

# **PRISONERS' RIGHTS IN KENYA**

**Life**

**Food**

**Wages**

**Medical Care**

**Communication**

**A Clean Environment**

**Protection from Torture**

**KENYA HUMAN RIGHTS COMMISSION**

**1997**

The Kenya Human Rights Commission is an independent, non-profit and non-partisan advocacy group founded in 1992. It is based both in the United States and Kenya. Its objectives are to protect and promote the respect of fundamental human rights as stipulated in the Kenyan Constitution and in international law.

The Kenyan Human Rights Commission began operations in September 1992. Since then, it has produced research reports on human rights violations in Kenya, maintained records of abuses, organised several activists events and undertaken public education projects.

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# INTRODUCTION

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*Prisoners' Rights in Kenya* is a product of the Kenya Human Rights Commission's Prisons Project. The booklet is designed to inform prisoners, prison wardens, government officials and the general public about the fundamental rights that prisoners maintain even while incarcerated.

These rights are fully detailed in Kenya's Constitution and other domestic and international laws which are recognised by the Kenyan government.

The fundamental premise underlying prisoners' rights is that all people—even convicted criminals—must not be subjected to cruel or inhumane treatment. Although societies have an obligation to punish criminals, the punishment should not reduce the administrators of justice to the level of criminals—individuals who break and disregard the laws and norms of civilized society.

**“Prison institutions and the conditions that exist in these institutions reflect the kind of society we are today and the kind of government we have.”**

According to Mirugi Kariuki, a lawyer and human rights activist in Kenya, "Prison institutions and the conditions that exist in these institutions reflect the kind of society we are today and the kind of government we have."

Prisoners' rights become even more important when the person in custody has not been convicted of a crime. Suspects who await trial are, under the Kenyan Constitution and international law, presumed innocent until proven guilty. These are individuals that courts have not yet determined should be punished, much less in a manner that is cruel or inhumane. Unconvicted prisoners should also read through this booklet, as it contains information they need as well.

We encourage any prisoner whose rights have been violated to communicate this to the Kenya Human Rights Commission using the following contacts:

The Coordinator  
Prisons Project  
Kenya Human Rights Commission  
PO Box 55235  
NAIROBI  
Tel: 531929/543769  
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# I. GENERAL

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## **Who is a prisoner?**

A prisoner is any person who has been convicted by a court for a crime or is held by the police or other lawful authority on suspicion of committing a crime or being about to commit one. A prisoner may also be someone who is held following a court order requiring a person be held so as to appear before it or held to fulfill a legal obligation such as to pay a fine.

Prisoners detained on suspicion of committing a crime or being about to commit one and prisoners being held on an order so that they appear in court must be brought before a court within 24 hours or, if the arrest is on a weekend, within a period that is reasonably practicable. In the case of a capital offence—that is, an offence such as murder or robbery with violence for which the penalty is death—the period is extended to a maximum of 14 days.

## **Does a prisoner have rights?**

**Yes. Prisoners have rights because they are human beings. In Kenya, prisoners' rights are protected by the Constitution, the Prisons Act, the Borstal Institutions Act, the Detention Camps Act, and the Criminal Procedure Code.**

These laws are enforceable in a court.

There are also additional rights recognized under international law.

### **How are convicted prisoners supposed to serve their imprisonment?**

All convicted prisoners must serve their sentences according to the progressive stage system found in the Rules of the Prisons Act. As a prisoner advances through the stages, he or she is entitled to a greater number of privileges. There are a total of five stages in this system:

**Stage One:** This stage is for prisoners who are sentenced to six months imprisonment or less.

**Stage Two:** Prisoners who are sentenced to more than six months imprisonment start at the second stage. They remain there for three months and only go to the third stage if they serve at least one month without being found guilty of a prison offence.

**Stage Three:** From the second stage, a prisoner enters the third stage and remains there for 15 months. The prisoner moves to the fourth

**All convicted prisoners must serve their sentences according to the progressive stage system found in the Rules of the Prisons Act.**



stage after he or she has served at least three months without being found guilty of a prison offence.

