

# **Prison Conditions in Africa**

by

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The 1996 conference in Uganda on Penal Conditions in Africa was possibly the first occasion for NGOs and government representatives from different countries in Africa to come together to discuss penal issues. It is certainly not the last opportunity, and Penal Reform International, the initiator of the conference, is planning to host a follow up in Burkino Faso during 2002. It is timely to consider the conditions of African prisons, assess their compliance with human rights norms, and see what impact, if any, they are able to make in terms of development and reintegration of prisoners.

The penal systems in Africa were largely inherited from the colonial powers, and the legislative framework, as well as the infrastructure, remains largely unaltered. Although attempts have been made in several countries to improve their prison conditions, in most prisons they are still inadequate. A review of the literature on prisons in Africa suggests that these prisons are characterized by severe overcrowding. In most cases the prison capacity is very limited and has not been expanded over time. Although the inmate to population ratios may be small, the impact of overcrowding on inmates is nevertheless severe. Coupled with this, many of the facilities are rudimentary in nature, and there are shortages of food, bedding, medical supplies and treatment, and an absence of recreation facilities. Ill-treatment or torture of inmates was also reported for many of the countries. This article examines prisons in Kenya and Uganda in more depth, based on information available from Newspaper reports, and the few reports that are available in respect of each country.

## **Kenya**

Kenya has been widely criticized for its ongoing abuse of human rights and corruption in government administration, to the extent that international donor organisations threatened to withdraw funding in the early 1990's. Following these threats, several legislative changes were introduced, but the abuses continue, particularly those perpetrated by members of the security forces.

Kenya inherited the penal system from the British Colonial government on its independence in 1963. The Penal Code and Kenya's constitution contain fairly liberal laws concerning prisoners. In addition, the country has ratified a number of international instruments protecting the rights of prisoners and detainees, including the African Charter on Human and People's Rights. Yet there is a large gap between the legal provisions and the actual conditions in prison. At the time of independence, there were 86 prisons accommodating 13 000 prisoners.<sup>1</sup> A recent report by the Kenya Human Rights

Commission (KHRC) indicates that the official number of prisoners held in September 2000 was 41 211 in 78 prisons which have capacity for 18 953 prisoners.<sup>2</sup> However, unofficial sources estimate that the prison population is actually much larger.

Kenya's prisons, described as 'death chambers',<sup>3</sup> are overcrowded and unhygienic. For instance, in Nakuru prison, 450 convicted inmates and 780 remand prisoners were held in 14 cells.<sup>4</sup> Prisoners sleep on dirty and damp cement floors. The communal cells are often poorly ventilated and badly lit, and lack adequate washing facilities. Overflowing buckets in one corner of the cell usually serve as the only toilets. Acute water shortages in some prisons have exacerbated the unsanitary conditions. King'ong'o prison had its water supply disconnected for failing to pay its water account in September 2000,<sup>5</sup> and a water shortage in Nakuru<sup>6</sup> prison led to an outbreak of cholera.

Food and clothing is also inadequate in most prisons. The fiscal difficulties which the Kenyan government is experiencing is having serious impact on prisons like Nyeri, which reported that prisoners were starving as the treasury had failed to provide money for supplies.<sup>7</sup> The problem was worsened by their inability to get food from outside of prison. Prisoners reported last year that rations at Kodiaga prison were reduced by 50 percent, and special meals that were ordered on medical grounds had been scrapped completely. They alleged that many inmates were starving as they could not afford to bribe the warders for their meager rations.<sup>8</sup> Amnesty International reports that these conditions are responsible for the deaths of hundreds of prisoners in Kenyan prisons each year. Statistics are inaccurate, but six hundred and fifty are reported to have died in 1997. Infectious diseases such as diarrhea, typhoid, tuberculosis and HIV/Aids spread easily, and are inadequately treated.<sup>9</sup>

Torture and ill treatment are widespread and are used to discipline prisoners as well as taking place through indiscriminate attacks. Prisoners are beaten for failing to obey orders. One ex-prisoner expressed the fear that warders are spreading HIV/AIDS by using hippo hide whips consecutively to punish prisoners.<sup>10</sup> Corporal punishment is allowed, up to twelve strokes for adult prisoners, and prisoners may also be punished by restricted (penal) diet, and confinement of up to 30 days in a separate cell.

