

**CONTROL AND TRAINING OF YOUTHFUL OFFENDERS IN KENYA: THE CASE
OF KAMITI YOUTH CORRECTION AND TRAINING CENTRE, 1990 – 2017.**

BY:

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ARMED CONFLICT AND PEACE STUDIES OF THE UNIVERSITY OF NAIROBI.**

DECLARATION

This research project report is my original work and has not been presented for the award of a degree in this University or any other institution of higher learning for examination.

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DEDICATION

To all corrections officers in Kenya and beyond who work tirelessly to give a second chance to those convicted with different offences.

ACKNOWLEDGMENTS

My heartfelt appreciation goes to God almighty for giving me the grace to pursue this course. Many thanks go to my institution of learning, University of Nairobi for giving me an opportunity to study this course and competent lecturers to take me through can never go unnoticed.

Special appreciation to my supervisor, Dr. Herbert Misigo Amatsimbi for his patient guidance throughout this period. My gratitude goes to my family for walking the journey with me. Their support has been overwhelming. Lastly I acknowledge my fellow classmates for the knowledge sharing sessions we hold in different platforms.

Thank you all and may God bless you.

ABSTRACT

This study is set out to examine the control and training of youthful offenders in Kenya. The case study was Kamiti Youth Correction and Training Center. Recidivism, which is a serious drain on resources worldwide has been the subject of much research and policy development. Young offenders are often forgotten or ignored by the society and yet recidivism. Education helps offenders reduce recidivism and improves employability. The Specific objectives were to examine programmes offered at Kamiti Youth Correction and Training Centre, to examine the challenges facing Kamiti Youth Correction and Training Centre Programmes and to examine the impact of programmes offered at Kamiti Youth Correction and Training Centre.

The study sought to establish the components programme, the structures put in place to implement it, its effectiveness and the Constraints it faced from 1990 to 2017. The year 1990 has been chosen because it was at that time the Kamiti prison pioneered this programme. The year 2017 marked the inauguration of a new strategic plan for the KPS, hence the need to undertake the place of young offenders in the department projections.

The study adopted the social control approach and the labeling theory also known as social reaction theory which was developed by sociologist Howard Becker. It holds that deviance is not a characteristic of an activity but rather a product of the linguistic tendency of those with power and influence to negatively label minorities or those seen as deviant from norms. Social control is derived from functionalism theories of crime and was developed by Ivan Nye. The theory therefore supports the concept of rehabilitation, the social contracts that are in existence within the society seek to constrain deviant behavior and limit individual's propensity of committing deviant behavior, through the society forming means of making those whose behavior is deviant tore the line. It emphasizes the process of socialization and social learning that builds self-control, thus reducing the risk of engaging in behaviour that is frowned upon by society. This theory whose foundation is inclined towards rehabilitation outlined those steps that are employed to achieve rehabilitation in youthful offenders as an aspect of social control.

The study observed lack of resources as one of the major obstacle hindering effective training of the inmates as well as shortage of modern training equipments and facilities for training. There is inadequate skilled personnel and in most cases the department depend on outsourced experts. The study also observed that the institution lacks some of the important vocational programmes like electrical wiring, masonry, catering, and sports among others which can be very helpful to the inmates. There is need to strengthen the formal education for the benefit of the inmates. In most cases the institution does not meet the goals and objectives of its mandate and especially to the youthful offenders.

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LIST OF ABBREVIATIONS AND ACRONYMS

ACRWC	African Charter on the Rights and Welfare of the Child
ASCA	American School Counselors Association
CBT	Cognitive Behaviour Therapy
CSO	Community Service Orders
DCS	Department of Correctional Services
GLM-C	Good Lives Model-Comprehensive
JDL	Juveniles Deprived of their Liberty
KPS	Kenya Prisons Service
KYCTC	Kenya Youth Corrective Training Centre
RNR	Risk –Need - Responsivity
UN CRC	United Nations Convention on the Rights of the Child
YCTC	Youth Correction and Training Centre
4 (S)	Short Sharp Shock Sentence

OPERATIONAL DEFINITION OF TERMS

Aftercare support – In this study, after care support refers to any assistance given materially, referral or otherwise to those who have served and completed jail terms.

Ex- convict – In this study, ex-convict refers to a person male or female who has been convicted in a court of law and has fully served a jail term in prison.

Incarceration – In this study, incarceration refers to the state of remaining in detention in prison to serve a sentence.

Recidivism – In this study, recidivism refers to the act of committing an offence again after release from prison after having served another offence.

Rehabilitation Programmes – In this study, rehabilitation programmes refers to various programs offered in prison by prison service to serving convicts to help them transform.

Vocational Training – In this study, vocational training refers to training in craft skills such as carpentry, welding, tailoring, agriculture and masonry among others.

Young offender – In this study, a young offender is someone between the ages of 17 and 21 who commits an offence under the law

CHAPTER ONE

INTRODUCTION

1.1 Overview

The Kenya Prison Service is a department under the Ministry of Interior and Coordination of National Government. There are 107 prisons in the Republic of Kenya as well as 2 borstal institutions and 1 youth correctional training centre. The prison service functions are guided by the Prison Service Act CAP.90, the Borstal Act CAP.92 as well as the Community Service Orders (CSO) under the Department of Probation and Aftercare services.¹ The Prison service mandate is to contain offenders in safe custody, rehabilitate and reform them, facilitate administration of justice as well as promote prisoners' opportunities for social reintegration. This is done through vocational training and rehabilitation programmes in line with offender's needs which are administered by prison officers, chaplains, psychologists, welfare officers, counsellors, social workers and medical personnel.²

The main principle inculcated into the Kenyan criminal justice system is rehabilitation which is evident even in International Standard Minimum Rules for treatment of prisoners.³ Rehabilitation comes from the Latin word rehabilitate which means re-enabling or making fit again. In the context of prison, it means preparing prisoners to re-join society as useful and law-abiding members of the wider community.⁴

Rehabilitation is composed of a number of different types of interventions which are employed in varying degrees to provide purposeful activity for prisoners, they are to challenge offending behaviour, provide basic education to tackle not only illiteracy but also innumeracy and to equip prisoners with life and work skills.

¹ P. Kimani, "Administration of the Kenya Prisons Organization", Resource Material Series No.98, 2006, p. 84.

² P. Onyango, 'Correctional systems in Kenya', Resource material serial No. 94, 157th International training course participants paper, 2008, p. 231.

³ Standard Minimum Rules for Treatment of Prisoners, United Nations Congress on the prevention of crime and treatment of offenders., 1955, p.1.

⁴ House of Commons Article on Rehabilitation of Prisoners, Home Affairs Committee First Report, Volume 1, 2005, p. 10.

The most common interventions are; firstly to identify the offender's needs, classify the types of intervention required. It is also important to address the prisoner's educational deficits. There have to be programmes that challenge the offender's behaviour and provide treatment for substance misuse. Vocational training is provided for purposes of inculcating skills meant to increase prospects of employment upon completion of their sentence. Finally for effective rehabilitation; the prisons have to provide assistance to prisoners with finding accommodation and employment after they serve their sentence.⁵

1.1.1 History of Prisons

Imprisonment as a form of punishment evolved from the middle of the eighteenth century. Hitherto, prisons were used primarily as places where people were held awaiting trial, execution, deportation or payment of debts. However, during the enlightenment period, high value was placed on freedom that its denial was viewed as very painful. Moreover, it came to be realized that the brutality meted out to criminals as punishment never deterred them from committing crime.⁶ Accordingly, the two hundred years from the middle of the eighteenth century is seen as a distinct period of penal modernism, a period characterized by two linked phenomena - the emergence of imprisonment as the main form of punishment for routine crimes and a penal goal of bringing about change in the offender, and the use of the emergent human/social sciences to that end. Thus imprisonment was to be used as a custodial, rehabilitation and reformation measure.⁷

Imprisonment was introduced in Africa by Europeans during colonialism as a tool to muzzle natives to submission for easy governance and exploitation. In Kenya the prisons system was introduced by the British East Africa Protectorate with the enactment of East Africa Prisons Regulations No. 12/1902 of April, 1902.

Hitherto, local communities in Kenya relied on traditional forms of penal punishment. For instance, payment of fines, compensation and reconciliation was regularly applied for offenses

⁵ House of Commons Article on Rehabilitation of prisoners, *op. cit.*, p.12.

⁶ Mwene Tibamanya Mushanga, *Crime and Deviance: An introduction to Criminology*, Nairobi: East African Literature Bureau, 1985, p. 12.

⁷ M. Maguire, Morgan, R. and Reiner, R., *The Oxford Hand Book of Criminology*, Third Edition. Oxford: Oxford University Press Barbara Hudson, 2001, p. 32.

committed.⁸ The colonial Prison system was oppressive, punitive and racial based on pure law and order. For instance during the fight for independence, the colonial Government declared a state of emergency in 1952 which saw the deterioration of the treatment of prisoners. In 1954, 622 prisoners were executed, 605 of them being freedom fighters. In 1955 there were 230 executions out of which 221 were freedom fighters and in 1956, a total of 99 freedom fighters were executed.⁹ This harsh treatment of prisoners resulted in 8 serious violent incidences in penal institutions in 1957 leaving several staff casualties behind. The climax of ill-treatment came in 1959 with the Hola Tragedy in which 11 Mau Mau emergency detainees died as a result of ill-treatment at the hands of Prison Administration.¹⁰

Upon attaining independence, the Government took keen interest on prisoners' conditions while in prison. The management of prisons took a somewhat different dimension with unfulfilled intentions of reforming the prison conditions. For instance the enactment of Chapter 90 and 92 to establish the Kenya Prisons and the Borstal Institutions respectively aimed at transforming prisons from places of punishment to places where offenders could be reformed. The laws were based on upholding the human dignity and influencing the offenders to refrain from their criminal acts.¹¹ But even with the laws enacted nothing much was realized in terms of reforming prisons in Kenya. Prisons continued operating as closed institutions with opaque operational procedures and virtually no access to human rights watchdogs and media bodies.¹²

This situation attracted public attention from human rights watchdogs like the Penal Reform International, Non-Governmental Organizations and other stakeholders who consistently accused the Kenya government of for failing to protect the lives of Kenyans in its custody; for torturing inmates to death; allowing scores to die as a result of ill treatment as well as cruel and inhuman degrading conditions of prisons.¹³

⁸ Rosendo P. Abreo, *Historical Review of the Kenya Prisons Service: From 1911-1970*, Nairobi: Kenya Prisons Service, 1972. P.10.

⁹ Rosendo P. Abreo, *Historical Review of the Kenya Prisons Service: From 1911-1970*, Nairobi: Kenya Prisons Service, 1972. P.10.

¹⁰ Kenya National Commission on Human Rights on the State of Kenyan Prisons – 2005, p. 5.

¹¹ The Constitution of Kenya, Chapter 90 and 92 Laws of Kenya.

¹² Rosendo P. Abreo, *A Historical Review of the Kenya Prisons Service*, Nairobi: Prisons industries, 1972, p. 12.

¹³ Ibid.

In the year 2001, the Kenya prisons service introduced an ‘open door policy’ which allowed oversight bodies to check on what was happening in prisons with the intention of pushing for reforms to improve prison conditions in Kenya This was followed by the Kenya Prison Department organizing for a round table conference from 14th to 16th October, 2001 at the Mountain Lodge Nyeri to chart the way forward in reforming prisons in Kenya.¹⁴ Among the key recommendations of the conference were decongesting prisons; improving conditions in prisons in terms of unproved diet, bedding, clothing health facilities recreational facilities and sanitation.¹⁵

1.1.2 Colonial Background

The imperial British introduced the English common law into Kenya as a means of promoting common lawful behaviour among widely diverse people.¹⁶ It is right to say that there were veracious forms of transgression by the indigenous African before the colonial era but how they addressed such transgressions varied from one society to another. Although severe punishment was one way to address deviancy, such was not applicable to juveniles. There were also very good practices not oriented to punishment including reconciliation, restitution, compensation by the individual or community, social exclusion and public ridicule and religious sanctions including curses.¹⁷ On the other hand, there were also harsh penalties including corporal punishment and death if the offence so demanded. These were the various types of social control that exist before the advent of colonialism in Kenya.

The colonial era later introduced a dual system of justice comprising of courts that practiced purely English common law and the African Courts which were abridged versions practicing both English and traditional justice systems guided by English ordinances. It is worth pointing out that this arrangement was used to process perceived juvenile delinquents. The eventual evolution into the current unitary justice system was greatly influenced by the indigenous clamour for independence in the 1950’s.¹⁸

¹⁴ Kenya Prison Service Annual Report, 2001.

¹⁵ Ibid.

¹⁶ Leonard C. Kercher, *The Kenyan Penal System, Past Present and Prospect*, University Press of America, Inc.

¹⁷ James Read , “Some Legal Problems in East Africa”, *East African law Journal*, (special First Anniversary Issue) Vo. 2, no. 1, 1966.

¹⁸ Leonard C. Kercher, *op.cit.*,pg.23.

The treatment of the delinquent child during the colonial times was based on the transplanted English common law and culture with its institutional features which brought about formal structures including the police, courts and prisons. Legal definitions and penalties were prescribed to certain acts which were perceived as wrong by the colonial establishment. Before then, the traditional structures and setups were organised in a way that facilitated communal ‘ownership’ and supervision of the delinquent child.

The supervision of the child was not confined to the nuclear family but was a task of every member of the community. To that extent, the doctrine of *parens patriae* was at play. If the common role of disciplining the errant child was a communal responsibility, then the colonial period disrupted this setup as this function was taken over by regimented structures and institutions of corrections.¹⁹

1.2 Statement of Research Problem

Young prisoners are a group of people often forgotten or ignored by society as a whole. Yet recidivism – reoffending – is a serious drain on resources worldwide, and tackling it has been the subject of much research and policy development. Education in secure environments and beyond helps offenders who are in conflict with the law to reduce recidivism and improve employability. In the absence of functioning institutions and strong state-society relations, organised crime groups infiltrate local and national political systems to serve their needs and, in the process, affect peacebuilding, state building, and development efforts supported by national governments and the international community.

Rutere (2003) in a study of the factors precipitating recidivistic behaviors among the Kenyan prisoner established that most recidivists were the youth who committed crimes after release because they had no legal means of meeting their needs. The study concluded that proper rehabilitation programs need to be designed in order to offer a livelihood to the ex-convicts. This study sought to establish the relevance or appropriateness of the 4(s) sentences on rehabilitation programs at Kamiti Youth and Correctional Centre.

¹⁹ Leonard C. Kercher, *op.cit.*, pg.23.

Existing studies on rehabilitation of offenders in Kenya have focused on adult prisoners. There is hardly a substantive study on the juveniles in a correctional facility. So, this study focused on relatively unstudied population within the correctional institutions in Kenya.

