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## Post-independence prison reform in Namibia – some observations

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By Tarrin-Rae Oxche [1]

### Introduction

Prisons in colonial Africa never aimed to develop the full range of functions of imprisonment as developed in Europe and the Americas. They were rather based on the implicit principle: “to keep the impact of incarceration within strict ideological limits.

By maintaining legal and physical distance between colonisers and Africans, the colonial

prison was not supposed to transform Africans, but simply to promote the reproduction of dominate power”. [2] Traces of this legacy of colonialism have been deeply entrenched in the penal systems of many African countries. The penal institution established by colonialists was characterized by violence, gross human rights violations and prison labour.

Namibia	
Size:	824 295 km <sup>2</sup>
Population:	1 771 327 (2000)
Independence from RSA:	21 March 1990
GDP per capita:	US\$ 8200.00 (RSA US\$12 100.00)

For example, prison camps were widely used by colonial rulers to ensure an accessible supply of forced labour. Mass arrests and detention without trial led to overpopulated prisons and the colonial powers used this to their advantage. The colonial empires were built on the backs of their prisoners who provided “cheap, docile and constantly available labour force for underpaid tasks”, which proved to be the most economic method of achieving long term goals, such as the construction of railway lines and roads to meet the economic needs of the colonial power. [3]

Namibia was no exception to these practices, with prisoners being held in temporary tent camps to be close to the sites where their labour was required. It was also common practice to use starvation as a mechanism of punishment. Prisoners were kept in tented “open air detention centres”, which were overcrowded, unsanitary and known for the use of torture and flogging.

[4] Floggings were reportedly administered with a branch from a palm tree, which virtually ensured that the wounds inflicted would fester. The health of many victims deteriorated after such punishment, often resulting in death. Torture in the form of starvation, electric shocks, cigarette burns, and sleep deprivation were common practice. Some reports indicate that “ordinary prisoners, as well as political prisoners were blindfolded, brutally beaten and tied to a pole for several hours”. [5]

Under South African rule, the Terrorism Act of 1967 and Proclamation AG26 of April 1978 were used extensively to detain prisoners for long periods without being brought to trial. Political prisoners were often sent to the maximum security prison on Robben Island in South Africa to serve their sentences far from family and loved ones. The crimes that these prisoners were convicted of ranged from addressing rallies, organizing boycotts or any other activity deemed an offence under the Terrorism Act of 1967. It was in terms of this act that the previous Minister of Prisons and Correctional Services, Andimba Toivo ya Toivo, was sentenced, along with 36 South West African’s People’s Organisation (SWAPO) members, to a sentence of 20 years on Robben Island in 1968.

After independence in 1990, Namibian penal institutions were in dire need of reform. In 1992, Resolution 425 was put into action (also known as the National Peace Plan Conference) where the managers of the criminal justice system developed a reform agenda for Namibia’s criminal justice system.

As Bernault [6] points out, the objective of the colonial prison was to “promote the reproduction

of the dominant power," and had no intention or aspirations toward the goal of rehabilitation and reintegration of prisoners. This is the single, most challenging, task of the Namibian Prison Service: to promote the notion of rehabilitation in a country in which the concept has been hitherto completely foreign.

### The Establishment of the Ministry of Safety and Security

Since independence, Namibia began the arduous task of transforming its criminal justice system, especially with regard to the prison system. The course of transition from a repressive form of government to that of a democratic one, is a lengthy one which in many regards had to start with addressing attitudes and perceptions. An increase in crime and political violence accompanied Namibia's political transition, as was expected. For the immediate post-independence period, the de-mobilisation of military personnel dominated the reform agenda and to some extent overshadowed other transformation issues.

