

**AN ASSESSMENT OF THE WELFARE OF DETAINEES IN REMAND  
DETENTION FACILITIES: CASE OF EMBAKASI EAST SUB COUNTY, NAIROBI,  
KENYA**

**BY  
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## **DECLARATION**

This project is my original work and has never been submitted for a degree in any other university or college for examination/academic purposes.


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## **DEDICATION**

I dedicate this research project to my family and all human rights defenders for their encouragement and endless support during this study.

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## **ABSTRACT**

Incarcerated persons ought to be accorded dignified treatment under the right to humane treatment. Article 51 of Kenya's 2010 constitution holds that detained people have all the rights and freedoms in the bill of rights. This project examined the welfare of detainees in detention facilities in Embakasi East Sub-county—specifically, the detainee's right to standard sanitation and clean water. The study sought to establish the status of detainees' access to reasonable sanitation standards and clean water within Embakasi East Sub-county detention centers. The study ascertained factors leading to the violation of detainees' right to standard sanitation and clean water within Embakasi East Sub-county detention centers and suggested some strategies that would enhance respect for detainees' said right. The study was anchored on the theory of prisonization.

The study location was Embakasi East Sub-county. The study sample population entailed a total of ninety-five (95) participants drawn from ten (10) detention centers drawn from the sub-county, and they included detainees, Officer Commanding the Stations (OCS's), police officers-on-duty, and Officer Commanding Police Divisions (OCPDs) from all the sampled police stations within the Embakasi East sub-county. The research design employed descriptive cross-sectional study as it sought to understand the status of the rights to humane treatment in detention centers from the perspective of male detainees. This design was selected because of its ability to provide textual descriptions and first-hand experiences of the participants.

The study findings revealed adverse violations of detainee rights that safeguard access to standard sanitation and clean water while in state custody. Most of the detention facilities in Embakasi East Sub-county were overcrowded and lacked adequate hygiene services to accommodate all detainees; hence, unhealthy and life-threatening holding conditions. In the effort to improve the status of the detention facilities, a recommendation is made to increase resource allocation to the detention centres. The move would facilitate the provision of standard sanitation to the detainees hence improving their general welfare.

## CHAPTER ONE: INTRODUCTION

### 1.1 Background of the Study

Persons deprived of their liberty must be treated with dignity under the right to humane treatment in detention facilities. Detention facilities have a duty to ensure that detainees' rights are upheld, and that convicts are treated with humanity irregardless of suspicion laid on them (Fairclough, 2021). The right to dignity and respect for one's freedom and safety is a human right. It is that if there isn't a strong defense of the human person's freedom and security, protecting, if there isn't a strong defense of the human person's freedom and security, the protection of other people's rights, becomes more and more vulnerable. Monitoring groups worldwide have found that people are often arrested or detained without good reason and effective legal options for their victims (Speed, 2021). Often, detainees don't get to talk to their lawyers or their own families, and they end up being tortured and face other types of mistreatment (Draminsky Petersen & Morentin, 2017).

Compliance with human rights and international standards within detention facilities is critical for the detainees' well-being. The provision of and access to adequate housing, basic sanitation, adequate food, and clean and safe water by institutions is essential. It is critical for humane reasons to ensure that people held in custody have their dignity and entitlements guaranteed, regardless of their specific situation (Robina-Ramrez, Saudo-Fontaneda, & McCallum, 2020). Detainees held in the justice and correctional system centers around the world are vulnerable to exclusion and mistreatment because they are out of sight of the public and subject to state authorities' discretionary power.

Sanitation is a human right and is an important part of primary prevention for better health (WHO, 2014). Article 51 of Kenya's 2010 constitution says that detained people have all the rights and freedoms in the bill of rights. This includes access to clean water and reasonable sanitation standards in detention facilities. Article 25 of the Universal Declaration of Human Rights states, "all detainees have the right to health care, including preventive and curative measures, that are as good as or better than what is available in the community" (United Nations General Assembly, 1990). There is therefore, an urgent need to make detention facilities safe for people (Bretana, Miller, K., Treloar, & Lloyd, 2015). People in Kenyan

detention cells should have better sanitation to improve their social well-being and ensure they are properly rehabilitated, reducing their chances of committing crimes again. Compared to the average person, the study established that these facilities have a lot of sanitation needs.

Globally, most detention facilities do not meet the United Nations Standard Minimum Rules (UN SMR) for detainee treatment, which is primarily set by international standards (Prais, 2020). Overcrowding is the central problem in the management of detainees around the world, posing an acute and widespread challenge because it is synonymous with environs that are unsanitary, uncontrollable, and difficult to administer (ICPS, 2012). Most first and second world countries, which are thought to have more resources, have reported poor sanitation (Robak and Bjornlund, 2018).

Measures have been taken and are still being taken globally to address and mitigate the variables contributing to victimization, exploitation, and abuse in detention facilities. The Bureau of Justice Statistics (BJS) was formed in 1979 by the United States of America (USA) with the mission of collecting and analyzing data on victimization in detention facilities, among other things (BJS, 2013). According to research conducted by Blitz (2008) at 14 detention facilities in a mid-Atlantic state in the United States, 34 percent of male prisoners and 24 percent of female detainees experienced one or more forms of physical abuse over the course of six months. As a result, more than half of the detainees (58%) were subjected to physical abuse. In Argentina and Brazil, detainees have been subjected to torture, ill-treatment, and even death at the hands of fellow police personnel (Amnesty International, 2011).

The European Court of Human Rights (2018) documented cases in Russia, France, and Ukraine of complaints of ill-treatment of detainees by their mates and the failure of authorities to take measures to remedy the issues. The court's fact sheet also mentions cases of detainee ill-treatment by police officers that went unpunished. For instance, there is a case in Estonia where pepper spray was used on a detainee (Cherkesov, Nastuyev, and Kanukoev, 2021), another in Montenegro where a detainee was beaten (Krivokapi, 2020), and another in Turkey where a detainee was verbally or physically abused (Yildiz, Selimen and Dogan, 2014).

Human rights abuse and exploitation in detention centers have been found to be a big problem across the African continent. People in Burkina Faso, Cameroon, the Republic of Congo, DRC,

Eritrea, Ghana, and Mauritania have all died in custody because of torture or other ill-treatment (Amnesty International, 2011). In South Africa, for example, the Civil Society Prison Reform Initiative (CSPRI) disclosed that in 2014/15, the Judicial Inspectorate for Correctional Services (JICS), which is largely accountable for maintaining, supervising, and inspecting detention facilities, registered 109 cases of detainee assault by law enforcement personnel. There were 2,341 cases reported by the Independent Correctional Centre Visitors (ICCVs) who accessed South African detention facilities in the best interests of the JICS in the same time frame (CSPRI, 2016).

In Kenya, poor housing, lack of clean water, poor standards of health, and poor waste disposal, among other evils in detention centers, have been widely reported in the detention centers. Access to a toilet facility within these detention facilities is a challenge. Interestingly, it is reported that only one bucket is provided and placed in one corner in the detention cells so that everyone can use to relieve themselves (IPOA Performance Report, 2018). Cases of detainees visiting hospitals immediately after they are released from these detention centers, especially in Kenya, have been widely reported (Van Hall & Cleofa-van Der Zwet, 2021).

The establishment and institutionalization of the Commission were anchored in statute with a broad mandate with attendant enforcement mechanisms. Hence, it was expected that with such statutory powers, a robust and effective Kenya National Commission on Human Rights (KNCHR) would be at the forefront of championing the protection of human rights in this country. A special focus on the vulnerable and desperate Kenyans like the detainees yet to be convicted before a court of law is paramount. Having been in operation for over ten (10) years, assessment of the Commission's performance has been necessary as its effectiveness focuses directly on improving Kenyans quality of life with respect to human rights. The position of the KNCHR was further enhanced following the entrenchment of the Commission in the new constitution. This aspect gave the commission the zest and the enthusiasm it needed to thoroughly continue the fight against human rights exploitation and abuse. The foregoing profile of the human rights institutions in Kenya and, in particular, the evolution of KNHRC depicts that it is appropriate and feasible to evaluate the extent to which the Commission mitigates human rights and especially those touching on detainees who are in police stations or even detention camps in Kenya (KNCHR, 2010).

Despite Kenyan laws guiding the detention of detainees, their abuse, specifically concerning their basic rights, calls for examination. The right to detainees' accessibility to clean water and reasonable sanitation standards within detention facilities, has been a subject of discussion. Arguments revolve around whether it is an individual's or group's right. In the foregoing study, the researcher adopts an individual rights position since the living conditions of detainees in detention facilities affect individual persons. Therefore, this study examined the individual right to the provision of reasonable standards of sanitation and accessibility to clean water to detainees in Kenyan detention facilities, specifically in Embakasi East Sub-county.

The study examined the adherence of detention centres to the provision of this individual right, as enshrined in the constitution of Kenya article 43, sections b, c, and d. Embakasi East Sub-county was purposively sampled due to its ever-increasing population, which provokes a tremendous crime rate. Furthermore, the Sub-county has twenty-five (25) detention centers, and no notable jails. This aspect further motivated the researcher to study the welfare of detainees in these detention centers. Moreover, Embakasi East Sub-county houses the police training colleges in Utawala. Once these officers graduate from the college, due to proximity, many officers join police stations within Embakasi.

## **1.2 Statement of Problem**

Detainees are still persons with intrinsic value and are hence entitled to the right to proper sanitation. These are persons who are innocent until proven guilty, as the law dictates. The fact that detainees are kept in a place makes them even more at risk. Detaining people in small places can cause both physical and psychological harm. People who are sexually assaulted can get infections and die if they are held in small places. Governments have a higher responsibility to make sure that people who are under their control have clean water and toilets. This includes people who are being held for civil or criminal violations. The right to sanitation for people who are in jail or prison may come up because there are not good enough and cleanliness systems. The unhygienic conditions are also used as a form of punishment, or to inflict psychological and physical torture and abuse on the detainees. To make sure that detention facilities have safe and adequate sanitation facilities, the government needs to take action. All

detainees should be able to use the facilities regularly and take care of their hygiene without fear of being reprimanded by global human rights bodies. This study, therefore, examined the extent of the violation of human rights of detainees in Embakasi East Sub-county detention facilities, specifically, the male detainee's right to standard sanitation and clean water.

### **1.3. Purpose of the Study**

Generally, the study aimed to examine the violation of male detainees' right to standard sanitation and clean water in detention facilities in Embakasi East Sub-county, Nairobi, Kenya.

### **1.4 Research Questions**

- i. What is the status of detainees' access to reasonable sanitation standards and clean water within Embakasi East Sub-county detention centers?
- ii. Which factors lead to violating detainees' right to standard sanitation and clean water within Embakasi East Sub-county detention centers?
- iii. What strategies would enhance respect for detainees' right to standard sanitation and clean water within Embakasi East Sub-county detention centers?

### **1.5 Specific Objectives**

- i. To establish the status of detainee access to reasonable sanitation standards and clean water among Embakasi Sub-county detention centers.
- ii. To examine the factors leading to the violation of detainees' right to standard sanitation and clean water among Embakasi Sub-county detention centers.
- iii. To suggest strategies to enhance respect for detainees' right to standard sanitation and clean water within Embakasi East Sub-county detention centers.

### **1.6 Justification of the Study**

Despite the global, regional, and domestic efforts to promote the right to protection of human rights for detainees, the persistent violation, exploitation, and abuse of detainees in detention facilities have continued to raise the alarm from international observers. Various interventions to facilitate the rights of the detainees have been rendered futile, with many cases of abuse, injuries, physical abuse, sexual exploitation, psychological exploitation, defilement, neglect, and even death reported from these facilities. More interestingly, sanitation in these detention centers has been worrying and wanting; further, escalating the whole issue of safety, health,

and welfare of detainees in Kenya. It's against this backdrop then that this research, therefore, examines the extent of the violation of human rights of detainees in Kenyan detention facilities, with a specific focus on Embakasi East Sub-county. The study aims to establish possible ways to enhance detainee welfare in terms of provision and access to sufficient food and reasonable standards of basic sanitation supplies like toilet paper, soap, clean and safe water for personal usage. This is necessary to inform policy makers and the management of the detention centers to ensure there is provision of essential services to improve the living standards for the detainees.

This study seeks to establish the status of violation of detainees' right to standard sanitation and clean water in detention facilities within Embakasi East Sub County, Nairobi, Kenya. The finding of the study adds to the body of knowledge and literature on strategies for improving detainee welfare in detention centres. In the literature, the findings are significant in informing theoretical practices and bridging the existing knowledge gap in the status of the detainees' right to standard sanitation and clean water in detention facilities in developing countries, especially Kenya. This includes taking into consideration the stated suggestions and implementing them to improve the hygiene, sanitation and health, as well as, overall living conditions for the remandees. The findings will assist in ensuring Kenya as a country garners a higher rating in the scale of meeting human rights among the international community.

It is hoped that the policymakers will find the research results helpful in executing strategies to improve the conditions of the detention facilities in the study area and the country at large. Policy makers and implementers will find this study useful to streamline all faults and bridge the gaps in the Kenyan policy framework on detainee rights and entitlements. Furthermore, this study findings are of pronounced help to detainees in understanding their rights as enshrined in the Kenyan constitution. As such, the study is a source of enlightenment to the detainees and sensitizes them on the importance of complying with the law even as they wait for conviction/judgment; hence, it is very necessary.

### **1.7 Scope of the Study**

The study's primary focus was on detainee welfare in detention facilities. The study looked into the overall sanitation and hygiene and health status and whether there was adequate clean



and safe water in detention facilities in the Embakasi East Sub-county. Embakasi East Sub County is in Nairobi County, Kenya. It provides a fertile ground for this kind of research owing to its ever-increasing population, which provokes the crime rate tremendously. The subcounty identifies with the characteristics of high population, high crime rate, poor housing, inadequate water supply, lack of clean water, poor standards of health, and poor waste disposal, among other evils have been widely reported. These features are usually worse in the areas considered to have informal housing and uncontrolled developments. These are regions in which the inhabitants are relatively poor and many people live below the world stated poverty level of less than a dollar in a day. Thus, even access to basic sanitation and hygiene facilities, as well as, adequate water is a challenge in the vast Embakasi subcounty. Hence, for this reason, this subcounty was selected as a study area as it helps to facilitate the entirety of the scope of the study, which focuses specifically on the detention centers within Embakasi subcounty.

According to IPOA Performance Report (2018), access to a toilet facility within the detention facilities in Kenya is a challenge. Interestingly, it is reported that only one bucket is provided and placed in one corner in the detention cells so that everyone can use to relieve themselves. Cases of detainees visiting hospitals immediately after they are released from these detention centers, especially in Kenya, have been widely reported (Van Hall & Cleofa-van Der Zwet, 2021). Therefore, with the Embakasi Sub County having many detention centers and remands it further motivated the researcher to study the welfare of detainees in these centers. Moreover, Embakasi East Sub County houses the police training colleges in Utawala. Once these officers graduate from the college, due to proximity, many join police stations within Embakasi. They are thus a good source of information to inform the study findings. They are incorporated in the study participants to help in gathering the required data to form conclusive findings regarding the status of the welfare of detainees right to adequate and clean water, and humane sanitation standards.

### **1.8 Limitations of the Study**

The study to assess the welfare of the detainees in the remand and detention centers was limited by the scope. The study aimed to incorporate only the direct participants who are affected by the issues raised. Thus, it included participants drawn from the police detention centers, including the detainees, station manning officers, the station commanding officers and the

divisional commanding officers. The study area was also limited to the selected section of the Embakasi East sub-county and all selected stations were within this jurisdiction. The study was also limited in its scope since, due to the incidence of Covid-19, there was a directive to observe health safety measures. Thus, factoring all the limiting factors, and the component of available resources to complete the study on time, this research was constrained to the selected area and the selected participants.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.0 Introduction**

One of the fundamental needs that must be met without fail in any location where people are being detained is the provision of enough water (Shue, 2020). However, the realization of this right would not be practical without management's commitment to the goal itself. According to Bosworth and Slade (2018), ensuring the quality and quantity of the water supply meets the World Health Organization standards should remain a top priority and responsibility for management manning detention facilities across the globe. However, the right to access reasonable sanitation standards in detention centers remains unguaranteed in developing nations like Kenya, contrary to Article 43(1) (d) of the Kenyan Constitution.

### **2.1 Status of Detainee Access to Reasonable Standards of Sanitation**

Access to quality sanitation in detention facilities is sometimes embodied within the facility design. As Kelly (2019) maintains, adhering to the recommended construction design specifications as provided for by the World Health Organization is critical as this course helps to maintain the scope that is fit in the seamless provision of hygiene standards in detention facilities. A recent study in Tanzania by Armstrong (2018) notes that the management of detention facilities was rarely subjected to regulatory compliance. As a result, this led to the degradation of the drainage system and the sanitary facilities. By not considering these basic needs, the status became dire, inhumane, and detrimental to fundamental rights.

