

The Dinosaur of Judicial Disjuncture with Forensic Psychiatric Rehabilitation Processes in Zimbabwe

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ABSTRACT:

The abstract text is mostly illegible due to heavy noise and distortion in the image. It appears to be a summary of the study's findings and objectives.

INTRODUCTION

Forensic psychiatric patients are admitted for rehabilitation in what are called Special Institutions in Zimbabwe. These institutions are hospitals located within a prison setting. Patients are discharged from special institutions following the recommendations of the Special Boards and Mental Health Review Tribunal. Their port of exit is to a general psychiatric hospital for rehabilitation and not into the community as expected. They often stay in these institutions for o qtg" v jcp" Lxg" { gctu" cpf" uq o g" ctg" gxgpwcmn{ "ugpv" dcem" vq" Urgekcn" Institutions creating a revolving door scenario. The researcher observed that there were no guidelines for forensic psychiatric practice and no clear documentation on procedures to be followed in the rehabilitation process in Zimbabwe. An average Zimbabwean should have been able to follow the entry-exit process in the continuum of care for the forensic psychiatric patient. The goal of the study was to understand the experience and involvement of the judicial team in the processes for the rehabilitation of forensic psychiatric patients in Zimbabwe.

METHODOLOGY

This study embraced an exploraton or EnglishThe participants whose involvement in forensic psychiatric processes is mandated by v jg" \k o dcdy g" Ogpvcn" J gcnvj" Cev á â rehabilitation of forensic psychiatric patients in Zimbabwe. This paper only presents the situational analysis of that study that covered the experiences of the judicial team in the rehabilitation processes of forensic psychiatric patients in Zimbabwe.

included the magistrates and public prosecutors

O hqt" v jg" uwwf{ "vq" fgxgnqr" c" Og fkeq/Lw fkekc n" Htc o g y qtm" hqt" v jg"

Data Collection

Semi-structured interviews were used to collect data. Field notes cpf" o g o qu" cwi o g pvgf" cpf" eqpvzvwcnk|gf" v jg" fcvc l" V jg" cxgtc i g" length of each interview was 25 minutes. Contextual challenges kp l w gpegf" v jg" kpvgtxkg y" vk o g l" kp" i gpgtcn. "uq o g" rctvkekr cpvu" ugg o g f" vq" dg" wphc o knkct" y kvj" v jg" ctgc" qh" uwwf{ " *hqtgpuke" ru{ejkcv{ "+" cpf" v jg{ " y gtg" v jgtghqtg" pqv" cu" kpvgtcevkxg" cu" g z rgevgf l" Qpg" rctvkekr cpv" xgt dcnk | g f" v jcv" kv" y cu" v jg" Ltu v" vk o g" kp" jku" ectggt" v jcv" jg" y cu" tgs wguvgf" to be interviewed for a research study regarding forensic psychiatric patients.

Data Analysis

The analysis of interview transcripts and notes were guided by an approach focusing on deriving patterns in the data by means of

v j g o c v k e " e q f g u " D q y g p " * 4 2 2 7 + " c p f " L q j p u q p " c p f " E j t k u v g p u g p " * 4 2 2 : + " explain that data analysis in grounded theory is done through the constant comparative method and involves constant interplay among the researcher, the data, and the developing theory. In this study, the method involved line, sentence and paragraph segments of the v t c p u e t k d g f " k p v g t x k g y u 0 " D q y g p " * 4 2 2 7 + " u v c v g u " k p f w e v k x g " c p c n { u k u " means that the patterns, themes and categories of analysis come from the data.

The coding of the transcripts in this study was done manually. This facilitated control and ownership of the data. Being intimate with the data through manual coding allowed microanalysis in that the data could be seen and codes could be assigned at the same time * D c | g n g { . " 4 2 2 9 - " U c n f c p c . " 4 2 2 ; + 0 " N k p g " d { " n k p g " e q f k p i " c p f " c p c n { u k u . " c u " h c x q w t g f " d { " E j c t o c | " * 4 2 2 8 + . " o c f g " k v " r q u u k d n g " h q t " v j g " t g u g c t e j g t " to compare new data with that which she had already coded. During e q f k p i " c " r c t v k e w n c t " r j g p q o g p q p " y c u " k f g p v k L g f " v j t q w i j " v j g " w u g " q h " u r g e k L e " k p f k e c v q t u " k p " v j g " f c v c 0 " V j k u " k p f k e c v q t " y c u " d q t p g " q w v " q h " c " e q f g " label assigned to objects, incidents, or situations in the data. The g x q n x k p i " r j g p q o g p c " q t " e q f g u " h t q o " v j g " f c v c " y g t g " v j g p " c p c n { | g f " h q t " recurring themes. These themes were regrouped and abstracted to a higher level, in other words, a higher order label was assigned to

