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MINISTRY OF HOME AFFAIRS

Report

of the

High Level Committee

on the

Prisons Crisis

Presented to

His Excellency the Vice-President and Minister for Home Affairs
Hon. Stephen Kalonzo Musyoka, E.G.H., M.P.

by

The Committee Chairman
Hon. Maj. (Rtd.) Marsden H. Madoka

Kenya Parliament Library

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ACCESSION NO. 100685
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H.E, The Hon. Stephen Kalonzo Musyoka, E.G.H, M.P.
Vice President and Minister for Home Affairs,
Jogoo House "A",
Nairobi.

Your Excellency

SUBMISSION OF THE REPORT BY THE HIGH LEVEL COMMITTEE APPOINTED TO DEAL WITH THE CRISIS IN THE KENYA PRISONS SERVICE

On behalf of the High Level Committee, I have the pleasure and privilege to submit to Your Excellency, our considered report that addresses the crisis in Kenya's Prisons. This follows the tragic and widespread protests by Prisons officers in April, 2008. The officers raised their issues in the media, which in turn encouraged extensive public debate on the crisis. Prisons, under normal circumstances, are security institutions, which are largely inaccessible. This explains why the public was surprised at the disturbances by a disciplined force and also at the numerous issues that came out during the strike.

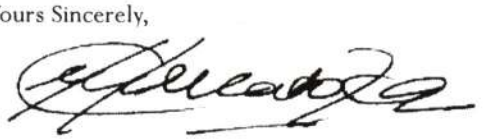
Your Excellency, we are optimistic that the findings and recommendations of this report, will be useful in your efforts to improve the Prisons Department. To this end, the Committee has singled out the following basic conditions, which will facilitate the desired change:

i. **There has to be political will and full support from the top echelons of the relevant Government Ministry responsible for the penal system. This calls for a committed team leader who will specifically champion for an effective working system in the Prisons Department.**
ii. **There has to be complete reorganization and change of top leadership at the Prisons Department. This is because the recommended reforms require a committed champion at the top. The government might not have the capacity to deliver the reforms if, for example, the prison system operates through deep-rooted corrupt practices at all levels.**

The Committee appreciates and acknowledges the overwhelming response it received from the officers and prisoners, in the form of memoranda and oral statements. Their contributions underlined their genuine willingness and desire to cooperate and be part of the process of carving out a new future for the Prisons Department.

Lastly, Your Excellency, the Committee recommends that the Office of the Vice President and Minister for Home Affairs takes all the requisite measures to ensure effective implementation of this report, and subsequent Committee findings.

Yours Sincerely,



Major (Rtd) Marsden Madoka, EGH

LIST OF ACRONYMS

ACHPR:	African Charter on Human and Peoples Rights
ACP:	Assistant Commissioner of Prisons
AGM:	Annual General Meeting
A.I.E:	Authority to Incur Expenditure
AP:	Administration Police
CCTV:	Closed Circuit Television
CESCA:	Central, Eastern and Southern Africa
CP:	Commissioner of Prisons
CSOs:	Civil Society Organisations
CSO:	Community Service Order
CU:	Court Users Committee
DCP:	Deputy Commissioner Of Prisons
F/Y:	Financial Year
GJLOS:	Governance, Justice, Law and Order Sector
GoK:	Government of Kenya
ICCPR:	International Covenant on Civil and Political Rights
ICT:	Information, Communication Technology
I.M.A:	Independent Monitoring Agency
IPPD:	Integrated Payroll and Personnel Data
KACC:	Kenya Anti-Corruption Commission
KARI:	Kenya Agricultural Research Institute
K.I.A:	Kenya Institute of Administration
KLRC:	Kenya Law Reform Commission
KNHCR:	Kenya National Commission On Human Rights
MDGs:	Millennium Development Goals
MOHA:	Ministry of Home Affairs
M.O.H:	Ministry of Health
MTEF:	Medium Term Expenditure Framework
NCOs:	Non Commissioned Officers
NFA:	No Further (Police) Action
O.I.C:	Officer In Charge
P.S.C:	Public Service Commission
P.G:	Pay Group
P.P.C:	Provincial Prisons Commander
P.S.T.C:	Prisons Staff Training College
RRI:	Rapid Results Initiative
SACP:	Senior Assistant Commissioner of Prisons
SDCP:	Senior Deputy Commissioner of Prisons
SP:	Superintendent of Prisons
SSP:	Senior Superintendent of Prisons
S.T.I:	Sexually Transmitted Infections
TB:	Tuberculosis
TSC:	Teachers Service Commission
UN:	United Nations
YCTC:	Youth Corrective Training Centre
KPS:	Kenya Prisons Service
DPM:	Directorate of Personel Management
MSPS:	Ministry of State for Public Service
PS:	Permanent Secretary

EXECUTIVE SUMMARY

The Committee was guided by clear and comprehensive terms of reference throughout its work. The issues contained in this report were raised through a consultative and participatory process. We collected information from meetings organised by the Committee in 48 representative Prisons countrywide. The main respondents were Prison officers and prisoners.

Apart from the key respondents above, the Committee also interviewed a cross section of stakeholders and actors in various sectors that deal directly or indirectly with security issues. They included the following: ***Chief of General Staff, the Permanent Secretary in the Ministry of Finance, the Permanent Secretary in the Office of the Vice President and Ministry of Home Affairs, the Chief Justice, Commissioner of Police, Director of Public Prosecutions, Commissioner of Prisons, Commandant of the Administration Police, the Kenya Magistrates and Judges Association, the Kenya National Commission on Human Rights, Civil Society Organisations, Faith Based Organizations, the media, retired Prisons officers, and the Governance, Justice Law and Order Sector (GJLOS) team***, among others.

In addition, the Committee extensively examined previous reports on the Prisons Department. These included: The Workload Analysis, the Strategic Plan, the Review of the Open Door Policy of the Prisons Department, as well as legislative frameworks and policies that govern prisons.

Key Issues of Concern

The strike action by officers of the Kenya Prisons Service was triggered by their feeling that they had been excluded from enjoying risk and special allowances which the other branches of the disciplined services had started earning. The risk allowance of Kshs. 5,000/- was awarded by the government to cushion the disciplined services from the risks associated with their work. A special allowance of Kshs. 10,000/- was part of the government's appreciation for the role the disciplined services played in quelling post-election violence early this year. Besides the non-payment of the risk and special allowances, the prisons officers had a raft of other longstanding perennial grievances that had not been addressed. Theirs was a deep-rooted, simmering and festering situation, which only needed a spark, such as the stand-off over the above allowances.

When the Committee set out to work in this highly charged atmosphere, it was guided by an urgent need to get to the root of the following key issues:

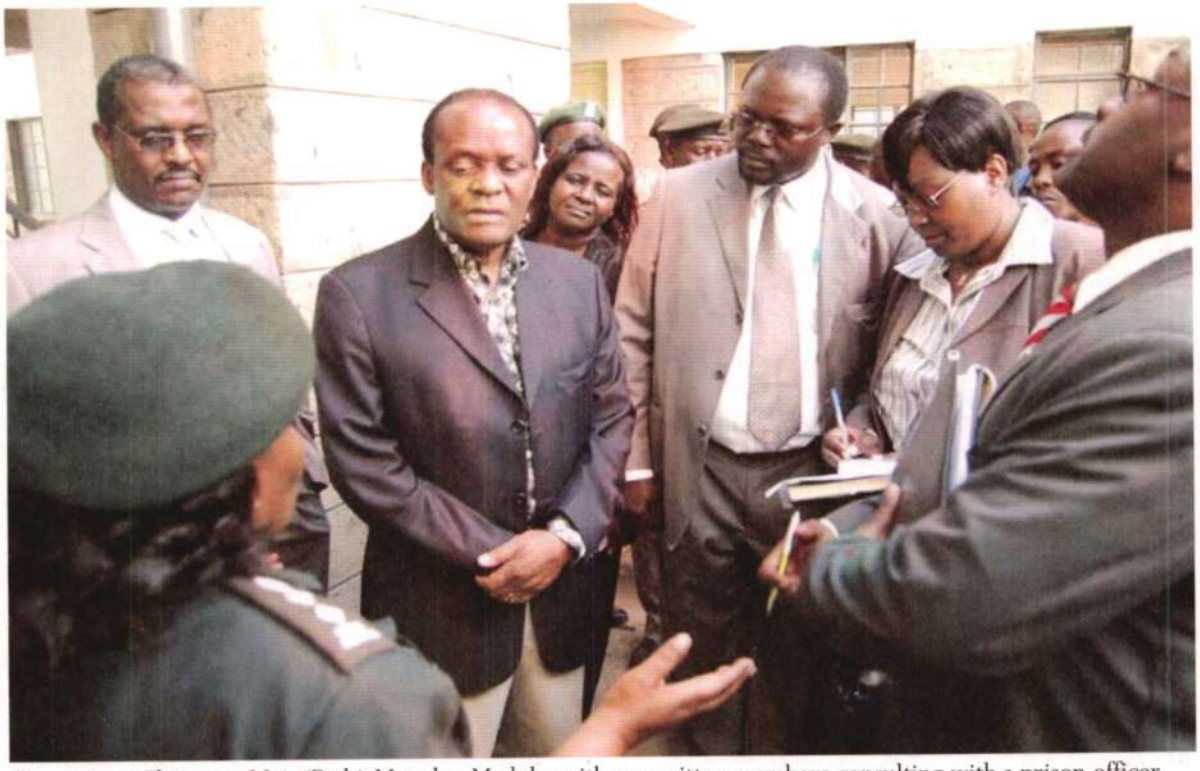
- What are the real purposes of the Kenya Prisons Service?
- What is the role of the department *vis a vis* other disciplined services within the wider ambit of the criminal justice system?
- How accountable should the prison department be and to whom?
- Is it possible to reconcile the role of prisons as a disciplined service with its rehabilitative and correctional mandate?
- Is the department adequately financed?
- Is the department mismanaged?
- Why are prison staff housed in such poor conditions and is there a solution in sight?
- Are Prisons Department staff adequately remunerated?
- Why are prison staff not effectively uniformed and why is the quality of their uniforms so poor?
- Why are prisoners not adequately rehabilitated as witnessed by the huge numbers of repeat-offenders?
- How do we ensure that prisons reforms are long term, grounded in legislation and that they do not infringe on the status of the department as a disciplined force?
- What caused the crisis in the prisons?
- What are the needs of the Prisons Department?
- What needs to be done to achieve effective management of the Kenya prisons service?

The Emerging Picture

From the information the High Level Committee gathered, the picture that emerges from the prisons is a long list of ills: overcrowding, rottenness, omissions and commissions, looting, grabbing, lethargy, indiscipline, diseases, squalor, ineptitude, and modern-day slavery – in brief, a wild jungle in which prison staff in general and senior officers in particular, have literally run amok!

It should be pointed out that prisons all over the world are faced with the challenge of a growing population of prisoners. This can be attributed to high rates of crime and the continuous use of custodial sentences.

The problems in the Kenya Prisons Service can be traced back to the many years of neglect. For example, Kenya has over the last two decades invested heavily in the creation of new districts, police stations and court buildings. Over the same period, there has been little or no investment in the expansion or rehabilitation of prisons. As a result, we have overcrowded



Committee Chairman Maj. (Rtd.) Marsden Madoka with committee members consulting with a prison officer.

prisons where inmates live in horrifying and degrading conditions. The paradox of this situation is that even prison staff have themselves been neglected in the provision of basic infrastructure and basic necessities.

Indeed it can be confirmed that without visiting the prisons it is impossible for the public to comprehend the enormity of the problems faced by the prisoners and those who are in charge of their care. It is almost certain that the effective rehabilitation of inmates into law-abiding citizens with the current state of Kenyan prisons is unattainable.

The Committee identified more disparities between theory and practice with regard to the role of the Prisons Council, as established under the Prisons Act, Cap 90, section 20 (1) C. The council was established to "consider all questions affecting the welfare and efficiency of the prisons' service;" however, it has not been operating. The Committee had no doubt that the strike could have been averted if there was an avenue to address grievances.

At another level, the Prisons Department has developed an impressive Strategic Plan, 2005-2009, and a Service Charter, in line with modern trends and best practices expected of Government Ministries and State Departments. However, it shocked the Committee that these documents, which are extremely impressive on paper, are scarcely being implemented. The depth and extent of the current rot that permeates the prisons should be cleaned as a matter of urgency before the Strategic Plan is implemented.

From media reports in the 3rd week of June 2008, the Prisons Headquarters appeared to have taken on a belated sense of urgency in embracing the need to implement the Strategic Plan. The department now feels that the salvation of the prisons service lies in the plan. However, questions must be asked as to why the strategic plan has not been implemented since 2005. We must also ask why it took the recent prisons' crisis to get Prisons Headquarters to imagine the urgency of implementing it. The consistent failure by the Prisons Department to embrace and implement the recommendations of previous reports, especially on matters related to governance, is to blame for the current mess. Interestingly, previous attempts at reforming prisons have been characterized by *ad hoc* approaches, lacking in planning and support structures for implementation.

The Prisons Department is also a case study in the richness of misplaced priorities. For instance, it proposes to buy combat uniform instead of the approved standard uniforms; the department enjoys being in a relationship of suspicion with its parent ministry (the Ministry of Home Affairs); the department has not kept its books of accounts up to date and there are many outstanding audit queries over time. This clearly demonstrates that officers in charge of prisons lack accountability.

Interestingly, our society and some stakeholders view Prisons with indifference. It is emerging that actors in the criminal justice system exhibit suspicion or indifference towards each other, which may partly explain why prison facilities are congested.

The Real Problem with the Prisons Department

In the 2005/2006 Financial Year, **Kshs. 400 million** was allocated for construction of prisons' staff houses. Out of this amount, only **Kshs. 170,539,558/-** was utilized. In the 2006/2007 Financial Year, the allocation for staff housing was **Kshs. 500 million** but prisons only utilized **Kshs. 348,755,926/-**. In the two financial years, the sum of the unspent funds meant for staff housing was **Kshs. 480,704,514/-**. The explanations given by the department for under expenditure were: lack of capacity within the prisons building section, delays in design and approvals by the Ministries of Public Works and Home Affairs, the lengthy procurement procedures, and poor performance by contractors awarded the projects.

The Prisons Department has acquired notoriety for misleading and misrepresenting facts ostensibly to cover up its decay. In one instance, the department deliberately set out to mislead the Committee by creatively coming up with figures to demonstrate that when compared to the other disciplined agencies, it is under-funded. The presentation asserted that while the Kenya Police received **Kshs.200,157,123/-** for specialized materials and supplies, the Prisons Department was allocated a paltry **Kshs.21,300,000/-** during the Financial Year 2007/08. However, an examination of the Printed Financial Estimates shows a completely different picture: the actual funds for specialized materials and supplies for the Prisons Department in 2007/08 Financial Year was **Kshs. 1,027,800,000/-**.

In October 2004, following the death of prisoners in Meru Prison from what post mortem reports revealed to be asphyxiation and suffocation, due to congestion, the then Vice President and Minister of Home Affairs, Hon. Moody Awori, convened a forum of stakeholders to discuss prison conditions and the effect of the administration of justice on prisons. The findings of this forum were never implemented despite the fact that **seven (7) million shillings** was assigned under the GJLOS basket fund towards issue-oriented reforms that would have eased congestion in prisons.

What is puzzling is the fact that the Prisons Department blames its self-inflicted problems on two issues: congestion of inmates and inadequate funding! But analysing the spending of GJLOS funds, a pattern soon emerges - an orientation towards easy to do things such as the purchase of buses and cars, at the expense of the harder issues such as prisoner-oriented rehabilitation programmes that could benefit vulnerable groups such as mothers with children, the physically challenged, the mentally handicapped.

Another appalling sign of lethargy at the Prisons Department is its inability to utilize funds from the GJLOS programme on a feasibility study. The study aimed at establishing ways in which prison industries could be transformed into Semi Autonomous Government Agencies (SAGAs), and how the parole system could be operationalised. It is yet to be established why Prisons Department returned all the funds to GJLOS basket without spending a single cent!

The Committee has established that the problem with the Kenya Prisons Service is not lack of funding. The considered opinion of the Committee is that the crisis in prisons is caused by failure of leadership and command. This may explain why corruption is a pandemic that has virtually eaten away the soul of the prisons service.

Irregular Alienation of Land (Land Grabbing)

The Prisons Department has itself contributed greatly to its deterioration. Much of the prisons' land has been grabbed over the years. *The Ndung'u Commission on Irregularly Allocated Public Land* provides a list of key beneficiaries of the prisons' land. Prominent on this list are former and serving prisons officers, among others. It also emerges that prisons officers not only grabbed prison's land, but they also facilitated grabbing in many instances. For instance, at the Machakos prison, outsiders were allowed into the restricted prisons compound. They constructed high-rise buildings and bungalows, which they rented out to tenants, while also enjoying the security of a restricted area. Many cases involving land grabbing are now in court, whose injunctions, have paralysed development projects.

In the Committee's visits to prisons, it was noted that governance systems have broken down. There were complaints from officers, both junior and senior, of the lack of inspection by senior officers from bo**th the provincial and headquarters levels. The Prisons' Standing Orders, and the Prisons Act, provide for such inspections. There were also allegations of bribes demanded in exchange for promotions.**

Indiscipline

The Committee witnessed levels of complete breakdown of discipline in the department. During the visits and interviews, the Committee met some officers in various states of drunkenness, tattered uniforms, and complete lack of decorum befitting members of a disciplined force. Indiscipline is infectious in prisons and it threatens national security.

Recommendations

Some of the key recommendations include:

Short Term (within one year)

1. *There should be an immediate change of top leadership in the Kenya Prisons Service. The fresh leadership should preferably be sourced from outside and predicated on a new management structure.*

2. *The Government should take immediate action on Prison Officers' uniforms. It should make Kshs. 513,513,064 immediately available for purchase of at least two sets of uniform for each officer.*

3. *The Prisons Council, as stipulated in the Prisons Act (Cap 90), should be put into operation immediately as it provides a forum through which issues affecting Prisons staff are addressed.*

4. *The Promotion Boards should be operationalised to ensure that procedures that contribute to the career development and performance of the officers such as Promotional Courses, at the Prisons Staff Training College, are adhered to.*

5. *The Committee appreciates that through a letter ES.89/07/01/65 of May 7, 2008, the Treasury approved payment in arrears of Kshs.5,000/- as risk allowance and Kshs.10,000/- being payment for Prison Officers' participation in quelling post election violence. It is recommended that to ensure uniformity, payments be made to **all** Prison Officers, as was done to Police and Administration Police officers.*

6. *The Committee recommends the establishment of an Oversight Standing Committee to oversee the full and orderly implementation of the recommendations of this report.*

7. *The Chief Justice should set up special courts in prisons to urgently deal with the many pending cases so as to reduce congestion.*

8. *There is need for coordination between actors in the Criminal Justice System -- the Police, Prosecutions, Judiciary, Prisons, Probation and Provincial Administration --to develop mechanisms to ease congestion in Prisons. The Office of the Vice President and Ministry of Home Affairs should coordinate this effort.*

9. *The Prisons Department must be granted greater autonomy in the management of its affairs, while the parent Ministry retains and actively plays its oversight responsibility.*

10. *The Committee condemns the mutiny by the Prisons Officers, which is a serious offence. The Committee recommends thorough investigations and stern action against the perpetrators.*

11. *The Government should establish partnerships with the Private Sector to put up prefabs and/or Uni-huts to accommodate the officers currently living in deplorable housing conditions.*

12. *The Advisory Committee on the Prerogative of Mercy should urgently address the issue of thousands of inmates on death row who significantly contribute to congestion in prisons.*

Medium Term (within one to three years)

13. *There is need for urgent rehabilitation and construction of water and sanitation systems in all the Prisons in the country.*

14. *Feasibility studies should be carried out on transformation of prisons' farms and industries into Semi-Autonomous Government Agencies (SAGAS) for efficient functioning.*

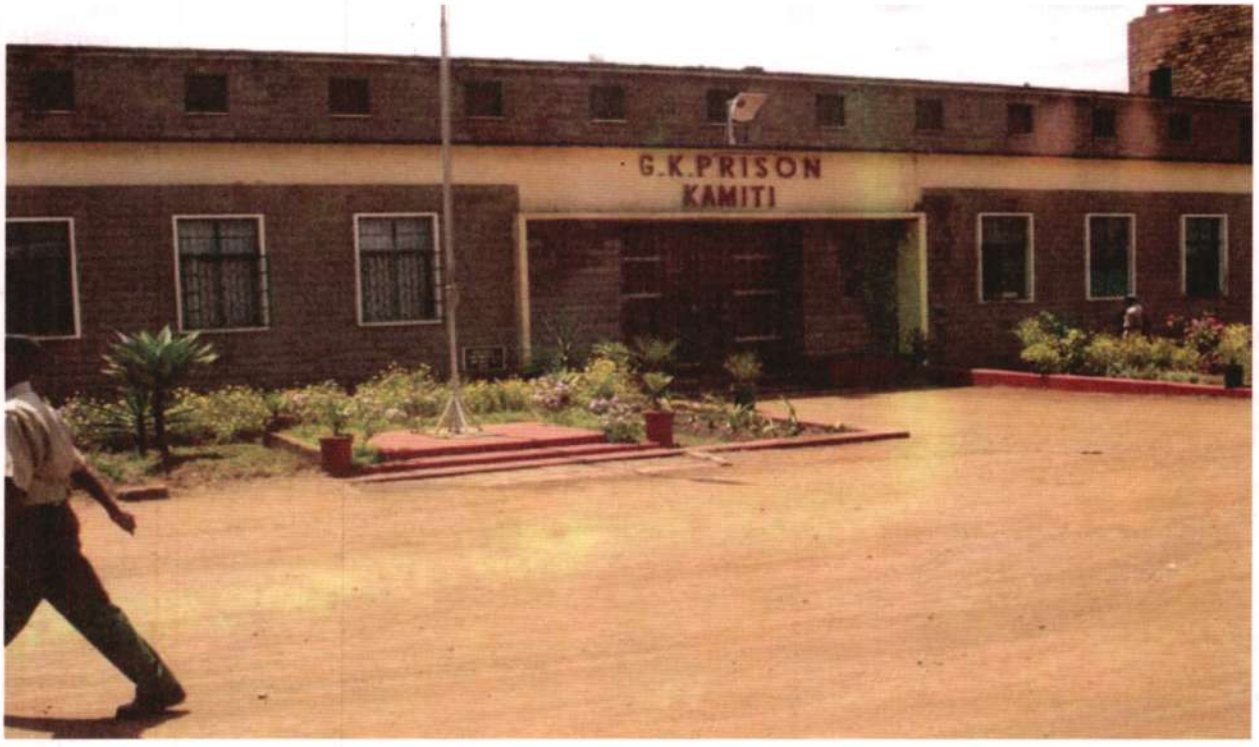
15. *To reduce congestion in prisons, the Committee recommends new wards to be built in deserving prisons.*

16. *Following allegations of grand corruption and mismanagement of public resources, the Committee recommends a thorough investigation of the Prisons Department by relevant Government agencies.*

CHAPTER 1
INTRODUCTION

1.0 Background

The modern prison has its origin in the Panopticon, an organization designed by Philosopher Jeremy Bentham in 1867. The philosopher then tried severally to sell the idea to the British Government. Although not all its features were adopted, many were incorporated to build modern prisons in Britain and thereafter in its colonies, including Kenya. One key feature of the Panopticon was the inspection tower for total surveillance over inmates at all times. Hence, from its early design, the central role of surveillance was invented. Surveillance is even more important today given the impact of information and communication technologies and the continued sophistication of crime.



Kamiti Maximum Security Prison

1.1 History of the Kenya Prisons Service

In Kenya, the prisons system was introduced by the British East Africa Company following the enactment of the East Africa Prisons Regulations in April 1902. Initially, the Prisons Department was set up as part of the Police under the Inspector General of Police. The Provincial and District Commissioners were appointed Superintendent and Deputy Superintendents in their respective provinces and districts. The Prisons Board was responsible for management of Prisons. The post of Commissioner of Prisons was created in 1917. The first modern prison by the colonial administration was Fort Jesus in Mombasa, which was established in 1895. Thereafter, more prisons were established across the country.

Today, Kenya has a total of 93 prisons (with six more under construction), 2 Borstal Institutions, and one Youth Corrective Training Centre, which caters exclusively for the young male offenders. Currently, there is no institution to cater for young female offenders who, if they do not qualify to go to an approved school, are imprisoned together with female adults. The prison inmate population has grown tremendously from 6,559 in 1911 to 43,000 in 2008, representing a 600% growth with staff strength of 17,177 from 319 in 1911.

The Kenya Prisons Service plays an important role in the country by keeping offenders in safe custody. It provides opportunities for rehabilitation, deterrence of would-be offenders, as well as protection of society. Since inception, the

orientation of the prisons in Kenya was largely skewed towards punishment of criminals. Reformation was not a priority. From the 1980's, however, there was a shift in focus towards the integration of punishment and rehabilitation through training. The aim was to change offenders' behaviour through education and training so that on re-integration into the free society, they would make meaningful contribution. The Human Rights wave that emerged globally after Michel Foucault's book, *Discipline and Punish* (1975), added a new dimension to punishment and rehabilitation. The new momentum laid emphasis on punishment, counselling and rehabilitation of prisoners in a humane and disciplined way. Indeed, the United Nations (UN) Standard Minimum rules have put into practice the humanistic treatment of offenders.

1.2 The Prisons staff strike

On April 24 - 29, 2008, junior Prisons officers, drawn mainly from the ranks of warders to senior sergeants, went on strike protesting poor working conditions. The trigger, however, was the non-payment of the Kshs 10,000 allowance that was paid to other disciplined forces, who assisted in quelling post-election violence. In some quarters, the strike was regarded as a mutiny because the striking officers are normally armed. During this strike, prisoners and remandees in some prisons were either not taken to court, or taken late. At some point, hard-core prisoners in Kamiti Maximum Security Prison attempted to escape during the confusion. It was surprising that prisoners showed open solidarity with the striking junior officers at Kamiti. In one of their brazen demonstrations of defiance, on 25th of April, 2008, junior officers at Kamiti openly evicted their own boss, the Commissioner of Prisons, from the precincts of the facility, a daring event that was broadcast live on television.

Interestingly, the strike presented the opportunity for Prison staff to raise other issues that adversely affect their performance at work. They also found space to speak out on the extremely poor state of their housing and sanitation. Between April 24-29, 2008, images of the striking officers were a constant feature in the media. The strike not only bewildered Kenyans who were shocked at the deplorable living and working conditions of prison staff; it also scared the country, which cowered at the prospect of armed officers going on the rampage, considering that mutiny is not legally sanctioned as an Industrial Action.

The Prisons Act deems any mutiny or strike as illegal. The reading of Sec 63 (2) of the Prisons Act reveals that – *Any person who directly or indirectly instigates, commands, counsels, or solicits, any mutiny, sedition, or disobedience of any lawful command of a prison officer to any other prison officer, or maliciously endeavours to seduce any prison officer from his allegiance or duty shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding sixty thousand shillings, or to both such imprisonment and such fine* [1]

The Committee interviewed stakeholders and actors in the field of criminal justice, who noted that there is danger to the security of the state from the precedence set for other disciplined forces by the mutiny. They pointed out that the mutiny exposed fundamental weaknesses in the centrality of discipline in the Prisons Department. This unprecedented state of affairs, which had never been witnessed in Kenya's prisons, sent shockwaves that prompted the Vice President and Minister for Home Affairs, who is also in charge of the Prisons Department, to take several remedial measures. These included constituting this high level committee to investigate the crisis.

1 See annex 1 for Commissioners' full communication to the staff during the prisons strike

1.3 Members of the Committee

The High Level Committee comprised of:

1. Hon. Major (Rtd) Marsden Madoka, EGH – Chairman
2. Mr. Japhet K. Masya, EBS, OGW
3. Hon. Wafula Wamunyinyi
4. Hon. Ibrahim Salat
5. Mr. Hussein Shariff Omar
6. Rev. Kepha N. Omae
7. Mrs. Ruth Kiiru
8. Mr. John Gechaga
9. Mr. Onesmus Nzwilli
10. Mr. Beneah Mutsotso
11. Ms. Josephine K. Omwenga - Arasa
12. Ms. Alice Nderitu
13. Ms. Emily M. Gatuguta, OGW – Joint Secretary
14. Mr. Davis Chirchir – Joint Secretary

1.4 Time Frame

The Committee was given thirty working days, with effect from May 13th 2008, to complete its work and submit its final report to the Vice-President.

1.5 Terms of Reference

The Committee was tasked to:

1. Identify grievances that have been raised by the Prison Warders and Wardresses and to make recommendations for improvement of their terms of service and working conditions;
2. Review the operations of Prisons farms and industries and make recommendations that can enhance productivity, self reliance in food and effective rehabilitation of inmates;
3. Review the existing Prisons Service Management Structure so as to enhance achievement of the strategic objectives of the Prisons Department;
4. Examine the resource base of the Prisons Service and make recommendations for improvement of resource utilization, sustainability, and accountability;
5. Assess the funding levels of Kenya's Prisons Service and recommend alternative sources of revenue to enable the department implement its core mandate;
6. Review the Prisons reform and rehabilitation programmes in line with international best practices in correctional management, and to make appropriate recommendations;
7. Review the state of security in Penal Institutions;
8. Review the current criminal justice system in relation to congestion and other living conditions of both inmates and staff in Penal Institutions;

9. Review the suitability of the Prisons Act (Cap 90) and the Borstal Institutions Act (Cap. 92) in line with the current Government reform agenda in the Prisons Service;

10. Review the state of discipline and commitment of Prisons officers and make appropriate recommendations;

11. Inquire into other pertinent issues that affect the operations of the Kenya Prisons Service.

1.6 Vision and Mission

Vision

A correctional service of excellence in Africa and beyond.

Mission

To contain offenders in humane and safe conditions in order to facilitate responsive administration of justice, rehabilitation, social reintegration and community protection.

CHAPTER 2
METHODOLOGY

2.1 Introduction

An elaborate outline and description (triangulation) of data collection approaches and tools was done in order to take full advantage of the strengths in each. Both qualitative and quantitative data were collected.

2.2 Field Visits

The committee visited a total of 48 (51.6%) prison intitutions during the data collection process. The committee members were distributed and dispatched to provinces as follows: Nairobi 6, Coast 6, Eastern 9, Central 5, Rift Valley 10, Western 4, Nyanza 6, and North Eastern 1. All the Maximum Security prisons (including Lang'ata Women's Prison), Borstal Institutions and Youth corrective centres were visited.

2.3. Primary Data

The following methods were used to collect qualitative and quantitative data:

- **Observation:** The Teams used a checklist to make various observations during field visits. The areas visited included Kitchens, officer's mess, ongoing and stalled constructions, wards, staff houses, sanitary facilities, farms and industries. The aim was to capture the state of Prison facilities and generally, the working and living environment.
- **Memoranda from Junior and senior staff:** Junior and senior staff presented their written and oral memoranda separately to the committee. They were given opportunity to present, clarify and explain their grievances and make recommendations. Additional issues not captured in the memoranda, were received in plenary. Junior and senior prison staff were allowed time to discuss, ask questions and make comments.
- **Structured Questionnaires[2]:** The teams administered questionnaires in the institutions visited with a view to enabling those who did not get opportunity to contribute to the memoranda, to make their case. Equally, staff were encouraged to write their grievances in the questionnaires in order to address the fears of retribution from authority. No identification of the respondents was required on the questionnaires.
- **Telephone:** The Committees provided all committee members' cell phone numbers to Prison staff prior to the fact-finding visits. They were encouraged to send SMS or call any committee member to provide information. Valuable information was subsequently obtained through this method.
- **Consultation with stakeholders:** The following key stakeholders and actors were consulted by the committee: Chief of General Staff, the Permanent Secretary in the Ministry of Finance, the Permanent Secretary in the Office of the Vice President and Ministry of Home Affairs, the Chief Justice, Commissioner of Police, Director of Public Prosecutions, Commissioner of Prisons, Commandant of the Administration Police, the Kenya Magistrates and Judges Association, the Kenya National Commission on Human Rights, Civil Society Organisations, Faith Based Organizations, the media, retired Prisons officers, and the Governance, Justice Law and Order Sector (GJLOS) team, among others[3].

