

# SHIMONI

JULY-DECEMBER 1997



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VOLUME 1 NO. 3 & 4

# **Shimoni**

JULY—DECEMBER 1997

VOL I NO 3 & 4

KENYA HUMAN RIGHTS COMMISSION

The KENYA HUMAN RIGHTS COMMISSION (KHRC) is a non-profit, non-partisan organisation established in April 1992 in both the United States of America, and Kenya and registered in Kenya in January 1994 under the Non-Governmental Organisation Co-ordination Act. Its purpose is to promote and protect the enjoyment by Kenyans of nationally articulated and internationally established standards of human rights.

To achieve this, it focuses its efforts and resources in advocacy and mobilisation initiatives that seek to

- secure the protection of these rights for all Kenyans,
- empower Kenyans to advocate and mobilize for their inherent rights, and
- articulate the frustrations, aspirations, and endeavours of Kenyans as they struggle to incorporate democracy, respect for human rights, and good governance in their lives.

KHRC's work is carried out through a secretariat office in Nairobi that conducts a host of activities, including, an action-oriented research and publications programme, a mobilisation programme that has organised several campaigns, a consciousness-raising and education programme, a land rights and advocacy project, and a women's rights and advocacy project.

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## **Background and Acknowledgements**

Material for this report was gathered by the Kenya Human Rights Commission between the months of June and December 1997. This is the second issue of *Shimoni* (A quarterly report on prison conditions in Kenya). The first was issued in 1997. The aim of this series is to clarify issues relevant to prison conditions and justice in order to improve prison conditions. We hope that this series will stimulate public debate on and interest in prison conditions to foster respect and safeguarding of prisoners' rights.

This report was written by Brigitte Moraa. We are grateful to Ms Rhondee Johnson and Njuguna Mutahi for their enormous help. All those who assisted in data collection also deserve our gratitude. Finally, we thank all those who shared their experiences in the quest for justice. The report was edited by Dr Willy Mutunga and Dr Beverle (Binti) M. Lax.

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## Introduction

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**THE PRISONS PROJECT** of the Kenya Human Rights Commission (KHRC) has been in existence for the past two years. It monitors prison conditions and more importantly it alerts the public on the various problems crippling the Kenyan prisons. Without such information, human rights violations in our prisons will continue to go unnoticed. KHRC confronts the challenge to support prisoners to ensure that their rights and dignity are respected. So far we have released three publications: *A Death Sentence*, *Prison Conditions in Kenya*, *Prisoners' Rights in Kenya* and *Shumoni* (a Prison Quarterly Report). Supporting prisoners however, is an uphill task because the public is yet to consider them as an issue of major concern.

Our ultimate challenge is to find lasting solutions to the ever increasing problems facing the prison service. This challenge includes how to gain access to prisons without difficulty and how to exert maximum pressure on authorities and the government to improve prison conditions.

Since the production of the last issue of the prison quarterly *Shumoni* in June 1997, there has been no attempt by the government to improve prison conditions or to review criminal law in a way that would assist in determining whether the laws which regulate our society are appropriate to the prison requirements. This state of affairs has left us with no identifiable philosophy of our own which might help to guide us in our approach to crime and punishment.

The Kenyan public has been very reluctant to examine its attitudes and perceptions towards prisoners, and as a community we continue to overlook prisons as if they do not concern us. Prisons concern us and we should remember that we ourselves could be the ones in

those prisons, then, it may be too late to wonder why so little has been done to change the appalling conditions. We all have a collective responsibility to improve the prison conditions as long as we have the capability to do so. There is need for far reaching policy recommendation formulations for prison administration as of an integral part of any national agenda. Very little of Kenyan legislation even in areas where it concerns the most intimate areas of social life, is progressive. If a nation is to develop, its laws must be a reflection of its needs and not a transmutation of retrogressive laws.

Kenyans must, therefore, ask themselves whether the idea of imprisonment is an appropriate response to criminal behaviour and whether, given the opportunity, we could have developed altogether different solutions which would more authentically reflect Kenyan culture.

Prisoners in Kenya continue to be treated like outcasts of society and excluded from the mainstream society. They continue to be given minimum food and medical care. Even though the purpose of prisons is to rehabilitate, this does not reflect the reality, prisons are purely punitive. No general training is given to prisoners and their work in prison does not prepare them for life outside prison on their release. Prisoners' communication with the outside world is very restricted. Visits from the outside are restricted as well.

No progressive change has taken place in the prison service. Instead, the environment has remained oppressive and devoid of protection human rights. A new attitude must emerge which looks upon prisoners as individuals who have rights, who must be respected and who are entitled to redress for any wrongs against them while in prison.

This new attitude must also include re-education and effective rehabilitation of offenders.

Many of the human rights violations are a direct result of prison conditions. Kenyan prisons are grossly overcrowded. Thousands of prisoners lack personal bedding forcing them to share bedding in two's to four's. Many cells are filthy, pest ridden and lack adequate lighting and ventilation. Food and medical supplies are frequently inadequate. The unsanitary conditions mean that illness spreads rapidly making the spread of circulatory and skin diseases easy.