The problem of excessive violence in the prisons was highlighted in September 2000 when six death-row prisoners were killed at the maximum security King'ong'o prison. The Prison Department alleged that the prisoners had tried to escape and that they died in their fall from the high perimeter walls. On the other hand, the Kenyan police alleged that the six had been shot dead to prevent their escape – a measure provided for by the law. However medical examinations shortly after their deaths found no evidence of gunshot injuries, but found instead that their eyes had been gouged out. A post-mortem revealed that their skulls had been crushed with a blunt object, inconsistent with a fall from a height, and that several of their limbs were fractured. The bodies were hurriedly buried following the post-mortem, but as a result of pressure from Kenyan and international human rights groups they were exhumed, and an inquiry into their deaths was initiated. Two other inmates had attempted to escape with the six. One was injured during the escape attempt and was subsequently arrested and severely beaten by police during interrogation.<sup>11</sup> The other prisoner who managed to escape was shot dead by police during a raid on a town bar.<sup>12</sup> This incident is

eerily reminiscent of an incident in which 3 inmates were killed in 1988 during an alleged escape attempt. Investigations found broken batons and blood patches on the walls.<sup>13</sup>

Kenya's parliament recently re-confirmed the death penalty, although no person has been executed since 1987. There are approximately 1 300 prisoners on death row, some for as long as 20 years. The President's office is sitting on appeals from prisoners to commute their sentences to life imprisonment, or to pardon or release them, but no decisions are forthcoming. Prisoners have complained that although in some cases their requests were submitted 20 years ago, they have still received no response from President Moi's office. The conditions for these prisoners are appalling and extremely congested,<sup>14</sup> and the uncertainty about their fate could constitute torture or cruel, inhuman or degrading treatment.

Independent oversight of Kenya's prisons is completely lacking. Prisons are closed institutions that do not allow visits from non-governmental organisations, and international organisations have also been prohibited access. The UN Special Rapporteur on Torture was refused access to one prison in September 1999.<sup>15</sup> Members of parliament are even prohibited from visiting their constituents in prison without permission from the authorities. Although Parliament appointed a Standing Committee on Human Rights, this was characterized by weak responses to human rights violations. For, example, the Committee did not respond publicly to the King'ong'o deaths. The strongest protests come from the Kenyan Medical Association, which launched a campaign to stop torture, and the NGO Kenya Human Rights Commission. However, a new Bill before parliament proposes the establishment of a National Commission to investigate human rights violations. It will replace the Standing Committee and will visit prisoners, remand homes, detention camps and other institutions of detention. The appointment of a new prison commissioner provides a glimmer of hope for prisoners. He has announced major reforms, and indicated that the rights of prisoners to clothing, health and food must be respected. He also ordered his "officers to stop incidents of human rights violations which he observed were prevalent in the department."<sup>16</sup>

One of the main objectives of the Prison Services is to carry out rehabilitation programmes aimed at training, counseling and reforming prisoners. In terms of the legislation, every convicted prisoner is obliged to engage in useful so that they learn new skills and are enabled to gain employment. Since no independent organisation is allowed access to prisons, it is difficult to ascertain the extent to which this happens. Prisoners are mainly engaged in farm work, and the women are engaged in cooking, cleaning, and taking care of the warder's dogs. The work is hard and they are required to work as much as twelve hours a day, every day of the week, with little or no regard for safety or hygiene. A few limited vocational programmes exist in some prisons.<sup>17</sup> However, in view of the appalling conditions of the prisons, it is difficult to see how this work contributes to the development of the prisoner. It does however serve the useful purpose of keeping them out of their cells.

## **Uganda**

Uganda is another country which is frequently criticized for its poor prison conditions. There are two different types of prisons in Uganda. The Central Government prisons are under the authority of the Commissioner of Prisons, and in 1997 held about 13 000 inmates.

