014; Rubin and Bubbie, 2013). More so, the researcher also used the documents (PTD Manual by Justice for Children Trust in collaboration with Save the Children, UNICEF and the Ministry of Justice) among other legislative documents uploaded on the Veritas Website (including the websites of the above-mentioned organisations). All this was done to provide a rich, deep and comparatively well-informed understanding of the phenomenon under study.

Data analysis, as suggested by Flick (2014), concerns the organization of data into specific criteria and reduce it to a more manageable form. In the context of qualitative study, Cohen *et al.* (2007:128) view data analysis as the process of reducing large chunk of data into smaller fragments. Thus, according to them, data analysis seeks to make sense out of the participants' views and opinions of situations, corresponding patterns, themes, categories and regular similarities. The study therefore, has adopted the thematic analysis as opposed to other qualitative data analysis tools that include content analysis, narrative analysis, discourse analysis and framework analysis. This was because the thematic analysis adequately and contextually suited the interpretive nature of this research study. More so, the study had embraced no pre-

determined ideas or theories; and as such, it emphasised the importance of liberalizing the process of data analysis to allow themes to emerge as opposed to railroading preconceived themes (Saunders *et al.*, 2012). Thematic analysis best suits the study as it is a constant-comparative method that involves reading and re-reading the transcripts in a systematic way (Cavendish, 2011). The most vital aspect in this data analysis technique is that, the analysis process should be systematic so that the final product is of good quality. To maintain necessary rigour in the analysis process, the study adopted the 'six-phase' process as proposed by Braun and Clarke (2006:63-65); each of that is explained hereunder. On the other hand, those analytic procedures are not a linear series of steps but rather, an iterative and reflective process. That is, it involves a constant moving back and forward between phases. Therefore, this data analysis process followed several stages:

Familiarisation with the data: at this phase, the researcher started with familiarising himself with data. This helped him to figure out (and number) themes that, through the data might emerge. While guided by some steps, the researcher initially transcribed all the oral diaries and interviews in full. He did this to gain a sense of how the participants reacted to pertinent concerns raised in the study. For analysis, these transcripts were then transferred into NVivo 10. Thereafter, a repeated careful reading of the transcript was made to read the transcripts as 'things in themselves' (Ryan, 2018:44). He did this to avoid the influence of the researcher's prior knowledge and experience in the field. All the thought-provoking information was highlighted as he read all the transcripts. In this process, the researcher detected the interest points as he cross-referenced them against the study's research questions. The key thrust of going through all the data in such a manner was to allow himself to become wholly immersed in the whole data-set thereby collecting initial points of interest. Therefore, this phase informed the researcher about the depth and breadth of the content.

Generating initial codes: at this phase the researcher focused more on initial codes generation. However, it should be noted that, though the preceding step allowed the emergence of rich initial findings, the centrality of transcripts rereading was ensured prior to the creation of codes. Thus, the researcher carefully coded all the data. To achieve this, an efficient NVivo coding feature allowed multiple codes to be applied through the selection of phrases, sentences or paragraphs that were of interest. In this context, after a careful reading of the transcripts for several times, all transcripts were coded. As such, a huge number of codes did emerge- some containing merely one phrase while others could contain more.

Searching for Themes: at this stage the researcher commenced with a long list of the codes that were identified across the data set. This phase's main purpose was to identify the patterns and relationships between and across the entire data set (Chamberlain, 2015). The codes had to be analysed considering how different codes could be combined to form an overarching theme (Braun & Clarke, 2006 cited in Flick, 2011). In simple terms, much focus was on the analysis at the broader level of themes, rather than codes. As Ryan (2018) point out "a theme captures something important about the data in relation to a research question and represents some level of patterned response or meaning within the data set" (p.10).

Therefore, it was pertinent to conceptualise those codes as the building-blocks and combine similar or multiple codes to generate potential themes in relation to the research questions. This phase was the most difficult phase in the analysis process. To ease the process, following Ryan (2018) suggestions, a list of the codes was prepared on a separate piece of paper and then they were organised into theme-piles that reflected on the relationship between codes and themes. The transcripts were re-read and different codes were combined into potential themes, collating all the relevant coded data extracts within the identified

themes. When developing the themes, the researcher could bring in the concepts and issues that he had previously identified in his literature review. He found that some of the themes from the literature review were truly meaningful and some codes could be subsumed under them.

Reviewing the themes: At this stage all the themes (master themes, main themes and sub-themes) were intentionally brought together as it was aimed at the refinement of those initially grouped themes and presentation of those themes in a more systematic way. Ryan (2018) suggest that themes must be checked for internal homogeneity (coherence and consistency) and external heterogeneity (distinctions between themes). This stage consisted of two levels. At level one, all coded extracts relevant to each initial theme were extracted from the NVivo file and pasted into a Microsoft Word document to facilitate cross-referencing of coded extracts with the themes and to carry out the retrieval, comparison and organisation of coded extracts and themes in a meaningful way. The author reread all the collated extracts for each theme, clustered all the themes and sub - themes to check whether they could form a coherent pattern. All the codes and themes along with the collated extracts were considered to see whether they could form a coherent pattern adequately capturing the contours of the coded data. At level two, a similar process was followed but in relation to the entire data set. At this level, the validity of individual themes in relation to the data set was considered. It was very important to ascertain that the “thematic map ‘accurately’ reflects the meanings evident in the data set as a whole” (Braun & Clarke, 2006:91). Therefore, all the transcripts were reread, (where appropriate, the extracts were also recoded) to ensure that the themes ‘work’ in relation to the entire data set. Some new codes emerged at this stage. During the reviewing process, many of the themes or sub-themes were either merged with other (main) themes or discarded. Other themes and/or sub-themes were also reviewed, renamed, discarded or merged in the same way.

Defining and Naming Themes: This phase began with an aim of further refining and defining the themes, that is, “identifying the essence of what each theme is about (and the themes overall), and determining what aspect of the data each theme captures” (Braun & Clarke, 2006, p.92). Braun and Clarke argue that a theme cannot be too diverse and complex. Therefore, the author went back to collated data extracts for each theme and organised all the themes into a coherent and consistent account. Careful attention was paid to identify the ‘story’ that each theme told, and how it fitted into the broader overall ‘story’ that she wanted to talk about her data in relation to the research questions and to ensure that there was not too much overlap between the themes. The specifics of each theme were refined carefully. The themes were further refined by reading through all the main themes and subthemes, codes and extracts. Then, final name along with its definition was assigned to each theme to tell a story about the data.

Writing the Findings Report: The final phase of the analysis was to write down the report of the findings. Braun and Clarke (2006) state that report of a thematic analysis must convince the readers of the merit and reliability and validity of the analysis. Therefore, a great effort was made to provide a concise, coherent and logical account of the story that the data represented within and across themes by providing sufficient evidence and particular examples and/or extracts that could capture the essence of the point the author was demonstrating. The examples and extracts were embedded within the analytic narrative in such a way that they could make an argument in respect of the research objectives, besides illustrating the story being told.

The sensitive nature of the study invoked the need for the researcher to rigorously consider some ethical issues throughout the research process. Sanders *et al.* (2012) expounds that, ethics are at the crux of social work research and to this end, they concern the appropriateness of the researcher’s behaviour in relation to the stipulated rights of the research subjects or those who are directly or indirectly affected by it. To this end,

the researcher designed the study in an ethically sound and methodologically sound manner such that participants' rights, needs, preferences, desires and values were fully respected (Flick, 2011; Creswell, 2014). Therefore, the ethics that were observed by the researcher as proposed by many scholars in social research are discussed hereunder.

Initially, the researcher sought permission from the responsible authority that would influence the study process. In the context of the study, the researcher sought permission from the Ministry of Justice, Legal and Parliamentary Affairs under that the PTD programme lies. Finally, the researcher was granted permission. This was in line with Creswell's (2014) recommendation that, any research that is conducted in institutions just like in communities, demands one to seek permission from the authority of the people in charge under that the participants fall under.

The researcher also ensured voluntary participation among the participants. Rubin and Babbie (2011) assert that social work research often interferes with people's lives, disrupts their usual life activities and requires them to invest a vital portion of their time and energy. Deception of participants was totally overruled through the provision of written and pre-signed informed consent with clearly spelt out rights and other issues about the general well-being of participants as supported by Creswell (2014).

The researcher throughout the research process, managed to ensure confidentiality and anonymity. These research ethics generally concern the protection of the participants' personal identities. Rubin and Babbies (2011) suggests the desirable concern and professional responsibility in safeguarding their interests and well-being. The researcher to this end, ensured the participants' right to privacy and power to decide as to what, who, when, how and where their information would be revealed (Flick, 2014; Rubin and Babbies, 2011). This was managed through the

use of anonymity by ensuring the exclusion of the participants' identifiers including names among others. That is, the researcher firmly guaranteed the participants that their identity would be concealed while their information would be shared and only utilized for academic purposes. From this standpoint, it has become lucid that privacy denoted the elements of personal lives while confidentiality implies 'how' the information should be handled. Therefore, on data analysis, only the positions of key informants who are directly involved in the juvenile justice system were provided. Most importantly, the researcher was also guided by binding ethical principles, values and standards of the NASW code of ethics for professional practice (2008).

The ethical principle of non-maleficence was also of great significance in this research process. The researcher managed to ensure all the participants' safety and this was done to protect them from any potential harm that might have been imposed by the study. While this ethical principle is also termed 'protection from harm' (Flick, 2014); it automatically becomes a keystone for sensitive social work researches. Thus, measures were taken to ensure all participants were safe from any possible harm in terms of their physical, emotional, psychological, social and professional harm. Adhering to the ethos and pathos of professionalism to this end, was the researcher's diligent capacity and ability.

Since the researcher had firstly briefed the participants about the study's aim, objectives and implications of the study thereof, immediately after the completion of the data collection process, he did a review meeting with the participants for the purpose of debriefing.