**Stage Four:** From the third stage a prisoner goes to the fourth stage for 18 months and can go to the special stage if he or she has served for more than six months without being found guilty of a prison offence.

**Special Stage:** This is the final stage in this system.

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## II. RIGHTS RECOGNISED BY LOCAL LAW

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### **Does a prisoner have a right to life?**

Yes, unless a court has ordered a prisoner's death as the penalty for a criminal offence. It is also legal to kill a prisoner to protect the life or property of another individual, to prevent escape,

to suppress a riot, insurrection or mutiny, or to prevent a prisoner from committing a criminal offence. An inquiry must be instituted into the death of any prisoner, by a competent magistrate.

**An inquiry must be instituted into the death of any prisoner, by a competent magistrate.**

### **Are prisoners slaves?**

No. Prisoners should not be subjected to slavery or forced labour. Forced labour, however, does not include labour that is part of a court sentence or labour that is necessary for the hygiene or maintenance of the place where a prisoner is held or labour required when Part III of the Preservation of the Public Security Act is in force. Part III of the Preservation of Public Security Act enables the President to create and exercise emergency powers over the country without seeking the consent of parliament.

## **What kind of working conditions should prisoners expect?**

All prisoners of good conduct and industry can participate in the earnings scheme which is run on the basis of the progressive stage system as follows: First and second stage prisoners are employed at ordinary or light labour such as cleaning compounds, washing clothes and cooking. Third and fourth stage prisoners are, in addition, employed at such other labour as the officer in charge may direct. Special stage prisoners are employed only at such labour as the officer in charge may direct.

### **Prisoners should not be subjected to slavery or forced labour.**

Female prisoners can be employed only with other female prisoners and in work suitable for them. It is unsuitable to engage women in work that involves lifting weights that are too heavy.

Prisoners should not, save in cases in which the Commissioner otherwise directs, be required to do any work on Sundays and public holidays other than keep the prison clean and prepare food.

Any prisoner who is released by court order on appeal must be paid for any work he or she has done while in prison at a scale determined by the Commissioner, unless that work was to keep his or her cell, furniture, clothing and utensils clean.

## **Should prisoners be tortured?**

No. Torture, inhumane and degrading treatment or punishment of prisoners is forbidden.

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Torture, inhumane and degrading treatment or punishment includes beatings, strip searches, punishments that are not provided for in law, the unlawful denial of food, the denial of medical treatment, the denial of adequate clothing and bedding and the denial of medical treatment. Verbal name-calling and abuse is also inhuman and degrading.

## **What is the law on discipline and punishment in prison?**

Prisoners cannot be punished for a prison offence until they have had an opportunity of hearing the charge against them and making their defense.

All prisoners charged with a prison offence must be informed of the offence with which they are charged and be allowed to defend themselves. They have a right to hear and question any witnesses giving evidence against them, the right to call any witnesses and the right to make a statement.

Every charge against a prisoner should be heard without delay. It should not take more than 90 days for a charge against a prisoner to be finalized.

No prison officer can punish any prisoner unless authorized to do so under the law. Different officers have different powers of discipline according to rank and the nature of the offence.

**All prisoners charged with a prison offence must be informed of the offence with which they are charged and be allowed to defend themselves.**

Prison offences are either minor or aggravated. A minor prison offence occurs when a prisoner:

- disobeys prison rules or orders of any prison officer;
- treats an officer or a visitor with disrespect;
- refuses to work or works badly;
- uses abusive, insolent, threatening or improper language or speaks or acts indecently;
- commits an assault;

- communicates to any other person, including to another prisoner without authority;
- leaves his or her cell, ward or place of work or other places without permission;
- damages any part of the prison or any property that is not his or her own;
- commits any nuisance;
- has any unauthorized article in his/her possession or in his or her cell or ward or tries to obtain such an article;
- gives or receives an unauthorized article to/from any person;
- makes repeated and groundless complaints;
- is not of good order and discipline; or
- makes an attempt or helps in any of the above.