The portfolio of Correctional Services initially formed part of the Ministry of Justice, after which it was relocated to the Ministry of Home Affairs. This caused tension within the Ministry with regards to jurisdiction, as Corrections were perceived to be of lesser importance in the Ministry of Home Affairs. It was the perception of correctional officials that the prison system was not a priority within the Ministry of Home Affairs. It was as a result of this that the Ministry of Prisons and Correctional Services (MPCS) was established in 1995. The mandate given to the MPCS contained special directives, which emphasized the new objective of correctional services in Namibia: the rehabilitation of prisoners. This was in accordance with the shift away from merely incarcerating prisoners to the humane treatment of offenders in the care of the MPCS. Under a new ministry with a newly defined purpose, the stage was set for the transformation process to commence. The Ministry of Prisons and Correctional Services was known as such until 21 March 2005, when the Namibian Police and Namibian Prison Service were united under the new Ministry of Safety and Security.

### Namibia's prisons

There are 13 prisons in Namibia, two of which are open prison farms, Divundu and Farm Scott. Special provision for juvenile prisoners is made at the Elizabeth Nepemba Juvenile Detention Centre.

**Table 1: Capacity and overcrowding per prison, July 2004 [7]**

Prison Institution	Capacity	Lock Up	Overcrowding (%)
Windhoek Central	912	1 266	38.82
Hardap Prison	941	965	2.55
Olunu	557	574	3.05
Walvisbay	300	389	29.67
Omaruru	59	114	93.22
Grootfontein	70	134	91.43
Swakopmund	88	95	7.95
Keetmanshoop	110	127	15.45
Luderitz	290	127	-56.21
Gobabis	220	181	-17.73
Divundu Rehabilitation Centre	275	289	5.09
Elizabeth Nepemba Juvenile Centre	Under construction	91	0
Farm Scott Prison Farm	Under construction	90	0
<b>Total</b>	<b>3822</b>	<b>4442</b>	<b>116.22%</b>

### Key Reform Developments

Four areas were prioritised by policy-makers in the MPCS. These are:

- The philosophy behind the new prison system,
- Rehabilitation and Community Service,
- Restorative Justice and Juvenile Justice, and
- Alternatives to Prison.

A new philosophical point of departure was adopted by the NPS, that "human beings can

change, depending on the conditions under which they are kept. It is therefore important to treat inmates with dignity and respect, and this would cultivate an atmosphere of rehabilitation". [8] Following from this important philosophical shift, new prison legislation was drafted and the Prisons Act of 1998 replaced the Prisons Act of 1959 that governed the prison system under South African rule. The new act highlighted three aspects relating to inmates: rehabilitation as penal policy, discipline and good order in prisons, and respect for the dignity of inmates." Although the Act does *"not declare expressly the policy of rehabilitation in its long title, it can be gathered, from various provisions, that rehabilitation is a major consideration taken into account by prison authorities in Namibia"*. [9] The 1998 Prisons Act reinforces the protection of the rights of inmates as stated in the Constitution, and also makes provision for the enforcement of discipline and good order in prisons.

Penal policy in Namibia was transformed from retribution to rehabilitation of inmates and plans are underway to introduce effective treatment programmes to prisoners. These programmes include life skills training, education and other treatment programmes identified through the needs assessment of the Offender Management System, and the Community Service Initiative. [10] Community service provides an alternative to incarceration.

Developments in constitutional law with regard to penal policy emphasised the shift away from suppression towards democratisation after Namibia's independence in 1990. [11] This proved to be a difficult task, as it was the mindset of the officials that had to be changed in order to make a human rights culture central to prison management. Difficulties in achieving this were soon evident, resulting in extensive litigation against officials for cruel, inhumane and degrading treatment of prisoners. This was possible given the constitutionally guaranteed rights of prisoners and the recourse to the courts provided for in the Constitution. [12]

The new legislative and policy frameworks of the Namibian Prison Service were expressed in the following key documents: The Prisons Act of 1998, the Prison Service Regulations, Prison Service Orders, Prison Service Charter and the Mission Statement and Policy Document of the Ministry of Prisons and Correctional Services. The new legislative and policy framework reflects the values of the UN Standard Minimum Rules for the Treatment of Prisoners, emphasises the need for the Namibian Prison Service to become self-sufficient in food production, and promote the training and development of industrial skills in prisoners to facilitate their reintegration. [13]

Provision is also made in the legislation for two important structures. The first is the Prisons Inspectorate Division, which has the function of co-ordinating inspection activities with other divisions on all prisons functionaries. The second is the Prison Council. Members of the Prison Council are employed by the Ministry to monitor activities within each prison. This council consists of six members who visit prisons and prepare independent reports that are submitted to the Ministry.

