

## CHAPTER 5: CONCLUSION AND FUTURE DIRECTION

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Through data analysis and discussion, the preceding chapter has managed to establish the profile of the PTD Programme while highlighting the underlying systematic barriers affecting juvenile offenders' access to diversion services. Again, the suggested possible intervention measures from both the participants and key informants have also been established. This chapter, however, seeks to provide a summary of the findings, conclusions and recommendations. The chapter will also establish the study's implication to social work practice coupled with highlighting areas for future research. Finally, the chapter summary shall also be provided.

The study was aimed at exploring the key barriers inhibiting juvenile offenders from accessing the PTD Programme in Zimbabwe with particular focus on St Marys in Chitungwiza District. The study was prompted by the observation that many juvenile offenders still struggle to access the rehabilitative and restorative PTD programme regardless of the provisions made in both the UNCRC (1989), ACWRC (1999) and the Constitution of Zimbabwe Amendment (No.20) Act (2013) that guarantee these juvenile offenders' access to such programmes. Key objectives for the study include profiling the PTD programme, assessing the barriers behind these juvenile offenders' failure to access diversion services coupled with suggesting possible intervention measures to improve their access to the PTD programme. The significance of the study to social work fraternity, policy makers, CSOs, the academia and the community at large has been fully established. The restorative justice theory (Zehr, 2002) to this end, has informed the study. Methodologically, the study adopted the qualitative approach; and hence the case study was the study's research design. While using a sample size of 21 participants (8 juvenile offenders for in-depth interviews, 8 juveniles for FGDs and 5 key informants), the study has

managed to establish that failure to access the PTD programme owes to a plethora of factors that span from developmental (personal), socio-economic, politico-legal to religio-cultural ones; but all these factors are compounded by institutional incapacitation.

Nonetheless, submissions on the profile of the PTD programme from the previous chapter have indicated that there are various diversion options available in Chitungwiza District for juvenile offenders who might have committed non-serious offences including assault, public violence, and substance and drug abuse and food theft among others (Nyazema, 2018; Thembo, 2018). These options among others include reparation, counselling, victim-offender mediation and community service. On the same note, it has been established that the PTD programme operationalization and implementation is also informed by many legislative frameworks and instruments that encompass the UNCRC, ACRCW, Criminal Procedure and Evidence Act (Chapter 9:07), Criminal Law (Codification and Reform) Act (Chapter 9:23), Children's Act (Chapter 5:06) and the Constitution of Zimbabwe (2013). There are also different stakeholders or professionals who work hand in glove (at different level) towards the provision of diversion services. These stakeholders include the magistrate, prosecutors, police, diversion officers and probation officers. In Chitungwiza District, the PTD programme's implementation has since been financed by UNICEF and Save the Children among other organisations that also work with children in conflict with the law (at different levels) like Justice for Children Trust, CATCH and ZHRC.

Having profiled the available PTD Programme in Chitungwiza District, the study has also established key barriers affecting many juvenile offenders from accessing diversion services. From a socio-economic perspective, many barriers have been provided. These barriers include resource constraints, donor dependence and poor resource misallocation and mismanagement that has resulted in poor programme implementation and coordination,. Again, lack of knowledge and

awareness about the PTD programme and the rights of children in the context of juvenile justice is another barrier that inhibits juvenile offenders' access to rehabilitative PTD programme (Steyn, 2010:114). Other barriers to diversion service as also provided by participants are economic in nature and these included 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 many PTD processes.

More still, the study has also established how difficult it was for juvenile offenders to gain insight into the information shared as they struggle with reading and writing in some of the activities required. Probation and diversion officers also reported how parents' competing responsibilities could often interfere with their ability to drive their children to probation and diversion meetings; hence lack of cooperation and support from parents and guardians is another key barrier to diversion service accessibility in Chitungwiza. 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 reduce structural barriers by encouraging parents to seek transportation assistance from a family member or neighbour.

Poor referral tendencies in the context of Family group conferencing resulted in few cases being referred for family group conferencing (Wood, 2009:112); and thus, this habit resulted in juvenile offenders' failure to access diversion services. This could be however due to a paucity of knowledge on the part of prosecutors and probation officers, who are responsible for deciding on the referral of these juvenile offenders in the context of the type of diversion programmes available and what the outcomes entail. On the other hand, the study has also registered how difficult it is to work with juvenile offenders who have a poor relationship with their parents or in situations where parents encourage the offending behaviour of their children.

There are also physical barriers that literally prevent children from accessing ombudsperson offices, mediation meeting rooms and court rooms in Chitungwiza District especially among children with physical disabilities. From a religio-cultural perspective, beliefs systems and norms also seem to militate against these juvenile offenders access to diversion services as they often do not recognize children as rights-holders because of their age among other reasons (UNICEF, 2020). These beliefs therefore have also caused parents of juvenile offenders to opt for religious means to address delinquency. Furthermore, the study has also indicated 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. This is revealed in the Children's Act that does not provide for the establishment of the PTD programme.