In many countries those in custody are amongst the lowest skilled and most disadvantaged in the population. In England and Wales 47 per cent of adult prisoners report that they have no qualifications compared to 15 per cent of the working population. In the US, about 70 per cent of state prisoners do not have a high school diploma. In Australia adult offenders have an average school age of Year 10 or below and training levels well below the Australian average. In addition offenders often lack vocational skills, have poor levels of literacy and numeracy, and lack a history of steady employment. Among young offenders there is similar disadvantage whereby young offenders are around nine times (young men) or fifteen times (young women) more likely to be unqualified compared with non-offenders of a similar age.²⁰

In addition to poor literacy, language, and numeracy skills, a high proportion of young offenders will have been excluded from school at some stage. From an international perspective, education and training can be seen as one of the pathways out of re-offending. Analysis by the Centre for Economic Performance supports the idea that improving the educational attainment of marginalized individuals can help reduce crime. Schuller identified economic, social, and moral rationales for improving lifelong learning for offenders. Evidence from the US further supports the notion that prisoners participating in educational programmes have lower rates of recidivism than non-participants.

In an overarching recommendation, the Council of Europe in proposed stated that the right to prison education is fundamental. In England and Wales it is legislated that every prisoner able to profit from the education facilities provided at a prison shall be encouraged to do so. For young people in the juvenile estate (those under 18 years of age) in England and Wales, education and training fall within an aspect of the organizational structure focused on reducing offending which has a designated outcome: To deliver an education, training and employment programme which

²⁰ Lynne Rogers, et al., "The Aspirations and Realities of Prison Education for Under-25s in the London Area, London Review of Education, Volume 12, Number 2, July 2014. P.1.

meets the needs of individuals. They are expected to take part in 15 hours of education weekly, and a further 10 hours per week of purposeful activity. For those below school-leaving age there is a mandatory requirement to provide at least 15 hours of education weekly.²¹

In Kenya there are various alternatives to punishment such as fines, community service, probation, conditional discharge and death penalty. However, imprisonment is the most preferred type of punishment meted by the courts. Imprisonment has some effects on the lives of the prisoners and these effects determine whether the prisoners will reform for the better or relapse to a life of crime once again.

Kenya Prisons Service (KPS) has recently domesticated the idea of giving training to young offenders through the Youth Training and Correction Centre. Indeed, among the core mandates of KPS are: Rehabilitation and Reformation of offenders through training, counseling, Educational and professional Programmes and Containing and Rehabilitation of young offenders in Borstal Institutions and Youth Corrective Training Centre. The concept of rehabilitating young offenders by the Prison Authority in Kenya through the 4S initiative located at Kamiti Youth Correction and training centre started in the year 2003. The Centre is the only penal institution for male offenders aged between 15 and 21 years. However, the rehabilitation programs of the youthful male offenders have not been adequately explored. Existing studies on rehabilitation of offenders in Kenya have focused on adult prisoners. There is hardly a substantive study on the juveniles in a correctional facility. So, this study focused on relatively unstudied population within the correctional institutions in Kenya. This study thus examines at the Kamiti Youth Correction and Training Centre in attempt to answer the following issues: the formulation of the programme: the implementation of the programme: the management of the programme: challenges facing the programme and: the impact of the programme. No any other study has attempted to answer these questions.

²¹ Lynne Rogers, et al., "The Aspirations and Realities of Prison Education for Under-25s in the London Area, London Review of Education, Volume 12, Number 2, July 2014. P.1.

1.3 Research Questions

The study was guided by the following research questions:

1. What youth rehabilitation programmes are offered at Kamiti Youth Correction and Training Centre (YCTC)?
2. What is the perception of inmates about their rehabilitation?
3. What are some of the challenges facing Kamiti YCTC programmes?
4. What has been the impact of Kamiti YCTC programmes?

1.4 Objectives of the Study

The main objective of this study is to examine the impact of youth inmate programmes offered at Kamiti Youth Correction and Training centre?

1.4.1 Specific Objectives

1. To examine programmes offered at Kamiti Youth Correction and Training Centre.
2. To examine the challenges facing Kamiti Youth Correction and Training Centre Programmes.
3. Examine the impact of programmes offered at Kamiti Youth Correction and Training Centre.

1.5 Justification of the Study

The study aimed at establishing the formulation, implementation and impact of the rehabilitation programmes at Kamiti Youth Correction and training Centre. This arises from the fact that the 4S (short-sharp-shock sentences) is a new concept and its impact has not been established. This includes harsh and punitive programs in line with implication of the term short, sharp, shock sentence. This concept was borrowed from the Margaret Thatcher policy of processing young offenders in a manner that would cost the taxpayer less money. The emphasis of the policy was the Short, meaning that juveniles be held in detention for not more than four months. Sharp stands for the belief that harsh punishment was effective as a deterrent. The concept advocated use of corporal punishment to bring about the shock to deter the behavior. The concept of rehabilitating young offenders by the Prison Authority in Kenya through the 4S initiative located at Kamiti Youth Correctional and training center started in the year 2003. The Centre is the only penal institution

for male offenders aged between 17 and 21 years. However, the rehabilitation programs of the youthful male offenders have not been adequately explored, and the relevance and appropriateness of the 4S sentence and rehabilitation programs carried out at Kamiti Youth Correctional and Training Centre have therefore not been explored.

The study will therefore be of great benefit in designing training curriculum in correctional services. Indeed, the study will benefit agencies mandated with rehabilitation of offenders, policy makers and the government at large in making strategic decisions, developing and designing training programs and examining existing institution and making recommendations. Implementation of recommendations will ensure better managed institutions and programs that will empower beneficiaries both psychologically and economically and therefore forestall recidivism.

1.6 The Scope and Limitation of the Study

The study sought to establish the training programmes at Kamiti Youth Correction and Training facility in Nairobi, Kenya. It aimed at establishing the goals and objectives, implementation and effectiveness of the rehabilitation programme at Kamiti Youth Correction and Training Centre. To this end it sought to establish the components programme, the structures put in place to implement it, its effectiveness and the Constraints it faced from 1990 to 2017. The year 1990 has been chosen because it was at that time the Kamiti prison pioneered this programme. The year 2017 marked the inauguration of a new strategic plan for the KPS, hence the need to undertake the place of young offenders in the department projections.

1.7 Literature Review

In such a research literature review lays out the theoretical content of the problem under study and how others have studied it. This section will review relevant literatures and theories by presenting the underlying theoretical and methodological rationale for the research.

D. A. Andrews and James Bonta argue that for over 30 years, criminal justice policy has been dominated by a “get tough” approach to offenders. Increasing punitive measures have failed to reduce criminal recidivism and instead have led to a rapidly growing correctional system that has

strained government budgets. The inability of reliance on official punishment to deter crime is understandable within the context of the psychology of human conduct. However, this knowledge was largely ignored in the quest for harsher punishment. A better option for dealing with crime is to place greater effort on the rehabilitation of offenders. In particular, programs that adhere to the Risk –Need - Responsivity (RNR) model have been shown to reduce offender recidivism by up to 35%.

The authors further argue that model describes: a) who should receive services (moderate and higher risk cases), b) the appropriate targets for rehabilitation services (criminogenic needs), and c) the powerful influence strategies for reducing criminal behavior (cognitive social learning). Although the RNR model is well known in the correctional field it is less well known, but equally relevant, for forensic, clinical, and counseling psychology. The paper summarizes the empirical base to RNR along with implications for research, policy, and practice²².

Tony Ward, Ruth E. Mann and Theresa A. Gannon, in their article, *The Good Lives Model of Offender Rehabilitation: Clinical implications* argue the major aim of the current paper is to expand on the practice elements of the Good Lives Model-Comprehensive (GLM-C) of offender rehabilitation and to provide a detailed examination of its assessment and treatment implications. First we discuss the notion of rehabilitation and the qualities a good theory of rehabilitation should possess. Second, the principles, etiological assumptions, and general treatment implications of the GLM-C are briefly described. Third, we outline in considerable detail the application of this novel perspective to the assessment and treatment of sexual offenders. Finally, the authors conclude the paper with a summary of the major benefits we envisage the GLM-C bringing to the rehabilitation of sexual offenders.²³

Sheldon and Gresham, argues that there are two main forms of imprisonment; general confinement and solitary confinement. General confinement is where prisoners are housed together in cells within ward-like buildings. However, solitary confinement is where the prisoner is placed in a cell

²² D. A. Andrews and James Bonta, “Rehabilitating Criminal Justice Policy and Practice”, *Psychology, Public Policy, and Law* 2010, Vol. 16, No. 1, pp. 39 –55.

²³ Tony Ward, Ruth E. Mann and Theresa A. Gannon, “The Good Lives Model of Offender Rehabilitation: Clinical implications”, *Aggression and Violent Behavior* 12 (2007), pp. 87–107.

alone and separated from the other prisoners for a long period of time. It was however done away with in the 1850's due to the intense psychological effects it had on prisoners by causing chronophobia or what is referred to as prison neurosis.²⁴

Salome Kagendo Rutere notes that there are few literatures on issues related to prisoners in Kenya. The only pieces of information available are figures in police records, prison records and statistical abstracts. These records are figure-oriented and do not provide us with insights into prison life and neither do they tell us about the effectiveness of imprisonment as a rehabilitative institution.²⁵

Gilbert M. Miriti and Martin Wohoro Kimani did a study was to analyse prison rehabilitation programs on behaviour reformation of offenders in Kisumu Main Prison, Kisumu County, Kenya. The study found that educational training programs had high significant contribution of rehabilitation programs on behavior reformation of offenders whereas socio -psychological training programmes had the least contribution on behaviour reformation of offenders. The research recommended emphasis on vocational skills training programs, educational training programs and religious programs to enhance behaviour reformation of offenders.²⁶

Stephen Nkereuwem Ekpenyong and Dudafa Johnny Undutimi in their journal article Prisons Rehabilitation Programmes in Nigeria: A Study of Inmates Perception in Okaka Prison, Bayelsa State, argue that The international approach that the Nigerian government subscribes to, perceive rehabilitation as ensuring that imprisoned offender's is treated with care and dignity such that their re-entry to society should not be a challenge. But in Nigeria, there is still no difference between rehabilitation and incarceration due to the correctional environment. The rate of incarceration has increased dramatically where prisons are filled to capacity with an alarming overcrowding that leads to bad environments for the offenders. Crime continues inside the prison walls and gangs are

²⁴ M. Sheldon and S. Gresham, *The Inmate Social Code*. New York: John Wiley & Sons.

²⁵ Salome Kagendo Rutere, *Factors Precipitating Recidivistic Behaviours among the Kenyan Prisoners: A sociological interpretation*, Nairobi University of Nairobi, 2003.

²⁶ Gilbert M. Miriti and Martin Wohoro Kimani, "Analysis of Prisons Rehabilitation Programs on Behaviour Reformation of Offenders in Kenya: A Case Study of Kisumu Main Prison" *European Journal of Business and Social Sciences*, Vol.6, No. 06, September 2017, pp. 59 – 85.

rife behind bars. The available data on recidivism in Nigeria is an indication that the ex-offenders that are released by the correctional centers are not rehabilitated.²⁷

Caroline Sikulu Ndombi, in her thesis on Impact of Prison Rehabilitation Programs on Recidivists: A Case of Prisons in the North Rift Region of Kenya, argue that despite the enormous efforts the Kenyan government has made to reduce reoffending among ex-convicts, recidivism continues to increase in the country. An increase in reoffending among ex –prisoners calls for a complete re-assessment of rehabilitation programmes in prisons since it appears that a large number of these programs are not working. The study aimed at assessing the various types of rehabilitation programmes in prisons and the major factors associated with incarceration the study also sought to find out the impact that physical and human environment in prisons have on inmates and suggested the various ways in which recidivism can be reduced in Kenya.

The study observed that the current rehabilitation programs in prisons are not effective enough to reduce levels of recidivism in society to significant levels given the high levels of reoffending among ex-convicts. However, there are prisons initiated programs and external organizations that are working towards making rehabilitation effective in Kenya. The study revealed that the lower the socio-economic background of victims, the higher the recidivism. The study also observed that more males than females were recidivists. The study further revealed that younger criminals dominated the sample of recidivists. Moreover, the study found that the lower the level of education, the higher the recidivism.

Finally, the study recommends that there is need to use the bottom-up approach in addressing the problem of recidivism in society by involving prisoners in decision making processes so that suggestions on the nature and quality of programs that would be more helpful to them after their release actually come from prisoners themselves rather than top-bottom approach. In particular, vocational programs that would enhance a variety of skills that convicts require are of greater significance; especially if such programs will assist re-offenders generate more income. In

²⁷ Stephen Nkereuwem Ekpenyong and Dudafa Johnny Undutimi,” Prisons Rehabilitation Programmes in Nigeria: A Study of Inmates Perception in Okaka Prison, Bayelsa State”, *Studies in Sociology of Science* Vol. 7, No. 6, 2016, pp. 1-12.

addition, the study argues that there is need for the management of prisons to provide guidance and counseling as well as education and training programs among the prisoners so that they can increase their knowledge regarding negative effects associated with recidivism.

Furthermore, the study proposes that professional psychologists in prisons should counsel prisoners and help them learn the various ways of coping with extremely stressful circumstances both at home and in society. The Government should also support rehabilitation programs in prisons in terms of both financial resources and professionals in the fields of crime and counseling so as to ensure success of these programs and therefore reduce re-offending in the country.²⁸

Michael Hagan, the Impact of the Rehabilitation Programmes of the Nsawam Prisons on Its Inmates, argue there have been debates about the effectiveness of rehabilitation programmes worldwide. While some studies have asserted that prison rehabilitation programmes are effective in reducing recidivism, others have argued that treatment programmes are not able to decrease the rate of re-offending. This study situated the debate in Ghana by exploring the various vocational and educational programmes of the Nsawam Medium Security Prisons and the impact of these programmes on the inmates who enrolled in them.

The study revealed that vocational and educational programmes were the main rehabilitation programmes in the Nsawam Prisons. The study further revealed that an ex-convicts standard of living is not dependent on the participation of a vocational training programme while in prison. Additionally, it was revealed that ex-convicts' acquisition of jobs in the wider society upon discharge is not influenced by the type of rehabilitation programmes that they enrolled in. Further, it was evident that there is an association between participating in a rehabilitation programme and the chances of committing economic crimes upon discharge. Based on the findings, the study recommended that more competitive vocational programmes must be introduced in order to make inmates more marketable so that they will earn more income from their vocations. The law forbidding ex-convicts from being employed in public institutions should be reviewed. The public

²⁸ Caroline Sikulu Ndombi, Impact of Prison Rehabilitation Programs on Recidivists: A Case of Prisons in the North Rift Region of Kenya, Master of Arts Thesis of, Moi University, 2014.

education on the need to accept ex-convicts should be continued. This will ensure that ex-convicts are not stigmatized.²⁹

Shanta Balgobind Singh, *Offender Rehabilitation and Reintegration: A South African Perspective*, argue that the reintegration and rehabilitation of offenders is one of the main objectives of the Department of Correctional Services in South Africa, yet this aspect is of primary concern of the community and the public at large. This is primarily due to the perceptions that many people have about the criminal justice system which is often gleaned from daily news reports on television, newspapers and various social media coverage of crime, offenders and victims in South Africa and internationally. Although the purpose of the South African Correctional system is not punishment, but the protection of the public, promotion of social responsibility and enhancing human development in order to prevent the rate of recidivism, the correctional population continues to escalate. Most incarcerated offenders will eventually be released from custody and return to the community from which they came. The purpose of this paper is firstly to examine the prison population in South Africa and secondly to explore the different rehabilitation and reintegration programmes available to offenders.³⁰

Itayi Samanyanga, in *the Role of Rehabilitation Programmes in Curbing Recidivism in Zimbabwe Prisons: A Cognitive Behaviour Therapy Perspective*, explores the role of rehabilitation programmes in curbing recidivism in Zimbabwe prisons. The purpose of the study was to examine the application of Cognitive Behaviour Therapy (CBT) in empowering prison inmates to adopt positive attitudinal and behavioural changes to reduce recidivism in Zimbabwe prisons. The study recommended that the Zimbabwe Prisons and Correctional Services should employ specially trained officers and or equip prison officers with rehabilitation and correctional skills through staff development courses and in-service training in order to manage the needs of offenders under

²⁹ Michael Hagan, *the Impact of the Rehabilitation Programmes of the Nsawam Prisons on Its Inmates*, Master of Arts Thesis, University of Ghana, 2013.