In looking for guidance on developing a new legislative and policy framework, the Namibian Prison Service turned to its Canadian counterpart. The two governments set mechanisms in place for the exchange of several staff members to speed up the process of penal reform in Namibia. Prison officials from the Namibian Prison Service were sent to Canada in order to learn from and better understand the techniques and objectives employed by the Canadian Department of Correctional Services. Canadian officials visited Namibia to better understand the prison context in the country, and also to identify and solve some of the pertinent stumbling blocks en route to a more effective and efficient prison service based on human rights.

The agreement between the Namibian and Canadian governments was aimed at providing technical assistance and not financial support. Given the limited financial resources available to the Namibian Prison Service, this presented a significant challenge in the process of transformation. The policies borrowed from Canada are from an industrialised and developed country with a well-resourced prison system, and the Namibian Prison Service clearly does not have the same financial means as its Canadian counterpart. Funds for the adoption, capacity building and implementation of the new policies had to be raised by the NPS. This led to a number of delays, as the policies put forward by the Canadian Department of Correctional Services had to be re-evaluated and redesigned to suit the fiscal environment of the Namibian situation.

Government's long term strategic plan, known as Vision 2030, addresses the safe custody of people committed to periods of custody and to rehabilitate them: *"The ministry will strive to operate in an efficient and economic manner with the emphasis on self-sufficiency in food production and making a contribution to government revenue . . . [and]. . . "have an efficient Prison Administration with the emphasis on correctional and rehabilitation functions. The rationale encompasses rehabilitation, values and beliefs, and is pegged on the ultimate goal of offenders being re-integrated into society as law abiding citizens capable of leading honest and industrial lives after imprisonment, having fully developed self respect and a sense of responsibility."*

Having Vision 2030 as its backdrop, the Namibian Prison Service Strategic Plan (2003-2007) is derived from the Mission Statement and Policy document of the Namibian Prison Service, and aims at providing *"direction and accountability at all levels and services, and will serve as a vehicle in providing the principle means of co-ordinating the implementation of the Mission Statement and Policy document of the Namibian Prison Service."* [14]

Key objectives are:

- To provide safe custody to offenders in order to protect the society
- To provide safe custody to offenders in order to protect them from themselves
- To provide safe custody to offenders in order to protect prison members and other service providers
- To provide safe custody to offenders in order to provide for the basic needs (health care, food, clothing, shelter, sanitation) of offenders
- To provide rehabilitation to offenders in order to change their criminal behaviour
- To reintegrate offenders into society as law-abiding citizens.

The need to seek alternatives to incarceration stems from the fact that Namibian prisons are currently 116% full. In 1996, the former Minister of Prisons and Correctional Services, the Honourable Marco Hausiku, appealed to government to support this cause and create non-custodial options for those offenders convicted of less serious crimes. [15] The Minister focussed on *"economic sanctions and monetary penalties such as fines and day fines, confiscation or an expropriation order, suspended and deferred sentences, probation and judicial supervision, community service order, and also referred to an attendance centre."* [16] Progress in this regard has been limited and the need remains for more non-custodial sentencing options to be available to the courts.

### **Challenges Facing the Namibian Prison Service**

The process of transformation in the Namibian Prison Service has not been a smooth one and numerous problems hampered and continue to pose challenges to the process. Some of these problems are attributable to factors beyond human control, but many are possible to overcome by initiating preventative measures. Resource allocations and political will are key challenges. Funding for the prison service remains meagre at R123 million (or US\$19.5 million). Whilst political rhetoric focuses on combating crime, budget allocations do not reflect these sentiments. As a result of budget constraints, funds for training of staff is limited with the result that progress towards transformation is slow and often incomplete.