Access to clean toilets or lavatories as part of the hygiene protocol and infrastructure is critical in every dentition facility (Edgren, 2013). Although according to Zimbardo, Haney, and Banks (2019), while the strategic location of the hygiene facilities within the cell is also paramount, the revised proposals by WHO (2012) required the detention facilities to have toilets or lavatories located inside the perimeter accessible by detainees. However, McCall-Smith (2016) finds that latrine facilities were located outside the cell, and for the detainee to access the toilet facility, they required escorts which were not promptly provided. Further, most of the detention facilities had only one latrine allocated for detainees, contrary to (the WHO) guideline that proposes that the number of latrines availed for detainees should be one for 25

detainees (ICRC). Finally, while the study was conducted outside Kenyan jurisdiction, which differs significantly in terms of policy and budgetary allocations. The current study narrowed its focus to Embakasi Sub-county in view of developing locally practical recommendations.

Access to clean-washing sinks for detainees is equally a key aspect in fulfilling quality sanitation. However, Paulson (2022) noted that managerial commitment to establishing hand-washing sinks in detention facilities is low, especially in developing nations. While the functionality of hand-washing sites requires consistent availability of clean running water, McCall-Smith (2016), in his study, also observed that the amenity was lacking in most detention centres within Embakasi East Sub-county. These findings contravened the 22 rule of the United Nations Standard Minimum Rules for the treatment of detained persons, which upholds that clean drinking water shall be available to every detainee whenever needed. Embakasi Sub-county, where these detention centers are located within Nairobi county, have witnessed water rationing due to periodic droughts that have been witnessed in Kenya. The study examined the level of compliance with the provision of clean water in detention key zones (toilets, sinks, showers, and water points).

Ensuring access to shower facilities is also critical in detention facilities. According to ICRC specification, when these conditions are not met, the everyday life of detainees is seriously adversely affected (Coyle & Fair 2018). Studies conducted in Nigeria revealed that, although the detention centers provided enough showers that could cater to all detainees, it's regrettable that the water supply capacity was insufficient to channel water to each shower simultaneously. In South Africa, Hlatshwayo (2020) observed that bathrooms were located outside the main cell. It is entirely impractical to have all detainees take a shower daily. Although these findings shed light on the subject under investigation, it is admissible that Nigeria and South African states have distinct social-governance characteristics that differentiate them from Kenyan states hence,, the need for this local study assessment .

Access to other associated basic amenities such as bathing soaps, tissue papers, and disinfectants is paramount in fostering hygiene in detention facilities. In their research investigation, Karugonjo-Segawa (2016) found that male detainees awaiting Pre-Trial in

Uganda lacked sufficient toiletries, and the majority only relied on their relatives to provide such.

## **2.2 Factors Leading To the Violation of Detainees' Rights**

The Kenyan government is a member of the United Nations and a signatory to the UN Convention on the Rights of (detainees) prisoners. This declaration states that detainees, including prisoners, shall be treated with respect due to their inherent dignity and value as human beings. However, implementing the policy clause that guarantees these rights in Kenya detention facilities has not been absolute (Conboy, 2018). Therefore, as a subject of interest, various scholars have conducted detailed research on aspects/factors that lead to detainees' rights violations.

Resource provision is critical in fostering smooth management of detention facilities. However, as Armstrong (2018) notes, where such finances are limited, this is likely to hamper the provision of basic amenities, thus violating detainee rights. In Cameroon Arrey-Mbi (2012) sought to determine factors leading to the violation of detainees' rights in prison facilities in Bameda central prison. Results pointed out that inconsistency in the disbursement of finances severely impacted the lives of detainees in the facility. Due to a lack of financing and poor budgeting, detention centers could not pay service fees on time, thus suffering from untimely disconnection and consequently violating detainee rights.

According to UN Convention on the Rights of (detainees) prisoners, the state should ensure sufficient detention facilities that adequately cater to their population. A recent study featuring sub-Saharan African prisons and detention centres, Van Hout and Mhlanga-Gunda, (2019), find that where arrests exceed cell capacity limits, this leads to overcrowding and overrides the right to adequate housing. An investigation by Hlatshwayo (2020) revealed that once detainees were booked in a certain facility, their cases had to be handled from the facility. There were no transfer programs to other centers even when the facility's holding capacity became stressed. With the ever-growing population in Nairobi, the ratio of detention centers should embrace dynamic measures that match the growing need trends of the population.

From administrative view, failure to observe construction protocols has led to a bridge in detainee rights. As Paulson (2022) observed, most governments struggle to prioritize the

construction and rehabilitation of prisons, and this lack of emphasis is reflected in the buildings and their location. Mathis Jackson, Valentine, & Meglich, (2016) further opine that managerial capacity (human capital) is critical in ensuring these detention facilities comply with set rules and regulations. However, a recent study by Steiner and Wooldredge (2019), establishes that insufficiencies in human capital have resulted in a violation of detainee rights. For instance, the lack of enough prosecutors and criminal physiological profiler officers has led to some detainees being held longer than expected or set by the law. Limited human resource, therefore, becomes a catalyst for infringing on detainees' right to standard sanitation.

According to Lines (2016), poor maintenance in detention centers is also a common factor that instigates detainee rights violation. Similarly, Steiner and Wooldredge (2019) assert that proper maintenance ensures that lavatories are kept clean, safe and in good condition to use. If the hygienic needs of detainees are not met, this may constitute cruel, inhumane, or degrading treatment or even torture (Paulson 2022). Furthermore, the WHO (2019) recommends that the waste and excrement removal system in detention facilities must be efficient and capable of preventing the transmission of infectious diseases. Similarly, the septic tanks and sewerage system should adequately serve the capacity of the place of detention. This study checked the extent to which detention centers within Embakasi East Sub-county observed maintenance protocols that enhance the respect for the right to standard sanitation.

According to Moran, Jewkes, and Turner (2016), failure to comply with design specifications set for detention facilities has led to a violation of detainee rights in several ways, while the ICJR protocol demands that detention walls should have large enough to provide sufficient ventilation and to let in enough air and daylight, sunlight in view of discouraging bacterial infections and limiting electricity usage. In India, Oladimeji and Hyera (2020) found that poor facility design as key reasons that limit quality access to standards of sanitation and adequate housing a critical reason that limits quality access to sanitation and adequate housing standards.

Salisbury and Harmon (2016) note that most detention facilities being developed in developing nations still hold traditional designs, which were natively constructed as torture facilities. According to Bos and Slade (2016), accountability and transparency are critical in fostering access to reasonable sanitation standards within detention centers. He further opines that to uphold the rights of people under the criminal justice control and to ensure that the criminal

justice system evolves in ways that genuinely promote the public interest, then transparency and accountability are necessary. Drake (2018) found that accountability and transparency are critical in fostering access to reasonable sanitation standards in detention centers. However, failure to comply with the Audit had led to mismanagement (corruption) of resources allocated for detention facilities and thus compromising quality standards, consequently subjecting detained to inhumane habitats.

### **2.3 Strategies that Enhance Respect For Detainees' Right**

The provision of the right to standard sanitation, adequate housing, and clean water in detention facilities is closely tied to resource provision. For example, comparison studies by Lehmann (2021) conducted in India showed that detention facilities that received their financial allocation in time performed , better in maintaining hygiene standards compared to those that received their allocation late. Similarly, Cantrill (2014), finds that timely disbursement of funds allowed prison management to pay subscription bills in time, its cleanness maintenance contracts and thus ensuring smooth prison operations.

Gaes (2015) investigated some strategies that would alleviate challenges faced by detention facilities, such as resource overutilization, overcrowding, and poor sanitation. The research found that most detention centers' infrastructure could be redesigned to comply with WHO standards. For example, the study noted that improvements in hygiene infrastructure would ensure that toilets or latrines should be directly accessible from the cell. The findings tally with WHO's (2012) recommendation that interior cell design should allow people in detention to satisfy their bodily needs when they need to and with their dignity being respected.

Competence workforce is critical in developing an organizational work culture that conforms to the rule of law and policy standards. Also, Beaufrère and Chariot (2017) that adequately skilled employees can deliver on organizational goals (hygiene practices with the cell) effectively and efficiently. However, Kohlström (2021) found that competency and professionalism are highly lacking in the Kenyan police force as is confirmed by this study. For instance, the number of public prosecutors and forensic investors is wanting thus degrading the speed of handling cases, ultimately leading to overcrowding and straining of sanitation infrastructure in detention facilities (Edgren, 2013).

The promotion of hygiene practices in police cells is important in detention facilities (Skinns, 2012). If possible, police cells should be equipped with a ventilation system or flushing toilets enabling excrement to be flushed away (Shue, 2020). In addition, cells must be equipped with a toilet and a water source, or at least it must be possible to satisfy bodily needs when they arise. In their study Blaauw, Vermunt, and Kerkhof (2017) found that detainees should be responsible for their hygiene, as well as for looking after their clothes and accommodation and keeping these clean. In order to do this, they must have available the necessary toiletries in sufficient quantity, as well as cleaning equipment and household cleaning products. According to levels Lohri, (2019) personal hygiene is essential to safeguard community life in a situation of deprivation of liberty in order to stop diseases from occurring especially skin problems. It is also an essential component of personal dignity.

#### **2.4 Theoretical Framework**

Rehabilitation is defined as an internal change that results in the cessation of a targeted behavior. This might be achieved by inflicting pain as a learning tool (behavior modification) or by other interventions that are not painful such as self-esteem groups, education, and religion. This principle of rehabilitation can be traced to the utilitarian school of thought supported by two philosophers, Cesare Beccaria and Jeremy Bentham. Cesare Beccaria, the father of the Utilitarian school of thought, developed the concept that ‘punishment should fit the crime (Crimmins, 2015).

Under the social contract theory, an individual was bound to society only by consent; therefore, society was responsible to them, believed in the social contract, and reiterated that each individual surrendered only enough liberty to the state to make society viable. Laws, therefore, should merely be the necessary condition of the social contract, and punishment should exist only to defend the sacrificed liberties against the usurpation of those liberties by other individuals. Finally, he opened that the legislature should be guided by the principle of the greatest happiness being shared by the most significant number of people (Spencer & Taylor, 2021).

Therefore punishment should be assigned to each crime to the degree that would result in more pain another philosophy that greatly influenced Beccaria was that of free will (Beccaria, 2016). He argued that human behavior is purposive and based on hedonism (the pain-pleasure principle). People choose actions that give pleasure and avoid those that give pain. Article 51



of Kenya's 2010 constitution says that detained people have all the rights and freedoms in the Bill of Rights. In the theory of prisoners' societies, no formal structure, no matter how coercive, can deny or prevent a counter-culture from emerging. What prison institutions deny by way of self-respect, freedom, and normative standards exemplify society's rejection of them. Donald Clemmer 1940 defined this theory as prisonization. To him, prisonization is the process by which new inmates became familiar with and internalized prison norms and values. The process begins the moment a new inmate learns his status as a prisoner (Wheeler, 2018).

The influences in prisons breed criminality and antisocial behavior, which inculcate inmates with criminal ideologies (Gendreau, Cullen, & Goggin, 2019). For him, the degree to which the process is effective depends on several factors. These are; the inmate's personality, the type of relationships they had outside prison, whether they become members of these societies, their placement in a prison that is cell as well as cellmates, and the degree to which they accept the codes in prisons.

The importation model which John Irwin (2012) and Donald Cressey (2012) propagated posits that patterns of behaviour are brought to prison by the inmates themselves. Irwin emphasizes the need to distinguish between 'prison culture and 'criminal subculture.' To do so, he posits three types of prison sub-cultures which are; thief sub-culture, convict sub culture and legitimate sub-culture (Spencer & Taylor, 2021). The thief sub-culture refers to value patterns characteristic of professional thieves and other career criminals. This is found in prison settings as well as outside prison walls. The convict sub-culture occurs when inmates are introduced to prisons, and due to the deprivations they face, the scarce available resources must be competed for. The most manipulative individuals win these resources as well as positions of influence.

The legitimate sub-culture is composed of inmates who isolate themselves from other inmates. This constitutes a population of inmates who do not trouble the staff or prison wardens. Irwin and Cressey (2012) believed that a combination of convict and thief sub-cultures formed inmate sub-culture or prisoner societies.

This research was based on the theory of prisonization. This theory is most applicable because it outlines how prison societies arise and what the prisoners try to avoid when they form such societies.

It is critical creating awareness to the detention management that when detainees are segregated from free society, this does not mean that they should be absolutely deprived their essential rights. Thus the prison management has an obligation to treat all prisoners with respect for their inherent dignity and value as human beings and to prohibit torture and other forms of ill-treatment. Further, the theory deems instrumental in educating prison officials on their unique role in advancing and defending human rights, as well as their personal potential to have an impact on human rights in their everyday job.

## **CHAPTER 3: METHODOLOGY**

### **3.0 Introduction**

This chapter presents the methodology that was used to conduct the study on the violation of detainees' right to standard sanitation and clean water in detention facilities in Embakasi East Sub-county, Nairobi, Kenya. It covers study design, location, population, sampling technique, and sample size determination.

### **3.1 Study Design**

A descriptive cross-sectional study design was used to determine the violation of detainees' right to standard sanitation and clean water in detention facilities in Embakasi East Sub-county, Nairobi, Kenya. A descriptive cross-sectional approach is one that characterizes the prevalence of a certain outcome within the selected study population. It is helpful in highlighting key challenges that exist within a given society. For this reason, the study design was selected as the researcher intended to observe, describe and document aspects of the detention population as they naturally occur. The design was also used to ensure that what currently existed was examined as it existed and the fact that data was collected at one time. This study used descriptive aspects for every variable studied. The descriptive approach was used to summarize and articulate the findings from the statistics gathered from the responds, opinions and facts of the study participants.

### **3.2 Study Location**

The research was carried out in Police stations within Embakasi East Sub County. The researcher chose Embakasi because of its ever-increasing population, which has provoked an increased crime rate within Embakasi East. Embakasi Sub-county is divided into the following locations: Dandora, Embakasi, Kariobangi South, Kayole, Mukuru kwa Njenga, Njiru, Ruai, Umoja, and Donholm. 57% of the population is male, while the remaining 43% is female (Kenya police reports, 2022). The majority of the population is medium to low-income. In addition, social amenities such as education and health facilities are in deplorable conditions in the slum areas (Medi, 2017). The unemployment rate is high; thus, most youth are idle, adding to the increased rate of crime and hence, the overpopulation of the available detention centers. Moreover, cases of killings and disappearances of individuals involved in crime are

reported often (Onyango, & Natarajan, 2022). Furthermore, Embakasi has many detention centers and remands, and no notable jail within the region. Thus, it is notable that in a study location with prevalence of crime and no identifiable correctional facilities, many of the arrested individuals will be held in the available holding centers as they wait for the determination of their cases. The sub-county forms a viable study location.

### 3.3 Target Population

The target population for the study entails all the key stakeholders in the sector. These include the detainees, Officer Commanding the Stations (OCS's), police officers on duty, and Officer Commanding Police Divisions (OCPDs) from sampled police stations within the Embakasi East sub-county. The following sampling frame listed all police stations and posts based in Embakasi Sub County. The detainees are the primary sources of data as they are the individuals mainly affected by the status of critical hygiene and sanitation services in the holding centers. They are responsible for the major feedback as they express their experiences while in the holding centers. They are critical in giving a first-hand experience of the availability of water for their consumption, and other amenities like lavatories, bathing soap and any other form of treatment that violates their right to access good sanitation and clean water. The police officers are categorized into two. There is the commanding officers who form the immediate management of the holding centers, and the manning officers who directly implement the policies and actions to give the detainees access to their rights. These two categories of officers are selected to help give feedback regarding the status of provision of the essential sanitation and hygiene services from the government end. Thus, the target study population is properly constituted to inform the objectives of this study.

**Table 1.1: Sampled Police stations**

<b>S/NO</b>	<b>Detention Centre</b>
1.	Embakasi Police station
2.	Mombasa Road Police station
3.	Villa Franca Police station
4.	Kware Police station
5.	Njiru Police station
6.	Kayole Police station

7.	Matopeni Police Post
8.	Soweto Police station
9.	Obama Police station
10.	Mowlem Police station
11.	Ruai Police station
12.	Imara Daima Police Post
13.	Mihang'o Police station
14.	Tassia Police Post
15.	Mukuru Kwa Njenga Police Post
16.	Donholm Police Post

### **3.4 Sampling Techniques and Sample Size Determination**

#### **3.4.1 Sampling Technique**

The sampling process involves the selection and analysis of a small number of objects and events selected as a representative for the entire population or individuals. According to Mugenda and Mugenda (2013), the entire group of objects, events, or individuals with common observable characteristics is referred to as the population. A two-tier selection criteria was employed, one to select the study locations, that is, the holding centers and the other method to select the respondents within these study locations.

The researcher employed a rational random sampling technique in selecting the ten (10) detention centres under focus. In doing this, the researcher assigned numbers to all 16 detention centres written in raffles and folded equally, then put all the raffles in a box. Afterward, select randomly without any specific format or formulae ten (10) raffles and identify the ten detention centres represented by the numbers picked. This technique helps to reduce sampling errors and biases. This sampling method ensures collecting, organizing, analyzing, and interpreting data in a manner that makes sense in the context of the particular data set.

In selecting the respondents, the researcher used mixed sampling techniques, which involve both purposive and convenience sampling methods. All OCPDs were selected through the purposive sampling technique because the researcher wanted to access a particular subset of the available population implying that OCPDs are information-rich and related to this particular study. They were key for getting information regarding the government commitment

to facilitating the attainment of the rights of the detainees, including access to the critical sanitation services. The convenience sampling technique was used to select duty officers because it's simple, efficient, and convenient to the researcher (the sample is conveniently accessible) based on the respondents' availability and willingness to participate in the research. Furthermore, all detainees in the ten sampled detention centres were selected through simple random sampling. This is since the detainees are all fairly the same and as such, a random approach helped to ensure an unbiased finding as the detainees are all affected by the living conditions in the holding centers. The choice of these techniques was motivated and prompted by the strict adherence to Covid-19 procedures and protocols in these detention centers.