The following sections give a detailed assessment of the present conditions and violation occurrences in Kenyan prisons. This report is a compilation of research for the period between July and December 1997 in the following prisons: Marsabit, Kitale, Nakuru, Mwea, Shimo la Tewa, Machakos, Kisumu, Kakamega, Kodiaga (Kisumu), Eldoret and Kapenguria.



## Methodology

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The information used in this report was gathered through the following means

- Interviews with ex-convicts and prison personnel using standardized questionnaires,
- Interviews with the accused attending court cases, and
- Newspaper reports

In spite of the ‘unauthorized’ nature of the investigation and the obstacles of penetrating prison premises, KHRC was able to access the necessary information for this report. The persons interviewed agreed to speak to KHRC on the condition of anonymity for fear of reprisals. Therefore, we have used pseudonyms where requested.

## Limitations

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One major limitation was the difficulty of access to the prisons. As a result, the pace of research was slowed.

Media reports are not reliable since it is difficult to know when the incidents occurred. Media reports on prisoners are usually reported when a case goes to court, and it is quite common in criminal matters for the accused to be tried more than a year after he or she is in prison.

Another shortcoming is the limitation of information on some prisons, for example, the number of people who died in each prison and the general prison conditions. When the source was unreliable, the information was left out.

***Shimoni***

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## Accommodation

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Overcrowding and congestion remain major problems in Kenyan prisons with the exception of Marsabit. The general conditions of living in prison are unsatisfactory. Most of the institutions lack maintenance, thus worsening the negative effects of overcrowding.

The Kitale prison accommodates more than three times the number of prisoners it is designed for. Each prisoner has little space, and poor lighting and heating makes it impossible for the prisoners to sleep or even breathe properly.

The Nakuru remand and prison are no different. A cell meant to hold seven people holds more than 24 inmates. As a result, prisoners often suffer from suffocation.

There is inadequate floor space, and fresh air in Shimo la Tewa prison owing to overcrowding and congestion. There are no windows for adequate ventilation. These conditions often lead to suffocation of prisoners.

In Kisumu, prisoners are kept in dormitories which are overcrowded and congested due to limited space. The ventilation is poor as is the lighting.

In Eldoret, prisoners are held in dormitories. About 150 inmates are held in a ward intended for 50 prisoners. This forces some inmates to sleep while standing in the toilets and bathrooms. Ventilation and lighting is fairly good because there are windows in the cells and working areas. The cells are, however, hot and stuffy due to overcrowding.

Kakamega, Machakos and Kodiaga (Kisumu) also have major overcrowding problems.

A senior prison official reported that resolutions made at meetings to decongest Kenyan prisons are never implemented. He further lamented that, "I do not know where the resolutions are taken." The official went on to say that many people ended up in jail due to ignorance of the law and called for a campaign to translate the law into vernacular.

The above findings reflect unacceptable prison conditions which have not improved, such conditions indicate that the authorities consider the prisoners less than human beings do not treat the prisoners humanely.

## **Sanitary Conditions**

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Unsanitary conditions are prevalent in the prisons. Common problems include lack of adequate and sanitary disposal of human waste.

In Shimo la Tewa, the toilet facilities are inadequate and small pots or containers serve as toilets.

In Kisumu, the toilet facilities are also insufficient, there are only four toilets for the entire prison. Dormitories that do not have toilets are provided with buckets which in most cases, leak.

The bathroom facilities are deplorable, there are only two bathrooms which makes it difficult for the inmates to bathe as frequently as they would like. In the women's section, sanitary items, unless supplied by a relative, are not provided.

## **Personal Hygiene**

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Prison hygiene is appalling. The lack of soap and water makes prisons unsuitable for human habitation. Prisoners rarely have the opportunity to bathe often leading to the outbreak of skin diseases.

However, it is worth noting that in Mwea prison, the inmates are provided with soap and are allowed to shower everyday

Skin diseases are a common feature amongst the prisoners as the prisoners are forced to share soap brought by relatives (they are not provided with soap in prison) Foul smells constantly permeate the cells

Another distressing condition in prisons is the substandard disposal of human waste Furthermore, there is no privacy when prisoners use toilet facilities

In Shimo la Tewa it was reported that generally, the prisoners are dirty due to the lack of inadequate facilities However trustees, are clean because they are provided with toilet and bathroom facilities In addition, they are provided with two uniforms, a pair of socks and military boots Their cells are also cleaned by other prisoners

In Kisii, showering is impossible due to the limited time allocated to do so Since there is only one bathroom which serves a total of about 20 people at a time, it becomes impossible for the prison population of about 800 people to shower regularly

In Marsabit, there is only one toilet available to the prisoners during the day At night, a bucket is used which due to inadequacy fills up before dawn leaving the prisoners with no option but to use the floor in the cells The prisoners, then, are prone to contracting foot diseases since they walk bare footed and no form of foot wear is allowed in the prisons

In Eldoret, the toilet facilities are inadequate Each block has only two toilets which serve over 100 prisoners Bathing is only allowed after 4 p.m The prison remains dirty when there is a water shortage Prisoners are not provided with toilet articles therefore cleanliness of the prisoner depends on how often his or her relatives or

friends bring soap

No facilities are provided for the care of hair and beards. Convicted prisoners are shaved regularly on the orders of the prison authorities while remand prisoners are allowed to keep their hair and beards long.