v t c g " v w p "

people are supposed to, where these accused person[s] are supposed to be tried and by the time they get to their destination for that trial they would have relapsed.”

Kh"vjg"Cwqtpg{ "I gpgtcnøu"qhŁeg"fgekfgu"vq"eqpvkpwg"ykvj"vjg"vtkcñ." the patient again proceeds to court and can be sentenced or, if noted as mentally unstable, the whole process begins again; hence, forming an endless 'revolving door' scenario. The phenomenon of a similar :tgxqnxkpi "fqqtø"kp"hgtpuke"ru{ejkvtke"rtcevkge"ku"cempqyngf igf"d{ "Ctdqngfc/Hnqtg|"*4228+0"Octu."Tc o ncm"cpf"Mcñkumk"*4234+"cnuq"pqvgf" uk o knet"kttg i wnctkvkgu"kp"vjg"İ q y"qh"hgtpuke"rcvkgpvu"kp"vjg"u { uvg o "kp" Chtkec."urgekŁecm{" dgecwug"qh" c"ujqtvc ig"qh" umknngf" rtqhgaukqpcnu0" Nkpf sxkuv" cpf" Umkr y qtvj " *4222+" cfxqecvg" hqt" tgjcdknkvkqp" vq" begin soon after admission in a special institution to ensure that the forensic psychiatric patient receives as much exposure as possible to

rctvkekrp" jgtg" o gcpv" vjcv" jg" cempqyngf igf" vjg" nquu" qh" fqew o gpvu" but blamed that possibility to another department of the judiciary.

Vjku" cempqyngf ig o gpv" qh" fqew o gpv" nquu" ku" pqv" uwr rrtvgtf" d{ "nkvtcvtwgt" Vjgtg" ku" c" uectekv{ "qh" kphqt o cvkqp" qp" vjku" kuuwg" *Qiwpnguk" gv" cml" 4234+0" Jqy gxtg. "kv" ku" rrtqjkdvkxg" vq" rvcvkv" tgeqxtg{ "ukpeg" vjg" documents are needed for continued care and also to be used as the basis for decisions used by both the judicial and medical teams. This rtgfkec o gpv" o c{ " rtdqcdn{ " dg" uki pkLecpvn{ " tgnvcvgf" vq" vjg" o o { uvgt{ " and confusion shrouding" forensic psychiatric practice as alluded to d{ " Plgpic" *4228+0" Kp" hcev. "Ukpjc" *422; + " rtrqqugu" vjcv" kp" hqtgpuke" psychiatry there should be a mechanism of capturing mental health kphqt o cvkqp" vjcv" tgnvcvgu" vq" Lvpquu" jgctkp i u= "fcvc" rgtvckkpi" vq" y jgvjgt" vjg" rvcvkv" ku" L" v" qt" pqv" L" v" vq" wcpf" vtcn" u j qwnf" dg" uvqtg" vq" dg" tgvtkgxgf" when needed.

Relapses in remand prison

Relapse referred to the return of psychiatric symptoms in a patient who had experienced a period of remission of symptoms while they were still in the judicial system. In the current judicial system, a patient who had recovered at the special institution was removed from that institution to remand prison if the trial was to proceed. There were no nurses at the remand prison and patients tgnvcvgf" cu" fguetkdgf" d{ "Rctvkekrp" 3<

"There is no one taking care of them [Detained Mental Patients] mental[ly] because when they go back to remand prison officers won't continue giving patients medication because we have cases where people are supposed to be on medication; where these accused person[s] are supposed to be tried and by the time they get to their destination they would have relapsed... and the process starts again."