³⁰ Shanta Balgobind Singh, "Offender Rehabilitation and Reintegration: A South African Perspective", *Journal of Social Sciences*, 46(1), 2016, pp. 1-10.

rehabilitation treatment programmes. The Cognitive Behaviour Therapy is not fully applied in Zimbabwe prisons rehabilitation programmes hence the need for specialist services.³¹

Nomazulu Ngozwana, article reflects on adult offenders' perceptions of rehabilitation programs in Africa. It also evaluates whether offenders are consulted when planning rehabilitation programs. Adult education principles were used as a lens to understand offenders' perceptions of rehabilitation programs. The study findings revealed that rehabilitation programs are ineffective and imposed on offenders. Furthermore the data revealed that offenders see themselves as hard-labour while participating in rehabilitation programs. This has an implication for offenders' rehabilitation and reintegration into their societies as transformed citizens Adult offenders' perceptions of rehabilitation programs in Africa.³²

Omboto John Onyango argues that In Kenya, the prison system as it is known today was established by the colonial government since the legal system of the pre-colonial African societies did not have a prisons set up. However, the performance of this vital cog in the criminal justice system as it is today in Kenya is interfered with by several factors. This paper addresses some of these factors. The paper states that paying attention to the factors impeding effective rehabilitation of offenders is imperative for finding effective solutions that in the end assists in controlling recidivism, and the general crime rate. This paper discussed these four major challenges and present solutions which can in the end improve on the rehabilitation of offenders in prisons.³³

Michael N. Khwela paper, states that there seems to be a lack of communication between communities and the Department of Correctional Services (DCS) when ex-offenders are re-integrated to the communities. The international approach that the South African government subscribe to, perceive rehabilitation as ensuring that imprisoned offenders are treated with care

³¹ Itayi Samanyanga, "The Role of Rehabilitation Programmes in Curbing Recidivism in Zimbabwe Prisons: A Cognitive Behaviour Therapy Perspective", *Global Journal of Advanced Research*, Vol-3, Issue-9, pp. 818 – 825, 2016.

³² Nomazulu Ngozwana, "Adult offenders' perceptions of rehabilitation programs in Africa", *Australian Journal of Adult Learning* Volume 57, Number 2, pp. 217 – 241, 2017.

³³ Omboto John Onyango, "the Challenges Facing Rehabilitation of Prisoners in Kenya and the Mitigation Strategies", *International Journal of Research In Social Sciences*, June 2013. Vol. 2, No.2, pp. 39 – 43, 2013.

and dignity such that their re-entry to society should not be a challenge. There is still no difference between rehabilitation and incarceration in South Africa due to the correctional environment. The rate of incarceration has increased dramatically where prisons are filled to capacity with an alarming overcrowding that leads to bad environments for the offenders. Crime continues inside the prison walls and gangs are rife behind bars.

The available data on recidivism is an indication that the ex-offenders that are released by the DCS are not rehabilitated. However, the move by the democratically elected South African government from the Department of Prisons to the Department of Correctional Services designates that the intention was to move from mere incarceration to corrections and rehabilitation of offenders. But this correctional objective seems to be defeated if a corrected inmate gets back to join a family that is already dysfunctional, and hence involuntarily the corrected inmate reverts back to his/her offence. The DCS (2005) compatibly tries to address the issue of rehabilitation and re-entry of offenders to their communities including the importance of the family in the rehabilitation of offenders. Nonetheless, if offenders are returning to neighbourhoods that do not provide access to the sort of services that are important for re-integrating ex-offenders into the broader community; it stands to reason that the ex-offenders will be less likely to succeed in the post-release transition and more likely to recidivate. Consequently, the rehabilitation of an incarcerated inmate with the exclusion of the family could be an incomplete process. Hence this paper seeks to ascertain the characteristics and determinants of recidivism.³⁴

Greg N. Uche, argue that Offenders, whether they are adults or juveniles, convicts or simply on remand are usually offered some sort of vocational training during the period of incarceration. For most prison service establishments, training has been elevated to a position of utmost prominence, so much so that an offender's post-release career seems to depend largely on the success of training received in prison. Prison vocational training should address the vital aspects of offender rehabilitation and reintegration, and current agitations centre on whether offender should 'do time' or 'use time' during training sessions. By and large, training should not simply be part of prison routine, but instead should have firm features of an intervention, and also represent a treatment

³⁴ Michael N. Khwela, "A Need to Re-integrate Prisoners to the Community: A Case of Polokwane Medium B Prison, South Africa", *Athens Journal of Social Sciences*, pp. 145 – 155, 2014.

regime. This article discusses a treatment model of prison vocational training for all categories of offenders. The model provides for an initial diagnostic phase of offenders' work history and training needs, which are carefully analysed in relation to labour market skills requirements. Central to this model is the provision of appropriate job and entrepreneurial skills in conjunction with aftercare services. It also places a high premium on the vocational adjustment of ex-offenders in society, which must be closely monitored in order that success of the rehabilitation and resettlement processes can be correctly assessed.³⁵

Peter Mutui Mutemi has argued that rehabilitation is difficult to achieve when the Kenya prisons service is being faced with challenges of severe inmate overcrowding, shortages of food, clean water, diseases and unskilled prison personnel.³⁶ He says that these challenges as well as harsh conditions, as is evident from the research findings, tend to radicalise and harden convicts who perceive that they have been neglected and left on their own by society. With this radicalisation, the chances of reoffending after serving one's sentence become higher hence ex-prisoners leave our penal institutions being more criminal minded than how they were when being introduced to prison. The research data collected suggested that in prisons where these challenges were not experienced, rehabilitation programmes such as vocational training were administered effectively and levels of recidivism were low.

The results of the study also indicated that the challenges of inadequate resources and understaffed personnel in Kenyan penal institutions lead to deprivations of security, the challenge of overcrowding causes deprivations of goods and services necessary in rehabilitation of offenders and the inadequacy of facilities results in deprivations of heterosexual relationships and liberty for inmates. Based on the results of the study, these challenges affect the personal lives of the inmates because it is not possible for them to escape these deprivations, be it psychologically or physically. They hence establish patterns of social interactions among themselves referred to as prisoners' societies that aid in mitigating the pains they undergo during imprisonment.

³⁵ Greg N. Uche, "Vocational training for Prison inmates: a treatment model" *International Journal of Lifelong Education*, Volume 14, 1995 – Issue 5, pp. 365-374, 2006.

³⁶ Peter Mutui Mutemi, *An Analysis of the Challenges Facing Kenyan Prisoners During their Rehabilitation*, Bachelor of Laws Degree, Strathmore University, 2017.

Jasper Edward Nyaura and Margaret Njeri Ngugi in a journal article, *A Critical Overview of the Kenyan Prisons System: Understanding the Challenges of Correctional Practice*, argue that Kenya has been widely criticized for its on-going abuse of human rights and corruption in government administration more specifically the prison system.³⁷ Moreover, the prison system in Kenya has been termed to be dilapidated since they were adopted from the colonial administration in 1963 after gaining independence. The article looks at the utilitarian rationale of punishment that supports the prisons as rehabilitation institutions that aim to reform prisoners therefore reforming them towards proper societal norms. The paper identified the challenges of the prison system that includes the punitive and dire conditions in prisons since independence, inadequate legal representation, usage of drugs by inmates. Moreover, there is mistreatment of prisoners and lack of the privileges and rights, and eventually, lack of independence oversight of the prison system with regard to prisoners. At the same time, the challenges facing the prison officers or staff as identified in this paper include; inadequacy of skills, poor working conditions/environment and unfavourable scheme of service, inadequate in supply of food and clothing and varied perception by the civil society and corruption within the prison walls. The paper concludes that the correctional services are in dire need of reforms because of the earlier mentioned challenges facing both the prisoners and the prison staff. The paper recommends that reflective policies need to advocate for prison welfare and also securing their rights of prisoners. Furthermore, there is need for stakeholder participation, improved training especially those involved directly in the reforming the prison system.

Joyce Nkirote Kinuu, in work *An Analysis of the Adequacy of the Legal Framework in Protecting the Rights of Child Offenders in Kenya* argue that Constitution protect the rights of child offenders.³⁸ She shows the progressive Bill of Rights guarantees the rights of all persons. Article 53(f) of the Constitution provides for detention as a measure of last resort and for the shortest period; Article 53(2) enunciates the best interest of the child principle; Article 50(2) (e) provides

³⁷ Jasper Edward Nyaura and Margaret Njeri Ngugi, “A Critical Overview of the Kenyan Prisons System: Understanding the Challenges of Correctional Practice”, *International Journal of Innovation and Scientific Research* Vol. 12 No. 1 Nov. 2014, pp. 6-12, 2017.

³⁸ Joyce Nkirote Kinuu, *An Analysis of the Adequacy of the Legal Framework in Protecting the Rights of Child Offenders in Kenya*, Master of Laws Thesis, University of Nairobi, 2016.

for a 72 right to a fair trial to begin and conclude without unreasonable delay and Article 50(2) (h) provides for the right to legal representation.

The study shows that Children Act makes provision for specialized children courts that have settings friendly to the child offender, where it was evidenced in Nairobi, Thika and Nakuru Children Courts. It is recommended that the special children courts be replicated in all children courts across the country. Alternative measures of diverting children in conflict with the law from the judicial process have not been provided for.

The Children Act guarantees a child offender that the matter is determined without delay while the Fifth Schedule of the Child Offender Rules provides for the duration a child offender may be remanded in custody and the duration of cases. It is recommended that the said provisions ought to be incorporated in the main legislation, that is, the Children Act. The Children Act provides for alternative sentencing of child offenders though as highlighted in the study sentencing preference is on institutional sentencing due to abuse of the system by probation officers. The development of code of conduct highlighting ethical rules and child protection rules is recommended. The study further noted the inconsistencies in the provisions of the Children Act, the Prison Act and the Borstal Act in respect to corporal punishment. Whilst the Children Act prohibits corporal punishment, the Prison Act and the Borstal Act provide for corporal punishment.

The study further shows that uniform legislation that advances the rights of the child offender is recommended , thus necessary amendment on legislation that provide for corporal punishment is required. The study noted that varied interpretation of legal provisions may lead to violation of the rights of the child offender. Section 191(1) provides for methods of dealing with child offenders upon the determination of guilt and imprisonment is exempted. Section 191(1) (l) which provides “in any other lawful manner” gives leeway to varied interpretation. Section 25(2) of the Penal Code provides that the court shall sentence a child offender to be detained during the President’s pleasure. A child offender is therefore lawfully detained at President’s pleasure. The ambiguity in the provisions needs to be addressed.

Gladdy Wambui Kahara's work on Violent Extremism and Radicalization among Youth in Prisons: A Case of Langata Womens, Kamiti maximum and Shimo La Tewa maximum Prisons in Kenya, argues that there has been an increase of radicalization and violent extremism within the prison system, both globally and within Kenya.³⁹ Social, economic and political exclusion can lead to individuals turning to a life of crime, becoming radicalized and/or becoming terrorists or violent extremists. In particular, there is a strong correlation between unemployment and criminal activity.

Her study shows that there is a strong correlation between the rate of recidivism and radicalization of inmates within prisons, as prisons have been seen to be recruitment havens for terrorists. This is in part due to the lack of capacity in dealing with terrorists and violent extremists during their incarceration. This includes the lack of training of prison staff to deal with such inmates, the lack of infrastructure to segregate such inmates, the lack of programmes to effectively de-radicalize, disengage and reintegrate inmates back into society and lack of support for former-inmates once they have been released back into society.

Finally, the study shows that typically, ex inmates face a lot of stigmatization once they are released from prison. This makes it especially difficult for them to find suitable employment. There is a lack of sufficient provisions by the Government to address the growing threat of terrorism and radicalization within the prisons, as it has been shown that the funding and resourcing of the prison system is not adequate. Furthermore, the Government and other actors, such as the private sector and the civil society must work together more cohesively to address the threat of terrorism within the country. Conversely, the Government must form global partnerships to combat the increasing threat of global terror networks.

Stephen Guyo Gumi's work on the Right to Education as a Tool in the Rehabilitation of Prisoners: A Study of Kamiti Maximum Prison Kenya, argues investigation establishes that an overwhelming number of prisoners, (95%) recognize the presence of education program in prison while 77% of

³⁹ Gladdy Wambui Kahara, Violent Extremism and Radicalization among Youth in Prisons: A Case of Langata Womens, Kamiti and Shimo La Tewa Prisons in Kenya, Master of Arts Thesis, United States International University –Africa, 2017.

respondent agree that education in prison is easily accessible.⁴⁰ It is thus concluded that education in prison provides prisoners with time to think, grow and reflect on the past life and imagine a future of possibilities. It is further concluded that prison education provided an opportunity for employment; an avenue for one to turn his life around for better and a door for smooth transition to society.

The study therefore recommended that, the prison department should sensitize the community about the role of prison to enable society understand prison and improve the image of the department which in the long run helps prisoners in their transitional back to society. Prison authority should employ more trained and qualified teachers to cater for education needs of the prison population while developing follow-up programs and monitoring the progress of those released to society.

1.8 Theoretical Framework

The study used two theories namely social control theory and labeling theory.

1.8.1 Social Control Theory

The study adopted the social control approach. In criminology, there are social control mechanisms which exploit the processes of socialization and social learning that build self - control which in turn reduces the inclination to indulge in behaviour recognized as antisocial. It derives from functionalism theories of crime and was developed by Ivan Nye who gave four ways through which social control could be exercised;(i) direct: where compliance is achieved when punishment is threatened or applied for wrongful behaviour, and compliance is rewarded by parents, family, and authority figures, (ii) internal: whereby an individual is controlled by the conscience and superego to refrain from criminal behaviour (iii) indirect: through mentorship from those who influence behavior, say because his or her delinquent act might cause pain and disappointment to parents and others with whom he or she has close relationships, and (iv) control through needs satisfaction, i.e. if all an individual's needs are met, there is no point in criminal activity.⁴¹

⁴⁰ Stephen Guyo Gumi, (2014). The Right to Education as a Tool in the Rehabilitation of Prisoners: A Study of Kamiti Prison Kenya, Master of Arts Project Paper, University of Nairobi.