Kitale prison is no different from the rest, the toilet facilities are inadequate. There is one toilet per ward which holds between 70—80 prisoners. There are no bathing and shower facilities and bathing is only allowed after work. In any case, there is hardly any time for the prisoners to bathe after work, and water shortages are frequent. It is common for prisoners to take a month between baths.

In Machakos, prisoners who work outside the prison compound are allowed to take baths early in the morning and made to wear these wet clothes to work. This makes the prisoners susceptible to pneumonia.

## **Clothing**

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Clothing is another area of concern. Prisoners normally have one set of old, torn and dirty uniform.

The majority of the prisoners in Shimo la Tewa wear tattered uniforms which are dirty. This is often the experience of the new prisoners. One is lucky to get a new uniform after serving the first year. Even when this happens there is the likelihood that the uniform will be stolen. Underwear is not provided.

Owing to the water shortage in Kisumu, prisoners cannot wash clothes regularly. One ex-convict had this to say about the situation in Kisumu prison: "In my two years stay in prison, I only showered about 30 times and for the whole period I never washed my clothes which remained dirty and tattered, infested with bedbugs and fleas." Most

of the prisoners in Kisumu go half-naked and are sometimes forced to improvise clothing using polythene bags. Underclothes are also not allowed in Kisumu for fear that illegal items could be hidden in them.

In Embu, prisoners are forced to use leaking buckets to relieve themselves and have to then empty them, when overflowing, with bare hands. Prisoners in Mwea suffer from inadequate toilet facilities too.

The Eldoret prison is no different. The prisoners sometimes go half-naked. They are forced to borrow their colleague's uniforms if they have to leave the compound.

The clothing provided in the Kitale prison is usually inadequate for the prevalent cold weather conditions.

Similar inadequacies in clothing have been reported in Embu. Mwea prisoners' complained that the clothing provided is so thin and offers no protection from the cold or mosquito bites.

## **Bedding**

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Prisons in Kenya do not have beds. Most prisoners have to sleep on cold hard floors while those who are lucky use thin old mattresses. Blankets are tattered, few and offer no protection from the cold.

Each prisoner is provided with a tattered blanket and a mat at the Shimo La Tewa prison. However, trustees are provided with beds and mattresses.

In Kisumu, the bedding is tattered. Moreover, each blanket is shared amongst three prisoners and infested with bedbugs and fleas.

In Kapenguria, one blanket is shared amongst four prisoners, while

in Kitale, two prisoners share one mattress and a blanket Eldoret prison provides one blanket and one mat to be shared amongst between two to three prisoners All the prisoners in Eldoret are not supplied with mattresses

In Kitale, the inmates are provided with one blanket and a mattress to be shared between two people

In Marsabit, prisoners are often given tattered blankets that do not offer the prisoners any form of protection from the cold The beddings are usually infested with pests such as lice and bedbugs

## Diet

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In prisons investigated for this report prisoners complained of the following with regard to food

- that it is usually made from expired foodstuff and is unsuitable for human consumption, and
- that it is usually half-cooked

The Prison Act Rule No 49 clearly lays down the prescribed diet that a prisoner should receive A full nutritional diet including fruits and vegetables is not provided in the Kenyan prison service This not only makes prisoners vulnerable to disease, it also renders the body unable to fight diseases The food provided is often uncooked, spoilt, of no nutritional value and unfit for human consumption

In Machakos prison, the food provided is of poor quality and infested with weevils Vegetables and fruits are rare in the prisoners' diet It was disclosed that prisoners with money bribe prison officers so as to be served more food

In Kapenguria prison, inmates receive *ugali* with watery soup with



some *sukuma wiki*. The cooking flour is often rotten making the prisoners prone to stomach complications.

In Marsabit, the prisoners are forced to go for days without drinking water when there are no vehicles to ferry it. The food provided is in most cases contaminated and hazardous to the prisoners.

In Eldoret, the prisoners are forced to buy extra food if the ration they receive is not satisfying. One reason prisoners do not receive enough food is that the warders steal meat, beans and maize flour meant for the prisoners.

In Shimo la Tewa, the prisoners eat in the corridors. The food is not sufficient and does not constitute a balanced diet. The food is often half-cooked and rotten. As a result, the prisoners often fall sick. The notable diseases prevalent as a result, include dysentery. In this prison, the positive aspect is that water is usually available at all times.