The study has also shown many measures and efforts the government has tried to put in place to promote juvenile offenders' access to diversion services. Key informants revealed that the government with the involvement of other key stakeholders have also made significant efforts to align and harmonise legal instruments through the Child Justice Bill development and Children's Act Amendment Bill proposition. The former bill seeks to inform and guide the implementation and establishment of a separate juvenile justice system. Again, the government of Zimbabwe is also trying to employ more social workers and psychologists among other key professionals to sooth the burden in juvenile justice processes. Capacity building and training of stakeholders on juvenile rights in Chitungwiza through the help of UNICEF, Save the Children and JCT is another effort so far made in pursuing juvenile justice. The study has established that there has been awareness raising on PTD programme and children's right to diversion and rehabilitation services in Chitungwiza although there are many factors that seem to impede all these efforts.

From all the provided discussions above, the following conclusions were established:

The failure to equitably and fairly access the PTD programme among juvenile offenders in Chitungwiza District as confirmed by the key informants, is deeply rooted in the absence of a distinctive legal framework that inform and guide the implementation of this programme. Unlike South Africa that has a Child Justice Act that governs and inform the administration of juvenile justice, Zimbabwe's PTD programme is informed by fragmented legal instruments that even conflict with each other. The Children's Act (Chapter 5:06) is a good example as it defines a child as any person below the age of 16 as opposed to the constitution of Zimbabwe that views a child as any person below the age of 18 years. Besides, it does not provide for the establishment of the PTD programme. More still, the provisions in the Criminal Procedure and Evidence Act (Chapter 9:07) also allow the administration of corporal punishment and this is also evident in the Children's Act. These legal inconsistencies and disharmonies as also advanced in the study present themselves as a threat to the promotion of rehabilitative and restorative justice in Zimbabwe. Thus, unless the currently proposed Child Justice Bill and the Children's Amendment Bill are timely enacted into law, most juvenile offenders will continue suffocating under the harsh and often retributive criminal justice systems. Failure by the government to adhere to the guidelines, standards and provisions of the UNCRC (1989), Beijing Rules (1985) and the ACRWC (1999) among others have also cost the process of rehabilitative and restorative justice establishment in Zimbabwe.

It can also be concluded from the study findings that, lack of parental involvement and participation have posed serious ramification on the establishment of restorative justice. Most parents and guardians of these juvenile offenders as highlighted in the study are failing to timely and responsibly meet the demands of diversion programmes in the context of victim-offender mediation, family conferencing activities and reparation due to competing commitments coupled with poverty.

Therefore, social workers involved in diversion process might need to responsibly help these juveniles as they are the legal custodians of these children. On the same note however, awareness raising in communities on juveniles' right to restorative justice and access to diversion services should be another key area of focus towards empowerment and enlightenment.

In as much as there are many factors militating against juveniles' access to the PTD programme, observations have been made that institutional incapacitation coupled with lack of human and material resources is another binding factor that may need urgent attention. Without action as shown by the participants, juvenile offenders may continue to experience incarceration and deprivation from their rights to welfare and protection from harsh criminal justice processes. It can also be drawn from the study that in as much as the PTD programme was put in place to curb recidivism, prevent juvenile offending and establish rehabilitative, reparatory and restorative justice, juvenile offending continues to worsen in many communities of Zimbabwe, with Chitungwiza included. This might be due to limited diversion options and poor programme coverage and implementation and lack of technical capacity on the side of professionals and thus, a need to allocate adequate resources towards the effective implementation of this programme and development of robust and sustainable monitoring and evaluation systems should be considered.

Covid-19, as revealed by participants, has also negatively impacted and worsened the plight of juveniles in conflict with law in many ways. Key among these effects is that, lockdown induced poverty has prompted many juveniles to engage in various crimes that include abrogation of movement restrictions in a bid to search for a living (or food). Some could just loiter around since they were no longer going to school. Yet still, many law enforcement agencies seem to be inadequately equipped in terms of how to handle juvenile crimes in way that does not harm or deprive them of their welfare and protection rights. Thus, the study

concludes that if covid-19 induced poverty and problems are not attended to through collaborative and collective efforts between the CSOs, the government and the community itself, juvenile delinquency might even become worse. As it worsens, cases of child incarceration may also abound given the unfavourable and undesirable nature of the current juvenile justice system. Therefore, the argument is that until all the discussed key barriers to juvenile justice are addressed, the realisation of juveniles' right to welfare and protection will a mere dream.