⁴¹ Ivan Nye, (1975). *Family Relationships and Delinquent Behavior*, Westport, Conn.: Greenwood Press, 1975, p. 11.

Proponents of this school of thought argue that a person's social contracts that include their relationships, commitments values, norms and beliefs; are deterrence for them from criminality. When people are attached to and have a sense of having a stake in their communities through adherence to and internalization of the moral codes they will fully limit their inclinations towards criminal behaviour.⁴² The theory does not consider motivational issues, but simply puts emphasis on the fact that communal socialization and social learning can deter human beings from engaging in many activities that they would otherwise have been exposed to.

The theory therefore supports the concept of rehabilitation, the social contracts that are in existence within the society seek to constrain deviant behavior and limit individual's propensity of committing deviant behavior, through the society forming means of making those whose behavior is deviant tore the line.⁴³ It emphasizes the process of socialization and social learning that builds self-control, thus reducing the risk of engaging in behaviour that is frowned upon by society.⁴⁴ This theory whose foundation is inclined towards rehabilitation assisted me in this study in outlining those steps that are employed to achieve rehabilitation in youthful offenders as an aspect of social control.

1.8.2 Labeling Theory

Originating in sociology and criminology, labeling theory (also known as social reaction theory) was developed by sociologist Howard Becker. Labeling theory (Synonymous to "identifying against") holds that deviance is not a characteristic of an activity but rather a product of the linguistic tendency of those with power and influence to negatively label minorities or those seen as deviant from norms.⁴⁵

⁴² Mona Lynch, "The Culture of Control: Crime and Social Order in Contemporary Society", *Political and Legal Anthropology Review*, 09 January 2008, p.14.

⁴³ Mona Lynch, "The Culture of Control: Crime and Social Order in Contemporary Society", *Political and Legal Anthropology Review*, 09 January 2008, p.14.
(Lynch, 2002).

⁴⁴ Kingsley Ufuoma Omoyibo and Ogaga Ayemo Obaro, "Applications of Social Control Theory: Criminality and Governmentality" *Journal of Asian Economic and Social Society*, 2012, p.2.

⁴⁵ Howard Becker, "History, Culture and Subjective Experience: An Exploration of the Social Bases of Drug-Induced Experiences", *Journal of Health and Social Behaviour*, Vol. 8, No. 3 pp. 163-176, 1967, p. 164.

The theory is concerned with identifying how behavior of individuals may be determined or influenced by the terms used to describe or classify them as associated with the concept of self-fulfilling prophesy and stereo typing. Prominent and widely applied in the 1960s and 70s the theory is still popularly used with a few modifications. The theory closely focused on social construction and symbolic interaction analysis.⁴⁶ One of the major proponents of the theory; George Herbert states that person's interactions within the community result in the social construction and reconstruction of the self. The theory is important in this study as the process of rehabilitation takes the course of construction and reconstruction of behaviour through defined steps which are part of an individual's interactions within the community.

A stigma is defined as a powerful negative label which when directed at a person can alter their self-perception, social identity and self-concept and social identity.⁴⁷ The theory suggests that people obtain labels from how others view their tendencies or behavior. Each individual is aware of how they are judged by others because she or he has attempted many different roles and functions in social interactions and has been able to gauge the reactions of those present. Community perception of people's tendencies and behavior labels or stigmatizes them and can lead to change in their behavior.

These judgments are as a result of one's attempts at various roles and positions in the society, building on the subjective conception of the self and in this aspect of subjectivity the individual is subject to reconstructive process. This theory is important to this study because as society uses negative labeling and stigmatic roles to limit deviant behavior, positive social roles and labeling may be used to create positive behavioural changes among the youth offenders, which in essence is rehabilitative.

⁴⁶ Michael A. Hogg, Deborah J. Terry and Katherine M. White, "A Tale of Two Theories: A Critical Comparison of Identity Theory with Social Identity Theory", *Social Psychology Quarterly* Vol. 58, No. 4 pp. 255-269, 1995, p. 260.

⁴⁷ Bruce G. Link and Jo C. Phelan, "Conceptualizing Stigma" *Annual Review of Sociology*, Vol. 27:363-385, pp 363-385, 2001.

Both the social control theory and the labelling theory are concerned with identifying how behavior of individuals may be determined or influenced and also supports the concept of rehabilitation. They therefore complement each other.

1.9 Study Hypotheses

1. Kamiti Youth Correction and Training Centre offers on job training.
2. Lack of adequate funding is the main challenge afflicting Kamiti Youth Correction and Training Centre Programmes.
3. Kamiti Youth Correction and Training centre programmes has reduced recidivism among juvenile offenders.

1.10 Research Methodology

This study employed qualitative research methods. Qualitative research method is defined as a market research method that focuses on obtaining data through open-ended and conversational communication. This method is not only about “what” people think but also “why” they think so. The qualitative research method allows for in-depth and further probing and questioning of respondents based on their responses, where the interviewer/researcher also tries to understand their motivation and feelings.

Qualitative research methods used in this research were designed in a manner that they help reveal the behaviour and perception of a target audience with reference to a particular topic. In this regard the project paper relied on secondary data collection. The secondary data was collected through reading of various journals, books, project papers and articles (both scholarly and newspapers) on correction of offenders. Secondly the study utilised primary written documents.

Gaps in the literature from written sources were filled by primary sources by way of oral interviews. Consequently, this research utilized primary data. Respondents were identified using purposive and snowballing sampling methods. By this method the study selected a sample from the participants or group of participants that are judged to be appropriate or especially informative for the purpose of the research. For the purposes of this study, could only be accurately evaluated

if the sample was purposively selected. At each level of purposive sampling, the critical sample size was obtained by the snowball sampling method.

The basis for use of primary data was the need to obtain first-hand relevant information and perceptions regarding the correctional training offered in Kenya prisons. In this regard, face-to-face interviews were conducted on people in order to ensure representation of a cross-section of the key corrections stakeholders in the country. Notes were taken and were later transcribed to form memos for writing. Prior to the actual data collection process, a pilot study was conducted with the interviewer developing a set of questions that were shared with Prison officers for their opinion in relation to the relevance and quality of the questions asked. The Officers guided the interviewer in reviewing the question structure and making it more open-ended in order to obtain more of the interviewees' opinions rather than being specifically restricted to only one issue. The types of questions ensued from the statement of the problem and the research objectives of this study. A total of twelve face-to-face interviews were conducted.

Content analysis was the method used to analyse the information collected through open-ended questions. In this regard, the key elements in the information given by the persons interviewed were transformed into units that facilitated their description and analysis. The answers were codified according to the most common responses provided and later classified accordingly into answer categories. This method was very useful to infer objectives and reliable statements based on the data provided by the interviews and based on the context in which they were made. Information obtained therefore provided directions for conceptualizing the Kenya Youth Correction and Training Centre (KYCTC) in Kenya.

CHAPTER TWO

LEGAL FRAMEWORK ON CHILDREN OFFENDERS

2.0 Introduction

This chapter analyses international instruments and standards on the principles that set the standard for the protection of children offenders. These are the principles that are recognized as best practice in protecting the rights of children offenders. This analysis will form a basis for evaluating the Kenyan legal framework in protecting the rights of children offenders against the backdrop of the international principles enunciated in the international instruments and standards.

2.1 History of Prison Service in Kenya

Kenya's legal system is based on its statutory law, English common law, tribal law, and Islamic law. It has evolved from the inheritance of its English Common Law tradition to modern day system adapting to the changing in social, economic and political trends. The Courts adhere to the principle of *stare decisis*, and like other common law countries, the legal system is adversarial in its procedure. Theoretically, a suspect is presumed innocent until proven guilty. In practice, however, the burden of proof is often placed on the accused person to show whether they are guilty or not. Kenya initially had an informal, Customary Criminal Justice System. The system was carried out by local chiefs and council of elders in remote villages, where Police and formalized Courts are not readily accessible. After Britain declared Kenya a Crown Colony, the Colonial Parliament passed laws that in effect, formed the basis of the criminal laws in Kenya.

The prisons system began in Kenya in 1902 pursuant to the East Africa Prisons Regulations of that year. The Kenya Prison Service (KPS) was established in 1911 to undertake deterrent and punitive functions for the colonial government. When Kenya was annexed and declared a Crown Colony by Britain in 1921, the Kikuyu, the Kamba and the Maasai launched stiff resistance against British domination and rule.⁴⁸

⁴⁸ Joyce Nkirote Kinuu, *An Analysis of the Adequacy of the Legal Framework in Protecting the Rights of Child Offenders in Kenya*, Master of Laws Thesis, University of Nairobi, 2016.

The colonial Prison system was oppressive, punitive and racial based on pure law and order. For instance during the fight for independence, the colonial Government declared a state of emergency in 1952 which saw the deterioration of the treatment of prisoners. In 1954, 622 prisoners were executed, 605 of them being freedom fighters. In 1955 there were 230 executions out of which 221 were freedom fighters and in 1956, a total of 99 freedom fighters were executed.⁴⁹ This harsh treatment of prisoners resulted in 8 serious violent incidences in penal institutions in 1957 leaving several staff casualties behind. The climax of ill-treatment came in 1959 with the “Hola Tragedy” in which 11 Mau Mau emergency detainees died as a result of ill-treatment at the hands of Prison Administration.⁵⁰

Upon attaining independence, the Government took keen interest on prisoners' conditions while in prison. The management of prisons took a somewhat different dimension with unfulfilled intentions of reforming the prison conditions. For instance the enactment of Chapter 90 and 92 to establish the Kenya Prisons and the Borstal Institutions respectively aimed at transforming prisons from places of punishment to places where offenders could be reformed. The laws are based on upholding the human dignity and influencing the offenders to refrain from their criminal acts.⁵¹ But even with these laws enacted nothing much was realized in terms of reforming prisons in Kenya Prisons continued operating as closed institutions with opaque operational procedures and virtually no access to human rights watchdogs and media bodies⁵² Kenya Prisons is currently a Government department in the Office of the Vice President and Ministry of Home Affairs, administered by the Commissioner of Prisons answerable to the Permanent Secretary in the Ministry', assisted by Provincial Prisons Commanders who co-ordinate activities at the Provincial level and the officers-in-charge who administer the roles of the institutions at the District level.

The staff are uniformed under a command system of administration. While prison officers career progression is in ranks beginning from the lowest warder/wardress rank and the highest being the Commissioner of Prisons, the inmates progress in a stage assigned with specific privileges starting

⁴⁹ Kenya Human Rights Report on Kenya Prisons, 2005.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

from stage two, three, four and the trustee which is the highest. The progression system is intended to influence good behaviour for both the staff and the inmates within the prison.

There are 93 penal institutions in Kenya categorized depended on the danger posed by the inmates kept therein. Thus prisons in Kenya are categorized to Maximum, Medium and Open Air Security Prisons.⁵³ Kenyan prisons hold both convicted and unconvicted prisoners. The former include prisoners serving a jail term passed by a lawful court or court martial while the latter include parsons on remand or awaiting trial and civil debtors.⁵⁴ There is an average population of 50,000 inmates contained in 93 institutions spread throughout the Country.⁵⁵ The study will focus on convicted prisoners who according to Chapter 90 of the Laws of Kenya, are required to be placed under rehabilitation programs.

The main purpose of imprisonment is to keep prisoners under lawful custody for purposes of rehabilitating and reforming them. In fact the Kenya Prisons Mission statement reads; ‘To contain offenders in humane and safe conditions in order to facilitate responsive administration of justice, rehabilitation, social reintegration and community protection’. Once this is achieved then the service will have attained its vision which is to be “A correctional service of excellence in Africa and beyond”.⁵⁶

In 2001, the Kenya prisons service introduced an ‘open door policy’ which allowed oversight bodies to check on what was happening in prisons with the intention of pushing for reforms to improve prison conditions in Kenya This was followed by the Kenya Prison Department organizing for a round table conference from 14th to 16th October, 2001 at the Mountain Lodge Nyeri to chart the way forward in reforming prisons in Kenya.⁵⁷ Among the key recommendations of the conference were decongesting prisons; improving conditions in prisons in terms of unproved diet, bedding, clothing health facilities recreational facilities and sanitation.⁵⁸ However, there is debate as to whether indeed these reforms have taken place since according to reports by the

⁵³ Kenya Prison Service Report, 2008.

⁵⁴ Kenya Human Rights Report on Kenya Prisons, 2005.

⁵⁵ Ibid.

⁵⁶ Kenya Prison Service Report, 2005-2009.

⁵⁷ Kenya Prison Service Report, 2008.

⁵⁸ Ibid.

Amnesty International of 2005⁵⁹ and the Kenya National Commission on Human Rights of 2004, conditions in Kenyan prison are still wanting.⁶⁰ Yet on the other hand, there is debate that prison reforms have impacted both negatively and positively on rehabilitation programs in general and vocational training in particular.

2.2 International Legal Framework on Children Offenders

A historic document, The Geneva Declaration of the Rights of the Child adopted by the 5th Assembly of the League of Nations in 1924 was the founding instrument for the recognition of the rights of the child. However, its implementation failed following the dissolution of the League of Nations. Despite the lack of implementation, it was an affirmation for the first time of rights specific to children noting that children occupy a special place in society. Following the formulation of the United Nations, the Declaration of the Rights of the Child was adopted in 1959. The ultimate culmination of the recognition of the right of the child was the adoption by the United Nations General Assembly in 1989 of the most comprehensive human rights document targeting a specific group, Convention on the Rights of the Child.

2.2.1 United Nations Convention on the Right of the Child

United Nations Convention on the Right of the Child (CRC) addresses a wide range of child rights including, social, cultural, civil, political and economic. It is the only internationally legally binding instrument addressing the rights of children in conflict with the law; it provides a framework within which the rights of children offenders are to be understood. Article 40 (3) provides:

States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:-(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings providing that human rights and legal safeguards are fully respected.⁶¹

⁵⁹ Amnesty International of 2005.

⁶⁰ Kenya National Commission on Human Rights of 2004.

⁶¹ Joyce Nkirote Kinuu, An Analysis of the Adequacy of the Legal Framework in Protecting the Rights of Child Offenders in Kenya, Master of Laws Thesis, University of Nairobi, 2016, p. 22.

