

19 May, 2014

To:

The Permanent Secretary, Ministry of Justice, Tower C, Floors 19-21,
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From:

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CCSJ'S response to The Administration of Justice (Parole) Bill, 2014

Dear Permanent Secretary,

I write in response to the draft Bill which you sent to us on 28 April, 2014
(Your Ref: MOJ:1/10/27).

CCSJ welcomes the opportunity to comment on the Draft Bill. We are pleased to note that, at last, we are one step closer to establishing a Parole System which we see as a force for positive change in our criminal justice system. CCSJ is aware of the purpose and benefits of Parole and supports the introduction of such a system in TT.

In the long term, we will go a long way to promoting peace and harmony in our country if we can prevent crime (and we urgently need plans to address this also), and rehabilitate and return to society offenders who can contribute to society as productive citizens and live peaceful lives. Parole must be seen as only one aspect of our crime-reduction strategies.

We accept the key issues outlined in the report – the underlying philosophy behind the system - that

- Parole is a conditional release during an offender's custodial sentence from prison to serve the remainder of the sentence in the community - under supervision;

- while on parole, the offender is subject to conditions specified by the parole board in the parole order;
- Parole is a privilege, not a right;
- not all offenders will be eligible to apply for parole;
- a person on parole can have his/her parole revoked in certain circumstances and be returned to prison by the decision of the Parole Board;
- the safety of society must be paramount when this system is introduced in TT.

It is to be noted that CCSJ's Chair was a member of a Cabinet Appointed Committee – The Parole Introduction Committee – see Cabinet Minute No. 2012-2004/07/15 dated July 15th 2004, established under the previous Administration, with the following terms of reference:

- To conduct research on parole schemes and programmes;
- To prepare a Parole Introduction Project Plan and Action Plan;
- To develop a parole introduction strategy;
- To develop a communication plan'
- To prepare a parole implementation budget;
- To collect information required from divisions, programmes, departments and units;
- To formulate the parole policies, procedures, post orders and performance standards, forms and records;
- To conduct and facilitate meetings with stakeholders;
- To conduct a pre-implementation assessment/benchmark assessment/feasibility study;
- To map the parole processes;
- To conduct opinion surveys of employees and the public before and after implementation;
- To develop a Parole Evaluation Programme;
- To analyse data collected throughout the project life span;
- To conduct training and consultation with identified stakeholders.

It is to be noted also that the Committee believed that it would have been unrealistic to anticipate that all the objectives in the terms of reference would be met since some had to be accomplished in sequence and some simultaneously. Some of the objectives were predicated upon the foundation of others being put in place.

As the Committee's Implementation Report of June/July 2007 states: "These terms of reference were formulated out of the recommendations of the Cabinet Appointed Task Force on Prison Reform and Transformation contained in its 502 page 2002 Report, which also recommended the introduction of a Parole system in TT."

Thirteen persons with diverse professional expertise were named in the Cabinet Minute to comprise the Parole Introduction Committee, which was Chaired by Mr Norton Jack, then Attorney-at-Law (now a Magistrate).

The Committee's report outlined some of the challenges faced by the Committee – a major one being that there was no Secretariat/Secretary established/appointed to facilitate its work. In spite of this, my view is that we accomplished much and it is hoped that the Implementation Report submitted by that Committee in 2007 informed the content of the current document which is out for consultation.

From the outset, CCSJ wish to state that the pre-conditions that are necessary for the introduction of a Parole System are still not in place in TT and that even if a Bill is passed in both Houses and Regulations drawn up by the relevant Ministry(ies), without the basic foundations necessary for the success of such a system, it may flounder.

Parole is only one facet of the larger Prison Reform process in which TT has been engaged for years. Prison Reform, for which recommendations have been made even before the 2002 Report, is far from being implemented. One only has to read Inspector of Prison, Daniel Khan's 500 page report with its 48 key recommendations, to realize that urgent action is required if Parole is to be introduced successfully in TT.

CCSJ believes that, as well as Legislation and Regulations relating to Parole, extensive internal and external administrative restructuring within the Prison Authority is required. Parole cannot be introduced without addressing some of the serious deficiencies of the criminal justice system, for example:

- TT continues to operate with Prison Rules that are based on Rules established in 1838. While Draft Prison Rules are yet to be passed in Parliament, the implications of such rules as far as implementation is concerned, are yet to be addressed;

- there are lengthy delays/backlog and a lack of modern equipment in our courts – some of which operate in buildings that have long past their sell-by date. Once Magistrates Court is alleged to have a backlog of more than 40,000 cases;
- we must address the low detection rate; poor leadership, performance management, intelligence gathering, storage and retrieval of data/evidence within the Police Service;
- we continue to operate a Forensic Science Centre below par because the needs of the Centre are not being addressed;
- conditions in some of our prisons are appalling e.g. lack of dedicated spaces for correctional facilities for male and female youths both in Trinidad and in Tobago must be addressed;
- many continue to languish in Remand for years before their matters are heard by a Court.