### **3.4.2 Sample Size Determination**

An effective sample size ought to be extensive enough to permit the describing of all the unique and rich data to illuminate on the phenomenon under study and small enough for deep exploration of the issues at hand. Additionally, it needs to facilitate a representation of the larger population under the study. Therefore, in the case of the research to establish the status of human right to sanitation and clean water, the sample was selected to give an overall overview of the status of the detention centers within the Embakasi sub-county. The study collected as much valuable data as possible from each participant, leading to data saturation. Using a rational random sampling technique, through all sixteen (16) detention centres in the subcounty, the researcher required only ten (10) centres spread across the vast Embakasi East sub county. Since all 16 detention centres have an equal chance of being selected, the researcher used a random sampling technique. In doing this, the researcher assigned numbers to all 16 detention centres written in raffles and folded equally, then put all the raffles in a box. Afterward, selected randomly without any specific format or formulae ten (10) raffles and identify the ten detention centres represented by the numbers picked. This technique helps to reduce sampling errors and biases. The following sample matrix represents the ten (10) detention centres selected for this study.

**Table 1.2: Study's Sampled Detention Centres Matrix**

<b>S/NO</b>	<b>Detention Centre</b>
1.	Embakasi Police station
2.	Obama Police station

3.	Villa Franca Police station
4.	Tassia Police Post
5.	Mowlem Police station
6.	Imara Daima Police Post
7.	Kware Police station
8.	Mihang'o Police station
9.	Mukuru Kwa Njenga Police station
10.	Donholm Police Post

Each of the holding centers selected provided one (1) commanding officer, giving a total of ten (10) selected for the study. The divisional commanding officers were also selected from the five wards in the giving a total of five (5) participants. A total of 2 police officers guarding the station was selected from each station, giving a total of twenty (20) participants. Among the detainees, each of the holding center selected provided 6 participants, hence, a total of sixty (60) respondents was randomly selected among the detainees. This gave a total of ninety-five (95) participants for the study, representing a notable sample size to adequately inform the findings of this research.

### **3.5 Variables of the Study**

The research study was to have both the dependent and independent variables linked with the interdependent variable.

#### **3.5.1 Dependent Variables**

The dependent variable is the violation of detainees' human rights in detention centres within Embakasi East Sub County.

#### **3.5.2 Independent Variables**

The Independent variables include access to standard sanitation, decent housing, and access to clean & safe water within detention centres in Embakasi East Sub County.

### **3.6 Research Instruments**

Interviews and predefined questionnaires were the primary data collection methods since it is cost-effective, simple to structure, and effective for data entry. Questionnaires and interviews

were preferred because they provided privacy of information from the respondents. The research utilized both closed and open-ended questions. The questionnaire was divided into sections ranging from background information to the detention period. Due to security and confidentiality issues, the researcher employed face-to-face interviews, especially when collecting data from the OCPDs and duty officers in charge. To confirm the availability of sanitation amenities within these detention centres, the researcher developed a standard observation checklist (Appendix iv) with various items and ticked accordingly with regard to availability and adequacy within the detention centres. On the other hand, data collection from detainees involved using closed-ended questionnaires. All these research tools helped the researcher gather qualitative data amicably.

### **3.7 Data Collection Techniques**

An option of generalized information within the population with a high degree of data standardization was provided by the structured questionnaire chosen for the study Chand ran (2013). It was helpful in this research by facilitating in a non-threatening way quick data collection. It provided resilience at the conception phase on deciding how a question was managed. The questionnaire was administered to all the sampled respondents. The drop-and-pick later method was used to administer the questionnaire.

Qualitative data was collected using structured pre-designed questionnaires administered by the researcher during the interviews. An interview guide was used to record information provided by the participants. Police officers were sampled as key informants to provide details of admitted detainees from Embakasi East Sub County detention facilities. Direct interviews with officers on duty and OCPDs were embraced.

### **3.8 Data Analysis Techniques**

The interviewees provided data that was documented for analysis. According to Mugenda and Mugenda (2013) qualitative data does not produce discrete numerical data. Thematic analysis was used in this qualitative research, mainly the process focused on examining themes or patterns of meaning within qualitative data recorded during interview. The data collected was first arranged into groups depending on the evident theme that manifested. For instance, the research questions that relate to availability of clean water were grouped together and the responses gathered were categorized based on the pattern, whether the water was adequate or too



little. The thematic analysis was a very useful data analysis technique in informing the findings of this research.

### **3.9 Ethical Considerations**

The study was conducted in the best interest of the respondents. Ethical principles that were considered included; informed consent and confidentiality. The researcher got clearance from the University of Nairobi and the National Commission for Science, Technology and Innovation (NACOSTI) to conduct the research. Further, the information gathered was kept confidential to maintain the privacy of the respondents (Henry, 2012; Marksmith, 2014). A consent form was provided to the detainees before interviews were carried out. To ensure privacy, the researcher designed a pseudo-naming system for all participants.

## CHAPTER FOUR: FINDINGS

### 4.1 Access to reasonable standards of sanitation and clean water

Access to reasonable sanitation standards means preventing human contact with waste hazards by encouraging hygiene practices. According to Singh (2015), achieving excellent health, social and economic prosperity depends on having access to adequate sanitation, sound hygiene practices, and clean water. According to WHO (2018), improving sanitation would consequently decrease the rates of morbidity and illness severity rates, improving the quality of life, especially in developing nations. In this light, upholding reasonable standards of sanitation in all places, including detention centers, becomes of great essence.

In many detention centers worldwide, men make up the population group that is increasing and growing quickly. According to Arcidiacono (2019), 85% of men are held in detention facilities for nonviolent offenses. Statistical trends further highlight that there were approximately 5,700 men held in federal detention facilities in 1970. However, the number has tremendously risen to 127,649 at the end of 2020 (Irwin, Schiraldi, and Ziedenberg, 2021). While the statistics encompass global states as a whole, the need to assess local trends in Kenya is critical in developing plans and redressing matters affecting men detainees.

The rise in the number of male detainees globally calls for urgent clarification on some factors that should be taken into account while treating male detainees at the facility level (UNODC 2018). A United Nations (UN) congress declaration on the unique requirements of male detainees advocates for crime prevention and the treatment of male offenders. The declaration stresses that necessary tools be put in place to cater for the specialized needs of male detainees without prejudice. According to Mhlanga-Gunda et al., (2020), implementing supportive infrastructure and managing detention facilities must consider the unique needs of men booked at these centers.

Procedures within detention facilities are supposed to be exercised with respect to constitutional laws and orders (Swanson, 2018). According to Van-Hout (2020), detention facilities are supposed to provide humane treatment to every person booked at the facility. This implies strict observance of all international human rights, especially the arrested person's rights. Even though many developing states (like Kenya) have declared commitment to

honoring the human rights charter (Banjul Charter), quality assessments by various agencies have availed conflicting results. For instance, 44 percent of male detainees, including 57% of those detained in Kenyan detention centers, claim to have experienced limitations on the enjoyment of rights and fundamental freedoms (Mburu, Restoy, Kibuchi & Holland 2016).

Even though various regimes in Kenya have pledged support and commitment to the improvement of detainees' welfare, recent reports by UNCHR (2020), however, disclose immense violations of the rights of detained individuals. Among the violation indicated include; discrimination in detention, cruel treatment of detainees at the facility, poor hygiene, and lack of social, medical, or psychological assistance.

All persons under any form of detention or imprisonment shall be treated humanely and with respect for the inherent dignity of the human person. Therefore, it is critical for the National police service (NPS) in Kenya to ensure that all the accused individuals are treated in accordance with the Constitution and international human rights norms.

According to Warren, Njue, Ndwiga, and Abuya, (2017), every right and fundamental freedom in the Bill of Rights stays unchanged for anyone detained, held in custody, or imprisoned by the law, but only with the exception of any instances in which a specific right or fundamental freedom is manifestly incompatible with the individual detained or incarcerated.

#### **4.1.1 Access to Standard Sanitation**

The constitution of Kenya, 2010 Article 51 on the rights of an incarcerated person, states that detained persons retain all rights and freedoms under the Bill of Rights, including health and sanitation. Furthermore, in article 25 of the Universal Declaration of Human Rights (UDHR), all detainees have the right to receive health care, including preventive and curative measures, equivalent to that available in the community" (United Nations General Assembly, 1990). Therefore the government has a moral responsibility to ensure a safe environment and that the health of persons held in their custody is well maintained (Bretana *et al.*, 2015). However, as per the observation made using the checklist, the study observed low adherence in the institutionalisation of measures that promote access to sanitation for male detainees. For instance, the researcher observed that, in Imara Daima Police Post, there was a running water tap. However, Ruai Police station relied on drilled shallow man-made water well and there

was no water treatment plant on sight. Even though Tassia Police Post had piped water into the facility, the taps were dry, and detained persons used buckets of water to flush out their toilets. The findings contradict the principle that access to clean toilets or lavatories as part of the hygiene protocol/infrastructure is critical in every detention facility (Edgren, 2013).

#### **4.1.2 Poor Sanitation and Infectious Intestinal Diseases**

Most epidemiological studies show a distinct link between poor sanitation and the spread of infectious intestinal diseases while assessing impact of improved sanitation (Bloomfield et al., 2017). Disposing the fecal waste safely helps reduce the incidence of diarrheal diseases. The improved sanitation reduces the risk of outbreaks by 32% (Fewtrell et al., 2018). Handling food with contaminated hands or coming into contact with pathogens within the food chain is a notable cause of infectious diseases (IID). In stations such as Mukuru Kwa Njenga Police Post (P-9), Kware Police station(P-7), and Obama Police station(P-2), key informants concurred that detainees had had intestinal diseases due to poor sanitation. According to K9-2, “*the detainees in this facility usually complain of stomach pains and diarrhea*”. This is linked with poor hygiene standards in this post”. Key informant from K2-2 affirmed similar sentiments, “*We are afraid that one day this might lead to sprouting germs that cause Cholera*”.

The rate of transmission of infectious diseases, as a result of poor sanitation is highest among the low-income communities, and in particular, those found in developing countries. The common route of transmission is the hand to mouth incidence. A systematic review of the impact of hand washing as an intervention to IIDs spread in the year 2017 showed that it helps reduce the incidences by between 13-79% for developing countries (Aiello et al., 2018). Similarly, a meta-analysis studies of community-based interventions showed that infections associated with hygiene and in particular diarrhea can be reduced by about 42-47%, demonstrating a strong causal relationship between hand hygiene and gastro intestinal disease risk (Curtis & Boman, 2013).

#### **4.1.3 Sanitation and Respiratory Diseases**

Since the dawn of science, Chadwick's foundational "Report on an investigation into sanitary conditions of laboring population of Great Britain" in 1842 made the scientific finding that

poor sanitation causes disease. Poor hygiene is recognized as a key health indicator. Sanitation-related diseases contribute significantly to the burden of infectious diseases worldwide (Steele, 2018). Microbiological and epidemiological data also strongly link respiratory infections and sanitation. Two possible means of transmission are contact and airborne. The study established that detainees in Villa Franca police station, Mukuru Kwa Njenga police station, Mowlem police station, Ruai police station, Donholm police post, and Kware police station complained of respiratory infections. According to key informant K7-8, *“the cases of common cold of Epiglottitis are very common in this station; the situation subject everyone to risk.”* Similarly, the researcher observed that a large fraction of the detainees in these stations were suffering from flu-like infections. Rabis and Curtis (2016) demonstrated that regular hand washing and observing cleanliness can reduce respiratory disease incidences by 16%. In a more recent study by Aiello et al. (2013), 14% of the risks of respiratory diseases was 21% correlated to compounded effects of hand hygiene, such as washing with soap or using alcohol hand sanitizer.

#### **4.1.4 Sanitation and Skin Infections**

Studies also link skin infections with poor hygiene. Contact from infected surfaces, clothes or hands leads to direct contamination. According to a study in detention centers conducted by Turabelidze et al (2017) the risk of skin infections was highest among individuals who do not frequently wash their hands and take less showers per week. According to Officer Commanding the Stations (OCS-3 K1-3,) due to poor access to sanitation, detainees were exposed to fungi that cause athlete's foot and yeast infections. In his admission, *“we have had cases where the detainees complain of being baited by lice, head lice, and this makes them prone to scabies”* Detainee D6 and D7 from Kayole Police station, D6-3 from Matopeni Police Post, detainee D2-4 from Mombasa Road Police station and detainee D8-5 from Soweto Police station echoed similar sentiments.

The most common skin infections in detention centers are scabies and superficial fungal illnesses. Oninla (2019) conducted a study in a Nigerian detention center at Ilesha to determine the frequency of skin infections in the police cells and established a prevalence of 49.2%. Multiple infections were noted to constitute more than a quarter of the infection cases. The infection rate was highest among the detainees who lived in police cells than in general areas

due to overcrowding resulting increased spread as a result of skin contact. The sleeping space was shown to be less than the WHO recommended space of 40 sq. feet per person. From the observation checklist, the researcher noted that all the stations at Embakasi lacked soap for bathing and water, had poor personal and general hygiene with infrequent bathing, poor toilet facilities, and that detained had only one pair of clothing and thus unable to change. At Mukuru Kwa Njenga Police Post, skin diseases were reported to be common in detention centers, and according to KI-5, this could be exacerbated by poor conditions in detention centers.

#### **4.1.5 Practices on Sanitation in Detention Centers**

The findings from the detention centers found that conditions in such detention centers were unsafe, unhygienic, and overcrowded, resulting in unsanitary living the among detainees. The study also pointed that 30% of the Irish detention centers did not have in-cell lavatory services, where the detainees could clean out. However, there was observed a minor improvement subsequent to rolling out portable units with cover across estate police detention cells , but it still falls far short of the requirements of international human rights (Shatter, 2021). For instance, cell sanitation at the Limerick detention center was described as a matter of priority and urgency. However, this was not the case with detention centers where the Inspector of Police noted that the slop-out facilities were always clean and disinfected (police annual report, 2018). Hygienic conditions in detention centers are adversely affected by sanitary facilities due to overcrowding in all the detention centres visited. From the descriptive results, The OCS at Villa Franca Police station clarified that there were no programs aimed at sensitizing detainees to the essence of observing cleanliness in the facility. He affirmed that, *“detainees are just held in custody for a short period of time; we don’t expect that they will stay here for long. It’s hardly hard to subject people to a learning process within this short period of time(OCS-3 K1-3) .”*

A research carried out in Amritsar police remand cells in India to further elaborate on the situation at the cells showed inhumane conditions that required fast redress. The respondents registered a dissatisfaction with the state of the hygiene, with 93% claiming unhygienic conditions were synonymous with the cells. The other 7% of respondents were largely in the cells with inalled toilets which were functioning perfectly, including the capacity to flush. Only a single toilet sheet was provided in one toilet for a population of between 80-90 detainees,

leading to pandemonium and many problems during lock up. Similarly, this study found out that in Mukuru Kwa Njenga Police station and Mihang'o Police station, Some of the detainees pointed out that the, *“sewerage system is very bad and there is a shortage of toilets (reference)”*. There were 19 available toilets and these are installed with the outdated version which does not have the flush system. At Imara Daima Police Post, they were modern however, their toilet cover seats were broken and dirty. At Mihang'o Police station, there was an acute water shortage in the lavatories, and had irregular water supply. Others also reported a shortage in supply of soap and toothpaste.

Banasik, (2019) carried out a research in Poland to evaluate the cleanliness, environmental health and general conditions of safety provided to petty offenders detainees. The study found that those detainees consistently registered claims that they did not have adequate supplies to observe hygiene, including washing materials, clothes and utensils. They were given dirty buckets and mops, as well as, water without detergents to do the cleaning by themselves. Detainees have to share the small soap provided and even share body towels for personal grooming. In relation to the current study, the study observed constituencies in the supply of cleaning reagents. According to K7-4, *“first, we lack adequate finances to ensure a hygiene environment in this facility; secondly, the procurement and distribution of washing items is done at the higher management levels, which is also characterized by serious material supply chain distribution gaps.”* The gaps are evident in the police equipment/ supply chain, the materials required to keep the detention running smoothly for them to reach the station in time (inefficiencies in distribution process)

According to the Uganda's Ministry of Water and Environment report of 2015, the challenge of good hygiene and sanitation remains highly magnified. The accommodation is also worrying as most of the detainees having access to less than 1 square meter of sleeping floor compared to the commended minimum floor space of 3.6 square meters per detainee. The available water systems are also overloaded with demand of more than 250%, the current capacity which leads to high cost of maintenance. In addition, a recent assessment of Luzira police remand cell in Kampala revealed that the WASH coverage rate was less than 30% compared to 87% coverage in urban areas (Water and Environment performance report, 2015).

In relation to the current study, results revealed that at Mukuru Kwa Njenga Police station, detainees were subjected to extended periods of contact with harmful germs due to a lack of water to flush the urine and feces, away while locked up at night detainees were no longer escorted to the toilet facilities that were located outside. Instead, they were only allowed to use one single bucket for both short and long calls, which was later emptied by one of them in the morning.