At independence, the NPS inherited a weak staff structure; necessitating a radical shift in staff attitudes through training. Staff skills and abilities to implement new policies and manage prisons in line with the legislation, remain lacking. Feelings of inadequacy amongst staff coupled with low morale are consequences of this and continue to undermine the transformation of the prison system. There is consequently an urgent need to re-train staff to expedite the policy implementation process.

Changing the philosophy underlying the Namibian Prison Service posed a problem, as the focus has shifted from incarceration to rehabilitation. Prison officials often misinterpret this shift as the "soft and permissive treatment" of offenders, which is not the purpose of the new rehabilitation programme. Adherence to human rights standards are held in high regard at policy level but this is often at odds with the situation at ground level, where officials are frequently of a different view point. The mission statement of the MPCCS states that *"inmates must be kept under humane conditions and standards that are in compliance with human rights."* This new approach to correctional services left officials confused and uncertain about their roles within the NPS.

The public has also been wary of the developments within the Namibian Prison Service. Suspicion about the ideal of rehabilitation abounds and more punitive approaches easily find favour with the public. Furthermore, some members of the community, as well as some employees of the NPS have the misguided perception that prisons are "five-star hotels". Despite the very clear message from the then Prime Minister, Hage Geingob, in 1999 that the role of the prisons was to keep offenders in humane conditions, this is often interpreted as "soft treatment" of offenders. [17]

Despite the significantly smaller prison population, the Namibian Prison Service faces a number of similar challenges to its South African counterpart. As noted above, the overcrowding of facilities places a strain on all operations in the prison service. Calculated as a per 100 000 of the population rate, Namibia's rate of imprisonment (267 per 100 000 of the population) is not much lower than South Africa's (335 per 100 000 of the population) and both countries are in the top five imprisoning countries in Africa. [18]

Prison conditions remain a challenge for both prison systems and overcrowding places existing

infra-structure under continued strain. It is also known that not all prisons are equally overcrowded as can be seen from Table 1 above, with Windhoek Central, Grootfontein and Omaruru being excessively overcrowded. Nationally, Namibian prisons are 116% full [19] compared to the South African level of approximately 137%. A significant difference however is the proportion of the unsentenced prisoners, 7.5% in Namibia compared to the 29% of the South African prison population.

HIV/AIDS is a serious problem in Namibian prisons and factors like overcrowding and an inappropriate diet accelerate the impact of the disease. The number of deaths in Namibian prisons was constant from 1999 to 2000, but nearly tripled in 2001. [20] Diseases associated with AIDS in prison environments, such as tuberculosis, flourish in the packed and poorly ventilated cells and in 1999 2 897 new cases of tuberculosis were reported in Namibia's prisons. [21]

## **Conclusion**

Due to its history of colonial rule, the country and its new government was left to tackle the ghosts of the past. The legacy of punishment from the colonial rule on the continent of Africa is deeply characterised by violence, gross human rights violations and the extensive use of prison labour. As such, the prison system represented a key transformation priority for post-independence Namibia. This continues to be a significant challenge as the route taken was to frame rehabilitation as the central objective of the NPS.

Countries in political transition typically experience high levels of crime, and Namibia was no exception. This provided a further challenge to the newly elected government, as the sphere of correctional services is probably the most obscured from public scrutiny and civilian oversight, creating a haven for anti-transformational sentiments and conservative agendas.

The next ten years will be the critical period for the NPS to lay a solid foundation for a prison dispensation that is based on a human rights culture and that has been able to extricate itself from its violent colonial past.