Aggravated prison offences include mutiny or incitement to mutiny; aggravated or repeated assaults on other prisoners; assaults on prison officers, or gross misconduct or insubordination.

A subordinate prison officer cannot handle an aggravated prison offence. (A subordinate prison officer is one below the rank of superintendent.) An officer in charge, if a subordinate prison officer, may punish any prisoner who is guilty of a minor prison offence with:

- confinement in a separate cell for not more than 3 days on a penal diet;
- reduction in stage, postponement of promotion in stage, forfeiture of privileges for a period not exceeding 1 month;
- forfeiture of not more than one-quarter of earnings;
- removal from the earnings scheme for not more than 1 month; and
- reduction in earnings grade until when it is considered fit for a prisoner to return to the original grade.

An officer in charge, if a senior prison officer or an administrative officer acting as officer in charge may punish any prisoner found guilty of a minor prison offence with:

- confinement in a separate cell for not more than 7 days on a penal diet;
- forfeiture of remission for not more than 14 days;
- reduction in stage, postponement or promotion in stage or forfeiture of privileges;

- forfeiture of not more than one-half of a prisoner's earnings; or
- removal from the earnings scheme for not more than 3 months and reduction in earnings grade until it is considered fit to restore a prisoner to his or her original grade.

An officer in charge, if a senior prison officer or an administrative officer acting as the officer in charge may punish a prisoner who is guilty of an aggravated prison offence with corporal punishment but not more than 12 strokes of the cane where the prisoner is a civil prisoner, a vagrant or an adult male of not over 45 years of age and is not sentenced to death. In cases where a prisoner is under 16 years of age, corporal punishment should not exceed 6 strokes. No corporal punishment should be inflicted without the approval of the Commissioner. This category of officer in charge can also punish with:

- confinement in a separate cell for not more than 7 days with a penal diet;
- forfeiture of not more than 30 days of remission;
- reduction in stage or postponement of promotion in stage;
- forfeiture of privileges;
- forfeiture of not more than three-quarters of earnings;
- removal from the earnings scheme for not more than 6 months; and



- indefinite reduction in earnings grade.

No prisoner can be reduced from Grade A in the earnings scheme without the approval of the Commissioner. The Commissioner may punish a prisoner who is guilty of any prison offence with:

- corporal punishment;
- confinement to a separate cell for not more than 30 days on a penal diet;

**Corporal punishment is limited to a maximum of 10 strokes in the case of persons who are 16 years or younger. In all other cases, the maximum is 18 strokes**

- forfeiture of remission for not more than 3 months;
- forfeiture of not more than three-quarters of earnings;
- removal from the earnings scheme for not more than 6 months;
- the indefinite reduction of earnings grade;
- reduction in stage; and

- postponement of promotion in stage or forfeiture of privileges.

A prison officer may only use force against a prisoner as is reasonably necessary to make the prisoner obey lawful orders or in order to maintain discipline in a prison. Unprovoked and arbitrary beatings and violence against prisoners by prison officers is unlawful.

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Corporal punishment is limited to a maximum of 10 strokes in the case of persons who are 16 years or younger. In all other cases, the maximum is 18 strokes. Corporal punishment should not be inflicted with a cane of more than half an inch in diameter in the case of adults and must be a light cane in the case of juveniles.

**Editor's note:** *Rule 31 of the Standard Minimum Rules for the Treatment of Prisoners has categorized corporal punishment as cruel, degrading and inhumane treatment. However, the practice is still allowed under current Kenyan law.*

A prisoner on death row shall be allowed special facilities to correspond with relatives, friends and legal advisers.

Medical officers, prison officers on duty and ministers of religion do not need a written order from the Commissioner to have access to any prisoner under a death sentence.

**A person committed to jail for non-payment of a court fine must be allowed to either meet friends on weekdays during working hours or to write a letter to them to facilitate the payment of the fine.**

A person committed to jail for nonpayment of a court fine must be allowed to either meet friends on weekdays during working hours or to write a letter to them to facilitate the payment of the fine.