2.4 Secondary Data

The committee also reviewed relevant documents and reference materials provided by the Kenya Prisons Service, Office of the Vice President and Ministry of Home Affairs, GJLOS, the Kenya National Commission on Human Rights (KNCHR), and other stakeholders. The documents helped to provide a historical perspective of the Kenya Prisons performance over time. Key documents reviewed included: The Prisons Act, the Borstal Institutions Act, Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land (2004), Kenya Prisons Standing Orders, Special Report on Inspection of Prisons, Kenya Prisons Budget proposals and the Prisons Strategic Plan.[4]

2 A copy of the structured questionnaire is attached as Annex 2 to this report
3 A full list and itinerary is available as Annex 3
4 A full list of all documents is listed in Annex 4

CHAPTER 3
KENYA PRISONS FUNDING LEVELS

3. 0: Situation Analysis

3.1 Kenya Prisons Funding Levels and Resultant Expenditures for the Last Three Financial Years (2004/05, 2005/06, 2006/07)

According to the financial report given by the office of the Commissioner of Prisons Department, the general belief is that Prisons Department is under funded. To support this perception, figures were provided to demonstrate a sharp contrast in the level of funding between the Kenya Prisons Service and other Security Agencies.

Table 1: Funding For the Disciplined Forces (2007/08 – 2008/09)

Year	2007/2008			2008/2009		
	Administration Police	Kenya Police Force	Kenya Prisons Service	Administration Police	Kenya Police Force	Kenya Prisons Service
Specialized materials & supplies	214,000,000	200,157,123	21,300,000	254,000,000	159,918,164	22,154,000
Training Colleges Allocation	63,500,000	86,023,858	42,900,000	66,040,000	85,328,448	44,616,000

Source: KPS – June 2008

Looking at this table, one gets the impression that funding for the Prisons Department is far below the norm. While funding for Kenya Police for specialized materials and supplies is ksh.200, 157, 123/- Prison Service was allocated Ksh.21, 300,000/- for the 2007/08.

However, the table below shows the real provisions in the printed estimates indicating a completely different picture. For example, the actual allocation for specialized materials and supplies for the Prisons Department in Financial Year 2007/08 was Kshs. 1,027,800,000/- and not the erroneous figure of Ksh.21, 300,000/- provided by the department. Likewise, the Prison's Department has a projected funding of Ksh.1, 517,784,034/- in the Financial Year 2008/09 for specialized materials and supplies.

3.2 Provisions for Specialized Materials and Supplies and Allocations for Training College for the Prisons Department (2007/08 – 2008/09)

Table 2: Actual Printed Estimates

KENYA PRISON SERVICE:	2007/08	2008/09
Specialized Materials and Supplies	1,027,800,000	1,517,784,034
Training College Allocation	194,212,199	768,243,551

3.3 Issuance of Uniforms

The report on uniforms by the Commissioner of Prison's Department showed the following:

i. That Prisons Staff of the Ranks of Senior Sergeant and below are supposed to be issued with all types of uniforms for free.

ii. That prisons staff of Subordinate Ranks are entitled to yearly replacement of working uniforms, which has not been possible due to perennial under funding, by the Treasury.

iii. *Uniform allowance for Senior Officers:* The allowance payable to senior officers is inadequate compared to the cost of procuring a complete uniform. Currently, the allowance is paid to two categories of officers, namely, Gazetted and Chief Officers. Gazetted Officers are paid ksh.2, 400/- per annum while Chief Officers get 2,000/- per annum. Uniform items issued to officers vary from Rank to Rank, especially, the insignias (badges of ranks).

Table 3: Rank and Cost of Uniforms

RANK	NO. OF OFFICERS	COST OF UNIFORMS Kshs	TOTAL COST Kshs
Commissioner of Prisons	1	27,183.85	27,183.85
Senior Deputy Commissioner of Prisons	1	26,491.85	26,491.85
Deputy Commissioner of Prisons	4	25,075.85	100,303.40
Senior Assistant Commissioner of Prisons	13	25,191.85	327,494.05
Assistant Commissioner of Prisons	16	24,783.85	396,541.60
Senior Superintendent of Prisons	40	22,023.85	880,954.00
Superintendent of Prisons	103	22,005.40	2,266,556.20
Chief Officer I	132	20,865.15	2,754,199.80
Chief Officer II	210	20,457.15	4,296,001.50
Senior Sergeant	523	16,717.40	8,743,200.20
Sergeant	601	16,717.40	10,047,157.40
Corporal	1,500	16,717.40	25,076,100.00
Warders/Wardresses	15,066	16,717.40	251,864,348.40
		Total	**306,806,532.25**

Using the above figures, the amount of allowance payable to the Senior Officers currently, is inadequate.

3.4 Prisoners' Uniforms

Three categories of prisoners need to be clothed by the Government, according to the Prisons Standing Orders. These are, convicted inmates, capital remandees, Borstal and the Youth in the Corrective Training Centre for boys. However, due to continued under funding, prisoners have either been going without uniforms, wearing tattered clothing and in some cases are even almost naked!



H.E. The Vice President, Kalonzo Musyoka talking to prisoners in tattered uniform.



Suspects in a remand home

3.5 Prisoners Beddings

The report from the Commissioner of Prisons depicts prisons country wide as acutely lacking in beddings and supplies (such as sanitary towels for women) for prisoners, due to low levels of funding. According to the Commissioner of Prisons, the Department needs 100,000 blankets, 20,000 mattresses and 5,000 beds at a total cost of Kshs. 99, 700,000.00/-.

3.6 Transport

Currently, the Prisons Department has a fleet of 227 vehicles of which, 93 are unserviceable. This leaves a fleet of only 134 vehicles for use by the department. The department requires a fleet of 446 vehicles to be fully operational. The Commissioner recommends that immediate transport requirements should be provided as follows:

- 7 Utility vehicles
- 17 Passenger vehicles
- 27 Pick ups
- 23 Light commercial vehicles (3 ton)
- 18 Micro-bus (14 Seater)
- 11 Mini-bus (30 Seater)
- 10 Ambulances
- 9 Medium Truck 4 x 2 (7-8tons)

(The list above does not include industry vehicles)



One of the latest prison buses courtesy of GJLOS

3.7 Food and Rations

The issue of food and ration has been a thorny one for the last ten (10) years. Outstanding audited debts amounted to Kshs.1.2 billion as at 30th of May 2008.

While the Prisons Department has been receiving only Kshs. 500 million per year to finance food rations for inmates, its requirements actually stand at approximately Kshs. 900 million. Thus, there has been an under provision amounting to Kshs.400 million per annum. However, the Revised Estimates (F/Y 2007/08) addressed this problem by allocating additional funding of Kshs. 200 million. This additional funding for food and rations was also included in the financial estimates for the Financial Year 2008/2009.

To address the issues raised on uniforms for the staff and prisoners, motor vehicles, food, rations, as well as housing for the warders/wardresses, the funding for the Ministry in 2008/2009 has been increased as follows:

Recurrent Expenditure ***Kshs.9,435,584,600/-*** *and Development Expenditure* ***Kshs.1,381,000,000/-.*** *This represents an increase of* ***Kshs.3,046,152,000/-*** *and* ***Kshs. 306,499,970/-*** *respectively from the last financial year.*

The key areas that have seen an increase in funding are: Personal Emoluments where an additional Kshs.2,080,000,000/- has been allocated for the 10% salary increase for Prison officers; and the Prisons Service Risk Allowance backdated to January 2008.



Food for prisoners

Table 4: Budgetary allocations to Prisons by key items

Item Description	Allocation 2007/2008	Allocation 2008/2009
Purchase of Motor Vehicles	10,065,000	49,317,901
Beddings and Linen	25,000,000	60,000,000
Supplies for Women Inmates	8,250,000	9,050,000
Transport cost (Fuel and Lubricants)	77,000,000	150,000,000
Sanitary and Cleaning Materials	10,900,000	16,600,000
Vehicle Maintenance	24,500,000	65,000,000
Uniforms (Trainees)	10,000,000	40,000,000
Uniforms - Staff	40,000,000	100,000,000
Uniforms - Inmates	28,500,000	84,000,000
Food and Ration	834,000,000	1,063,934,403

Development projects have received additional funding as follows:

- **Kshs.214.7 million** for prisons housing
- **Kshs.60 million** for equipment for Kenya Prisons
- **Kshs.61.7 million** for construction, refurbishment of buildings, Probation and Aftercare services.

3.8 Findings

The table below highlights the allocation of funds and the amount surrendered to the Treasury at the end of each financial year for the period shown below.

Table 5: Funding For the Prisons Department and Surrenders To The Treasury

Period	Item	Approved Estimates	Funds Surrendered
2004/05	Recurrent	4,589,527,183	516,002
	Development	127,890,000	40,523,562
2005/06	Recurrent	4,811,455,156	358,173,175
	Development	547,000,000	298,672,828
2006/07	Recurrent	6,194,647,118	785,324,317
	Development	845,605,000	344,155,859

- The table above shows that the Prisons Department has not been utilizing its funds in a rational manner. This is because they lack a sense of priority in their needs. This is in spite of the fact that every six months in each financial year, revised estimates are done, allowing ministries/departments to re-allocate funds according to the change in priorities.

- The Committee noted the blatant and inexcusable failure of the Prisons Service Department to prioritize their needs and allocate funds accordingly.

- The High Level Committee found that in all the prisons, the officers in charge are the holders of the Authority to Incur Expenditure (AIE) for all activities, including the farms and industries. Therefore, the officers who also act as farm managers are unable to ensure timely purchase of farm inputs, leading to the diminishing productivity of the farms.

- The Prisons Department is short of qualified personnel like accountants and auditors.

3.8.1 Recommendations

To address the problem of lack of qualified accountants and auditors in the Prisons Department, the High Level Committee recommends that the following steps be implemented:

- *Officers should be posted from the Ministry of Finance at the level of Principal Finance Officer, while serious efforts should be made to increase the number of qualified staff in their accounts section to replace the uniformed prisons officers who are currently doing accounts work;*
- *MOHA should increase the number of Procurement officers at Prison Headquarters and post Assistant Procurement Officers in all the major penal institutions;*
- *MOHA should set up an Internal Audit Unit at Prisons Headquarters with responsibility to assist the District Internal Audit Units in auditing the penal institutions;*
- *MOHA should grant the Kenya Prisons Service Headquarters an enhanced standing imprest to cater for its day to day operations and also facilitate Nairobi Province Command, and those of other penal institutions in Nairobi Province. This means that the Prisons Department will still refer major payments and such procurements that fall in the purview of the Ministerial Tender Committee, to Jogoo House;*
- *MOHA should provide financial management training to the officers in charge of prisons as they have unfailingly exhibited major weaknesses in this area. This is evident by the number of audit queries that have been raised consistently by the Controller and Auditor General.*

3.8.0 Kenya Prisons Participation in Governance, Justice, Law and Order Sector (GJLOS) Reform programme

3.8.1 Situation Analysis

The Governance, Justice, Law and Order Sector (GJLOS) is a 5-year reform initiative being implemented in 2 phases. Phase I was the Short Term Priorities Programme (STTP) implemented from July 2004 – December 2005. Phase II is the Medium Term Strategy (MTS) to be implemented between July 2005 and June 2009.

The GJLOS programme relies on three sources of Funding:

- The Government of Kenya (GoK),
- The Donor Basket Fund
- Direct Donor Contributions

Table 6: GJLOS Annual Budgets

GJLOS MTS 1 Work plan (2005/06)	Amount		
GoK	Kshs million	2,636	(55%)
Basket	Kshs. million	1,664	(35%)
Direct	Kshs. million	438	(10%)
TOTAL	**Kshs. million**	**4,804**	**(100%)**

GJLOS MTS 2 Work plan (20006/07) – Including MTS 1 Roll-over.	Amount		
GoK	Kshs. million	2,783	(53%)
Basket	Kshs. million	2,024	(39%)
Direct	Kshs. million	435	(8%)
TOTAL	**Kshs. million**	**5,244**	**(100%)**

GJLOS MTS 3 Work plan (2007/08)	Amount		
GoK	Kshs. million	1,558	(52%)
Basket	Kshs. million	1,126	(38%)
Direct	Kshs. million	311	(10%)
TOTAL	**Kshs. million**	**2,996**	**(100%)**

Table 7: GJLOS AND KENYA PRISONS SERVICE BUDGETS
(Jul'04 -Dec'05 in **Kshs. Millions**)

Contributor	Budget	Spent	%
GoK	15	1	6.7
Basket	160	142	88.7
Direct	2	4	200
TOTAL	**177**	**148**	**83.6**

Table 8: GJLOS MTS 2 Work plan (Jul'06-Jun'07 in **Kshs. Millions**)

Contributor	Budget	Spent	%
GoK	510	368	72.1
Basket	90	63	70
Direct	22	0	0
TOTAL	**622**	**431**	**69.2**

3.9 Kenya Prison Service Initiatives Funded by GJLOS

Funds provided by the GJLOS programme have facilitated the following initiatives:

- Training of more than 200 prisons staff on Human Rights, Para-legal work, first aid, disaster management and driving-skills, often in partnership with Civil Society Organisations (CSOs);
- Various International Study Tours for Prisons' officers, on Para-legal Systems (Malawi) and Pastoral Care (Italy);
- Prisons' Training Curriculum was updated and specific Human Rights Training Curriculum developed;
- Purchase of different vehicles: 21 Prison Buses, 6 Pick-ups, and 1 Ambulance;
- Supported the establishment and initial work of the 2006 Task Force on Prison Decongestion;
- Construction of Prison Housing Units (costing more than Kshs. 300 millions from GOK Funding);
- Provision of office furniture and ICT equipment to Human Rights Liaison Offices and Resource Centres in various Prisons;
- Prison Act was revised and updated (through the Kenya Legal Reforms Commission -KLRC);
- Development of the HIV and Aids Policy Framework with support from the United States Agency for International Development (USAID);
- Hosting of the Central, Eastern and Southern Africa (CESCA) Heads of Prisons Conference in 2005.

3.10 Activities for which GJLOS funds were available, but Prisons Department did not Implement

The following activities were not implemented in spite of the fact that the GJLOS programme had set funds aside for them.

- Establishment of Rehabilitation Programmes for Vulnerable Groups, such as Mothers with Children, the physically challenged (disabled) and the mentally handicapped;
- A feasibility Study to transform Prisons' Industries into SAGAs;
- Design and Development of Prison information Data Base;
- Development of a comprehensive Monitoring and Evaluation System across all the 93 Prison institutions;
- Operationalisation of a Parole System;
- Implementation of the recommendations of the Task Force on Prison Decongestion (worth an estimated Kshs. 7 millions);
- Establishment of an Independent Monitoring Agency - IMA (Visiting Justices).

3.11 Findings

The above tables indicate that while funding was available for the various activities in the prisons work plan, only 83.6% and 69.2% of the funds were utilized between 2004-07 and 2006-07 respectively.

It is also noted from the funding given by GJLOS that the Prisons Department has a capacity problem. Given the state of affairs in the prisons, one would not expect funds to be returned without utilization. For instance, **Kshs. (7) millions** set aside for implementing the recommendations of the task force on prisons' decongestion, was not utilized.

Recommendations of the GJLOS

- Kenya should adopt both restorative and retributive approaches to justice.
- Kenya should adopt alternatives to imprisonment (Bail, Sentencing policy, Diversion, Non-custodial options)
- Kenya should adopt a Penal Reform Policy, which is long overdue.
- There is need for radical re-organisation of the KPS
- An Independent External Civilian/Judicial Oversight must be established to ensure accountability, transparency,

and openness in the prisons service.

- Inter-Agency Cooperation must become compulsory at all levels of the KPS.
- Prisons should move away from being "Universities of Crime" to focus on Rehabilitation and Social Integration.
- Prisons should embrace professional help, since penal reform is a science. External input from countries that have successfully reformed their penal systems is necessary.

CHAPTER 4: HOUSING

4.1 Status of Housing for Prisons Staff

Housing is an important component of the right to an adequate standard of living. The National Housing Policy of the Government of Kenya lays out strategies of providing an enabling environment for the full and progressive realization of this right for all Kenyans. Both the National Housing Policy and Vision 2030, envisage an adequately and decently housed nation within a sustainable environment. Improvement in housing stock is a strategic social and economic investment and an important entry point for poverty reduction.

Houses that we live in affect every aspect of our lives. A house:

- Is a place where social interaction occurs;
- Is important for socialization of children;
- Determines quality of family relations;
- Is a place for intimate friendship and kinship ties;
- Is a space for personal isolation and conflict;
- Determines one's subjective life, romance, fulfilment and non-fulfilment of desired ambitions;
- Is a status symbo, therefore, the house in which one lives, to a great extent, determines one's behaviour and temperament.

4.2 The role of the Government and Employers

The National Housing Policy envisages the following roles for the Government and employers:

- Employers will be encouraged to facilitate acquisition of funds to their employees through loans directly or indirectly provided by the existing network of mortgage finance institutions for the purpose of acquiring residential properties;
- The Government will facilitate both public and private sectors to assist their employees to acquire housing in accordance with the Employers Act (Cap 109 Sec.41). This is because the Government recognizes that an adequately housed labour force generates higher productivity.

As a result of the above provisions in the National Housing Policy, the Government is supposed to:

- Promote an optional Tenant – Purchase Scheme for Public Servants through the Civil Servants Housing Scheme Fund. This has since been put in place Vide circular letter of CSHSF/EST/01/2/VOL.111 (105) dated 5th June 2008 authorising civil servants to borrow funds from either Savings and Loan or Housing Finance at 5% interest rate;
- Retain optional rental schemes for those willing to pay rent for the Government houses they occupy;
- Pay market-based house allowances to enable public servants rent houses in decent localities;
- Develop institutional housing of socially acceptable space standards, especially for the disciplined services due to the nature of their work, their frequent transfers, their security requirements, and the essential services they provide. They are expected to stay within the lines.

4.3 Government Approaches to Public Servants' Housing

The Government Circular Ref. No OP. 18/2/1A of 21st of June 2000, announced a new housing policy for public servants. Major changes announced included the following:

- Payment of regional based market rate housing allowance for public servants in a bid to improve their housing conditions;
- Charging of market-based rents for public servants living in Government houses;
- Phasing out of leased housing for public servants.

The main objective of this policy shift was to divest the Government from providing direct housing to the role of encouraging and facilitating civil servants to acquire their own houses. However, the Government would continue to provide Government houses for those working in hardship areas as well as personnel who offer essential services.

4.4 Situation Analysis of the status of Housing for Prisons' staff

The institutional housing situation for Prisons' staff has greatly deteriorated over the years. Currently, most uniformed officers live in deplorable conditions with up to four families sharing a house meant for only one family: this congestion compromises privacy and jeopardizes their self esteem. ***Most of them live in shacks. On average, these shacks measure '10' by '10' feet and are shared by a whole family. The largest family the Committee witnessed sharing such a room consisted of 7 members, while the average family had 4 members. In Kisii Prison, for instance, the Committee was shocked to find a polygamous warder living not only with two wives, but with adult and toddler children in a '10' by '10' feet shack***. This is a blatant contravention of the minimum set plinth area of 75 square feet per person for every habitable room as set out in the Building code By – Law, 216). Youthful prisons' staff narrated the difficulty they go through in forming heterosexual relationships. Suitors desert them as soon as they visit their residential quarters, undermining their self-esteem.





Prisons warders houses with toilets in foreground - Nakuru





Partitions in warders' shacks - Kamiti

All Prisons in Kenya suffer from an acute housing shortage. There are 3,660 (17.4%) houses against staff strength of 17,177. This reflects a shortfall of 82.6%. All junior members of staff are required to live within the prison compound but no houses have been built for them.

Table 9: The Status of Prisons' Staff Houses per Province

Province	No of Houses	No of Staff	% House Deficit
Rift Valley	822	4,816	82.9
Central	475	1,906	75.1
Coast	343	1,840	81.4
Western	38	1,150	96.7
Nairobi	1,320	3,970	66.8
Eastern	200	1,557	87.2
North Eastern	23	421	94.5
Nyanza	439	1,517	79
Total	**3,660**	**17,777**	**82.6**

Source: Kenya Prisons Headquarters, June 2008

The acute shortage of houses leads to the mushrooming of shanties and slums within the Prisons. Population density is high resulting in overcrowding and social pathology the country has witnessed. Overcrowding leads to poor maintenance of houses, poor health, wanton destruction and graffiti, which have been observed in residential houses. The existing condition of the houses contravenes the provisions of the Prisons Standing Orders Chapter 25 Sections 6 – 9, which prescribe regular inspection and proper maintenance of the houses by the occupants.

The poor state of the houses points to negligence and lack of discipline. Even mud houses can be decent. While not justifying the existence of mud shacks, the committee noted that the Administration Police have managed to keep their staff lines clean despite their living in semi permanent houses. This has been enhanced through regular inspection by senior Administration officers.

The Prisons administration, while enforcing the rule that junior staff should stay in the staff lines, have in some instances left them to their own devices when it comes to provision of housing. Junior officers take the initiative to build their own houses within the prison land. Such houses are made of mud, rusty iron sheets, cardboards, and twigs. Others are grass-thatched with vegetation growing on the roof as was seen in Eldoret. Prisons staff told the Committee that they 'sell' the shacks to new staff whenever they are transferred.

Ventilation is either poor or non-existent in most shacks. Paraffin tin lamps are commonly used for lighting. In prisons with electricity, junior officers have illegal power connections to their shacks, which occasionally cause fire leading to electrocution. A reasonable number of staff who were interviewed use firewood and paraffin for cooking. The Committee also noted that walls and partitions between families are made of cardboard and nylon papers, which are highly inflammable, hence the frequency of fires.

Tension, domestic disputes and conflict between warders, wardresses and their families, are frequent. Cases of prostitution, drug abuse, alcoholism, family quarrels, family breakdown, theft and cross-interference in each others' domestic affairs, are endemic. For instance, the Committee heard of the rampant cases of sharing wives and domestic house helps among the staff. Given this state of affairs, welfare officers and officers in charge, spend considerable official time resolving domestic disputes. The consequence of poor housing is a demoralized and alienated prison staff. All quarters occupied by junior staff experience acute overcrowding.

Drawing from John Palen (1992) an urban sociologist, high population density and crowding are cited as causes of epidemics, contagion, crime, moral degradation and social disorganization. Charles Dickens in *The Adventures of Oliver Twist* vividly discussed the perils of overcrowding in 18th Century England, which today clearly parallels the situation in Kenyan Prisons. Research studies on crowding using Norway rats by John B. Calhoun (1960) in *"Population Density and Social Pathology"* and later, Shirley Foster Hartley (1972) in *"Population Quantity vs Quality"*, show that what happens among rats in crowded conditions applies to humans in similar conditions.

> *"The implications of animal and human studies are clear-cut. Just as the offsprings of frustrated mother rats, part of whose pregnancy was spent trapped in problem boxes with no exits, carried an emotional disturbance throughout their own lives, so too, many children of frustrated human mothers (and fathers) trapped by slums, show behavioural manifestations of emotional disturbance" (Shirley Foster Hartley, 1972)*

Most permanent houses are in a critical state of disrepair: They are without paint, door locks, window shutters, and spot broken glass, among other signs of dereliction. There is ample evidence that these houses have scarcely been repaired in spite of budgetary allocations for renovation. Senior prison staff drawing a house allowance of Kshs. 20,000/- to 40,000/- per month occupy prison houses, which are not commensurate with their job groups and for which they pay a rent of Kshs.4, 000/- to 12,000/- per month. But it should be pointed out that even if the current prison houses occupied by senior staff were to be allocated to warders and wardresses, the existing stock of 3,360 houses will be inadequate hence, there is urgent need for alternative measures to alleviate the current housing crisis.

4.5 Funding for Prisons Staff Housing

The Committee noted that:

- The allocation of funds for construction of staff houses for the Prisons Department in 2005/2006 was ***Kshs. 400,000,000/-*** but only ***Kshs. 170,539,558/-*** was utilized.
- In 2006/2007 the allocation for staff housing was ***Kshs. 500,000,000/-*** but Prisons Department only utilized ***Kshs. 348,755,926/-.***
- In the two financial years, the sum of unspent funds meant for prisons staff housing was ***Kshs. 380, 704, 516/-.***
- During the current financial year 2008/2009, the department has been allocated ***Kshs. 551,500,000/-*** . for construction of residential housing.



Stalled warders' houses

The explanations given for under-expenditure of funds meant for staff housing were:

- Lack of capacity within the Prisons' Building Section;
- Delays in design, certification and approvals by the Ministries of Public Works and Home Affairs, and Treasury;
- The lengthy procurement procedures;
- Poor performance by contractors awarded the projects.



New staff houses at Nairobi remand home

4.6 Government Interventions in Prison Staff Housing during the Fiscal Years: 2004/2005 - 2007/2008

Over this period, the Government has initiated various interventions to address the problem of housing for Prisons' staff. These interventions include:

- Rapid Results Initiative (RRI) for Housing Projects, where the Department is using locally available materials such as stones from Prisons' quarries. (In another part of this report, we point out that the money from the quarries are not accounted for in the presentation by Prisons' headquarters);

- Conventional Contracting through the Ministry of Public Works;
- Use of Appropriate Building Technology through the Ministry of Housing.

Through the aforementioned initiative, 473 houses of various categories, have either been built or are under construction in various prisons as tabulated below:

Table 10: Rapid Results Initiative (RRI) Projects

S/No.	Station	District	No. Of Units	Estimated Cost In Kshs.	Status
1	PSTC	Thika	32		
2	PSTC	Thika	36 (Refurbishment)	18,000,000	
3	Ruiru Prison	Thika	20	7,326,000	Complete
4	Thika Prison	Thika	4	1,560,720	Ongoing
5	Maranjau Prison	Muranga	4	1,924,080	Ongoing
6	Shikusa Prison	Kakamega	6	3,500,000	Ongoing
7	Kericho Main	Kericho	4	1,979,410	Ongoing
8	Kericho Annexe	"	4	1,577,000	Ongoing
9	Homabay	Homabay	2	1,700,000	Ongoing
10	Makueni	Makueni	4	1,306,640	Ongoing
11	Nakuru Prison	Nakuru	4	2,300,633.30	Ongoing
12	Kodiaga Prison	Kisumu	20	10,423,780	Ongoing
13	Busia Prison	Busia	4	2,174,780	Ongoing
	Total		**108**	**53,773,473.30**	

Source: MOHA

Table11. Contracted Projects

S/No.	Station	District	No. Of Units	Estimated Cost In Kshs.	Status
1.	Kamiti Prison	Nairobi	20	228,784,405	On-Going
2.	Langata Women	Nairobi	48		Complete
3.	Nairobi West	Nairobi	96		Complete
4.	Nairobi Remand	Nairobi	48		Complete
5.	Mwea Prisons	Kirinyaga	10	24,000,000	Complete
6.	Embu Prisons	Embu	20	50,000,000	Complete
7.	Kangeta Prisons	Meru	20	25,000,000	Complete
8.	Garissa Prisons	Garissa	10	25,000,000	Complete
9.	Manyani Prisons	Taita/Taveta	10	52,000,000	Complete
10.	Shimo La Tewa	Mombasa	20	52,000,000	Complete
11.	Kodiaga Prisons	Kisumu	15	26,000,000	On-Going
12.	Siaya Prisons	Siaya	15	39,000,000	On-Going
13.	Nakuru Prisons	Nakuru	20	50,000,000	On-Going
14.	Eldoret Prisons	Eldoret	10	75,000,000	On-Going
15.	Busia Prison	Busia	15	37,000,000	On-Going
16.	Bungoma Prison	Bungoma	15	26,000,000	On-Going
17.	Shikusa Prison	Kakamega	10	39,000,000	On-Going
18.	Pstc	Thika	20	100,000,000	On-Going
19.	Ruiru Prison	Thika	10	24,000,000	On-Going
20.	Kisii Prison	Kisii	10	25,000,000	Stalled
21.	Machakos Prison	Machakos	10	25,000,000	Stalled
		Total	**337**	**947,784,405**	

Source: MOHA

Table 12: Appropriate Building Technology projects (ABTs)

S/No.	Station	District	No. Of Units	Status
1	King'ong'o Prison	Nyeri	16	Complete
2	Embu Prison	Embu	10	Complete
3	Maranjau Prison	Murang'a	2 + Adm. Block	Complete
4	Kakamega	Kakamega	12 Sanitary Blocks	Complete
		Total	**28**	

Source: Ministry of Housing

4.7 Recommendations

4.7.1 Short Term and Medium Term Plans

1. ***Shanties should be demolished and replaced with uni-huts.***
2. ***Suitable apartments and uni-huts should be identified, rented and purchased for allocation to junior staff.***
3. ***Senior officers should vacate Prisons Institutional houses and rent houses from the market.***
4. ***MOHA and the Prisons Department should use private consultants in housing development projects and rehabilitation/renovation of existing houses;***
5. ***All grabbed/illegally allocated Prisons land should be repossessed.***
6. ***The MOHA should initiate fundraising activities to source funds to assist in improving the housing situation.***

4.7.2 Long Term Plans

1. ***Development of adequate capacity to absorb the funding allocated for construction of staff houses;***
2. ***Prioritisation of the construction of junior officers' houses within the Prisons lines while taking into consideration, the needs of the physically challenged;***
3. ***Adoption of Appropriate Building Technology in conjunction with the Ministry of Housing for mass production of houses especially outside Nairobi. The Committee noted that this technology was being used in Maranjau, Embu, Nyeri, Kakamega Prisons and at Jamii Bora;***
4. ***More funds should be sourced for construction of appropriate staff housing.***

4.8.0 Sanitation

In all the prisons the Committee visited, there was a serious sanitation problem. This is partly attributed to rising population of prisoners and prison staff without corresponding expansion of the old sewerage system. In the Eldoret Prison, there was no sewage system in the junior staff quarters. In Naivasha, Kisii, Kibos, Kamiti, Nakuru, Bungoma and Kakamega, the Committee was appalled to see raw, smelly sewage flowing through vegetable gardens.



Raw sewer near prison houses - Nakuru

In the Nakuru prison, the raw sewage had dried up in lumps: the situation was so grave that the Committee advised the officer in charge to immediately liaise with the relevant technical Ministry and contacts were made available to facilitate the remedial work. However, it is surprising that up to date, the officer in charge has not taken the initiative to rectify the situation. In the Bungoma prison, sewage was overflowing directly into junior officers' houses on the very morning the Committee visited the institution.

In Shimo-la-Tewa, the warders narrated the ordeal they and their families endure in order to access the very few toilets available. At this facility, the Committee also observed prison staff and their families queuing to use the toilets. At Eldoret prison, the pit latrine is located about 200 metres away from staff houses, which can be a serious security threat at night.

In selected prisons -- Kibos, Isiolo, Ngeria and Mwea -- bucket toilets are in use for both staff and prisoners. At Kibos and Kisii prisons, the committee witnessed children of prison staff playing in the raw sewage. Given this state of poor sanitation, the intestinal and other water-borne infections have become endemic. In the Prison offices, the Committee was shocked to observe that staff toilets do not flash water and the taps are dry. The Committee also confirmed that prisoners widely use buckets at night as toilets, which are placed in tiny congested cells.

4.8.1 Recommendation

The Committee is of the view that the Prisons Department must urgently construct, rehabilitate and unclog the existing sewage systems.

4.9.0 Water system

An observation of most Prisons found that either they lack or have insufficient and unreliable water supply. Since most prisons were built between 1950's – 1960's, their water systems have never been expanded or rehabilitated to take into account the increasing number of prisoners and staff. At Shimo la Tewa Prison, for instance, the piping system had collapsed. At Kamiti Prison, boreholes drilled in the 1950's, were in dire need of rehabilitation. At Ruiru Prison, water is only available in the evenings due to rationing. The Committee came to the startling discovery that virtually all the prisons facilities either had no water or did with so little. The committee was informed of the regular death toll at Kodiaga Prison, owing to lack of water, before the installation of a water treatment plant. The figures were as follows:

Table 13: Death Toll due to poor sanitation at Kodiaga

The death toll reduced after the installation of the water treatment plant.