The CRC imposes progressive requirements on State parties to establish juvenile justice system that provides human rights and legal safeguards as well the establishment of alternatives to judicial proceedings. Article 40(1) of CRC sets out the purpose of the juvenile justice system, that is, promoting the reintegration of the child into the society and helping the child assume a constructive role in the society. It provides that:

States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and takes into account the child's age and the desirability of promoting the child's re integration and a child's assuming a constructive role in society.⁶²

The provision lays emphasize on “promoting the child's re integration and a child's assuming a constructive role in society” which is inclined towards restorative justice. It is contended that re integration of a child to the community is given prominence over rehabilitation of the child because; rehabilitation is prone to abuse as an undesirable form of social control of child offenders and it places responsibility solely with the child offender who is treated, cured and placed back in the society, whilst re integration focuses on the child's social environment and the role of the community in helping the child become a responsible member of the society. Thus, the purpose of the juvenile justice system should not be punitive but should promote the well being of child offender and address the offending behaviour in a manner appropriate to the growth and development of the child offender.

Additionally institutional care of child offenders is discouraged by the CRC as Article 40 (4) provides for alternative sanctions such as probation, foster care, education and vocational training and other alternatives to institutional care. Article 37 provides for the due process of an accused child offender.⁶³ It is central to the rights of children in conflict with the law. It obligates state parties to ensure that;

⁶² Joyce Nkirete Kinuu *op.cit* pg 23.

⁶³ Geraldine Van Bueren, *The International Law on the Rights of the Child*. London: Martinus Nijhoff 1998, p.10.

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. either capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances; (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action. ⁶⁴

2.2.2 The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)

The Beijing Rules were the first international legal instrument to comprehensively deal with the administration of juvenile justice from a child rights viewpoint. They predate the CRC as they were adopted by the United Nations in 1985. They Rules have heavily influenced the CRC, they are expressly mentioned in the preamble of the CRC and some of the fundamental provisions of the Rules are incorporated in the Convention.

The Rules provide a guideline for States in protecting child rights and providing for the child's needs in the creation of separate and specialized infrastructure for children in conflict with the law. The Rules general principles require that the minimum age of criminal responsibility should not be fixed too low bearing in mind the emotional, mental and intellectual maturity of a child. The

⁶⁴ Joyce Nkirote Kinuu *op.cit* pg 23.

Rules further provide for the proportionality principle being the aim of juvenile justice in that juvenile justice system shall emphasize the well-being of the juvenile and shall ensure that any reaction to juvenile offenders shall always be proportionate to the circumstances of both the offender and the offence.⁶⁵

Additionally, the Beijing Rules centralize the principle of diversion, noting that the mechanism of diverting children away from the criminal justice system lie at the heart of any good juvenile justice system. Rule 11.1 of the Rules provide that, “consideration shall be given where appropriate, to dealing with juvenile offenders without resorting to formal trial by the competent authority”.⁶⁶ Rule 11.2 of the Rules render diversion an important instrument as it is not limited to petty offences and that it may be used at any stage of decision making by the police, the prosecution, the courts, tribunals and other agencies within the confines of the laid down criteria in the respective legal system. Rule 11.3 of the Rules stress the importance of securing the consent of the child offender or the parent or guardian to the recommended diversionary programme. The restorative justice approach is brought forth by Rule 11.4 which emphasizes on community based diversionary programmes such as “temporary supervision and guidance, restitution and compensation of victims”.⁶⁷

2.2.3 The United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)

The Riyadh Guidelines were adopted in 1990. The Guidelines are concerned with prevention as they provide guidance to States for measures necessary to the prevention of children from committing crimes. The Guideline’s principles and provisions address the need for healthy well rounded development of children in a protective environment to enable them develop to the best of their abilities; the same principles apply to the rehabilitation and reintegration of child offenders through diversion.⁶⁸ The Guidelines are aimed at addressing the root causes of offending and thereby help in highlighting the types of background circumstances often faced by children who

⁶⁵ Ann Skelton and Boyane Tshehla, ‘Child Justice in South Africa (2008) Institute of Security Studies Monograph 150, 1.

⁶⁶ Joyce Nkirote Kinuu, *op.cit* pg 23.

⁶⁷ Joyce Nkirote Kinuu, *op.cit* pg 24.

⁶⁸ UNICEF, ‘UNICEF Toolkit on Diversion and Alternatives to Detention’ (UNICEF 2009)

<[www.unicef.org/tdad/instruments summary \(2\).doc](http://www.unicef.org/tdad/instruments_summary_(2).doc)> accessed 7 April 2016.

come into contact with the law.⁶⁹ In turn, this awareness can “promote understanding and empathy, influencing justice officers to use their discretion to promote diversion and alternative programmes which address these causes and which can help to prevent re-offending”.⁷⁰ Additionally, the community programmes which cater for children at risk of coming into contact with the law can also cater for children who have already crossed that line.⁷¹ The Guide lines take a proactive approach to the prevention of commission of crimes by children and view a child as a full-fledged member of the society emphasizing their participation on the prevention process.⁷²

This is by advancing a social policy focusing on the centrality of the child, the family and the involvement of the community.⁷³ The socialization process as provided by the Riyadh Guidelines looks at the involvement of the family, education, the central role of the community and community based prevention programmes. Additionally, Guidelines 45 to 51 set out the social policy within which governments should strive to prevent child offenders; sufficient funds should be provided for medical services, nutrition, housing, counseling and substance abuse prevention. The Riyadh Guidelines advocate for equal treatment under the law for children and adults. In reference to decriminalization of status offences, the Riyadh Guidelines provide:

In order to prevent further stigmatization, victimization and criminalization of young persons, legislation should be enacted to ensure that any conduct not considered an offence or not penalized if committed by an adult is not considered an offence and not penalized if committed by a young person.⁷⁴

2.2.4 The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (JDLs Rules)

The JDLs Rules deal with the child offenders deprived of their liberty including those held in custody at the pre-trial and trial stage as well as those committed to rehabilitation institutions. Thus the JDLs Rules are primarily concerned with the treatment of child offenders for whom diversion

⁶⁹ UNICEF, ‘UNICEF Toolkit on Diversion and Alternatives to Detention’ (UNICEF 2009)

<[www.unicef.org/tdad/instruments_summary\(2\).doc](http://www.unicef.org/tdad/instruments_summary(2).doc)> accessed 7 April 2016.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ann Skelton and Boyane Tshehla, ‘Child Justice in South Africa ’ (2008) Institute of Security Studies Monograph 150, p. 1.

⁷³ Ibid.

⁷⁴ Riyadh Guidelines, Article 56.

and alternative sanctions have not been possible.⁷⁵ Nonetheless the JDLs Rules start out by strongly reinforcing the principles of no detention as set out in Article 37 (b) of the CRC.⁷⁶ Rule 1 and 2 of the JDLs Rules provide that;

1. The juvenile justice system should uphold the rights and safety and promote the physical and mental wellbeing of juveniles. Imprisonment should be used as a last resort. And 2. Deprivation of the liberty of a juvenile should be a disposition of last resort and for the minimum necessary period and should be limited to exceptional cases. The length of the sanction should be determined by the judicial authority, without precluding the possibility of his or her early release.⁷⁷

The underlying principle therein is that the deprivation of liberty ought to be a measure of last resort and even then it should be for the minimum necessary period and limited to exceptional cases. Where it occurs, every child offender must be dealt with as an individual, having his needs met as far as possible. Emphasis is placed on preparing the child offender for his return to society from the moment of entry into the detention facility. Among the fundamental principles of the Rules is that the ideal legal framework for children in conflict with the law should uphold the rights and safety and promote the physical and mental wellbeing of the child offenders.

2.2.5 The African Charter on the Rights and Welfare of the Child (ACRWC)

African countries felt the need to have an instrument specifically tailored to cater for the needs of the African child, thus the ACRWC which was adopted on 11 July 1990 by the Organization of African Unity now the African Union. The African Charter is the first regional treaty on children's rights. It is derived from the realization that the CRC did not capture the social -cultural and economic realities in Africa. The Charter makes extensive provisions for the protection of the rights of the child but does not adequately provide for the rights of the child offender. For instance, the Charter does not state the recurrent theme in all international instruments on children in conflict with the law; that detention shall be the last resort and that no child shall be deprived of their liberty in an arbitrary and unlawful manner. Nonetheless, Article 17 of the Charter outlines the broad aims

⁷⁵UNICEF, 'UNICEF Toolkit on Diversion and Alternatives to Detention', 2009, www.unicef.org/tdad/instrumentssummary, accessed 7 April 2016.

⁷⁶ Ibid.

⁷⁷ Ibid.

of a child justice system with which diversion and alternative sanctions, particularly with a restorative justice approach are highly compatible.⁷⁸ Article 17 (1) and (3) provide;

1, every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others". And 3 the essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation.⁷⁹

2.3 Development of Juvenile Justice in Kenya

Colonial import of western concept of juvenile justice to African countries holds true to Kenya. In the 1930's a modified version of the British borstal system was introduced in Kenya.⁸⁰ The colonial inference on racial supremacy extended to the formulation of policies and treatment of child offenders as the issue of juvenile criminal behaviour became linked to "debates about urban growth and eugenic discourse on the African capacity to development."⁸¹ Two strands of the social school of thought which influenced juvenile justice was; the need for the separation, protection and rehabilitation of children offenders and the other school of thought was shaped by eugenic ideas in respect to innate racial and criminal characteristics.⁸² At the time, Kabete Reformatory was the only institution that exclusively detained children offenders until 1937.⁸³ The *Sydney Hubert La Fontaine's* 'Report on the applicability to Kenya of methods pursued in borstal and other reformatory schools in England' commissioned in 1932 contributed to the passing of the Juvenile Offenders Ordinance in 1933.

Through the Act, childhood and adolescence became legally defined in Kenya as being distinct stages needing particular legal protection. A child was defined as being under fourteen and a young person as being under sixteen years of age.⁸⁴ The Act further recommended that children should

⁷⁸ UNICEF, 'UNICEF Toolkit on Diversion and Alternatives to Detention', 2009, www.unicef.org/tdad/instrumentsummary, accessed 7 April 2016.

⁷⁹ Joyce Nkirote Kinuu, *op.cit* pg. 23.

⁸⁰ Campbell Chloe, 'Juvenile Delinquency in Colonial Kenya, 1900 -1939' (2002) 45 *The Historical Journal* 129.

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*

have separate court hearings, children and young people should be protected by the Commissioner of Police from associating with adult offenders, the court procedure should be more appropriate to children and young people and if a sentence of imprisonment was passed industrial schools and reformatories were the designated institutions and the sentence should not be less than three years and not more than seven years.⁸⁵ The report further observed that child offenders as being amenable to rehabilitation programme though this was viewed through racial lens, it stated;

Officers with close personal acquaintances of the African will agree that he possess in undevelopment form many of the qualities which go to make up of the average European lad, and that where he lacks the qualities, his plastic nature is such that they can be grafted on to him provided that good influence is continuously and intelligently exerted...there are good grounds for believing that in the case of the more malleable African results should be even more gratifying.⁸⁶

Thus is the bedrock on juvenile justice that contributed to the trajectory the juvenile justice system post independent Kenya would follow. The western approach on the welfare of children including juvenile justice was fully adopted dispensing with the then prevailing African methods of dealing with the interests of children. The pre- colonial African society was a stark contrast with the western ideologies. The British colonial law contributed to the reformulation of culture and consciousness creating new conceptions of space, time, property, work, marriage and family.⁸⁷ Prior to colonization, traditional societies had strong kinship, social operations were communal and evolved around the community, thus social economic institutions were well established with each child's future development well secured.⁸⁸

A child essentially belonged to the community so the issue of neglect, deprivation and abandonment hardly arose. It can therefore be rightly argued that the colonial government created juvenile delinquents of the African children.⁸⁹ This is because the colonialists created an

⁸⁵ Campbell Chloe, 'Juvenile Delinquency in Colonial Kenya, 1900 -1939' (2002) 45 *The Historical Journal* 129.

⁸⁶ La Fontaine, 'Report on the applicability to Kenya of methods pursued in borstal and other reformatory schools in England' [1933] KNA,AP/1/701.

⁸⁷ Wambugu N. Beth and others, 'Juvenile Delinquency: A Legacy of Developmental Logic in Kenyan Government' (2015) 4 *IJSR* 1174.

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*

environment fertile for children to degenerate into delinquents; the cohesive social fabric of the African community was torn right in the middle and the social and economic changes associated with urbanization “led to the disintegration of the previously well-established pre capitalist social economic and political institutions that ensured the wellbeing of the African child.”⁹⁰

The dawn of children rights arrived when the wheels of legal reforms on the welfare of the child were set in motion by Kenya’s ratification of the CRC and the ACRWC on 30th July 1990 and 25th July 2000 respectively. The Attorney General at the behest of the civil society called upon the Law Reform Commission to review the existing laws in respect to the interests of children and make recommendations for improvement so as to give effect to the CRC.⁹¹

The Law Reform Commission sought to develop schemes which departed from inherited colonial laws and address juvenile justice in a comprehensive manner. This culminated with the enactment of the Children Act. The Act codified and replaced three statutes; The Children’s and Young Person’s Act (Cap 141), The Adoption Act (Cap 143) and The Guardianship of Infants’ Act (Cap 144).⁹²

2.4 Prison Rehabilitation Programmes

Rehabilitation is the aspiration and probability of programmes to restore the individual to a prior state. Theoretically rehabilitation is a special program that focuses on need of an offender to reunite with society after completion or release from the prison. In definition rehabilitation refers to efforts geared towards enabling an individual to effectively readapt to society and assume practices which are consistent with societal rule and regulation.⁹³ The goal of rehabilitation is to reshape the individual and prepare them to enter into the society with a different state of mind and start a new life after their sentence. In modern penology the real purpose of sending criminals to prison is to

⁹⁰ Wambugu N. Beth and others, ‘Juvenile Delinquency: A Legacy of Developmental Logic in Kenyan Government’ (2015) 4 IJSR 1174.

⁹¹ Joyce Nkirote Kinuu, “An Analysis of the Adequacy of the Legal Framework in Protecting the Rights of Child Offenders in Kenya”, Master of Laws Thesis, University of Nairobi, 2016, p. 26.

⁹² Ibid.

⁹³ Ibid.

reform them from dishonest into honest and law abiding citizen by inculcating in them distaste for crime and criminality.⁹⁴

Ideas of rehabilitation were first embodied in USA in the penitentiaries, built during the Jacksonian era of the late 19th century; reformers hoped that felons would be ‘kept in solitude, reflecting penitently on their sins in order that they might cleanse and transform themselves’.⁹⁵

In Kenya, Prison Service was inherited from colonial regime through transforming it from detention camps which were ruthless to institutions of prisons. Kenya prior to colonial rules had no prisons punishment was the aim of imprisonment and offenders were treated more like non-human beings. Kenya being a member of united nation recognizes the United Nations standards minimum rules for non-custodial measures (Tokyo Rules) of 2015. These upholds the tenet that all prisoners be treated with respect due to their inherent dignity and values as human beings and advocated for the viability of non-custodial sentences as an alternative to incarceration.⁹⁶ Rehabilitation in Kenya is an ambitious one with programs such as vocational skills training, educational programs, socio-psychological programs, spiritual religious programmes, and agricultural programs among others. Though Kenya has a perennial problem in maintenance of offenders according to international recommended standards, rehabilitation is contributing to betterment of offenders through various programmes by only optimal and efficiency rehabilitation programs. Kenya was able to achieve complete reformation among her prisoners in various prisons in the country.⁹⁷

2.4.1 Vocational Programmes on Reformation of Offenders

Training refers to acquisition of knowledge, skills and competencies as result of teaching of vocational or practical skill and knowledge that relate to specific useful competencies. Training forms the core of apprenticeship and provides the backbone of personal development in career path. In addition to this basic training is required for a trade, occupation or professional, observes

⁹⁴ Joyce Nkirote Kinuu, “An Analysis of the Adequacy of the Legal Framework in Protecting the Rights of Child Offenders in Kenya”, Master of Laws Thesis, University of Nairobi, 2016, p. 26.