Feasibility is one of the significantly defining factor for any study to be carried. To this end, the researcher took it into consideration. The scope, time required, costs, ethical considerations and the cooperation it requires are the common issues that determined the feasibility of the study (Rubin and Babbie, 2011:141). In this light, the study was carried

in St Marys, Chitungwiza District. The location was within the reach of the researcher. This then necessitates easier data collection in relation to transport costs among other expenses. More so, the availability of social workers and key stakeholders in juvenile justice processes made the study's key aim and objectives attainable without much difficulties. Most significant to the study's success was the guidance and shared judgements from the supervisor whose experience in researches of this kind was vastly relevant.

The researcher was beset with some challenges during the study. The first challenge was a small size of the sample and could partly limit the generalization of the findings. Despite this limited sample size, most interesting is the fact that, the objectives of the study could still be achieved by means of rich and detailed descriptions and reflections of participants. More so, the unavailability of some of the key informants (magistrate in particular) due to tight schedules at the offices could have affected the study, yet still, the researcher made use of the public prosecutor and this fortunately succeeded. Another challenge was that of limited time to carry out this demanding task. The researcher however, made use of a reasonably small size of participants as he also chose a closer study location. Again, due to the sensitivity of the study topic, rigorous ethical concerns evolved coupled with delayed permission from the authorities to carry out the study. Nonetheless, the researcher was later granted permission to carry out the research as he also got assistance to identify the targeted participants from Justice for Children and CATCH organisations.

The chapter has proffered the methodological procedures and process that guided and informed the study. Among the key thematic concepts covered in the chapter, are the research approach, research design, sampling method, and data collection procedures, data analysis technique and the study's feasibility. The ethical considerations informing the study coupled with its limitations have also been established. More significantly, the justification for the adoption of the

above-mentioned methodology has been explicitly provided in relation to the study's aim and objectives. The next chapter therefore, will present and analyse the data collected from the field.

CHAPTER 4: Findings

The preceding chapter has presented the methodological process and paradigms informing the study. This chapter, however, presents, interprets, analyses and discusses the study's major findings (in line with the key objectives and questions of the study). Since the study's key aim was to explore the hurdles constraining effective participation of social workers in implementing the PTD Programme, an explorative case study design was therefore adopted. Being underpinned by its qualitative attributes therefore, the general in-depth, key informant interviews coupled with FGDs were utilised to gather data from the participants. The study's main objectives were firstly, to assess the nature of PTD programme as a tool to promote restorative juvenile justice among young offenders. Secondly, it sought to establish the factors constraining the effective participation of social workers in implementing the PTD programme. The key argument being that, as long as social workers' full and effective participation in PTD programmes' implementation process is not comprehensively ensured, many juvenile offenders will remain entangled within the harsh criminal justice system. As such, their access to protective, restorative, rehabilitative and reformatory juvenile justice will be highly problematic. Lastly, the study endeavour to suggest (in the same context) possible intervention measures (in form of a model) to enhance social workers' participation in diversion programmes implementation process. These measures are meant to increase young offenders' access to restorative juvenile justice. To this end, as informed by the interpretivist perspective, participants' words were presented the exact way these participants delivered their views or opinions concerning the phenomena under study. That is, the researcher presented quotations of verbatim in English language as all the participants were highly intellectual, literate and experienced enough to respond to all questions in English Language.

Figure 4.1.1: Social Workers/Diversion Officers Demographic Data

CODE	SEX	EDUCATIONAL LEVEL	YEARS OF EXPERIENCE
P1	Female	Master's Degree	10 years
P2	Female	Honours Degree	5 years
P3	Female	Honours Degree	5 years
P4	Female	Honours Degree	5 years
P5	Female	Honours Degree	5 years
P6	Female	Honours Degree	5 years
P7	Male	Master's Degree	8 years
P8	Male	Honours Degree	3 years
P9	Male	Honours Degree	3 years

Table 4.1.2: Key Informants (KI) Demographic Data

CODE	SEX	EDUCATIONAL LEVEL	YEARS OF EXPERIENCE
KI 1	Female	Master's Degree	8 years
KI 2	Female	Master's Degree	8 years
KI 3	Female	Honours Degree	8 years
KI 4	Male	Honours Degree	10 years
KI 5	Male	Master's Degree	10 years

Table 4.1.3: Focus Group Demographic Data.

CODE	SEX	EDUCATIONAL LEVEL	YEARS OF EXPERIENCE
P1	Male	Master's Degree	8 years
P2	Male	Honours Degree	5 years
P3	Male	Honours Degree	5 years
P4	Female	Honours Degree	5 years
P5	Female	Honours Degree	5 years
P6	Female	Master's Degree	10 years
P7	Female	Honours Degree	5 years

From the above presented figures, it can be observed that, there were three categories (each for a particular data collection method) of participants from whence data was collected. The first category (**Figure 4.1.1**) presents nine (9) social workers (diversion officers) who were purposively selected for general in-depth interviews. Among these 9

participants, 6 were female diversion officers while the remaining 3 were male diversion officers. Accordingly, out of the 6 female officers, it was recorded that, 5 of them (all holding an Honours degree) had five years of experience while the other one had 10 years of experience. The latter held a Master's degree in a relevant field. Then, out of the 3 male officers, 2 had three (3) years of experience while the remaining 1 had 8 years of experience. The second category (**Figure 4.1.2**) constituted five key informants; inclusive of the PTD programme's National Coordinator (NC) and public prosecutor (Ministry of Justice), Police diversion officer (VFU, Ministry of Home Affairs, child protection officer (DSD) and the child rights advocate (Justice for Children). Three (3) of them were female informants, with two of them possessing an Honours degree while the other one held a Master's degree. In the same light, the first 3 possessed about 8 years of experience while the other 2 had 10 years of experience. The last category (**Figure 4.1.3**) is made up of social workers (diversion officers) purposively selected for FGD. Four (4) were female diversion officers while three (3) others were male officers. Among these 4 female officers, 3 had an Honours Degree while the other one held a Master's Degree. More so, these 4 female officers had about 5 years of experience with the remaining 2 and 1 male officers having 3 and 10 years of experience respectively.

Upon data analysis, various themes emerged on the nature of the PTD Programme as a tool to promote juvenile offenders' access to restorative juvenile justice. It has been shown through literature review that, various PTD Programmes have been developed to ensure and promote access to restorative juvenile justice among young offenders across Africa among other continental regions. Submissions made by participants nonetheless, pointed to context-specific nature and scope of the PTD Programme as shown hereunder.

Submissions from the participants clearly reveals that, the PTD Programme constitutes almost eight (8) functional diversion options or alternatives. These programmes generally included counseling,

reparation, victim-offender mediation, group conferencing, community service, vocational training, police cautions and use of leisure time. All these latter programmes are meant to divert juvenile offenders from the formal retributive and punitive criminal justice system to a more child-friendly separate juvenile justice process (that best suits their unique needs). One diversion officer (social worker) stated that:

All I can say is, there are about 8 diversion options functional in Zimbabwe. These alternatives can sometimes go hand-in-glove depending on the gravity and nature of the offense committed by the juvenile. These options include counselling, reparation, victim-offender mediation, group conferencing, community service, vocational training, police cautions and use of leisure time.

One of the key informants augmented the above sentiments:

Generally speaking, there are various diversion services and programmes operational in Zimbabwe. I cannot really say they precisely add up to this or that number as they are constantly going under reviews. But I can practically say, these available options range from reparation, counselling, vocational and entrepreneurial programmes, victim-offender mediation, family group conferencing, police cautions, constructive use of leisure time coupled with community service. The former options (reparation and counselling) however, can overlap or be integrated within other latter options if need be. The latter one (community service) does not usually apply especially among those below 15 years. That's all I can say young man.

These above-given findings lucidly show that Zimbabwe has made significant strides in promoting young offenders' access to restorative juvenile justice through the establishment of a child-needs and rights-sensitive programme (PTD). Nyazema (2018) corroborate with Justice for Children Trust (2017) as indicated through literature review that, these diversion alternatives are elementary in realizing these juveniles' rights to protection from punitive, vindictive, retrogressive, retributive and harsh criminal justice system. These diversion alternatives (options) appear to logically add up to eighteen alternatives (that are more like those adopted by South Africa) and they are underpinned by the ethos and pathos of restorative justice. These principles encompass reintegration, rehabilitation, protection, reformation and reconciliation (Zehr, 2002; Munzie, 2004; UNICEF, 2013). The latter principles are also

in tandem with the dictates of international law (UNCRC, 1989; ACRWC, 1999) and the welfarist approach. That is, the social welfare approach to justice coupled with the international law collectively emphasise on the need to consider the protection rights and welfare of juveniles from any form of harm during the process of establishing justice (Harvagovan, 2013; United Nations, 2016; Wilson *et al.*, 2017). This is also clearly evidenced in the diversion programmes practised in other foreign and neighboring countries such as UK, USA, Australia and Hungary among others. All diversion programmes seem highly sensitive to children's welfare and unique needs (Kleinhans, 2013; Clancey and Howard, 2006; Walsh and Russel, 2010). Nonetheless, Zimbabwe's PTD programme seems partly limited in scope as compared to that of South Africa and Singapore that include a well-resourced and context-based community service (Monyatsi, 2008:35; Steyn, 2005; Chen Zhang *et al.*, 2009:139). More still, USA also seems to have a more comprehensive PTD programme that includes Drug Courts and Wilderness or Adventure Therapy that is a 21-day diversion process meant to deal with more challenging behavioural and addiction-linked or traceable offenses unlike Zimbabwe (Ellis, 2005:378; Sithole, 2021). Submissions from the social workers (diversion officers) and the key informant interviewees reveal that, for one to qualify for the PTD programme in general, there is a specific eligibility criterion used by the members of the diversion committee. All offenders would have to strictly fall within that framework; and the latter is informed by some particular legal provisions. One diversion officer (social worker) stated that:

When it comes to diversion processes, there is a particular formula used. That is, all juvenile offenders qualified under this programme should be minors who might have committed non-serious offenses. Secondly, they should also be willing to take responsibility of their offense and reform. All this is done to protect these juveniles from having a criminal record that would later interfere with their progress in the life among other challenges that come as a result of having gone through a formal criminal justice system.