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## **Office of the Inspecting Judge calling for nominations of Independent Prison Visitors** TOP

The Judicial Inspectorate of Prisons was established in June 1998 in terms of Section 85 of the Correctional Services Act III of 1998. It is an independent body from the Department of Correctional Services (DCS) and it is established under the control of the Inspecting Judge of Prisons, who is appointed by the President of the RSA. The core function of the Office is to conduct independent, efficient and effective monitoring of prison activities and to promote prisoners' detention under conditions of humane dignity. Section 85(2) states that " the objective of the Judicial Inspectorate of Prisons is to facilitate the inspection of prisons in order that the Inspecting Judge of Prisons may report on the treatment of prisoners in prison ...".

The appointment of IPV is provided for in Section 92(1) of the Act (DCS Act 111 of 1998), "...The Inspecting Judge must as soon as practicable, after publicly calling for nominations and consulting with community organizations, appoint an Independent Prison Visitor for any prison or prisons." It is envisaged that public-spirited persons of integrity who are interested in the promotion of the social responsibility and human development of prisoners, will be appointed as Independent Prison Visitors. The underlying purpose of appointing lay persons as Independent Prison Visitors is to facilitate and promote the community's interest and involvement in correctional matters.

The Judicial Inspectorate of Prisons is at present implementing the provisions of the Act, relating to the appointment of Independent Prison Visitors. It is envisaged that the Independent Prison Visitors will assume duty in September 2006.

For this purpose, Community Based Organisations, Non-Governmental Organisations, Civic Organisations, Human Rights Organisations and all other organizations involved in community development are cordially invited to attend any of the below-mentioned public meetings. We will be mapping out the powers, functions and duties of an Independent Prison Visitor with the objective of recruiting and appointing a lay person who will service the prison as an Independent Prison Visitor.

Members of staff from the Judicial Inspectorate of Prisons will be travelling throughout the country and they will be conducting a public meeting at the following prisons:

## Western Cape

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### Wednesday, 21 June 2006

09h00: Prins Albert Prison  
12h00: Drakenstein Prison  
14h00: Ladismith Prison

### Thursday, 22 June 2006

09h00: Prins Albert Prison  
12h00: Drakenstein Prison

### Friday, 23 June 2006

09h00: Municipality Chambers, Tulbagh  
12h00: Oudtshoorn Prison

### Monday, 26 June 2006

09h00: Buffelsjag Prison  
10h00: Cape Town City Hall  
14h00: Swellendam Prison  
14h00: Allandale Prison

### Tuesday, 27 June 2006

10h00: Malmesburg Library  
14h00: Porterville Library  
14h00: Robertson Prison  
14h00: Hawequa Prison

### Wednesday, 28 June 2006

09h00: Worcester Prison  
10h00: Paardeberg Prison

### Thursday, 29 June 2006

10h00: Stellenbosch Prison  
14h00: Caledon Prison

## Northern Cape

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### Friday, 09 June 2006

09h00: Calvinia Prison  
14h00: Van Rynsdorp Prison

### Saturday, 10 June 2006

10h00: Springbok Prison

### Monday, 12 June 2006

13h00: Upington Prison

### Tuesday, 13 June 2006

09h00: Kuruman Prison.  
15h00: Barkley West Prison

### Wednesday, 14 June 2006

11h00: Kimberley Prison  
14h00: Douglas Prison

### Thursday, 15 June 2006

09h00: Hopetown Prison

### Friday, 16 June 2006

09h00: Victoria West Prison

### Saturday, 17 June 2006

10h00: De Aar Prison

**Monday, 19 June 2006**

11h00: Coleburg Prison  
 14h00: Beaufort West Prison

**Tuesday, 20 June 2006**

09h00: Richmond Prison.