#### **4.1.6 Knowledge on Sanitation among Detainees**

The general observation from key studies is that people with higher formal education levels, and those with high awareness about sanitation often have higher status of general hygiene and sanitation. They also demand better services even when in detention centers or any other place (Lohri, 2019). Another longitudinal research done at Health Protection Agency, London, UK established the finding that to improve sanitation status and prevent incidence of diseases, it is essential to increase awareness among the population (Cookson et al., 2019).

Contrary to Lohri, 2019 study conclusions, the current study established that detainees held at Mukuru Kwa Njenga Police station had knowledge on sanitation. However, Obama Police station, Mowlem Police station, and Imara Daima Police Post detainees were unaware of sanitation standards, the study remarked that there were no sensitization or communication tools (posters) inside detention cells that could pressure the need to maintain collective hygiene with the facility. According to key informant K9-2, *“detainees did find it essential to learn or observe hygiene standards because they are temporarily held here”*.

#### **4.1.7 Risk factors for Sanitation Related Diseases**

According to (King, 1940), the availability of clean and safe water to use maintains people's dignity. Additionally, hand washing is a basic idea for achieving hygiene; therefore, when people are not properly practicing it, they are prone to the dangers of outbreaks caused by poor hygiene.

Those facilities with unsafe and unclean water adversely affect the detainees, affecting personal hygiene and increasing the risk of contracting a disease. Several studies have identified risk factors for sanitation-related infection in detention centers and the community. For example, Oldekop (2020) postulated in his study that the highest infection risk was due to



the environment. He also outlined that the remand cell in which inmates live is significantly risky.

Poor surroundings compounded with the overcrowded state were also correlated to increased infections in another study in Belgium (Feron et al., 2005). Observation on sources of infection at Mowlem Police station, Embakasi Police station, Kware Police station, Mukuru Kwa Njenga Police station revealed that the management had neglected the insistence of hand washing practices among inmates. These centres also had unclean equipment and their floor and wall surfaces had deep cracks. Reports by K7-4 indicated that, *“hand washing sinks required hand contact to operate and were below standard in terms of height .”*

Additionally, a research was done in Northern Vietnam, Rheinländer(2020) investigating the incidence of resistant *Staphylococcus aureus* (MSRA) in remand cells in the period 2012-2013, with a focus on hygiene and sanitation practices. The study findings showed a correlation between MSRA and low composite hygiene score. Therefore, a recommendation to improve hygiene practices and environmental conditions was done to curb future incidence of such an outbreak (Turabelidze et al., 2019). Moreover the lack of proper general hygiene services such as washing detergents, disinfectants, clean clothes and intermittent showers were also seen as notable challenges in the holding facilities (Oninla, 2019).

#### **4.1.8 Section Summary**

This chapter paints a picture of the violation of male detainee rights. Primarily, the chapter gives broad discussions drawn from the local studies that focus on violating male detainee rights on adequate sanitation, sound hygiene practices, and clean water.

The constitution of Kenya, 2010 Article 51 on the rights of an incarcerated person, states that detained persons retain all rights and freedoms under the Bill of Rights, including health and sanitation. Furthermore, in article 25 of the Universal Declaration of Human Rights (UDHR), all detainees have the right to receive health care, including preventive and curative measures, equivalent to that available in the community.

Therefore the government has a moral responsibility to ensure a safe environment and that the health of persons held in their custody is well maintained. Using the checklist, the study observed low adherence in the institutionalisation of measures that promote access to sanitation for male detainees.

In Imara Daima Police Post, there was a running water tap. However, Ruai Police station relied on drilled shallow man-made water well and there was no water treatment plant on sight. Even though Tassia Police Post had piped water into the facility, the taps were dry, and detained persons used buckets of water to flush out their toilets.

The study established that detainees in Villa Franca Police station, Mukuru Kwa Njenga, Mowlem, Ruai, Donholm, and Kware police stations complained of respiratory infections. According to key informant K7-8, *“the cases of common cold of Epiglottitis are very common in this station; the situation subject everyone to risk.”*

Studies link skin infections with poor sanitation. Skin infections are readily transmitted between hands, surfaces, clothes, and fabrics.

According to Officer Commanding the Stations (OCS-3 K1-3,) due to poor access to sanitation, detainees were exposed to fungi that cause athlete's foot and yeast infections.

In his admission, *“we have had cases where the detainees complain of being baited by lice, head lice, and this makes them prone to scabies.”* Detainee D6-and D7 from Kayole Police station, D6-3 from Matopeni Police Post, detainee D2-4 from Mombasa Road Police station and detainee D8-8 from Soweto Police station echoed similar sentiments.

From the observation checklist, the researcher noted that all the stations at Embakasi lacked clean water and bathing detergents, had poor body and general hygiene with nregular shower opportunities, poor lavatory amenities, and that detained had only one pair of clothing and thus unable to change. At Mukuru Kwa Njenga Police Post, skin diseases were reported to be common in detention centers, and according to KI-5, this could be exacerbated by poor conditions in detention centers.

Study established that detainees held at Mukuru Kwa Njenga Police station had knowledge on sanitation. However, Obama Police station, Mowlem Police station, and Imara Daima Police Post detainees were unaware of sanitation standards, the study remarked that there were no sensitization or communication tools (posters) inside detention cells that could pressure the need to maintain collective hygiene with the facility. According to key informant K9-2, *“detainees did find it essential to learn or observe hygiene standards because they are temporarily held here”*.

Observation on sources of infection at Mowlem, Embakasi, Kware, and Mukuru Kwa Njenga Police stations revealed that the management had neglected the insistence of hand washing

practices among inmates. These centres also had unclean equipment and their floor and wall surfaces had deep cracks. Reports by K7-4 indicated that, *“hand washing sinks required hand contact to operate and were below standard in terms of height .”*

#### **4.2 Factors leading to the violation of make detainee rights**

Detainees have the same rights and standards that are set out in international law. People around the world are protected by the International Covenant on Civil and Political Rights, the UN Convention against torture, especially in the UN Convention for the Protection of All Persons from Enforced Disappearance, and the UN Convention on the Rights of Children. These protections are also found in the Optional Protocol to that convention (Amnesty International, 2021). Interestingly, detainees are being subjected to severe conditions in the detention centers, which violates their right to access standard sanitation in these facilities. Some of the factors that have contributed to the violation of detainees’ rights include;

##### **4.2.1 Overcrowding**

Globally, the number of detainees is growing. At a record high, 11 million people are in detention centers worldwide. Not only does it cost money, but it also hurts the social cohesion of societies. Moreover, a harsher approach to criminal justice causes this rise. For example, India also shows the same trends (Rabuy, 2017). According to the National Crime Records Bureau (NCRB), there were 478,600 detainees at the end of 2019, comparatively, that's about 100,000 more than there were in 2009.

From the checklist, the researcher observed that nearly all the police cells in Embakasi were full beyond capacity. For instance, in Kware Police station, one cube held ten detainees and a similar situation was also observed in Embakasi Police station where eight detainees occupied a single cell . Crowding is contrary to detained rules that require one detainee in each cell. Under United Nations Standard Minimum Rules for the Treatment of Prisoners (UN-SM RTP ) explains that all detainees should be handled with the respect due to their intrinsic dignity and value as human beings. No detainee shall be subjected to, and all detainees shall be protected from, torture and other cruel, inhuman or degrading treatment. Moreover, descriptive reports detainees revealed that some of the detainees had been held longer than 24hours without trial. For instance, detainee D4-6 lamented, *“I have been held here for three days and*

*have not been tried yet, more and more arrestees continue to flock in, and personally I have not had a shower since I was booked in. There are no toilets inside this cell, we are being compelled to use a bucket which is later disposed of by one of us under strict guard. This place is pathetic*". The situation is contrary to (WHO) guideline that proposes that the ratio of latrine to detainees should be 1 per 25 (ICRC).

Qualitative reports of this research similarly revealed that point towards the same direction. Key informant K1-3 confirmed that, *"In most of the times, especially weekends, the police cell is stressed beyond capacity. The detainees are booked manually, and they have to wait until Monday when courts resume operations"* , *its evident that most of the cells lack computer systems that would bring in the aspect of accountability and transparency in the process.*" These findings tally with the empirical literature by Mhlanga-Gunda, (2019) who found that where arrest exceeds cell capacity limits leads to overcrowding and consequently overrides the right to adequate sanitation services.

The descriptive report given by Key informant K2-9 revealed that overcrowding in Embakasi detention centres presents dire risks and compromises their health. The officer reported that *"Covid -19 is a new emerging challenge that has caught policing service unprepared. The management had to move quickly and restructure police cells to meet covid prevention guidelines, and if this is not done police cells quickly will turn out to be diseases breeding facilities which is contrary to the UN Convention on the Rights of (detainees) prisoners."* The findings call for an immediate redesigning of Embakasi detention facilities and expansion of sanitation infrastructure. However, the process may not be executed promptly, given that most governments in developing nations were reportedly struggling to construct or rehabilitate detention centres due to lack of resources. (Paulson ,2022) .

Without a doubt, Covid-19 has brought overcrowding risks to light. Over 124 countries have more people in detention centers than they can hold (Global Prison Trends, 2020). However, detention rates vary in other parts of the universe and other parts of the same country. Nevertheless, statistics show that overcrowding in detention facilities is a common phenomenon. For instance Haiti has the most crowded detentions in the world, with a 454

percent occupancy rate. 118.5 percent of people live in India. In 2020, it was 115 percent, which is not bad, but still a little low (Lappi-Seppälä, 2020).

According to Embakasi East sub county many detentions currently operate a capacity that is twice or even thrice what they were designed to serve. For instance, Mowlem Police station had a detainee population of 30, which is more than double their ability. The Embakasi Police station hosted a mixed remandee, and suspect population of at least 50. Such crowding and mixing of remandees and suspects precipitates an environment that leads to deadly fights and even more daring escape attempts. Mihango Police station holds 18 individuals from the originally intended number of 10.

KNCHR, published a report finding in 2006 after a visit to Embakasi Police station which revealed clear systemic problems in the detention framework relating to overcrowding. A former detainee articulated the discomfiture of sharing a bath in the small shower with men who are as young as his grandchildren. Additionally, the overcrowding, compounded by the small size of whoer rooms led to constant direct body contact against each other while showering which is sometimes emotionally disturbing. The sanitation in the shower rooms and cells was also deplorable, in addition to the ablution blocks outside being in a deplorable state.

The KNCHR reiterates from their findings that holding Kenyan detentions are overcrowded by an average of 300%. Therefore, the KNCHR proposed a means of depopulating the detention population by avoiding holding remandees in police stations. The study found that detention centres in Embakasi East sub county are holding three times the capacity the facilities were designed to holdn, hence, overriding the available water and sanitation services.

#### **4.2.2 Slow Judicial Systems to Persecute and Prolonged Solitary Confinement**

Results of this study show that the slow judicial process led to the overcrowding of detention centers within Embakasi Sub-county. For instance, Key informant K4-2 explained that *“unfortunately, we have limited case prosecution capacity. One prosecutor serves three stations and must be varnished with each case file before the suspect is tried in court. The work load is greater than infrastructure, that is why most of the suspects have to wait longer than 24hrs leading to overutilization of the allocated resources”*.

Qualitative information also showed that when people are kept in solitary confinement for a long time might have mental health problems, mental distresses, self-harm, and maybe more re-offending. According to detainee D2-4, *“you can observe that being held process in a totally closed place this and without trial due to slow judicial have a negative mental effect on us, no body here seems to be social, the language used in this depicts mental sickness.”* when asked to comment of the same, Key informant K3-2 reported that *“arrestees were allowed to pay bails or bond but promised to attend court when required.”* The exercise helped to reduce overcrowding and ensure efficient utilization of sanitary resources. Failure by the police officer to process and produce any detainee before a judge or a magistrate for case determination amounts to a violation (Martin, Martin, Ramirez & Lozano, 2014).

#### **4.2.3 Being Held In Incommunicado**

Being detained in a secret location without access to family, lawyers, doctors among other close relations, amounts to a massive violation of detainees' rights and freedom which is against the law of the land. In the spirit of national cohesion and reconciliation with proper adherence to the constitution, every detainee should be allowed to interact freely with family, doctors, and lawyers until their case is determined. This aspect has hugely contributed to massive abuse and violation of detainees' rights (Pozniak, 2020). While accepting the practice, Key informant K2-1 explained that; *“sometimes when the matter is sensitive detainees are held without relatives' knowledge, basically this is done to unearth more information that could help in combating organized crime, such individuals spend a couple of days in interrogation chamber”* Globally, a vice like this is used all over the world by the government to keep people from exposing about them (Bloomfield et al., 2017).

There have been reports of enforced disappearances, incommunicado detention, torture and abuse, sexual violence, and death in detention facilities run by all people involved in the conflict in Syria and other places. There are many detention facilities, from makeshift places in basements and schools to purpose-built cells run by different warring groups as territorial control changes. This has included war crimes and crimes against humanity committed while people were being held in prison (Nour, 2020).

#### **4.2.4 Corruption and Inequality Before the Law**

To make sure that the criminal justice system is more fair and efficient, one of the most difficult but important things to do is to eliminate corruption among officers who work in the system. This study's results, however, revealed cases of corruption that infringed on detainee rights. For instance, Key informant K2-5 explained that;

*“About 70 percent of the arrest we make never make it to courts. Moreover, once the arrestees find the detention facility extremely pathetic, they opt to part with a small fee in exchange for their freedom. The amount is then shared along the command chain”.*

The findings confirm the conclusion by Drake (2018), who stresses that accountability and transparency are critical in fostering access to reasonable sanitation standards within detention centers.

Police management has a hard time deciding how to use human and other resources. Even though they need more, they are not getting the same treatment as other people. In the same breath, rich detainees can corrupt their way out of detention centres in Kenya. It emerged from the study that some of the arrested individuals who were detained with were freed on the same day, just without being tried, in fact within hours after they were booked in, they asked us to pay bribes. Still, we can't afford it, and that is why we will end up in court finally (detainee D2-8). The findings confirm the assertion by Drake (2018), who finds that wealthy detainees could buy their freedom and never again be reprimanded despite the accusation and allegation's magnitude and gravity.

#### **4.2.5 Arbitrary Arrests and Detention**

The findings of this study revealed that not all arrests made in Embakasi Sub-county met the minimum evidence threshold. , For instance, Key informant K2-4 explained that,

*“Sometimes I don't see professionalism in the way we execute policing duties. Some arrests could better be managed through civic education and the laying of infrastructure that support our population. For instance, Loitering as a crime is not well defined under the law. I find it unreasonable to overcrowd our cells with detainees for this charge.”*

Detainee D3-2's opinion revealed that arrestees were sometimes held on unreasonable grounds. In his explanation, D3-2 indicated that *“I was arrested very early in the morning as*

*I walked towards the industrial area to look for a casual job. However, I'm informed that my charge reads conspiracy to do the crime, I believe I'm being held without a valid reason".* The findings confirm UNCHR report (2021) that every year, the police make about 1.5 million arrests, most of them without a warrant. However, only about 20% of all arrests end in convictions, and in one-third of cases, no charges are filed against those arrested.

The study established that violation of detainee rights in Embakasi Sub-county was linked to professionalism gaps. According to an explanation given by Key informant K1-8,

*"The majority of my fellow police officers deployed in this station have never attended refresher courses or skill development training since they joined the service. Honestly, crime is dynamic and thus requires dynamic combat strategies; without skill development, we will definitely lag behind."*

According to Bhuiyan, (2017), without the capacity development of law enforcement officers, the majority are likely to make arrests that contravene the law of the land and, therefore, illegal and arbitrary.

The law outlines how arrests should be conducted, however with dynamics that shifts that occur in the society, (such as the covid -19) police have found themselves in gray area on how to exercise these arrests. ie, their innovative ways of dealing with arrests break the law because the innovation brought in is not documented under the law they are supposed to preserve.

Further Edgren, (2013) asserts that police need more training on arresting people without a warrant, and the number of arrests should be less important to measure how well the police are doing.

#### **4.2.6 Governance of Detention Facilities and Resource Management**

The situations described in the previous section result in part from a insufficiency of resources and exemplary governance in Police stations which serve as detention centers. Indeed, insufficient resources is one of the leading issues facing African law enforcement agencies. On a continent with so many social needs, the protection of male detainees is far from the top of many priority lists. In direct word of Key informant K1-7, *"we lack adequate resources to run this facility. Unfortunately, this makes it imposible to avail every resource required to run the facility smoothly"*. Moreover, the consensus is that Police cells are a locus for detention and deterrence instead of temporal pretrial remand centre (Beaufrère, & Chariot, 2017).



The study established that due to high rates of arrests, detention facilities experience a high rate of structural strain, which further strains the social and financial resources and consequently leads to the deprivation of detainees' right to standard sanitation and clean water (Blaauw, Vermunt, & Kerkhof, 2017). According to Key informant K9-1, "*congestion is the major issue contributing to the violation of detainees' rights to standard sanitation, and we don't have necessary resources to address the challenge*". Generally the officers in Tassia Police Post, Imara Daima Police Post and Mukuru Kwa Njenga Police station detention centers alluded that the lack of sanitation amenities in detention centers was the major obstacle to providing the basic right to standard sanitation.