In KISUMU the food served is the same in quality and quantity as it is in Shimo la Tewa and if one is not satisfied, extra food can be bought at 20 shillings a ration.

## **Recreation**

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Prisoners in Kapenguria do not have any recreation time. Any equipment to do so is not available. The only time prisoners leave the prison is when they work outside of the prison.

There is no form of recreation in both KISUMU and Shimo la Tewa prisons. The only time the prisoners are allowed out is when they are at their respective places of work as assigned by the prison officials.

Prisoners are free over the weekend in Eldoret prison, however this

does not mean that they are free to do whatever they want to do  
The only form of recreation in this prison is playing cards (The  
cards were donated by the Catholic church ) Otherwise there is no  
exercise equipment in this prison

Neither is there any form of recreation in the Machakos prison

## **Medical Care**

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In all the prisons researched medical care was poor

There are clinical officers at Shimo la Tewa, however they are re-  
luctant to perform their duties due to apathy When a prisoner falls  
sick during the night he or she is not attended to until morning In  
general, even when a prisoner is sick, being seen by a medical of-  
ficer depends on the prison officer's willingness to take the prisoner  
to the clinic

A disturbing report from Shimo la Tewa indicates that warders forced  
some inmates to apply poison to their private parts claiming that  
this would prevent the spread of a fungal disease This caused griev-  
ous harm to the prisoners Their lawyer, Mr Stewart Madzayo told  
the Mombasa Chief Magistrate that he had visited his clients in the  
prison and noticed that they had difficulties walking On enquiry,  
the inmates told him that they had been made to apply an un-  
known drug on their genitals and showed him their private parts  
whose skin had peeled off "It is a horrific scene When some of my  
clients stripped before me and I saw their private parts had peeled  
off and a fluid was visible on the fresh skin," he said

Later, a medical doctor Dr Chibule wa Tsuma said that these in-  
mates may be impotent for life Dr Tsuma noted that many of them  
had difficulties walking which meant that they could not be imme-  
diately taken to court and added that many of them had developed

some degree of urethral stricture which was chronic and needed long-term treatment

The pre- and post-natal medical attention in Embu is inadequate and expectant mothers do not receive any special attention. There is a nursery for young children, who are held with their mothers, but this does not offer any effective care to them.

Patients with mental problems in Embu and Mwea are transferred to King'ong'o prison where no psychiatric attention is given. However, information received from Mwea prison reveals, that sick inmates receive regular medical attention.

In Kisumu, a former inmate confessed that he never saw a clinical officer while at the prison. The only drug available in this prison is *Aspirin*. It can take up to a week before one is attended to in this prison. Many prisoners have died as a result of this. A prison official in Kisumu confessed that inmates often die due to lack of prenatal care. Other infants are silently murdered by their mothers due to the burden the mothers have and the lack of adequate medical care while delivering.

No HIV tests are carried out on the prisoner's admission in Shimo la Tewa, Kisumu and Kitale prisons. With the sexual activities that take place in the prisons, it is possible that the virus is spreading rapidly.

Prisoners are not medically examined on admission to the Eldoret prison. There is a qualified medical officer in the prison who is also knowledgeable in psychiatry. The medical officer however makes no effort to ensure that the food served is fit for human consumption. AIDS tests are carried out in this prison but the prisoners are unable to know the results since the results remain with the doctor.

There is adequate pre- and post-natal care for women. They are

taken to hospital when they are about to deliver and if delivery takes place in the prison the mothers are immediately transferred to a hospital

In Kapenguria prisoners are only admitted to the prison dispensary when they are in a very critical condition. They are sent from the prison to the district hospital where drugs are unavailable. A prisoner in this condition has to be carried by his or her colleagues to the hospital which is two kilometres away.

In Machakos, most of the prisoners die as a result of sickness because of not being given immediate medical attention. An example was given of a remand prisoner, Mr Musyoki Kĩluu, who died between the 12th and 14th of September, 1997 as a result of not receiving medical attention in spite of ailing for a long time. Special attention is given to pregnant women in this prison.

## Deaths

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Between January and November, 1997, Shimo la Tewa reported seven deaths caused by poor working conditions, 33 deaths in the cells after falling sick in the night and 134 deaths as a result of taking expired or wrong medication. This brings to a total of 174 deaths.

Between May and September 1997 over 16 prisoners died at the Machakos hospital and their family members were not informed.

In Kisumu, there are many reported infant deaths as a result of drug shortages. Most of these deaths are caused by the prison authorities themselves. It is said that beating of the mothers makes it impossible for them to breast feed the children (this being the only form of nutritious food they can get). Instances were also cited where junior prison officials assisted prisoners in performing illegal abortions.

## Discipline and Punishment

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Prisoners are not given a hearing before they are disciplined or punished in Shimo la Tewa prison. The forms of punishment meted out on the prisoners' include detention of prisoners in water logged or dark cells, withholding of prisoners food or reducing the ration by half, over-working the prisoners, application of dangerous chemicals on the prisoners' genitals and corporal punishment.