To further support and cement this sentiment, one of the key informants alluded that:

Most specifically, this programme deals with young offenders (both children and youths) who are 21 years-old and below. Here is a crucial point to note: these offenders should have committed non-serious offences that logically, do not attract a sentence of more than 12 months (according to Criminal Procedure and Evidence Act). That is, these cases may encompass shop lifting and theft, truancy, bullying, public fighting, loitering and drug and substance abuse. In the same light, the offender must not have been repeated the offence or denied responsibility of the crime. All I am reiterating is that, even if the offender is willing to undertake the diversion activities, if the offender denies responsibility, then, that juvenile would be entitled to due process.

The above presented information from the social worker (diversion officer) and key informant interviewees portrays that the PTD Programme particularly in Zimbabwe targets a particular group of young offenders (below 21 years). To qualify for this programme like any other country, there is a specific eligibility criterion used in Zimbabwe. All these aspects as revealed through literature review, do correspond with those of Australia, South Africa and the USA among others (Steyn, 2010; Smit, 2010a; Kleinhans, 2013). Just like in Zimbabwe, Clancey and Howard (2006:377) supports that, for one to qualify for the diversion programmes in Australia and South Africa, he or she should be a first-time young offender. This offender should also have a non-serious offence and he or she must be ready to undergo diversion processes. Nonetheless, in terms of age group targeted, there is a disparity between Zimbabwe and other countries like Singapore, Hong Kong and Australia itself as these countries mainly consider children below the age of 18 (Ellis, 2005:378). Nonetheless, besides a slight difference in terms of age groups, an undisputable fact is that, all diversion programmes do acknowledge children's unique needs that should be addressed in a more child-friendly manner as emphasised by the welfarist and restorative justice approaches (Wilson et al., 2017; Mangwiro and Chitereka, 2021). This is highly essential as these juveniles' protection is dependent on the state (as stipulated by the '*parens patriae*' rule). In the same context, recognition of their lack of capacity to commit some crimes (as endorsed in the *doli incapax doctrine*)

is also key in protecting them from prosecution and incarceration. Thus, Zimbabwe by pegging the target age limit at 21 years unlike other countries (except South Africa), seems to be a step ahead in realizing the need to prevent criminal records among persons that may later interfere with their future progress in the context of participation in formal and public spheres where one may not be embraced if he or she bears a criminal record (Sithole, 2021; Mangwiwo and Chitereka, 2021).

As part of its nature, it was observed and recorded from the participants that, the PTD programme generally, is dependent on some international, regional and local legislative blueprints or frameworks. In this regard, it borrows from a fragmented set of child-focused laws without its own specific legal framework to inform and guide its operationalization. That is, Zimbabwe currently, has no distinct legislative blueprint particularly meant to guide the operationalization of the PTD programme or restorative juvenile justice administration. To confirm this observation, one of the social workers remarked that:

Umm, we really have to consult various pieces of legislative frameworks before and during the diversion programme's implementation process as there has been any specific law meant to inform its operationalization. We can take the whole day trying to explore and explain them young man, but they are many including the Children's Amendment Act that was recently enacted.

To cement the latter view, one key informant supported that:

Basically, what I can tell you is that, the PTD programme in Zimbabwe practically and logically leans on various legal frameworks and instruments. That is, at international level, there is the UNCRC (1989) and the Beijing Rules (1985) among others. At regional level, we have the ACRWC (1999). Then at national level, there is the national Constitution of Zimbabwe of 2013, the Children's Act, the currently enacted Children's Amendment (No.8) Act of 2023 (formerly the Children's Act), Criminal Procedure and Evidence Act and the Patriotic Act (formerly the Criminal Law or Codification and Reform Act). These are the most central legal instruments that inform the PTD programme. Meanwhile, from the look of things, Zimbabwe currently, doesn't have a distinct legal framework for the juvenile justice system. It remains fragmented and that's how I can put it. Anyway, there are some significant efforts to develop a Child Justice Bill that will then inform and guide the establishment of a separate juvenile justice system.

The established information from participants indicates that, PTD Programme's operationalization is practically underpinned by various legislative instruments. The Government of Zimbabwe as postulated by Rugaranganda and Rugaranganda (2016), has made significant strides in domesticating the provisions of the international laws (UNCRC and ACRWC) towards the promotion of juvenile's access to restorative justice. That is, Zimbabwe in practice, has no specific and distinct legal framework meant to ensure the smooth implementation of the PTD programme (Kaseke, 1993; Sithole, 2021). This is opposite to South Africa and Singapore where there is a separate piece of legislative frameworks: Child Justice Act of 2008 and the Children's Young Persons Act respectively in place to inform diversion processes (Chen Zhang *et al.*, 2009:139; Steyn, 2010:112). Nonetheless, some studies that were conducted outside Zimbabwe reveal that there are some countries (Hong Kong in China and Budapest in Hungary) that have been implementing diversion programmes and curbing recidivism without a separate legal framework (Wong Lo *et al.*, 2010:8; Kleinhans, 2013). The latter however, seldom suffices to approve the absence of such a framework. As such, failure to have such a distinct legal framework may hinder the smooth implementation of the diversion programmes thereby grossly violating these juveniles' right to life, survival and development coupled with protection from any form of harm and inhuman treatment in the name of justice. This is clearly emphasised by the welfarist and restorative justice approaches that establish for the development of a child-needs and rights-sensitive juvenile justice system. A system that respects and places children's welfare and protection at the position of eminence.

Submissions from participants particularly the key informants indicates that, the implementation of the PTD programme is hinged on the collective efforts of various professional from different fields. These professionals include the police, prosecutor, magistrate, social worker, psychologist and/or medical practitioner. They all work with the

juveniles and the parties concerned. One of the participants had this to say:

We work as an interdisciplinary team; meaning all the key professionals who have a significant bearing on restorative juvenile justice and juveniles' welfare are all involved. These professionals also make up the Diversion Committee: Lawyer, prosecutor and the magistrate. We also work with medical doctors and psychologists depending on the circumstances surrounding the juvenile and the offense to be addressed.

In confirmation of the above, one of the key informants buttressed the fact that:

Diversion process is a sophisticated and complex process requiring specific expertise and knowledge about child welfare, policy and practice including all the complex factors at play in influencing juveniles' behaviours. As such, parents and/or significant others, local leadership (where necessary), teachers coupled with the Diversion Committee collectively engage and contribute (at different levels) towards the implementation of the PTD programme.

This presented information shows that, many professionals from various fields of specialisation work hand in glove for effective implementation of the PTD programme. Steyn (2010:114) supported that these stakeholders collaborate towards the promotion of restorative juvenile justice. Just like in South Africa among other countries, as shown in the reviewed literature, these professionals include police officers, residing magistrate, area public prosecutor and the diversion officers (Kleinhans, 2013; Steyn, 2010; UNICEF, 2013). Their roles generally include arresting and cautioning (for police officers), then assessing and report writing to inform the diversion committee on the circumstances of the juvenile and recommendation for diversion (for diversion officers). For prosecutors and magistrates, they focus on making final decisions regarding the plight of the juvenile while informed by diversion officers' report (JCT, 2017; Nyazema, 2018). Nonetheless, Vengesai (2014) postulates that, there is also a probation officer (social worker) from the DSD who may also assist the diversion officer (social worker under the PTD programme) with the assessments and inquiry report writing. This 'de-confirms' and contradicts the studies conducted (outside) in Budapest, Hungary that indicates that, there is no formal diversion. As such,

parents, relatives, care givers, religious leaders and community leaders become the main players (Vandi, 2007:37; Kratcoski and Edelbacher, 2009:211). To this end, collective engagement of these professionals from different fields firmly contributes to holistic or comprehensive assessment and well-informed interventions. This is in line with the welfarist and restorative approaches that, children's needs are unique and diverse; hence, well-informed and effective interventions can only be realised if various stakeholders with different expertise from diverse fields collectively work together. Zehr (2002:114) further cements that, plenary or collective involvement of an enlarged circle of parties who have a stake to the offence in question immensely aids the effective implementation of the PTD programme.

Regarding the programme's source of support in terms of resources (financial, technical and material), the participants revealed that there are many organisations (both local and international) that seek to enhance and promote smooth implementation of the PTD programme. All collaboratively work (at different levels) with the Ministry of Justice, Legal and Parliamentary Affairs under that the PTD programme lies. One key informant summarized and pointed it out clearly that:

The main partners backing this programme (I mean technically, materially and financially) are mainly, UNICEF and Save the Children. That is, at national level, while working with the mainline ministry (Ministry of Justice I mean), these two organisations have been consistently allocating resources towards the successful and effective implementation of this programme in various districts. Locally, there is also CATCH, JCT, Legal Aid Directorate, Leonard Cheshire, ZHRC, government ministries like that of Education, Home Affairs and the Department of Social Development (DSD) among other rehabilitation institutions. All these are the other key players in promoting access to restorative justice in our country.

From the above given information, it can be observed that the Government of Zimbabwe is the main source of support for the PTD programme. To aid the effective implementation of this programme thus, the government also tap its funding and resources from some

partners in a bid to allow a successful implementation of this programme (Nyazema, 2018; Tembo, 2018; UNICEF, 2020; Vengesai, 2014). In this context, adequate resource allocation should be ensured. Taking South Africa as an example, diversion programmes are also supported by the government and the National Institute for Crime Prevention and Re-integration of offenders (NICRO) that was formed in 1990 (Steyn, 2010:113). To this end, CSOs can play a critical role towards the implementation of the programme since the government may face resource constraints; hence CSOs always spearheaded policy advocacy work and champion child rights promotion.

Upon interviewing the participants and data analysis, context-specific themes emerged on the hurdles constraining social workers from effectively participating in the PTD programme's implementation process. These factors or barriers (as lucidly shown hereunder) consequently and negatively influence young offenders' access to restorative juvenile justice in Zimbabwe.