Ensuring good governance in a detention facility is difficult to define and measure, partly because there has been very little research on identifying good practices in Africa, particularly in management, administration, and proper function (Steele, (2018). However, several international instruments outline international consensus on acceptable objectives, conditions, and treatment of detainees in police custody. Payne-James (2018) in addition notes that the rise of crime and increase in arrests has led to a drop in resources allocated to detention centers. The situation, he argues, has led to holding detainees in police cells for long without trial as a form of discipline, though in poor inhumane police cell conditions.

The shortage of well-trained police staff also hinders the governance of male detention facilities (Sarkin, 2018). Staff shortages can worsen already stressed police staff, leading to additional challenges within problem-laden systems. In this study, Key informant K9-2 admitted that the post lacks skilled workforce while policing culture keeps changing fast, this requires a constant skill upgrading to match with the current trends, however most of the police officers have never attended developmental skill course since they graduated from primary police training school. Again the ratio of our personnel in relation to the community we serve does not meet the UN threshold (1:450). The findings confirm the research conclusion by Van Hout (2022) that inadequate staff hampers delivery of the pretrial process, thereby adding to the challenge of overcrowding in detention facilities. In this light, well-trained police staff is essential in maintaining public health baselines within police detention facilities.

In most of the detention centers in Embakasi, the law enforcers faced the challenge of holding detainees for long either due to lack of evidence to prosecute them or court process delays, which resulted in overcrowding hence dismal levels of hygiene in the centers. The informant K9-2 indicated that the “*government lacked the goodwill and commitment to the detainees right to standard sanitation, which caused deterioration of the living conditions across the region.*” The strategies suggested ensuring detainees' right to standard sanitation was coming up with a policy framework to guide the arrest and persecution of lawbreakers, which should be adhered to promptly. The policy framework ensured justice was served to the culprits and that there was no prolonged detention without persecution.

The opinion of the OCPDs on the access to standard sanitation by the detainees within the detention centers coincided with those of other junior officers who anonymously agreed that the detainees should be provided with the most basic sanitation services. Informant K9-2 indicated that, “*the sanitation in the detention centers is appealing and the overcrowding challenge subjects the detainee to fungal or bacteria related diseases*”. The findings confirm the study by Moran, Jewkes, and Turner (2016) that failure to comply with design specifications set for detention facilities has violated detainee rights. Additionally, the sorry state of the housing facilities in the detention center was earmarked as the major cause of the congestion and poor living standards within the facilities.

From the observation checklist, it was visible that disposal of waste among the detainees was a major challenge in the facilities, and that contributed to the inability of the detainees to access standard sanitation. This was contrary to WHO's (2019) recommendations that a system for removing waste and excrement in detention facilities must be efficient and capable of preventing the transmission of infectious diseases. Those challenges contributed immensely to violating detainees' rights to access standard sanitation. Inadequacy of resources was also a significant challenge in achieving decent hygiene and safe and clean drinking water.

#### **4.2.7 Section Summary**

This section articulates the factors limiting access to reasonable sanitation standards and clean water among Embakasi East Sub-county detention centers.

Some of the factors that have contributed to the violation of detainees' rights include; overcrowding, slow judicial systems to persecute and prolonged solitary confinement, being held in incommunicado, corruption and inequality before the law, arbitrary arrests and detention and governance of detention facilities and resource management. From the checklist, the researcher observed that nearly all the police cells in Embakasi were full beyond capacity. For instance, in Kware Police station, one cube held ten detainees and a similar situation was also observed in Embakasi Police station where eight detainees occupied a single cell. Crowding is contrary to detained rules that require one detainee in each cell. Under United Nations Standard Minimum Rules for the Treatment of Prisoners (UN-SMRTP) explains that all detainees should be accorded the respect that is equivalent to their inherent dignity and value as human beings.

Embakasi East sub county many detentions currently operate at twice or thrice their detainee capacities. For instance, Mowlem Police station had a population of 30, more than double the capacity. In Embakasi Police station hosted a mixed remandee, and suspect population of about 50. That precipitates a violent environment known for vicious fights and even more daring escape attempts. Mihango Police station holds 18 individuals from the originally intended number of 10.

People are kept in solitary confinement for a long time might have mental health problems, mental distresses, self-harm, and maybe more re-offending. According to detainee D2-4, *"you can observe that being held process in a totally closed place this and without trial due to slow judicial have a negative mental effect on us, no body here seems to be social, the language used in this depicts mental sickness."*

Slow judicial process led to the overcrowding of detention centers within Embakasi Sub-county. For instance, Key informant K4-2 explained that, *"unfortunately, we have limited case prosecution capacity. One prosecutor serves three stations and must be varnished with each case file before the suspect is tried in court. The work load is greater than infrastructure, that is why most of the suspects have to wait longer than 24hrs leading to overutilization of the allocated resources"*.

Being detained in a secret location without access to family, lawyers, doctors among other close relations, amounts to a massive violation of detainees' rights and freedom which is against the law of the land.

Key informant K2-1 explained that; *“sometimes when the matter is sensitive detainees are held without relatives’ knowledge, basically this is done to unearth more information that could help in combating organized crime, such individuals spend a couple of days in interrogation chamber”*

This study's results, however, revealed cases of corruption that infringed on detainee rights. For instance, Key informant K2-5 explained that;

*“About 70 percent of the arrest we make never make it to courts. Moreover, once the arrestees find the detention facility extremely pathetic, they opt to part with a small fee in exchange for their freedom. The amount is then shared along the command chain”.*

Police management has a hard time deciding how to use human and other resources. Even though they need more, they are not getting the same treatment as other people. In the same breath, rich detainees can corrupt their way out of detention centres in Kenya. It emerged from the study that some of the arrested individuals who were detained with were freed on the same day, just without being tried, in fact within hours after they were booked in, they asked us to pay bribes. Still, we can't afford it, and that is why we will end up in court finally (detainee D2-8).

The study established that violation of detainee rights in Embakasi Sub-county was linked to professionalism gaps. According to an explanation given by Key informant K1-8,

*“The majority of my fellow police officers deployed in this station have never attended refresher courses or skill development training since they joined the service. Honestly, crime is dynamic and thus requires dynamic combat strategies; without skill development, we will definitely lag behind.”*

The findings of this study revealed that not all arrests made in Embakasi Sub-county met the minimum evidence threshold. , For instance, Key informant K2-4 explained that ,

*“Sometimes I don’t see professionalism in the way we execute policing duties. Some arrests could better be managed through civic education and the laying of infrastructure that support our population. For instance, Loitering as a crime is not well defined under the law”.*

The study established that due to high rates of arrests, detention facilities experience a high rate of structural strain, which further strains the social and financial resources and consequently leads to the deprivation of detainees’ right to standard sanitation and clean water.

Generally the officers in Tassia Police Post, Imara Daima Police Post and Mukuru Kwa Njenga Police station detention centers alluded that the lack of sanitation amenities in detention centers was the major obstacle to providing the basic right to standard sanitation.

The shortage of well-trained police staff also hinders the governance of male detention facilities.

Staff shortages can worsen already stressed police staff, leading to additional challenges within problem-laden systems. In this study, Key informant K9-2 admitted that the post lacks skilled workforce while policing culture keeps changing fast, this requires a constant skill upgrading to match with the current trends, however most of the police officers have never attended developmental skill course since they graduated from primary police training school.

### **4.3 Strategies that promote access to standard sanitation and clean water in detention centers**

This chapter discusses strategies to enhance access to standard sanitation, adequate housing, and clean water among male detainees remanded in Embakasi East Sub-county detention centers. From the observation check list, the study noted that achieving effective, basic sanitation detention facilities within Embakasi East Sub-county is a major challenge. Although most officers acknowledged that sanitation is a fundamental basic human right that detainees should have, officers highlighted structural and capacity gaps that impede the actualization of this basic right. To unveil the actual situation of Embakasi East detention facilities; the study correlated participants' views with UN Standard Minimum Rules (UN SMR) that were revised in 2013 and International Committee of Red Cross (ICRC) 2012/2013. Rules 12 to 21 provide the expected cleanliness status in which detainees are accorded a right to humanitarian services which include individual physical hygiene, body apparel, and bedding.

#### **4.3.1 Waste Water and Refusal Disposal**

The most obstinate hygiene challenge in detention facilities within Embakasi East Sub-county is waste water and refuse disposal. During the interview, the OCPD officer reported that most of the water-borne diseases observed among Embakasi East detention facilities detainees were transmitted through the fecal-oral route. In addition, detention reports showed that septic tanks were not properly working, thus escalating the risk of water-borne diseases. Further, officers

indicated that most of the facilities lacked the financial capacity to implement the UN Standard Minimum guideline, which requires that the septic tanks should be emptied at regular intervals of upto 3 years, where the solid state matter in the septic tank is a level of a third of the tank capacity.

Proper disposal of human waste among detention centers was a major concern in this study. It was realized that the state of human waste disposal in detention rooms or cells is wanting and should be addressed immediately. According to K3-4, the human waste disposal mechanism in police cells calls for the implementation of a facility structure design proposal that considers this need. The proposal tally with WHO's (2012) recommendation that interior cell design should allow people in detention to satisfy their bodily needs when necessary and with their dignity respected.

In the direct words of detainee D2-14, the interviewee explained, "*we don't have flush toilets in this cell, we only use buckets, placed at the corner on every cell, there is no privacy here*". Generally, detainees indicated that they used buckets, and the frequency of emptying them was questionable since most respondents said the buckets were not regularly emptied, which could put the detainees at risk of contracting diseases easily. Generally, the quality of sanitation in detention centers was found to be poor, as noted by numerous factors such as the lack of proper hand washing mechanisms. The findings confirm the suggestion by Gaes (2015) that, if possible, police cells should be equipped with a ventilation system or flushing toilets to enable excrement to be flushed away.

#### **4.3.2 Latrines and Showers**

The research found that infrastructure in most of the detention centers in Embakasi could be redesigned to comply with WHO standards. Notably, a majority said that they did not take a bath for the entire period they were in the detention centres, which had no enough water to take a bath. According to K3-4, "*detainees should be responsible for their hygiene, as well as for looking after their clothes and accommodation and keeping these clean*". In the instances where the cells are designed without the latrine inside, the detainees should be provided with soil buckets which also should be accompanied with a lid. The buckets should also be emptied on a daily basis into a latrine (ICRC, 2012). Such measures are usable as standards of monitoring and evaluation of the status of WASH in police cells.

The D4-7 further said that they could not afford to brush their teeth regularly; therefore, it was enough to prove that the health status of the detention centers was in shambles. When asked about alternative measures that could be used, K10-1, “*indicated that the use of Chlorine based products, usually liquid bleach is necessary.*” The findings show a conspicuous non-adherence to the minimum international specifications of having at least 1 tap per 100 detainees, as well as, a toilet for every 25 detainees and a hand washing point provided for every 30 detainees. In addition, the ration of showers should be 1:20 persons, and every one should have a minimum of 3 showers per week depending on the local climatic conditions.

#### **4.3.3 Physical Infrastructure and Equipment**

The research found that infrastructure in most the detention centers in Embakasi East Sub-county should be redesigned to comply with WHO standards. When asked to comment on physical infrastructure, many key informants explained that the world is constantly changing, thus presenting the need to consistently update physical infrastructure in detention centers. However, in the absence of necessary modern policing equipment, detention facilities have seen massive compromises on detainee rights enshrined in Section 49 of Kenya's constitution particularly the UNCHR (2015) charter that requires detention facilities to have proper ventilation and hygiene management facilities, such as toilets, sinks, and shower bathrooms.

Checklist observations show that detention centers in Embakasi East Sub-county lack quality ventilation and hygiene management structures. According to K8-2 , “*this is a serious breach to the detainee’s human rights*”. In this light, various scholars have made serious proposals to help manage the situation. For example, Blesse and Diegmann (2022) suggest that the management of detention facilities to partner with construction agencies to ensure that the facility design meets the department’s required operational standards. Further, Draga (2017) suggests that before the facility's budget and design phases, detainees' special needs should be able to be evaluated and factored in early.

When asked about remedies, interviewees (OCPDs and OCS) proposed that detention facilities should have adequate spacing that would grantee social distancing recently proposed as a covid-19 management measure. However, the majority acknowledged that most of the suggestion proposed by UN Standard Minimum Rules has never been affected in Kenyan

detention facilities. Moreover, according to Draga (2017), most law enforcement executives in Kenya who are supposed to oversee the implementation of such technical changes have little or no expertise in design and construction.

#### **4.3.4. Management of Detention Centers**

This section presents elaboration on strategies that can be applied in the management of detention in view of curbing violations of human rights in the facility.

#### **4.3.5 Good Governance**

Bad governance in Embakasi East Sub-county detention facilities was blamed as one of the root causes that has led to the violation of detainee rights such as access to reasonable sanitation standards. According to K4-2, “*adequately skilled employees are capable of delivering on organizational goals (hygiene practices with the cell) effectively and efficiently, however*”. According to Jones (2022), failure by the management of detention facilities to provide good governance has seen many male detainees have their rights infringed.

In order to fill the management gap, one of the measures suggested by the OCPD would call for the promotion of accountability, the rule of law, responsiveness, and transparency. K1-4 suggested that, “*the management of Embakasi East Sub-county detention facilities must be anchored on governance practices*”. The suggestion concurs with the recommendation by World Health Organization, 2018). Good governance ensures that corruption is curtailed and that the opinions of minorities are listened and considered. This ensures that the voices of the vulnerable and minority people in society are heard.

#### **4.3.6 Transparency in Management of Detention Centers**

Some of the strategies suggested in view of improving policing transparency include continuous development of Human personnel capacity, consistency in publishing activities as well as the adoption of online communication channels that would purposely address public concerns (K6-1, K1-2, and K5-1).

As explained by OCS at Imara Daima Police Post, “*We lack modern systems which can be used to effectively evaluate policing exercise*”. Similar sentiments by Kware Police station OCS, for adopting case management information systems, would go a long way in promoting transparency in the management of detention centers which is critical in public trust.



Several researchers have also suggested various ways to maintain transparency in arrest procedures. According to Kupferberg (2018), the only way to increase openness and transparency in policing is by enhancing organizational policies that promote quality communication between the public and the institution. According to Hunja, (2022), transparency is the practice of making decisions and carrying them out in a way that complies with laws and regulations. However, the reviewed literature demonstrates some lack of adherence to transparency principles, especially in policing pre-trial procedures. As Zagaris (2019) unveils, among the reasons leading to the compromising of detainee rights is the unfair/arrests made by police offices.

#### **4.3.7 Promotion of Rule of Law in Management of Detention Centers**

Reports by key informant K5-1 showed that strategies that would promote the rule of law in Embakasi detention cells would include fighting corruption, promoting justice and integrity, and strengthening integrity and capacity. K9-2, opined that this would consequently promote greater observance and respect for pretrial rights and welfare of detainees held in custody.

The findings show serious gaps with the current policing code, whose attenuation or inefficiencies has been occasioned by a mismatch between modern society shifts and overreliance on colonial policing code. This calls for revision of the code, similarly, officers currently in service should receive training on upgrades made.

According to United Nations Office on Drugs and Crime (2019), the rule of law call for uniformity whereby all persons, such as the (arresting or prosecution officers), institutions (such as remand stations), and entities act in accordance with state laws. However, according to Brauch (2022), many of the detainees have had their basic human rights compromised because of the failure by a government official to observe rule of law in practice. For instance, the law by default requires that the Kenya constitution requires that every accused person should be accorded the right to a fair trial and be provided with adequate time and facilities to prepare a defense. However, studies by Mbote and Akech (2021) find that most Kenyan detention centers have poor conditions that amount to inhumane treatment. Further Lemarleni et al. (2017), notes that the embezzlement of funds allocated for the rehabilitation of these detention centers by top officials is to be blamed for current conditions.

#### **4.3.8 Responsiveness Practice in Policing and Management of Detention Centers**

The OCS at Mukuru Kwa Njenga Police Post, stated that promoting responsiveness is critical policing practice. Results by Kware Police station show that failure by the management in policing sector to combat some of the emerging trends in the criminal justice system has favored the growth and advancement of factors that amplify the institutional culture that normally overlooks detainee dignity. According to Player (2017), vigilance and innovation in the management process are critical in counteracting risks that may present and heavier consequential burden in the policing process. K7-4 also opined that failure to demonstrate responsiveness by top officials has seen the police department get overwhelmed by large case load and infrastructural facilities. Similarly, Okabe (2014) notes that many detainees have had their rights frozen due to facility operational incapacity, such as the right to begin the trial and conclude without unreasonable delay.

In an effort to promote responsiveness in detention institutions, many scholars have too proposed various remedies. For instance, in Tokyo, Leishman (2019) finds that police should focus more on crime deterrence or preventive measures rather than concentrating on creative measures in Kenya. Njuguna, Ndung'u and Achilles (2015) find that responsiveness in policing can be promoted through problem-oriented policing, as this approach addresses challenges occurring in specific places. Further, Okabe, (2014) proposes the adoption of a measure that promotes legitimacy policing, which focuses on building community trust and confidence. Failure to observe human rights does not affect police officers directly as it does detainees. However, the duty to push for human rights in detention facilities may only be heard and respected if police officers join the advocacy.