Vjg" xgtcvko" swqvgu" kpkecvgf" vjcv" Rctvkekrp" 5" ycu" kp" agreement. This participant voiced that *"when they [Detained Mental Patients] were in remand, they relapsed and started [going through] the system again"* Vjg" yqtfu" qh" Rctvkekrp" 4" tglgev" vjcv" vjku" participant was somewhat concerned about the fact that the Detained Ogpvcn" Rcvkpvu" *hqtgpuke" ru{ e j kcvtkc" rvcvkv" v" mg" r" v" qp" i qkp i

round and round in the system.

"So it's a matter of how long the prosecutor takes[s] time [to] set the matter down for trial; that's why the person may relapse and then he starts suffering again."

This scenario could be a result of poor legal and policy htcogyqtmu" cu" jki jnkijvgf" d{ " Plgpic" *4228< 9+0" Qiwpnguk" gv" cml" *4234+ " urgekLecm{ " uvcv" vjgtg" ku" cp" wtigpv" pggf" vq" wrfcvg" \k o dcdy gnu" Ogpvcn" Jgcnvj" Cev" qh" 3; ; 80" Vjku" o c{ " k o r n{ " vjcv" vjg" Act's current frame is inadequate and out-dated because it does not address the remand prison issues that result in patients' relapses. Hqtgpuke" ru{ e j kcvtkc" r tcevekg" ku" kp" i gpgtcn" w p f g t f g x g n q r g f 0" Qiwpnguk" gv" cml" *4234+ " hwtv j g t" r q k p v" q w v" v j c v" o r t g t c u k x g" p g i n g e v o" q e e w t u" k p" v j g u g" k p u k v w k q p u" y j k e j" u g g o" v q" d g" v j g" j c m o c t m" q h" y j c v" v j g" r c t v k e k r p v u" y g t g" u c { k p i" f w t k p i" v j g" u w w f { 0" U k p j c" * 4 2 2 ; + " c u u g t v u" v j c v" v j g" i g p g t c n" supervision of patients and their treatment within the correctional system and beyond facilitates the continuity of their care. Unfortunately, this is not happening in remand prison in Zimbabwe.

Psychiatrist's report does not inform the courts because of language and cultural barriers

Vjg" Lp f k p i u" q h" v j g" u w w f { " k p f k e c v g f" v j c v" v j g" l w f k e k c n" r c t v k e k r p v u" were concerned about the accuracy of the psychiatric examination in the southern region. This emanated from the fact that the psychiatrist was a foreign national and it was possible that there could be cultural and linguistic barriers inherent in the assessment procedures. Rctvkekrp" 3" eq o o w p k e c v g f" c u" h q m q y u" q p" v j k u" k u u w g <

"... because our psychiatrist is a white person... it was just an observation that maybe our doctor does not appreciate the type of

patients she is dealing with. They [accused persons/ patients] just come and tell her stories and she believes what she has been

told when it's not [the truth]."

Participant 5 stated the following:

"... there is [the] question of language barriers there is a question of customs... Because how can someone, someone from Russia really understand Ndebele custom?" Vjgp" rctvkekrp" 6" endorsed this statement by saying that *"... differences in culture, you*

know... and they [accused persons] are trying to be mad, you know. You [the psychiatrist] won't know that."

Ncpiwciw" tgrtgugpvu" r q y g t" c p f" k u" c" h q t o" q h" u { o d q n k e" e c r k v c n" *Dqwtfk gw" 3; ; ; +0" kvu" xcnwg" ku" vkgf" vq" j q y" t g L p g f" k v" k u" q t" j q y" r t q r g t" v j g" u r g g e j" e q o g u" c e t q u u" * J c p m u" 4 2 2 7 + 0" C r r c t g p v n { . " v j g" h q t g k i p" psychiatrist from the medical team has the power to name the disease and issues of criminal responsibility. However, in this study it became obvious that this symbolic power seems to decrease as the lwfkekt{ " uqekcn" Lgnf" swgvkqpgf" vjg" ru{ e j k c v t k u v u" u { o d q n k e" e c r k v c n" of language and culture relative to the dominant native languages, p c o g n { . " U j q p c" c p f" k u k P f g d g n g l" C e e q t f k p i" v q" M c n o d c e j" c p f" N { q p u" * 4 2 2 8 + . " k v" k u" e t w e k c n" h q t" v j g" r g t u q p" i k x k p i" c" h q t g p u k e" v g u v k o q p { " v q" j c x g" m p q y n g f i g" q h" v j g" n g i c n" u w c p f c t f u" v j c v" c t g" t g s w k t g f" c u" y g m" c u" v j g" u w c p f c t f u" q p" y j k e j" v j g" v g u v k o q p { " k u" d c u g f l" Q p" v j k u" k u u w g . " M c n o d c e j" c p f" N { q p u" * 4 2 2 8 + " t g r q t v" c u" h q m q y u <