The participants reported that, the lack of a distinct legislative framework (compounded by lack of political will) is one of the key hurdles impeding their effective participation in implementing the PTD programme in Zimbabwe. This is so because, it is this policy blueprint that empowers, legitimizes and provides the parameters within that their work and functions take place. To this end, one of the participants [participant 2, Focus Group Discussion] posited that:

The situation in practice is very pathetic, imagine a scenario whereby this pertinent programme just relies on fragmented laws without a specific policy or law that guides and informs its operationalization just like with probation officers who are empowered by Section 46 of the Children's Act (Chapter 5:06) that is currently named, the Children's Amendment (No.8) Act of 2023. This programme is under the Ministry of Justice and no law currently that seeks to establish restorative juvenile justice (in form of diversion services) in Zimbabwe as we see in other African countries like South Africa, our own neighbour.

In confirmation of this view, one of the key informants reiterated that:

Fellow social worker, you will see it when you get an opportunity to work with juvenile offenders under this programme. Imagine having a programme whose implementation and operationalization process merely depends on gathering various legislative instruments including the Constitution itself, the Children's Amendment Act, The Criminal Procedure and Evidence Act, the Criminal (Codification and Reform) Act and the ACRWC and the UNCRC. In short, I can say, the current juvenile justice system still suffers from identity crisis; it remains fragmented with the efforts of developing a Child Justice Bill taking too long to be enacted than necessary.

The presented information (as also shown through literature review) indicates that, the effective implementation of the PTD programme (with active involvement of social workers) is deeply rooted in the fragmentation of the juvenile justice system. This situation is evident in inconsistencies and disharmonies that exist among various legislative instruments that govern and inform juvenile justice administration. This was revealed by Chen Zhang et al (2009:139) who alluded that, paucity of policy consistency and a distinctive legal framework in many countries including Singapore, Hong Kong, Hungary and Japan (including those in some parts of Africa) has heavily impeded social workers' effective participation in implementing the diversion programme. Lack of this distinctive legal framework in most countries has been aggravated by lack of political will that in JCT's (2021) words manifests in a delayed stance in harmonising, aligning and enactment of key children-related Bills (the Child Justice Bill in particular). Zimbabwe in this regard, has never been spared. From a perspective of the welfarist and restorative justice models, restorative justice can only be a practical reality if practitioners (social workers in this context) are fully empowered and mandated by law to assume the position of eminence in diversion processes (UNICEF, 2013; Nyazema, 2018; Mangwiro and Chitereka, 2021). More so, restorative justice can only be realised if children's needs are also considered in law by establishing a separate legislative framework that govern the juvenile justice system administration process (Vengesai, 2014). Nyazema (2018) revealed that

Zimbabwe's PTD programme has a nostalgia of South Africa yet Zimbabwe has not yet fully managed to put in place a distinctive legal framework that inform the PTD. South Africa enacted the Child Justice Bill in 2008 like USA that put in place the Children and Young Persons Act. These countries consequently, have made significant progress towards plenary realization of juveniles' right to restorative justice through effective implementation of the diversion programmes (Hansen, 2006:1). It can therefore be deduced that, as long as Zimbabwe does not urgently consider the need to enact the Child Justice Bill like the aforementioned countries, it will continue to witness a rise in cases of children incarceration, abuse and deprivation of their rights to welfare and protection. Effective participation of social workers in implementing the programme will remain daydreaming.

During the process of interviewing the participants, it was discovered that, dominance by other professionals within the diversion committee (magistrates, prosecutors, lawyers and police officers) is another key barrier to effective social workers' participation in PTD programme implementation process. This might be due to lack of professional recognition of who and what social work as a professional is all about. Many even associated the profession with mere socialization and counselling of clients. Again, most social workers are viewed or seem to be void of legal knowledge and technicalities of the law. Some even underestimate themselves or feel ashamed of their profession in the presence of the appealing and confident legal team within the diversion committee. This then influence limited involvement of social workers in diversion process as they are just ritually involved for formality's sake. In validation of this view, one participant [participant 3, Focused Group Discussion] exclaimed that:

Honestly speaking, in as much as there has a massive demand and clarion call for the inclusion and involvement of many social workers in juvenile justice processes, the opposite is being experienced in real practice. Do you know even police officers think they possess better know-how about the law and how to handle juvenile cases! I cannot talk of the magistrates and prosecutors (who are lawyers by profession); young man, you cannot tell them anything.

They mean business. When we say justice, they mean it. So, at the end, the only think you can do as a social worker is to let them take the front city in determining these children's fate without much controversy.

To further augment the above sentiments, one key informant hinted that:

I think social workers (besides them being few in this programme) lack sufficient knowledge of the law and juvenile justice (diversion) processes. Technicalities of and within the juvenile justice system requires optimal balance between juveniles' protection needs and justice needs. A line that balances the two is sometimes too thin to detect. That's where many social workers fail. So, they end up playing the back-seat kind of roles.

From the provided information, it can be noted that, poor recognition of social workers within the diversion system coupled with dominance by other professionals is another key factor constraining the effective participation of social workers in PTD Programme implementation process. Participants revealed that, the professionals within the diversion committee particularly the magistrate and prosecutors and even the diversion officer from the Victim-Friendly Unit (VFU) practically seem to assume the front-line roles. As shown in the literature review, this is the same scenario with Budapest (Hungary) and Hong Kong (China) where the police lead and dominant in diversion processes (Steyn, 2005; Steyn, 2010; Kleinhans, 2013). In Australia and the UK and USA though there are some significant efforts to incorporate and promote active participation of social workers, magistrates and the police usually dominant. This scenario firstly, has been attributed to mainly poor professional recognition. That is, there is limited awareness among stakeholders within the diversion committee with regards to the importance and influence of social workers in promoting restorative juvenile justice among young offenders. This so because professionally, they are highly sensitized on children's protection needs and welfare rights among other developmental concerns (doliincapax rule). These rights, needs and aspects are central in determining these young

offenders' fate as emphasised by the social welfare and restorative justice approaches.

In this context, poor inclusion of these professionals renders the whole diversion programme anti-restorative, devoid and void of the critical aspects (reformation, protection and reintegration) that underpin its implementation (United Nations, 2016; Wilson *et al.*, 2017; Mangwiro and Chitereka, 2021). This is in as far as the main goals of the programme are concerned. This is so because, other professionals might be that sensitive to protection, developmental and welfare needs of these young offenders as compared to social workers. Nonetheless, it should be noted that, this poor recognition of social workers in diversion process has also been influenced by lack of knowledge with regards to laws and policies that inform juvenile justice administration or processes in general. As such, due to fear of contempt, cross-examination and further questioning by the diversion committee, social workers end up playing the observation role while letting the police diversion officers and the diversion committee doing all the work.

Participants also highlighted, that lack of resources (logistical, financial, human and material) compounded by donor dependency, has seriously impeded social workers' effective participation in implementing the PTD programme in Zimbabwe. In other words, resource misappropriation, misallocation, mismanagement and budget constraints, is a major barrier to social workers' effective participation. The Ministry receives a very limited budget from the government with the hopeful expectation that, donors such as UNICEF and Save the Children would support as usual. This dependency syndrome is on its own, a virus that has impeded the smooth running of the PTD programme in Zimbabwe. Lack of resources also manifests in poor infrastructure to accommodate even those offenders with disabilities. Besides, the offices used for diversion are sometimes switched with and for other government multiple tasks or events; while very few (faulted)

printers exist to cover many offenders. More so, there is the shortage of skilled professionals (diversion officers) who are competent enough to handle the diversion processes due to brain drain, poor remuneration and poor employment behaviour. All these factors altogether, have led to poor programme coordination, huge caseloads, decreased morale at work and logistical constraints (transportation of juveniles to their diversion centres or rehabilitation centres). This was confirmed by one of the participants who lamented that:

Imagine a whole lot of young offenders flocking for diversion against a single or two (with some few inexperienced social work attachees) diversion officers. How would you deal with such huge caseloads! Look at the peanuts (as salary) we are receiving, I am many times demoralised and overwhelmed. Look at our offices, so dilapidated, no meaningful and functional printers here, everything is centralised in one or two office(s). Fellow social worker, I pray you don't find yourself working under such circumstances one day. It's so pathetic that our work is hindered thereby leaving many of these young offenders eventually falling prey of prosecution, incarceration and abuse." [Participant 5, FGD)

To further confirm the above sentiments, one key informant reiterated that:

The budget channelled towards child protection particularly this programme is not that feasible. I was trying to even consider the 2024 budget previously presented by the finance minister, ummmm! maybe it's because of the current hostile economic climate. But I can tell you that, dependency syndrome has crippled this programme's capacity to meet its set mandate. Much support is coming from donors, mainly UNICEF and Save the Children and I can guarantee you that, if these donors wake up one day and say we are withdrawing haaaaa, that's will be the end of it all.

From the above expressed concerns, it can be established that, the effective participation of social workers in implementing the PTD programme is hindered by lack of resources and overdependence on donors by the government. The provided findings also present a 'chain of causation' and that is, lack of prioritisation and misuse of funds or resources coupled with corruption has led to incapacitation. This further results in poor programme implementation and outcomes in terms justice service delivery (Lee and Conigrave, 2008:437; UNICEF, 2020;

Vengesai, 2014). As revealed in literature review, resource limitation and shortage of skilled labour due to brain drain in most African and Asian countries including Malawi and Zimbabwe and Japan and Hong Kong respectively, has greatly affected the coordination and implementation of this Programme. In the context of Zimbabwe, Justice for Children Trust (2021) further supports that, the budget that is allocated towards juvenile justice in general and PTD in particular may not be sufficient enough to ensure effective implementation and coordination of the programme. To this end, when the programme is poorly implemented, delivery of services is therefore compromised; and this may finally affect social workers' participation in PTD programme implementation process. From the perspective of the welfarist and restorative justice approaches therefore, one may observe how reintegration, rehabilitation and restoration of these offenders may not be easily achieved unless adequate budget and resources are channelled towards the programme. That is, diversion as a process requires the state to assume the 'parens patriae' (state as a custodian) position through adequate commitment of resources (financial, material and human) for effective implementation. This will eventually see many young offenders being effectively and successfully diverted from the criminal justice system with better outcomes.