⁹⁵ Ibid.

⁹⁶ Kenya Human Rights Report On Kenya Prisons, 2009.

⁹⁷ UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules, 2015).

of labour market, recognize training need to continue acquiring skills and knowledge.⁹⁸ Areas of training are knowledge; training aimed at imparting knowledge to offender thus providing facts, information and principle related to the knowledge area. Technical skills; the training here is aimed at teaching offenders the physical acts or actions like operating machines, working with computer. It is more like on work training. Social skills; the training in this area is wider in capacity involving a lot of aspects.⁹⁹

Thus social skills training aims at the development of a person and team work. Vocational skill training is paramount as one of rehabilitation program in offenders' reformation. Rule 71(3) of the united Nation Standard minimum Rules for the treatment of prisoners' states that "sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day."¹⁰⁰ This strengthens the vocational training on offenders. The rules also warn against vocational training for primary purpose of making a profit for the prison out of prisoner's labour. Despite limited opportunity for vocational training for African prisoners, more of them are involved in this kind of rehabilitation programs more than in academic or literate training.¹⁰¹ This is possibly due to vocational training close relationship to useful prison labour. Inmates are expected to be active and useful.¹⁰² Active employment is achieved when the inmates feels that they have made an impact within the society. In Kenya, for example training is through carpentry, masonry, upholstery, metalwork, weaving, tailoring and dressmaking as well as agriculture.¹⁰³

2.5 The Emergence of Penal Institutions for Young Offenders

The growth of perceived juvenile delinquency made it necessary for the colonial government to come up with penal legislation which was strong on institutionalisation. The juvenile corrective institutions were conceived as measures to divert children from punitive adult prisons. With increased urbanisation, many children came to the towns either because their communities had been disrupted by colonial resettlement programmes or by sheer town attraction. This effort was meant to:

⁹⁸ UN Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules, 2015).

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

- Reduce the likelihood of contamination of relatively inexperienced offenders by more hardcore criminals:
- Prevent the hardening of attitudes against society and authority resulting from embittered experience in punitive institutions;
- Avoid labelling of the young offender as a criminal by the society and as such encouraging image building
- Provide special programmes for re-socialisation with the goal of nipping the errand behaviour in the bud.

The juvenile correctional institutions were based on the English models modified for the African setting. These institutions which included the Approved Schools, Borstal Institutions and Youth Corrective Centres admitted young offenders falling below 19 years. On the other hand, there were other alternative measures available to the courts which comprised corporal punishment, discharge, compensation or payment of cost by the juvenile offender or parent/guardian or committal care of fit persons or society Probation orders were introduced through an ordinance in 1943 for both adults and juveniles.

2.5.1 The Establishment of Approved Schools

The first Approved School was established in Kenya in 1934 and the second in 1937 further to the English Act of 1933 although reformatory schools were in existence by 1909. Approved schools were established by the state as special residential schools for the care and protection of children in need including delinquents. This meant that in situations, ‘normal’ children were mixed with those adjudged delinquent. This also points out that the State, then, perceived children in conflict with the law as needing welfare support which was thought to be the driving force behind their migration to the towns where they were rounded up and charged with vagrancy. The Approved Schools which initially were under the Prisons Service were moved to the Probation Service in 1955 after the latter had moved from Prisons. Of the five Approved Schools established then, all were for boys and provided vocational training and formal education.¹⁰⁴ The Schools provided both vocational training and formal academic education.

¹⁰⁴ Kenya Prison’s Service Annual Report 1960.

The Children and Young Persons Act Cap 141 of 1969 brought out a distinct categorisation of which schools admitted children of what age. However, it prescribed that children had to be detained in these facilities until they attained 18 years of age.¹⁰⁵

2.5.2 From Approved Schools to Rehabilitation Schools

The Children's Act of 2001 made a significant policy change on these reformatory schools starting with renaming them as Rehabilitation Schools. The reinvented schools provide accommodation, protection and are for young children. The schools are empowered to receive, maintain, train and rehabilitate children in conflict with the law as well as those requiring care and protection. At present, there are 9 rehabilitations schools in Kenya.

2.5.3 Establishment of Juvenile Remand Homes

The juvenile remand homes were set up just at the same time as the other reformatory schools. By 1960 there were 6 remand homes all near the major towns. The homes were built as places for temporary reception, safe custody and for keeping vagrant children. Any government official could bring in children including chiefs, police and locals with reasons for admission, mostly being vagrants, without a court order. Presently, there are 14 Children Remand Homes in Kenya accommodating both children in conflict with the law and those in need of care and protection. Committing to and release from these facilities can only be through the court. The remand homes are run by the Department of Children Services which is responsible for the child welfare.

2.5.4 Borstal Institutions in Kenya

The name 'borstal' originated from the City of Rochester in the UK where a prison reformer by the name of Sir Evelyn Ruggles-Brise (a prison governor who many believe to be the father of Borstal Institutions) expressed concern that so many young criminal offenders were being sent direct to ordinary gaols and were being tainted by hardened 'old-lags' to become themselves really 'hard-liners'. Sir Evelyn sold to the government of the day the idea of establishing separate 'institutions' for these youngsters, where an attempt could be made to reform them rather than let them drift further into crime. Eventually, he was offered him the use of a former convict prison

¹⁰⁵ Kenya Prison's Service Annual Report 1960.

which became the first borstal institution. Upon colonization by the British, Kenya adopted the concept of separate institutions for young criminal offenders.¹⁰⁶

Currently, the country has three institutions; Shimo la Tewa in the coastal region, Shikutsa in Kakamega District and Kamiti Youth Correction and Training Centre. These institutions are under the administration of the Prisons Department and are therefore part of the penal system of Kenya unlike other custodial institutions housing children which are managed by the Department of Children Services. The institutions are located in close proximity to adult prisons and only admit young male offenders between the ages of 15 to 17 years for a period of not more than 3 years. At present there is no Borstal Institution for young female offenders.¹⁰⁷

The Borstal Institution was crafted as a penal facility for juvenile offenders found guilty of offences thought to be of serious nature. Borstal institutions were first established in England in 1908 to cater for the 16 to 21-year-old juvenile adult category who by virtue of their criminal habits or association with such characters, were deemed to merit institutionalisation for purposes of reformation and repression of crime.¹⁰⁸

The first such facility was constructed in Kenya in 1963 to admit boys aged between 15 and 17 years after criminal adjudication by the courts. Unlike the Approved School which admitted boys until they attained the age of adulthood or unless there were alternative measures that could ensure care and control of the child, admission to a Borstal Institution was, and still is, up to three years. The boys admitted to Borstal Institutions had a limited chance of being released before two years were over and also had to be placed under the supervision of a probation officer for one year upon release.¹⁰⁹

At present, the Borstal Schools are run by the Kenya Prison Service. There are three such facilities with the third having been opened in 2016 for girls. The facilities offer vocational training

¹⁰⁶ Kenya Prison's Service Annual Report 1960.

¹⁰⁷ Oral Interview, Chief inspector Charles Ogur, Kamiti YCTC, 18th October 2018.

¹⁰⁸ Kenya Prison's Service Annual Report 1960.

¹⁰⁹ Ibid.

academic education and agricultural instruction. The staff at the school comprise both uniformed and civilian officers. No member of staff is allowed to be armed while in the facility.

Whereas the Borstal infrastructure remains relatively the same, the training and inclusion of other ‘soft’ programmes have been introduced. The element of assessment to precede classification has been introduced although the infrastructure may not allow for physical risk classification as would have been desired subsequent to the assessment.¹¹⁰

There has been an introduction of individualised case management unlike before where no specific personal engagement was evident. Some of the prison officers who run the institution have university training in social sciences and have acquired skills in counselling. There is a comprehensive aftercare programme run by both the Kenya Prison Service and the Probation and Aftercare Service. Post-penal supervision is accorded to each offender by probation officers for a period determined by the Board of Licence that releases the youthful offenders mostly after they have spent a certain period in the institutions. The release licence authorises the probation officer to supervise the offenders for the purposes of reintegration and resettlement. Such release cannot be accorded an inmate unless a pre-release environment adjustment report has been filed by the Probation Service. As of July 2016 there were 339 inmates at Shilo La Tewa Borstal Institution and 384 inmates at Shikusa Borstal Institution.¹¹¹

The two Borstal Institutions for boys in Kenya have a holding capacity of 600 inmates but are currently overpopulated by 123 inmates. The programmes which are run in the institutions include:

- Formal Education
- Vocational training (Mainly Carpentry & Tailoring)
- Agriculture
- Counselling
- Life skills training¹¹²

¹¹⁰ Oral Interview, Chief inspector Charles Ogur, Kamiti YCTC, 18th October 2018.

¹¹¹ Kenya Prison’s Service Annual Report 2017.

¹¹² Ibid.

Although accredited treatment programmes that are in vogue and meant to treat specific offence types are yet to be introduced, the authorities at the facility have embarked on a capacity-building project to introduce sex-offence and drug-and-substance-abuse treatment programmes. Already the concept of assessment of risk and needs to inform classification and treatment is well grounded. The new Borstal Institution for girls has operated for few years and has had admission of 6 inmates.¹¹³

2.5.5 Youth Correction and Training Centre

The Kenya Youth Corrective Training Centre (KYCTC) was established in 1962 to cater for boys who were deemed to be unruly and needing ‘short-sharp-shock’ treatment. It was thought to fit those who were considered to be defiant to authority and could not be supervised under probation and yet did not warrant long-term confinement like the Borstal Institution. The Centre was meant for the rough undisciplined youth who needed to be detached from the family and kept in such a facility as a deterrent and corrective measure.

Presently¹¹⁴, the Kenya Correctional Services Department is mandated towards the rehabilitation, training and correction of youthful offenders vide their Prison’s Act CAP 90 Laws of Kenya. The Act relates to the youthful offenders with regard to the Youth and Correction Centres established under part XI, section 66. The section mandates the Cabinet Secretary in charge of correctional services to establish through a gazette notice youth correction and training centers.¹¹⁵

The main objective of the Corrective Centres is to instill discipline to first offenders. So far, the only Youth Correction and Training Centre is established at Kamiti and admits youthful offenders between the ages of 17 and 21 years for a defined period of four months during which the inmates go through short sharp shock sentences (4s).

All Kamiti YCTC inmates are committed to the institution by probation officers¹¹⁶. The act says that the Cabinets Secretary by the notice in the gazette may declare any building enclosure or place, or any part thereof to be a youth corrective training centre for the purpose of the said Act. The Act

¹¹³ Kenya Prison’s Service Annual Report 2017.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ Kenya Prison Service Annual Report, 2001.

states that no prisoner other than a person sentenced to corrective training in a youth corrective centre shall be detained in a youth corrective centre and that under sub-section 2 of the Act every youth corrective training center shall be deemed to be a prison for the purpose of the Act.

The Act stipulates that where a person, who has the apparent age of 17 years but has not attained the apparent age of 21 years, is convicted of an offence not punishable by death, the court may sentence such a person to corrective training in a Youth Corrective Centre for a period of four months.

2.5.6 The Kamiti Youth Correction and Training Centre

The Kamiti Youth Correction and Training Centre is situated 20 kilometers to the North of Nairobi City in Kiambu area, inside the Kamiti maximum prison which admits hard core criminals. The prison is well secured with towering wall watch towers manned by trained security guards.

The Kamiti Youth Correction and Training Centre was established in the year 1990¹¹⁷. The officer in Charge of the institution is of the rank of Superintendent of Prison, deputized by the Deputy Officer in Charge. The two have under them Officers of the rank of inspectors whose main duties include maintaining security, are in charge of welfare issues, run the various offices and head the different sectors. At the bottom are officers in the ranks of Constables who are mainly instructors and teachers. In total, the institution is manned by a total of 108 officers of various ranks as stated above.

The correctional institution can hold a capacity of 300 inmates. However, reports indicate that the highest number of inmates held at one single time were 270 inmates in the year 1963¹¹⁸. Between the years 2004 and 2014 the number has been ranging between 40 and 70 inmates. The institution has dormitories, 3 class rooms, bathrooms and a small *shamba* farm designated to train juvenile offenders to rare animals and learn about agriculture. The main programs offered are counseling, computer training, farming and irrigation. The facility holds inmates for a maximum of four

¹¹⁷ Kenya Prison Service Annual Report, 2001.

¹¹⁸ Ibid.

months.¹¹⁹ The establishment, development and impact of Kamiti Youth Correction and Training Centre forms the gist this study.

2.6 Conclusion

This background chapter was mainly a digression from the main body of Kamiti YCTC programmes. Its main aim was to shed light on the history of Kenya Prison Service and its institutional framework. The chapter has also discussed the legal and institutional framework of children offenders in Kenya. The various institutions that deal with children offenders were also discussed. The principles set a benchmark as to the rights of a children offenders. The principles set an ideal framework for children in conflict with the law.

¹¹⁹ Kenya Prison Service Annual Report 2017.

CHAPTER THREE

KAMITI YOUTH CORRECTION AND TRAINING CENTRE

3.0 Introduction

The main principle inculcated into the Kenyan criminal justice system is rehabilitation which is evident even in International Standard Minimum Rules for treatment of prisoners. Rehabilitation comes from the Latin word *rehabilitare* which means re-enabling or making fit again. In the context of prison, it means preparing prisoners to re-join society as useful and law-abiding members of the wider community. Rehabilitation can be described as the process to restore to useful life by therapy and education or to restore to good condition. The rehabilitative ideal views criminal behaviours as diseases that can be cured if well planned interventions that target the risk factors are delivered in a systematic manner. Rehabilitation is composed of a number of different types of interventions which are employed in varying degrees to provide purposeful activity for prisoners, they are to challenge offending behaviour, provide basic education to tackle not only illiteracy but also innumeracy and to equip prisoners with life and work skills. The chapter has the general objective of establishing the formulation and articulation of programmes offered at Kamiti Youth Correction and Training Centre.