	Year	Number of deaths
1.	2003	69
2.	2004	89
3.	2005	81
4.	2006	95
5.	2007	27
6.	2008	9

Source: KPS Headquarters

4.9.1 Recommendations

- ***The existing water systems should be rehabilitated/or expanded to increase water production***
- ***Additional boreholes should be drilled in prisons to improve inmate and staff access to water.***

4.10 Health and Hygiene for Inmates



In some of the Prisons, there is a clinic for staff, inmates and surrounding community. The clinics are manned by Ministry of Health staff. While Shimo la Tewa and Ngeria have well established and functional clinics, in most prisons, the clinics are in poor state. At Kitale Prison, the clinic is a former cell. Nevertheless, is not clear whether the clinics are owned by Prisons Department or the Ministry of Health (MOH).

Statistics from the Prisons Department's AIDS Control Unit, estimate prevalence rate among staff at 3.0%, while among inmates, prevalence rate stood at 8.5% between September 2004 to December 2007. The Service has put in place a HIV/Aids Workplace policy.

There are no clear guidelines for MOH staff working in the Prisons. Most clinics reported to have inadequate supply of drugs and presentation. MOH staff do not receive allowances enjoyed by prison staff yet they deal directly with prisoners as well. For instance, they did not receive risk allowance recently awarded to prison staff yet they are exposed to similar risks. The clinics also suffer from lack of stationery and prescription cards. Likewise, some of the Ministry of Health officers are not housed in prisons.



Committee members with a sick prisoner - Kibos



A sick prisoner being attended to by the Red Cross - Bungoma

Hygiene problems are persistent in prison. For instance, infections among inmates were spread through the exchange of uniforms between those released and new inmates. In female wards in Kitale, the Clinical Officer alleged that the use of buckets as urinals is responsible for the persistence of Sexually Transmitted Infections (STI). The supply of drugs is equally not consistent, while the clinics operate in tiny rooms.

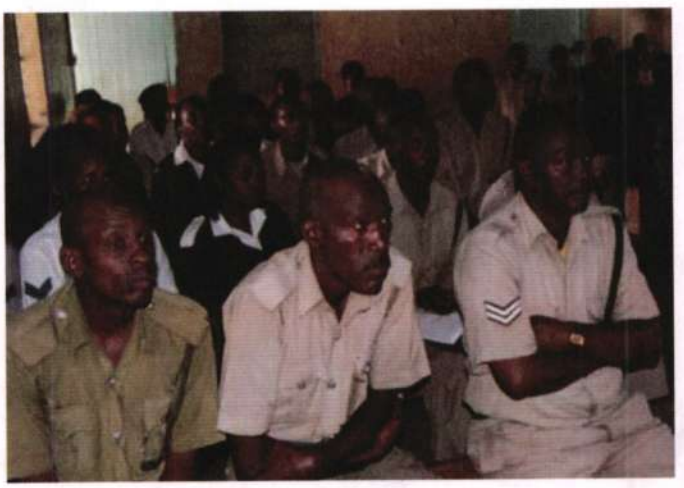
CHAPTER 5
TERMS AND CONDITIONS OF SERVICE

5.1 Promotions

It is observed that the Kenya Prisons Standing Orders spell out procedures to be followed when promoting officers, irrespective of the Rank.

Where officers in the grade of Prisons Grade (PG)1 to Prisons Grade (PG)4 have to be promoted, the standard procedure is for the Officer in Charge to identify those eligible at the station level and forward their names to the Provincial Prisons Commander (PPC) for interview by the Provincial Prisons Promotion Board. The PPC is the chair of the board.

The board then shortlists suitable candidates to undergo a two (2) months course at the PSTC. The candidates are ranked according to performance and the names forwarded to the Commissioner of Prisons (CP). The CP selects the officers to be promoted on the basis of availability of vacancies and their performance at the college.



Prison of?cers during a Committee hearings

Promotion of officers in the rank of the Chief Officer II/I is done by the Commissioner of Prisons on the advice of the Departmental Promotion Board, while that of the Superintendent of Prisons, (PG 7 and above), is done by the Public Service Commission (PSC) of Kenya.

Though the guidelines for promotion are very clear and the procedure straight forward, the process is abused and manipulated by those in power to shocking levels. In all the stations visited, prisons officers complained that promotions are done on ethnic basis, nepotism, politics and corruption, amongst other considerations. Cases abound of officers who have been in the service for more than 20 years and have never been promoted. Others retire from the service without being promoted at all.

There were serious allegations in all the stations the Committee visited that one has to bribe in order to be promoted. Incidences were quoted where officers had applied for SACCO loans and Bank advances in order to raise the required amount to "buy" the promotion. The amount demanded by senior officers ranges from Kshs. 20,000/- to Kshs. 40,000/- depending on the rank. Matters are worse for ladies due for promotion. Committee members were informed about demands for sexual favours in exchange for promotion.

The Committee recommends that the Ministry of Home Affairs takes this information seriously and conducts further investigation with a view to stopping this rot.

To compound this problem, Committee members were informed of the existence of an elite class, euphemistically nicknamed *"Ukoo wa jela"*. These are sons and daughters of serving and retired senior prisons officers. It is not strange to find an entire family working in Prisons and in relatively senior positions. This elite group enjoys unfettered promotions without meeting the required academic and job related qualifications. They also receive preferential treatment in such matters as the issue of uniforms, allocation of houses and areas of deployment. This favouritism has gravely affected discipline in the prisons.

The issue of corruption in the prisons starts right from recruitment. Potential candidates have to pay between **Kshs. 100,000/-** to **Kshs. 200,000/-** if they have to be recruited in the Prisons Service. It is easier to see how the culture of corruption is inculcated into the officers right from the day of their recruitment.

With no prospects of promotion on the horizon, and nowhere to turn to for redress, the prisons officers are left to rot in prison - a miserable lot, awaiting their turn to retire!

5.2 Recommendations

- ***The established promotion criteria/procedures as provided for in the standing orders must be strictly adhered to.***
- ***The relevant government agencies should investigate all the allegations.***
- ***recruitment and promotion should reflect the true face of Kenya.***

5.3 Reversal of Acting Appointments

There were complaints across the board that a number of officers who had been appointed on acting capacity by the previous Commissioner of Prisons had been forced back to their previous ranks by the present Commissioner. Acting appointments in the Civil Service are governed by section J.4 and J.5 of the Code of Regulations Revised 2006. By July 1, 2005, the Prisons Departmenthad promoted officers leading to over-establishment by 307 officers in the following ranks.

Table 14: Authorised versus in post establishment

	Year	Authorised Establishment	In post	Over-estab.
1.	Chief Officer 1	132	133	1
2.	Chief Officer II	210	213	3
3.	S/Sgt	373	514	141
4.	Sergeants	416	497	37
5.	Corporals	1300	1425	125
			Total	**307**

Source: KPS Headquarters

In addition, there were also 272 acting appointments before July 1, 2005 whereas there were no vacant positions. This was in contravention of the Code of Regulations that stipulates that any acting appointment must be made against an existing vacant position. These acting appointments were in the following ranks.

Chief Officer I -	12
Chief Officer II -	16
Senior Sergeant -	22
Sergeants -	16
Corporal -	206
Total	**272**

Source: KPS Headquarters

According to the Commissioner of Prisons, upon assuming office, he constituted a promotion Board at three levels: Station, Provincial and Headquarters. All officers who met minimum requirements for promotion were interviewed together with those on acting appointments. The candidates who satisfied the Board were promoted including those on acting appointment; and those who were not successful reverted to their substantive positions since all vacant posts had been filled. The officers, however, felt that the exercise was conducted unfairly and they were not given an opportunity to compete at the same level with those who were appointed.

The Committee, however, established that the actual position when the demotions occurred was as follows

Table 15: Authorised versus In Post Establishment

Rank	Authorised Establishment	In Post	Vacancies and Over-establishment
Chief Officer 1	132	139	7 (over)
Chief Officer II	210	202	8 Vacancies
Senior Sergeant	523	491	32 Vacancies
Sergeant	601	505	96 Vacancies
Corporal	1,500	1,495	5 Vacancies
Total	**2,966**	**2,832**	**141 Vacancies**

Source: KPS Headquarters

The Committee noted that there were 141 vacancies in the above ranks. The argument that the demotions were necessary because of the over-establishment was misleading. In addition, the vacancies left by demoted officers were duly filled other officers.

5.4 Uniforms

As a uniformed force, the Kenya Prisons Service has designated sets of uniforms approved by the National Uniform committee for both senior and junior officers. They are:

a. **Ceremonial Dress.**
   - Green Tunic
   - Green Trouser
   - White shirt
   - Green tie

b. **Working Dress for Men**
   - Khaki Shirt
   - Khaki Trouser

c. **Working Dress for Ladies**
   - White blouse
   - Green skirt or trouser

d. **Footwear**
   - Boots for working
   - Ceremonial Shoes

e. **Head Gear**
   - Beret (green)
   - Peaked Cap

f. **Belt**
   - Green for working dress
   - Brown leather for Senior Officers
   - Prison colours for Junior Officers

g. **Lanyard**
   - Green for the ranks of Warder to Chief Officer. 1
   - Red (Decorated) for the ranks of Superintendent and above

Under the Standing Orders, uniforms for Warders to Senior Sergeants are issued free. Officers from the rank of Chief Officer II and above are entitled to a graduated annual uniform allowance depending on their job groups. A Chief Officer 11/1 gets Kshs 2,000/- and officers occupying the ranks of Superintendent to Commissioner, receive Kshs. 2,400/-.

5.5 Findings

Over the last ten years, funds for uniforms have continued to dwindle to a point where some officers have not been issued fresh uniform since recruitment, including those employed more than ten years ago. Cases of multi-coloured, tattered, worn-out and threadbare uniform have become normal for a disciplined force that should pride itself on smartness.

In an effort to be decent, some officers have resorted to borrowing from sister forces giving rise to discordant styles. This 'borrowing' started covertly but it has since become the normal way of life. Officers are routinely seen clad in any form of uniform from the various police formations or even the military. When supplies of staff uniforms become available, the officers in charge distribute them through a balloting system. In one case, the Nakuru prison staff gave the Committee, samples of balloting papers to prove this point. In the absence of a reliable system that guarantees regular issuance of uniforms, prison staff have been forced to struggle to acquire them privately in the open market.

Some members of staff, such as the gatekeeper the Committee met in Nyeri, buy second hand clothes that closely resemble their uniforms. This has aggravated the problem of multiple shades of uniform in the prisons. Even senior officers are no longer able to adequately kit themselves from their uniform allowance as it is too low. They have, therefore, resorted to manipulating the prisons' system to access uniforms initially meant for junior officers. This 're-allocation' of uniforms has further complicated the already grave situation. The Committee was also informed that even after 'winning the balloting', junior staff are still expected to bribe for the few uniforms at the quarter master's office.

The Prisons Department has also contributed to this confusion by haphazardly introducing numerous new uniforms on trial basis. Specific complaints were raised in regard to the introduction of jungle camouflage uniforms. In one instance, a directive had been issued directing junior officers to buy the jungle uniforms from certain shops, but no sooner had they bought the uniforms than another directive was sounded ordering them not to wear the new uniforms! The decision to buy camouflage uniform for prisons officers was met with scepticism by other branches of the disciplined forces. The other uniformed formations feel that the intimidating appearance of the combat fatigues is not in line with the rehabilitative role of the Prisons Department. Further, the camouflage uniform does not serve its purpose in a prisons setting, which is confined.

> Some paradoxes were not lost to the Committee. For instance, the impressive uniforms of the Administration Police Department are stitched at Kamiti Prison Industries. ***It is, therefore, bewildering that the Prisons Department, endowed with human and technical resources to make uniforms, should be parading around in tatters!***

5.6 Recommendations

- ***An additional Kshs. 513 Million be availed immediately for purchase of two sets of uniforms for all staff this financial year.***
- ***Adequate funds should be provided to the department to facilitate the acquisition of the relevant sets of uniforms to all officers every year***
- ***Uniform allowances for senior officers should be abolished***
- ***Details on prisons' department uniform should be submitted to the National Uniforms Committee***
- ***Prisons Department should be represented in the National Uniforms Committee.***

5.7 The Salary Structure for the Disciplined Services

During the visits to the prisons, the Committee members were informed that the salaries paid to the prisons staff are too low and should be reviewed upwards. Incidentally, the Government vide Circular Letter No.DPM/1611A Vol.III/15 of 24th June, 2008 reviewed the basic salary for the Disciplined Forces (Kenya Police, Administration Police, Prisons Service and National Youth Service).

The minimum basic salary paid to ***Warder PG 1*** is ***Kshs.11,010/-*** per month rising up to ***Ksh.17, 790 per month***. This is however way below the proposal by the prisons officers who recommended that the starting salary for warders should be raised to a minimum of ***Kshs.30,000/-*** and a maximum of Kshs.60,000/- per month. Thereafter, salaries should be reviewed after every three (3) years.

It is common practice in government to place all members of the disciplined services on the same salary structure. Table

16 shows the salary levels for the disciplined service vis-à-vis the rest of the civil service.

Table 16: Comparison of basic Salary for disciplined services and the civil service vis-à-vis the banding system

RANK	Job Group	Grade	Disciplined Services			Rest of the Civil Service			Full Banding		
			Min (Kshs. p.m)	Max (Kshs. p.m)	Average	Min (Kshs. p.m)	Max (Kshs. p.m)	Average	Min (Kshs. p.m)	Max (Kshs. p.m)	Average
Warder/ Wardress	F	PG 1	11,010	17,790	**14,400**	9,174	11,283	**10,228**	10,506	12,162	**11,334**
Corporal	G	PG 2	14,370	27,435	**20,903**	11,518	16,686	**14,102**	13,733	16,692	**15,212**
Sergeant	H	PG 3	19,710	29,305	**24,508**	13,452	18,040	**15,746**	16,692	20,289	**18,490**
Senior Sergeant	H	PG 4	21,735	32,270	**27,003**	-	-	-	-	-	
Chief Officer II	J	PG 5	23,165	34,460	**28,813**	15,088	20,610	**17,849**	21,304	25,895	**23,599**
Chief Officer I	K	PG 6	25,640	37,745	**31,693**	22,519	30,499	**26,509**	26,323	30,472	**28,397**
Superintendent of Prisons	K	PG 7	26,500	40,635	**33,568**	-	-	-	-	-	
Senior Superintendent of Prisons	L	PG 8	31,175	46,550	**38,863**	25,491	34,069	**29,780**	30,472	35,275	**32,873**
Assistant Commissioner of Prisons	M	PG 9	37,745.00	55,000	**46,373**	35,275	42,877	**39,076**	35,275	42,877	**39,076**
Senior Assistant Commissioner of Prisons	N	PG 10	43,525	61,000	**52,263**	40,835	49,636	**45,235**	40,835	49,636	**45,235**
Deputy Commissioner of Prisons	P	PG 11	63,782	81,404	**72,593**	63,782	81,404	**72,593**	63,782	81,404	**72,593**
Senior Deputy Commissioner of Prisons II	Q	PG 12	77,527	98,947	**88,237**	77,527	98,947	**88,237**	77,527	98,947	**88,237**
Senior Deputy Commissioner of Prisons I	R	PG 13	94,235	120,270	**107,253**	94,235	120,270	**107,252**	94,235	120,270	**107,253**
Commissioner of Prisons	S	PG 14	100,620	127,980	**114,300**	100,620	127,980	**114300**	100,620	127,980	**114,300**

Source: DPM (MSPS)

e full banding salary is a framework for harmonization of salaries within the Public Service. It provides the salary levels, ich, once attained by the different sub-sectors, would provide a harmonized salary structure within the Public Service, ecially for all those organizations, which rely on the Exchequer for their operations.

m Table 16, it is observed that the salary structure for the disciplined services is above the full banding salary, especially h regard to the ranks of Warder up to Senior Assistant Commissioner of Prisons (PG 1 to PG 10). These Ranks earn a her basic salary per month than their equivalents in the civil service. However, from the rank of Deputy Commissioner Prisons (PG 11) and above, the basic salary is the same as that of the equivalent grades in the civil service.

e above notwithstanding, the role and functions of the disciplined services are different and not comparable to any other -section in the civil service. This, coupled with the rising cost of living and the spiralling inflation, as well as the need to tive staff, it is advisable that the disciplined services should be awarded competitive salaries comparable to the packages able to the military.

s therefore, the considered opinion of this Committee that the disciplined services in general, should be de-ked from the civil service and a special board created (as it is in the Armed Forces), to look into the terms and ditions of service for the disciplined services.

Prisons Act, Cap 90, Section 20(1) (C) provides for the establishment of the Prisons Council to address the welfare he prisons as well as their pay, pensions and terms and conditions of service. However, the Prisons Council has never n operational and the officers have had no representation. Conversely, it is noted that Cap 90 Section 20 prohibits ons officers from being members of a Trade Union. It is recommended that the Council should be constituted and made rational to address the remuneration of the prisons staff.

.0 Allowances

.1 House Allowance

001, the Government harmonized the rates of house allowance payable in the Public Service vide Circular letter OP. 18/1A/VII/141 of 18th June, 2001. It introduced house allowance based on the rents charged in the different ons of the country. Officers stationed in Nairobi receive the highest rate per Job Group, followed by those in "Major nicipalities" (Mombasa, Kisumu, Nakuru, Nyeri, Eldoret, Thika, Kisii, Kitale, Malindi, Embu and Kakamega), those in ner Municipalities" and finally, those in places categorized as "Other Areas".

vever, officers in the disciplined services in Grades PG 1 to PG 4 were given a Housing Supplementation while those in 5 to PG 14 adopted the same rates as the rest of the civil service as shown in Table 17 below.



Government Prison Warders House



Inside a Prison Warders House

Table 17: Housing Supplementation/House Allowance Payable to Prisons Staff

Rank	Job Group	Grade	Nairobi (Kshs. p.m.)	Major Municipalities (Kshs. p.m.)	Other Municipalities (Kshs. p.m.)	Other Areas (Kshs. p.m.)
Warder	F	PG 1	1,600	1,600	1,600	1,600
Corporal	G	PG 2	2,050	2,050	2,050	2,050
Sergeant	H	PG 3	2,550	2,550	2,550	2,550
Senior Sergeant	H	PG 4	3,050	3,050	3,050	3,050
Chief Officer II	J	PG 5	6,000	4,500	3,500	3,000
Chief Officer I	K	PG 6	10,000	8,000	6,000	5,000
SP	K	PG 7	10,000	8,000	6,000	5,000
SSP	L	PG 8	20,000	15,000	12,000	10,000
ACP	M	PG 9	20,000	15,000	12,000	10,000
SACP	N	PG 10	24,000	17,000	13,000	11,000
DCP	P	PG 11	40,000	20,000	15,000	12,000
SDCP II	Q	PG 12	40,000	20,000	15,000	12,000
SDCP I	R	PG 13	40,000	20,000	15,000	12,000
CP	S	PG 14	60,000	-	-	-

Source: MSPS Circulars

Like other members of the disciplined services, prisons staff in Grades PG 1 to PG4 receive a housing supplementation of between ***Kshs. 1,600/-*** to **Kshs. 3,050/- p.m.** They are supposed to be given free housing and reside within the prisons premises for ease of mobilization. Table 18 shows the housing supplementation paid to Prisons staff in PG 1 to PG 4 and the amount they would be eligible were they to be awarded the equivalent house allowance.

Table 18: Housing Supplementation for PG 1 to PG 4 and the Equivalent House Allowance Applicable

Rank	Job Group	Grade	Housing Supplementation (Kshs., p.m.)	House Allowance Applicable (Kshs. p.m)			
				Nairobi	Major Municipalities	Other Municipalities	Other Areas
Warder	F	PG 1	1,600	3,500	2,900	2,300	2,100
Corporal	G	PG 2	2,050	5,000	3,500	3,000	2,300
Sergeant	H	PG 3	2,550	5,000	3,500	3,000	2,300
Senior Sergeant	H	PG 4	3,050	5,000	3,500	3,000	2,300

Source: MSPC Circulars

During the field visits, prisons officers in ranks PG 1 to PG 4 proposed that they be paid house allowance instead of the housing supplementation to enable them to seek conducive accommodation outside the prison premises. However, the Committee has observed that a recommendation to pay house allowance to ranks PG 1 to PG4 would mean that all members of the disciplined services who receive supplementation house allowance would be paid house allowance.

5.8.2 Medical Allowance

The disciplined services are paid an out-patient medical allowance to cater for out-patient treatment. The rate of out-patient medical allowance is the same as that paid to equivalent grades in the Civil Service. The prevailing rates are as follows:

Table 19: Out-Patient Medical Allowance

Job Group	Equivalent Grade	Amount (Kshs. p.m)
A - D	-	375
E - F	PG 1	495
G	PG 2	750
H - J	PG 3 – PG 5	990
K	PG 6 - PG 7	1,245
L - M	PG 8 - PG 9	1,500
N - P	PG 10 - PG 11	1,740
Q	PG 12	1,995
R - S	PG 13 - PG14	2,490

Source: MSPS

The rates of out-patient medical allowance were last reviewed in 1995 vide Circular Letter No.DPM.SAL.COM.16/1/4A/VOL.III/53 of 25th September. 1995. It is however, noted that the rates are inadequate.

In view of the high cost of medical treatment, it is recommended that the Government should introduce a Comprehensive Medical Insurance Scheme for all civil servants, including the disciplined services.

5.8.3 Leave Allowance

Prison officers work in two shifts (day and night). The night shift would ordinarily begin on Friday and end the following Friday. Officers who complete these shifts are still expected to work on Saturday and Sunday under what is referred to as '*saidia*' ('assistance'). The officers are not compensated for the overtime nor are they given time-off. This has led to extreme fatigue and discontent within the rank and file prompting them to recommend addition of leave days to between 45 and 60 days. Working on weekends has also denied officers opportunity to attend church services.

Leave is granted for recuperative purposes to enable an officer renew his/her energy and to improve efficiency. According to Regulation N.3 (3) of the Code of Regulations (Revised 2006), the disciplined services are eligible for annual leave as follows:

(i) 30 days for uniformed officers who are Non-Commissioned Officers in the Kenya Police Force, Prisons Service, Administrative Police and the National Youth Service.

(ii) 36 days for all other officers in the rank of Inspector of Police/Chief Officer II (Prisons) and above.

Unlike the disciplined services, all civil servants (Job Groups A to V) are entitled to 30 days leave per annum

Though prison officers made representations for additional leave of between 45 to 60 days per year as compensation for their long hours of work, the Committee found that the current leave entitlement is sufficient and complies with the provisions of the Employment Act.

The Committee also recommends that when an officer proceeds on leave for more than half his/her leave entitlement, s/he is still eligible for leave allowance. Leave allowance in the civil service was last reviewed in 2006 vide Circular letter No. DPM/2/8A VOL.111/165 of 29th August 2006. The rates are based on Job Groups/Ranks and are paid annually as follows:

Table 20: Leave Allowance Payable in the Civil Service

Job Group	Equivalent Grade	Amount (Kshs. p.a)
F - J	PG 1 – PG 5	4,000
K - N	PG 6 - PG 10	6,000
P - S	PG 11- PG14	10,000

Source: MSPS

Previously, all civil servants used to be reimbursed the expenses incurred to travel from the station to their places of domicile at the rate of 85 cents per km for the officer, spouse and up to four (4) children below the age of eighteen (18) years. The payment was based on the premise that an officer had to travel to his/her rural home to spend the leave. One was required to produce a Chief's letter as proof that one had travelled to the 'village' for his/her leave. This made the leave provision subject to abuse as officers forged the Chief's letters by preparing rubber stamps and presenting the letters in support of their leave claims. In addition, there were very many pending leave claims as it was difficult to budget for the leave item.

The current leave provision is based on the premise that officers proceed on leave in order to recuperate and it should be left to individual employees to decide how to do that. One can decide to remain at the station or travel to any place of choice, other than one's rural home. In any case, the so-called rural homes are fast loosing meaning with the current generation.

However, the Committee found that the allowance is not paid when one is taking the leave. It is left to the Heads of Human Resource Units in the Ministries to decide when to pay. Committee members were informed that the payment is made in a specific month to all officers at once, whether one is proceeding on leave or not. By so doing, the purpose of paying the allowance to assist the officer recuperate while on leave, is lost. It is also observed the rates are too low to allow an officer make any meaningful plans for the family during the leave break.

It is, therefore, recommended that leave allowance be enhanced to address the cost of living and the time off payment be restructured to be of value to the officer during the leave period.

5.8.4 Compassionate Leave

The Committee was informed that officers who request for permission to attend to emergency issues, such as bereavement, are forced to apply for leave days and the same is recovered from their annual leave balances. This complicates matters especially for those officers without leave balances. This treatment of prisons officers as objects, demoralizes them thereby affecting service delivery.

The Committee has established that the Regulations provide for compassionate leave of five (5) days to enable officers to attend to matters of emergency. In addition, where an officer has utilized the five (5) days compassionate leave provision, the Officer in Charge of the Station has the discretion to grant additional days off.

5.8.5 Suspended Allowances

The Committee was informed that following the introduction of the Integrated Payroll and Personnel Data Base (IPPD) in January 2005, some allowances that were hitherto paid to prisons officers were suspended. These include:

(i) Bandsmen Allowance

(ii) Drivers Allowance

(iii) Wireless Operators Allowance

(iv) Special Duty (Executioner) Allowance

(v) Security Allowance

(vi) Board of Review Allowance.

The Committee has since established that the allowances were stopped pending verification of the actual recipients. According to sources, some of the officers enjoying the allowances were not directly deployed in those areas. The Office of the Vice President and Ministry of Home Affairs was advised to liaise with the Ministry of State for Public Service for verification and restoration of the allowance to *bona fide* recipients as the Office of the President did for the Kenya Police and the Administration Police. However, up to now the Ministry has made no effort to pursue the issue with the Ministry of State for Public Service.

Meanwhile, the Committee recommends the following in view of the suspended allowances:

	Suspended Allowance	Recommendation
1.	Bandsmen Allowance	• The Ministry should make haste and liaise with the Ministry of State for Public Service for a verification of the genuine officers deployed as Bandsmen for restoration of the allowance with effect from the date it was suspended. • The Human Resource Unit should thereafter undertake regular payroll audits to ensure that payment is restricted and based on actual deployment.
2.	Drivers Allowance	• The payment of this allowance overlaps with the purpose for which salary is paid. The Committee has established that the Ministry of State for Public Service is reviewing all allowances payable in the Public Service, Drivers Allowance included.
3.	Wireless/Radio/Signaller/Tele Printer/Telephone Operators Allowance	• Most stations visited had faulty equipment or none at all. Due to the change in technology, the Department should discard the use obsolete equipment and adopt modern technology in communications. The Committee has established that the Ministry of State for Public Service is reviewing these allowances.
4.	Special Duty (Executioner) Allowance	• The Committee noted that the country has not carried out any capital punishment since 1985. The Committee recommends that the allowance should remain suspended for the time being.
5.	Special Duty (Security) Allowance	• The payment of this allowance was to compensate the officers against the risks involved while working in a security prison. It is however, observed that the newly introduced risk allowance at the rate of Kshs. 5,000/- p.m addresses the same issues.
6.	Board of Review Allowance	• The rate of the allowances payable to Boards and Committees keep on changing. The Ministry should therefore, liaise with the Ministry of State for Public Service for determination of the rates, as and when required.

5.8.6 Acting Allowance and Special Duty Allowance

The Committee was informed that officers in the Prisons Department, irrespective of their rank, are assigned higher responsibilities but they are not compensated for the same. However, though the regulations are very clear on who should be paid the allowances and at what rate, no prisons officer is paid the allowances.

The Committee received grievances from prisons officers who had been awarded acting appointments by the former Commissioner of Prisons in accordance with prisons procedure only for the current Commissioner of Prisons to nullify the promotions. The officers, who had been issued the necessary official appointment letters, were then demoted to their substantive grades. They were neither paid the acting allowance nor special duty allowance for the period they had performed the duties of the higher positions. This has demoralized and created hopelessness among the affected officers.

The Committee is of the view that it was irregular and against practice for an Authorized Officer to nullify acting appointments that were awarded by another Authorized Officer without giving any compensation for the period served.

The Committee, therefore, recommends that the Office of the Vice President and the Ministry of Home Affairs should liaise with both the Ministry of State for Public Service and the Ministry of Finance (Treasury), to consider how to compensate the officers for performing the higher duties. These ministries should also decide whether it was procedural for the Commissioner of Prisons to nullify the promotions.

Similarly, it is recommended that the Prisons Department should strictly adhere to the Scheme of Service while recommending officers for higher positions.

5.8.7 Transfer Allowance

The Committee noted that officers are transferred to new stations but are required to move and claim transfer allowance on confirmation that they have reported. The Committee was informed that an officer can be transferred from Mombasa to Lodwar without any assistance from the office. In addition, the officers are not facilitated to transport their baggage to their new stations and neither are they reimbursed the cost incurred to ferry their items. This inconveniences the officers in terms of travel and settling down in the new stations. The Committee observed that this irregular practice is in contravention of the provisions of the Code of Regulations.

It was observed that, though the regulations are very clear on this issue, the Office of the Vice President and Ministry of Home Affairs does not pay transfer allowance prior to departure and neither does it pay baggage allowance. The Ministry is, therefore, in contravention of the regulations.

According to the Code Of Regulations (Revised 2006), transfer allowance is payable immediately an officer is released to travel to the new station. The officer is also eligible for baggage allowance in accordance with the Regulation K.9 of the Code Of Regulations (Revised 2006) as per table 21:

Table 21: Baggage Allowance

Job Group	Equivalent Grade	Rate per Km (Kshs)
S	PG 14	65
P-R	PG 11- 13	55
K-N	PG 6- 10	45
G-J	PG 2- PG 5	35
F	PG 1	30

5.8.8 Recommendations

- ***Prisons officers should be granted transfer allowance before being released to travel to new stations.***
- ***They should be reimbursed the cost of transporting their baggage to the new station.***

5.8.9 Meal Allowance

The Committee found that warders are required to escort inmates to courts and during transfer of inmates from one station to another. But these warders are not provided with money for meals and transport. They are forced to hike transport and go without meal allowances. The Committee was informed of instances when Officers in Charge of Stations take the initiative and provide warders with money for transport and meals. The word "initiative" is understood within the prisons circles as using government revenue before it is accounted for. This is plain embezzlement of government money yet the Officers in Charge talked about the practice with remarkable ease.

The Committee could not comprehend why this practice has been allowed to flourish notwithstanding the fact that it comprises the security of the inmates while aggravating the already demoralized warders. The Committee was further appalled that while this decadence festers, there exist clearly spelt out regulations that guide the process. For instance, when an officer travels on duty outside the duty station and is not required to spend the night away, s/he is entitled to:

- An allowance for breakfast, lunch and dinner at the rate of 8% and 15% respectively of the applicable per diem rates;
- An imprest to cater for transport in cases where no transport is provided.

5.8.10 Subsistence Allowance

In all the Committee visited, officers complained that at times they are forced to spend the night out when they escort an inmate to a different station. However, they are not provided with per diem, which compels them to use their own money for accommodation. This is yet another demonstration of the failure by the administration in the office of the Vice President and Ministry of Home Affairs to advise and implement the regulations.

According to laid down regulations, when an officer travels on official duty and is required to stay overnight from his permanent station, s/he is eligible for per diem at specified rates.

5.8.11 Mobile Phone Airtime Allowance

During the field visits, the members found that stations either had faulty and obsolete communications equipments or had none at all. Junior officers were, therefore, deployed as 'runners' to facilitate communications between stations, such as Malindi and Shimo la Tewa. Without provisions for airtime to facilitate communication, the Officers in Charge admitted to fraudulently using the stations' revenue to buy airtime. This is done by removing cash before making entry in the ledger. Whether this was the only time the revenue was misused, the Committee could not ascertain. It, however, gave the Committee an invaluable pointer to some of the areas that are prone to corruption within the prisons.