The submissions made by participants established that, lack of comprehensive or robust referral system and limited diversion options is another binding factor constraining the effective participation of social workers in implementing the PTD programme in Zimbabwe. Below is what one of the participants [Participant 6, FGD) expressed:

PTD as a programme has a lot of gaps in terms of referral pathways; they are not clearly demarcated and established. For instance, you could find a juvenile being referred to a counsellor or for vocational training yet having many other disorders like memory loss or serious addiction that may require extra attention and special diagnosis from medical doctors or psychiatrists. Unlike in other countries like SA, the programme is limited when it comes to addressing the plight of offenses that are triggered by the underlying factors such as excessive drug and substance abuse.

In cementing the latter expressed sentiments, one of the key informants revealed that:

Sir, honestly, we have a serious challenge with our PTD programme. For instance, some of the juvenile or young offenders referred for this programme could have many other underlying problems (mental, intellectual challenges, traumatic and behavioural disorders) that require special diagnosis (medical and psycho-mental) from specialised professionals. But, in most cases, most of these offenders may be just attended by one stakeholder like the probation or diversion officers for counselling among other things. Many have further failed to access diversion services due to the limited diversion options; hence, the PTD programme has limited options.

From the above presented findings, it can be established that, lack of an effective or comprehensive referral system and decentralised (and expanded) PTD options has also hindered social workers' effective and substantive participation in implementing the PTD programme in Zimbabwe. This is so because, once there lacks such a robust referral system and expanded options, social workers' flexibility in handling juveniles' offenses in their diversity and complexity is hampered. Thus, lack of a clear referral pathway coupled with the dormant state of community service in Zimbabwe have betrayed the aspirations of the welfarist and restorative justice approaches. According to these approaches, a straight-jacket or one-size-fits-approach to juvenile justice administration is an anathema to practice, hence unique and context-based options with holistic referral systems should be ensured and enhanced (Sithole, 2021; Mangwiro and Chitereka, 2021). As shown by Wood (2003:01), studies conducted in the USA and SA revealed that, PTD nature and scope is diversely and comprehensively structured in a way that can also address serious addictive and behavioural disorders: Wilderness Adventure is a good example. In South Africa, community service is playing a key role in addressing 'a bit serious yet minor offences and these offences may include those that are prompted by general aggression (Steyn, 2010:54). Limited PTD options also manifests in criterion used for selection that have discriminated many offenders, leaving them exposed to the formal criminal justice system. As

supported by Wood (2003:02), criteria used like that of accepting responsibility first, seems incompatible as many offenders are burdened with challenges such as family violence, substance abuse, financial problems in their households that contribute to their behaviour and motivation. Therefore, limited options and the lack of engagement of other professionals (doctors, psychiatrists and psychologists) outside the diversion system is a key hindering factor to effective social workers' participation in diversion processes.

The findings from participants also indicated that, lack of support, involvement, engagement and participation of parents/guardians or significant others is another hurdle behind social workers' ineffective participation in implementing the PTD programme. In confirmation, one participant [Participant 1, FGD) revealed that:

Working with young offenders without their support care units or systems (in the name of guardians, parents or significant others) is very problematic. You see, these parties are key influencing either positive or negative behavioural outcomes in the juvenile's life. So, that is our main challenge; most of them do not cooperate or come for their children especially when they are referred for mediation or reparation among others. Some also fail to catch up with deadlines due to other pressing commitments and sometimes, they might have gone outside the city fending for us to live.

In support of this, another key informant divulged that:

Effective social inquiry reports by diversion necessitate effective implementation and outcomes of the diversion processes yet poor parental cooperation have been the main challenge. Most of these care givers seem to care less or not at all; they often trivialize their children's acts. They don't even meet deadlines and attend the determined options. That's a serious problem.

As provided above, lack of support and involvement of parents among the significant others is also another key factor behind ineffective social workers' participation in PTD Programme implementation process. Studies conducted in Budapest, Hungary reveal that parental support and cooperation is key in ensuring effective implementation of the diversion programmes. In this context, although there is no formal diversion in Budapest, parents, care givers, religious leaders, and other

community leaders are collectively engaged though depending with the nature of the case and age (Vandi, 2007:37). For years, Hungary has successfully managed to not only divert cases but prevent juvenile offending than many other countries (Kleinhans, 2013; Sithole, 2021). From this view, one may clearly observe that, juvenile offenders' access to diversion services through social workers' participation is also strongly dependent upon parental support and involvement of care givers and significant others. The Welfarist model views these stakeholders as primary agents of socialization whose active involvement in any matter concerning a child positively contribute towards an improved situation (Harvagovan, 2013; Nyazema, 2018). To this end, it can be noted that in Zimbabwe, many juvenile offenders due to orphanhood and pressing commitments confronting their parents and guardians, many children may face serious challenges in trying to access the programme especially if the child is referred to family group conferencing, reparation or mediation. Thus, most social workers end up struggling to effectively deal with such offenders whose significant others could have failed to cooperate or come for the referred diversion option. Eventually, this scenario might result in re-offending or referred to the formal criminal justice system (Sithole, 2023; Nyazema, 2018). Absence of these stakeholders thus, from the restorative justice perspective presents itself as a tragic betrayal of the aspirations of restorative justice. The latter include reconciliation, reintegration, reformation and restoration. All this can only be achieved through ensured collective participation of all stakeholders who have a say to the stake in question.

Having discovered many hurdles constraining the effective participation of social workers in implementing the PTD Programme, submissions were made by the participants in a bid to address them. This pertained to the possible measures (that informed the proposed model in the proceeding chapter) that can enhance social workers' effective participation for more desirable outcomes in as far as young offenders'

access to restorative justice is concerned. From those submissions, the following interventions were drawn:

The participants (key informants included), cautioned that, effective participation of social workers in implementing the PTD programme for better outcomes will remain a mere dream. This is as long as there is lack of political will and failure by the Civil Society Organisations to push for the expedition of the Child Justice Bill enactment process. In the same context, this Bill should also stipulate and empower social workers (diversion officers) to take the position of eminence in the diversion process for restorative justice to be realised among young offenders. Thus, as a suggested intervention measure, hereunder is what one of the key informants remarked:

Honestly speaking, let me reiterate that, this is the opportune time the government needs to expedite the alignment and harmonization of laws influencing juvenile justice. By this I particularly refer to the Child Justice Bill that should be enacted into law as soon as yesterday. The pertinent bill is urgently necessary for providing an allowance towards the establishment of a separate child-friendly juvenile justice system with a sound legislative framework that would soundly inform diversion processes.

As suggested above, Ruparanganda and Ruparanganda (2016) confirms with the CSOs Report (2019) that in as much as the government has made significant efforts in developing the Child Justice Bill, that should not be the end; an extra mile should be taken towards its enactment into law for effective and efficient administration of restorative juvenile justice. This position is also in tandem with the welfarist and restorative justice approaches that advocate for the establishment of distinct, robust and child-needs and sensitive justice system for sustainable better outcomes. Zimbabwe in this light should follow-suit to what SA, UK and Australia have done in terms of their policy refocusing for improved children's (those in conflict with the law) plight.

To fully address the problem of poor professional recognition coupled with improved and balanced participation of social workers in PTD

implementation process, the participants spotlighted the need for increased awareness on restorative justice and advocacy for better professional recognition. This could greatly contribute towards effective performance and neutralized power shows and dominance coupled with conflict of interests at the expense of juveniles' welfare and protection. To this end, one key participant posits that:

The contribution of social workers and the concept of restorative justice is very unpopular across the professional divide, hence, there is need for advocacy and increased awareness raising on this programme and social workers' functions. More training (sensitisation) on laws and the juvenile justice processes and applicable terminology is also needed among social workers for improved competence. This could help in avoiding their ritual involvement in diversion processes without much say or participation.

From this latter expressed view, it can deduce that the government has so done is not enough. This is mainly with regards to the recognition of social workers in juvenile justice administration. That is, much emphasis has been on justice promotion to an extent that, the PTD programme itself was placed under the Ministry of Justice and not the Department of Social Development under the Ministry Public Service, Labour and Social Welfare. As such, dominance by the diversion committee members is easy as they might see social workers as 'foreign' and unknowledgeable professionals who are yet to understand the diversion processes from the perspective of justice and not restoration, reformation, rehabilitation and reintegration (United Nations, 2016; Kleinhans, 2013; Wilson *et al.*, 2017).

Since there is understaffing and shortage of skilled labour (social workers in particular) under the PTD programme and resource constraints, the participants recommended the need for more increased task force and adequate budget allocation towards child protection. This could eventually ease the burden of caseloads, coordination and implementation process of the programme for better outcomes. One participant had to summarise it this way:

The government should see it fit that, more registered and licensed social workers (diversion officers) are employed to avoid unnecessary delays and caseloads. In terms of resources, I think it's now high time the government should stop overly depending on donor funding especially given the currently prevailing hostile political and economic climate. The child protection sector should be highly prioritised as this is the most vulnerable group of the society yet the future of the nation.' [Participant 4, FGD)

One key participant also supported that:

Prioritisation in terms of resources (human, financial, material) allocation is the only way out if this programme should be effectively implemented towards boosted access to restorative justice among young offenders. In short, all things need money; evading that fact is applying for failure.

Securing sufficient budget towards an effective implementation of this programme as suggested above by the participants, may greatly help towards increasing access to PTD services amongst the juvenile offenders. Sithole (2023) confirms that failure to allocate proper budget by the government towards infrastructural and logistical costs among other expenses may hinder effective implementation of diversion programmes thereby hindering juveniles' access to restorative justice. Though support from the external players is essential, it should also be noted that, donor overdependence may also have strong bearing on diversion performance, hence should be avoided. Nonetheless, to UNICEF (2019), resource allocation can only be a solution if it is underpinned and informed by sustainable M&E systems and the enhancement of transparent, accountable and consistent use of funds. More so, Save the Children (2019) also supported the need to establish a community-based approach in raising awareness; and that is, the community itself should take a front role through the use of CCWs among other local leadership systems. This is in line with the demands and prescriptions of the welfarist and restorative justice approaches that wholly appreciate and recommends collective and multi-stakeholder approach in addressing the plight of juveniles for better diversion outcomes.