In Kisumu the punishment ranges from segregation in small water logged cells where water is logged about one foot, in addition one is chained on the legs and hands. One can be forced to lie in this cell for up to two days. Likewise, there is no hearing of the prisoners' grievances before the punishment is meted out.

In Eldoret most of the proceedings against the prisoner are carried out in Kalenjien, often leading to the wrongful punishment of non-Kalenjins. Prisoners have a right to appeal to senior prison officers.

Different forms of punishment are meted out including corporal punishment, locking of the prisoners in waterlogged cells, rationing of food by half and beatings. The beatings are at times simultaneously carried out by 10 warders. The cells in which the prisoners are locked are usually dark. It is reported that a prisoner in a punishment cell will only receive food if a colleague sympathizes with them. The medical officer is not consulted before food is withheld or a prisoner is confined in the closed quarters. The above also applies to the Kitale and Machakos prisons.

In Embu, there are reports that prisoners are beaten by a mob of warders for such crimes as noise making and smoking cigarettes. However inmates from Mwea indicated that they are given a hearing before being punished.

## Contact with the outside world

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In Shimo la Tewa prisoners are allowed visits by friends, relatives and lawyers. These visits are limited to once a month for convicted prisoners though those in remand can be visited daily. The prisoners are allowed to receive letters but they are not allowed to send letters out. Foreign prisoners are not allowed to communicate with their foreign missions. They are, however, allowed to communicate with their missions while in remand.

In Kisumu, lawyers and the press are prohibited from visiting prisoners. Relatives and friends are allowed to visit once a month. Remand prisoners are allowed visits everyday by friends and relatives. Convicted prisoners can however be visited more than once a month if those who want to visit them are willing to bribe the warders. Correspondence from prison through letters is not allowed. Prisoners may receive letters although these are censored by prison officials.

Prisoners in Eldoret are allowed to communicate with family members and friends any time between 8 a.m. and 4.30 p.m. they are however not allowed to see their legal advisers or the press without a court order. The prisoners are not allowed to receive any correspondence by mail. Foreign prisoners are only allowed to communicate with their diplomatic representatives in court cells, but not in the prison. Prisoners in remand are sometimes denied permission to see their lawyers depending on the seriousness of their cases.

## Reading Materials

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Publications are not allowed in the prison cells or in the prison compound. If a prisoner is found with any publication he or she is liable to punishment. There are no libraries in any of the prisons.

visited The only reading material supplied to the prisons are the Quran and Bible This is the case in Kapenguria, Eldoret, Shimo La Tewa, Kisii and Machakos prisons

## **Notification of death, illness and transfer**

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In all the prisons researched, prisoners have no chance to notify their families of their transfers because they themselves are not informed of transfers in advance Transfers are usually effected at night Family members are only notified of deaths and not illnesses when they visit inmates Prisoners, in turn, only learn of their relatives deaths through visits by other family members

It was reported that in Kisii, it is the chiefs who relay the messages to the family members

## **Training**

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Most of the convicts are involved in maintenance services such as cooking and sewing In the prisons visited training is haphazard, mainly artisan in nature and only given to those serving two or more years A certificate is issued on the completion of one's term

In Eldoret prisoners are not assisted with readjusting and reintegrating to society No rewards are given for good behaviour

## **Dignity and respect of prisoners**

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In all the prisons visited, prisoners are not treated with dignity The language used by the prison authorities is derogatory and abusive

## **Sexual abuse**

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At the Machakos prison, men have turned to sodomy as a way of satisfying their sexual needs. This is attributed to the fact that in Kenya, prisoners are not allowed conjugal rights. Newcomers are worse hit by sexual abuse in this prison because they come into the prison system without prior knowledge of the practice within the prison. They are 'selected' by those who have been there longer as their partners. If they refuse to comply, they are normally raped. It was reported that female prisoners are also forced to give sexual favours to the warders.

There were rampant cases of sexual abuses at the Shimo La Tewa prison. The trustees order prisoners to involve themselves in homosexual activities for commercial purposes. This is done for the financial benefit of the trustees. This is a kind of business venture where an interested prisoner approaches a trustee and pays them 50 shillings depending on when one would like to indulge in this activity. A trustee then orders one prisoner to render the services to the interested party. Besides paying the money, one is ordered to surrender their food to the victim. This amount is divided into two with the prison official receiving 20% of the money while the other 80% goes to the trustee who conducted the transaction.

In Kisumu, the story is no different. For one to receive extra ration of food, he has to offer sexual favours to the prison official. In this prison, newcomers and weak prisoners are subjected to sexual abuse even in the presence of the prison warders. It is claimed that poor lighting aggravates the problem.