3.1 The Legal Framework: The Prison Act CAP 90

The management of juvenile delinquents in Kenya was influenced by the metropolitan trend towards a more rehabilitative and separatist system. Kenya adopted a system similar to that of their former colonial masters; the British borstal system to manage juvenile delinquency that had sprung up especially after the World War I. Prior to the First World War criminal activities involving young people became rampant and attracted much attention from the colonial government. Methods that were devised to manage the issue of dealing with young people, who were in conflict with the law, were based on two strands of social thought. The first approach was inspired by a liberal metropolitan model that increasingly emphasized the need for the separation and rehabilitation of juveniles. The other was based on perceptions that were found in Kenyan thinking on race and criminal characteristics.¹²⁰

¹²⁰ Peter Mutui Mutemi, *An Analysis of the Challenges Facing Kenyan Prisoners during their Rehabilitation*, Bachelor of Laws Degree, Strathmore University, 2017, p. 23.

The current Kenya Correctional Services Department is mandated towards the rehabilitation, training and correction of youthful offenders vide their Prison's Act CAP 90 Laws of Kenya which became operational immediately after independence. It aimed at transforming prisons from places of punishment to places where offenders could be transformed. The Act relates to the youthful offenders with regard to the Youth and Correction Centres established under part XI, section 66. The section mandates the minister in charge to establish through a gazette notice youth correction and training centers. The main objective of the Corrective Centres is to instill discipline to first offenders. So far, the only Kenya Youth Correction and Training Centre is established at Kamiti and admits youthful offenders between the ages of 17 and 21 years for a defined period of four months during which the inmates go through short sharp shock sentences (4s).

All Kamiti YCTC inmates are committed to the institution by probation officers¹²¹. The act says that the minister by the notice in the gazette may declare any building enclosure or place, or any part thereof to be a youth corrective training center for the purpose of the said Act. The Act states that no prisoner other than a person sentenced to corrective training in a youth corrective center shall be detained in a youth corrective center and that under sub section 2 of the Act every youth corrective training center shall be deemed to be a prison for the purpose of the Act. The Act stipulates that where a person, who has the apparent age of 17 years but has not attained the apparent age of 21 years is convicted of an offence not punishable by death, the court may sentence such a person to corrective training in a Youth Corrective Centre for a period of four months.

The correctional institution can hold a capacity of 300 inmates. However, reports indicate that the highest number of inmates held at one single time were 270 inmates in the year 1963. Between the years 2004 and 2014 the number has been ranging between 40 and 70 inmates¹²². The institution has clean dorms, 3 class rooms, sanitized bathrooms and a small *shamba* farm designated to train juvenile offenders to rare animals and learn about agriculture. The main programs offered are counseling, computer training, farming and irrigation. The facility holds inmates for a maximum

¹²¹ P. Kimani, "Administration of the Kenya Prisons Organization", Resource Material Series No.98, 2006, p. 84.

¹²² S. K. Rutere, Factors Precipitating Recidivistic Behaviours among the Kenyan Prisoners: A Sociological Interpretation. Nairobi: University of Nairobi, 2003, p11.

of four months, which is deemed to be too short for training and reform. The institution is always holding at under capacity, and the current number of inmates are 29.

3.1.1 The Concept of the Short Sharp Shock Sentences on Juvenile Rehabilitation

Margaret Thatcher took a bold approach on confronting the issue of processing of young offenders and her approach was typified by the controversial and divisive short sharp shock policy. When she took up the leadership of her conservative party in 1975, when youth correctional institutions had largely failed to attain their mandate. Crime involving young people was escalating, while the penal institutions tasked with preventing this were too costly and ineffective. Therefore, the guiding principle behind Thatcher's youth justice policy was cost. The 4S sentence for youths was therefore introduced with emphasis of the short sharp shocks being on the "short".¹²³ Laws requiring juvenile offenders to be held in the newly created detentions centres for a maximum of four months for lesser offences were passed with no programs in place for the empowerment of the inmates in preparedness for their future life. Thatcher believed in the effectiveness of harsh punishment as a deterrent. However, many measures taken by the Thatcher Government failed as brief institutionalizing of juvenile delinquents reinforced their identity as offenders and statistics showed that 50% of those sent to detention centres reoffended. However, it was observed that for those serving given non-custodial sentences reoffending rates were going down.¹²⁴

The Kamiti YCTC's short sharp, shock sentence (4s) is a form of rehabilitation that is deterrence in nature. Deterrence is a utilitarian form of rehabilitation whereby the assertion is that corporal punishment would make law breakers stay away from crime. Deterrence assumes that offenders are rational, in that increasing the cost of crime will force offenders to choose to "go straight".¹²⁵

3.2 Programmes Offered at Kamiti YCTC.

Kenya's Correctional services continue to focus on the following programmes that help offenders in the resettlement and reintegration into the society where they can be economically active and productive other than becoming a liability to the community.

¹²³ S. K. Rutere, Factors Precipitating Recidivistic Behaviours among the Kenyan Prisoners: A Sociological Interpretation. Nairobi: University of Nairobi, 2003, p11.

¹²⁴ Ibid.

¹²⁵ Oral Interview, sergeant Patrick Abongo, Kamiti YCTC, 24th September, 2018.

Providing rehabilitation for inmates offers countless benefits to the individual inmate as well as the community that inmate will re-enter upon his or her release.

3.2.1 Vocational Training Programmes

Employment in a prison industry emphasizes developing work habits, skills and knowledge that will help an inmate to gain employment when released. Prisoners often undertake a vocational training programme which is relevant to their prison work to gain qualifications that are recognised in the community. This keeps the inmates productive, busy and also enhances their productivity.

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The skills gained assists in forestalling criminal behaviour as they are positively and gainfully engaged. Vocational courses which they are exposed to include livestock production, including rearing of cattle, rabbits, pigs, fish, poultry and bees, vegetable production and fruit . All these courses are supervised by experts within and outside the prison department.

Inmates have the opportunity to engage in prison work programmes while incarcerated and hence an easier time getting work once they are released¹²⁷. The period they stay in prison gives them exposure and experience which is relevant when they are released back to the society. The inability to find and maintain work is a main factor in recidivism across the nation. When former inmates re-enter society without marketable skills, a domino effect occurs that often times leads to new offenses. Breaking the cycle relies on becoming a productive member of society through gainful employment. Being able to support oneself is beneficial financially and mentally. For a person newly re-entering society, the self-esteem and fulfillment that can come from working hard plays a big role in lessening criminal behavior. These programs offer a consistent way to prepare for work in society. Punctuality, responsibility, deadlines, accountability and other skills are learned through taking part. The benefits of prison work programs go much deeper than just job training.

¹²⁶ S. K. Rutere, Factors Precipitating Recidivistic Behaviours among the Kenyan Prisoners: A Sociological Interpretation. Nairobi: University of Nairobi, 2003, p11.

¹²⁷ Oral Interview, sergeant Patrick Abongo, Kamiti YCTC, 24th September, 2018.

3.2.2 Educational Rehabilitation Programmes

It has been proven time and time again that education programmes in prison help to give inmates a second chance¹²⁸. The statistics proving the value behind providing education programmes in prison have helped change the landscape of educational offerings for inmates. Positive outcomes for inmates who leave prison more educated than when they entered filter down into the community.

These inmate education programmes cover functional skills, For example, inmates who haven't had access to a computer or the internet in many years are at a disadvantage when attempting to return to the workforce. Computer training programmes have become a crucial piece of re-entry back into to the society.

Education programmes in Kamiti YCTC are helping give the power of knowledge to inmates. With this power, overcoming the past and enjoying a better quality of life are two very achievable goals.

3.2.3 Counseling Rehabilitation for Inmates

Counselors play a significant role in rehabilitation for inmates. These criminal justice and mental health professionals provide guidance to inmates throughout the duration of their sentence. The kind of support a Prison Counselor provides will be different for different inmates depending on their specific needs.¹²⁹

The goal is to provide rehabilitation for inmates that will help them consider new skills and new insight into their goals and motivations. Additionally, inmates seek counseling on issues like depression, stress or substance abuse. Sometimes this may come in a group form, or one on one. In addition to the support provided by the staff, counseling for inmates can be obtained through many non-profit organizations.¹³⁰

¹²⁸ Oral interview, Carolyne Njuguna, Kamiti YCTC, 24th September, 2018.

¹²⁹ Oral Interview, sergeant Patrick Abongo, Kamiti YCTC, 24th September, 2018.

¹³⁰ S. K. Rutere, Factors Precipitating Recidivistic Behaviours among the Kenyan Prisoners: A Sociological Interpretation. Nairobi: University of Nairobi, 2003, p11.

For example, The Lionheart Foundation programme offers inmates “encouragement and the necessary support to take stock of the life experiences that have propelled them into criminal activity, take responsibility for their criminal behavior, change lifelong patterns of violence and addiction, and build productive lives.” This organization trains counselors, chaplains, volunteers and others to visit prisons and provide counseling services. Their work extends into youth prisons and the community as well. Taking advantage of the counseling offered during prison is a positive step towards rehabilitation.¹³¹

Use of recreational time is one of the most critical indices of understanding an offender’s dynamic risks. Leisure time is used constructively such as playing sports, reading, meeting with pro-social friends etc. Some offenders “use of their free time is directly correlated with their risk of offending because they use their free time to abuse drugs or hangout with friends who are anti-social or anti-authority.

3.2.4 Wellness Rehabilitation for Inmates

Physical and mental wellness bring clarity and purpose to many inmates during their sentence. Depending on the offerings in an individual facility, an inmate may be able to participate in programmes like yoga or meditation. Every morning all inmates are required to participate in a 60 minute physical exercises which is supervised by experts from the sports section.¹³² These also depend on the needs of individual offenders. Practicing these kinds of mental and physical exercises are proven to provide long term benefits including stress and anger management among others.

Positivity can be a difficult trait to maintain during a prison sentence, but Kamiti YCTC is offering programmes to help bring a positive light into an inmate’s life. Programmes like dog training, culinary classes, gardening and more offer inmates opportunities to practice fulfilling skills that make a measurable difference. Making good nutrition choices with meals in prison can also be difficult. But with effort, a healthy diet is also be maintained.¹³³ For instance, we have the office of

¹³¹ Alemu, Yirgalem. "Assessment of the provisions of guidance and counseling services in secondary schools of East Harerge Zone and Hareri Region, Ethiopia."p.34.

¹³² Oral Interview, sergeant Patrick Abongo, Kamiti YCTC, 24th September, 2018.

¹³³ Oral interview, Carolyn Njuguna, Kamiti YCTC, 24th September, 2018.

a nutritionist in place who recommends the right diet to inmates not forgetting those inmates with special needs which may include terminal illnesses.

3.2.5 Community Rehabilitation for Inmates

Rehabilitation for inmates continues throughout an inmate's life even after they have left the system. Re-entering society and taking steps to join the community is a necessary piece of the rehabilitation process.¹³⁴This process begins immediately one is incarcerated. It is supervised by the Kenya prisons staff who are mandated to do so. The civil society including non-governmental organizations, community based organizations with the permission from the commissioner General of prisons also offer some assistance.¹³⁵

Adjusting to life after prison successfully has many variables. Having a support system within the community helps an ex-offender stay an ex-offender. Getting involved in the community creates accountability in the form of communal obligations. Feeling a sense of belonging is invaluable, whether it be through church, volunteering or social groups.¹³⁶The society plays a larger responsibility to ensure that ex-offenders are fully reintegrated back into the society.

The newly built support system relies on the ex-offender as he/she relies on it. This leads to more positive interactions and less opportunity for criminal behavior. Additionally, the relationships built within these community groups can lead to job opportunities a crucial step for re-entry to society and elimination or reduction of recidivism. Kamiti YCTC ensure that this support system is in place and also that it is fully supported.

¹³⁴ S. K. Rutere, *Factors Precipitating Recidivistic Behaviours among the Kenyan Prisoners: A Sociological Interpretation*. Nairobi: University of Nairobi, 2003, p11.

¹³⁵ Oral Interview, sergeant Patrick Abongo, Kamiti YCTC, 24th September, 2018.

¹³⁶ Ibid.

3.3 Challenges Facing Kamiti YCTC Programmes

Rehabilitation programmes in Kamiti YCTC face different challenges which in one way or the other affect the delivery and the intended impact to the inmates. These challenges include:

3.3.1 Inadequate Counseling Rooms

In Kamiti YCTC there is an aspect of some counselors experiencing a shortage of counseling rooms. Most of the offices are always occupied and whenever they wanted to use the little space tended to be in a hurry leading to a creator challenge. For instance, Carolyne Njuguna, one of the counselors said that it was not easy to organize meetings from different places every time because there was no specific spaces designated for the classes.¹³⁷ Therefore, many a times the classes were never consistent with the requirements of the sessions. The staff wished to have classes so they can hold those secessions whenever they wanted so that it has impact to the society.¹³⁸

3.3.2 Staff Training

Elsewhere, staff lacked the idea to sensitize through trainings and seminars on various issues concerning their day to day life. It was realized that sex played a major challenge in the sensitization process. Although more female gender knew the existence of the counseling program compared to their male counterparts, their utilization was significantly lower than that of male gender. Most of the female gender mentioned fear for not utilizing the counseling office. The result suggestion was into agreement with various studies carried out by scholars like Neal's (1983) and Unger and Crawford (1992) that females were comparatively more aware of counseling services. However, unlike Unger and Crawford (1992) and Neal's (1983) findings, females were not proportionately greater users of counseling services.¹³⁹ According Rashid et' al Women's increased awareness of counseling services may not be surprising as they have a statistically significant increased risk of having mental distress than men.¹⁴⁰ However, women ended up the

¹³⁷ Oral interview, Carolyne Njuguna, Kamiti YCTC, 24th September, 2018.

¹³⁸ Alemu, Yirgalem. "Assessment of the provisions of guidance and counseling services in secondary schools of East Harerge Zone and Hareri Region, Ethiopia."p.34.

¹³⁹ Alemu, Yirgalem. "Assessment of the provisions of guidance and counseling services in secondary schools of East Harerge Zone and Hareri Region, Ethiopia." *Middle Eastern & African Journal of Educational Research* 2 (2013): pp.28-37.

¹⁴⁰ Kebede, D, Alem, A., Rashid, E. (1999). The prevalence and socio demographic correlates of mental distress in Addis Ababa, Ethiopia. *Acta Psychiatrica Scandinavica*,100, 5-10.

least consumers of the service which some scholars associated with culture and socialization process.

Related to the above challenge was the shortage of staff houses in various stations which affected their performance in their place of work. Many of the staffs were forced to rent houses away from their working points. They therefore got to the job late or tired due to the many hustles and logistical issues. Many also talked of insecurity related to the logistical issues. They spent a lot of time on the way, their journeys were expensive and personal securities to the areas they stayed in. This resulted in a situation where some members of staff needed professional counseling themselves. Indeed, the ratio of staff to the clients in the institution is scary. Therefore, staff is forced to work under pressure. There was a serious problem related to number of counselors per class and their roles and responsibilities. There were few counselors which was not proportional to the number of clients. The American School Counselors Association (ASCA, 2007) suggested an ideal proportion of 1:100 or a maximal proportion of 1:300.¹⁴¹ Nevertheless, in the present study the counselor-client proportion was about 1:1000. Other than the number, the institution counseling program was dominated by male professionals. This poor proportion and poor gender balance impacted the counseling programs negatively.