After it was discovered that effective participation of social workers in PTD implementation process was also hampered by lack of robust referral pathways and systems coupled with limited options for PTD in communities due to centralisation issues; participants collectively agreed on the suggestion that there is need for PTD programme expansion to other communities and strengthening of the programme's referral systems. Below is how the other participant [Participant 6, FGD] summarised and presented it:

The PTD programme I think should also be extended to other communities or locations than centralised. In my respectful opinion, I also suggest that, there should be a comprehensive referral pathway meant for those with mental and intellectual disorders.

To further cement the above suggestion, one key informant hinted that:

For effective implementation of the programme remember no profession can deal with the totality of a human being without referrals in one or the other. Even social workers need others for holistic practice. As such, referral system for juvenile offenders with behavioural and intellectual challenges should be developed, strengthened and ensured through a collaborative effort between the stakeholders in the juvenile justice system and those in the clinical and psychiatric setting for effective screening and assessment. I also further suggest that since Chitungwiza is very big, there might be a need to further expand and spread the programme to other communities for easy access and cut costs. All I'm saying young man is simple: decentralisation is the only way out.

As provided above, a need to strengthen and expand the PTD programme will not only help in boosting easy access to diversion services, but to allow effective coordination and implementation of the programme. Thembo (2018) revealed that, as long as centralisation and lack of a robust referral system still shadows the PTD Programme, then effective participation of social workers in diversion processes will always remain a mere dream. Thus, participatory community-based approach to diversion service delivery should be promoted if these children are to fully enjoy their rights to protection and welfare in the context of restorative justice and rehabilitation.

During interviews, it had been registered that, absenteeism by parents or significant others due to poor cooperation and lack of involvement in diversion processes was one of the key factors affecting social workers' effective participation in PTD programme implementation process. As such, participants later suggested that there is need to engage or involve the parents or significant others in diversion processes. This would then help to ensure smooth programme coordination, implementation and progress. To substantiate this suggestion, one of the participants recommended that:

We aware that, most times parents, guardians or significant others of these young offenders might be busy with other life commitments, but diversion processes are highly crucial for peaceful and health development of a child. Hence, their presence, commitment and cooperation become central without doubt or excuse. They cooperation through collective engagement and participation is indispensable; hence should accordingly be ensured for the benefit of the juvenile, the community and the nation at large.

To further support these sentiments, one of the key informants also remarked that:

It should be known that, for effective diversion processes, all stakeholders capitalise on the availability and cooperation of those children's guardians or care givers. Unfortunately, most of these juvenile offenders are orphans and they often come from extended families. As such, they may fail to access diversion services if their significant others are not involved. Therefore, there is need to engage and involve them in all diversion processes.

From the above presented suggestion, it can be upheld that, involvement of parents and/or significant others throughout diversion processes should be secured or ensured. This is key in aiding the effective participation of social workers in implementing these diversion programmes (Steyn, 2010; Kleinhans, 2013). Dealing with a minor without involving the significant others from that the juvenile borrows much of his or her behaviour from might be highly problematic. Thus, for better and improved diversion outcomes, these significant others should be involved and engaged. Eventually, this might help to establish these juveniles' access to PTD programme without prejudices, discrimination and stigma. In this light, restorative justice and welfarist

approaches confirm the centrality of the collective participation of these stakeholders in diversion processes for holistic and comprehensive outcomes. This is in relation to effective rehabilitation, reformation and reintegration of that particular juvenile in need of care.

The chapter has sought to present, analyse, interpret and discuss the study's key findings (through in-depth interviews, FGD and documentary review) from the participants. The findings have established the nature of the PTD Programme as a tool for restorative justice promotion among young offenders. Their findings also show that underlying hurdles constraining social workers' effective participation in implementing the PTD programme in Zimbabwe. Submissions from the study therefore revealed that these factors encompassed but not confined to resource constraints, overdependence on donor funding, lack of cooperation or involvement of parents or guardians, limited diversion option and lack of a robust referral pathway coupled with the paucity of a distinct legislative framework to guide and inform the PTD Programme among others. Failure to ensure these social workers' effective and full participation therefore, is tantamount to denying their right to protection and welfare as stipulated by the welfarist and restorative justice approaches. Thus, as suggested measures to these challenges, it was suggested that, the government needs to allocate adequate resources towards the implementation of the PTD programme, ensure capacity building among key stakeholders, expedite the harmonisation and alignment of laws, engage the parents in diversion processes and raise awareness among the community members and families about the PTD Programme and children's rights. The following chapter however, will provide the study's summary, conclusion, areas for further research, implications for social work practice and general recommendations.

CHAPTER 5: THE PRE-TRIAL DIVERSION PROGRAMME AS STRATEGY FOR RESTORATIVE JUSTICE PROMOTION: REFLECTIONS AND THE FUTURE

The preceding chapter (through data analysis and discussion) has managed to provide the nature of PTD Programme as a restorative, rehabilitative, transformative and child-sensitive justice promotion tool. It also established the key hurdles constraining social workers' participation in implementing this programme. In the same context, the possible intervention measures (from both the participants and key informants) have also been provided. The chapter nonetheless, endeavours to establish a summary of the study's key findings, conclusions and recommendations for improvement. In the same light, the chapter also unravels the implication of the study to social work practice as it also spotlights critical areas for future study. Lastly, the summary of the chapter shall also be given.

As the study's first objective, the study has managed to establish the nature of PTD Programme as a tool for restorative justice promotion. That is, the previous chapter has provided that, there are about eight options or alternatives within or under the PTD programme. These diversion options generally include counselling, reparation, victim-offender mediation, group conferencing, community service, vocational training, police cautions and use of leisure time. Collectively, these diversion alternatives seek to address the plight of young offenders who could or might have committed non-serious or minor crimes: theft, public fighting, bullying and malicious damage of property and unlawful entry among others (Justice for Children, 2017; Steyn, 2010; UNICEF, 2013; Nyazema, 2018). These are offenses that may not attract the sentence of more than twelve (12) months. In terms of eligibility criteria, only those below twenty-one (21) years, first time offenders and those willing to take responsibility among other above mentioned-conditions

qualify for this programme. It was also established that, this programme's operationalization process firmly depends on various laws including the UNCRC, ACRWC, Children's Amendment (No.08) Act of 2013, Criminal Law (Codification and Reform) Act (currently the Patriotic Act), the Criminal Procedure and Evidence Act and the Constitution of Zimbabwe Amendment (No.20) Act of May 2013. In terms of its resource support base (technically, financially and materially), the programme is supported by the government of Zimbabwe with much support from both international (UNICEF and Save the Children) and local agencies (Justice for Children, ZHRC and CATCH). In the same light, there are many stakeholders from different fields who work hand in glove to implement this programme and they include the Police (diversion officer from the VFU), social worker (diversion officer), diversion committee members (magistrates, prosecutors) and parents or significant others among others (psychologists and medical doctors where necessary).

Being the study's second objective (as shown in the previous chapter), it was also provided the underlying impeding factors behind social workers' ineffective participation in implementing the PTD programme in Zimbabwe. Among these hurdles is lack of a distinct legislative framework to guide and inform the operationalization of the PTD programme as it merely borrows and leans on fragmented international, regional and local laws mentioned above. Hence, this demoralises, confuse, overwhelms, disempowers and weakens professionals in the processes of discharging their duties. This gap however could be addressed by the current Child Justice Bill if it be enacted into law. Other barriers to effective social workers' participation included dominance by other professionals especially those within the diversion committee coupled with lack of professional recognition. In the same context, social workers have also been affected by huge caseloads due to brain drain (social workers' mass exodus in particular) compounded by acute resource constraints (material, financial, technical) and donor overdependence syndrome. This situation impedes the programme's

smooth coordination, programming, planning and implementation. More so, the existence of ineffective referral systems or pathways, erratic support, limited diversion options and lack of collective and full cooperation by significant others of guardians are also among the key factors impeding social workers' effective participation in PTD programme implementation process.

Finally, in line with the study's last objective, it was also demonstrated through submissions made by the participants that, besides the efforts so far made by the government in collaboration with the key stakeholders, these initiatives may not be enough to effectively address the challenges faced by the PTD programme. This is in as far as its implementation and the participation of social workers is concerned. Among the proposed possible measures for improved better outcomes, the need to expedite the development and enactment of the Child Justice Bill was highly emphasised. This law will provide a normative standard for the programme's implementation process while it also empowers social workers to participate effectively in diversion or juvenile justice process. Again, it was also suggested that, there is need to for increased awareness on restorative justice and advocacy for professional recognition of social work. More so, it was submitted that, there is need to for development of a robust and sustainable referral system coupled with expanded and decentralisation of the PTD Programme. Also, increased participation and involvement of significant others, increased task force and adequate allocation of resources would also greatly help in improving the effective participation of social workers and consequently, this could enhance the implementation of the PTD programme in a more productive manner.

The overall analysis from the above discussions have therefore led to the key conclusion(s) that:

Failure by most young offenders to equitably access restorative juvenile justice in Chitungwiza District is due to lack of social workers' active and full involvement or participation in the PTD programme

implementation process. Social workers' effective participation in PTD implementation process in this light, is highly paramount. That is if the goals of this programme are to be fully met. This is so because these professionals, as compared to their professional counterparts, are highly sensitized on children's unique welfare and protection needs as emphasised by the restorative justice and welfarist approaches. Thus, failure to place these professionals at the position of eminence from the very first steps of the diversion process (assessment and social inquiry writing), is a direct blow to the realization of young offenders' access to such needed diversion services. To this end, ritual involvement of social workers in the PTD programme implementation process could be one of the deeply-rooted hidden causes of recidivism, worsening juvenile re-offending, continuous incarceration, dehumanization and unnecessary prosecution of these young offenders.