... many different cultures have prescribed ways of behaving and interacting with others

that can be quite different from mainstream culture, but nonetheless equally valid. In forensic practice, examinees will behave, think and feel in ways that are influenced by the cultural context of their lives. The astute and multi-culturally competent evaluator will

be able to consider factors outside of clinical training to arrive at a more accurate and representative picture of the examinee.

Qiwpnguk" gv" cml" *4234+ " t g o c t m" v j c v" k u u w g u" q h" e w n w t c n" f l x g t u k v { " c p f" their implications have largely been ignored in forensic psychiatry practice in Africa. For this reason, they argue that it should be made mandatory for those who practice forensic psychiatry to be fully informed of the language needs as well as the culture and beliefs of the people receiving rehabilitative services. These authors project that by addressing these critical issues, services facilitating the recovery of patients will ultimately become more credible, comprehensive, and overall effective.

Category 2: Negative Attitudes of the Judiciary Impact on the Overall Rehabilitation Process

Vjg" u w w f { " t g l g e v g f" v j c v" v j g" l w f k e k t { " r c t v k e k r p v u" u g g o g f" v q" j c x g" a predisposition to respond unfavorably towards forensic psychiatric patients' judicial processes. This seemed to affect the rehabilitation process for the forensic psychiatric patients in a negative way.

Judiciary Focuses More on "Political" Cases Rather Than "Mental" Cases

The judiciary seemed to focus more on political cases than on cases that involved people with mental problems. This generally meant that the judiciary prioritised court cases that give them social standing, professional recognition or on cases that could result in monetary gain for them. They were seemingly less interested in 'human rights' cases. This means that persons or patients who have o g p v c n" j g c n v j" r t q d n g o u" v c m g" n q p i g t" v j c p" y q w n f" d g" g z r g e v g f" k p" v j g" criminal justice system because they are not viewed as priority cases. Vjku" Lp f k p i" u w i i g u v u" v j c v" v j g" r t g h g t g f" r n k v k e c n" e c u g u" t g p f g t g f" o q t g" monetary gain than the humanitarian based mental cases.

Rctvkekrp"6"urqmg"cdqww"vjku"curgev"cu"hnmqy u<

“... even lawyers when they come, these human rights cases, they don't go for these cases, they go for political cases so I think everybody in the legal framework set-up needs to conscientise themselves [become conscientious and do what is right] on these

people [and] their existence, and it's like they [Detained Mental Patients] are a forgotten.”

Rctvkekrp"5"ceswkguegf"vjcv"vjgtg"ygtg"rtqdn g o u"kp"vjg"lwfkecn" system by stating:

“Okay it means that our system is not adequate for the purposes of catering for mental patients. We have shortfalls; we have inadequacies in our system...”

Gcuvo cp"gv"cn00"4235+"eqpLt o u" vjcv"vjgtg"ku"kpjgtgpv"fkuekrnkpg" incongruence between psychiatry and the law emanating from cfxgtuctkcn"xcnwgu0" Pgfqrkn"422;+"uvcvgu"vjcv"hqtgpuke"ru{ejkvt{"ku" c"Łgnf" ykvjqww" o wej" eq o o gtekn"kpvtggu0"kp"uwr rqtv"qh" vjku" xky." Ukpjc" 422;+" eqpLt o u" vjcv" Ecpcfkcp" uwwfkgu" jcxg" ujyqp" vjcv" criminal courts do not focus on offenders who are exhibiting mental illness. Instead, such patients are sent to remand prison because they cannot afford legal representation or pay bail. This may then suggest vjcv"rqnkvecn"ecugu"ctg" o qtg"Łpcepkcm{"nwetcvkxg."hwtvjgt"uwi i guvkpi" that the preferred political cases have more monetary gain than humanitarian-based mental cases.