The local government authorities run local administration prisons independently. According to the Uganda Human Rights Commission, which visited the prisons in 1997, the prisons were overcrowded with remand prisoners constituting the majority of prisoners. Due to overcrowding, facilities were overused. Toilets, often in the form of buckets, were filthy and overflowing. The cells were generally unclean and prisoners complained of lice, bedbugs and fleas. Proper bedding was not available and prisoners had to sleep on the bare floor.<sup>18</sup>

Poor conditions in these prisons inform severe health risks and had led to a number of deaths from malnutrition, dehydration, dysentery and pneumonia.<sup>19</sup> In 2002, the Uganda Human Rights Commission reported that two prisoners died in Mbarara local prison when they were locked up for two days without food and water as punishment for their inability to work.<sup>20</sup> At another prison, the Commission found 14 inmates locked up in a tiny cell measuring 4 by 4 feet. When they opened the door "they were all drenched in sweat. Two of them had collapsed, mostly from lack of air."<sup>21</sup> The Commission found that the levels of torture in prisons was alarming. A visit to Nakifuma prison in Mukono District in August 2001, by the African Centre for the Treatment and Rehabilitation of Torture Victims at work (ACTV) revealed that prisoners were often beaten with sticks, iron bars, metallic wires and motor vehicle fan belts. One of the prisoners had scars on his back from a recent beating with an iron bar.<sup>22</sup>

The Commission has criticized the exploitation of prisoner's labour for personal gain by prison authorities, and also requested that the government provide payment for prisoner's labour.<sup>23</sup> The labour of prisoners was also exploited when they were required to exhume the bodies of the Kanungu doomsday cult without being issued with protective clothing. The Prisons Department was criticized for treating prisoners in a way that was cruel, inhuman and degrading, and many prisoners complained of post-traumatic stress after the doing the work.<sup>24</sup>

Uganda has a large number of human rights NGOs which monitor and report on prison conditions, as well as the national Uganda Human Rights Commission which is active in its criticism. A human rights training course for correctional officials that aims to challenge their attitudes and inform them of the rights of prisoners was initiated by the Foundation for Human Rights Initiative and supported by the Ugandan government.<sup>25</sup>

A number of other positive developments are also attempting to deal with the numerous problems. In early 2000, a new Community Services Bill was introduced to alleviate overcrowding in prisons by releasing prisoners to serve out their sentences in the community. The Bill provided that prisoners convicted of minor offences would be released, and courts could in future impose community sentences. Among the archaic offences to be exempted are; adultery, disturbing children, fouling water and air, being a rogue and vagabond, attempted suicide, elopement, and being idle and disorderly.<sup>26</sup>

## **Conclusion**

Both Kenya and Uganda are relatively poor countries where the government is unable to provide the necessities for the economic survival of a large percentage of their population.

In addition, Kenya is beset by an extremely corrupt government administration where it is not always certain that the resources are spent as allocated. It is clear their priority does not lie with the humane treatment of prisoners. Yet prisoners who have been convicted or accused of a crime have been denied their liberty and their ability to make ends meet for themselves. For them, the prison experience is one of deprivation and struggle, and evading the arbitrary attacks by their keepers. In these circumstances, the possibility of any kind of development for the purposes of reintegration into society seems remote.

**Notes:**

<sup>1</sup> Kenya Human Rights Commission (1996) , A Death Sentence: Prison Conditions in Kenya. Nairobi, Kenya.

<sup>2</sup> Kenya Human Rights Commission (2001), Draft report of the Study of Prison Conditions in Kenya. Kenya, Nairobi. P 15.

<sup>3</sup> Ex-convict Recount Ordeals, *The Nation*. (2001, 24 March).

<sup>4</sup> "Prisoners killed in Cholera" *The Nation*. (2000, 15 January).

<sup>5</sup> "Prison's Water Supply Cut Over Bill". *The Nation* (2000, 23 September).

<sup>6</sup> It was reported that three prisoners died of a cholera outbreak and another 148 were treated for the disease. "Prisoners killed in Cholera" *The Nation*. (2000, 15 January).

<sup>7</sup> "Nyeri patients, inmates starving". *The Nation* (1999, 23 December).