A foreign prisoner due for repatriation must be allowed to see an advocate and a representative of his or her country when the order of repatriation is given. The meeting must take place in the sight, but not the hearing, of a prison officer.

A prisoner may talk to a visiting justice, minister or judge who is visiting the prisoner at any time.

## **When are prisoners separated from each other?**

Male and female prisoners must be kept separately.

Prisoners convicted to death should be kept separate from other prisoners.

However they should never be discriminated against on any basis.

**Male and female prisoners must be kept separately.**

## **Can a prisoner keep long hair?**

No. All who are sentenced to imprisonment for any period exceeding one month will have their hair, including facial hair, cut short. Prisoners will also be shaved as often as necessary to preserve a clean and decent appearance.

**The hair of female prisoners can not be cut unless the medical officer considers it necessary for health and cleanliness.**

During the last month of imprisonment, the hair of a prisoner can be allowed to grow long if it does not affect cleanliness and health.

Prisoners must not, however, be prosecuted for an offence for which they have previously been convicted.

### **Can prisoners own property?**

Yes. However, if it is deemed necessary to take away a prisoner's property for any lawful reason there must be legal provision for the prompt payment of full compensation for this acquisition.

*The officer in charge must keep an inventory of the items taken from a prisoner, which should be signed by the prisoner.*

**The officer in charge must keep an inventory of the items taken from a prisoner, which should be signed by the prisoner.**

Articles which the officer in charge thinks too bulky to store will not be accepted in prison. All articles of a perishable nature and all articles infected with vermin or likely to spread disease in a prison can be destroyed.

All property that has not been legally destroyed must be returned to the prisoner on his/her release.

## **When should a prisoner be searched?**

Prisoners can only be searched if:

- (i) they consent to the search;
- (ii) they have just been admitted into the prison;
- (iii) it has been ordered by the officer in charge.

Searches cannot be inhuman, degrading or cruel. They should not be done in the “boot” (anus) of prisoners and should not involve any violence. Should a strip search be absolutely necessary it should be done in private by an officer of the same sex as the prisoner.

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### **Searches cannot be inhuman, degrading or cruel.**

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## **What religion should a prisoner belong to?**

Any. No prisoner can be forced to be a member of any religion.

All prisoners are required to state their religion or denomination on admission and should be treated as a member of such religion or denomination.

**No prisoner can be forced to be a member of any religion.**

All prisoners, even those sentenced to confinement in a separate cell, are allowed to see a minister of religion.

**May a prisoner make contact with someone outside?**

Yes. However, there are various rules governing the contact:

First and second stage prisoners can write and receive one letter every four weeks.

Third stage prisoners can receive one letter every three weeks.

Prisoners in stages 1-3 can also receive a 20-minute visit every four weeks or write or receive one letter instead of receiving the visit.

Fourth stage prisoners can write and receive one letter every two weeks and receive a 30-minute visit every four weeks or write and receive one letter instead.

Special stage prisoners are to receive letters without restriction, and can write one letter every week. They can also receive a 30-minute visit every two weeks or write one letter instead.

A prisoner is entitled to write and receive a "reception letter" on admission and to receive a visit of 15 minutes duration.

On transfer to another prison, a prisoner is entitled to write and receive a "transfer letter."

**The advocate of a prisoner can see the prisoner on legal matters at any time in the sight, but not the hearing, of a prison officer.**

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A prisoner who is appealing against a conviction must be supplied with paper and other writing materials for the purpose of communicating with friends on the preparation of his or her appeal.

Any written communication prepared for an appellant prisoner's advocate may not be examined by a prison officer.

**A prisoner is entitled to write and receive a "reception letter" on admission and to receive a visit of 15 minutes duration.**

Prisoners sentenced to confinement in a separate cell (solitary confinement) can see only prison officers, the medical officer, religious ministers and visiting justices.