Absence of a robust and legislative framework is also the 'mother cause' of all other preceding challenges identified. This is because, it is law that sets the logic, mode, parameter, normative standard and boundaries within that every duty, activity, role and responsibility is executed. So, failure by the Government of Zimbabwe (GoZ) to expedite and implement the Child Justice Bill is a serious insult and back-push of what the programme could be capable of accomplishing in juveniles' lives. This is pertaining to the participation of social workers in PTD programme implementation process and ensured young offenders' access to restorative juvenile justice (in the form of diversion services). Therefore, the GoZ should see it that, just like her own neighbour, South Africa, there is a robust and distinct legislative framework specifically meant to inform the juvenile justice administration processes. More dependence on fragmented laws cannot be sustainable and feasible given that, some of these laws are even partly inherently flawed. For instance, the Criminal Procedure and Evidence Act (Chapter 9:07) still provides for the administration of corporal punishment although the currently approved Children's Amendment Act closes that gap. In the

same light, there is a disharmony with regards to the age of criminal responsibility while international law (depending with country or region though) pegs around 12 and 14 years, Zimbabwe still upholds age seven (7 years) as the age of criminal responsibility. Though there are efforts to harmonize it in the current Child Justice Bill, this gap still creates confusion and thus, negatively influence how social workers participate and how these offenders are treated in the process.

Prioritisation of the child protection sector has been taken for granted in terms of budget and resource allocation as much hope and anticipation to donor funding. That is, as long as there remains lack of commitment, mismanagement, misallocation and misappropriation of resources in whatever form, most juveniles might continue experiencing restorative justice in theory and not in reality. This is so because, effective coordination, facilitation and implementation of the diversion programme is fully hinged on adequate resource allocation. The government in this light, assumes the principal role as other stakeholders should only come to complement. If that would be ensured, the plight of young offenders could be improved as social workers would also effectively participate in the programme's implementation process. Thus, sufficient resource allocation towards this programme would automatically translate into a half-done task and this should be followed by proper management of such resources within the context of accountability and transparency for better and improved outcomes.

Restorative juvenile justice is at the crux of social work practice; that is, full and well-informed understanding of juvenile justice issues nourishes social workers' professional practice in terms of competence. As provided in the study, juvenile justice is a highly technical and ambiguous concept or system that often takes diverse yet interrelated forms and faces over time, context and age among other dimensions. In other words, there is a close nexus between social work and restorative juvenile justice. Therefore, social workers' participation throughout the

diversion process is key for more positive outcomes. This link can be traced and noticed at different levels of operation. That is, ethically, social workers are mandated to defend and champion children's rights; be their custodians who should at all levels seek to promote social justice and protection of all vulnerable groups (particularly children in need of care). This is appreciated in the Children's Amendment Act of 2023 and NASW Code of Ethics (2017) among others. In the same context, at micro level, social workers can effectively contribute towards restoration of individual offenders through education and therapeutic provision (educative or informational and therapeutic counselling).

The importance of the study in social work fraternity can also be evident in the key values (human worthy and dignity, importance of human relationship, social justice and service) that underpin competent social work practice in juvenile justice processes (NASW, 2017; Oko, 2008). That is, social workers (probation and diversion officers) should fight to address social injustices prevailing against this vulnerable group. Work with juvenile offenders in relation to diversion thus, requires social workers to possess competent skills in assessing, screening, writing, speaking and communication skills among others. In this context, social workers possess credible know-how on child development and behaviour and these are very critical when it comes to the determination of the juveniles' social condition. This is in terms of unearthing the hidden causes of crime, effects and modelling of a holistic and sustainable interventions. Other professionals may not be that competent to this end. At a mezzo level, social workers are accustomed to the multi-disciplinary or multi-stakeholder framework (that emphasises eclecticism and diversity), hence they easily work other groups or sets of experts or professionals (medical doctors, psychologists, psychiatrists) for holistic outcomes. At macro level, social workers can contribute towards policy lobbying, review and reform; that is, at a policy level. Therefore, neglecting or trivializing their

participation could be highly defective and disheartening in the process of promoting juveniles' access to restorative juvenile justice.

From the lenses of developmental social welfare, the study advances how the principle of collective participation of all key stakeholders should be ensured towards the prevention of juvenile offending in the first place. That is, community-based and participatory measures in promoting resilient and healthy behaviours among the juveniles should be enhanced. This can be done through the active involvement or participation of significant others (parents or guardian of these offenders). Consequently, this could result in improved behaviour change and prevention of juvenile offending. The study also unravels a striking nexus between service users and their providers while highlighting ethical dilemmas (clashes) that often arise during practice. As such, NASW Code of Ethics (2008) concurs with Oko (2008) that, there is need for social workers to understand the utility of various ethical interventions encompassing utilitarian consequentialism, deontological approaches and virtue theories. Therefore, social workers undertake preventive, rehabilitative, mitigatory and responsive roles or functions in promoting the vulnerable children's full protection while promoting their protection needs and rights in diversion processes.

Having fully unpacked and established the underlying hurdles constraining social workers' participation in implementing the PTD Programme, the section hereunder provides the recommendations. The latter were deduced and drawn by the researcher from the participants. Thus, to provide a robust, sustainable, context-based and comprehensive diversion model, these recommendations have been categorized into four (4) parts: Government, Civil Society Organizations (CSOs), the Community and finally key tertiary institutions that offer Social Work-related programmes. The latter mainly pertains to particularly, the University of Zimbabwe that logically should be an exemplary and

leading figure in producing competent social work professionals in Zimbabwe and beyond.

Being the overseeing custodian of the child protection sector, it is suggestively recommended that:

- The GoZ should develop and put in place a distinct legislative framework that inform and guide juvenile justice administration (the PTD Programme included). This will help in setting the normative standard for a separate juvenile justice and empower social workers to execute their work effectively. To achieve this, there is need to expedite the alignment and enactment of child-related laws particularly the Child Justice Bill.
- There is need for capacity-building of all key stakeholders working under the PTD programme on child protection and welfare needs coupled with the concept restorative justice and its processes. This will enhance competence for improved and effective implementation of the PTD programme. Among the stakeholders to be capacitated are: magistrates, prosecutors, police officers (VFU members), social work (diversion officers and probation officers).
- To combat the problem of resource constrains, the GoZ should seek to adequately resource the child protection sector in terms of budget (financial), human (skilled labour) and physical (infrastructure) resources. This will aid, capacitate and enhance smooth, efficient and effective coordination and implementation of the programme. To achieve this, the government should capitalise on strengthening the multi-sectorial and multi-stakeholder approach.
- The GoZ should also decentralise and expand the PTD programme in terms of diversion options and alternatives (possibly suggest Adventure and Family therapy). This will help to fully and holistically address diverse and various forms of offenses committed by young offenders including those driven by drug and substance abuse among other behavioural and intellectual challenges.

- As a signatory to the international body of statutes, the government should also seek to comply and conform to the standards, guidelines and provisions of the UNCRC (1989) and the ACRWC (1999). This is with particular reference to children in need of care, in as far as their protection needs are concerned. To achieve this, the above recommendations should be firstly considered and implemented.

Given the role played by the CSOs in complementing the government's efforts (at technical, programming and policy levels), it can be suggested that:

- The CSOs should continuously pushing for the expedition of the harmonisation, alignment and ratification process of particularly, the Child Justice Bill. This will help in the establishment of a child-friendly, reformatory, protective, rehabilitative and restorative juvenile justice system.
- For holistic intervention, there is need for more strengthened partnerships and collaborations in all social processes (social planning, advocacy, research and programming). This in particular, relates to all organizations or agencies that work with children in conflict with the law at various levels and in different areas. These areas may encompass law (JCT, ZHRC), research and policy advocacy (ZNCWC, UNICEF, Save the Children) and rehabilitation (North Court, Leonard Cheshire among others); but all depending with circumstances prevailing on ground.
- There is also need for more awareness raising on children's rights, needs and protection issues particularly pertaining to juvenile justice and children's responsibilities. This can be done through participatory and community-based approaches. This will not only contribute towards responding to juvenile crime but more importantly, in preventing juvenile offending since knowledge is power.

In logic, the community presents itself as a macro picture of the family agency in socialization processes, hence the role of community social workers in behaviour modification and change cannot be underestimated. As such, it is recommended that:

- There is need for active participatory child-centred and community-based sensitization groups and associations (or clubs) that represent the protection needs and welfare rights of juvenile offenders. In this light, many will be their own agents in transforming their own life patterns thereby becoming responsible citizens.
- There is need for collective and full participation of the local leadership systems and community Child Care Workers (CCWs) among other stakeholders in educating juveniles (within their family units) on the PTD programme and encourage families to have the impetus access it when problems that need such programmes arise.

Tertiary academic institutions (colleges and universities in particular) are the key capital human development centres where most professionals (social workers in this context) who work under the juvenile justice system are moulded and produced. For competent practice thus, it can be suggested that:

- There is need for social work curricula development through constant and evidence-based curriculum reviews, adjustments and alignment. These curricula should be in conformity with the currently unfolding shifts within the juvenile justice systems. That is, students should be thoroughly exposed to legal theory (policies and laws) coupled with early child development and behavioural issues (mental health education included) to comprehensively and fully equip them for competent practice.
- On top of theory, colleges and universities should now shift towards more practical and on-site learning. That is, social work should not be viewed through customary lenses but 'practical realities' that must be experienced every day. In this light, students during the course of their learning should at one time or the other, be exposed

to juvenile justice court processes and or invite (for public lectures) those in the field to familiarize students with the realities obtaining on the ground.

Given the issues clearly established in the study, the following three (3) areas have been suggested for further research in the future:

The study has established that, dominance by other professionals coupled with poor recognition of social workers under the PTD Programme is one of the impeding factors behind their ineffective participation in this programme's implementation process. As such, there is need (in the future) for a study on perceptions and attitudes of stakeholders or professionals within the diversion committee (magistrates and prosecutors in particular) on the centrality or contribution of social work in promoting restorative juvenile justice. This is critical because little so far is fully known on this area.