#### **4.3.9 Consensus-Oriented Practice in Policing and Management of Detention Centers**

According to Player (2017), male detainees have had their rights disrespected due to the failure by the remand institution's management to make a decision that reflects a concise understanding of societal dynamics that revolve around social, historical, police, and economic backgrounds. According to K7-4, *“addressing issues that lead to violation of human rights in detention facilities cannot purely be anchored on universal blue print, this is because every station has its own dynamics and served population disiler to the rest. Therefore, the stake*

*holders should accommodate the uniqueness within these societies which promoting consensus-oriented practice”.*

According to Human Rights Watch (2021), many male detainees held in police stations in urban places in Kenya were accused of petty crimes related to disorderly conduct. However, the report disputes the general principles under which police utilize in the interpretation of “disorderly conduct” before making an arrest. The doubt is further confirmed by Oloka-Onyango (2015), who indicated that nearly 78 percent of disorderly conduct cases have been overturned for lack of sufficient evidence.

#### **4.3.10 Accountability in Management of Pre-Tried Detainees**

According to Brauch (2022), a lack of accountability structures within police administration has opened a lee way for infringement of detainee rights, for instance, failure to book arrested individuals. According to Hope (2018), through corrupt practices, many police officers have profited from the procedural application of the law, and this depicts a lack of accountability. Hills (2018) laments that, though the police have to ensure corruption is fully combatted, it’s however regrettable that many of the officers embraced the culture that promotes bribery in order to curb corruption in Embakasi detention facilities, to K4-2, suggested that, *“accountability in policing management is critical as this helps to lessen conflicts, inspire public confidence, improve policing performance, and build citizen trust.”*

#### **4.3.11 Structural Gaps**

Achievement of hygienic standards is firmly anchored on a strong structural framework. However, structural gaps have been cited as major impediments instigating health risks inside detention centers, particularly in overcrowded and under-resourced ones (Chtalu, 2014). Structural gaps may be explained as total dysfunctionality or compromised functionality of the overall system due to deficiencies within a single sub- unit or multiple sub- units. As revealed in the literature review, many male detainees have had their primary human rights infringed due to structural gaps with the police department.

As explained by K5-2, *“ generally, the police department has an inefficient supply chain, our budgetary projection in this station have never been met in full, we keep on struggling with little resources which we rarely receive in time”*. This complicates compliance on some human rights, especially when you are the head. According to Ruteere and Pommerolle (2018), the

structural gap in policing service manifests in organization policy, physical infrastructure, and human capacity.

#### **4.3.12 Lack of Skill Capacity**

According to Birzer (2019), skill gaps in policing personnel have resulted in the infringement of detainee rights. Generally, the nature of policing work (maintaining law and order) requires that officers make fast decisions while maintaining logic principles. According to Oloka-Onyango (2015), misinformed choices and actions would consequently infringe on citizen rights, thus amounting to ill-treatment. In this light officers' skill capacity becomes paramount in reference to underrating daily policing daily routine. However, while day-to-day skill development amongst police officers is critical in addressing emerging crime trends, studies conducted across the globe have revealed mixed results. For instance, in Kenya Makabira and Waiganjo (2014) notes that most police officers have never attended any capacity development training program since they first graduated from the basic police training school. Further, the study concludes that due to failure to ensure skill development in the police force, the majority of the police officers have continually applied old policing techniques (forceful arrest procedures) taught by colonial masters and the majority of which have been outlawed in developed states. However, as explained by K5-1, the current Kenyan police force still rely on the traditional code in the policing process.

#### **4.3.13 Staffing Level**

According to the explanation given by K5-1, *“lack of adequate staff levels had to been blamed for infringement on detainee rights.”* The findings confirm with Lemarleni, Ochieng, Gakobo, and Mwaura, (2017) that adequate staff levels are critical in ensuring smooth, efficient operations within detention facilities and the criminal justice process at large. According to D4 -12, *“lack of sufficient personnel seen a delay in apprehending detainees in courts, due to incomplete investigations by the policing department.”* The UN recommends one police officer for every 450 citizens. Though Kenya seems to have made significant progress in achieving a police ratio of 1:448 (police reports, 2019), failure to register a dismissing trend in the number detainees held per detention facility, this cast reasonable doubt on equitable deployment of officers and their professional capability in handling criminal cases.

#### **4.3.14 Create Fair and Effective Policing Practices**

According to Hope (2015), the lack of effective policing practices is one of the major factors leading to the infringement of male detainees' rights. Cross-examining the bill of rights and application of the police code of conduct draws some gaps that call for redress. While the Kenyan police code of conduct requires all police officers to act in fairness and ensure impartiality when dealing with citizens or their colleagues, the application of some clauses within the police code has also led to the infringement of human rights.

For instance, under Article 3, Law enforcement officials may use force when necessary to perform their duty. However, Auerbach (2013) notes that the application of this clause has sometimes resulted in loss of lives by the detainee, thus contravening the human rights principles, which also require that every police officer should to treat arrest persons with dignity and be presumed innocent until proven guilty.

As elaborated by explanation given by K2-1, *“we are living in fast changing world, and every sector, including the policing department, is affected by this dynamism. - Thus, to move swiftly along which accommodating such changes, the policing code should be revised periodically. For instance, the wake of covid-19 raised many issues within policing practice and left many lessons that can only be avoided if the policing code is revised”*.

In view of mitigating policing gaps, scholars such as Hope (2015) have suggested various measures such as creating clear guidelines on the use of force, encouraging measures that ensure consistent monitoring and screening, and periodic screen for implicit bias and aggression. Similarly, Kimani (2016) proposes the need to adopt collaborative approaches to policing and develop measures that hold police departments and officers accountable and responsible for negligence.

#### **4.3.15 Promotion of Prosecutorial Integrity**

Prosecutors must uphold the highest standards of morality and honesty in their employment. Furthermore, since prosecutors represent the government, prosecutors should remain impartial, equitable, and dedicated to the administration of justice. Unfortunately, studies by Cheruiyot (2021) reveal that prosecutors commonly have a bias toward poor defendants. The study

concludes that the systems in place right now in Kenya are insufficient to stop these prosecutorial prejudices.

As explained by detainee D4 -12, *“the reason stated under my case is not the exact reason for my detention. I failed to pay my shylockloan in time, yet am being charged with obtaining money by falsely, I feel my case is being treated as a criminal case while it should be handled as a civil case. I will ask the court to review it once arraigned”*. Prosecutors are frequently evaluated on the quantity of prosecutions and the conviction rate than on the caliber of the cases they seek to prosecute. Due to this, there is a motivation to pursue criminal charges even though they may not be the best course of action in a given situation. Due to the pressure from culture and politics to boost prosecutions and convictions, prosecutors have mistakenly come to only rely on the prosecution of simple cases and avoid complex prosecutions.

#### **4.4 Section summary**

This chapter has discussed strategies to enhance respect for detainees' right to standard sanitation and clean water within Embakasi East Sub-county detention centers. The research work unveiled several measures that would improve the detainees' rights. The following chapter finalizes the research work by discussing the summary of strategies that promote access to standard sanitation and clean water in detention centers.

The OCPD officers reported that most of the water-borne diseases observed among Embakasi East detention facilities detainees were transmitted through the fecal-oral route. In addition, detention reports showed that septic tanks were not properly working, thus escalating the risk of water-borne diseases. Further, officers indicated that most of the facilities lacked the financial capacity to implement the UN Standard Minimum guideline, which requires that the septic tanks be emptied atleast once the semi-solid content of the tanks reaches one-third level the height of the tank from the bottom or in every one to three years.

The findings confirm the suggestion by Gaes (2015) that, if possible, police cells should be equipped with a ventilation system or flushing toilets to enable excrement to be flushed away. Generally, detainees indicated that they used buckets, and the frequency of emptying them was questionable since most respondents said the buckets were not regularly emptied, which could put the detainees at risk of contracting diseases easily.

According to K3-4, the human waste disposal mechanism in police cells calls for the implementation of a facility structure design proposal that considers this need. The proposal

tally with WHO's (2012) recommendation that interior cell design should allow people in detention to satisfy their bodily needs when necessary and with their dignity respected.

The research found that infrastructure in most the detention centers in Embakasi could be redesigned to comply with WHO standards. Notably, a majority said that they did not take a bath for the entire period they were in the detention centres, which had no enough water to take a bath.

This is usable for monitoring and evaluating the status of WASH in police cells.

According to K3-4, *“detainees should be responsible for their hygiene, as well as for looking after their clothes and accommodation and keeping these clean”*. In the cases where cells are built without latrines inside, then the detainees ought to be provided with soil buckets that have lids to close them. The soil buckets should also be emptied and replaced on a daily basis (ICRC, 2012).

The research found that infrastructure in most the detention centers in Embakasi East Sub-county should be redesigned to comply with WHO standards.

Many key informants explained that the world is constantly changing, thus presenting the need to consistently update physical infrastructure in detention centers. However, in the absence of necessary modern policing equipment, detention facilities have seen massive compromises on detainee rights enshrined in Section 49 of Kenya's constitution particularly the UNCHR (2015) charter that requires detention facilities to have proper ventilation and hygiene management facilities, such as toilets, sinks, and shower bathrooms.

Checklist observations show that detention centers in Embakasi East Sub-county lack quality ventilation and hygiene management structures. According to K8-2, *“this a serious breach to the detainee’s human rights”*.

When asked about remedies, interviewees (OCPDs and OCS) proposed that detention facilities should have adequate spacing that would grantee social distancing recently proposed as a covid-19 management measure. However, the majority acknowledged that most of the suggestion proposed by UN Standard Minimum Rules has never been affected in Kenyan detention facilities.

In order to fill the management gap, one of the measures suggested by the OCPD would call for the promotion of accountability, the rule of law, responsiveness, and transparency. K1-4 suggested that, *“the management of Embakasi East Sub-county detention facilities must be*

*anchored on governance practices”* .The suggestion concurs with the recommendation by World Health Organization, 2018). Good governance ensures that corruption is curtailed and that the opinions of minorities are heard and considered.

Continuous development of Human personnel capacity, consistency in publishing activities as well as the adoption of online communication channels that would purposely address public concerns (K6-1, K1-2, and K5-1).

As explained by OCs at Imara Daima Police Post, *“We lack modern systems which can be used to effectively evaluate policing exercise”*. Similar sentiments by Kware Police station OCS, for adopting case management information systems, would go a long way in promoting transparency in the management of detention centers which is critical in public trust.

According to Kupferberg (2018), the only way to increase openness and transparency in policing is by enhancing organizational policies that promote quality communication between the public and the institution.

Reports by key informant K5-1 showed that strategies that would promote the rule of law in Embakasi detention cells would include fighting corruption, promoting justice and integrity, and strengthening integrity and capacity. K9-2, opined that this would consequently promote greater observance and respect for pretrial rights and welfare of detainees held in custody.

The findings show serious gaps with the current policing code, whose attenuation or inefficiencies has been occasioned by a mismatch between modern society shifts and overreliance on colonial policing code. This calls for revision of the code, similarly, officers currently in service should receive training on upgrades made.

However, studies by Mbote and Akech (2021) find that most Kenyan detention centers have poor conditions that amount to inhumane treatment. Further Lemarleni et al. (2017), notes that the embezzlement of funds allocated for the rehabilitation of these detention centers by top officials is to be blamed for current conditions.

Achievement of hygienic standards is firmly anchored on a strong structural framework. However, structural gaps have been cited as major impediments instigating Health risks inside detention centers (2018), the structural gap in policing service manifests in organization policy, physical infrastructure, and human capacity.

As explained by K5-2, *“ generally, the police department has an inefficient supply chain, our budgetary projection in this station have never been met in full, we keep on struggling with*



*little resources which we rarely receive in time*". This complicates compliance on some human rights, especially when you are the head. According to Ruteere and Pommerolle (2018), the structural gap in policing service manifests in organization policy, physical infrastructure, and human capacity.

Skill gaps in policing personnel have resulted in the infringement of detainee rights. Generally, the nature of policing work (maintaining law and order) requires that officers make fast decisions while maintaining logic principles. In this light officers' skill capacity becomes paramount in reference to underrating daily policing daily routine.

For instance, in Kenya Makabira and Waiganjo (2014) notes that most police officers have never attended any capacity development training program since they first graduated from the basic police training school. Further, the study concludes that due to failure to ensure skill development in the police force, the majority of the police officers have continually applied old policing techniques (forceful arrest procedures) taught by colonial masters and the majority of which have been outlawed in developed states.

## **CHAPTER FIVE: SUMMARY, RECOMMENDATIONS , AND CONCLUSION**

### **5.1 Introduction**

The following chapter is a summary of the whole study. The summary and the conclusions are purely drawn from the score study objectives. First, the study presents the status of the detainee in relation to access to reasonable standards of sanitation and clean water among Embakasi Sub-county detention centers. Secondly, the summary of findings also presents discussions of factors leading to the violation of detainees' rights, and strategies that may be adopted to curb the situation.

### **5.2 Summary of the Findings**

The study has discussed the extent of the violation of human rights of detainees in Embakasi East Sub-county detention facilities, precisely, the detainee's right to standard sanitation and clean water. Results of this study show that high arrest levels have led to overcrowding in detention facilities in Embakasi East.

The study also showed that the types of crimes committed by the detainees were diverse with the majority being detained for criminal and petty theft cases. I therefore posit that there should be efficiency in determining the cases for the detainees to be freed, especially those with petty issues. The respondents said that most had stayed in the detention centre for more than one month, which is a long time without access to justice. There is a need for efficiency in the court system to ensure speedy justice to avoid overcrowding in detention centre. There should also be alternative methods of solving cases to avoid overcrowding when simple cases could be solved using alternative rather than bringing the culprits to the detention centres.

#### **5.2.1 Access to Standard Sanitation and Clean Water**

Embakasi East Sub-county detention centers, there was frequent water interruption besides to the absence of an additional water source. Due to this condition that the sanitation of toilets in the detention facilities was also poor, the absence of sanitarians and shortage of water in the toilets render detainees at risk of parasitic infections. The use of plastic containers for excretion in the living rooms at night times is also conducive to the transmission for parasites. The findings core with studies by Elekwechi et al. (2018), who reported that lack of portable water, inadequate sewage facilities, and severe overcrowding have resulted in dangerous and

unsanitary conditions in Nigerian detention cells. These conditions are associated with the in-breeding of communicable diseases. The study also implicated poor environment as a causative factor in the prevalence of mono-ocular and bilateral blindness. Poor toilet facilities, lack of or inadequate provision of recreational facilities, poor ventilation, domestic wastes, effluent discharges from toilet system, and the attitude of the officers to the detainees are among the environmental components that may affect the general health of the detainees in Embakasi East Sub-county detention centers.

Further inquiry revealed high incidences of ring worm and hair loss, pneumonia, tuberculosis, chest pain, and eye problem among Embakasi East Sub-county detention centers, which may be attributed to the structural facilities and the possible higher indoor relative humidity. These diseases are associated with fungal and bacterial organisms that thrive well in a humid tropical environment. Some fungi particles associated with the diseases above include *Rhizopus* spp, spp, *Fusarium solani*, *Absidia* spp, *Trichophyton mentagrophytes* var *interdigitale* (Human strain), which are dermatophytes with global as well as cosmopolitan distribution and are associated with dirty indoor environments.

According to observations made, detention centers in Embakasi East, environmental components such as the septic tanks and soak-away pits were in states of disrepair, resulting in the effusion of organic wastes into the environment. One of the major consequences of organic and faecal decomposition is the generation of Green House Gases (GHGs) such as hydrogen sulphide, oxides of carbon and methane, especially when the concrete slabs covering the septic tanks and soak-away are dilapidated with cracks and openings giving way to effluent discharges. GHGs are associated with micro-climatic alteration, including rise in temperature. Mosquito is a temperate organism that breeds more in relatively high-temperature environment. Therefore, Embakasi East Sub-county detention centers' environment was responsible for high prevalence of malaria.

The study observed that detainees also suffered physiological related problems, however reports from interviewees revealed detainee's demographic information, such as education qualification, significantly influences their coping ability with hygiene challenges at the detention facility. This is explainable from the finding that the level of selfawareness and

expectation of leading a better life is higher for an educated person than an uneducated one. Therefore, Detainees with little education show disinterest in having better services and as such, they cope easily with the bad state in the detention centers as compared to those presenting higher prospects in life. In addition, the detainees also may develop stress related illnesses due to the shock gotten from the sight of the deplorable state of the detaining rooms.

### **5.2.2 Factors limiting Access to Standard Sanitation and Clean Water in Embakasi East detention facilities**

Descriptive evidence shows that bad governance within detention centers is to be blamed as the root causes that have led to the violation of detainees' right that accord them access to reasonable sanitation standards. According to Jones (2022), failure by the management of detention facilities to provide good hygienic standards has seen many male detainees have their right to standard sanitation, adequate housing and clean water infringed. In order to promote accountability, the rule of law, responsiveness, and transparency, the overall management of Kenyan detention centers must be anchored on governance practices (World Health Organization, 2018). Good governance ensures that corruption is curtailed and that the opinions of minorities are heard and considered. This will ensure that the voices of the vulnerable and minority people in the society are heard and considered in making decisions.