Prisoners under such confinement must also be visited once a day by the officer in charge and medical officer. The visits must occur at least every three hours during the day and night by the prison officer appointed.



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Prisoners under such confinement must also be visited once a day by the officer in charge and medical officer. The visits must occur at least every three hours during the day and night by the prison officer appointed.

No sentence of corporal punishment should be carried out before 24 hours have elapsed from the time of the order.

Corporal punishment should not be inflicted upon any female or any civil prisoner. Male prisoners under a death sentence are also exempt from corporal punishment.

A prisoner cannot suffer corporal punishment twice when he or she receives more than one type of punishment at the same time.

**No prisoner should be sentenced to confinement in a punishment cell for a total of more than 90 days in one year**

Corporal punishment should be inflicted only on the buttocks of the offender.

No prisoner should be sentenced to confinement in a punishment cell for a total of more than 90 days in one year.

When a prisoner is sentenced to two periods of confinement in a separate cell, the two sentences must be separated by a period of not less than the longer of the two sentences. For example, if a prisoner is sentenced to two sessions of solitary confinement, one for 15 and another for 45 days, the prisoner should serve one session and then be returned to the general population for at least 45 days before serving the second session.

No prisoner can be ordered to forfeit the amount of remission he or she has earned when such forfeiture is ordered as a punishment. (Remission is the slicing of one-third of a prisoner's sentence. It only applies to prisoners serving for more than one month who are of good conduct and industry.)

### **Can a prisoner be charged in a court?**

Yes. But they must:

- (i) be presumed innocent until proven guilty;
- (ii) be informed as soon as possible of the charge in a language they understand;

**Prisoners must not, however, be prosecuted for an offence for which they have previously been convicted.**

- (iii) be given adequate time and facilities for the preparation of their defense;
- (iv) be allowed to defend themselves in court;
- (v) be allowed to examine material witnesses in their case;  
and
- (vi) be allowed to have an interpreter without payment if they do not understand the language used in court.

The hair of female prisoners can not be cut unless the medical officer considers it necessary for health and cleanliness.

The hair of unconvicted prisoners or those who have appealed must be kept in the same state as it was on admission, but it must be clean.

The hair of a Sikh prisoner can not be cut unless a medical officer certifies that there is a medical necessity for the action.

### **What about the cleanliness of the prison?**

The medical officer must inspect the whole prison at least once a month. The officer must pay particular attention to the sanitary equipment in the prison during the inspection.

### **What kind of clothing should a prisoner have?**

Every prisoner must be supplied with and wear such prison clothing as directed.

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**Clothing should not be inhuman or  
degrading. Tattered clothing that  
displays the genitalia of prisoners is  
degrading.**  
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Clothing should not be inhuman or degrading. Tattered clothing that displays the genitalia of prisoners is degrading. Prisoners should also be given adequate clothing to suit the climate

they are detained in. For example, clothing provided in Isiolo can be made of thinner material than that in Meru which is a cold area and even requires sweaters.

Additional or alternative clothing may be supplied to a prisoner on the recommendation of the medical officer or by an order of the officer in charge.

The clothes of a prisoner must be changed and washed at least weekly, and bedclothes must be washed and aired as often as the officer in charge directs. Prison clothing left by a prisoner on discharge must be thoroughly washed, dried and disinfected before being returned to the store or reissued.

If a prisoner's clothes are lawfully destroyed, he or she must be given suitable clothing on release.

**The clothes of a prisoner must be changed and washed at least weekly.**

Prisoners who appeal should wear their own clothing when appearing in court and must be supplied with clothing different from prison clothes if their clothing cannot be used.

### **What kind of bedding should the prisoner be given?**

Every prisoner must be supplied with bedding adequate for warmth and health. For example, whereas it is not necessary for a prisoner to be given more than two blankets in Mombasa and

other hot climate areas, it is an absolute necessity to have more than two blankets, say in Kisii and other cold climate areas. Mosquito nets are a necessity in Mombasa while this is not the case in every other prison.

Additional or alternative bedding may be supplied to a prisoner on the recommendation of the medical officer.