## **Discrimination**

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It was reported that there is discrimination on racial basis, in Shimo La Tewa Prison. Asians, Europeans and Americans are given spe-



cial treatment According to one interviewee 'they are treated as though they are in prison illegally and allowed visits by family members and friends who are allowed to bring them food In addition, they do not eat the same food nor work like the other prisoners

The Asian, European and American prisoners are also allowed to read newspapers and books whereas local prisoners are only allowed to read the Bible and Quran

Discrimination in the Eldoret prison is along class lines As a result, prisoners with money have access to anything they want On the other hand, those who do not have any money suffer denial of food, clothing and blankets till the end of their jail term

It was reported that only a select few, those who work in the warders houses, are allowed to bathe at the Machakos prison

## Corruption

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There is rampant corruption in some of the prisons that were visited In Eldoret, illicit drugs such as bhang and *chang'au* are available to the prisoners in large quantities from the prison warders Cigarettes are bought at forty shillings a packet for 'Rooster' cigarettes

In Machakos bribery is rampant Prisoners with money or those whose family members give bribes to the warders may get extra food for as much as Ksh 200 every fortnight

Corruption was reported by a prison officer in Kisumu prison He said that as long as the prison warders are not well remunerated they will indulge in corrupt activities to be able to survive He said that 'we must sacrifice prisoner properties for our own benefit' The

attitude of the warders towards prisoners depends on whether the prisoner is willing to cooperate with the warder in corrupt deals. The medical officer is also one of those prison officials involved in corrupt dealings in collaboration with the senior prison official. He is involved in the selling of drugs meant for the prisoners. As a result, these prisoners are left with Aspirin as the only form of medicine irrespective of what they may be suffering from. Worse so, is the fact that even for this aspirin, one has to give not less than twenty shillings as a bribe.

## **Torture and Inhuman Treatment**

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Double occupancy of confinement cells is frequent. Even more distressing is a report filed from Machakos Prison with regard to an inmate called John Munyao Kivanga following a covert investigation. Between July 4—7, 1997, he was reportedly forced to stand in a drainage system that had harmful chemicals in it as punishment for a crime he had allegedly committed. He sustained burns from this but went without treatment or painkillers for almost two weeks until July 22, 1997, when he was admitted to the Machakos General Hospital. His injuries were so bad that they exposed his ankle bone.

There are rampant cases of torture reported in Shimo la Tewa. It involves the application of dangerous chemicals to the genitals. It was reported that of the Likoni violence suspects, some are feared dead or sterile as a result of this torture.

In Shimo la Tewa Prison, a senior officer noted that there was a problem with congestion which had prompted numerous cases of homosexuality, dysentery, diarrhoea, tuberculosis and AIDS. This is corroborated by a former inmate at the prison, Mr Jamedar Opiyo who had just completed a 15-month sentence there. Mr Opiyo

noted that. "A newcomer to the prison has to offer his body to another male inmate in exchange for food and a washing bucket "

In Kisii, the inhuman treatment occurs soon after a prisoner comes from work assigned by prison officials or from a court mention A prisoner is ordered to bend in front of a warder with the legs stretched and fingers touching the feet A stick is then inserted in the anus in a bid to extract any item the prisoner may have smuggled into the prison This is also done to women For them, the treatment is worse as two fingers are inserted into the vagina to ensure that nothing illegal is brought into the prison compound In addition, it was reported that in the women's section, the warders sit on the backs of prisoners who are perceived as lazy This is done when the warder is supervising work

Flooding of prison cells during punishment and segregation from the rest of the inmates takes place in all the prisons that were visited

## **Information to and Complaints from Prisoners**

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There are no written rules or regulations made available to the prisoners The inmates are forced to learn them through experience. No particular time is kept aside to hear complaints Prisoners are not allowed to raise complaints during inspection in prison During inspection by high ranking officials the sick are hidden, so are tattered clothes Complaints usually lead to the complainant's punishment

## **Labour**

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Work is mandatory for convicted prisoners In theory, prisoners are supposed to be examined by a doctor, but they do not undergo any

medical examination before they are assigned work. There were several complaints raised about labour in the prisons investigated. In Embu, inmates complained that they receive severe beatings if they are deemed to be lazy or reluctant to work. Moreover, the money due as compensation for their work is diverted into the pockets of senior officials, and the inmates receive nothing. There are also no safety precautions taken to ensure that prisoners work in suitable environments. If injured at work, inmates have to continue working until they are discharged in the evening. At that time they can get first aid treatment from their fellow inmates.

The work performed by the prisoners in the Eldoret prison includes farming, cleaning the prison and the prison warders' compounds, cooking, carpentry, masonry, cooking for police dogs and fetching water and firewood. The prisoners don't earn any money for this. No safety precautions are taken during work that is carried out for a minimum of nine hours a day, five days a week.

Prisoners in Machakos work on prison farms and the produce is then sold. Profits reportedly go to the government. Safety and health measures are not taken in the work places. Prisoners are made to irrigate farm crops using sewage water from the prison toilets. The sewage is said to be the major source of the diseases affecting the prisoners' health. Sources claim that those working in this area fall sick within a week suffering from cholera, diarrhoea and scabies.