**North West Province****Monday, 05 June 2006**

12h00: Lichtenberg Prison

**Tuesday, 06 June 2006**

09h00: Mafikeng Prison.  
 12h00: Zeerust Prison

**Wednesday, 07 June 2006**

09h00: Mogwase Prison  
 12h00: Rustenburg Prison

**Thursday, 08 June 2006**

12h00: Brits Community Corrections

**Friday, 09 June 2006**

09h00: Odi Prison  
 14h00: Wolmaranstad Prison

**Tuesday, 20 June 2006**

09h00: Geluksoord Community Hall

Nomination forms (JI 104) will be distributed at these meetings. Forms are also obtainable on our web site: [http:// judicialinsp.pwv.gov.za](http://judicialinsp.pwv.gov.za) and can on request be posted to applicants. Faxed and e-mailed applications will not be considered.

All queries can be directed to:

Thabo M. Shaku  
 National Manager: Independent Prison Visitors  
 Tel: 021-421 1012/3/4  
 Fax: 021-418 1069

**SA prisons at a glance**

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Due to the Department of Correctional Services implementing new software, December 2005 figures remain the most up to date information.

Category	Feb-05	Dec-05	Increase/Decrease
Functioning prisons	233	237	1.7
Total prisoners	186823	157402	-15.7
Sentenced prisoners	135743	111075	-18.2
Unsentenced prisoners	51080	46327	-9.3
Male prisoners	182652	154183	-15.6
Female prisoners	4173	3219	-22.9
Children in prison	3035	2354	-22.4
Sentenced children	1423	1137	-20.1
Unsentenced children	1612	1217	-24.5
Total capacity of prisons	113825	114796	0.9

Overcrowding	164	137	-16.1
<i>Most overcrowded</i>			
Feb '05: Durban Med C	388%		
Dec '05: Middledrift		387%	
<i>Least overcrowded</i>			
Apr '05: Emthonjeni	28%		
Dec '05: Emthonjeni		18%	
Awaiting trial longer than 3 months	23132	19277	-16.7
Infants in prison with mothers	228	68	-70.2

[1] Tarrin–Rae Oxche is a recent graduate from University of Cape Town (2004) completing her honours in Criminal Justice. She spent a year in Namibia (2005-2006) doing contract work with Namibia’s Prison Service, and is now based in Cape Town.

[2] Bernault F (ed) (2003) A History of Prison and Confinement in Africa, Heineman, p. 26

[3] Bernault F (ed) (2003) A History of Prison and Confinement in Africa, Heineman, p. 22

[4] International Defence and Aid Fund for Southern Africa 1980: 36-37

[5] International Defence and Aid Fund for Southern Africa 1980: 36-37. Namibia: The Facts

[6] Bernault F (ed) (2003) A History of Prison and Confinement in Africa, Heineman, p. 26.

[7] Internal Memo of the Ministry of Prisons and Correctional Services, Dated 5 July 2004

[8] Mr Fwafwa Mabakeng, Deputy Commissioner of MPCs, 5 July 2004

[9] Bukurura SH & Nyoka JW (2001) The Namibian prison service and the Constitution: Lessons and experiences 1990-2000, De Jure, 96, p. 327

[10] MPCs Annual Report, 2001: 4

[11] Bukurura SH & Nyoka JW (2001) The Namibian prison service and the Constitution: Lessons and experiences 1990-2000, De Jure, 96, p. 320.

[11] Article 5 of the Namibian Constitution, states that "*the fundamental rights and freedoms in the Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all organs of the Government and its agencies and, where applicable to them, by all natural and legal persons in Namibia, and shall be enforceable by the courts in the manner hereinafter prescribed*".

[13] MPCs Newsletter, 1998, p. 1.

[14] Minister Andimba Toivo Ya Toivo, Namibian Prison Service Strategic Plan, 2003-2007: 4

[15] MPCs Newsletter, 1996, p. 5

[16] MPCs Newsletter, 1996, p. 5

[17] Speech delivered at the opening of Elizabeth Nepemba Juvenile Centre in 1999.

[18] International Centre for Prison Studies, <http://www.kcl.ac.uk/depsta/rel/icps/>

[19] Internal Memo, Ministry of Prisons and Correctional Services, 2004

[20] MPCs Annual Report, 2001: 31

[21] Department of Correctional Services, Criminal Justice Facts Sheet: 2000.

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