### **What kind of food should a prisoner receive?**

Every prisoner is entitled to a sufficient quantity of plain, wholesome food as indicated in the Scale "A" of the First Schedule of the Rules made under the Prisons Act. If the officer in charge is

**Every prisoner must be supplied with bedding adequate for warmth and health.**

satisfied that the food laid down in Scale "A" is not suitable for a prisoner, the officer may order that the prisoner be given a diet in accordance with Scale "B", Scale "C", or Scale "D" of that Schedule.

For example, under the basic diet provided for under Scale "A", a prisoner is entitled to:

- at least 400 grams of maize, rice, wheat or millet flour a day;

- 225 grams of beans (or dried soya beans or dried peas) daily for four (4) days in a week and 200 grams of the same daily for the three (3) remaining days;
- 55 grams of fresh meat or dried fish or liquid skimmed milk daily for three (3) days in a week;
- 285 millilitres of reconstituted dried milk daily for three (3) days in a week;

**A prisoner may be subjected to a punishment diet only after she or he has been certified as medically fit to undergo this by a medical officer.**

- 15 grams of fortified vegetable oil and fortified vegetable ghee daily; and
- 55 grams of green, leafy vegetables or carrots, 115 grams of potatoes or sweet potatoes, 30 grams of capsicum and 15 grams of salt daily.

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**A copy of all these diet scales must  
be displayed in a conspicuous part of  
the prison.**  
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The diet of a prisoner who persistently wastes his or her food may be reduced by the officer in charge after obtaining written advice from the medical officer.

A prisoner may be subjected to a punishment diet only after she or he has been certified as medically fit to undergo this by a medical officer.

A prisoner subjected to a penal diet must have this diet substituted for his or her ordinary diet as set out in the First Schedule of the Rules made under the Prisons Act unless the medical officer recommends otherwise.

A punishment diet should not be combined with labour.

A prisoner who is sentenced to closed confinement in a separate cell with a penal diet for more than three days must receive a full diet every fourth day.

A visiting justice may inspect and test the quality and quantity of the prisoners' food.

### **Should prisoners be involved in recreation?**

Yes. Every prison must offer facilities for physical training as well as mental and physical games and recreation, particularly in the case of the young prisoners and prisoners serving long sentences.



**Prisoners in all the stages must be allowed to have library books and exchange them as may be practicable.**

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All prisoners, other than those in closed confinement, must take regular physical exercise in accordance with instructions issued by the officer in charge.

Prisoners in all the stages must be allowed to have library books and exchange them as may be practicable. They also are eligible to attend concerts, cinema shows and lectures as the officer in charge may direct. Those in the third, fourth and special stages may also attend school and handicraft lessons.

Prisoners in the fourth and special stages can partake in evening activities as may be arranged. They may have approved recreation in their cells and be permitted to leave the prison under escort to take part in competitive games approved by the officer in charge.

**Every prison must offer facilities for physical training as well as mental and physical games and recreation.**

## What do the rules say about medical care?

Every prison is required to have a dispensary or proper place for the care and reception of sick prisoners.

It is also required that a medical officer be stationed in, or responsible for, every prison. The officer is responsible for the maintenance and restoration of health in a prison.

The medical officer should attend the prison for which she or he is responsible either daily or at regular intervals.

**It is also required that a medical officer be stationed in, or responsible for, every prison. The officer is responsible for the maintenance and restoration of health in a prison.**

The officer must also examine a prisoner on the following occasions:

- Within 24 hours of admission;
- Before the prisoner is required to undergo any class of labour more strenuous than the labour that he or she has been certified fit to undertake;
- Before the prisoner undergoes corporal punishment or any other punishment likely to affect his or her health;

- During the infliction of corporal punishment; and
- Before the prisoner is transferred to another prison.

The officer should inspect the prisoners at work from time to time and, at least once every month, inspect the whole prison.

Prisoners who have been struck or have had force used against them by a prison officer must be taken to the medical officer for an examination as soon as possible.