The study has established that despite the availability of various diversion services offered under the PTD Programme for young offenders who might have committed non-serious offences, these offenders still find it difficult to access diversion services. The registered barriers include poverty, cognitive, behavioural and intellectual challenges, resource constraints, lack of support from parents, knowledge and technical capacity among stakeholders under the PTD programme, logistical constraints, huge caseloads and lack of human resources coupled with poor programme coordination and fragmentation of services during programme implementation among other barriers. To this end, it is against this background that the importance of the study in social work fraternity can never be underestimated. In the context of key values that inform and guide competent social work practice in juvenile justice processes, social workers as probation and diversion officers should seek and strive to fight social injustices prevailing against this vulnerable child group. On the same note, the NASW Code of Ethics (2008) provides that social work practitioners should always strive to uphold the values of service above self, social justice, human worth and dignity and the importance of human relationships in all settings. Work with juvenile offenders in relation to counselling (as one of the diversion services) requires social workers to possess competent skills in assessing, screening, writing, speaking and communication skills among others. As custodians of children in conflict with the law, social workers should be able to

competently converge various methods during practice and these methods include research, casework, group work coupled with community work. Convergence of these methods where necessary will help them to provide holistic and comprehensive intervention measures towards juvenile justice establishment. On the same note, the study also show the relationship between social workers and other stakeholders under the PTD programme, hence social workers also bear referral responsibility.

In the context of developmental social welfare, the study advances how juvenile offending should be prevented in the place. To this end, community-based measures in promoting health juvenile behaviours through the involvement of parents and guardian of these offenders have also proved productive in driving behaviour change and prevention of delinquency. The study also reveal a striking link between service users and their providers while highlighting ethical dilemmas that often arise during practice; as such, practitioners should understand the applicability of various ethical interventions that include utilitarian consequentialism, deontological approaches coupled with virtual theories. More still, since lack of knowledge is among the key barriers to diversion service accessibility, social workers are presented by the study as disseminators of information through awareness raising. Again, advocacy work is at the core of juvenile justice establishment among juvenile offenders. This is revealed by social workers' role in influencing the development of the Child Justice Bill that seek to establish a separate juvenile justice system. To this end, social workers assume preventive, rehabilitative, mitigatory and responsive roles in ensuring the full protection of vulnerable children while promoting their rights in all PTD processes.

Owing to the challenges being encountered in accessing the Pre-Trial Diversion programmes as highlighted above, the section hereunder provides recommendations that have been drawn and deduced by the researcher from the participants and key informants. To establish a

holistic and sustainable PTD programme that will comprehensively address the plight of most juvenile offenders, recommendations have been categorized into four sections. That is, these recommendations are suggestively and respectively directed to the Government, Civil Society Organisations, the Community and finally key tertiary institutions that offers Social Work related programmes including the University of Zimbabwe that is thought to be the exemplary figure in producing competent social work professionals in Zimbabwe.

Owing to the overseeing role assumed by the government in promoting the rights and protection of children, the following recommendations were made:

- The government should expedite the process of the harmonisation and alignment of laws coupled with the ratification of the currently developed Child Justice Bill to allow sustainable, robust, credible, child-friendly and effective implementation of the Pre-Trial Diversion Programme. This owes to the fact that, lack of a comprehensive legal framework for the aforementioned programme is one of the key underlying barriers to restorative juvenile justice in general and diversion services in particular.
- There is also need for capacity building through collaborative training among key stakeholders who work under the juvenile justice system to fully equip them with proper and adequate knowledge and expertise in handling juvenile offenders' cases. These stakeholders include the magistrates, prosecutors, police officers, diversion officers and probation officers. More training in assessing, screening and determining the most fitting course of action should be emphasised.
- In relation to resource and budget constraints confronting the PTD programme implementation, the government should allocate a separate budget and resources for the programme so as avoid overdependence on donor funding that may not be reliable and consistent. When it fails due to the current hostile economic climate,

the government should adopt a more multi-stakeholder approach to juvenile offending prevention, mitigation and treatment through collaboration, partnerships and networking with other key stakeholders (organisations).

- The government should also draw some lessons from the nature and scope of the juvenile justice system of her sister South Africa. In this context, owing to limited and rigid diversion options, many juvenile offenders could not access diversion services unlike in South Africa where these diversion options are tailor made to suit juveniles' diverse needs and conditions. The Wilderness Therapy is one good example that may help to address the condition of juvenile offenders with behavioural and intellectual challenges.
- The government should also employ adequate workers (probation, diversion officers and prosecutors) to ease the work load that may undermine the integrity of juvenile justice system; and later deter many juveniles from accessing the diversion services in the context of timeliness and quality.
- There is need for the government to comply and conform to the standards, guidelines and provisions of the UNCRC (1989) and the ACRWC (1999) in relation to juvenile justice establishment. This should be followed by the spreading of the PTD programme to various districts in Zimbabwe.