In Marsabit, prisoners normally engaged in the collection of firewood to be used in the preparation of their meals. However, it has been reported that there are cases where prisoners are used by prison officers to collect firewood for the use in local hotels for agreed upon fees. Some of the prisoners work at the nearby prison farms and herd cattle.

The type of work assigned to prisoners in Shimo La Tewa includes

tailoring, carpentry, masonry, compound clean, farming, mechanics and cooking No form of vocational training is given to the prisoners Safety precaution are not taken at work The prisoners earn 10 cents a day but on release, they are only given twenty shillings

## **Legal Assistance**

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This is one of the most sensitive areas in the penal system Most inmates are ignorant of their rights or cannot afford to hire the services of a good lawyer

Findings based on complaints by the inmates show that the law is normally flouted For example, in Kisumu, lawyers are not allowed to see prisoners Sometimes lawyers are allowed in Shimo la Tewa The pace of assistance with hearings is slow Hearings take place after long intervals Moreover, there is a lack of regular information on the progress of the proceedings

## **Prison Staff Conditions**

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This is an interview with a prison officer that took place in a Kenyan prison in March 1998

The objective of the interview was to gather the following information in regard to prison officers in Kenya

- a) salary scales,
- b) general living conditions,
- c) recruitment and training, and
- d) promotions

The interviewee, an officer who has served in the prison department for over 20 years, agreed to grant the interview on the condition of anonymity. The following came out clearly from the interview

### **a) Salaries**

The salary of a regular prison officer is very poor. On request, we were shown the interviewee's pay slip. The total earnings as per the pay slip amounted to Ksh 7,690 in the month of November 1997. The total deductions in this month amounted to Ksh 3,873, over the total earnings. Therefore then, the net pay for this officer, for the month of November 1997, came to a mere Ksh 3,817.

Apart from medical allowance of only Ksh 466 a month, regular prison officers are not entitled to benefits such as house allowance, personal accident insurance or travelling allowance.

### **b) Living Conditions**

The interviewee described the living conditions of the low rank officers as pathetic. A tour of the residential houses for the prison officers at the Prison revealed that officers are housed in dilapi-

dated mud and rusty iron-roof houses built soon after independence. Some of these structures lean precariously.

Inadequate housing has forced some officers and their families to share houses. Such a scenario violates the officers' privacy. A will on the government's part to alleviate the prison warders' housing problem is not evident. This has forced officers in some prisons to take the initiative to better their own housing conditions. In this scheme, the officers contribute a fixed amount of money every month towards a housing project meant to better housing for themselves at the prison. The contributions enable them to make purchases of building materials for the housing project. Labour is obtained from the inmates. When asked what happens to ownership of the houses in case the officer retires, the interviewee said that theirs was an act of desperation meant to ameliorate an urgent problem. The houses will therefore be used by other officers with no refund expected from the government.

Several of these houses have already been occupied in spite of their incomplete status. However, a majority of the warders still occupy old dilapidated houses. The meagre salaries make it impossible for the warders to satisfy their basic wants.

### **c) Recruitment and Training**

Recruitment to the prison service is selective, ethnically determined and nepotistic. Many senior officers manoeuvred the recruitment of their relatives to the service to the exclusion of candidates without connections 'high up'.

It's evident that recruitment is not on merit. This has grossly compromised standards in respect to training and service delivery on the part of the prison warders. Allegiance is now shifted from service to personalities who influence their recruitment. Little respect is shown to immediate senior officers if they do not owe positions to them.

Training of prison warders takes place at Ruiru Prisons Staff Training College and it takes a period of six months

#### **d) Promotions**

The interviewee revealed that promotions are on ethnic, and nepotistic considerations. Junior officers are known to join the service and get rapid promotions without any gauging of their conduct. This has greatly demoralized staff who have served in the department for long without a single record of bad conduct and who have never been promoted since they joined the force. Junior officers who are promoted rapidly look down on the long serving officers chiding them for whiling away in the force without the right links to earn promotions.

Promotions, of course, go with salary increments. The disparity of salary scales between high ranking prison staff and the warders is so wide that it plays down factors such as experience and good conduct on the part of the long serving warders.

Prison warders work under strenuous conditions. The situation is so bad that many of them walk in tattered uniforms and worn out shoes. The interviewee claimed that it is now a requirement that warders buy their own boots since the government no longer supplies them. Demoralized and frustrated, warders are lax in the delivery of services and in some cases, even vent their anger on prisoners.



## Prison Profile: Opiyo Wandayi (August 1997)

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I was arrested on Tuesday, August 12th, 1997 during my lunch break

We were having a chat at KICC grounds during the Kenya Music festivals rehearsals. It was then that uniformed and plain cloth policemen pounced on us. We asked what was going on, but they refused to give us any explanation. We were bundled into waiting Land Rovers and taken to Kilimanj police station and booked.

We were put in the police cells till the following day, without any communication from them. Food was served to us in the evening at about 6:00 p.m. It consisted of *ugali* and cabbages and both were poorly cooked. We were 40 of us in the cell though it was obvious that this outstripped by far, the number of people it was meant to hold.