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**The medical officer must also see every prisoner at least once every month. The officer also is required to see every day all prisoners who are held on a capital charge, sentenced to death or in solitary confinement.**

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If a prisoner is found to be infected with vermin or suffering from an infectious or contagious disease, steps must immediately be taken to treat the condition and to prevent it from spreading to other prisoners.

Any prisoner who falls sick while employed on public work must be medically examined and, if necessary, admitted to hospital.

The medical officer must certify that any cell set aside for the confinement of prisoners is fit for that purpose. A prisoner sentenced to confinement in a separate cell must be visited once a day by the medical officer.

The medical officer must certify whether mechanical restraint—such as handcuffs—will injure the health of a prisoner before it is applied .

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**Prisoners who have been struck or have had force used against them by a prison officer must be taken to the medical officer for an examination as soon as possible.**

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Unconvicted prisoners have the right to see a registered medical practitioner of their choice or of the choice of their relatives, friends or advocates. The visit can take place in the prison on

**If a prisoner is found to be infected with vermin or suffering from an infectious or contagious disease, steps must immediately be taken to treat the condition and to prevent it from spreading to other prisoners.**

any weekday during working hours. The visit should be conducted in the sight, but not the hearing, of the officer in charge or a delegated officer.

### **When should mechanical restraint be used?**

Handcuffs or other mechanical restraints should not be used as punishment and should only be used to prevent escape or to prevent harm to a prisoner or other person.

No means of mechanical restraint that has not been approved by the Commissioner is allowed.

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**Mechanical restraint should not be continued for longer than 48 hours without the permission of the Commissioner.**

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### **What kind of information should be given to prisoners?**

On admission, every prisoner must be provided with the rules on discipline in the prison, the earnings scheme and information on privileges. They must also be given instructions on the

**Handcuffs or other mechanical restraints should not be used as punishment.**

proper methods of submitting petitions to the President and on how to make complaints about food, clothing, bedding and other necessities. This information is to be in every prisoner's cell or ward.

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The officer in charge must ensure that every prisoner is aware of his or her rights and obligations within 24 hours of admission.

The remission system must be explained to all prisoners. The forfeiture of such remission also must be explained to prisoners.

**The officer in charge must ensure that every prisoner is aware of his or her rights and obligations within 24 hours of admission.**

A prisoner who is in custody because he or she has not paid a sum of money or for want of a surety must be informed on admission of how he or she can be released.

Prisoners who are in custody for failure to pay a court fine must be informed that they are allowed either to have an interview with their friends on a weekday during working hours or to communicate with them by letter in order to provide for the payment that secures their release.

**Every prisoner may petition the President through the Commissioner of Prisons.**

### **Are prisoners allowed to complain?**

Yes. Every prisoner may petition the President through the Commissioner of Prisons. The petitions must be in the format provided by the Commissioner.

A prisoner may make a complaint to a visiting justice, the Commissioner, the officer in charge or such other class(es) of prison officers as the Commissioner assigns to hear complaints.

Any request by a prisoner to see a person to whom he or she is entitled to make a complaint must be recorded by the officer to whom the request is made and arrangements made for the prisoner to see the person concerned as soon as possible.

**The officer in charge must see all prisoners who have requested to see him or her at a convenient hour, except on Sundays and public holidays.**

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A visiting justice must hear complaints from prisoners during visits if prisoners request and should inquire into the condition of prisoners who are undergoing punishment.

**What else does a prisoner need to know?**

A prison officer cannot exceed powers conferred by law in Kenya.

A prisoner in the earnings scheme, other than a prisoner in the first or second stage, may spend up to two-thirds of the total of his or her monthly earnings on the purchase of tobacco and such other goods as be allowed by the officer in charge on the

**A prisoner in the earnings scheme, other than a prisoner in the first or second stage, may spend up to two-thirds of the total of his or her monthly earnings on the purchase of tobacco and such other goods as allowed by the officer in charge on the instructions of the Commissioner.**



instructions of the Commissioner. The balance of the earnings must be credited to the prisoner, to be paid to him or her on release.