<sup>8</sup> "Kodiaga, where a jail term 'is death'". *The Nation*. (2000, 10 January).

<sup>9</sup> Amnesty international (2000) Kenya. Prisons: Deaths due to torture and cruel, inhuman and degrading conditions. [on-line] Available at <http://web.amnesty.org/8../5D06B274292A699E802569AE0052D591!Open&Highlight=2,keny>

<sup>10</sup> "Kodiaga, where a jail term 'is death'". *The Nation*. (2000, 10 January).

<sup>11</sup> "Brutal death of convicts" *The Nation*. (2000, 14 September), (2000, 16 September), (2000, 12 November).

<sup>12</sup> "Police kills King'ong'o survivor" *The Nation*. (2001, 31 May).

<sup>13</sup> "New Hope for Prisoners in 2001". *The Nation*. (2000, 28 December).

<sup>14</sup> "Yesterday in Parliament: MPs vote to retain the death Sentence in Law". *The Nation*. (2000, 26 October). "Prisoner's agony on death row". *The Nation*. (2000, 30 July).

<sup>15</sup> Amnesty international (2000) Kenya. Prisons: Deaths due to torture and cruel, inhuman and degrading conditions. Page 4. [on-line] Available at <http://web.amnesty.org/8../5D06B274292A699E802569AE0052D591!Open&Highlight=2,keny>

<sup>16</sup> "New Hope for Prisoners in 2001" The Nation. (2000 28 December).

<sup>17</sup> Kenya Human Rights Commission (2001), Draft report of the Study of Prison Conditions in Kenya. Kenya, Nairobi. P 20.

<sup>18</sup> Human Rights Watch Report. Available at <http://www.hrw.org/prisons/africa.html#Kenya>.

<sup>19</sup> Ibid.

<sup>20</sup> "Mbarara Prisoners 'Starved Two Death'". New Vision (Kampala). (2000, 11 March).

<sup>21</sup> Ibid.

<sup>22</sup> The visit took place on 28 August 2001. "Hurinet (U) Member profile" (2001) Hurinet News, Volume 16, page 14.

<sup>23</sup> "Torture of Suspects Widespread in Uganda" Panafrican News Agency. (2000) 9 March).

<sup>24</sup> "Abuse of Prisoners" *New Vision (Kampala)*. (2000, 4 April).

<sup>25</sup> Foundation for Human Rights Initiative, (2000). *The Prisons Update*, Volume 6 No.2.

<sup>26</sup> "Community Jail to Start Soon" *New Vision (Kampala)*. (2000, 18 February).

## References

Amnesty international (2000) Kenya. Prisons: Deaths due to torture and cruel, inhuman and degrading conditions. [on-line] Available at <http://web.amnesty.org/8../5D06B274292A699E802569AE0052D591!Open&Highlight=2,keny>

Dankwa, E.V.O. African Commission on Human and People's Rights. (1997) *Prisons in Zimbabwe: Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa*. Series IV no. 1.

Dankwa, E.V.O. African Commission on Human and People's Rights. (1997) *Prisons in the Mozambique: Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa*. Series IV no. 3.

Dankwa, E.V.O. African Commission on Human and People's Rights. (2000) *Prisons in the*

*Central African Republic: Report of the Special Rapporteur on Prisons and Conditions of Detention in Africa. Series IV no. 7.*

Foundation for Human Rights Initiative, (2000). *The Prisons Update*, Volume 6 No.2.

Hurinet News, (2001) Volume 16.

Human Rights Watch Report. Available at <http://www.hrw.org/prisons/africa.html#Kenya>.

Kenya Human Rights Commission (1996), *A Death Sentence: Prison Conditions in Kenya*. Nairobi, Kenya.

Kenya Human Rights Commission (2001), *Draft report of the Study of Prison*.

*Conditions in Kenya*. Kenya, Nairobi.

Kenya Human Rights Commission. (1997) *Prisoners Rights in Kenya*. Nairobi.

Penal Reform Media Network. (1999) *Prison and Penal Reform Fact Sheet* Vol 1, Number 1, October.

The Nation, the New Vision, and the Panafrican News Agency can be found at <http://www.allafrica.com/stories>.

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