There are no bath rooms in Kilimanj police station. No one takes a bath while at this police station. Instead of toilets there is a bucket for relieving oneself. This bucket is placed in the corridor outside the cells at night. During the day, one can go to a full and filthy toilet in the block, but only after persistently demanding to do so.

There are no beddings in the police cells. One has to sleep on the bare cemented floor. Once you sleep on one side, it is impossible to turn around during the night. A few people opt to sleep while standing and remain that way the whole night.

The following morning at 6:30, we were served tea, which was poorly cooked and had very little milk in it. There is no room set aside for eating, one eats from the cells. The only meals served there were breakfast and supper. After tea I was called for interrogation by a CID officer. However, I was not assaulted or tortured in

any way He asked me questions such as what political party and which tribe I belonged to After this I was taken back to the cell

I stayed at Kılımanı police station for seven days I was held incommunicado My family, friends and lawyer were not allowed to see me Ann Kariuki and James Orenge came to visit me but were physically barred from seeing me

I was later, after the seven days transferred to Kamukunji police station which is worse than Kılımanı and more crowded All sorts of criminals are put together The floor in Kamukunji is wet The cells are completely dark since there is no lighting at all The cells are dirty and stink terribly I was held here for a night and moved to Kamiti the next morning No food was given at the Kamukunji police station

On reaching Kamiti Maximum prison We were booked in and asked to hand in our shirts and shoes We were not given any uniforms but only remained in our trousers We were then taken to the blocks and found that food had already been served We were given a few remaining beans for supper which was served on dirty plates

No water was provided for us to wash our hands and this increases the chances of contracting diseases We were placed in block F The 30 of us, were not mixed together

The other prisoners could bask in the sunshine all day While we were only let out for 15 minutes These 15 minutes were meant for us to take a bath and bask, this went on for the whole time we were in Kamiti

## **Food**

Breakfast consists of half-cooked porridge with no sugar and is served at 6 30 in the morning It is inadequate and of very poor quality

Lunch is served at around 9 00 a m and is usually poorly cooked *ugali* and *sukuma wiki*. Dinner was served at 2 00 p m and consists of half-cooked beans and *ugali*. As a result of the half-cooked food, prisoners suffer from stomach problems such as diarrhoea and dysentery.

## **Sanitation**

Soap and tissue paper were issued in the first few days of our incarceration. And this we only got on the strength of a court order that we receive them. The prison authorities refused to give us buckets for bathing and we had to use the ones we used to relieve ourselves. This continued until the Chief Magistrate, Mrs Kidulla, on seeing these conditions for herself ordered we be supplied with other buckets.

## **Medical**

Almost everyone fell sick due to congestion. Illnesses could only be attended to when the prison doctor came to the dispensary. And this was twice a month. Even so, medication prescribed was only given to us on seeking the court's intervention. In my view, this was meant to torment us.

## **Other conditions**

The warders beat us indiscriminately using *rungus* as a form of punishment. Handcuffs were used whenever we went to court.

We were denied visitation privileges until we got a court order. Visiting booths were cramped and communication was poor. Our lawyers were allowed to see us.

Whereas, other prisoners were allowed to play football, volleyball and other games we were not allowed any form of recreation.

While at Kamiti, one of us, Maurice Nyagol, died as a result of torture and negligence. The rest were acquitted of the murder charge on December 12, 1997 after being in remand for five months.

While in prison, I was convinced that prisons achieve the opposite of rehabilitation. Prisons are meant to kill and not to rehabilitate.

(Opiyo Wandayi was one of the 29 people arrested in connection to the killing of a police officer at the *Nane Nane* rally. The others also gave us information on prison conditions but the above is Wandayi's personal profile.)

## **Conclusion**

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Kenyan prison problems are related to the way the system is managed. The degree to which inmates are neglected shows abdication of responsibility by the administration. Change can be achieved if those in charge are willing to do so. The penal system has no respect for human dignity. It is inexcusable that prison authorities do not abide by rules set in the Prisons Act.

## **Recommendations**

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1. Prison reform is mandatory and must be in the Kenyan context of socioeconomic problems, widespread poverty and rising level of crime.
2. The Government and prison authorities should comply with local legislature and international norms.
3. Within the context of economic stringency, the Government should be pressurised to devote more resources to the penal system. The Government should be made to realize that once it takes away a person's liberty, it has a duty to keep the person alive and healthy and not inflict inhuman and degrading treatment on him or her.
4. Corporal punishment and withdrawal or denial of food and other basic needs amounts to cruel, inhuman, and degrading treatment or punishment and should be done away with.
5. Prison staff should be retrained so that they can assume a more professional approach in handling prisoners and respecting their fundamental rights.
6. The prison staff's living and working conditions should be overhauled.
7. Basic standards that must be met include adequate health

care, provision of adequate and quality food, improved sanitation, proper training and rehabilitation of inmates, proper accommodation, and treatment that promotes human dignity and self respect