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**Every prison which has female prisoners must have a woman prison officer in charge of them.**

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Prisoners in the first or second stage may not spend any of their earnings and all earnings must be paid to them on release.

A prisoner has no right to vote.

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### III. RIGHTS RECOGNISED BY INTERNATIONAL LAW

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Prisoners have the right to be treated in a humane manner and with respect for the inherent dignity and rights of the human person.

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**Prisoners have the right to be treated in a humane manner and with respect for the inherent dignity and rights of the human person.**

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The training and instruction of law enforcement personnel, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any prisoner must mention the prohibition against torture and other cruel, inhuman or degrading treatment or punishment.

**A claim of torture or cruel, inhuman or degrading treatment or punishment by a prisoner should be dealt with promptly and impartially by competent authorities.**

There should be a constant and systematic review of the whole system of interrogation, as well as of arrangements for the custody and treatment of prisoners, so as to prevent torture and cruel, inhuman or degrading treatment or punishment.

A claim of torture or cruel, inhuman or degrading treatment or punishment by a prisoner should be dealt with promptly and impartially by competent authorities. Steps should be taken to ensure that the complainant and witnesses are protected against intimidation arising from the complaint or any evidence given.

**Sanitary and bathing facilities in prisons must be adequate, decent and clean.**

A prisoner who has been tortured is entitled to obtain fair and adequate redress or compensation. Should torture result in the death of a prisoner, his or her dependents are entitled to compensation.

Any statement from a prisoner resulting from torture or cruel, inhuman or degrading treatment or punishment should only be used as evidence in proceedings against a person accused of torture.

Law enforcement officials must take immediate action to secure medical attention whenever required.

The sleeping and working conditions provided for prisoners must meet all requirements for the maintenance of good health.

Sanitary and bathing facilities in prisons must be adequate, decent and clean.

There must be sufficient water and toilet articles as are necessary for health and cleanliness.

Prison clothing must be adequate for good health and should not be degrading or humiliating.

Prison bedding must be clean when issued, with measures taken to ensure that it is hygienic.

**Prison labour should not cause injury or harm to the prisoner and there should be a system of equitable remuneration for the work of prisoners.**

Food in prisons must be well prepared and served, and drinking water should be available for every prisoner who needs it.

Qualified dental care is the right of every prisoner.

Women's prisons must offer all necessary pre-natal and post-natal care and treatment. Prisons that allow nursing infants must have a nursery staffed with qualified persons.

Insane prisoners are not to be detained in prisons.

Prisoners are allowed access to qualified representatives of religion.

A prisoner must be informed at once of the death or serious illness of any near relative.

Prison labour should not cause injury or harm to the prisoner and there should be a system of equitable remuneration for the work of prisoners.

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#### IV. WHAT SHOULD A PRISONER DO WHEN THERE IS AN ABUSE OF HIS OR HER RIGHTS?

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Should there be an abuse of a prisoner's rights, any prisoner should:

- a) keep detailed records and evidence of the violation including the date it occurred, the time, nature and consequences of the violation;
- b) state in these records the abuse was reported to the authorities;
- c) keep detailed accounts of what the authorities have done or failed to do to redress the abuse;
- d) record if the action (if any) by the authorities was adequate remedy in the circumstances; and
- e) record any other measures that have been taken to remedy the abuse.

In addition, or if this is not possible, one should report the abuse to his or her lawyer, the clergy, his or her doctor, the visiting justices, courts which he or she is attending or his or her family members.

Abuses of prisoners rights can also be reported to the Kenya Human Rights Commission at the following address:

The Coordinator

Prisons Project

Kenya Human Rights Commission

PO Box 55235

NAIROBI

Tel: 531929/543769

Fax: 543635

The best defence against the abuse of prisoners' rights is that prisoners monitor and accurately report the abuses of their rights to as many people as possible. Prisoners should always know and stand up for their rights if they expect to see them respected.