Given the instrumental role CSOs play in driving change through advocacy work and policy making, the following recommendations have made suggested:

- The CSOs should continue pushing the government to expedite the harmonisation, alignment and ratification of the Children's Act Amendment Bill and the Child Justice Bill respectively to allow the establishment of a separate yet child-friendly juvenile justice system.
- More partnerships and collaborations in all social processes that include social planning, advocacy, research and programming in relation to children's welfare and protection should be established

and strengthened. This concerns organisations that work with children at various levels and in different areas that encompass law (JCT, ZHRC), research and policy advocacy (ZNCWC, UNICEF, Save the Children) and rehabilitation (North Court, Leonard Cheshire among others).

- These organisations need to raise more awareness on children's rights in relation to juvenile justice and the responsibilities of the child through community-based approaches and systems. This will not only help in responding to juvenile crime but in preventing juvenile offending since knowledge is power.

Since the community presents itself as a macro picture of the family agency in socialization processes, it therefore plays a significant role in influencing the behaviour of juveniles and more so, in driving change. As such, below are the suggested recommendations:

1. There should be active child-centered and community-based sensitization groups and associations (or clubs) that represent the rights of juveniles in conflict with the law; by this, many juveniles will become their own agents in transforming their own life patterns thereby becoming responsible citizens.
2. Local leadership systems and community Child Care Workers (CCWs) should take the leading role in educating juveniles and families on the PTD programme and encourage families to have the impetus access it when problems that need such programmes arise.

Since colleges and universities are the key sources where most professionals (particularly social workers as probation and diversion officers) who work under the juvenile justice system are moulded and produced; the following recommendations becomes highly crucial:

There is need for tertiary education institutions to review, adjust and align their curriculum to be in tandem with the currently unfolding juvenile justice dynamics in the context of social work practice. Thus, students should be thoroughly exposed to legal theory and early child

development issues coupled with mental health education to comprehensively equip them for competent practice.

More still, on top of theory, colleges and universities should now shift towards more practical learning. In this context, social work should not be viewed through customary lenses but ‘practical realities’ that must be experienced every day. Thus, students during the course of their learning should at one time or the other, be exposed to juvenile justice court processes and PTD programme operationalization to familiarise them with the real world of work.

Given the issues established in the study, the following areas therefore need further research:

- The study has established that lack of knowledge among both juveniles and other stakeholders on juvenile offenders’ rights and legal considerations for them to access or qualify for diversion services is one of the critical barriers. It is therefore significant that a study should be carried out on juvenile offenders’ rights and on legal eligibility criteria used in juvenile justice processes for one to be better equipped for easy access to diversion services.
- The study has also revealed how covid-19 induced poverty has exacerbated juvenile offending and restrict physical interactions in many public offices. As such, there is need for further researches on the impact of covid-19 on diversion services delivery coupled with the effectiveness of the current PTD programme in meeting the needs of juvenile offenders during covid-19 pandemic times.
- The views on the effects of diversion programmes on female juvenile offenders should also be investigated since many researches have seemed to be more biased towards male offenders.

Submissions from the study have also revealed that there are very few centralised offices in Chitungwiza District that are specifically meant for the delivery of most of the diversion services such as victim-offender

mediation, counselling and reparation arrangements. Yet still, these offices are often incapacitated due to demand overload and there are about three diversion officers who are to handle multiple cases of these offenders. Hence, a study should be carried out on the nature of service provision within the issuing offices in this district. This will help determine the nature of the resources or technical constraints being confronted by the responsible offices.

Throughout the study, it was made clear that lack of support and/or cooperation of parents or guardians of most juveniles due to competing commitments as they struggle to make ends meet is another key barrier to diversion services accessibility. Cognizant of that, studies should be conducted on the effects of lack of participation and poverty on juvenile justice establishment or outcome. These studies nonetheless, should be underpinned by correlational designs to firmly establish the relationship between poverty and diversion service accessibility in the context of meeting travelling costs, deadlines and to pay reparations.

In the context of restorative justice, while given the tendency to lack the impetus in accessing diversion services among juvenile offenders, studies must be carried out on factors that determine the propensity for one to access the restorative diversion services.

The chapter has provided the summary of study findings specifically the major findings. Following the summary were study conclusions. Key among these conclusions is that there are several diversion options available in Chitungwiza District but due to constraining socio-economic, politico-legal, religio-cultural, developmental and physical barriers that are compounded by institutional incapacitation coupled with lack of a distinctive legal framework for PTD programme- have all prevented many juveniles from accessing diversion services. The chapter went on to establish the relevance of the study to social work as it argued poor access to diversion services deviates from social work values such as social justice, service above self and human worth and

dignity. Recommendations coupled with areas for further research were also provided for policy makers to promote equitable and easy access to diversion services.