According to regulations, airtime is provided as follows:

Table 22: Provision of Airtime/Calling Cards

Job Group	Equivalent Grade	Mobile phone airtime (Kshs. p.m)	Calling cards for Direct line (Kshs. p.m)	Calling cards for Residential line (Kshs. p.m)	E-mail and Fax line (Kshs. p.m)
R - T	PG 13 - PG 14	7,000	6,000	4,000	5,000
Q	PG 12	4,000	4,000	3,000 *	5,000
N - P	PG 10 – PG 11	4,000	4,000	3,000 *	3,000 *
L - M	PG 8 - PG 9	2,500 *	3,000 *	-	-

Source: MSPS

** The rates are approved at the description of PS / MSPS*

All the other officers in Job Group K and below, (equivalent to PG 7 and below), are required to use Level 9 or the switchboard.

Therefore, the Committee observed that officers in the prisons are not facilitated with airtime and calling cards even where they are eligible. In addition, the Ministry has not liaised with the Ministry of State for Public Service to grant approval for officers in PG 8 – 9 to be provided with airtime.

5.8.12 Recommendations

- ***For effective communication, officers deployed as Officers in Charge of stations should be provided with airtime of Kshs. 2,500/- p.m.***
- ***Ministry of Home Affairs should provide all Officers in Charge of stations with Telkom Kenya wireless phones and calling cards of Kshs. 3,000/-p.m. MOHA should liaise with the Ministry of State for Public Service for the necessary approvals.***

5.8.13 Hardship Allowance

In hardship areas, the Committee received complaints that the hardship allowance payable is too low. The officers proposed a hardship allowance of 30% of basic salary, which is in harmony with the rates payable to teachers in the Teachers Service Commission (TSC).

According to the Civil Service Regulations, an officer stationed in a hardship area is eligible for hardship allowance at the rate of 30% of the basic salary or maximum of 1,200/- per month whichever is lower. However, teachers deployed in hardship areas are eligible for hardship allowance at the rate of 30% of the basic salary without limitation. This disparity is a source of low morale and disaffection in the prison service.

Recommendation

It is therefore, recommended that the hardship allowance payable to officers in areas designated as hardship should be harmonized throughout the Public Service.

5.8.14 Risk Allowance

Prisons officers, like their counterparts in the Kenya Police and the Administration Police, are faced with certain risks in the performance of their duties. The officers narrated some of the risks, which include:

- Guarding dangerous criminals
- Risk of contracting contagious diseases such Tuberculosis (TB) and HIV/Aids
- Manual strip down searches
- Guarding sick inmates admitted in hospitals on a 24-hour basis
- Guarding dead bodies of prisoners in mortuaries
- Confinement in prisons cells with dangerous inmates during night duties
- Operating from open watch towers in many stations which pre-dispose officers to the risk of pneumonia, due to exposure to extreme cold
- Lack of appropriate working tools when on duty such as gloves and protective and appropriate clothing such as raincoats, cardigans, and boots.

The Prisons Officers cited several high-risk incidents when inmates attacked their colleagues:

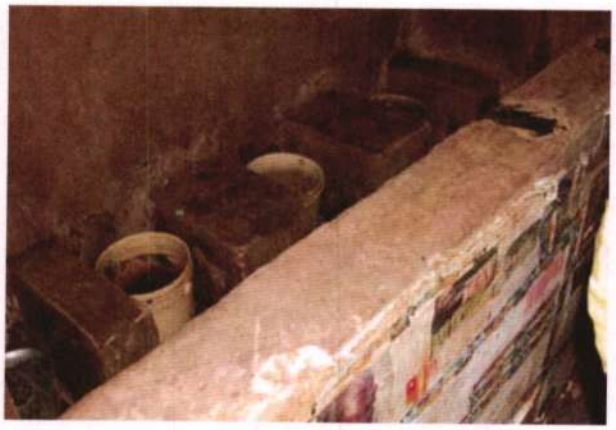
1. At the Government of Kenya (GK) prison at Hola, a prisoner No.Hol/61/94LS, Samuel Kitsao Karisa, wrestled warder Mugambi who was manning the watchtower and grabbed his gun. He used the gun to shoot warders Aden Hassan Mohammed and Omar Abdi Mohammed who were working at the prisons compound on 16th January, 1996 at 13.30hrs. Warder Aden Hassan Mohammed died instantly while one of Omar Abdi's fore limbs was permanently deformed. Despite numerous correspondences regarding this matter, the Government is yet to compensate them.
2. On 18th June, 2003 at Naivasha Maximum Security Prison, a prisoner named Victor Ochieng' Okello, set upon a warder, Isaiah Nyakaba Onduso with a blunt object as he conducted the morning head count at 7.45 a.m. He sustained serious head and facial injuries and even lost twelve teeth. Five (5) years down the line, the warder is still serving. He presented himself to the Committee at Kisii with evidence of the brutal assault (a toothless gum)! He also gave the Committee a copy of a signal from the Commissioner of Prisons which indicated that the Independent Medical Legal Unit (IMLU) had awarded him Kshs.500, 000/- compensation since his human rights had been violated. He is, however, yet to access his money.
3. In another incident, on 23rd April, 2008 at 10.00 a.m, while supervising a gang of prisoners working on a farm at Naivasha Annex, Warder Sheikh Okong'o was viciously attached by a prisoner with a *jembe* (hoe). He suffered severe head and body injuries. His right hand was almost severed.

It emerged from the interviews the Committee conducted that the failure to pay risk allowance is one the grievances that ignited the prisons officers' strike. The Committee has since established that authority has been granted to pay risk allowance to all prisons officers at the rate of **Kshs.5,000/-** p.m and a one-off payment of **Kshs.10, 000**/- vide letter no. ES 89/07/01/65 of 7th May, 2008.

This notwithstanding, the Committee recommends that:

5.8.15 Recommendations

- ***Ministry of Home Affairs should effectively address the risks and poor working conditions of the Kenya Prisons Service.***
- ***The prisons officers injured while on duty should be compensated immediately.***



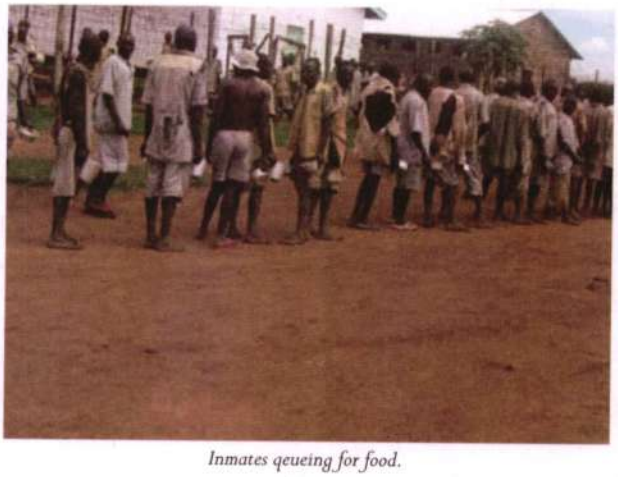
Bucket Toilet for inmates at Isiolo G.K. prison



Polythene partitioning in an officers shack, at Kibos Prison



Dilapidated quarters for warders - Kisii Prison



Inmates qeueing for food.



Young offenders at Shikusa Borstal Institution



Young convicted women at Shimo la Tewa Prison



Congestion in Meru Prison





A prison ward (r) and the inside (l) - Mwea Prison





Congestion in prison wards - Nakuru Prison

5.8.16 Prisons Staff participation in quelling post election violence

Following the post election violence, the Police were overwhelmed. Consequently, the government enlisted the services of the other disciplined forces including the Prisons Department. The Regular Police and the Administration Police were paid Ksh. 10,000 as compensation for the extra duties. However the Prison officers were not paid. This contributed greatly to the strike.

5.8.17 Findings

The Government approved the payment of the Ksh. 10,000/- on 29th April, 2008 to the Prisons staff who participated in the security operation. The Commissioner of Prison compiled a list of these officers but they only totaled 1623. Apparently the communication requesting for the names of the officers concerned did not reach some stations which were actively involved in the process. Many officers who therefore participated in the above process were omitted from the list compiled by the Commissioner thereby resulting in further simmering discontent. Although some officers did not directly participate in quelling the violence, they performed extra duties of the officers who were deployed to quell the clashes. The Regular Police Force paid all its officers.

5.8.18 Recommendation

All Prison Officers who were on duty during this period should be paid irrespective of whether or not they directly participated in the operation.

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Chapter 6
DISCIPLINE

6.1 Introduction

Discipline is the hallmark and foundation of any uniformed service. Uniformed services are not employed on standard terms of contract that apply to the public service. They are governed by additional elements that stipulate strict self-discipline and acceptance of authority.

Discipline is crucial for maintenance of law and order and plays an important role in creating team spirit, sense of duty and honour to the service, colleagues and the public. One of the consequences of lack of discipline is the negative effect on social order like lack of transparency and corruption. Lack of discipline can also result in chaos, disorder and lawlessness, similar to the disturbance witnessed in the Kenyan prisons in late April, 2008.

The need for, and role of, discipline are well covered in the policies, regulations and legislative frameworks covering the Kenya Prisons Service. Discipline in prisons is clearly spelt out in five policy documents, legal enactments and regulations governing the prisons as a disciplined service. These documents include:

- The Service Commissions Act (Laws of Kenya, Chapter 185 Revised 1985)
- Public Officers Ethics Act (Laws of Kenya 2003)
- Code of Regulations (Revised 2006, Directorate of Personnel Management)[5]
- The Prisons Act (Laws of Kenya Chapter 90, Revised 1977)
- Kenya Prisons Service Standing Orders (Laws of Kenya Revised 1979).

6.2.0 Relevant Regulations and Legislation on Discipline

6.2.1 The Prisons Act (Revised 1977)

In relation to discipline, the Prisons Act outlines the powers, duties and privileges of prison officers[6]. The offences and related fines for prisons officers are also specified and include leaving service without permission, assaulting, threatening or insulting senior officers, as well as receiving or benefiting from articles and supplies for use within prisons and for prisoners. To ensure that there is no conflict with other laws and regulations, the act indicates that prison officers are subject to the Code of Regulations for Officers of the Government Service and standing orders (section 16).

6.2.2 Code of Regulations (Revised 2006)

Section G of the Code of Regulations contains general rules of conduct expected of public officers to maintain integrity and loyalty to Government. It should be borne in mind that with prisons being part of the civil service, prison officers ought to be proud of their position and ensure that their personal conduct, both in public and in private life, does not bring the service into disrepute. It is, therefore, imperative that as civil servants, prison officers adhere to the rules of conduct and uphold the dignity of the public office to which they have been appointed.

6.2.3 The Service Commission Act

Regulations governing discipline in the civil service and procedures to be followed in case of breach of discipline are contained in the Service Commission Act (Cap 185)[7] and the Public Officers Ethics Act, 2003. Apart from addressing discipline within the general civil service, the Service Commission Act has a section dedicated to prisons entitled *Public Service Commission (Prisons Service) Regulations* and specifies the powers, duties and function of the public service commission in relation to prisons.

5 • Directorate of Personnel Management, May 2006
6 • Prisons Act, 1977, pages 8 - 13
7 ▫ Service Commission Act Part IV – Discipline pp 14 - 25

6.2.4 The Public Officers Ethics Act

Examples of aspects of public officers Ethics Act which have been contravened by some members of staff of the Prisons Department include:

Professionalism (section 9)

- Public confidence in the integrity of the public office
- Courtesy and respect
- Improving performance and level of professionalism
- Observing ethical and professional requirement of professional bodies
- Observing working hours
- Maintaining an appropriate standard of dress and personal hygiene
- Discharging professional responsibilities in a professional manner

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Improper Enrichment (Section 11)

- 11(1) stipulates that a public officer shall not use his (her) office to improperly enrich her/himself/others
- A public officer shall not accept or request gifts or favours from a person who has an interest
- 11(12) 1 (b) stipulates that a public officer shall not improperly use his office to acquire land or property for her/himself or another person.

Conflict of Interest (Section 12)

12(1) states that a public officer shall use her/his best effort to avoid being in a position in which her/his personal interest conflicts with her/his official duty.

Care of Property (Section 15)

15 (1) provides that a public officer shall take all reasonable steps to ensure that property entrusted to her/his care is adequately protected and not misused or misappropriated.

Sexual Harassment (Section 21)

- Section 21(1) stipulates that a public officer shall not sexually harass a member of the public or a fellow public officer
- Bans making request or exercising pressure for sexual activity or favours
- Rules out making intentional or careless physical contact that is sexual in nature
- Prohibits gestures, noises, jokes or comments including innuendos regarding another person's sexuality.

6.2.5 Kenya Prisons Service Standing Orders (Discipline Chapter 13)

According to the Kenya Prisons Standing Orders (Revised 1979), the fundamental principle of discipline is obedience to orders and consideration for sub-ordinates such as:

- When prisons officers are acting together, the senior officer present will be in charge and will be responsible for all orders given
- Prison officers, being members of a disciplined body, should set a good example to the general public by conducting themselves in an irreproachable manner both on duty and off duty (5)
- All officers will adopt towards their subordinates such methods of command as will always ensure respect for authority.

The important point to note here is that Standing Orders apply only for ranks below Superintendent. Officers in the rank of Superintendent and above are dealt with under the Code of Regulations for Officers of the Government Service (Section 15 pp8). However, below the rank of Superintendent, a prison officer may be charged and convicted and awarded a punishment under the provisions of rule 24 of the Prison Rules (appendix 13D of Code of Regulations).

6.3 Observations

Whereas the Committee investigating the crisis within Kenya Prisons in its visits witnessed significant observance of discipline, there were major lapses that can not escape mention and need correction to ensure that discipline is restored and strictly maintained at all times. Correction of the lapses will go a long way in ensuring that the primary role of the service as a correctional institution is achieved.

6.3.1 Slovenly, Unkempt and Untidy Officers

It was observed that prison officers violated professional ethics as provided for under the Public Officers Ethics Act (section 9). Prisons officers were in many instances observed to be slovenly, unkempt and untidy in spite of the fact that they were informed that the committee investigating the crisis was visiting the station. This was worrying and one considers what happens in their normal course of duty when they are not expecting visitors. Of the prisons visited, this was particularly evident in the Nairobi Remand Home, Naivasha, Machakos, Maranjau, Mwea, Embu, Garissa, Isiolo, Meru, Eldoret, Kitale, Nyeri, Nakuru, Kericho, and Kisii prisons.

6.3.2 Rude Officers

The Committee observed lack of cooperation by the prisons officers to attend the Committee's meetings.

6.3.3 Drunkenness, Alcoholism, and Drug Abuse

The Committee witnessed and observed drunken prisons officers on duty in the Nairobi Remand Home, Meru, Nakuru, Kisii, Nairobi Remand, Kodiaga and Bungoma prisons. Smoking of rolled bhang substances by prisoners was witnessed by the committee in Maranjau and Embu prisons.

6.3.4 Violence and Abuse of Prisoners

A few cases of beatings and abuse of prisoners were reported to the Committee in some facilities.

6.3.5 Prisons Officers Colluding with Prisoners to Abet Crime

It is evident that there is serious lapse in the discipline of prison officers. In many prisons, prisoners were allowed by the warders to maintain cell phones. Prisoners are, therefore, able to continue coordinating the commission of crime while still in prison, supposedly undergoing correctional rehabilitation. The Committee received information of threats, coercion and blackmail to the members of the public by inmates.

6.3.6 Lack of Inspection by Senior Officers

It was reported that regular briefing meetings (Timam Parades) are lacking in stations leading to information breakdown. It robs the officers of a chance to air grievances.

6.3.7 Herding of Livestock

It was observed by the Committee that there was misuse of junior prison officers and prisoners for personal gain through unofficial activities such as herding of personal goats, sheep and cows on prisons farms.



Officers' livestock on a prison farm in Kisii

Even officers who had retired some10 years earlier were having their livestock maintained by the prisons staff and prisoners within the prisons. Nairobi West, Nyeri and Kisii prisons are some of the example where this was witnessed. Prisons officers and prisoners were also deployed and used to construct personal and private buildings like hotels and homes. This was reported to be affecting Nairobi Remand and Prisons Headquarters.

6.3.8 Common Entertainment/Common Housing Compound

The committee observed, with concern, the lack of separation between junior and senior officers' mess. Similarly, residential accommodations for junior and senior staff are in most cases within the same compound. This creates too much familiarity and social interaction between junior and senior officers, which breeds contempt. The committee also noted there was lack of sports facilities in most stations.

6.3.9 Theft and Misuse of Prisons Property (vehicles, supplies, funds)

Senior prisons officers were reported to be using prison vehicles, fuel, stones, sand, junior officers and prisoners to construct personal property. To this end, the Committee observed that the level of abuse of public resources in prisons was extensive and unchecked.

6.3.10 Conflict of Interest

The Committee found that in many instances, officers in charge, or their spouses, were supplying food, materials and services to the prisons. This is a direct conflict of interest, which goes against existing regulations and policies. There are many pending bills that need to be properly investigated before payments are made. It was also reported that in many instances, suppliers refused to supply foodstuffs due to non-payment. And whenever they resumed, they imposed strict terms that have seen foodstuffs supplied to prisons at exorbitant prices, usually in collusion with the officers in charge.

6.3.11 Land Grabbing

The Committee observed that most of the prisons' land has been annexed and title deeds issued to individual third parties. In Kitale, for example, the gazetted prisons land is over 3,000 acres and today, the land under the control of the Kitale prisons is less than 100 acres! In the same facility, the land currently in use as sewage had just been fenced off as private property.

6.3.12 Deployment

It was observed that many officers are recruited and deployed in their home districts where they may serve upto retirement. This has greatly contributed to indiscipline in the prisons.

6.4 Recommendations

- *Investigation by the relevant arms of government on all those who participated in the strike.*
- *Appropriate action should be taken against the affected officers.*
- *An audit of the prisons' resources should be undertaken with a view to taking appropriate action.*
- *Sensitisation of all members of staff within the Kenya Prisons Service on the provisions of the Public*
- *Officers Ethics Act.*
- *An officer of at least Chief Officer level should be assigned the duties of enforcement of discipline at*
- *each prison and headquarters.*
- *There should be regular and rigorous inspections and drills to enforce discipline.*
- *No officer should be deployed in their home districts.*
- *Officers should not serve in one station for more than three years.*

CHAPTER 7
INCOME GENERATING ENTERPRISES

7.1 Introduction

According to the Prison Act Cap 90 (1), *...every convicted criminal prisoner shall be required to engage in useful work'*. Subsection 2 states that *the Officer in Charge or an Officer detailed by him or her, shall allocate to each prisoner the labour for which s/he is best suited, the first consideration being to give each prisoner the best training which his/her sentence, capacity and the resources of the prison will permit'*.



A Prisons' workshop at Shikusa Borstal centre

In fulfilling this provision, the Technical Services Section *(prison rules section 3)*, has the following objectives:

- To train the inmates in useful skills which can help him/her get a job or employ her/himself after release from prison;
- To employ inmates in useful work and as such to make them contribute to their up-keep;
- To encourage the inmates' sense of self-respect and sense of responsibility, so as to re-build their morale, to inculcate the habit of good and useful life, with a view to enabling them to fit in society on discharge.

7.2 The Revolving Fund

Farms and industries are operated under the Revolving Fund established through Legal Notice No.314 of 22nd July, 1988 and Legal Notice No.87 of 8th April, 1993.

As stipulated in both legal notices, the main purpose of the revolving fund was to train and rehabilitate prisoners. This is to be achieved through acquiring the necessary productive raw materials, tools, plants and other equipment as well as the sale of finished products in the open market. The regulation establishing the fund vested the responsibility of administering the fund to the Accounting Officer of the Ministry of Home Affairs. The fund was started with an initial capital of Kshs.14 million for industries and Kshs.4.2 million for farms. In the 2006/07 financial year, the enterprises collected Kshs.119, 182,742.50 from industries and Kshs. 41,085,353.35 from farms. For the financial year 2007/08 the operating budget is Kshs.185 million and Kshs. 65 million for industries and farms respectively. This reflects a significant growth in operations and revenue collection.

7.3 Prison Industries and Farms

Prison land is used for crop production and dairy farming. Prison industries include furniture making, number plate production, and handicrafts. On conviction, prisoners are assigned work as part of their rehabilitation with the aim of keeping them occupied and equipping them with various skills that will enable them find gainful employment upon release. These activities generate revenue. However, obsolete equipment, most of which are non-functional and in need of repair or replacement, is a great challenge to training prisoners on new skills. Increasingly, the work of the prisoners has become more focused on production to meet targets rather than on acquiring skills.

However, there are many occasions when prisoners work for private entities such as on the farms of prison officers without

remuneration and without any obvious transfer of skills. In addition, they complained of a heavy workload on those private farms.



Idle prison farm land

7.4 Industries

There are 84 Industrial Stations countrywide with carpentry being the leading training and manufacturing sector. In male prisons, other available enterprises are: tailoring, metal work, stone/wood carving, basketry, mat making, soap/detergent making, brick/block making, leather work, printing/book binding, upholstery, motor vehicle mechanics, number plates making, polishing, leather tanning and quarrying products. In women's prisons, tailoring, knitting, embroidery, handicraft, crocheting, pottery, basketry, tie and dye, beauty and hairdressing, are the main enterprises.

These industries have unexploited high capacity for improved production and income generation for prisons. The industries section of the prisons establishment is headed by junior staff since there have been no promotions or recruitment of senior staff. Hence, there is an acute shortage of senior technical staff. Most machines in use are obsolete as they were procured in 1950's and 1960's. The broken machines are unserviceable: for instance, the tailoring section at Kamiti prison, which previously had 200 machines, currently has only 45. The rest broke down but cannot be serviced due to their technological obsolescence. This has greatly affected production in the section.

Because of the limitations associated with use of obsolete machines and technology, the prisons' industries cannot produce modern and technologically competitive products.

And the Committee noted that the prisoners' training programme is not funded under the Revolving Fund since it is specifically geared towards production for the market. Some trades, for instance, number plate making, are extremely beneficial to the state. In 2006/07 financial year, the number plate making section made Kshs. 85,000,000/- which figure is expected to top Kshs.100, 000,000/- in the 2007/08 financial year. But the skills acquired in this section do not prepare inmates for any useful trade on release. But an intriguing twist to this saga emerged when the number plate making was presented to the Committee as part of metal work, yet there was a separate section specializing in metal work.

The Committee is also concerned that the making of false number plates by criminals on the streets could be linked to the skills they pick up while in prison.

Most workshops especially in Kamiti had leaking roofs, which raises the specter of electrocution of staff and inmates in that section. The leaking roofs also destroy finished products and affects production by rendering inmates idle when it rains. Due to bureaucracy, procurement of materials is lengthy and they do not usually arrive on time. On this account, prisons industries cannot produce goods within the strict timelines given by customers. This negatively affects the ability of the industries to realize their full potential. Another challenge facing the growth and profitability of the industries is marketing: the prison officers in charge of this nascent sub-section do not have knowledge in marketing.

Inmates are expected to learn skills while in prisons but no funds are provided for their training as expected. On this account, funds meant for production are re-allocated for training. This undermines production levels. In all stations, the officer in charge is the holder of the Authority to Incur Expenditure (A.I.E), for farms and industries. Release of funds or procurement of materials is, therefore, dependent on the officer in charge.

7.5 Farms

There are 76 prisons in the country with land acreage varying from 5 to 1,260 acres. In total, there are 8,260 acres of arable land under the Prisons Department on which mixed farming (crops and livestock) is practiced. The aim of the farming

projects is to afford prisoners a wide range of training opportunities. The activities on the farms include: food and cash crop production, horticulture, and forestation. Livestock production includes cattle (674) goats (979), sheep (574), pigs (75), rabbits (145), agriculture, poultry (61) and apiculture. However, most of the livestock seen by the Committee on the farms were owned by senior prison staff and retired officers.

In Nyeri, Kisii, Kitale, Shikusa and Ngeria farms, the Committee heard that the stated official numbers of livestock were far less than those physically present. When the Committee visited Kisii and Nyeri, senior officers attempted to conceal private livestock. It was reported to the Committee at the Nairobi West Prison, that milk from prison farms is delivered daily to three former Commissioners of Prison as their livestock were kept at the Prison. Farm managers across the country informed the committee that the officers' livestock were not only kept on prison land but were also fed and treated on the governments' budget. The officers were bitter that they have been used to work for individuals rather than the state.

Other challenges facing the farms include lack of equipment, the absence of trained officers in animal husbandry and crop production and insufficient or delayed funding. Examples of the problems associated with insufficient equipment include the presence of one tractor serving Nairobi and Central province prisons and the use of a singular tractor by Ngeria and Shikusa prisons, each with over 1,000 acres each of arable land respectively. Similarly, weaknesses in management have seen the perennial and unexplained late arrival of the A.I.Es for farm preparation and procurement of inputs. Farm managers (non AIE holders) are also not trained in management. The main consequence of this mismanagement has been the cycle of low farm production, disturbingly below the real potential.

There are strong proposals for autonomous prison farms and industries to ensure improved production, which is in line with the United Nations Convention on Standard Minimum Rules for the Treatment of Prisoners. Part II Section 73 (1) of the UN convention states "*preferably institutional industries and farms should be operated directly by the administration and not by private contractors*".

Table 23: Prisons Total Livestock Data As At 30th April 2008

SER. NO	STATION	CATTLE	GOATS	SHEEP	RABBITS	PIGS	POULTRY	TOTAL
1	Nyeri Medium	9	3					12
2	Muranga Prison	2				14		16
3	Kiambu Prison	9			8		4	21
4	Thika Prison	9						9
5	Mwea Prison	25	27	21				73
6	Ruiru Prison	9	40	73				122
7	Maranjau Prison	19	8	33				60
8	T/Falls	3						3
9	Thika Women	1	5					6
10	Kerugoya Prison	8						8
11	Nakuru Prison	41						41
12	Ngeria Prison	38	53	41				132
13	Naivasha Annex	35	44	29				108
14	Eldoret Main	11	-	35				46
15	Kajiado Prison		5	2				7
16	Rumuruti Prison	26	10	5				41
17	Athi – River	7	6	5	27			45
18	Kapenguria	14						14
19	Maralal	2	11				10	23
20	Kitale Medium	4						4
21	Kitale Annexe	2						2
22	Kitale Main	32	33					65
23	Narok Prison		132					132
24	Kericho Medium	20						20
25	Nanyuki Prison	5						5
26	Kapsabet Prison	2						2
27	Eldoret Women	1						1
28	Tambach	2						2

SER. NO	STATION	CATTLE	GOATS	SHEEP	RABBITS	PIGS	POULTRY	TOTAL
29	Eldama Ravine	10						10
30	Wundanyi Prison	3						3
31	Kilifi Prison	13	33	5				51
32	Shimo Medium	35						35
33	Manyani Prison	34	195	20			47	296
34	Malindi Prison	27	42	62				131
35	Shimo B. I	2	38	40	4			84
36	Kakamega Prison	4						4
37	Shikusa B. I	5						5
	Shikusa Prison	25	36	38		10		109
38	Bungoma Prison	7						7
39	Busia Prison	3						3
40	Kisumu Annex	6	16					22
41	Kibos Medium	6	16	17		23		62
42	Kisii Main	12				6		18
43	Migori Prison	12	28	23				63
44	Machakos Main	2	4	11				17
45	Kitui Prison	7	40					47
46	Embu Main	13	8			9		30
47	Embu Women	1				1		2
48	Uruku Prison	12		15	19			46
49	Kangeta Prison	9						9
50	Moyale Prison	6						6
51	Isiolo Prison	11	41					52
52	Marsabit Prison	1						1
53	Makueni Prison	3						3
54	Garissa Prison	2	8					10
55	Nairobi West	11	16	17	24			68
56	Nairobi S.S.	4						4
57	Kamiti Medium	40	32	30	63	12		177
58	Langata Women	12	5					17
59	Kwale Prison		14	25				39
60	Hindi Prison		20					20
61	Hola Prison		10					10
	TOTALS	**674**	**979**	**574**	**145**	**75**	**61**	**2,481**

Source: Kenya Prisons Headquarters, June 2008

7.6 Challenges in the prisons' Farms and Industries

- Misappropriation of resources by Prisons Officers
- Inadequate funding
- Untimely disbursement of funds
- Lack of autonomy to make professional decisions on funding
- Lack of transport to take farm produce and industrial products to the market
- Too many livestock deaths
- Obsolete machines and equipment
- Bureaucracy in approval for disposal of small stock
- Inadequate skilled manpower
- Poor or lack of storage facilities for farm and industry products
- Poor motivation of working inmates who earn the miserly 30 cents per day
- Lack of information and statements from the Ministry Headquarters on the surplus realized from the fund
- Accumulated debts between prisons for vegetable and maize deliveries
- Huge stocks of outdated and unstylish industry items which are not sellable at the Prisons Headquarters

showroom

- Officers in charge are not willing to buy food from prison farms because the prices cannot be inflacted to suit their interests.
- Lack of funds for training inmates.

7.7 Revenue Generation from Prison Industries

During the last two fiscal years 2006/2007 and 2007/2008, prison industries generated revenue (A.I.A) amounting to **Kshs.118, 661,498.55** and **Kshs.113, 127,142.00** respectively from a range of activities. These earnings are reflected in the table below.