We would do well to heed the words of Clarence Rambharat, Attorney-at-Law and University Lecturer (see his article in TT's Express Newspaper, 25 Nov 2013 – entitled: Drama for Distraction):

“...Between 1945 and 1980 there were seven reports on prison conditions with nearly 1,000 recommendations. There are three recent reports with over 100 recommendations to improve the prisons. The 2002 440-page Task Force report awaits implementation. The April 2012 500-page report of Inspector of Prisons Daniel Khan, the first in 30 years by an inspector, makes many recommendations. And since 2012 the PM has been sitting on the 434-page report of the Selwyn Ryan-led committee on young males and crime...Prof Ryan's committee was commissioned by this Government and made 15 specific recommendations for the prisons. They highlighted massive overcrowding at Remand Yard, the mobile phone problem, and instituting a parole system, “in the shortest possible time”. And, Inspector Khan says no inspector's report was tendered for 30 years, showing the lack of concern with the prison system. He recalls Chief Justice Sharma deeming the prisons “unacceptable” in 2004 and Justice Carol Gobin describing the Royal Gaol as a “hell hole” in 2008. Khan even cites Prof Deosaran's 2003 work and notes that while prisons are generally carrying double the numbers they should, the Maximum Security Prison is under-utilised because of “staffing issues”...

“Justice Gobin's May 2012 award of \$2.1 million to former Remand Yard prisoner Wendell Beckles, for what the judge found was an unjustified stay of eight years on Remand Yard. Justice Gobin described prison conditions as “notorious” and was concerned with the indignity that comes with having no privacy to relieve oneself, a point also made by Prof Ryan in his paper, “Beyond the ‘Pail’: Towards Prison Reform”. Every report has been a chronicle of squalor and every one has been met with political inaction.

“It was Justice Gobin’s stated intention in her \$2.1 million award to send the signal to the “authorities”.... And in 2012 it must have been the expectation of the youthful and passionate Inspector of Prisons that the politicians would act promptly on his report and the country would take an interest in his findings and recommendations... the Inspector of Prisons (described) our prisons as “appalling, wretched, repulsive and hideous”...An implementation team should be handed the existing reports and the Inspector of Prisons should be given the appropriate resources.”

- there remains a lack of internal development of structured prisoner education and rehabilitation programmes within and outside our prisons – including lack of half-way houses and aftercare to facilitate effective reintegration of offenders into society etc., etc.

As the Parole Introduction Committee had said: “An important facet of parole is the support rendered to parolees through the assistance given by the State in securing employment and in some cases accommodation for parolees through community-based programmes and partnerships with corporate citizens...The present remission system sees the prisoner unceremoniously released into the society without the support and controls needed to ensure a smooth transition to a non-custodial existence.”

CCSJ is aware, because of its alliance with the Society of St Vincent de Paul in running the Anthony Pantin Reintegration Centre in San Raphael, that, unless there is more effective State support for initiatives such as this, and in the absence of rehabilitation facilities established by the State, the introduction of Parole may flounder. We do not wish to put a damper on the proposals; we are simply urging the Authorities to ensure that when Parole is introduced, TT systems are operating on “full throttle!” Daniel Khan, our Inspector of Prisons stating in his 2012 report that of the 98% of those who are released from prison, 74% of those who are released re-offend within a 3-5 year period. We would do well to address the urgent need for rehabilitation of offenders while at the same time thinking of introducing Parole.

The Parole Introduction Committee also emphasized that “public consultations must of necessity be a vital part of the introduction of parole. The participation and understanding of the Trinidad and Tobago public in the parole process is a significant ingredient to its success”. The Committee also recognised “the need to introduce parole on a phased basis or as a pilot project in order to maximize the available resources and minimize possible catastrophic failure”;

- it is clear also that more attention needs to be paid to the human resource requirements for the introduction of Parole and the role that other State agencies and NGOs/CBOs, FBOs should play in the introduction and functioning of Parole. We would certainly need more Probation Officers, Social Workers etc. if a Parole System is introduced;

- it is imperative that proper management systems be instituted if a Parole system in TT is to be effective – need to examine the Legislative, Administrative Framework, and relevant Agencies that will be established to implement the System. We would advise the use of e.g. General Principles to guide decision-making; Members Manual for the Parole Board and others involved – on interpretation and use of risk assessments in relation to granting parole. All systems should promote transparency in decision-making;
- effective co-ordination between various Agencies will be critical. Some countries have established an Inter-Agency Parole Committee to facilitate communication/information sharing and promote a coordinated approach between Agencies.
- CCSJ also notes that the current remission system versus the proposed Parole system does not appear to have been addressed in the document circulated for consultation. This was an issue addressed by the Parole Introduction Committee.

We end with a quotation from the US-based National Parole Resource Centre (<http://nationalparoleresourcecenter.org/>). The work of Centres such as this should inform our efforts as we seek to improve our criminal justice system:

“Recognizing the critical and growing importance of parole in assuring community safety, appropriate responses for victims, and responsible use of public resources, the Bureau of Justice Assistance has announced the funding of a *National Parole Resource Center* to help support and shape the future of parole as an increasingly effective stakeholder in the criminal justice system. The mission of the National Parole Resource Center (NPRC) is to serve as:

- a source of information, training, and technical assistance for paroling authorities and the supervision agencies that they oversee and with whom they collaborate;
- a forum and source of support that will enable parole leadership to continue to define the evolving role of parole in a criminal justice system seeking to carry out their statutory mandates including the community protection, and the wise use of public resources; and
- a "portal" to other resources for parole, beyond those directly provided by the NPRC, by establishing collaborative partnerships with other public and private entities seeking to assist paroling authorities and agencies.”

Once again, we commend the Ministry of Justice in proposing the introduction of a parole system in TT and hope that the issues CCSJ raise in this submission will be taken into account as the Ministry moves forward to seek a Cabinet approved Policy for the introduction of such a system in TT.