There is also a need for a study in the future around the lived experiences of young offenders who went (are still going) through the diversion processes to establish their plight and the efficacy of the programme in addressing their needs. This is pertinently urgent as the study mainly focused on how limited social workers' participation has exposed them to criminal extra-judicial abuse, incarceration and dehumanization. Exposition of such experiences will help to determine their state of urgency and expedited Child Justice Bill enactment process. Since the study adopted purely a qualitative methodology and only focused on one District out of probably over fifty-six (56) in that this programme should be operational, generalization of findings may not sufficient enough in terms of coverage. Hence, it is suggested that, there be a study particularly maybe in form of a survey (if resources and time permit) to ascertain the set of factors impinging PTD programme's implementation in Zimbabwe. This will help in fully informing well-informed policy or programme reform and strategic planning for improved programme outcomes in the future.

Given the complex nature of hurdles impeding social workers’ effective participation in implementing the PTD programme, below is a sustainably sophisticated yet clear model (informed by well-informed and evidence-based findings) that seek to fully address the identified loop-holes or limitations for improved programme’s outcomes.

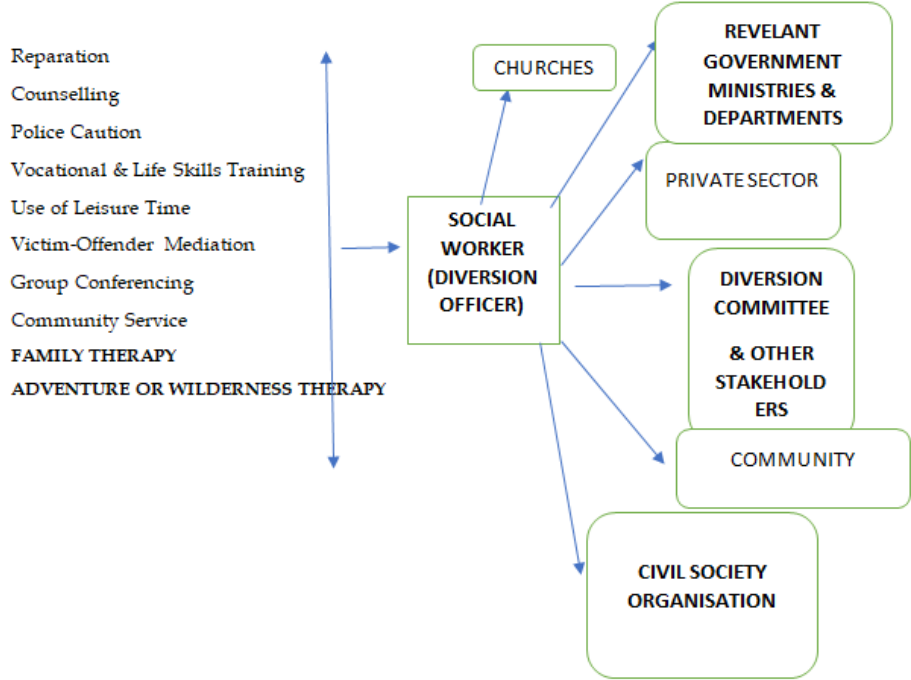


Figure 5.1: Integrated Social Work Participatory Model for PTD Programme

The above provided model’s key thrust is to promote, ensure and enhance social workers’ effective participation in PTD Programme implementation process. This is critically essential for improved and sustainable child-friendly, restorative and protective justice outcomes. Taking it from the left section (where the list of diversion options or alternatives are given), it can however be clearly noticed that, the last two emboldened additional options (family and adventure therapies) have been suggested. This could be a significant milestone in expanding

the programme to cover other maladaptive behaviours and offenses that are rooted in drug and substance abuse. Adventure therapy in this context, might be the most effective one as it helps in instilling the sense of responsibility in young offenders. Hence, both preventive and responsive or interventionist in nature. The argument here is, if Zimbabwe adopted all other options from other countries (South Africa in particular) and modelled them within her context, can this latter option help not in Zimbabwe? This question demands attention as adventure therapy similarly addresses the same behaviours (drug abuse and all-related behaviours) not being fully dealt with by the existing options. A pilot study in this light, might be a good starting point to ascertain a substantial position. In the same light, this model also proposes Family therapy as an additional diversion alternative. This is key as it places the family (a critical socialization agency) in influencing juveniles' behaviour change and sound up-bringing. That is, some offenses can best be dealt with within the family set-up with active and full participation of the significant others within the family system (in collaboration with the peer, church and local leadership systems). This firmly tallies with the philosophical underpinnings of the person-in-environment perspective that also built on the ethos of the welfarist and restorative justice approaches. These ethos and pathos include positive socialization, behavioural reformation, protective correction, responsibility and rehabilitation among others.

In this context, social workers as shown in the above model, should assume the position of eminence throughout or in all diversion options (as listed highlighted in the above model) and processes (from assessment to diversion case review and closure). That is what the concept of "integrated social work" in integrated social work participatory model entails. The enhancement of their effective participation is pertinent as it determines the flow of the diversion process and outcome. That is, since they possess extra expertise and credible knowledge with regards to children's developmental unique

protection needs and welfare rights. As such, sidelining them (social workers) will invoke negative ramifications on diversion process and the outcomes aimed by the programme. In the same context, by the nature of their profession, social workers bear ethical responsibility to champion and defend the rights and ensure the protection of all vulnerable groups (children in need of care included) without any bias or expectation of reward in return unlike their professional counterparts (medical doctors, lawyers and psychologists among others). Thus, service above self, respect of human worthy and dignity coupled with respect of human relationships and competence are central values that inform their professional work (NASW Code of Ethics, 2008; Oko, 2008).

As indicated in the above model, one can also note that, there is much stress or demonstration on the need for a more strengthened multi-disciplinary or multi-stakeholder framework. Within this framework, social workers should accordingly assume the facilitatory or coordinating role for effective and smooth flow of the diversion processes. However, it should be noted that, in this process, the emboldened stakeholders (as indicated in the model above) play a more important role than others, hence, social workers should be aware of such power dynamics for effective execution of their duties. These stakeholders include the diversion committee and the CSOs among others from relevant government ministries and departments (health, education and social development in particular). This does not suffice to underscore the contribution of other stakeholders including the private sector, the church and the community at large.

As highlighted in the above model, social workers' participation with much awareness and appreciation of this multi-stakeholder or multi-sectorial framework can positively contribute towards the effective implementation of the PTD programme at mainly two operational levels. The first one is resource mobilisation and technical capacity building. The second one is programming and policy reform levels. This

is key especially in such a hostile socio-economic and political climate where the government is grappling under acute resource and budget constraints. Hence, engaging and collaborating with the CSOs (with NGOs and local agencies included) helps in sustaining support from them for effective implementation of the programme. In this process, social workers should have a competent skill-set of expertise from networking, proficient speaking and competent writing skills, team-building skills and emotional intelligence and/or self-awareness among others. More importantly, this network system might contribute towards referral pathway strengthening coupled with avoidance of conflict of interest and duplication of services among other benefits. Therefore, this model provides a normative guideline and parameter within that social workers' participation can be ensured in PTD implementation process in a more integrated and participatory manner.

The chapter has established the summary of the study's key findings, followed by main conclusions. Key among these conclusions is that, social workers' effective and substantive participation in PTD implementation process is hindered by underlying legislative gaps and socio-economic challenges compounded by the lack of political will and lack of prioritisation among others. All these factors have impeded young offenders' access to restorative justice in Zimbabwe. The chapter also provided the implications for social work as it presents that, lack of social workers' full and active participation and poor access to restorative justice is a deviation from the provisions of the international, regional and even supreme law of the land pertaining children's protection needs and welfare rights. Key recommendations coupled with the areas for further research were also given to inform effective and strategic policy or programme reform and implementation.

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Synopsis

The study aimed at establishing a pathway to addressing the hurdles constraining social workers' effective and substantive participation in implementing the Pre-Trial Diversion Programme with particular focus on St Marys, Chitungwiza. The key objectives of the study were firstly, to explore the nature of the Pre-Trial Diversion Programme as a strategy to ensure young offenders' access to restorative justice. Secondly, it sought to identify the underlying and systemic barriers or hurdles behind social workers' ineffective or poor participation in implementing this programme. Lastly, the study endeavoured to proffer a well-informed and context-based model (pathway) that is meant to improve social workers' participation in this programme's implementation process. To this end, two theoretical frameworks- social welfare and restorative justice models- were adopted in the study as they best provide a holistic normative standard and parameter for the promotion of restorative and child-friendly juvenile justice among young offenders. Submissions from these participants indicated that, the Pre-Trial Diversion Programme has eight functional diversion options or alternatives inclusive of police cautions, reparation, counselling, victim-offender mediation and community service among others. More so, they reveal that, most social workers lacked the impetus to effectively participate in diversion implementation processes due to many hurdles encompassing among others, paucity of a distinct legislative framework, dominance by other professionals, poor professional recognition, budgets constraints and donor dependency syndrome, limited diversion options and poor cooperation from the juveniles and their significant others. Cognizant of these hurdles, expediting the development and enactment of the Child Justice Act, increased skilled labour, favourable and adequate resources (human, financial and material) allocation coupled with development of a robust referral system coupled with ensured involvement of significant others for improved and better outcomes.

About the Author



James Dominic Shalom Sithole is a distinguished social work lecturer and licensed practitioner (registered with the Council of Social Workers). Among other notable certifications, he holds a Master of Science in Social Work (MSW) degree, a Bachelor of Social Work Honors' Degree and an Executive Certificate in Program and Project Monitoring & Evaluation, all from the University of Zimbabwe. His research interests encompass Forensic Social Work, Pretrial Diversion Issues & Restorative Juvenile Justice, Climate Change, Child Welfare Policy & Practice. His research pursuits are set to continue, as he is currently anticipating the pursuit of his PhD program with the University of KwaZulu Natal. Through his academic and professional endeavors, James continues to make significant contributions to the field of social work.