“The system has always been like this.” (Dominance and its reproduction)

It was found in this study that there was a general feeling of apathy in the criminal justice system because the status quo was vcmgp"hqt"i tcvpvgf0"lwfkecn"rctvkekrp"v"fkf"pqv"gzrgev"cp{"ejcpi gu"vq" occur nor did they see the need to question the status quo.

Rctvkekrp"7"xgtkŁgf"vjku"Łpfkpi0

“... the framework which is in existence because this thing has been there for decades. The people who are in trouble with the law have been there since time immemorial.”

The contribution of Participant 8 to the dominant role played by the current judicial system was that it was “a system that we have found being here so I don't know how we can chip in and help.”

Ukpjc"422;+"eqpewtu" ykvj" Gwtqrgcp"Eq o o kuukqp"Hkpcn" Tgrqtv" 4227+"vjcv"vjgtg"ku"tgcm{"pqvjkpi"pgy"cu"hct"cu"vjg"kpqxng o gpv"qh" mentally ill people with the criminal justice system is concerned. Jqyngxg."ceeqfkipi"vq"Gcuvo cp"gv"cn00"4235+."vjku"uvcvwu

quo has resulted in the judiciary being pre-occupied by procedures and processes that involve prosecution and defendants. Cu" vjgug" cwvjqtu" dcum" kp" vjg" ucetgfpguu" qh" vjku" cpvkswkv{."N{pej" 4232<4+"ejcnngpi gu"vjg" uvcvwu" swq" d{" jki jnki jvkpi" vjg" pggf" hqt" c" wider role in the clinical investigation of crime and the legal process.

Limited Interaction Between the Judiciary and the Special Institutions

When a treatment order was given through the judicial system for a patient to be admitted to a special institution, the assumption was that the judicial system had expectations from that order in that the mental stability of the patient would improve. Some form of professional intercourse with the site of order was expected. The uwwf{"Łpfkpi u."jqyngxg."tgxgcngf"vjcv"vjgtg" ycu"nk o kvgf"kpvtgcevqkq"

rcwkgpvu0" Swqygu"vq" eqpŁt o"vjku"Łpfkpi" ctg" ikxgp"pgzv0" Rctvkekrcpv"
5"uckf<

"Most of these people get worse... I have seen people who would

“notable variations” that exist between systems and agencies which, he states, is especially true

for the criminal justice system.

Admission Referred to as “Committing” or “Incarceration”

It was found that the process of admitting the patient was referred to by the judiciary in the same manner, namely as “committing” or “incarcerating” about the suffering of the patients; incidentally, the term “accused person” was used in the same statement as seen below:

“Ya-a the problem is that these accused persons are unnecessary suffer[ing] by being incarcerated.”

Participant 2 also referred to “committing” patients to special institutions:

“Once they say the person is mentally ill and must be detained to an institution, normally sometimes they indicate the name of the institution and we simply commit the patient to the institution concerned.”

The criminal justice system’s discourse has its inherent concepts that it adheres to and which are prohibitive to the reception of ideologies from other disciplines; it can distort the meaning if applied to the

by the manipulator to tip the investigation and prosecution in the manipulator's favour. Porter, Doucette, Woodworth, Earle and OcePgn" *422: + "g o r j cukug" vjcv" ng icn" fgekukqp" o cngtu" pggf" vq" dg" vigilant to ensure that the assessment procedures are credible and pqv"kp t w gpegf" d { "cp { "mkpf" qh" o cprwncvkqp}

RIGOUR OF THE RESEARCH FINDINGS

Rggt"uetwkp { "d { "eqmngc i wgu" cpf" rggtu" y cu" fqqg" vj tqwi j "uekpvkLe" conferences such as the Tenth International Congress for Qualitative Inquiry held at the University of Illinois in Urbana-Champaign in vjg" Wpkvgf" Uvcvgn" qh" C o gtkec" *WUC+. "vjg" Cppwcn" Pwtukpi "Gfwecvkqp" Conference that congregated at Emperors Palace, Gauteng in South Africa and at the Third International Conference and Exhibition on Neurology & Therapeutics held at the Hilton Philadelphia Airport J qvgn" kp" vjg" WUC" *Mxcng. "4229=" Mxcng" ("Dtkpm o cp. "422; +0

Og o dgt" e j gemu" qp" vjg" ceewtce { "qh" vjg" fcvc" y gtg" fqqg" y jgtgd { "