### **5.2.3 Physical infrastructure and Equipment**

According to Ruteere, (2021) the world is constantly changing and thus presenting the need to update physical infrastructure in detention centers consistently. However, in the absence of necessary modern policing equipment, in these facilities have seen massive compromise on detainee rights enshrined in Section 49 of Kenya constitution (Ruteere, & Pommerolle, 2018). For instance, the UNCHR (2015) requires modern detention facilities to have proper ventilation and hygiene management facilities, such as toilets, sinks, and shower bathrooms. In addition, of importance, detention facilities should have adequate spacing that would grantee social distancing recently proposed as covid-19 management measure. However, studies conducted in developing nations like Kenya show that most of these suggestions have never been affected in Kenyan detention facilities. Further Draga (2017) notes that the majority of law enforcement executives in Kenya who are supposed to oversee the implementation of

such technical changes have little or no expertise in the subject areas of design and construction.

#### **5.2.4 Transparency and Promotion of Rule of Law in the Management of Detention Centers**

Rule of law calls for uniformity whereby all persons such as the (arresting or prosecution officers), institutions (such as remand stations), and entities act according to state laws. This strategy safeguarded the right to access standard sanitation and clean water among male detainees. However, studies by Mbote and Akech (2021) find that most of the Kenya male detention centers have poor conditions that amount to inhumane treatment. According to Lemarleni et al., (2017), the embezzlement of funds allocated for the rehabilitation of these detention centers by top officials is very to be blamed for current conditions. Measures that promote observance of the rule of law have too being suggested by many researchers as a remedy in policing departments, in their view this would consequently promote greater observance and respect for pretrial rights and welfare of detainees held in custody. According to UNOCD (2019) reports, the strategies that promote the rule of law in this sector would include fighting corruption and promoting justice and integrity, strengthening integrity and capacity with the police department as well as enhancing interstate agency and cooperation

#### **5.2.5 Responsiveness Practice in Policing and Management of Detention Centers**

According to Player (2017), vigilance and innovation in the management process are critical in counteracting risks that may present a heavier consequential burden in the policing process. In an effort to promote responsiveness in the provision of standard sanitation and clean water in male detention institutions, many scholars have too proposed various remedies. For instance in Tokyo, Leishman (2019) finds that police should focus more on crime deterrence or preventive measures rather than concentrating on creative measures. Locally in Kenya Njuguna, Ndung'u and Achilles (2015) finds that responsiveness in policing may be promoted through the adoption of problem-oriented policing, as this approach addresses challenges occurring in specific places. Further Okabe, (2014) proposes for the adoption of a measure that promotes legitimacy policing, which focuses on building community trust and confidence.

### **5.2.6 Accountability in Management of Pre-Tried Detainees**

The study established that lack of accountability and structural gaps within Embakasi East detention facilities has opened a way for infringement of male detainee rights such as access to standard sanitation and clean water. While the state should provide individuals held in custody with all basic human wants, a research by Hope (2018) found that through corrupt practices, many police officers have profited from procedural application of the law, which depicts lack of accountability. According to Hills (2018), accountability in policing can be enhanced through Conducting regular unscheduled internal audits on police detention reports, incident reports, citizens' complaints, personnel files, and other documentation.

### **5.3 Conclusion**

The study results drawn from in Embakasi East Sub-county detention facilities reveal massive infringement detainee rights that safeguard access to standard sanitation and clean water while in state custody.

The study observed low adherence in the institutionalization of measures that promote access to sanitation for male detainees. For instance, the researcher found that, in Imara Daima Police Post, there was a running water tap. However, Ruai Police station relied on drilled shallow man-made water well and there was no water treatment plant on sight. Even though Tassia Police Post had piped water into the facility, the taps were dry, and detained persons used buckets of water to flush out their toilets.

Safe handling and disposal of the fecal matter ensures reduced risk of contamination and incidence of diarrhea diseases. It is not safe to handle food with hands that are contaminated by fecal pathogens as it is a direct cause of infectious diseases (IID), as well as, the pathogens within the food chain. In stations such as Mukuru Kwa Njenga Police Post (P-9), Kware Police station (P-7), and Obama Police station (P-2), key informants concurred that detainees had had intestinal diseases due to poor sanitation. According to K9-2, *“the detainees in this facility usually complain of stomach pains and diarrhea”*. This is linked with poor hygiene standards in this post”. Key informant from K2-2 affirmed similar sentiments *“We are afraid that one day this might lead to sprouting germs that cause Cholera”*.

In low-income communities, particularly those from the developing countries, there is a crisis of limited access to standard sanitation, which translates to high incidence of direct mouth-to-mouth transmission rates in comparison to the other transmission channels.

Sanitation-related diseases contribute significantly to the burden of infectious diseases worldwide (Steele, 2018). The study established that detainees in Villa Franca police station, Mukuru Kwa Njenga police station, Mowlem police station, Ruai police station, Donholm police post, and Kware police station complained of respiratory infections. According to key informant K7-8, *“the cases of common cold of Epiglottitis are very common in this station; the situations subject everyone to risk.”* Correspondingly, the researcher made the finding that that a major population of the detainees in these stations were suffering from flu-like infections.

Studies also indicate a direct link between skin infections and poor sanitation. These infections are readily transmitted through contact such as from the hands, surfaces, clothes, and even fabrics. According to Officer Commanding the Stations (OCS-3 K1-3,) due to poor access to sanitation, detainees were exposed to fungi that cause athlete's foot and yeast infections. In his admission, *“we have had cases where the detainees complain of being baited by lice, head lice, and this makes them prone to scabies.”* Detainee D6\_ and D7 from Kayole Police station, D6-3 from Matopeni Police Post, detainee D2-4 from Mombasa Road Police station and detainee D8-8 from Soweto Police station echoed similar sentiments.

From the observation checklist, the researcher noted that all the stations at Embakasi lacked bathing soap and clean water. There was also notable state of deplorable personal and general hygiene, compounded with infrequent bathing among the detainees. The toilet facilities were inadequate and those available were poorly maintained. Most detainees did not have a change of clothing and as such, they wore same clothes even after taking a bath. At Mukuru Kwa Njenga Police Post, skin diseases were reported to be common in detention centers, and according to KI-5, this could be exacerbated by poor conditions in detention centers.

Studies conducted in the detention centers established that conditions in those detention centers were also unsafe, very unhygienic, and largely overcrowded, which led to poor hygiene practices among the detainees.

Hygiene status in detention centers is adversely impacted by overpopulation of the facilities visited. From the descriptive results, The OCS at Villa Franca Police station clarified that there

were no programs aimed at sensitizing detainees to the essence of observing cleanliness in the facility. He affirmed that ,*“detainees are just held in custody for a short period of time; we don’t expect that they will stay here for long. It’s hardly hard to subject people to a learning process within this short period of time (OCS-3 K1-3).”*

Similarly, this study found out that in Mukuru Kwa Njenga Police station and Mihang’o Police station, Some of the detainees also observed that the *“sewerage system is very bad and there is a shortage of toilets (reference)”*. There were only 19 toilets and these are from the old system built on a traditional pattern without a system of flashing. At Imara Daima Police Post, they were modern however; their toilet cover seats were broken and dirty. At Mihang’o Police station, there was an acute water shortage, compounded by the inconsistent availability of the scarce water commodity in the toilets. It was also noted that soap and toothpaste were distributed once a month and as such, these supplies were inadequate compared to the large population in need, hence, the poor quality of hygiene.

In relation to the current study, the study observed constituencies in the supply of cleaning reagents. According to K7-4, *“first, we lack adequate finances to ensure a hygiene environment in this facility; secondly, the procurement and distribution of washing items is done at the higher management levels, which is also characterized by serious material supply chain distribution gaps.”* The gaps are evident in the police equipment/ supply chain, the materials required to keep the detention running smoothly for them to reach the station in time (inefficiencies in distribution process).

The current study established that detainees held at Mukuru Kwa Njenga Police station had knowledge on sanitation. However, Obama Police station, Mowlem Police station, and Imara Daima Police Post detainees were unaware of sanitation standards; the study remarked that there were no sensitization or communication tools (posters) inside detention cells that could pressure the need to maintain collective hygiene with the facility. According to key informant K9-2, *“detainees did find it essential to learn or observe hygiene standards because they are temporarily held here”*.

Some of the factors that have contributed to the violation of detainees’ rights include;



The researcher observed that nearly all the police cells in Embakasi were full beyond capacity. For instance, in Kware Police station, one cube held ten detainees and a similar situation was also observed in Embakasi Police station where eight detainees occupied a single cell. Crowding is contrary to detained rules that require one detainee in each cell. Under United Nations Standard Minimum Rules for the Treatment of Prisoners (UN-SMRTP) explains that all detainees should be treated with the respect due to their inherent dignity and value as human beings. For instance, detainee D4-6 lamented, *“I have been held here for three days and have not been tried yet, more and more arrestees continue to flock in, and personally I have not had a shower since I was booked in. There are no toilets inside this cell; we are being compelled to use a bucket which is later disposed of by one of us under strict guard. This place is pathetic”*.

The situation is contrary to (WHO) guideline that proposes that the number of latrines available should be one for 25 detainees (ICRC).

The descriptive report given by Key informant K2-9 revealed that overcrowding in Embakasi detention centres presents dire risks and compromises their health. The officer reported that, *“Covid -19 is a new emerging challenge that has caught policing service unprepared. The management had to move quickly and restructure police cells to meet covid prevention guidelines, and if this is not done police cells quickly will turn out to be diseases breeding facilities which are contrary to the UN Convention on the Rights of (detainees) prisoners.”*

According to Embakasi East sub county many detentions are currently running at twice or triple their detainee capacities. For instance, Mowlem Police station had a population of 30, more than double the capacity. Mihango Police station holds 18 individuals from the originally intended number of 10.

Therefore, the KNCHR proposed a means of depopulating the detention population by avoiding holding remandees in police stations. The study found that detention centres in Embakasi East Sub County are holding three times the capacity the facilities were designed to hold.

Results of this study show that the slow judicial process led to the overcrowding of detention centers within Embakasi Sub-county. For instance, Key informant K4-2 explained that,

*“unfortunately, we have limited case prosecution capacity. One prosecutor serves three stations and must be varnished with each case file before the suspect is tried in court. The work load is greater than infrastructure, that is why most of the suspects have to wait longer than 24hrs leading to overutilization of the allocated resources”.*

Qualitative information also showed that when people are kept in solitary confinement for a long time might have mental health problems, mental distresses, self-harm, and maybe more re-offending. According to detainee D2-4, *“you can observe that being held process in a totally closed place this and without trial due to slow judicial have a negative mental effect on us, nobody here seems to be social, the language used in this depicts mental sickness.”* When asked to comment of the same, Key informant K3-2 reported that *“arrestees were allowed to pay bails or bond but promised to attend court when required.”*

Being detained in a secret location without access to family, lawyers, doctors among other close relations, amounts to a massive violation of detainees’ rights and freedom which is against the law of the land.

While accepting the practice, Key informant K2-1 explained that; *“sometimes when the matter is sensitive detainees are held without relatives’ knowledge, basically this is done to unearth more information that could help in combating organized crime, such individuals spend a couple of days in interrogation chamber.”*

This study's results, however, revealed cases of corruption that infringed on detainee rights. For instance, Key informant K2-5 explained that;

*“About 70 percent of the arrests we make never make it to courts. Moreover, once the arrestees find the detention facility extremely pathetic, they opt to part with a small fee in exchange for their freedom. The amount is then shared along the command chain”.*

It emerged from the study that some of the arrested individuals who were detained with were freed on the same day, just without being tried, in fact within hours after they were booked in, they asked us to pay bribes.

The findings of this study revealed that not all arrests made in Embakasi Sub-county met the minimum evidence threshold. For instance, Key informant K2-4 explained that,

*“Sometimes I don’t see professionalism in the way we execute policing duties. Some arrests could better be managed through civic education and the laying of infrastructure that support our population. For instance, Loitering as a crime is not well defined under the law. I find it unreasonable to overcrowd our cells with detainees for this charge.”*

Detainee D3-2's opinion revealed that arrestees were sometimes held on unreasonable grounds. In his explanation, D3-2 indicated that , *“I was arrested very early in the morning as I walked towards the industrial area to look for a casual job. However, I'm informed that my charge reads conspiracy to do the crime, I believe I'm being held without a valid reason”*.

The study established that violation of detainee rights in Embakasi Sub-county was linked to professionalism gaps. According to an explanation given by Key informant K1-8,

*“The majority of my fellow police officers deployed in this station have never attended refresher courses or skill development training since they joined the service. Honestly, crime is dynamic and thus requires dynamic combat strategies; without skill development, we will definitely lag behind.”*

Some strategies to enhance access to standard sanitation and clean water among male detainees remanded in Embakasi East Sub-county detention centers.

The study noted that achieving effective, basic sanitation detention facilities within Embakasi East Sub-county is a major challenge. Although most officers acknowledged that sanitation is a fundamental basic human right that detainees should have, officers highlighted structural and capacity gaps that impede the actualization of this basic right. To unveil the actual situation of Embakasi East detention facilities; the study correlated participants’ views with UN Standard Minimum Rules (UN SMR) that were revised in 2013 and International Committee of Red Cross (ICRC) 2012/2013.

During the interview, the OCPD officer reported that most of the water-borne diseases observed among Embakasi East detention facilities detainees were transmitted through the fecal-oral route. In addition, detention reports showed that septic tanks were not properly

working, thus escalating the risk of water-borne diseases. Further, officers indicated that most of the facilities lacked the financial capacity to implement the UN Standard Minimum guideline.

This study realized that the state of human waste disposal in detention rooms or cells is wanting and should be addressed immediately. According to K3-4, the human waste disposal mechanism in police cells calls for the implementation of a facility structure design proposal that considers this need.

In the direct words of detainee D2-14, the interviewee explained, "*we don't have flush toilets in this cell, we only use buckets, placed at the corner on every cell, there is no privacy here*". Generally, detainees indicated that they used buckets, and the frequency of emptying them was questionable since most respondents said the buckets were not regularly emptied, which could put the detainees at risk of contracting diseases easily. The findings confirm the suggestion by Gaes (2015) that, if possible, police cells should be equipped with a ventilation system or flushing toilets to enable excrement to be flushed away.

The research found that infrastructure in most the detention centers in Embakasi could be redesigned to comply with WHO standards. Notably, a majority said that they did not take a bath for the entire period they were in the detention centres, which had no enough water to take a bath. According to K3-4, "*detainees should be responsible for their hygiene, as well as for looking after their clothes and accommodation and keeping these clean*".

The D4-7 further said that they could not afford to brush their teeth regularly; therefore, it was enough to prove that the health status of the detention centers was in shambles. When asked about alternative measures that could be used, K10-1, "*indicated that the use of Chlorine based products, usually liquid bleach is necessary.*" The findings show non-adherence to minimum international standards which require 1 tap of water for every 100 detainees, a single toilet for every 25 detainees and 1 hand washing point for every 30 detainees. In addition, the ratio of showers should be 1:20 persons, and every detainee should have 3 showers per week depending on the local climatic conditions.

The research found that infrastructure in most the detention centers in Embakasi East Sub-county should be redesigned to comply with WHO standards. Checklist observations show that detention centers in Embakasi East Sub-county lack quality ventilation and hygiene management structures. According to K8-2, *“this is a serious breach to the detainee’s human rights”*.

When asked about remedies, interviewees (OCPDs and OCS) proposed that detention facilities should have adequate spacing that would grantee social distancing recently proposed as a covid-19 management measure. However, the majority acknowledged that most of the suggestion proposed by UN Standard Minimum Rules has never been affected in Kenyan detention facilities.

Bad governance in Embakasi East Sub-county detention facilities was blamed as one of the root causes that has led to the violation of detainee rights such as access to reasonable sanitation standards. According to K4-2, *“adequately skilled employees are capable of delivering on organizational goals (hygiene practices with the cell) effectively and efficiently, however”*.

In order to fill the management gap, one of the measures suggested by the OCPD would call for the promotion of accountability, the rule of law, responsiveness, and transparency. K1-4 suggested that, *“the management of Embakasi East Sub-county detention facilities must be anchored on governance practices”*. The suggestion concurs with the recommendation by World Health Organization, 2018). Good governance ensures that corruption is curtailed and that the opinions of minorities are heard and considered.

Some of the strategies suggested in view of improving policing transparency include continuous development of Human personnel capacity, consistency in publishing activities as well as the adoption of online communication channels that would purposely address public concerns (K6-1, K1-2, and K5-1).

As explained by OCS at Imara Daima Police Post, *“We lack modern systems which can be used to effectively evaluate policing exercise”*. Similar sentiments by Kware Police station

OCS, for adopting case management information systems, would go a long way in promoting transparency in the management of detention centers which is critical in public trust.

Reports by key informant K5-1 showed that strategies that would promote the rule of law in Embakasi detention cells would include fighting corruption, promoting justice and integrity, and strengthening integrity and capacity. K9-2, opined that this would consequently promote greater observance and respect for pretrial rights and welfare of detainees held in custody.

The findings show serious gaps with the current policing code, whose attenuation or inefficiencies has been occasioned by a mismatch between modern society shifts and overreliance on colonial policing code. This call for revision of the code, similarly, officers currently in service should receive training on upgrades made.

The OCS at Mukuru Kwa Njenga Police Post stated that promoting responsiveness is critical policing practice. Results by Kware Police station show that failure by the management in policing sector to combat some of the emerging trends in the criminal justice system has favored the growth and advancement of factors that amplify the institutional culture that normally overlooks detainee dignity. K7-4 also opined that failure to demonstrate responsiveness by top officials has seen the police departments get overwhelmed by large case load and infrastructural facilities.