Table 24: Industries Revenue from 2004 to May 2008

STATION	2004/05	2005/2006	2006/2007	2007/2008
	INDUSTRIES	INDUSTRIES	INDUSTRIES	INDUSTRIES
NAIROBI AREA	Kshs.	Kshs.	Kshs.	Kshs.
Kamiti M/S	61,505	54,100	64,870	-
Kamiti Max.	55,174,090	73,786,355	87,558,383	108,775,075
Langata Women	408,785	565,794	514,837	73,583
Nairobi West	108,755	191,440	260,910	349,715
PHQ Showroom	25,721,288	-	-	-
CENTRAL	-	-		
Kerugoya	231,360	137,210	84,170	132,730
Kiambu	1,364,150	720,840	1,168,170	1,563,240
Maranjau	-	-	22,670	62,210
Muranga	325,528	444,780	641,095	721,335
Muranga Women	-	35,325	52,053	7,200
Mwea	989,655	1,229,394	945,095	1,028,610
Nyahururu	116,840	89,270	143,300	251,640
Nyahururu Women	-	19,450	10,450	19,650
Nyeri Main	1,434,048	1,085,815	1,719,585	992,340
Nyeri women	-	137,825	185,743	109,820
Thika Main	1,169,064	614,200	1,139,645	529,210
Thika Women	-	93,075	116,988	72,235
EASTERN	-			
Embu Main	520,948	291,001	630,922	401,685
Embu Women	-	27,580	55,889	44,115
Isiolo	44,270	50,900	48,550	22,400
Kangeta	-	19,357	60,628	21,810
Kitui	977,633	343,315	-	-
Kitui Women	-	8,020	-	-
Machakos Main	393,470	486,570	481,365	319,800
Machakos Women	-	45,965	69,537	18,730
Marsabit	-	29,135	20,650	5,220
Meru Main	593,485	231,290	373,784	70,045
Meru Women	-	65,250	138,970	75,950
Uruku	17,110	120,395	64,869	30,337
N/EASTERN	-			
Garissa	67,580	111,070	220,300	22,700
Mandera	10,350	18,400	45,350	33,200
Wajir	8,150	4,650	-	20,032
RIFT VALLEY	-			
A/River	3,213,456	3,520,025	3,929,305	4,099,135
Bomet	-	58,850	63,500	38,600
Eldama Ravine	17,930	17,850	20,150	-
Eldoret Main	872,985	960,546	947,858	836,883
Eldoret Women	-	84,405	152,542	52,490
Kapenguria	65,950	62,470	50,720	22,750
Kapsabet	-	-	33,290	53,760
Kericho Main	591,260	95,750	167,410	261,940
Kericho Women	-	38,655	48,195	30,740
Kitale Annex	47,208	-	61,940	38,500
Kitale Main	-	233,970	700,750	374,894

STATION	2004/05	2005/2006	2006/2007	2007/2008
Kitale Medium	-	9,886	-	-
Kitale Remand	152,695	-	30,200	19,500
Kitale Women	-	17,800	13,385	12,062
Lodwar	350	3,330	-	-
Mararal	82,790	34,700	104,740	51,615
Mararal W	-	-	6,530	3,510
Naivasha M/S	168,070	16,500	42,500	197,200
Naivasha Main	1,565,204	1,002,339	2,122,625	2,009,897
Nakuru Main	810,633	264,910	429,780	201,025
Nakuru Women	-	95,135	82,950	79,750
Nanyuki	307,880	189,890	236,048	236,740
Narok	744,304	436,110	300,703	85,650
Rumuruti	320,000	112,525	71,705	101,635
Tambach	10,710	24,690	13,260	-
WESTERN	-			
Bungoma	253,725	23,680	257,040	259,890
Busia	60,150	31,000	-	-
Kakamega main	914,220	1,075,190	1,629,905	791,925
Kakamega Women	-	54,835	36,230	40,080
Shikusa B.I	130,761	126,736	270,887	164,000
Shikusa Main	-	-	51,285	6,600
NYANZA	-			
Homabay	378,535	211,110	362,760	89,167
Kibos Main	2,579,454	1,210,233	750,000	546,800
Kisii Main	686,030	490,070	614,228	81,630
Kisii Women	-	75,230	54,013	17,550
Kisumu Main	768,595	782,785	1,137,119	1,180,641
Kisumu Women	-	44,622	44,790	47,301
Migori	268,632	36,900	72,600	145,430
COAST	-			
Hindi	49,940	16,100	271,510	31,800
Hola	42,250	70,196	59,800	58,800
Kilifi	411,555	110,727	183,743	171,421
Kingorani	44,150	34,850	77,450	34,800
Kwale	306,935	312,444	379,410	252,181
Malindi	66,735	179,815	248,165	212,845
Malindi Women	-	26,250	82,200	27,040
Manyani	724,109	768,424	971,421	1,704,424
Shimo B.I	-	295,255	272,180	98,130
Shimo M/S	-	191,435	312,675	80,525
Shimo Main	2,024,994	2,129,856	2,890,516	1,941,250
Shimo Women	-	144,790	119,111	1,247,013
Taveta	37,762	-	-	-
Voi	92,240	107,040	31,220	166,660
Wundanyi Main	120,459	94,948	130,721	42,975
Wundanyi Women	-	25,190	9,046	3,500
G/TOTAL	**108,670,720.00**	**97,007,818.00**	**117,788,889.00**	**134,027,271.00**

Table 25: Farms Revenue from 2004 to May 2008

STATION	2004/05	2005/2006	2006/2007	2007/2008
NAIROBI AREA	FARMS	FARMS	FARMS	FARMS
	KSHs.	KSHs.	Kshs.	Kshs.
Kamiti M/S	1,054,366	1,383,349	1,405,541	968,240
Kamiti Max.	-	-		
Langata Women	784,518	401,161	228,763	353,052
Nairobi S.S	37,785	62,623	435,900	148,300
Nairobi West	261,324	-	135,596	163,352
PHQ Showroom	-	-	8,510	-
CENTRAL				

STATION	2004/05	2005/2006	2006/2007	2007/2008
Kerugoya	356,311	350,280	1,179,316	383,836
Kiambu	333,454	321,200	374,494	235,261
Maranjau	507,448	267,809	431,053	185,218
Muranga	32,707	173,771	152,402	252,790
Mwea	1,999,533	2,082,966	2,928,119	2,566,745
Nyahururu	76,352	490,919	172,679	330,209
Nyeri M/S	1,194,531	874,563	1,256,779	331,805
Nyeri women	16,305	24,865	76,624	63,936
Ruiru	2,166,473	2,208,738	3,262,512	166,262
Thika Main	232,845	313,053	38,938	149,125
Thika Women	-	-	56,091	34,441
EASTERN				
Embu Main	926,505	511,840	693,038	9,511
Embu Women	50,332	165,071	107,258	114,117
Isiolo	188,820	217,234	264,635	258,330
Kangeta	85,858	581,496	591,194	91,931
Kitui	168,110	189,984	364,223	67,495
Machakos Main	251,216	178,358	447,376	416,057
Machakos Women	-	-	-	6,725
Makueni	40,000	74,055	183,577	64,829
Marsabit	109,113	64,379	131,891	39,380
Meru Main	-	281,097	274,027	-
Meru Women	-	-		
Moyale	131,376	183,040	145,533	106,186
Uruku	991,210	1,290,794	1,437,661	976,663
N/EASTERN				
Garissa	171,015	88,101	453,603	139,698
Mandera	109,464	60,359	117,155	103,537
RIFT VALLEY				
A/River	587,751	554,765	434,476	371,913
Bomet	123,467	40,164	46,300	56,150
Eldama Ravine	122,450	129,910	57,292	78,003
Eldoret Main	3,680	242,862	86,587	116,407
Eldoret Women	-	2,000	59,264	32,516
Kapenguria	366,934	405,170	664,942	454,191
Kajiado	-	-	71,171	30,600
Kapsabet	63,041	44,000	92,399	71,190
Kericho M/S	2,545,581	2,127,257	3,762,777	2,736,966
Kitale Annex	-	-	34,900	317,640
Kitale Main	280,380	1,464,962	1,735,285	308,300
Kitale Medium	223,955	140,955	320,934	77,070
Kitale Women	-	-	-	16,000
Lodwar	-	125,571	83,437	21,615
Mararal	108,480	108,960	125,974	134,280
Naivasha M/S	345,410	296,452	260,482	117,790
Naivasha Main	-	-	-	-
Nakuru Main	268,835	178,570	338,481	215,366
Nakuru Women	-	-	-	30,052
Nanyuki	152,538	211,005	295,885	269,241
Narok	356,748	327,690	143,822	189,232
Ngeria	877,873	102,646	594,963	1,145,779
Rumuruti	39,951	150,283	123,355	174,774
Tambach	52,465	109,800	49,710	49,410
WESTERN				
Bungoma	61,628	97,931	146,686	46,817
Busia	116,481	227,580	921,436	183,729
Kakamega main	236,100	41,740	1,321,160	1,000,000
Migori	-	-	301,100	261,000
Shikusa B.I	54,345	56,105	3,663,088	101,906
Shikusa Main	770,611	1,994,327	450,975	2,353,340
NYANZA				
Homabay	352,814	362,514	43,034	26,578

STATION	2004/05	2005/2006	2006/2007	2007/2008
Kibos M/S	253,398	428,291	1,482,702	643,007
Kisii Main	-	200	402,540	57,200
Kisumu M/S	46,600	317,052	2,215,855	597,322
Kisumu Main	-	-	-	-
Kisumu Women	43,460	63,180	271,958	150,678
Migori	58,310	18,000	-	-
Siaya	59,576	53,354	111,436	138,900
COAST				
Hindi	141,839	108,160	38,976	298,424
Hola	32,227	7,318	11,379	26,246
Kilifi	191,784	293,453	460,423	406,448
Kwale	194,165	219,171	158,671	240,639
Malindi	370,197	508,586	574,051	163,306
Manyani	251,481	247,267	583,546	789,389
Shimo B.I	149,498	86,090	421,276	234,737
Shimo M/S	161,224	929,681	544,731	156,149
Shimo Women	20,000	67,360	114,545	48,150
Taveta	20,000	-	26,400	51,528
Voi	77,445	72,000	-	63,720
Wundanyi Main	128,279	75,085	82,620	99,377
G/TOTAL	**22,587,969.40**	**25,878,569.60**	**41,085,512.00**	**23,880,106.00**

Source: KPS

7.8 Quarry, Sand and Brick production

Kamiti, Ruiru, Naivasha, Thika and Manyani prisons have stone, hardcore and ballast quarries. Machakos prison is a leading sand harvester. Busia, Kitale and Kitui prisons produce building bricks. However, there was no information available from the Prisons Headquarters on these enterprises as sources of revenue. In Kamiti, Machakos, Kitale and Busia prisons, junior staff complained that stones, bricks and sand are sold by senior officers who pocket the money in contravention of section 11 (1) of the Public Officer Ethics Act.

7.9 Total Acreage of Prison Land

The Prisons land is broadly classified into two sets. There are parcels of land that have gazette notices whilst others have legal notices. Those with gazette notices have a total acreage of 10,128.7 acres while those with legal notices have **a total acreage of 10,302.48 acres.** In addition, there are two prisons with 23 acres of land that neither has gazette nor legal notices. Land acreage per station is shown in the following tables.

Table 26: Land with Gazette Notices

Ser. No	STATION	ACREAGE	GAZETTE NOTICE	YEAR OF GAZETTEMENT
1	Kamiti Prison	1,139.9	355	1955
2	Nairobi Remand & Allocation	30 Hq	8	1911
3	Langata W. Prison	104	1,132	1954
4	Shimo Main	734	834	1953
5	Shimo Women	93.86	834	1953
6	Lamu Prison	10.25	1690	1954
7	Wundanyi Prison	25	1136	1952
8	Voi Prison	6.9	693	1955
9	Mombasa ss	43	28	1928
10	Nyeri Main	3.46	1990	1953
11	T Falls	107.44	1069	1952
12	Thika Prisons	8.4	1134	1954
13	Kitui Prisons	43.4	262	1927
14	Machakos Prisons	70.89	397	1928
15	Isiolo	1546	77	1947
16	Marsabit	12.56	409	1931
17	Moyale Prison	44.5	1033	1946
18	Garissa	449.3	1082	1945
19	Mandera Prisons	1080	1082	1945
20	Wajir Prisons	1000	1082	1945
21	Kakamega	9	1082	1945
22	Nakuru	624	1283	1951
23	Kitale	1853	1109	1954
24	Shikusa BI	750	359	1943
25	Vihiga	5.32	2658	2008
26	Narok	64.8	1184	1954
27	Kajiado	5.31	493	1926
28	Kapenguria	79.23	412	1930
29	Nanyuki	50	266	1954
30	Rachuonyo	25.98	350	2008
31	Kang'eta	103		1986
32	Kericho	5	71	1961
	Total Acreage	**10,128.7**		

Table 27: Land with Legal Notices

Ser. No	Station	Acreage	Legal Notice No.	Year of Legal Notice
33	Ruiru prison/ PSTC	587.86	113	1975
34	Nairobi west	18.77	118	1967
35	Murang'a	20	208	1966
36	Maranjau	1175	199	1973
37	Mwea	58	4	1977
38	Keruguya	33.8	180	1970
39	Kiambu	5.31	721	1961
40	Meru	15	721	1961
41	Uruku	70	310	1968
42	Embu	116.7	83	1968
43	Kangeta	100	65	1996
44	Kwale	93.86	333	1993
45	Kilifi	92	721	1961
46	Malindi	262	721	1961
47	Hola	100	519	1959
48	Manyani	3000	363	1958
49	Kisumu	304	721	1961
50	Kisii	14.6	721	1961
51	Homabay	100	118	1961
52	Kibos	231	297	1958
53	Siaya	50	334	1993
54	Busia	58.41	370	1994
55	Bungoma	10.29	629	1963
56	Naivasha	860	188	1969
57	Eldoret	51	371	1961
58	Kitale	159	721	1961
59	Ngeria	1702	50	1971
60	Kapsabet	54.6	721	1961
61	Kericho	117	313	1965
62	Athi River	272	264	1958
63	Maralal	200	258	1968
64	Rumuruti	41	74	1985
65	Tambach	1	1404	1961
66	Eldama Ravine	2	398	1928
67	Lodwar	65.5	1020	1968
68	Migori	4.52	136	1993
69	Taveta	250	760	1963
70	Officer mess	1.78	118	1967
71	Nyamira	15.07		
72	Nyalenda PPCs Office	5.6		
	TOTAL ACREAGE	**10,302.48**		

Table 28: Other Prisons Land without either of the two Legal Instruments

Ser. No.	Station	Acreage	Remarks
1.	Mwingi Prison	20 ac	Process for gazettement ongoing
2.	Kaloleni	3 ac	Process for gazettement ongoing
	TOTAL	**23 AC**	

7.10 Land Grabbing

Many prisons in Kenya have suffered massive land grabbing especially from the early 1990s. The extent of the grabbing has been reflected in the report of the presidential committee appointed to investigate illegal/irregular land allocations in 2003. The most affected prisons include Kitale, which initially had 3,000 acres but today has less than 200 acres. Other prisons that have been seriously affected include Shimo La Tewa, Machaos, Kitui, Lang'ata, Bungoma and Nairobi West. The beneficiaries are senior serving and former prison staff. Other beneficiaries of prison land are former and current senior government officials. Their names have been captured in the Ndungu Commission Report on irregularly allocated land. At the Machakos prison, for instance, a private developer has put flats within the prisons overlooking the female ward. Similarly, armed warders have to virtually keep vigil day and night to ward off land allotees eyeing the Isiolo prison land.



Private flats within land in Machakos prison overlooking the female wards.

Unless prison land is returned and further illegal allocations stopped, projects such as farming and staff house developments may not be realized. All illegally allocated prison land should be repossessed or returned forthwith.

7.11 Recommendations

- ***All illegally allocated land should be repossessed as per the instructions issued to all Government Ministries/Institutions vide circular Ref. CON/LH/4/23/20Vol.11 of 29th June, 2005 by the former Ministry of Lands and Housing.***
- ***Kenya Prisons Service should also move with speed to secure and obtain title deeds for their land and fence it.***

7.12 Prisoners Earnings

According to the Prisons Act, the participation of prisoners in the earning scheme is a privilege for good conduct and behaviour. The earnings received under this scheme do not constitute a salary or wages. They are a token of appreciation for hard work, out put, good conduct and behaviour by the prisoners. The Committee noted that prisoners are not workers within the meaning of the Workmen's Compensation Act and there exists a lacuna in regard to their compensation when injured while working on the farms or in prisons' industries.

The Kenya Prisons Standing Orders provides for prisoners to participate in earning schemes. The rates of earnings are 20 cents per day for Grade A, 15 cents for Grade B and 10 cents for Grade C. The rates were set in 1977 and have not been reviewed since then. These earnings were set during the pre-independence period and do not reflect current wage levels and economic realities. Furthermore, the implementation is left to the discretion of the Commissioner of Prisons, subject to availability of resources.

Prisoners expressed dissatisfaction with the earnings. The fact that they have no savings whatsoever makes their re-integration into society extremely difficult and increases their vulnerability to repeat crime. Ideally, the earnings were meant to assist the inmate to start a new life after completing his/her sentence by buying tools and materials to start a small business.

7.13 Work by remand prisoners

Remand prisoners and those on civil jail are not required to work but are expected to keep cells and their precincts, clothing and utensils clean. Other employment may be given to them at their own request. Remand prisoners do not work because of the unpredictability of their stay in custody. The reality, however, is that these prisoners remain in custody for long periods of time before their cases are finalized and this time could be utilised to acquire useful skills.

7.14 Recommendations

The Committee makes the following recommendations:

- *Prisoners earnings should be enhanced.*
- *Regulations should be developed to govern the hiring of inmates for private assignments or Government contracts.*
- *Prisoners with specialized skills should be encouraged to perform tasks for which they are qualified.*
- *The Prisons Department should purchase modern farm and industry tools, machinery and equipment to enhance efficiency and increase land under cultivation.*
- *MOHA should recruit qualified technical staff or secondment from the relevant technical ministries to directly manage to directly manage prisons' farms and industries. It is further recommended that such professional managers be specialists in marketing, farm management, electrical, mechanized and structural engineering.*
- *Training funds should be separated from funds meant for production.*
- *MOHA should lobby the government to adopt the policy that requires all government institutions and parastatals to source their furniture from prisons' industries.*
- *All flat roofed buildings within the prison industries should be converted into pitched roofs to curb leakage.*
- *Detailed handing over reports should be prepared by the departing officers in charge of enterprises.*
- *A management structure should be created in which the director of farms and industries shall be a professional civilian deputized by two technical staff.*
- *Prisons should purchase more vehicles (pick-ups and lorries) to facilitate the timely delivery and marketing of farm and industry products.*
- *Prisons should improve livestock breeds*
- *MOHA should empower farm and industry managers as the controllers of the AIE at stations for their respective industries as opposed to the current situation where the officer in charge is the A.I.E holder*
- *MOHA should introduce allowances for technical instructors to motivate them*
- *MOHA should separate production funds from training funds so that the latter is funded from recurrent expenditure*
- *Farms and industries department should be converted into a Semi Autonomous Government Agency (SAGA) after a feasibility study has been undertaken.*
- *Showrooms should be constructed in major towns to widen the market base for prisons products.*
- *Information and statements on retained surplus in the reserve account, should be provided*
- *Officers in charge of Prisons should be compelled to urgently service debts which they owe suppliers of food*
- *Irrigation systems should be developed where water is available to revive stalled projects such as exist at Ruiru prisons*
- *Model dairy farms should be established*
- *Prisons should identify and invest in high value crops*
- *There should be collaboration between the ministries of Home Affairs, Agriculture, Livestock as well as the Kenya Agricultural Research Institute (KARI) on new profitable initiatives*
- *MOHA and the managers of the Prisons farms and industries should negotiate meaningful performance targets for new and innovative enterprises whose products are in high demand.*

CHAPTER 8
PRISON REFORMS AND REHABILITATION

8.1 The open door policy

Much ink has been expended on studies done on prison conditions and penal reforms around the world, Kenya included. Kenya is a signatory to many declarations on penal reform. For example, the country signed the Kampala Declaration on prison conditions of 1996, which recognized that there has been progress in raising general prison standards in Africa. Other instruments include the Kadoma Declaration on Community Service Orders in Africa; the Specific Standards on Alternatives to imprisonment of 1997; and the 1999 Arusha Declaration on Good Prison Practice. In addition, Kenya is a signatory to the 2002 Ouagadougou Declaration, which recognized that there has been progress in improving prison conditions in Kenya and in Africa as a whole, but stressed the need for accelerating prison and penal reform.

Kenya has hosted high profile meetings that heralded the opening up of the prisons. Indeed, the Mt. Kenya Declaration of 2001 on improving Prison Conditions in Africa was made here. All the African standards were given recognition by the United Nations as complementary to the United Nations Standard Minimum Rules for the Treatment of Prisoners, the Declaration on the Basic Rights of Prisoners and the United Nations Standard Minimum Rules for non-custodial measures (the 'Tokyo Rules').

The process of penal reform was started by the Kenya prisons service through Round Table Conference on Prison Policy in 2001. This was shortly after the infamous 'King'ong'o' deaths when prisoners were allegedly bludgeoned to death by warders. (The case against the officers is still in Court). There was public outcry over the conditions of prisons especially the treatment of prisoners, with one Judge calling prisons 'death chambers'.

The Conference's theme was *"Towards methods of improving Prison Policy in Kenya"*. Its key recommendations included the setting up of necessary administrative and infrastructural adjustments in line with international standards; the call on leadership to embrace good practices in the management of penal institutions; and collaboration with various actors in the criminal justice system such as civil society organizations, media and faith based organizations. This heralded a period of gradual build up of working relationships with these stakeholders.

In response to the changing situation, the Prisons Department initiated the open door policy but in some instances, failed to anchor it in the reform agenda. For example, well-meaning reforms were not anchored in law. These include remote parenting, which encourages prisoners to take an active role not only by staying in touch with their families but through retaining their roles as parents. Sporting activities for prisoners -- football, volleyball -- and recreational activities such as beauty pageantry were embraced as some of the ways of building prisoners' self esteem. Besides, top performers in beauty pageantry attained scholarships to study hairdressing in established colleges.

The Committee noted that there was no policy framework governing the open door initiative of the Prisons Department. Thus, matters were left to the personal initiative of the officers in charge to interpret the meaning of the open door policy in their own way. The officers started copying best practices from visits to other countries. However, the dynamism of this new policy is hampered by shortage of facilities and resources for both staff and prisoners.

8.2 Findings

An analysis of the recommendations made during the conference revealed that they form the foundation of many other documents developed afterwards including the Prisons Strategic Plan. About 20% of these recommendations had been implemented. For instance, some steps had been taken to establish a directorate of person's dealing with medical service although the same has not been granted autonomy to operate independently. Some progress has also been recorded in promoting self sufficiency in vegetable production; in working with civil society and donors to improve conditions in prisons; in recruitment of specialized staff; in the procurement of suitable vehicles; in opening up of prisons for external scrutiny; and in the procurement of beddings and clothing for inmates.

The Committee, however, observed that the speed of implementation of activities was relatively slow. Many activities appeared to favour prisoners at the expense of the of prisons staff. For instance, over the years, there have been a raft of recommendations for the improvement of staff welfare, but they have scarcely been implemented. These are:

- Improvement of the terms and conditions of prison officers to allow upward mobility and promote hard work;
- Maximizing the use of available resources to improve staff accommodation;
- Regular joint trainings of prison staff with other officials in the criminal justice agencies;
- Putting up proper mechanism to prevent and control corrupt practices.

The Committee noted that there were disparities and lack of uniformity in implementing the open door policy in various penal institutions, and that the reforms had not fully cascaded to the ground, hence the need for reforms.

8.3 Recommendations

- ***The open door policy should be entrenched the in law;***
- ***Prisons staff should be trained on results-based management to enable them implement the reforms successfully;***
- ***There should be evaluation of the progress made (if any) in the implementation of all the recommendations made in the Mount Kenya Conference and other preceding and succeeding documents;***

8.4 Reforms in the Public Sector

The focus of the Public Sector reforms in the country has been to transform the public sector into a results-oriented service. In this regard, almost all government ministries and departments including the Kenya prisons service have developed strategic plans to guide their operations. Results Based Management and Performance Contracts were introduced to implement and achieve targeted and effective results. The most visible reform adopted by the Kenya prisons service has



A section of rehabilitated rooms for women prisoners at Lang'ata Prison

been the open door policy.

8.5 Kenya Vision 2030

One of the foundations for Vision 2030 is security of the individual and of property. Security is vital in achieving and sustaining the economic growth rate that is anticipated in the Vision. In the period 2008 – 2012, the Government will pursue the following specific goals:

- Double the prison to area ratio,
- Construct six new prisons in Mwingi, Nyamira, Kwale, Rachuonyo, Vihiga and Kaloleni,
- The construction of prisons in all the newly established districts as per the directive of from the Office of the President vide circular OP CAB.58/4A of 13th June, 2008,
- Improved terms and conditions of Kenya's security services,
- Establishment of a national security database.

Under Vision 2030, the medium term goal for 2012 is to enact and implement a legal and institutional framework vital for promoting and sustaining fair, affordable and equitable access to justice. The specific strategies for reaching this goal include:

- Increasing service availability and access to justice,
- Streamlining functional inter-agency cooperation and professionalism,
- Inculcating a culture of compliance with laws and decent human behaviour.

8.6 Rehabilitation Programmes

8.6.1 Chaplaincy and Welfare Services

Rehabilitation is one of the core functions of prisons and the prison system. To realize this goal, prisoners must receive counselling and guidance along with training in some skill for gainful employment upon leaving prison. The level of rehabilitation achieved in prison determines, to a large extent, how well the inmate will adjust in society after release. Social workers and welfare officers are responsible for the provision of counselling and guidance to the inmates.
The Chaplaincy within the Prisons Department seeks to rehabilitate prisoners through preaching and teaching the word of God, and offering spiritual counselling and guidance. They also act as a link between the ex-prisoners and the outside community as a whole.

8.6.2 Terms of Employment for Prison Welfare /Chaplaincy Staff

There are two types of Chaplaincy personnel in the department: those on permanent and pensionable terms and those on local agreement terms of services. The ones on permanent and pensionable were employed when aged below 45 years, whilst those on contract were employed when they were above 45 years. These include the Muslim and Protestant Christian clergy.

Catholic Priests are seconded by the church and can be withdrawn any time to go back and serve the church.
Some of the Chaplaincy/ welfare staff are redeployed from their normal duties as prison officers.

8.6.3 Findings

The Committee found the following:

- There is no budgetary Vote for Chaplaincy, yet the section plays a critical role in offender rehabilitation,
- There are no systematic counselling programs provided by prisons due to lack of commitment by authorities/ administration, who feel that chaplaincy is not a priority,
- There are no chapels and mosques built by the state within the prisons, and where they do exist, they were built by well wishers,
- Lack qualified personnel to handle chaplaincy,
- Inadequate facilities such as offices and counselling rooms for spiritual and psychosocial needs.

8.7 Education and vocational training for inmates

Education programmes in prison are part of the rehabilitation programme. They assist prisoners to acquire skills and knowledge, which they can use to secure gainful employment and reintegrate into society. It also provides opportunities for outsiders to meet and teach prisoners.

8.7.1 Findings

The Committee established that in most of the stations, adult formal education is offered to convicted inmates. However, there are no qualified teachers to run these programmes. Most are either managed by prisons staff or by prisoners.

8.7.2 Recommendations

- ***A budgetary vote head should be established for Chaplaincy services.***
- ***The Government should provide funds for construction of mosques and chapels in the prisons.***
- ***Ministry of Education should deploy teachers to teach prisoners.***
- ***More funds should be allocated for formal educational programmes.***
- ***The Probation and Aftercare Departments should be stregnthened to enhance provision of aftercare services.***
- ***Professional staff should be recruited to spearhead the rehabilitation process.***

CHAPTER 9
STATE OF SECURITY IN PENAL INSTITUTIONS

9.1 Introduction

Prisons contain very dangerous criminals, Prison officers are required to pay attention to the security aspects of the entire facility and satisfy themselves that all security measures in force are effective and operational. The security measures should aim at ensuring the safety of officers, inmates and the institution at all times.



A warder at a rickety watchtower

9.2 Findings

Security lapses include: weak and dilapidated perimeter fences, rickety watch towers, insecure gates, porous fences, risky electricity connections in residential shanties and congested accommodation quarters partitioned with plastic paper.

Owing to the wanting state of security in the penal institutions, the following security threats were evident:

a) Escapes

Escapes are mostly motivated by lack of secure physical infrastructure and /or collusion with prison officers. In November, 2007 eight (8) inmates' escaped from Naivasha Prison by scaling down the prison wall. In the year 2000, six inmates were killed after escaping from the King'ong'o prison.

b) Entry of Contraband and Unauthorized Goods

There is evidence of brisk business within the prison walls involving drugs, alcohol, mobile phones and other unauthorized goods.

In 2007 in Naivasha and Kamiti Prisons, a gang of prisoners were discovered operating a syndicate of swindling or demanding ransom from unsuspecting members of the public using mobile phones.

9.3 Recommendations

a) Security Infrastructure

- ***Fortification of the perimeter fences in all stations. Prisons stations such as Kisii, Shimo la Tewa Medium, Machakos and Bungoma are in dire need of fortification. They are currently exposed and accessible from any direction. The perimeter fences erected at Naivasha and Kibos require reinforcement of a second wall if the facilities are to continue holding hardcore criminals.***
- ***Improvement of watch towers to insulate officers from exposure to bad weather, bringing on illnesses especially those related to cold. The watch towers also need to have seats from which one can see into the Prison as well as arrangements for sanitary facilities.***
- ***Improvement of guard houses to habitable levels. Currently, they are in such terrible state that the officers sleep on bare beds. In Nakuru the Prison Officers on Office guard at night were sleeping on bare office tables without mattresses.***

b) ***Surveillance***

Installation of Closed Circuit Television (CCTV) in all the stations to monitor the entire goings-on. This will put a stop to smuggling, drug abuse and same-sex sexual liaisons in wards.

c) ***Mobile Jammers***

Installation of mobile phone jammers or disabling devices in stations. With rampant corruption and collusion among officers, inmates keep and operate mobile telephone sets with impunity.

They even demand airtime and ransom from unsuspecting members of the public. It is imperative that a facility to disable cell phones be erected in stations.

d) ***Lighting***

All penal institutions should be connected to the national power grid besides having standby automatic generators.

e) ***Automation of facilities***

Automation of prisoners' data management information system for ease of security identification, classifications and placements.

f) ***Safety issues***

The department must acquire fire fighting equipment for all the penal institutions.

Chapter 10
CRIMINAL JUSTICE SYSTEM AND DECONGESTION

10.1 Introduction

The Criminal Justice system includes the following actors; The Judiciary, the Police, the Prosecution, the Prisons, the Probation, and the Children's Department. Others who engage with the criminal justice system include: Administration Police, Provincial Administration, Lawyers and Civil Society Organizations.

Access to justice is a basic right that is guaranteed by both Constitution and international instruments, which Kenya is bound by. Despite the existing legislation the criminal justice sector faces many challenges that include among others; delays in investigation of cases, unnecessary adjournments, corruption uncoordinated arrests through operations (swoops), poor infrastructure of government offices to effectively carry out their tasks ignorance of the law and procedures by accused persons, lack of cooperation, lack of commitment and non-availability of key players and frequent transfer of judicial officers. All these contribute to inmate congestion.

Most of the inmates were convicted on petty offences like consumption of traditional liquor, chang'aa brewing, breach of bond to keep peace, possession of crude weapons, preparation to commit a felony, trespass, pick pocketing, petty theft, failure to pay fines etc.

The effects of congestion include poor living and working conditions, inadequate access to training and educational opportunities, dilapidation of existing facilities, increased violence among inmates, stressed and overworked officers.

In October 2004, following the death of prisoners in Meru Prison as a result of congestion the Vice President convened a forum of stakeholders to discuss prison conditions and the effect of the administration of justice on the Kenya Prisons. Due to laxity of the Kenya Prisons Service, the findings of this forum were however never implemented despite the fact that funds were available under the GJLOS basket fund towards prisons reforms to ease congestion. In recognition of the dire state of congestion in prisons Kenya Magistrates and Judges Association has led attempts to bring other criminal justice actors into the Court Users Committee (CUC). It requires Prisons, Police and Courts to co-ordinate their work in the provision of justice. Though still in its infancy stages there is great hope.

10.2 Inmates Congestion

The committee noted that there was high level of congestion in most prisons countrywide. The rates of congestion in selected prisons as observed in Table 29 show there is very high variation in occupation between prisons. While some are overstretched by over 700%, others operate below capacity. Therefore, fair distribution and redistribution of inmates needs to be considered. Urban prisons are particularly overstretched compared to rural ones and those in North-eastern Province. Given the high state of congestion in some stations, officers are requred to work 7 days a week.

Table 29: Rates of Congestion per prison

Rift Valley Province	Recomm. Inmates Capacity	Actual Number	% Congestion
Nakuru Main	259	1897	732
Narok	54	386	714
Nanyuki	72	484	700
Kajiado	34	206	672
Eldoret Main	600	1178	196
Eldoret Women	51	93	182
Kapenguria	204	276	135
Kapsabet	170	224	131
Lodwar	201	264	131
Eldama Ravine	50	56	112
Kericho Women	52	56	107
Kitale Medium	93	99	106
Coast Province			
Kwale 'P'	12	245	204
Kingorani	40	274	685
Voi 'P'	29	176	606
Wundanyi 'P'	32	194	606
Kwale 'P'	382	531	139
Shimo Annex	360	357	99
Hindi 'P'	142	133	93
Nairobi Province			
Nairobi S.S	137	689	502
Kamiti Main	929	3584	385
Langata Women	216	630	291
Nairobi West	121	296	204
Kamiti Medium	386	579	150
Nairobi/R/All	2230	2637	118
Kerugoya 'P'	68	407	598
Thika Main	121	693	572
Nyahururu 'P'	107	608	568
Kiambu 'P'	63	134	212
Nyeri Main	676	1430	211
Nyeri Women	43	84	195
Eastern Province			
Kangeta 'P'	100	750	750
Embu Main	158	794	505
Kitui 'P'	125	595	476
Machakos 'W'	20	42	210
Marsabit 'P'	33	52	157
Moyale 'P'	84	79	94
Western Province			
Bungoma 'P'	90	1396	1550
Kakamega 'M'	132	1275	965
Busia 'P'	97	612	630
Shikusha B.I	226	367	162
Nyanza Province			
Kisii Main	162	1214	749

	Recomm. Inmates Capacity	Actual Number	% Congestion
Kisumu M/S	85	471	554
Homabay 'P'	162	223	137
Kisii Women	79	105	132
North Eastern Province			
Garissa Main	110	164	149
Wajir 'P'	108	84	77
Mandera 'P'	70	51	72

10.3 Staff Inmate Ratio

Whereas there is a major concern on congestion and overworking by staff in some prisons, there is little work for officers in other prisons. This is because of the skewed distribution of staff and inmates across provinces. Some prisons are overstaffed while others are understaffed in the same province. With fair distribution the international staff-inmate ration of 1:5 would almost be reached. In Kenyan prisons, the ratio ranges from 1:1 to 1:13. The table below shows the distributions.