Male detainees have had their rights disrespected due to the failure by the remand institution's management to make a decision that reflects a concise understanding of societal dynamics that revolve around social, historical, police, and economic backgrounds. According to K7-4, *“addressing issues that lead to violation of human rights in detention facilities cannot purely be anchored on universal blue print; this is because every station has its own dynamics and served population disiler to the rest. Therefore, the stake holders should accommodate the uniqueness within these societies which promoting consensus-oriented practice”*. According to Human Rights Watch (2021), many male detainees held in police stations in urban places in Kenya were accused of petty crimes related to disorderly conduct.

Achievement of hygienic standards is firmly anchored on a strong structural framework. However, structural gaps have been cited as major impediments instigating Health risks inside detention centers, particularly in overcrowded and under-resourced ones (Chtalu, 2014). As revealed in the literature review, many male detainees have had their primary human rights infringed due to structural gaps with the police department.

As explained by K5-2, *“generally, the police department has an inefficient supply chain, our budgetary projection in this station have never been met in full, we keep on struggling with little resources which we rarely receive in time”*. This complicates compliance on some human rights, especially when you are the head. According to Ruteere and Pommerolle (2018), the structural gap in policing service manifests in organization policy, physical infrastructure, and human capacity.

According to the explanation given by K5-1, *“lack of adequate staff levels had to been blamed for infringement on detainee rights.”* Also D4 -12, *“lack of sufficient personnel seen a delay in apprehending detainees in courts, due to incomplete investigations by the policing department.”* The UN recommends one police officer for every 450 citizens. Though Kenya seems to have made significant progress in achieving a police ratio of 1:448 (police reports, 2019), failure to register a dismissing trend in the number detainees held per detention facility, this cast reasonable doubt on equitable deployment of officers and their professional capability in handling criminal cases.

The government should increase the number of prosecutors to fast track the cases so as to avoid the issue of overcrowding in detention centers. Furthermore, since prosecutors represent the government, prosecutors should remain impartial, equitable, and dedicated to the administration of justice. For instance, Key informant K4-2 explained that *“unfortunately, we have limited case prosecution capacity. One prosecutor serves three stations and must be varnished with each case file before the suspect is tried in court. The work load is greater than infrastructure, that is why most of the suspects have to wait longer than 24hrs leading to overutilization of the allocated resources”*.

#### **5.4 Recommendations**

Nearly most of the of the detainee in Embakasi East Sub-county detention facilities suffer from diarrheal diseases due to a lack of access to sanitation, unsafe drinking water, and poor hygiene

practices. Improved sanitation alone could reduce these diseases by one-third. Similarly, the disease burden in Embakasi East Sub-county detention is related to poor hygiene and sanitation conditions. Therefore, it is necessary for Embakasi East Sub-county detention to keep latrines clean; otherwise, they limit disease transmission. The addition of disinfectants and regular washing of latrines help to eliminate the breeding capability of certain intestinal parasites.

There should be efforts to increase resource allocation to the detention centres to provide better standard sanitation to the detainees hence improving the general welfare of the detainees in the centres. Policy makers and the other concerned stakeholders need to expedite handling the challenge of budget allocation to the detention centers to ensure adequate funds are provided and hence, improve the quality of the detention facilities. The management of these detention centers ought to also ensure that allocated funds are utilised diligently, minimizing the incidence of embezzlement and other loopholes for maximum impact towards uplifting the face of Kenyan detention centers. In addition, the regulations by many Non-governmental organizations should also be followed, including informing the persons deprived of liberty, Inspection, disciplinary procedures, Complaints procedures, keeping registers, and separation of categories of detainees.

Availability of sufficient water supply and clean toilets are also imperative for the health and hygiene of detainees. Results from the study shows that water, sanitation, and hygiene (WASH) services are critical for preventing, controlling, and even eliminating parasitic diseases Aiello et al. (2013). This is especially so in Embakasi Sub-county detention centers where detainees have no control of their environment. Thus, it is crucial to ensure the availability and of the sanitary condition of services in detention centers that serve large number of clients regularly.

It is also important to build modern police stations with a larger capacity and a ability to accommodate a higher number of detainees, hence, avoid congestion. This measure will also help in reducing the cases of deaths that occur from the spread of infectious diseases from the severe unhygienic conditions. Detentions centres should be built to accommodate the humane rights. The existing facilities should be improved to meet the expected standards of inmate holding cells. The holding facilities should reflect a functional society such that when detainees



are freed, they get an easier time assimilating into the society and reduce incidences of repeat offenders which crowds the limited facilities further.

Detainees should be subjected to regular training particularly on the subject of sanitation standards in detention centers, sensitization or communication tools (posters) inside detention cells that could pressure the need to maintain collective hygiene with the facility.

Training courses ought to be offered regularly to the police officers in charge of the detention facilities in order to be equipped adequately on how to handle administration of detention centers and detainees. The training should lean on humane ways of treating detainees and focus on seeing detainees as human beings and not just people that deserve punitive, deterrent just dessert.

Courts should fast track cases and also offer alternatives for case hearing which reduce the holding time in detention centers throughout the country in order to reduce the population of detainees and pre-trial detainees waiting for their cases to be decided hence to solve overcrowding and congestion in detention facilities Obioha, (2021), the Center for Justice and Reconciliation (CJR) is ready to help governments and justice officials who want to reduce detention populations by a lot. The CJR can show how restorative justice can help cut down on detainee populations; shows how restorative justice can help cut down on detainee populations and provide long-distance or on-site consultation (ICR, 2021). The number of backlog cases at the judiciary is yet to reduce making the citizens lose faith in getting justice. Justice delayed is justice denied and clearing the backlog will definitely remedy this.

### **5.5 Areas for Further Research**

There is a need to further studies on the effects of detainee mistreatment in detention centers. This is because such a study would be ideal in explaining how injustice happens and how it violates the detainees' rights to basic standard sanitation, which has been witnessed as a growing trend globally. Further, a study on increased resource allocation effects on detainee security and safety would be ideal and advancements in technology will leverage to benefit detention facilities operations and safety of both the detainees and officers.

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## APPEDICES

### APPENDIX I: INTRODUCTION LETTER

I am Nyakundi Daniel Nyamweya, a student at the University of Nairobi pursuing a degree of masters of Arts in human rights. I am currently in the research stage, the topic of study being **AN ASSESSMENT OF THE WELFARE OF DETAINEES IN THE DETENTION FACILITIES: CASE OF EMBAKASI EAST SUB COUNTY, NAIROBI, KENYA**. I have found your contribution to this study to be of utmost importance, and therefore kindly request you to participate in this research. Your contributions will be held with high confidentiality and the collected data will solely be used for academic purposes. The fieldwork will commence in May 2022. Your contribution to this study will be voluntary and you are free to withdraw from participating in the study any time.

I look forward to having a healthy interaction with you.

Yours faithfully,



**Nyakundi Daniel Nyamweya**

**Email: [nyaxdan38@gmail.com](mailto:nyaxdan38@gmail.com)**

**APPENDIX II: INTERVIEW SCHEDULE FOR DETAINEES**

**QUESTIONNAIRE FOR DETAINEES**

**Respondent Code**

I am a Student at the University of Nairobi pursuing a Master’s degree in Human Rights. I wish to carry out research on the violation of detainees’ right to standard sanitation, adequate housing and clean water in detention facilities in Kenya, a case study of Embakasi East Sub County. Please put a mark in the boxes provided. Avoid scripting your name anywhere in the questionnaire. Your input in this questionnaire shall be treated with utmost confidentiality.

**SECTION A: DETENTION INFORMATION**

1. What is the offense you are detained for?

.....  
.....

2. How long have you been in detention? And why have you stayed for that long in this detention facility?

.....  
.....

3. How has your experience been in this detention facility?

.....  
.....

4. What do you think of the spacing and orientation of the detention facility?

.....  
.....

5. Is there sufficient access to clean and safe water in this detention facility?

YES { }

NO { }

6. Is there access to proper disposal of human waste in this detention facility?

YES { }

NO { }

**SECTION B: OBJECTIVES OF THE STUDY**

**PART 1: ACCESS TO STANDARD SANITATION**

1. Is there free access to standard sanitation in this detention centre?

YES {  }

NO {  }

If your answer is NO, explain how limited access to standard sanitation affects your stay in this detention centre.

.....

2. Are you satisfied with the quality of sanitation in this detention centre?

YES {  }

NO {  }

**Human waste disposal (Just tick appropriate answer)**

S/NO	Question Statement	Options
3.	Do you have a toilet?	Yes – inside the cells/ward { <input type="checkbox"/> } Yes –outside cell/ward { <input type="checkbox"/> } No If No, go to question 6
4.	If <b>Yes</b> , then what type of a toilet?	Sit down toilet with water flush { <input type="checkbox"/> } Squat toilet with water flush { <input type="checkbox"/> } Pit latrine { <input type="checkbox"/> }
5.	If <b>Yes but toilet is outside the cell to Q 3 above</b> , what do you use at night after lock up?	Defecate on the floor { <input type="checkbox"/> } Use buckets put inside the cell { <input type="checkbox"/> } Others specify.....
6.	If <b>No to Q 3 Above</b> , what do use for defecation/urination?	Buckets with lid { <input type="checkbox"/> } Buckets without lid { <input type="checkbox"/> } Field plastic bags { <input type="checkbox"/> } Others specify.....
7.	How do you empty the buckets?	We put on gloves { <input type="checkbox"/> } Bear hands without protection { <input type="checkbox"/> }

8.	How often do you empty the used buckets?	Everyday { } After every one day { } Once a week { } Twice a week { } The time they get full { }
----	--	--

**Personal and Hand Hygiene (Just tick appropriate answer)**

9.	Do you wash your hands?	YES { } NO { }
10.	Kindly give me the key times you usually wash your hands?	<b><i>(Multiple choices accepted)</i></b> After latrine use { } Before mealtime { } After mealtime { } Before bedtime { }
11.	What do you usually use in washing hands? <b><i>(Tick the most commonly practiced)</i></b>	Water only { } Water & Soap { }
12.	Do you brush your teeth?	YES { } NO { }
13.	How often do you bath/ shower?	Everyday { } Three times a week { } At least once a week { } Less often { } Not at all { } Others specify.....

**APPENDIX III: INTERVIEW SCHEDULE FOR OCS's**

Name of the Police facility.....

Rank of the OCS.....

Period served in the Police Facility.....

**PART 2: FACTORS LEADING TO VIOLATION OF DETAINEES' RIGHT TO STANDARD SANITATION**

1.	Congestion of our detention centres	<i>Give your opinion</i>
2.	Lack of sanitation amenities in our detention centres	<i>Give your opinion</i>
3.	Lack of adherence to law by officers in holding detainees for longer without conviction	<i>Give your opinion</i>
4.	Lack of goodwill and commitment from the government to protect and enhance respect to detainees' right to standard sanitation.	<i>Give your opinion</i>

**PART 3: STRATEGIES THAT WOULD ENHANCE RESPECT TO DETAINEES' RIGHT TO STANDARD SANITATION**

5.	Government should enact laws that enhance respect to detainees' right to standard sanitation.	<i>Give your opinion</i>
6.	There is need for structural and operational changes for a better sanitation within detention centres.	<i>Give your opinion</i>
7.	There should be strenuous punishment to any police officer who is caught violating the right of detainees to access standard sanitation.	<i>Give your opinion</i>



8.	There need to be thoroughness in ensuring all detainees get access to clean water, descent housing and standard sanitation.	<i>Give your opinion</i>
9.	There is need to decongest all detention centres and create an amicable environment and space for detainees.	<i>Give your opinion</i>

**Access to Quality Housing**

Based on your observation, how would describe space adequacy in this facility (consider number of détentes in relation to size of police cell)

.....  
 .....  
 .....

In terms of ventilation do you think the is well is well constructed (factor in smooth flow of air in and ourt)

.....  
 .....  
 .....

Describe the quality of the structure (factor in maintenance on walls, lighting, ceiling, doors, window, Floor and painting)

.....  
 .....  
 .....

How would you describe the quality of bedding material in this facility? (Consider, adequacy, spacing, and cleanliness)

.....  
.....  
.....

**Access to Proper Sanitation**

Describe the type of the toilets by type and adequacy in serving detainees in held in this in this facility

.....  
.....  
.....

Describe the level of cleanliness (consider steady flow of water) with toilet in these facilities

.....  
.....  
.....

Explain the quality of functionality with toilet in this detention facility?

.....  
.....  
.....

How well the toilet facilities are equipped with sister amenities such as, Washing hand soap, tissue paper, lighting, easy access at night etc

.....  
.....  
.....

How well is the this detention facility equipped with bath rooms

.....  
.....  
.....

Describe the status of bathrooms in this detention facility in relation to adequacy in serving number of detainees here (ratio of bathrooms to number of detainees)

.....  
.....  
.....

Describe the level of cleanliness observation in Bathrooms in this detention facility

.....  
.....  
.....

**Access to Clean Water**

In terms of adequacy, availability of clean drinking water in the facility

.....  
.....  
.....

In regards to personal hygiene, how would you describe availability and provision of Toothbrushes and tooth pastes

.....  
.....  
.....

In terms of how do you describe quality of available mops and cleaning buckets?

.....  
.....  
.....

**APPENDIX III: INTERVIEW SCHEDULE FOR OCPDs AND DUTY OFFICERS**

Name Police Division/ Police facility.....

Job Designation.....

Period served in Division/ Police facility .....

What is your feeling towards detainees’ access to standard sanitation within this detention centre?

.....  
.....

In your opinion, do you find access to sanitation in this detention center humanly appealing and deserving?

.....  
.....

In your opinion have you had any cases of detainees suffering from infections due to poor sanitation

.....  
.....

If yes elaborate on some of the infections

.....  
.....  
.....

Are the housing facilities in this detention centre adequate to accommodate detainees without congestion?

.....  
.....

How often do detainees in this detention centre access proper disposal waste management?

.....  
.....  
.....

Elaborate on how often do detainees in this detention centre access clean and safe water for consumption?

.....  
.....  
Which factors lead to violation of detainees' right to standard sanitation, adequate housing, and clean water in this particular detention center?  
.....  
.....

Which specific strategies can the Government come up with that would enhance respect to detainees' right to standard sanitation, adequate housing, and clean water in this particular detention centre?  
.....  
.....

In your opinion can there be any improvement as far as access to standard sanitation, adequate housing, clean & safe water and proper disposal of waste in detention centres is concerned?  
.....  
.....

In your opinion do structural factors and governance contribute to infringement of detainee rights in this facility?  
.....  
.....

In terms of skill elaborate on how skill gaps contribute to infringement of detainee rights in this facility?  
.....  
.....

In terms of financial resources elaborate on how this contributes to infringement of detainee rights in this facility?  
.....  
.....

What suggestions can you make to improve detainees' access to standard sanitation, adequate housing, clean & safe water and proper disposal of waste within this detention centre?

.....

.....

.....

#### APPENDIX IV: OBSERVATION CHECKLIST


Kindly indicate the availability and adequacy of the following resources and sanitation facilities within this detention centre.

Resource/Facility	Available and Adequate	Available BUT inadequate	Not Available at all
Running Safe Water			
Water point			
Detention Rooms/spacing			
Solid Waste Disposal			
Human Waste Disposal			
Bed and mattresses			
Food			
Adequate supply of indoor light and fresh air.			
Floor clean and neat			
Mops and cleaning buckets			
Toothbrushes and tooth pastes			
Sewer line well connected (no blockages)			
Showers in bathrooms			
Adequate and clean toilet facilities			
Tissues			
Urinals			
Soaps			
Sinks/wash hand basins			




Hygiene and sanitation posters			
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**APPENDIX V: NACOSTI PERMIT**



**REPUBLIC OF KENYA**


Ref No: **695561**



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**RESEARCH LICENSE**




This is to Certify that **Mr. Daniel Nyamweya Nyakundi of University of Nairobi, has been licensed to conduct research in Nairobi on the topic: AN EVALUATION OF THE WELFARE OF DETAINEES IN THE DETENTION FACILITIES: CASE OF EMBAKASI SUB COUNTY, NAIROBI, KENYA for the period ending : 22/June/2023.**

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# APPENDIX VI

## FIELD LETTER



UNIVERSITY OF NAIROBI  
DEPARTMENT OF PHILOSOPHY AND RELIGIOUS STUDIES  
CENTRE FOR HUMAN RIGHTS & PEACE

Fax 254-2-245566  
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Tel. 0204913219  
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P.O. Box 30197, 00100  
Nairobi, Kenya

6<sup>th</sup> April 2022

### TO WHOM IT MAY CONCERN

REF: Daniel Nyamweya Nyakundi: C53/29067/2019

The above subject refers.

Mr. Daniel Nyamweya Nyakundi student registration number C53/85436/2016 is a student pursuing a degree of **Master of Arts in Human Rights** at the **Centre for Human Rights & Peace (CHRP)**, Department of Philosophy and Religious Studies. He has completed the mandatory twelve (12) units required for coursework and embarked on the process of writing his project.

By a copy of this letter he is hereby permitted to proceed for fieldwork. The title for the project is *'An Evaluation of the Welfare of Detainees in the Detention Facilities: A Case of Embakasi Sub-County, Nairobi Kenya.'*

Any assistance accorded to her will be highly appreciated.

Yours Sincerely,

**Dr Francis E A Owakah**  
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