Table 30 – Staff – Inmate Ratio

Province	Staff to inmate ratio
Central	1:1 to 1:7 in Thika Prisons
Coast	1:1 to 1:8 in Shimo Main and King'orani Prisons
Eastern	1:1 to 1:8 in Meru Prison
Nairobi	1:1 to 1:7 in Nairobi Remand Prison
North Eastern	1:1 in all Prisons
Nyanza	1:1 to 1:13 in Kisii Main Prison
Western	1:1 to 1:8 in Bungoma Prison
Rift Valley	1:1 to 1:5 in Naivasha, Kitale, Nakuru Prisons

10.4 Factors contributing to congestion in prisons

- Lack of cooperation within the administration of criminal justice system: There is a clear lack of coordination between the Departments of Police, the Office of the Attorney General, Kenya Prison Services, Prosecution, the Judiciary, Children's Department, Administration Policeand Provincial Administration, lawyers and civil society organizations that engage with the justice system. It is apparently that each organization operates oblivious of implications to the Kenya Prisons Service and particularly Prisons Capacity.

- Shortage of judicial and prosecution officers; frequent transfers of judicial officers without consideration to the cases in progress, frequently missing court files and fewer court. Inadequate facilities to contain convicts following population increase and rise in crime without corresponding construction of prisons in the country.

- Inability to pay the fines in cases where offenders have the option; underutilization of alternative methods such as Community Service Order (CSO) to sentencing by courts and failure to utilize and/or take advantage of discretionary powers of the various criminal justice actors on release of prisoners. If courts made greater use of these provisions many petty offenders who populate and congest courts, prisons and remands would have been drastically reduced. For instance thousands of remandees wait for too long to have their cases listened to. As it was clearly articulated, the justice system is so clogged that remand prisoners must fight for early hearing dates with suspects who are out on bail or bond. In most cases the suspects on bail get priority dates over remand suspects. This state of affairs demoralizes remandees. It was also reported that it takes too long to process, hear and determine appeal cases.

  Sections 28 and 29 of the Constitution puts in place an Advisory Committee on the Prerogative of Mercy whose task is to advise the President concerning commuting of sentences of persons under death penalty. This is a crucial committee of which the Attorney general is a member need to advice on the way forward considering the fact that since 1985/1986 no executions have been done and may not be done in line with international practice. Yet prisoners on death row are in thousands and significantly contribute to the prison congestion currently experienced. The Committee was informed that there were a total of 3481 inmates on death row with 360 awaiting execution and 3121 having pending appeals. Death row inmates are not assigned any work, are unproductive but must be

provided for by the state.

The Judiciary should exercise constitutional discretions to revise cases with sentences of 3 years and below with a view to placing the prisoners on CSO or setting them free by resident judges in the provinces and districts. It should also emphasise alternative sentencing options and non-custodial sentences which include:

i. Suspended sentences (S 15(1) CPC);
ii. Fines;
iii. Acquittals
iv. Appeals
v. Bonds with surety, free bonds and Cash bail
vi. Payment of compensation in lieu of other punishment (S. 31 CPC);
vii. Security for good behavior (S.33 CPC);
viii. Absolute and conditional discharges;
ix. Probation (Probation of Offenders Act, (Cap 64); and
x. Community Service Orders (Community Service Orders Act).
xi. Reconciliation as is laid out in S. 176 of the CPC which specifically empowers the courts to promote reconciliation in common assaults or any other offence of a personal or private nature not amounting to a felony.
xii. Explore the possiblit of using insurance bonds.

The Commissioner of Police and Commissioner of Prisons have many opportunities to utilize for decongestion of prisons but as it is now the two officers do not meaningfully utilize their powers in this regard as provided for in their respective acts in Cap 84 and Cap 90 respectively. They include warnings, out of court settlements, No Further Police Action (NFA) for lack of evicence and police bond and bail. Equally the Commissioner of Prisons has several options which include:

- Periodical reviews such as Board of Review and Medical Advisory Board for Special Category Mental Prisoners;
- Presidential Amnesty, through which the Commissioner recommends to His Excellency the President the release of convicted prisoners who have up-to six months and below to serve and have demonstrated good conduct during their incarceration.
- Releases on medical grounds by the Minister responsible for Prisons Administration as provided for by Cap 90 section 47 (a) or (b) Laws of Kenya; (See annexes). In case of unhygienic Prisons, the Public Health Act needs to be enforced.
- Parole, which though provided for in the Prisons Act has not been utilized.

Instant requirement by courts such as on the spot payment of fines equally contribute to congestion in prisons. In other countries utilization of other approaches including traditional approaches are increasingly in the use. In Kenya such approaches have not been put to use. Frequent adjournments of cases, non-attendance by assessors or state counsels and defence counsels also contribute to delays. Lack of transport in many prisons has often made some prisoners not to be taken to court and in the process miss court hearings. Other factors contributing to congestion in prisons are failure by courts to give out of prison sentences for petty offences like loitering, hawking, touting, drunk and disorderly, making noise in public, failure to carry a National Identity card etc. It was found that a litre of chang'aa costs ksh.100 but attracts a fine of ksh.3000/-

Recommendations

The Judiciary

- ***Eradication of the practice of awarding excessive fines as laid out in S. 28 (1) (a) of the Penal Code, which requires that where a fine is prescribed by the law, the fine shall not be excessive.***
- ***Creation of a unified and integrated policy-making mechanism to streamline and regulate sentencing policies in Kenya. Currently there are extreme variations in sentences for the same offence by different courts.***
- ***Reasonable bail terms should be granted by the courts as required under the law based on the following:***

- *S. 72(5) of the Constitution states that the conditions or terms of bail or bond must be reasonable including taking into account the ability of the suspect to meet the bail terms.*
- *S. 123(2) of the CPC requires that the amount of bail set by the police or the court shall be fixed with due regard to the circumstances of the case and "shall not be excessive."*
- *123(3) vests in the High Court the power to reduce the bail required by a subordinate court.*

- *The Judiciary and/or police to utilize effectively the bail (bonds and sureties) facilities to allow suspects temporary freedom while their cases are in progress in courts*
- *Bail Pending Appeal: Under S 357 of the CPC, the court, which convicts and sentences an accused, has power to grant bail-pending appeal and courts should use this provision without inhibition in all appropriate cases.*
- *Priority Hearings where Bail or Bond is denied: In those cases where the courts find that it is not appropriate to release an accused on bail or bond and that such an accused person should be tried while in remand, the Judiciary should come up with a clear policy that such cases should be given priority when setting hearing dates.*
- *Speed up the processing, hearing and determination of cases and appeals as applicable.*
- *Offenders should be accorded adequate time to settle fines by installments or other agreeable ways.*
- *Out of court settlement of disputes should be encouraged with emphasis on traditional mechanisms of settling disputes.*
- *Unnecessary adjournment of cases should be discouraged and cases be handled expeditiously.*

The Attorney General and Prosecution

- *The Attorney General should convene the Committee on the Prerogative of Mercy and make a decision on the fate of thousands of inmates on death row.*
- *All Police Case Files should be completed before entering suspects into plea.*

The Commissioner of Police

- *Under the Police Act (Cap 84) the Commissioner of Police should make use of descretionary powers to dispose of petty offences at Police Station level.*

The Commissioner of Prisons

- *The Commissioner of Prisons needs to liase very closely with the Judiciary and Police on the state of congestion / available space in prisons.*

- *Initiate the process of enacting a Remand Homes Act. The Prison Act dealing with convicted Prisoners should be separated from the remands, with an intention towards setting up purely correctional centres for inmates and remand homes for remandees.*

- *Entrenchment of the Court Users Committees in law with the officers in charge of Prisons submitting the monthly status of their prisoner population.*
- *Development and implementation of training programmes for all criminal justice actors on the offender management process.*
- *Construction of new prisons in every district or where there is a court to absorb the rising inmate population.*
- *Expansion and upgrading of prison facilities for better corrections, humane treatment and promotion of respect for human rights.*
- *Review of the fining system since most of the suspects who end up in prison are charged with petty offences, which are subject to fines they cannot raise.*
- *Sensitization of the courts to utilize Community Service Order especially in urban areas.*
- *Development of infrastructure for sustained use of community sentences that involves the community participation in coming up with the programmes for offenders and in the fight against crime within their*

localities.

- *There should be fair redistribution of inmates and re-deployment of staff to achieve the acceptable staff inmate ratio.*

Chapter 11
LEGAL FRAMEWORK

11.1 Introduction

The rights of prisoners are established in national and international law. Under Kenyan legislation, the Prisons Act (Cap 90), Borstal Institutions Act (Cap 92), the Probation Act, Standing Orders, the Constitution, the Children's Act, all contain provisions aimed at protecting the rights of persons under detention or in prisons. The Constitution of Kenya[8] provides for the fundamental rights and freedoms of all Kenyans. Section 5 of the Constitution specifically protects the rights of people in custody. The rights of staff are protected as Kenyan citizens.

Under International Law, there are a number of Conventions Declarations and Covenants, which prescribe uniform standards. The International Covenant on Civil and Political Rights (1966) (ICCP Articles 9, 14 and 15R) provides for the right to a fair trial within reasonable time. The Universal Declaration on Human Rights (1948) (UDHR) Articles 7 – 11 provides for equality before the law, full equality to a fair and public hearing by an independent tribunal and the right to be presumed innocent until proven guilty by a court of law. The African Charter on Human and People's Rights (1981) (ACHPR) Article 7 provides that each individual shall have the right to have his cause heard. The Constitution of the Republic of Kenya gives life to many of the international instruments in the bill of rights by having provisions to secure protection of the law in the domestic context Section 76 (1) – (15).

The implementation of these instruments is elaborated in the United Nations Standard Minimum Rules on the Treatment of Prisoners which is one of the oldest international instruments concerning the treatment of people in custody that have guided the development of penal policy and practice. They establish the minimum standards below which no state or institution should practice. An examination of the provisions of the national laws of Kenya reveals that some are not in line with international standards relating to the treatment of offenders and ought to be reviewed.

11.2 Proposed Ammendments to the Prisons Act Cap 90

The Kenya Prison Service, the Kenya Law Reform Commission, the Kenya National Commission of Human Rights and civil society organizations as well as other key stakeholders revised and made proposals for ammendment of the Prisons Act and Rules. The review focused on an array of concerns involving both the inmates and staff. Below is a brief list, highlighting the most important themes and key proposed revisions.

11.2.1 Incorporating and improving Human Rights Protection

Notable proposed changes along these lines include:

- Revision of laws so that the prisoners' rights to health care and sanitary living conditions are more clearly and expansively protected.
- Abolition of Punishment Diets in order to incorporate international human rights standards against penal cruelty.
- Strengthening prison officers' rights to assembly and collective representation.
- Eliminating gender discrimination.
- Clarification and extension of the right to review/appeal for both officers and prisoners.
- Revision of laws to eliminate ambiguities that can be used to disadvantage prisoners and prison officers.

11.2.2 Modernizing the Prison Services

Many changes were proposed to bring the prison services into parity with other departments of the civil service. For example:

- De-criminalisation of infractions committed by prison officers. Where prison officers desert the service or commit minor infractions not otherwise held to be illegal, and proposing that they should be subject to disciplinary proceedings rather than fines and/or imprisonment.
- Revision of regulations governing the labour of prisoners to ensure that it is used beneficially and that the state is compensated whenever prison labour is used for purposes of individual and/or private enterprise.
- Reviewing important policies and decisions to ensure that their rationales are given in writing, such that the prison service meets modern standards for transparency.

8 See proposals from the Prisons Department to the Constitutional Review as reflected in the Bomas draft in Annex 5. The Prisons Department envisaged a Correctional Service that brought together the Probation and Prisons Department

11.2.3 Expanding the capacity of the Prisons to act as Rehabilitative Correctional Facilities

According to the modern movement away from prison as simple punishment and toward prisons as correctional and rehabilitative structures, changes were proposed on the following:

- Improvement of prisoners' ability to access information and education in order to facilitate a healthier transition back into society upon release.
- Ensuring that prisoners are held in the location closest to family, such that prisoners are supported and able to reintegrate into their social framework after release.

11.2.4 Review of the law to aid in decongesting the Prisons

The proposals to the Review of the Prisons Act, Rules and Regulations towards bringing current law into conformity with international standards, also took into account the following areas that would serve to decongest the Prisons:

- Legislative provision for the enhancement of the powers of the Board of Review of Prisoner's sentences that will substantially reduce the minimum periods of imprisonment, which prisoners must serve before they are considered for a form of formal release;
- Enhancement of the Prisons Act to increase the range of medical conditions which constitute grounds for early release as well as the range of persons eligible for early release on health grounds as well as revising the current highly bureaucratic procedure of releasing inmates on medical grounds;
- Enhancement of the Prisons Act to define structures that work towards release of prisoners on parole; and
- Enhancement of the role of monitoring bodies such as the Visiting Justices, to ensure that all procedures relating to early release are duly followed

11.3 Standing orders

While the Prisons Act mandates the Commissioner of Prisons to review the Service Standing Orders regularly for the purpose of providing updated guidelines to the Service, the Committee observed that the document was last revised in 1979.

The Prisons Staff raised pertinent issues, which could easily be addressed by their superiors if the Standing Orders was periodically reviewed to accommodate the emerging trends ranging from security, discipline, and general operations of service. Although the prisons Standing Orders provide operational guidelines, majority of the junior officers complained that they have never seen or used the document in their workplace.

11.4 The Borstal Act Cap 92

There are two Borstal Institutions in Kenya, one at Shimo la Tewa and Shikusa and a Youth Corrective Training Centre at Kamiti (YCTC). All the three provide custody for youthful offenders between 15 – 21 years old. The current capacity for the three institutions is 500 boys. The Standing Orders provide in Chapter 63 Section 6 that 'a Juvenile or young person is ordered to imprisonment where practicable, be confined apart from, and shall not be allowed to associate with adult prisoners during his terms of imprisonment'. There is no institution for youthful girl offenders

11.5 Recommendations[9]

The Committee recommends that the following additional areas should be added to the review of the Prison's Act:

- ***The establishment of an impartial complaints review mechanism within the prisons system where prisoners can lodge complaints, when instances of torture or any other form of maltreatment are experienced.***
- ***Review of Section 149 (1) of the Public Service Housing, so that officers from PG 1-4 are the only ones mandated to stay within the staff lines or within proximity to Prisons.***

9 See Annex 6 for the detailed proposed amendments

- *Review of Section 124 (x) which states' any other conduct was brought as contentious by staff in the prisons the Committee visited. They stated that senior officers were harassing them by charging them under this section, which is so wide as to fit any real or imagined offence. After lengthy discussions and consultations with disciplined officers from other forces the Committee decided not to recommend deletion of this provision as it may exempt prison officers from being responsible for misdemeanors.*
- *Ammendment of the Prisons Act to cover mutiny.*

11.6 General Recommendations

- *The MOHA should liaise with the Attorney General to seek implementation of the proposed changes as a legal draft.*
- *The immediate review of the Kenya Prisons Standing Orders in line with the proposed changes in the Prisons Act and the Borstal Institutions Act. This review should also incorporate other legal instruments including international statutes on corrections.*
- *Dissemination of sufficient copies of all policy documents and legislation pertaining to the Prisons Department for references in all the Prison stations.*
- *Review of government policy regulations to provide for coordination and administration of all institutions receiving and rehabilitating children by the Children's Department..*



CHAPTER 12
OTHER PERTINENT ISSUES

12.1 Magereza Sacco

This is the registered co-operative of the Kenya Prisons Service Staff. Membership is supposed to be voluntary but several staff members complained of forceful recruitment when they join the Prisons Staff Training College (PSTC). Prison staff were encouraged to take loans, which makes it difficult to terminate membership. Whereas Magereza Sacco officials are supposed to be democratically elected during the National Delegates meeting, many junior officers complained of harassment from senior officers whenever they compete against them during the delegates meeting. As a result, the management of the Magereza Sacco reflects the management at the Prisons Headquarters.

The Sacco acquired two properties in Nairobi, namely, Mageso Court and Mageso Chambers in 1981 and 1982 respectively. Members who had contributed money for the acquisition of Mageso Chambers and Mageso Court had been promised Share Certificates. However, a subsequent AGM in 1991 reversed this decision. Following complaints from members, the Ministry of Cooperative Development appointed a Probe Committee in 2004, which recommended the issuance of share certificates to Sacco members who were in the register in 1981. It also recommended the separation of the investments from the society. However, the recommendations have not been implemented to date.

Senior officers have borrowed huge amounts without security or collateral. One appalling incident involves a senior officer who borrowed Kshs.2.35 million for use in politics. He later resigned from the service.

12.2 Magereza Academy

In 2007, the idea of building both a Primary and a Secondary (the Magereza Academy), was agreed upon during a Magereza Sacco AGM. This initiative was to be implemented along similar lines adopted by other disciplined forces in Kenya. Consequently, a Coordinating Committee was formed and given the task of not only identifying a suitable location, but also to raise funds. Naivasha prison was then identified as having the required land for building the academy. On 16th November 2007, the former Vice President and Minister for Home Affairs presided over the *Harambee* for the facility, which realized Kshs.25,472,674/-. The Academy was to admit its first students in January 2008. However, in May 2008, the Committee visited Naivasha prison and was informed that beacons had been placed only that week. There were no visible signs of construction work in progress nor explanations on the safety of the Sacco money meant for the project.

The fund raising Committee was authorised during the AGM to deduct money from staff salary based on their rank. These deductions were effected in five equal monthly instalments.

These deductions were bitterly contested by staff in all the stations the Committee visited. Matters reached high levels of suspicion when construction of the proposed school did not take off as promised and no explanations were forthcoming. This prompted staff members to demand a refund. The deductions were reflected in their payslips as 'overpayment' but not Magereza Academy Fund. This fueled further discontent, disquiet, suspicion and dispondency.

Recommendations

- ***The relevant Government Agencies should conduct proper auditing of the funds held by both the Sacco and the Magereza Academy.***
- ***The Prisons Department should respect the principle of free and voluntary membership in Magereza Sacco.***
- ***The law governing deductions of employee salaries should be adhered to.***
- ***The recommendations made by the probe committee of the Ministry of Co-operatives should be implemented.***

12.3 Children Accompanying Mothers in Prison

Children who accompany their mothers in prison face different challenges and needs . Since most prisons are designed for men who constitute the bulk of prison population, many of the fundamental basics of women accompanied by children are not met. The rights of the children who accompany mothers are, therefore, abused.

In the year 2000, the Council of Europe's Parliamentary Assembly Recommendation No. 1469 concerning mothers and babies in prison, requires that: "states develop and use community-based penalties for mothers of young children; (it further urges states to:) avoid the use of prison custody; to recognize that custody for pregnant women and mothers of young children, should only be used as a last resort for those women convicted of the most serious offences and who represent a danger to the community".



Children with their jailed mothers at Shimo La Tewa G.K. Prison

Research has shown that the effects of parental imprisonment can be serious on children. Studies conducted on prisoners' children consistently show that "children experience a wide range of psychosocial problems during the imprisonment of their mothers, including depression, hyperactivity, aggressive behaviour, withdrawal, regression, clinging behaviour, sleep disorders, eating problems, running away, truancy, poor school grades and delinquency.

Recommendations

- ***The judicial system should ensure that the rights and needs of the prisoner's child/children are taken into account when sentencing mothers.***
- ***Prison regimes and facilities need to be flexible enough to meet the requirements of prisoners' children.***

12. 4 Stalled Projects

During visits to various penal institutions, the Committee observed that there are very many stalled projects ranging from staff accommodation, office blocks, wards, to recreation halls at various levels of construction. Some have been in that state since 1982 and are dilapidated. Failure to complete these projects is a waste of public funds.

Recommendations

- ***The Office of the Vice President and Ministry of Home Affairs should carry out an audit of all p institutions for purposes of compiling an inventory of all stalled projects.***
- ***Ministry of Public Works should carry out technical evaluation on each project to establish the s structural soundness and cost effectiveness of these projects. If they are cost effective and viable, should be given to the completion of the stalled projects. This is the only way the Government can for public funds.***
- ***The Ministry of Public Works should prepare bills of quantities for the remainder of the stalled come up with estimates for use by the MOHA during budgeting.***

12.5. Environmental Concerns

Environmental Sustainability is one of the eight Millennium Development Goals. The Committe there are serious lapses in environmental concerns in most penal institutions. There are many bare fields and tracts of land without trees.

Some of the institutions have started tree-planting initiatives with very encouraging results. Reliance on wood fuel for energy has placed extreme pressure on some institutions because

by. This has been exacerbated by use of *Jikos* (charcoal stoves) which are not energy saving and by inadequate budget allocations.

The Committee also took note of the poor state of waste disposal and sewerage management that have contributed to further environmental degradation in prisons.

Recommendations

- ***Prisons should carry out afforestation programmes.***
- ***The Prisons Department should establish wood lots in prisons with huge tracts of idle land to achieve self-sufficiency in wood fuel while reducing dependency on the exchequer.***
- ***All Prisons should acquire energy saving jikos.***

12.6 Disposal of Idle Assets

One of the targets in Performance Contracts for all ministries is disposal of idle assets. The Public Procurement and Disposal Act (2005), and the Public Procurement and Disposal Regulations (2006), require that public organizations dispose of unserviceable, obsolete and surplus stores and equipment.

Accumulation of such idle assets leads to deterioration, occupation of storage space, excessive expenditure on maintenance and in some instances, vandalism, pilferage, clutter and general nuisance.

The Committee noted that many idle assets crowd parking yards, stores, grounds, offices and showrooms. Some of these assets are obsolete office and industrial equipment, vehicles, assorted furniture, office equipment, tyres, vehicle parts, as well as inbred, unproductive, inferior quality animals. These assets have residual value, which can only be realized after disposal.

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- ***Ministry of Public Works should carry out technical evaluation on each project to establish the state of structural soundness and cost effectiveness of these projects. If they are cost effective and viable, priority should be given to the completion of the stalled projects. This is the only way the Government can get value for public funds.***
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Some of the institutions have started tree-planting initiatives with very encouraging results.
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by. This has been exacerbated by use of *Jikos* (charcoal stoves) which are not energy saving and by inadequate budget allocations.

The Committee also took note of the poor state of waste disposal and sewerage management that have contributed to further environmental degradation in prisons.

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- ***Prisons Department should identify all idle assets in the 93 institutions for disposal***
- ***There should be regular disposal of idle assets in all Prison Intitutions.***

12.7 Prisoners after Care and Reintegration into Society

Situation Analysis

Release from prison, for many prison inmates, is disorienting and daunting. When discharged, ex -prisoners are often unsure of the direction they want to take. Often, they have no home, no work and no money. Under these circumstances, the only familiar way of adjusting to society is the path of bad influences and temptations, leading to another prison sentence. Ex-prisoners experience multiple barriers to integration. They need support to help them become more employable, be financially stable, build supportive social networks, find decent accommodation and access appropriate health services.

In Kenya, more than 20,000 people are released from prison each year. These ex-prisoners, many of them parents of children, face serious obstacles to successful re-entry and rates of recidivism are high. Finding steady work is one of the main challenges they face.

The Prisons Act Part IX Subsidiary Legislation 112(1) provides for a discharge board that is expected to:

- Interview all inmates serving long sentences within three months of their date of discharge
- Decide whether any assistance should be granted to the prisoner with a view to his rehabilitation into civil life.
- Award a sum of money not exceeding eighty shillings to assist the prisoner resettle.
- Provide the prisoner with free transport to his/her home district.
- Discharge boards rarely sit to explore ways of assisting prisoners before their release.

- The sum of eighty shillings, which was sufficient when the rules were revised in 1977, is now hopelessly inadequate.
- A casual look at the composition of inmates persuaded members of the Committee to believe that the majority of them are aged between twenty and thirty years.
- It also emerged that most of them are from low income backgrounds, among them orphans, illiterate and children of single parents.

Recommendations

- ***The MOHA should establish a system and legislation that links the Probation and Prisons Departments to help reintegrate the ex-prisoners back into society. The Aftercare Taskforce should implement the proposed system, which should provide funding for ex-prisoners as well as a framework for community engagement in regard to their re-integration and meaningful contribution to society.***
- ***There should be positive engagement between the ministries of Home Affairs and Youth Affairs to ensure that this class of young people is fully incorporated into their programmes without regard to their past criminal/deviant history. This will enable them to access Youth Funds under the supervision of the Probation and Aftercare Department. They should, however, be closely supervised and mentored into responsible citizens.***
- ***Government regulations should be reviewed to enable rehabilitated offenders access public service jobs, youth funds, and admission to higher institutions of learning.***
- ***Partnerships should be established with the private sector within the ambit of corporate social responsibility, with a view to helping the ex-inmates to quickly get footing in society through apprenticeship and gainful employment.***
- ***MOHA should explore avenues for joint collaboration with universities on research that aims to come up with the causes of the tendency of the above class of people to engage in crime. This will assist in coming up with empirical data to help in designing social protection programmes as well as preventive and rehabilitation initiatives.***
- ***A credible database should be established by the Prisons Department on offenders and offences, so as to track and monitor recidivism. This data should be shared between the Ministry, Prisons, The Children's' and Probation Departments.***

12.8. Complaints by Inmates

During visits to the various Prison Institutions, Committee members interacted with prisoners who raised a number of concerns such as:

- Inadequate food
- Poor quality diet without fruits
- Tattered and worn out beddings and uniforms
- Unhygienic ablution facilities
- Long working hours
- Mistreatment by warders
- Lack of drugs in their health facilities
- Incompatible and outdated rehabilitation programmes which are not beneficial to them
- Biased dispensation of justice against the poor
- Lost files and delayed appeals.

12.9 Relationship between Ministry Headquarters and the Kenya Prisons Service

Situation Analysis

The prisons service falls under the Office of the Vice President and Ministry of Home Affairs. According to the presentation by the senior prisons officers at Prisons Headquarters, the Prisons Service is not always considered a priority area in the allocation of funds due to the fact that it technically falls between the security and the social sectors. The security sector, comprising the Kenya Police and Administration Police, are the entry point into the criminal justice chain. The two

formations are relatively well resourced, whilst Prisons Service misses out from the security sector. In the social sector where education and health are the primary beneficiaries, Prisons does not get priority in funding.

According to Prison Headquarters the parent Ministry which sources for funding, has not helped much by failing to articulate clearly under which sector the prisons belong. Instead, MOHA has set up control mechanisms, which seem to be strangling the Prisons Department. There was alleged interference of the ministry in the management of the little resource allocation and procurement of goods and services for the department. In all stations we visited, the Ministry was accused of micro-managing the department to the extent that cheques signed by the Commissioner of Prisons have to be countersigned and sometimes rejected by clerks at Jogoo house.

Findings

The Committee established the following:

i. The Office of the Vice President and Ministry of Home Affairs is made up of four Departments, namely: Administration, Prisons, Probation, Betting and Licensing Board, After Care Services Department. The Administration Department is made up of several sections (Administration, Planning, Finance, Human Resource Management, Procurement, Information Communication Technology, Accounts and Internal Audit). All sections in Administration provide support services to the technical departments including Prisons Department.

ii. The Ministry falls under the Governance Justice Law and Order (GJLOS) Sector

iii. After the ministry's budgetary allocations for each financial year, the respective Departments are allocated their ceilings that in turn decide the allocation of funds according to their programmes/activities. It is, therefore, the prerogative of the Commissioner of Prisons to apportion the funds to the various stations.

iv. The Commissioner of Prisons apportions funds by AIEs to officers in charge of prisons all over the country. The apportioned AIEs for recurrent development and deposits are submitted to the ministry's headquarters for processing. The process takes a maximum of seven days and the AIEs, together with cheques, are forwarded to the officers in charge of the various prisons.

v. All payment vouchers pertaining to the Prisons Department in Nairobi Area are effected through Jogoo House after initiation by the Commissioner of Prisons. The processing of these payment vouchers in Jogoo House takes a maximum of two (2) days subject to availability of exchequer issues.

vi. The MOHA issues the commissioner's office and the Nairobi Area prisons with a standing imprest of Kshs. 3,000,000/- to cater for running and other minor expenses like meals and transport allowance for officers proceeding on escort duties. The bank account for this standing imprest is operated by the Commissioner of Prisons.

vii. The budget for the Revolving Fund account is prepared by the Commissioner of Prisons but it is subject to approval by Treasury. The fund has experietnced managerial problems where on the one hand, projected inflows are never met, while on the other hand, expenditures are totally effected. The Revolving Fund generated Kshs. 135 Million in 2005/2006 against a target of Kshs. 203 Million while in 2006/7 Kshs. 174 Million was collected against a projection of Kshs. 274 Million. The unrealistic apportionment of AIEs has led to a situation where stations, which may not deserve huge amounts due to their poor revenue collections, are nevertheless given large sums.

viii. The Prisons Department is actively involved in MTEF budget preparations and it is represented at all budget meetings within the parent ministry and at Treasury.

ix. There has been some improvement in service delivery after the MOHA adopted Rapid Results Initiative (RRI).

x. Officers in charge of prisons are not well versed with financial matters and some end up misappropriating funds, to the chagrin of the parent ministry.

xi. The Prisons Department has endemic problems in handling correspondence, which explains their failure to respond to letters from the parent ministry. An effort to sort out this mess has seen the merging of 11 registries at the Prisons Headquarters into 3.

xii. A number of delays have been experienced, but which are beyond the MOHA. These include:

(a) Challenges brought about by the implementation of the Integrated Financial Management System, which occasionally breaks down for periods lasting up to two weeks

(b) Delays at the Exchequer.

Recommendations

- *The AIE holders in various stations need to be trained on financial management skills and to have the culture of accountability inculcated in them.*
- *Treasury should grant authority to MOHA to operate a bank account for the Revolving Fund instead of the current practice of operating the Fund through the deposit account.*
- *The ministry needs to strengthen checks and balances (i.e. internal audit systems) to ensure that funds issued to the various officers in charge are utilized for the purposes intended.*
- *Treasury should post additional staff to the MOHA (Auditors, Accountants, Procurement Officers, and Finance Officers) to strengthen the financial and procurement capacity at Prisons Headquarters.*

12.10 Training

Situation Analysis

Career training and development is important for improvement of officers' knowledge and skills to enhance performance at the workplace.

Training at Prisons Staff Training College

The Prisons Staff Training College is the central point responsible for conducting training for officers including those who are newly recruited to the service. The college is required to design appropriate courses such as refresher programs, promotional courses for junior levels as may be guided by the relevant curriculum. The college has curriculum for warders / wardresses, corporals, sergeants, senior sergeants and chief officers which comprise of the entire course units offered. The Kenya Prisons Standing Order No. 22 part 1(i) states:

> *"The training of a prisons officer is a continuous process and must not be considered to have been completed at the end of an officers recruit course. It is the policy of the service that as many training, retraining and refresher courses as possible shall be held"*
> Part 1(ii) b continues to emphasize: -
>
> *"At PSTC refresher courses to officers of all ranks shall be conducted. Equally, promotion courses and any other courses as the Commissioner may direct will be conducted at PSTC".*

Subject to availability of resources, the officers in charge are required to identify officers to undergo refresher courses and forward their names to PSTC. Refresher courses are basically short term programmes designed for junior officers who left the college more than five years ago. The programs run for a minimum of 1 week to a maximum of three weeks.
The Promotion courses are designed for officers who have been identified by their OIC as potential candidates for upgrading to higher ranks. The course normally takes a minimum of two months and a maximum of three months. Candidates on promotion course are required to pass both written and oral examinations before they are promoted to the subsequent ranks.
All officers in the rank of SSP and above are required to pursue senior management course while the SPs undergo management development courses which are offered by KIA. Equally the Chief Officers are required to undergo general administration courses at KIA.
The Kenya Prisons Standing Orders clearly indicated that nomination for attendance for any course is based on the ability and general conduct of the officer concerned.

Training coordination between PHQ and the Ministry

The Kenya Prisons has a Training Section based at the Headquarters whose function is to conduct Training Needs Assessment and design appropriate courses and programmes for officers of all cadres. This function is coordinated by a uniformed officer in liaison with the Chief Human Resource Management Officer also based at the Service Headquarters. All training matters for both junior and senior staff are presented to the Departmental Training Committee (DTC) composed of both

uniformed and non-uniformed senior staff appointed by the Commissioner of Prisons. The DTC conducts monthly meetings to deliberate the issues submitted by the training coordinator. Based on the relevance of the course or training programmes for both individuals and group proposals against available training funds, the DTC submits short- listed candidates for further discussions by the Ministerial Training Committee (MTC). At the Ministry Headquarters, the Training programmes are supervised by the Head of Human Resource Development who is also the Secretary to the MTC. The work of MTC is basically to check the training proposals for all the departments and make final decisions based on the guidelines and standards that are set by the DPM. At this stage, the MTC will refer, approve, or reject a proposal tabled before the members. The final decision by MTC is communicated by the training coordinator on behalf of the DTC to the officers who applied for training.

Findings

The Committee established that Development Courses for Chief Officers are currently held at PSTC. The facilitators for these courses are uniformed officers who are at times more junior than the officers they are training. Due to lack of standard facilities, the officers are forced to share accommodation and sanitary facilities to the extent of having to use pit latrines since the sewage system collapsed years ago.

According to documents provided from PSTC, it was found that only three groups of officers have undergone promotion/ development courses at the institution for the past two years:

Table 31: Development Courses held at PSTC

Participants	Course	No.
Graduates recruited as warder/wardresses	Development course for promotion from warder/wardresses to COII	39
NCOs	Refresher Course	371
NCOs	Promotion Course	138
	TOTAL	**548**

Source: KPS

It was also noted that a number of officers in the field had been promoted several times without attending any promotional courses. Although promotions should be given to best performers, the committee observed that there is no criteria used in awarding the same.

The Committee observed that junior officers had served for many years, yet there were others who unfairly benefit for promotional courses. The Committee was informed by staff at the penal institutions that corrupt and unethical practices are used to determine who to train on behalf of the Prisons Department. This scenario seems to have taken root for a prolonged period leading to low morale and frustrations at the work place.

The committee noted that the Prisons Staff Training College (PSTC) had the standard required infrastructure to run training programmes but the facility was not fully utilized. The instructors complained and stated that the college was only active when the recruit trainees were on session.

The college staff also complained that their instructor allowances were withdrawn in 2004 without any genuine explanations while their counterparts in the Police, National Youth Service and Army continued to receive their allowances. This discriminative award of allowances had negatively affected their morale. The Kenya Prisons Department does not have training facilities for drivers and radio operators. The implication of this is that the radio operators must go for training at the Police Signal School while the drivers have to contract driving schools to gain their skills.

Stakeholders consulted emphasized on the need for thorough training to both senior and junior officers to equip them with the necessary competencies that will guide them in performing their duties. In strengthening the training function issues regarding discipline, management of resources, officers conduct and respect for command structure should be given priority.

- *All officers who have served for more than 5 years should be given opportunity to attend refresher courses.*
- *OICs should identify candidates for promotion based on ability and merit.*
- *Gazetted Officers should undergo development / management course at KIA and not at PSTC.*
- *The Committee recommends that radical reshuffle of the Current Training office holders be done and their place be taken over by competent and qualified professional staff, in order to streamline the training component in Prisons Service.*
- *The College should be fully utilized with regular training programmes to build the capacities for the Prisons Staff of all ranks.*
- *The Prison Department should ensure that drivers and radio operators attend refresher courses in reputable institutions.*

12.11 Best Practices in Other Countries that can be Domesticated in Kenya

South Africa

The Department of correctional services in South Africa does not have inmates on death raw. Inmates sentenced for committing serious offences, like murder and robbery, are normally sentenced for long jail terms.

This is because the constitution of South Africa does not provide for the death penalty. In Kenya, the legal framework still provides for the death penalty, even though there has been no execution since 1985. All the inmates sentenced to death are in prison and this costs the government, which is obliged to feed and clothe them over their prolonged jail terms. The Committee noted that these prisoners on death raw cannot be assigned work. This is one of the causes of congestion in Kenyan jails.

The legal statute governing the correctional services, recognizes the dignity, liberty and equality of all persons and protects them from inhuman or degrading treatment. Sec. 35 (2) of the Correctional Act, grants certain rights for the detained or arrested persons including the right to adequate accommodation, nutrition and reading materials provided by the government.

Demilitarization of the department of Correctional Services in South Africa was effected in 1996 to make rehabilitation programmes more strategic and effective. This involved changing the structured rank systems and mode of dress for prison officers, removing the insignia and putting an end to militarized daily parades.

The demilitarisation has since failed and South Africa has reverted to the old military system but with a strengthened civilian component, consisting of lawyers, psychologists, social workers, counsellors, and chaplains.

Canada

Correctional Services in Canada are actively utilising the parole system, which is provided for by the Canadian law. Inmates who serve below three years are constantly reviewed for consideration to service their sentences outside prison.

While serving their sentence, their character and ability to cope with the community is assessed. Correctional officers/supervisors make recommendations on those inmates who should be put under the parole system.

The recommendations are discussed by the National Parole Board, comprising of both serving and non-serving

correctional experts. A decision is, then, made to commit inmates to parole based on the assessment by the Parole Board.

Thailand

The government undertook to improve the security situation in the country's correctional institutions to prevent persistent jailbreaks that were endangering the lives of the common citizens.

In doing this, 150 CCTV cameras were installed in all the maximum/high security correctional facilities. These were used for:

- Monitoring visits
- Security surveillance in prisons
- Monitoring misbehaviour by inmates
- Prevention of suicides.

The Government is expanding the CCTV surveillance system to every station to help reduce the workload of correctional staff where there is understaffing. With the installation of CCTV cameras, one correctional personnel is capable of monitoring and supervising the activities taking place in the entire facility with up to 2,000 inmates.

Sweden

In Sweden, prisoners are committed to custodial sentences subject to availability of vacancies in the prisons. The courts liaise with the prisons authority, to confirm availability of space to accommodate more offenders.

Should it happen that prison authorities have limited capacity to absorb new inmates, the courts can order an inmate to proceed home and report to back to prison at a certain time when the vacancy is available. This, however, depends on the gravity of the crime/offence committed.

Russia

Russia offers amnesty to inmates suffering from Tuberculosis (TB) and HIV/Aids. In 1996, the government released all convicted prisoners with serious health cases like drug resistant tuberculosis. This release on amnesty, saw a total of 56,000 TB victims join their families. It was hoped that at home, they could access better medical care. This provision helps to control the spread of TB within prisons and prevents the high rate of mortality caused by the same.

Female Prisoners in the European Union

In Italy, a sentence is automatically postponed if a woman is pregnant or if she has a baby less than one year old. Single parents of very young children may also be exempted from custodial sentence especially if the offence is not serious.

Similarly, the Russian Federation suspends sentences for pregnant women or those with children or a child under eight (8) years old. This is equally done for petty female offenders.

On expiry of the amnesty term, for which the sentence was postponed or suspended, the court may order that the victim proceeds to custody to serve the term awarded or make a ruling for release depending on the general character of the offender.

By ensuring that mother to child relationship is not interrupted, the initiative strengthens parental bonding with the child. This practice is advocated by the UN Congress on the prevention of crime and the treatment of offenders (1990), which states that 'the use of imprisonment for certain categories of offenders such as pregnant women or mothers with infants or small children, should be restricted'

United States

In the US, inmates may be employed in carrying on the work of the industries established at the prison or at other state institutions. Such prisoners do any work such as erection, repair or improvement of any state buildings; and construction and improvement of public highways of the state.

Offenders are paid based on the amount of work done. If an offender works in excess of ten hours per day, then s/he may receive additional compensation.

All those working in prison industries are paid based on actual production of salable items, which is paid out of funds that Congress approves.

Uganda

The prison department in Uganda is a Semi-Autonomous Government Agency (SAGA). The government of Uganda has introduced the 'chain link' system, which enhances collaboration between agencies working in the criminal justice system. Through this system, a certain degree of equilibrium has been achieved in which each agency is conscious of the capacities of the other players.

Namibia

Challenges experienced in African prisons require concerted efforts not only by engaging agents in the criminal justice system, but also collaborating with corporate organisations to attain long-term solutions. The Namibian Prisons Service has established partnerships with the local National Bank (Windhoek), to assist prisoners in securing short-term loans. The inmates, through a formal agreement, use the funds to pay fines and upon release, they engage in some casual labour on behalf of the lending bank.

In practice, the local bank has a social responsibility to reach out to the citizens. And while promoting this, inmates stand to gain as well. For instance, the bank has helped to improve the face of Windhoek, by engaging in street rehabilitation and landscaping activities. Former inmates are employed as casuals to offer the services in return for wages, part of which is used to cater for their basic needs while the other part is remitted to the bank to repay their loans. This innovative arrangement has greatly helped to reduce congestion in prisons. The government of Namibia is also implementing the Community Service Order. This means that first offenders and those convicted of non-serious offences are committed to non-custodial sentences. This helps to reduce congestion in prisons. The judiciary has fully adopted this policy.

And to streamline the operations of this policy, the government of Namibia has established an active CSO office headed by a Deputy Commissioner of Prisons as the national coordinator of the Community Service programme.

The application of the above best practices is possible in Kenya, considering that prisoners here are occasionally released on presidential amnesty. However, the amnesty is restricted to cases involving short-term offenders with a balance of jail term to be served. This provision may be expanded to accommodate prisoners who are suffering from HIV/aids or TB, provided the weight of their offences is taken into account.

CHAPTER 13
ORGANISATIONAL STRUCTURE AND STAFFING

13.1 Introduction

The Prisons Headquarters is based at Magereza House in Nairobi. It is the Administrative Headquarters of the Prisons Service in Kenya headed by the Commissioner of Prisons.

The current Prisons staff strength is 16,042 against an authorised staff establishment of 18,744. This staff establishment comprises both uniformed and non-uniformed personnel (civil servants)

13.2 Current Organisational structure

Kenya Prison Service is headed by the Commissioner of Prisons. The Commissioner of Prisons is deputized by a Senior Deputy Commissioner of Prisons and to effectively perform this mandate, the Commissioner of Prisons has an establishment of five (5) directorates namely:-

i. Directorate of Operations headed by a Deputy Commissioner of Prisons
ii. Directorate of Inspections headed by a Deputy Commissioner of Prisons
iii. Technical Services headed by a Deputy Commissioner of prisons
iv. Prisons staff Training college headed by a Deputy Commissioner of Prisons
v. Finance and Administration headed by Senior Deputy Secretary

13.2.1 Operations

This Directorate is responsible to the Commissioner of Prisons on all security matters

13.2.2. Inspections

This Directorate is responsible to the Commissioner of Prisons for monitoring and evaluations of the activities in the Department including inspection of prison facilities.

13.2.3 Technical Services

This Directorate is responsible to the Commissioner of Prisons for all technical rehabilitation programmes, that is, industries, farms and buildings.

13.2.4 Prisons Staff Training College

This Directorate is responsible to the Commissioner for the overall management of the institution, training and staff development.

13.2.5 Finance and Administration

This Directorate is responsible to the Commissioner of Prisons for all administrative and financial matters.

13.3 Proposed Organizational Structure

The Prison Reform programmes in Kenya has witnessed the role of imprisonment evolve from being punitive to correctional through rehabilitation and reformation of offenders.

Changing political, ecological, technological, social-economical factors have contributed to high and complex crime rates which have led to rapid expansion of prisoners population.

The aforementioned rapid increase of prisoners population and the emerging new trends in crime has constituted a great challenge for the prisons department, thereby necessitating adoption of new approaches in the prison management style to effectively cope with complex process of rehabilitation and reformation of offenders. Consequently, the challenges have demanded for an increase of more qualified and focused personnel with proper job descriptions and specifications to effectively and adequately handle work in prisons.

To address this demand, the Permanent Secretary, Ministry of Home Affairs vide letter No.E/6/Vol.III/59 dated 5th October, 2006, requested the Permanent Secretary, Ministry of State for Public Service, to consider and approve the upgrading, expansion and creation of posts for the Prisons Department.

The Permanent Secretary, Ministry of State for Public Service vide letter No.DPM/1/3/1A/Vol.IV/122 constituted a team of Management Analysts to carry out a work load analysis of the Prisons Department together with a team of officers appointed by the Permanent Secretary, Ministry of Home Affairs.

13.4 Recommendations by the Task Force on workload analysis

The Taskforce submitted its report in December 2007 and made the following recommendations.

- *The grading structure of Prisons Department be reviewed to reflect the increased responsibilities and complexities and enable KPS execute its mandate.*
- *The upgrading of the prisons uniformed cadre from PG 14 to PG 15 and increased the number of levels from fourteen(14) to fifteen(15)*
- *The Commissioner of Prisons be deputized by two(2) Principal Assistants at the level of Senior Deputy Commissioner of Prisons !1 (SDCP1 – PG 14)*
- *The establishment of four (4) additional Directorates, namely, Finance and Administration, Legal and Remand*
- *Services, Security Intelligence and Prisons Farms.*
- *One (1) Senior Deputy Commissioner of Prisons 1 be responsible for three (3) Directorates namely, Finance and Administration; Operations, Legal and Remand Services while the other takes charge of technical services, Inspections and Prisons Farms.*
- *Industries and buildings sections remain under the Directorate of technical services.*
- *Prison farms and industries be properly managed and fully utilized to realize their full potential.*
- *Establishment of a management board to formulate appropriate policy and business practices for effective and efficient management of farms and industries.*
- *The appointment, the terms of service for the Commissioner of Prisons be translated from permanent to a three (3) year renewable contract to ensure security of tenure.*

13.5 Conclusion

The committee has analyzed the structure as contained in the report of the Task Force on workload analysis for the Prisons Department and recommends the same for adoption.

Annexes

ANNEX 1

Press Statement by the Commissioner of Prisons during a Press Conference at Prisons Headquarters, Nairobi 25th April 2008

Following the tension in Prisons countrywide, I wish to make the following statement to clarify our position on the following issues:

Risk Allowance

The Department has already made formal presentations on the need to pay these allowances to our staff lto the ministry headquarters the Office of the Vice-President & Ministry of Home Affairs as well as to the Ministry of State for Public Service. We are awaiting their formal response. This is a normal process through Government channels and therefore I wish to appeal to our staff to be patient as the issue is addressed.

Quelling Of Post Election Violence By Prisons Officers

The list of all who participated was submitted to our Ministry headquarters for consideration. We are awaiting the final decision on the matter.

Magereza Academy

100 Acres have been set aside. The Provincial Prisons Commander Rift Valley and the Officer in-Charge Naivasha Main have already started work on putting beacons on the site with help from this headquarters.

The Bank account has Kshs.25,472,674.85 as at 15th April, 2008. Construction will start by next month. All the monies are in safe custody and staff need not worry.

Deaths In Naivasha

3 Prisoners died after consuming suspected contaminated juice.

I wish to appeal to members of our staff to be patient. However, being members of a disciplined service they are expected to be disciplined at all times. The Prisons Act Cap 90 Section 63 (1) states: Any person who by any means directly or indirectly procures or persuades, or attempts to procure or persuades, any prison officer to desert, or who aids, abets or is accessory to the desertion of any prison officer, or who, having reason to believe that any person is a deserter, harbours such deserter, or aids him to concealing himself, or assist in his rescue, shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding four thousand shillings, or to both such imprisonment and such fine.

63(2) Any person who directly or indirectly instigates, commands, counsels, or solicits any mutiny, sedition or disobedience to any lawful command of a prison officer to any other prison officer, or maliciously endeavours to seduce any prison officer from his allegiance or duty, shall be guilty or an offence and liable to imprisonments for a term not exceeding two years or to a fine not exceeding six thousand shillings, or to both such imprisonment and such fine.

Therefore, all Prisons officers should be aware of the consequences or their actions especially with regard to engaging in mutinous behaviour. Serious disciplinary action will be taken on those inciting others, circulating SMS meant to incite and also engaging in any work stoppage whatsoever. The Provincial Prisons Commanders and officers-in-Charge are under strict instructions to ensure normal Prisons operations go on without let or hindrance. Investigations have been launched to identify the few authors of these unfortunate events with a view to taking disciplinary action on them.

Thank you and God bless you.

Gilbert M. Omondi, CBS
COMMISSIONER OF PRISON

ANNEX 2

Kenya Prisons Service Reforms Questionaire

1. Identify grievances that have been raised by the Prison Warders and wardresses and make recommendations for improvement of terms of service and working conditions with specific regards to:

   a. Scheme of service (recruitment, promotions, leave, transfers and others)

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   b. Housing

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   c. Medical

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   d. Uniforms

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   Others (Specify)

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   Suggest ways in which these can be improved:

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2. Review the operations of prison farms and industries and make recommendations that can enhance productivity, food self reliance and effective rehabilitation of inmates

Staff

a. How can prison farms and industries be improved to enhance productivity

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b. Suggest ways and methods in which food self reliance can be achieved in prison farms

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Do you find the rehabilitation programmes in the Prison farms and industries effective? If so which among these is most efficient and why

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Inmates

i) Chaplaincy and Welfare

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ii) Technical Schools/ Vocational Training

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iii) K.C.P.E& K.C.S.E.

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.....Borstal Institutions

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3. Review the existing prisons service management structure so as to enhance achievement of the strategic objectives of the Prisons Department.

a. What in your view is the existing prison service management structure

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b. How effective is it?

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c. Are you aware of the existing strategic objectives of the Prisons Department? .....

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d. Suggest ways in which these can be improved to make it more efficient

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4. Examine the resource base of the Prison Service and make recommendation for improvement of resource utilization, sustainability, and accountability.

a. Give recommendations on how the Prisons Service resource base can be improved on utilization of

existing resources like:

i). Farms

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ii). Machinery

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iii). Workshops

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iv). Quarries .....
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v). Others(specify)

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If so, are the products that are generated from the farms, workshops and quarries etc add value to the system.

b). How transparently and accountably are the resources within the Prisons Service handled? .....
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i). Farms

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ii). Machinery

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iii). Workshops

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iv). Quarries .....

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v). Others(specify) .....

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Give recommendations on how the resource base in prison can be improved

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5. Review the Prisons reform and rehabilitation programmes in line with international best practice in correctional management and make appropriate recommendations.

a). What Prisons reforms and rehabilitation programmes exist in your station?

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If so, do they meet the international best practices in correctional management? .....

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b). Make recommendations on how best practices in correctional management can be improved

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6. Review the state of security in Penal Institutions.

a). In general what is the state of security in your institution?

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b). Give recommendations on what can be done to improve the situation:

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7. Review the current criminal justice system in relation to congestion and other living conditions of both inmates and staff in Penal Institutions.

a). Give recommendations on how the Criminal Justice System can be improved

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- b). With particular regards to;

i). Staff give recommendations on how the living conditions can be improved .....

.....

ii). Inmates .....

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8 Review the state of discipline, commitment and integrity of Prisons officers and make appropriate recommendations

a) What is your honest view on the state of discipline and commitment of Prisons officers

i) Discipline

ii) Commitment

iii) Integrity

Give recommendations of improving the above

9. Inquire into any other pertinent issues that affect the operations of the Kenya Prisons Service.

a). What in your view are other pertinent issues that affect the operation of the Kenya Prisons that can be addressed?

i) Immediately (1- 6 Months)

ii) Mid-term (6-12months)

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iii). Long Term (1- 5 years)

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Give general comments on any other issues

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ANNEX 3

Stakeholders Consulted

	Date	Interest Group	Team Leader	Venue
1	22nd May 2008	Retired Prisons Officers	Mr. Samuel Mwangi	Nyeri Green Hills
2	27th May 2008	Kenya National Commission on Human Rights	Dr. Florence Simbiri Jaoko	Jogoo House Board Room
3	27th May 2008	Law Reform Commission Presentation	Dr. Florence Simbiri Jaoko	Jogoo House Board Room
4	27th May 2008	Kenya Magistrates and Judges Association	Justice Isaac Lenaola	Jogoo House Board Room
5	27th May 2008	International Commission of Jurists	Rita Shako	Jogoo House Board Room
6	29th May 2008	AP Commandant	Kinuthia Mbugua	Office of the President
7	29th May 2008	Muslims for Human Rights (MUHURI)	Fatuma Abdulrahim Saad	Jogoo House Board Room
8	30th May 2008	Commissioner of Police	Maj. Gen. Ali	Police Head Quarters
9	30th May 2008	Legal Resource Foundation	Ms Jedida Wakonyo	Jogoo House Board Room
10	5th June 2008	Jamii Bora Trust Housing Project	Ingrid Monroe	Jogoo House Board Room
11	5th June 2008	Philemon Trust	Mr. Kevin Mwikya	Jogoo House Board Room
12	6th June 2008	Governance Justice Law & Order Sector	Mr. Jacques Carstens	Jogoo House Board Room
13	6th June 2008	Probation Department Representation	Mr. Joshua Siambi	Jogoo House Board Room
14	9th June 2008	Chief of General Staff	General Jeremiah Kianga	Defence HQ Ulinzi House
15	10th June 2008	Jamii Bora Trust	Site Visit	Kaputei - Athi River
16	11th June 2008	Renewed Life HIV/AIDS Consultants	Muthoni Gachanja	Jogoo House Board Room
17	11th June 2008	Liverpool VCT	Lorna Dias	Jogoo House Board Room
18	12th June 2008	PS, VP & Min. of Home Affairs	Dr. Ludeki Chweya	Jogoo House Board Room
19	12th June 2008	Center For Disease Control	Dr Mwandi	Jogoo House Board Room
20	12th June 2008	Faraja Trust	Fr.Peter	Jogoo House Board Room
21	13th June 2008	Locost Housing Construction Company	Mr. Gichana Moturi	Jogoo House Board Room
22	13th June 2008	Children's' Department Representation	Mrs Magaret Basigwa	Jogoo House Board Room
23	13th June 2008	Media	Mr. Silas Kinyungu	Jogoo House Board Room
24	18th June 2008	Chief Justice, Judiciary	Justice Evans Gicheru	High Court
25	23rd June 2008	Insurance Bonds Representation	Mr. Joel Koskei	Jogoo House Board Room
26	2nd July 2008	Director of Public Prosecution	Mr. Keriako Tobiko	NSSF Building
27	7th July 2008	PS, Treasury	Mr. Joseph Kinyua	Treasury Building

ANNEX 4

List Of Documents And Materials Reviewed

1. Terms of Reference.
2. Kenya Prisons Scheme of Service For Uniformed Personnel – 2007
3. Kenya Prisons Strategic Plan 2005-2009
4. Prisons Report on Emerging Challenges of 2nd April, 2007
5. The RRI Report
6. Cap 92 – Prisons Act
7. Cap 90 – Borstal Act
8. Cap 185 – The Service Commission Act
9. Standing Committee on Human Rights
10. Special Report on Inspection of Kenyan Prisons
11. Report of the Inter-ministerial Taskforce on the De-Congestion of Prisons in Kenya
12. Report of the Workshop of the review of Cap 90 held at the Great Rift Lodge
13. Team A and Team B Itinerary for field visits.
14. Kenya National Commission on Human Rights and Law Reform Commission Presentation
15. Summary of Recommended Sections for Review in Cap 90
16. Justice Lenaola's Presentation – Court Users Committee Concept and Implimentation
17. ICJ Presentation
18. Input to The TORs For The Committee Investigating The Crisis In The Kenya Prisons Service. – Submitted by the Commissioner of Prisons.
19. Prisons Report - Commissioner of Prisons and Heads of Sections PowerPoint Presentation.
20. Prisons Department - Housing Status
21. Prisons Department - Technical Services Memorandum
22. Legal Resource Foundation – Human Rights State in Prisons
23. LRF Brochures and Magazines
24. MUHURI Presentation
25. PHQ -Junior Officers Presentation
26. Administration Police Strategic Plan
27. Kenya Vision 2030
28. Kenya Prisons Workload Analysis
29. Handbook on H/Rights in Kenya Prisons
30. Kenya Prisons HIV/AIDS Policy
31. Inter-Ministerial Taskforce on the Decongestion of Prisons in Kenya
32. The Panari Declaration
33. Kenya Prisons Part of the Constitutional Review Process
34. Beyond the Open Door Policy
35. Pan African Conference on Penal and Prisons Reforms
36. CFO Report
37. DD/HRM Report
38. CE Report
39. PAC Report
40. PPO Report
41. ICT Report
42. HRD Report
43. Renewed Life HIV/AIDS Consultants
44. Liverpool VCT Presentation

45. P.S OVP &MOHA Presentation
46. CDC Slide Presentation
47. Faraja Trust Presentation and Profile
48. LHCC Profile and Presentation
49. Media Presentation
50. Children's' Department Representation
51. Children's Act
52. Penal Code
53. Constitution of Kenya
54. Mt. Kenya Round Table Declaration
55. Kenya Prisons Standing Order
56. Penal Reform International – Good Practices in Reducing Pre-Trial Detention.
57. CESCA Reports
58. The Ndungu Report
59. Summarized Responses from Questionnaires
60. Summarized Memoranda
61. Food and Ration Issues
62. Kenya Prisons Service Charter
63. Kenya Prisons Service Training Curriculum for Chief Officers
64. Kenya Prisons Service Training Curriculum for Sergeants
65. Kenya Prisons Service Training Curriculum for Corporals
66. Kenya Prisons Service Training Curriculum for Warders and Wardresses
67. Postings for Recruits

Kenya Parliament Library
P. O. Box 41842 - 00100, Nairobi

ANNEX 5

Kenya Prisons Service Proposals for Constitutional Review

The Kenya Correctional Service

Establishment

270. (1) There is established the Kenya Correctional Service.

(2) The objects of the Kenya Correctional Service are to ensure –

(a) The safe custody of the country's prison population and the provision of humane living conditions in prisons;

(b) The supervision of offenders within the community who are serving non-custodial sentences or who are on probation; and

(c) The rehabilitation of offenders in order to facilitate their return to useful lives within society.

(3) The Kenya Correctional Service shall be structured and regulated so as to –

(a) Achieve the highest standards of professionalism and discipline among its members and by its members in the exercise of their respective powers;

(b) Work to eliminate and avoid corruption;

(c) Observe human rights standards in the exercise of its powers and the performance of its functions; and

(d) Train its members to the highest possible standards of competence and on minimal use of force, to have integrity and respect for human rights and fundamental freedoms and dignity, and to recognize the duty of accountability to society.

(4) The functions of the Kenya Correctional Service shall be organized to take into account the structure of devolution.

(5) Parliament shall enact legislation –

(a) establishing adequate mechanisms for the accountability and governance of the Kenya Correctional Service;

(b) providing for the organization, administration and functioning of the Kenya Correctional Service; and

(c) generally regulating the Kenya Correctional Service.

Director-General

271. (1) There is established the office of Director-General of the Kenya Correctional Service.

(2) The Director-General shall be appointed by the President, on the advice of the Public Service Commission and after approval by the National Assembly.

(3) A person shall not be appointed as Director-General unless that person holds a degree from a recognized university; and

(a) has served in the Kenya Correctional Service for at least ten years; or

(b) has wide experience in the management and administration of correctional services.

(4) The power to appoint persons to hold or act in offices in the Kenya Correctional Service, including the power to confirm appointments and to exercise disciplinary control over persons holding or acting in those offices, shall vest in the Public Service Commission.

(5) The Director-General shall hold office for a term of five years and shall be eligible for re-appointment for one further term of five years.

(6) Clause 290(3) relating to qualifications of Commissioners shall apply to the Director General.

ANNEX 6
Proposed Ammendments to the Prisons Act Cap 90

PART III POWERS, DUTIES AND PRIVILEGES OF PRISON OFFICERS

SECTION 7
It was recommended that the word "her" be added along side "he".[1]

SECTION 9

Include the words obligations and responsibilities.

PROPOSED AMENDMENT

After the word privileges insert the following: "including the obligations and responsibilities thereto";

SECTION 10

PROPOSED AMENDMENT

Any prison officer who leaves the employ of the Services and does not surrender at the time of leaving all prison property under their care including uniforms shall be guilty of a criminal offence and liable to be charged before a Magistrate Court.

Section 11 (4)

It was recommended that searches should be conducted as soon as is practicable and that they should be conducted in a humane manner.

Section 11 (5)

It was recommended that officers of same gender to the subject of the search should conduct searches.

SECTION 12

It was recommended that nature of force should be clarified.

PROPOSED AMENDMENT

Provided that weapons shall not be used as authorized in paragraphs (a), (b) and (c) of this section unless the officer has reasonable cause to believe that he cannot otherwise prevent escape, breaking out or riotous behaviour as the case may be. Provided further that where such force is used and it results in aggravated injury to the prisoner or prison officer, an independent inquiry shall be instituted to determine the circumstances and make recommendations therein.

SECTION 13

It was recommended that administrative measures be taken to make provision for photographic equipment,

1 A generic recommendation has been made that the whole act be engendered and simplified.

which is currently lacking.

Section 14

It was recommended that where a Senior Officer orders a junior officer to carry out any orders on his behalf then provision should be made for liability. It was further recommended that prison officers should only be expected to carry out lawful orders.[2]

PART IV OFFENCES BY PRISON OFFICERS

SECTION 15(2)

It was recommended that the fines attached to this section to be updated within the penal provisions dealing with sentencing.[3]

SECTION 17

It was recommended that the fine be enhanced.

Any prison officer who assaults, threatens or insults any other officer, when such officer is on duty or when such assault, threat or insult relates to or is consequent upon the discharge of duty by the officer so assaulted, threatened or insulted, shall be guilty of an offence and liable to a fine not exceeding Kshs 10,000 or for a term of imprisonment not exceeding 12 months, or to both such fine and such imprisonment.

SECTION 18 AND RULE 124[4]

SECTION 18 (D)

It was recommended that authority from the Commissioner to release a press statement - to be repealed in line with opening up policy.[5]

SECTION 20

It was recommended that since prison officers are prohibited from joining or forming trade unions; there is an urgent need to enhance and activate the Prisons Council; whose mandate should include addressing the welfare of prison officers, including creating mechanisms for the airing of labour grievances.

It was further recommended that provisions for the establishment of a Prison's Staff Representative Association within the body of the Act.

PROPOSED AMENDMENT

SECTION 20 (D)

For purposes of these provisions a staff association shall be established, through an elective process whose membership and representation shall include all cadres of officers, provided that the Commissioner shall be precluded from holding any office of the association.

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2 This recommendation should be considered within the context of Prison standing orders (i.e. where the orders are from senior to junior officers), otherwise this section is dealing with warrants issued by courts and other authorities who are presumed to have powers to issue such orders Clear provisions should be made to enable prison officers defy such orders on grounds of illegality or impropriety, and the handling of institutional conflicts arising therein.

3 The penal provisions dealing with sentencing have already been amended vide Criminal Law Amendment Act, 2003, No 5 of 2003 which amends Section 28 (2) of the Penal Code

4 See footnote on Section 7

5 This recommendation has to be made within the wider context of the government's policy on access to information and the categorization therein

SECTION 21

Amend the provision to allow communication taking into account transparency and security concerns.

SECTION 21 (1)

PROPOSED AMENDMENT

No prison officer shall engage in inappropriate business dealings including partnerships with any prisoner, with any visitor to a prison or with any friend of such visitor, or with any discharged prisoner.

SECTION 22 (2)

It was recommended that searches should not be arbitrarily carried out.

PROPOSED AMENDMENT

Upon reasonable suspicion an officer may order the search at any time of an officer who is junior in rank to himself.

SECTION 25

It was recommended by the group that de-gazzetment of public land should only be done in public interest in order to inject transparency.

It was also recommended that the provision under Section 25 requiring approval by the Minister whenever there is need to create a temporary prison be done away with.[6]

PART VI ADMISSION, CONTROL AND DISCHARGE OF PRISONERS

SECTION 31

It was recommended that there should be separate facilities and body dealing with and holding remand prisoners.[7]

SECTION 32

It was recommended that this Section be repealed, as it was no longer relevant.

SECTION 33

It was recommended that where a person requires more witnesses than those provided by the prosecution, then they should bear the cost of production of such witnesses if they are in prison custody.[8]

SECTION 35

It was recommended that maintenance of civil debtors be increased to Ksh 1000 per day.[9]

6 After further discussions during the validation workshop it was agreed that the Minister's approval is required for political and financial accountability and responsibility of such action.

7 It was agreed during the validation workshop that this is a policy matter that needs to be discussed with other stakeholders such as the police, and further that it could be addressed within the proposed structural changes of the prison services to correctional services.

8 It was agreed at the validation workshop that this recommendation would be contrary to Section 77 (1) (e) of the Constitution and hence the section retained as it is.

9 Moved to Rule 102

SECTION 37

Where there is need to transfer a prisoner to another prison, then sufficient reasons should be given and such transfer should not be used as a punishment against prisoners.

PROPOSED AMENDMENT

A Prisoner may be removed from any prison to any other prison from time to time at the Commissioner's discretion.

Provided that reasons for such removal shall be given in writing and the same shall not be carried out in a punitive or discriminative manner.

SECTION 38

Remarks were made against this section to the effect that the mentally ill or persons of unsound mind should not be under the authority of prisons.[10]

PROPOSED AMENDMENT

SECTION 38 (1)

After the word "Kenya" delete and be there detained, and replace with **"for detention and treatment"**

SECTION 43

It was recommended that the word "hard" describing "labour" be deleted. And further that the labour of prisoners should only be deployed for public and official use.[11]

PROPOSED AMENDMENT

Every prisoner under the sentence of imprisonment with productive work maybe kept to productive work within or without the precincts of any prison, in such type of employment as the Commissioner may direct. Provided that the type of employment shall be such that benefits the public generally or part thereof;

Agreed that using prisoners for private sector labour will enhance chances and diversity of the kind of skills

REMISSION

SECTION 46(1)

It was recommended that the right to remission for the prisoners need to be addressed in imperative language so that they know they have the right but which may be taken away under circumstances. Maybe therefore, the word "may" to be replaced with the word "shall".[12]

SECTION 46 (3) (A)

It was recommended that the phrase "through his fault" should be explained. Thus the presumption that the prisoner caused himself to go to hospital so as to avoid prison routine should be clearly shown.

10 After discussions at the validation workshop, it was agreed that these provisions relate to the treatment prisoners who are mentally ill and were therefore not objectionable.

11 After further discussions at the validation workshop, it was agreed that controlled and properly supervised deployment of prison labour to private sector for pay, will enhance chances for rehabilitation through the introduction of diversity of skills.

12 The issue of knowledge of the prisoner of these right should be addressed through a different forum; such as a prisoner's handbook or joining instructions.

PROPOSED AMENDMENT TO BE INSERTED AFTER SUB RULE (3) (A)

Provided that where such allegation is made against a prisoner, the onus shall be upon the person making the allegation to prove it.

In the alternative it was recommended that the whole sub section be repealed the reason being: - remission should be a right and that right should not be qualified. There are other instruments which may deal with such offenders.[13]

SECTION 46 (4)

It was recommended that conditions for provision for further remission by the Minister should be clearly provided; otherwise it is subject to abuse.[14]

SECTION 46 (5)

It was recommended that the sub section be deleted or retained depending on the decision made on 46 (3) (a).[15]

PART VIII COMPULSORY SUPERVISION ORDERS (PAROLE)

SECTION 49

It was recommended that the current period of 3 months should be increased to 6 months.

It was recommended that the provisions as they exist now should be implemented on an experimental basis. It was suggested that the implementation be carried out through the officer in charge in consultation with the Provincial Prisons Commandant, the local probation office and that the names of the parolees be forwarded to the Commissioner. In terms of supervision it was recommended that the Police, Probation and local administrators e.g. elders, chiefs, district officers, be involved.

Alternatively the discharge board (constitute itself for purpose of parole with the Probation as Chair membership should include, police and local administration,) can advise the Commissioner on who is to be discharged. Page 99 period of parole increased to 30 days.[16]

PART IX OFFENCES BY PRISONERS

SECTION 51(1)

Delete the words "administrative officer"

Sections 51 (1) (a) and (2) (a) and Section 55 as read together with rules 65, 69, 71, 72, 74, 76 and 77.

It was recommended that all provision relating to penal/punishment diet and corporal punishment to be deleted.

No consensus emerged on whether or not to retain punishment cells i.e. should it be retained merely as a punitive measure. It was further suggested that solitary confinement be defined and there be conditions tied to such confinement and that the same should be subject to constant review.

It was further recommended that a Section be created to make provisions for an internal redress system for prisoners who may be aggrieved by actions taken by prison officials. The redress system should be reviewed within the context of rule 65.

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13 After further discussions at the validation workshop, it was agreed that remission is not an absolute right, it is conditional upon the good behaviour and industry of the prisoner with the aim of encouraging rehabilitation at a person level, and therefore, should be retained in its present form

14 After further discussions at the validation workshop it was agreed that the Review Board be restructured to take into account these concerns

15 The validation workshop recommended that the Section be retained

16 See consultant's main recommendations on parole and remission

SECTION 56

It was recommended that the section be redefined to include accountability and transparency.

PART XIYOUTH CORRECTIVE TRAINING CENTRES

SECTION 66 (1)

1 Recommended that the Director General should have the powers currently conferred upon the minister to declare any building or place a youth corrective centre.

2 That a separate Act of Parliament be introduced to cater for the administration of Youth Corrective Centres, and further that provision be made for similar facilities for young female offender and that programmes offered therein should be diversified to meet the current needs of the economy. Additionally that prison staff dealing with youthful offenders be appropriately trained.

SUBSIDIARY LEGISLATION

RULE 5 (1) (A)

It was recommended that the apparent age be increased from 17 to 21.

PROPOSED AMENDMENT

Young Prisoner Class, which shall consist of convicted criminal prisoners under the apparent age of 21 years, or young convicted criminal prisoners of whatever age who in the opinion of the officer in charge should not having regard to their age and character, be classed with adult prisoners;

Provided that the officer in charge shall ensure that such young prisoners who by virtue of their previous records are likely to negatively influence other young prisoners are kept separately.

RULE 5 (1) (D)

Delete the words "vagrants" and "civil lunatics"

RULE 5 (1) (D)

Un-convicted Class, which shall consist of all debtors, persons on remand or awaiting trial.

RULE 5 (2)

Delete the phrase "as far as practicable" and new rule to read as follows:

Arrangements shall be made at all prisons to provide facilities for effectively segregating the various classes of prisoners from each other at all times.

RULE 6

It is recommended that there be checks and balances to avoid abuse of discretion given to the reception boards to arrange for the training of long term prisoners.

RULE 6 (1)

At every prison there shall be a Reception Board consisting of the Officer in charge and such other persons, which such persons may include private citizens or organizations as the Officer in Charge shall determine; who shall review every long sentence prisoner as soon as possible after his reception in prison and consider what arrangements are to be made for his training; additional consideration shall be given by the board to ensure that as far as far security concerns permit that long term prisoners serve sentences close to where their next of kin is located.

RULE 6 (3)

The Officer in Charge shall forward to the Commissioner the names of all the members of the Reception Board, and any changes therein. He shall also forward to the Commissioner the minutes of the Board's meetings, copies of which shall be retained at the Officer in Charge's offices and which shall be open for inspection by interested parties.

RULE 7 (1)

The Officer in Charge may in his discretion at any time remove from the Young Prisoner Class a prisoner of 21 years of age or over whom he regards as unsuitable by character for that class, and may place in the Star Class.

RULE 7 (2)

PROVISIO AT THE END OF THE SUBSECTION TO READ AS FOLLOWS:

Provided that where the Officer exercises his discretion under sub rule 1 and 2, such decision shall be in writing and shall be made available for inspection by authorized/interested parties and further that where a prisoner is aggrieved by such decision, they shall be referred to the Reception Board, where they are dissatisfied with the Reception Board's decision, a final appeal shall lie with the Board of Visiting Justices.

RULE 7 (3)

The Commissioner shall require each class of convicted criminal prisoner to wear a distinguishing badge or uniform.

RULE 8

It was recommended that sufficient reasons should be given for accountability and transparent in the making of such decisions.

PROPOSED PROVISO

Provided that any such decision by the Commissioner shall be in writing and shall be made available for inspection by authorized/interested parties; and further that whenever such discretion is exercised to the material detriment of a prisoner, the aggrieved prisoner shall be entitled to a hearing by the Review Board.

RULE 9

Recommended that time served in remand by suspects should be taken into account during sentencing.

RULE 15(1)

It was recommended that an aggrieved prisoner should be able to challenge the decisions and or actions of prison authorities. The meeting was informed that in countries such as the UK, there is an Ombudsman to deal

with complaints in prison. It is also recognized that there are two types of complaints those emanating from the prisoners against prison officials and those raised by prison officers and staff against the prison system. It is recommended that the redress system for prisoners be dealt with by either the Board of Visiting Justices or the Review Board. As far as Prison officers and staff are concerned recommendations have already been made to strengthen the Prison Council.

RULE 16

It was recommended that uniforms should be mandatory for all prisoners.

PROPOSED AMENDMENT TO READ AS FOLLOWS:

The Commissioner shall ensure that prisoners in each stage are issued with a special uniform or badge.

RULE 17

Discussion centred on whether conjugal visits/rights should be a privilege to the prisoners and whether enjoyment of special status should confer family visits. It was recommended that facilities for the exercise of conjugal rights should be located outside prison areas.

Currently the facilities do not cater for family visits which includes children – so recommendation that facilities conducive for family visits in which case it will be covered under visits not privilege.

RULE 19

It was recommended that the powers of promotion currently vested in the Commissioner be given to the Provincial Prisons Commander and that in the event of dissatisfaction, then the aggrieved prisoners to have the right of appeal to the Commissioner who shall make a final determination

RULE 19 (1)

Grade A – prisoners who in the opinion of the Provincial Prisons Commander are of exemplary conduct and are skilled in their trade, and all special stage prisoners;

RULE 19 (2)

Promotions to Grade A shall be made by the Provincial Prisons Commander.....
Provided that no such prisoner shall earn more than a Grade A prisoner, and further that where any prisoner is dissatisfied with the decision of the Provincial Commander or the Officer in Charge the matter shall be referred to the Commissioner for a final settlement.

RULE 20

It was recommended that the Minister to consult with the Commissioner of Prisons which shall be reviewed from time to time and the amounts shall be reasonable

PROPOSED RULE TO READ AS FOLLOWS:

The Minister in consultation with the Commissioner shall fix the rate of earnings and the same shall be reviewed from time to time taking into account inflation rates and cost of living generally.

RULE 21 (1)

It was proposed that the rule be amended to delete the word "tobacco" and to replace with purchase of such

goods as the officer in charge may allow. In view of the recommendation that Rule 21 (2) be deleted, the proposed amendment proceeds from the assumption that all earning scheme prisoners are entitled to use some of the earning while in prison and the balance to be paid out to them upon release, so rule 21(2) is collapsed into 21(1)

PROPOSED AMENDMENT TO READ AS FOLLOWS:

A prisoner on the earning scheme may spend up to two thirds of the total monthly earnings upon the purchase of such items as the officer in charge may allow. The balance of the total earnings shall be paid out to the prisoners upon release.

RULE 21(2) DELETED

RULE 22

Recommendation was made that there should be provision for a medical facility in every prison.[17]

RULE 23

Recommended that in the "new look" Prison Services provisions should be made for an institutionalised administrative structure to address medical and health requirements.[18]

RULE 26

It was recommended that in the carrying out of the functions listed under c and d, that the medical officer shall do so in close consultation with the public health officer.

PROPOSED AMENDMENT:

Provided that the execution of © and (d) shall be in consultation with the public health officer, which officer shall be required to make a report and keep a record of the sanitary conditions on every visit.

RULE 27

It was recommended that where the Officer in charge does not comply with the advice of the medical officer then reasons for failure to comply should be recorded.

PROPOSED AMENDMENT

The medical officer shall direct the officer in charge as to any prisoners that should be transferred from the prison which they are in to a hospital, mental hospital or leper settlement.

Provided that where the Officer in Charge is not able to comply with such advice, then he shall give his reasons in writing and in consultation with the doctor and medical facility in question seek remedial measures.

RULE 30

It was recommended that the records kept by the medical officer should include any complaints by prisoners.

Further that the rule 30 (d) should include a report on the sanitary conditions in prison.

17 It should be noted that the rule does make specific provision for medical facilities in every prison. From the discussions it was clear that the issue was on the quality of services and the accountability systems, as a result it was proposed that in addition to having other professional cadres in Prison, there should be a cadre for medical personnel directly deployed and answerable to the Commissioner of Prisons

18 See footnote 1

PROPOSED AMENDMENTS

RULE 30 (B)

A journal containing his comments and on the state of the prison including sanitary conditions as well as the state of prisoners including general or individual complaints by the prisoners,[19]

ACCOMODATION

RULE 32(1)

It was recommended that provision should be made for adequate space further proposed that the officer in charge should have powers to refuse to admit more prisons where the prison is full [20]

PROPOSED AMENDMENT

PROVISION TO RULE 32 (4)

Provided that where the officer in charge determines that no more prisoners can be adequately accommodated by the prison, they shall not be entitled to accept such prisoners whose proper accommodation is not guaranteed.

RULE 32 (2)

It was recommended that there should be gender parity reflected in the wording, in this provision and other similar provisions throughout the Act.

RULE 32 (3)

It was recommended that minors must be separated from adults and further that female and male minors must be confined in separate facilities.

PROPOSED AMENDMENT

Prisoners appearing to be under 21 years of age whether male or female, shall be kept apart as far as practicable from adults, and confined by gender in separate buildings or a separate part of the prison

RULES 35 - 36

It was recommended that in the course of conducting searches and in particular body searches that the dignity of the prisoners should be up held through the use of modern equipment.

PROPOSED AMENDMENT

RULE 36 (1)

The searching of a prisoner shall be conducted in as seemly a manner as is consistent with the necessity for discovering concealed articles.

19 The proposed amendment has collapsed the two proposals into rule 30 (b)

20 Care should still be taken considering that a blanket proposal such as this may lead to gross injustice e.g. what happens when one is faced with some one convicted with very serious offences such as robbery, rape e.t.c.

Provided that the said search shall be conducted in a manner that is humane, dignified and safe guards the privacy of the prisoner.

RULE 38

Proposed that particulars of tribes should be done away with and the reason given was that the requirements of such particulars reinforce negative social ethnic attitudes/biases [21]

RULE 41

PROPOSED THAT THE RULE BE RE-WORDED AS FOLLOWS;

Upon admittance and throughout the stay of a prisoner, the officer in charge shall ensure that each and every prisoner maintains the highest standards of personal hygiene and cleanliness. In so doing the officer shall ensure that basic toiletry (water, soap, tooth brushes, toothpaste, tissue paper and sanitary towels for female inmates is provided to each prisoner)

PART V – TREATMENT OF PRISONERS

RULE 45 (3)

It was felt that these provisions might lead to a prison officer incriminating himself.[22]

PROPOSED AMENDMENT

Whenever a prisoner sustains or complains of injury while under the care of a prison officer through whatever means, the prison officer shall as soon as possible have the prisoner examined by a medical officer, and shall report the incident to the officer in charge; the onus shall be on the prison officer to show that the injuries were not occasioned by his negligence.

- ❖ Further recommendations that prison officers should wear identification [23]
- ❖ There is also need for the officers to be protected against violence from the prisoners [24]

RULE 48 (2)

It was recommended that the Public health officer should certify that such clothing and beddings have been washed, disinfected and dried thoroughly before reissue and a report of such inspection should form part of the records kept by the medical officer.

THE FOLLOWING IS PROPOSED AS A NEW SUB RULE TO CATER FOR THE ABOVE RECOMMENDATION.

RULE 48 (3)

The Public Health Officer shall certify that sub-rule 1 and 2 are complied with and make a report accordingly

21 Upon further discussions it was agreed that the retention of the provisions are necessary to safeguard the interests of minorities and any other person who may wish to prove discriminative practices and may require such data to support their claims

22 After further discussions it was agreed to retain the provisions which are in conformity with the UN minimum standards Rule 54 (1)

23 This recommendation should go to the standing orders

24 It is not possible to make specific recommendations within the Statute, in this regard, it is assumed that where prisoners commit acts of violence against prison officers or other prisoners, they should be subjected to due process (See Rule 67 (f)). Additionally considering the dangers associated with interacting with prisoners, GOK should come up with a compensation scheme for the officers

which report shall be open to inspection by interested parties.

RULE 49 (3)

This sub rule is repealed

RULE 51 (1)

Provisions should be made for sterilization of shaving equipment.

PROPOSED - PROVISO

Provided that where shaving is required that all equipment used shall be properly sterilized after and before use by the next prisoner

RULE 54

It was proposed that subject to security requirements, the distribution of prisoners to various facilities should take into consideration proximity to their homes or to locality of their next of kin [25]

RULE 57

PROPOSED PROVISO

Provided that where more than three persons desire to visit the prisoner, the officer in charge shall have the discretion to allow or disallow such additional visitors

RULE 57 (4)

It was recommended that reasons for refusal to be searched should be given [26]

RULE 58

It was proposed that letters should be allowed as long as they are censored.

PROPOSED AMENDMENT

RULE 58 (1)

Every letter to or from a prisoner shall be read by the officer in charge or by a responsible officer deputed by him and it shall be within the discretion of the officer in charge or the deputed officer to stop any letter on the grounds that the its contents are objectionable; in the case of an outgoing letter, the prisoner shall be informed and given the opportunity to rewrite the letter

RULE 58 (2) IS REPEALED

RULE 59

It is recommended that in line with the UN minimum standards that provisions be made to cater for all foreign

25 See Rule 6 (1) as amended to reflect this recommendation

26 It was agreed during the validation that the recommendation did not serve any useful purpose considering that due to increased security measures, searches have become a routing feature in the lives of Kenyans and that if visitors did not wish to submit to searches then they should not be allowed into prison facilities

prisoners to have access to their diplomatic representatives.

PROPOSED AMENDMENT

RULE 59 (2)

Any foreign prisoner or a prisoner who is a refugee in the country shall be given reasonable facilities to see his advocate and a representative of his country, in the case of refugees or stateless persons; facilities to see, either the state organ or international body or authority that is responsible for their welfare.

RULE 62

It was recommended that the rule be amended to ensure that prisoners who do not ascribe to any religion are not discriminated against

PROPOSED PROVISION TO RULE 62 (1)

Provided that prisoners shall not be discriminated against for indicating that they do not adhere to any religion

RULE 63

It was proposed that officers in charge should act in liaison with other government agencies, civil society and private sector in carrying out the responsibilities under the rule

PROPOSED PROVISO TO RULE 63 (1)

Provided that in the carrying out of these responsibilities the officer in charge shall endeavour to collaborate with other government departments and interested members of civil society and private sector

RULE 65

These provisions deal with complaints made by prisoners and to whom they may be made. However discussions under section 55 below came up with recommendations of more serious approach to addressing complaints from prisoners. Rule 65 seems to be of a generic nature and does not address concerns raised, namely those relating to complaints against measures of punishment or those of discretional powers, which may be exercised to the detriment of a prisoner. It was also recommended that the courts and not internal processes should deal with aggravated offences.[27]

RULE 66 (G)

It was proposed that the rule should refer to communication with unauthorized persons.[28]

PROPOSED AMENDMENT TO RULE 66 (G)

Communicates with specified prisoners, or any other persons without authority, or

RULE 66 (Q) (FORMERLY RULE 67 (D)

Commits any act of gross misconduct or insubordination
Shall be guilty of a minor prison offence and the same shall be dealt by the Officer in Charge

27 Rule 65 (1) makes provision for every prisoner to petition the Governor General, through the Commissioner. It is proposed that the Governor General be deleted and replaced with the President

28 Following further discussions at the validation workshop it was agreed that reference to unauthorized persons may require prisons officials to come up with a list of categories of persons, which be a very tedious exercise, hence the retention with amendment that prison officials can specify prisoners with whom unauthorized communication is not allowed

RULES 66 – 67

It was proposed that the minor prison offences should be dealt with by prison officials and the aggravated offences be referred to the police and dealt with by the courts. Consequently rule 67 is amended as follows;

RULE 67

Shall be guilty of an aggravated prison offence and shall be referred to the nearest police station for action.

RULE 69 (1) (A)

It was recommended that the words "penal diet" and "administration officer", be deleted.[29]

69 DELETE THE WORD 'COMMISSIONER' AND REPLACE WITH 'PROVINCIAL PRISON OFFICER'[30]

RULE 74 (B)

Delete the words "penal diet"

RULE 75

It was recommended that a prisoner undergoing punishment in a separate cell should be given similar beddings to those of other prisoners. The commissioner's discretionary powers are done away with.

PROPOSED AMENDMENT TO RULE 75

A prisoner undergoing punishment in a separate cell shall be supplied with such clothing and bedding similar to those supplied to other prisoners who are not subject to punishment.

RULE 77

Deleted

RULE 80 (1)

It was recommended that instead of using the word punishment, the same should be replaced with the word 'sanction". Further that the words "and corporal punishment book" to be deleted.

PROPOSED NEW RULE 80 (1)

In every prison a sanction book shall be kept.

RULES 83 – 84

It was recommended that other measures such as a dog section be adopted to reinforce the department.

RULE 86 (3)

It was recommended that where a decision is made to have a prisoner work in isolation then reasons should be given in writing and records kept accordingly.

29 Recommendation has been made to delete all references to "penal diet" and "administrative officer"

30 We should be advised by the Prison Department on which term to use throughout the Act, either Provincial Prisons Officer, or Provincial Prison Commandant

PROPOSED PROVISO TO RULE 86 (3) AND (4)

TO BE INSERTED AFTER SUB RULE (4)

Provided that in exercising the powers in rule (3) and (4); the reasons for such decisions shall be made in writing and made available to authorized/interested parties.

RULE 91 (1)

It was recommended that the word "Saturday" should be inserted between the words "on" and "Sunday".

THE RULE TO READ AS FOLLOWS:

Except where the Commissioner otherwise directs, prisoners shall not be required to do any work, other than keeping the prison clean and preparing food, on Saturdays, Sundays and public holidays.

Leave the rule as it is.

RULE 93

It was recommended that the term spent in remand should be included in computing the final sentence to be served by the accused.

SECTION 26 (3) OF THE PENAL CODE TO BE AMENDED BY INSERTING THE FOLLOWING PROVISO:

Provided that where a term of imprisonment is awarded, the same shall be commuted to the extent of the time spent by the offender in remand while awaiting trial.

VISITNG JUSTICES AND THE AFTER-CARE OF PRISONERS

RULE 106 (1)

PROPOSED AMENDMENT

Visiting justices shall visit the prisons to which they are appointed every month and any other time they deem desirable.

RULE 106 (2)

PROPOSED AMENDMENT

A visiting justice in addition to a prisoner officer or prison employee may be accompanied by any other authorized person during the course of inspection

RULE 107

After discussions on whether or not visiting justices should be accompanied by other persons other than prison officials, it was agreed that the current provisions should be retained.

Further recommended that

- The visits should be regular

- There should be a established a clear monitoring policy and mechanism of the visits
- Similarly, there should be a clear procedure to ensure implementation of recommendations made by the justices

Sub rule 2 add "any other authorized person"

109 (2) add, the visiting justice shall make a report of the visit to the commissioner, within 7 days, the officer in charge to make a report within 48 hours

RULE 109 (1)

PROPOSED AMENDMENT

After every visit, both the visiting justice and the officer in charge shall write a report; the officer in charge's report shall be forwarded to the Commissioner within 48 hours of the visit, while that of the visiting justice shall be forwarded to the Commissioner within one week of the visit. Copies of both reports shall be filed at the prison visited and shall be open to inspection by interested parties.

Rule 112 (1)

It was recommended that a clearer link be created between the Department of Probation (in particular it's after care services) and Prison Services.

PROPOSED AMENDMENT

The Commissioner shall establish in every prison a discharge board, which shall consist of the officer in charge as chairman; the in charge of Probation and After Care Services within the local jurisdiction shall be the secretary and such other persons as the Commissioner shall appoint including representatives of local civil society and community based organizations with interest in the rehabilitation of offenders.

RULE 112 (3)

It was recommended that the 4 years be replaced with 3 years to offer incentive to more prisoners, it was further recommended that the prison industry should include the other programmes run by prisons including academic ones.

PROPOSED AMENDMENT

A sum of money to be determined from time to time, by the Commissioner in consultation with the discharge boards, taking into account the cost of living; shall be awarded to by the discharge board to a prisoner who has undergone a sentence of 3 or more years of imprisonment or more and has shown special zeal and skill accompanied by exemplary conduct in any of the programs run for the prisoners.

RULE 113

It was recommended that all freed prisoners be provided with free transport to their homes.

PROPOSED AMENDMENT

Upon discharge from prison all prisoners shall be provided with either free transport or transportation costs to their final destination.

PART XI COMPOSITION OF THE SERVICE AND CONDITIONS OF SERVICE OF PRISON OFFICERS AND THEIR DISCIPLINE

RULE 120

PROPOSED AMENDMENT

Delete the word '"Commissioner" and replace with the words "Prison Council".[31]

RULE 123

It was recommended that the power to remove prison officers from the service should vest in the Prison Council and not the Commissioner.

Rule 123 (d), deleted on the basis that the provision can be open to abuse or selective prejudicial application.

RULE 123 (E)

If the Commissioner considers that it is in the public interest or in the interest of the Service, that he should be discharged, in which case the onus shall be on the Commissioner to prove that the action complained of is against public interest or the interest of the Service; or

RULE 123(F)

It was recommended that the criminal offence should be specified to include those relating to violence, integrity, and competency i.e. excluding offences that are petty.

PROPOSED AMENDMENT

If he has been convicted of a criminal offence involving violence, lack of integrity or that would compromise their competence to carry out their duties as prison officers.

RULE 124 (1) (D)

PROPOSED AMENDMENT

Causing nuisance while under the influence of alcohol or drugs within prison premises;

RULE 124 (1) (L)

This rule, which prohibits prison staff from borrowing from one another, was found to be oppressive and archaic. Spirited attempts were made by some of the participants from prison to have this provision retained; however the majority were of the view that prison staff should be able to conduct such personal affairs without interference from the authorities. It was recommended during the validation workshop that the provisions be deleted and provisions made that the officer in charge shall not be responsible for the settling of such disputes.[32]

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31 This provision should be discussed further viz a viz the proposals in the draft Constitution aimed at making the Prison/Correctional Service bodies that enjoy constitutional independence from the executive

32 This recommendation cannot be appropriately made within the Act, it is more advisable to make provisions in the standing orders and joining instructions of the officers

RULE 124 (1) (M)

PROPOSED AMENDMENT

Brings into prison any items that are likely to endanger security, or illegal substances;

RULE 124 (U)

This provision prohibiting prison officers from association with ex –prisoners without authority from the officer in charge was found to be a violation of the officer's right to associate. It was recommended that the same should be deleted. After further discussions at the validation workshop it was agreed that the provision be retained and be reworded as follows:

PROPOSED AMENDMENT

Associating with ex-prisoners in a manner that is likely to compromise security;

RULE 126 © RECOMMENDED THAT THE SAME BE DELETED

RULES 128, 130

Delete reference to Assistant Superintendent, as the position does not exist in the service.

OUTSTANDING ISSUES

CONJUGAL RIGHTS / FAMILY VISITS

Recognition was made of the fact that family relations plays a big role in the rehabilitation of prisoners, and yet the current provisions relating to visiting programmes are inadequate in terms of sustaining such relationships.

There is urgent need to address this issue especially considering the allegations of rape in male prisons and the dangers to HIV that this poses to victims of such forced sexual activities. However the logistics would need to be addressed seriously, within the context of the facilities, as they currently exist. Caution should be taken to ensure that any provisions that are made as of right to a prisoner should be capable of implementation immediately unless the provision includes a phased implementation plan. See proposal below for home leave as privilege for long term offenders of good conduct.

PAROLE

It was recommended that further research be carried out with regard to the current provisions; to find out why they have not been implemented, find out how other jurisdictions similar to Kenya, in terms of social, economic and cultural infrastructure have dealt with the issue of parole. Make very clear recommendations on how it can be implemented. Consequently, taking into account the fact that the issues relating to parole and remission have to be considered within the context of the mandate of prison to rehabilitate and reform offenders. The recommendations made here are based on local circumstances and the need for a clear, transparent and determinate manner of dealing with parole. In this regard one of the weaknesses noted in the statute as it is now is the fact that a lot of power is given to the Commissioner, without clear checks and balances. It is important to take into consideration the purposes and objectives of sentencing generally, including public interest, one of which is to reduce crime rate, prevention of crime based on a consistent and predicable justice system. This can partly be achieved through creating proper institutional infrastructure that is representative of the criminal justice system especially in view of the fact that issues such a remission, parole etc result in a reduction of sentence meted out by the courts without further reference to them. It is therefore recommended that in addition to the follows recommendations that provisions to disqualify from remission and

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or parole certain categories of repeat offenders as a means of combating recidivism.

It is recommended by the consultant that parole should be treated as a conditional release for offenders who have served a specified time, it is recommended as follows:

That upon recommendation by a parole board, that the Minister may release on parole (under licence) a prisoner serving a sentence of imprisonment other than imprisonment for life, after he has served not less than 1/3 of his sentence or 12 months whichever is longer.

Consequently that provision be made for the creation of local review/parole boards for this purpose and that there also be created a national board.

LOCAL REVIEW BOARDS

- Determine cases for review for offences that carry sentences of less than 3 years and that are not violent
- Review cases of more than 3 years and other serious offences and refer the same to the National Board with their recommendations.

NATIONAL REVIEW/PAROLE BOARD

- Determine cases referred to it by the Local Review/Parole Boards
- Review cases rejected by the Local Review/Parole Boards
- Review cases related to death penalty and life sentences and make recommendations to the President

MEMBERSHIP AND CONDUCT OF MEETINGS

Membership to the Boards should be determined by statute and should be reflective of stakeholder interests in the criminal justice system.

Terms and Conditions for the Boards should be determined in the rules including manner and regularity of meetings. Additionally, all qualified prisoners to be interviewed personally whenever they are being considered for parole and that all proceedings together with decisions made therein to be in writing.

RELEASE ON PAROLE

The release should indicate the specific period for which the parolee is to be under licence.

All parolees to be released to the after care services of Probation Department for continued supervision and guidance. Further that breach of the parole conditions should attract sanctions including serving the remaining period for which they have been placed on licence.

HOME LEAVE

The current terms of parole should then be transformed into home leave as a privilege for long term offenders of good conduct and who may require home visits for critical family functions i.e. visits to terminally ill spouses, children, sibling or parents; weddings and funerals of members of the nuclear family.

RECEPTION BOARDS/CLASSIFICATION OF PRISONERS

It is recommended that provision be made within the main body of the Act for the creation of reception Boards and that their functions be clearly defined. It is further recommended that such boards should be trained continuously especially on techniques of classification/risk assessment of offenders.

PUNISHMENT OF PRISONERS AND OTHER WELFARE ISSUES

Whereas, it was recognised that for purposes of discipline and order there are circumstances that require punitive measures, it was maintained that in line with the objective of rehabilitation, the use of the word punishment should be replaced with sanctions. It was further recommended that such sanctions should not be

intended to degrade or humiliate prisoners

- ❖ With regard to solitary or confinement cells it was recommended that the same should be defined and conditions thereto made known, with constant reviews on their use.
- ❖ On the issue of penal diet, opinion was divided with the prison officials insisting that if the same is removed then it should be replaced with something else; this issue was resolved at the validation workshop and it was agreed that penal diet be repealed and that prison officers to use other sanctions.
- ❖ Issues relating to the treatment and prevention of HIV should be addressed in the rules.
- ❖ All prisoners should be provided with warm clothing and beddings.
- ❖ It was proposed that the act as a whole should be sensitive to prisoners with special needs/ incapacities, it is proposed that depending on statistics available, prison should create facilities to cater for prisoners with special needs.

PRISON OFFICERS

It was felt that the paramilitary structure and training of prison staff did not empower all persons in decision making, to take responsible and accountable measures as and when required.

Terms and conditions of employment of prison staff should be improved across the board.

In view of the circumstances under which staffs are expected to work with very high levels of constant interactions, programmes should be put in place for counselling and conflict resolution among the officers.

There should be an appropriate transparent and objective redress system to deal with cases involving officers.

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