The lack of professionalism, more training and seminars for welfare officers to improve their effectiveness was also a major challenge to the Kamiti YCTC. According to the US Department of Education (2003), the availability of program schedule and staff roles and responsibilities are very crucial for the effective implementation of G&C programs. In the present study, however, guidance and counselors did not have clearly defined roles and responsibilities. They were preoccupied with routine works coming from the school principal. While ASCA states that counselors should spend at least 70 % of their time offering direct service to students, the present study showed that most school counselors spent their time on non guidance and counseling activities like being unit leaders and other managerial activities. Adediran (1995) stressed that before the organization and administration of guidance and counseling units in schools, the

¹⁴¹ Alemu, Yirgalem. "Assessment of the provisions of guidance and counseling services in secondary schools of East Harerge Zone and Hareri Region, Ethiopia."p.34.

counselor must be fully aware of the functions of the services and other significant programs of the school.¹⁴²

Other than the absence of program schedule and written plans, almost all school counselors did not have private counseling room. This is contrary to what Ipaye's (1988) and Egbochuku and Iyamu's (2000) suggest. According to them, without a private accommodation counseling will not be successful and delivery of guidance services will be ineffective¹⁴³

Welfare officer's lacks debriefing sessions because of the tedious responsibility accorded to them; at least it should be done once in every three months. They also lacked enough finances and resources to make things run smoothly down from the station level up to the regional level. Finally, they lacked of trust between members of staff and the welfare office in various stations, in the fear of breaking of confidentiality.¹⁴⁴

3.4 Coping Strategies in Relation to the Challenges Faced.

These are different ways and efforts by the prison department to manage and deal with the challenges that face the implementation and smooth running of the Kamiti Youth Correctional and Training Center rehabilitation programmes.

3.4.1 Reforms in Prisons

The inmates have had various ways under which they coped with their challenges. Major among them was through the spiritual welfare. In the institution they had a protestant chaplaincy section. The protestant arm of Regional County of Nairobi serves the government through eight (8) stations in Nairobi with 8 chapels and continues to offer active services for staff and their families and inmates. Their core functions were to rehabilitation and Reforms of offenders. Offenders were released from different stations and were integrated back to their different communities.

¹⁴² Alemu, Yirgalem. "Assessment of the provisions of guidance and counseling services in secondary schools of East Harerge Zone and Hareri Region, Ethiopia."p.34.

¹⁴³ Ibid.

¹⁴⁴ Oral interview, sergent John Ndiragu,kamiti YCTC,24th September,2018.

They facilitated, trained, taught, preached and evangelized crusade were done to the inmates, spiritual workers, staff and their families where they counseled different groups in order to enhance and initiate behavior change programs to reduce the spread of HIV/AIDS and other mental disorders which could affect people. They also did through monthly prayers for spiritual workers were conducted. Spiritual workers trained in different ministries, leadership and other seminars. Figure 3.1 is a photo that was taken during a prayer session at Kamiti YCTC. Inmates attend church service every Sunday. Also the chaplaincy plan for at least 3 prayer sessions in a week whereby the inmates are encouraged to attend. This has greatly impacted on their spiritual life and their behavior.



Figure 3.1 Inmates attending a church service. In Kamiti YCTC Spiritual nourishment is one of the programmes that are in place to rehabilitate and reform the inmates.

Source: photo taken by the researcher on 18th October, 2018

3.4.2 Donor and Well Wishers

Donors permit holders and stakeholders chipped in so many ways too. Inmates received gifts even for Christmas and some assisted in their unfinished buildings like Jamhuri church, the Kamiti Maximum prison mosque and others. Their donations impacted on spiritual nourishment to the inmates. Others brought literature and other books to prisons in Nairobi County, equipped their libraries where inmates read to acquire more spiritual knowledge and nourishment.¹⁴⁵

¹⁴⁵ Oral interview, sergeant John Ndiragu, Kamiti YCTC 24th, September 2018.

There were major events achieved. For instance, spiritual workers took time to reflect into their relationship with God in Aboretum. Evangelists were commissioned to be preaching in our stations in the county and in other counties. Churches were dedicated and opened. Jamhuri was lastly dedicated on 10/12/2017. Staff church toilets were dedicated and opened. A good example is the Nairobi West Prison and Kamiti Maximum Prison churches. Tiles were fixed in our chapels and other places were repaired or replaced.¹⁴⁶

Rehabilitation and Reformation programmes and projects of Muslim stayed objectively implemented as strategic, to accomplish set goals in various penitentiaries in the region, Nairobi. Communications were fairly conveyed, directives issued and followed up for compliance. we impact Islamic knowledge for inmates at the Mosque and teach them a good moral value and give Friday sermon and having informed inmates on the importance of studying Madrassa as this will help to reconnect their heart to the Almighty God.¹⁴⁷

Inmates' population ended at average of nine hundred and twenty-one persons, they were allowed to practise their faith, religious counseling and nourishment steered when and where time and Maalim is available. Prisoner basics Islamic knowledge course is continued in Kamiti Main Prison. There is a mosque in place and Ummah foundation-Nairobi facilitated release of few reformed prisoners by payment of their fines. The service to inmates is still confronted with lack of enough of educational resources, illiteracy and praying materials. Officers were given freedom of worship, guided by Maalim in mosques and parades on behavioral transformation and performance to enhance service delivery. Madrassa schooling is available in Kamiti , langata and Nairobi remand prisons. Mosque facilities and more spiritual gathering are required for good results. For instance, in Kamiti YCTC, there is need for a mosque in order to be able to achieve our objective of spiritual nourishments to our inmates who are muslims.¹⁴⁸

Holy month of fasting was observed by both staff and prisoners with intense spiritual guidance and donation of foodstuff supplements and livestock for meat given in various stations for the

¹⁴⁶ S. K. Rutere, Factors Precipitating Recidivistic Behaviours among the Kenyan Prisoners: A Sociological Interpretation. Nairobi: University of Nairobi, 2003, p11.

¹⁴⁷ Ibid.

¹⁴⁸ Maalim Mohammed ,Kamiti YCTC,24th September 2018.

festival. Both Idd's celebration were led in prayer and feast served in the stations that are with Maalim. For example, Holy Prophet Muhammad (pbuh) birthday on Rabbi ul-awal,1439 was marked and lessons on him taught to the Muslim prisons community.

The S.D.A chaplaincy have initiated an Adventist inmates spiritual programmes as an integral program that seeks to align the spiritual programmes being offered by key stakeholders, (Church and charity organizations), courtesy of the open door policy, with the Kenya prisons redefined approach of a paradigm shift from punishment to the correction and rehabilitation of offenders.¹⁴⁹



Figure 3.2 Kamiti YCTC library which is stocked with spiritual books. Inmates are encouraged to read them for spiritual nourishment, which is a form of rehabilitation.

Source: photo taken by the researcher on 18th October, 2018.

3.4.3 Introduction of Open Door Policy.

The Kenya Prisons Reforms initiated in 2001 with the pronouncement of open-door policy, ushered in a fundamental shift in policy direction with a focus on systems, structural, programmatic, human resource development with the aim of adopting best practice which promote human right based approaches, good governance and democracy in prisons management. This policy allowed oversight bodies to check on what was happening in prisons with the intention of

¹⁴⁹ Oral interview, Simon Mutuku, Kamiti 23rd October 2018.

pushing for reforms to improve prison conditions in Kenya. These initiatives with responsive engagement with stakeholders have contributed to significant development in programme areas which consequently has led to the emergence of remote parenting and prisons open days as milestone rehabilitation concepts.

Remote parenting is a correctional reform innovation which addresses the social rehabilitation function of the Prisons Service. It is a holistic approach toward carrying out the complete rehabilitation of prisoners for community reintegration as it deals with the psychological, mental, emotional and social need of the prisoners in order to effectively address the socio-economic needs of prisoners¹⁵⁰. Remote parenting sets the stage for reconciliation between the prisoners and the community first by providing a forum for the nuclear family meetings and later creating opportunities for the acceptability of prisoners by the community. Specifically, it enables the nuclear family and the wider community to contribute in the social rehabilitation of prisoners both within the prison setting as well as community environment. The open prisons allow frequent visits and interactions with members of the community which lessens the effects of prisonisation whereby inmates are exposed to opportunities that promote acceptable norms and morals, learn non-criminal attitudes and hence suffer less social psychological problems.

There was an increased development of pre-release programs to help releases successful transition from prison to the outside. Fr. Grol project for instance provided fees for trade test exam registrations and equipments to inmates under vocational training programs and those released from prison from various institutions in the country. These efforts augmented the government efforts in the material and financial support, kept most inmates occupied and supported inmates to use them to be self-employed while out of prison.¹⁵¹

3.4.4 Human Rights Watch

Focused on approaching human rights through a correctional lens, as well as investing in people rather than infrastructure, the Raoul Wallenberg Institute for Human Rights and Humanitarian Law established a mutually beneficial and sustainable relationship with the Kenya Prison Service.

¹⁵⁰ Oral Interview, Chief inspector Charles Ogur, Kamiti YCTC, 18th October 2018.

¹⁵¹ Ibid.

Through this integrated and action orientated partnership, the professional training and deployment of front-line Human Rights Officers was paired with training of KPS leadership in both the principles and practical implementation strategies of the Mandela Rules.¹⁵² Targeted initiatives such as amending legislation and departmental policy as well as a focus on evidence based approach to correctional practice has provided support to this approach. Progress is measured through comprehensive audits against Human Rights Instruments conducted jointly by Raoul Wallenberg Institute and trained KPS Human Rights Officers. Results to date are promising and the partnership was recently recognized by the International Corrections and Prisons Association with the 2016 Correctional Excellence Award for Management and Staff training.¹⁵³

3.4.5 Mentorship Programmes

Different speakers including mentors, counsellors and ex-convicts are invited to talk to the inmates. Through this they encourage, motivate, inspire and give hope. Ex-convicts are invited to share their success stories as a way of motivating the inmates. For instance, the photo below was taken at mentorship session at Kamiti YCTC where an Ex-convict John Njoroge had been invited to share his success story with the inmates. Such sessions are of great inspiration and impact a lot on the behavior of the inmates.



¹⁵² Human rights are good corrections: A partnership between the Kenya Prisons Service and the Raoul Wallenberg Institute by Terry Hackett 1, Benjamin Njoga,2 Josh Ounsted 3.

¹⁵³ Ibid.

Figure 3.3: A mentorship programme session at Kamiit YCTC where different speakers are invited to speak to the inmates on different topics.

Source: photo taken by the researcher on 23rd November, 2018



Figure 3.4: John Njoroge, an ex-convict, sharing his success story to inmates to give hope during a mentorship programme at Kamiti YCTC.

Source: photo taken by the researcher on 23rd November, 2018.

3.4.6 Counselling and Therapy Services

The staff usually conducts group or individual counselling. Group counselling is popular in the institutional settings primarily because it is more economical and there are large numbers of inmates who share similar backgrounds and problems particularly those involving inmates who are defensive, manipulative and prone to denying their problems. Individual counselling involve one- on- one interaction between an inmate and a counsellor appropriate for inmates with deep-seated problems who will require long term help.

Guidance and Counselling Services are provided for the benefit of the inmates.¹⁵⁴ Also, prison officers may seek these services when they are faced with personal or job-related problems that may affect their performance. Inductees should be acquainted with these services and assured of

¹⁵⁴ Oral interview, Joseph Mwaniki, a Psychosocial counselor and a mentor at Kamiti YCTC, 23rd November 2018.

confidentiality. Work-related stress, for example, has proven to be a common counterproductive condition which may be successfully addressed through counselling. The qualified inmates who have been trained and graduated in chaplaincy level 1 training, (a programme that trains inmates into lay community servants), courtesy of the Adventist Chaplaincy Ministries Nairobi Station, are used to counsel other prisoners. The most serious cases are referred to us for pastoral care. Many issues ranging from private, family to financial problems have been attended to.

3.4.7 Recreational and Social Welfare Programmes

They occupy inmates with a vast array of interests. They keep them busy as the Prison inmates have large amounts of time. They keep institution running effectively and efficiently. Since 2003 recreation is one of the areas that has benefited significantly from the open door policy. The civil society has donated Radios, T.V sets, Sports items among others. Some institutions like Naivasha and Langata have held cultural and sporting activities, with Langata leading in beauty pageant contest and Naivasha holding inter stations ball games.¹⁵⁵

¹⁵⁵ Oral interview, Joseph Mwaniki, a Psychosocial counselor and a mentor at Kamiti YCTC, 23rd November 2018.

CHAPTER FOUR

IMPACT OF KAMITI YCTC PROGRAMMES

4.1 Introduction

This chapter focuses on the impact of Kamiti YCTC programmes to the inmates. More importantly it examines how the institution builds character and societal labeling. The chapter also assesses the rehabilitation process, skills it impacts to the convicts, opportunities that come along for the ex-convicts such as employment and education sponsorships, recidivism, impact to the society and finally conclusion.

4.2 Character Building and Societal Labeling

The type of rehabilitation programs available in Kamiti YCTC were sought with the aim of establishing if the programs were really in tandem with the needs of the inmates who go through this rehabilitation facility. Rehabilitation programs should meet individual needs of inmates by helping them outside prisons in reducing recidivism in society. Effective programs should successfully rehabilitate inmates by changing their behaviour or helping them find something meaningful to do after their release from prison.

Kamiti YCTC played a major role in actualizing the mandated programmes it foresaw. They did this by building confidence in the convicts through sports and recreational activities such as athletics, football and dancing. We have ex- convicts who are practicing sports like football, a skill that they learned from Kamiti YCTC. The institution embrace dances as social innovation in that it can be used to earn income. The inmates, who form ‘sakata’ dance groups are able to get assistance of trainers, clothes and shoes through the open-door policy. Different groups of inmates from different prisons have been able to compete in the dances something which has a great impact on their behavior. The staffs are also not left behind. Their involvement in the sports also motivate and inspire the convicts¹⁵⁶. The photo below was taken in a ‘sakata’ dance competition that was held at Kamiti YCTC.

¹⁵⁶ Oral interview, chief inspector of prisons Charles Ogur, Kamiti YCTC 18th October 2018.



Figure 4.1: Recreational activities: YCTC inmates showcasing “sakata dance” to empower, entertain and realize talents

Source: Photo taken by the researcher on 18th October, 2018

Kevin Nderitu, an ex-convict who started professional dancing at Kamiti YCTC is now practicing professional dances at kayole estate. He has joined a group of young professional dancers at the area, a talent that was realized at Kamiti YCTC¹⁵⁷.

Similarly they were inducted into various practical economic activities. The intent was that after going back to the society they would be involved into productive and civic issues away from breaking the law and order. This in itself is a reintegration mechanism to make sure that they are wholly accepted back with value. Some of the economic activities the inmates are socialized with are agriculture. According to Kyalo Muema, an agricultural economist in charge of agricultural programmes at kamiti YCTC, there are various particular programmes run to support and rehabilitate the convicts through training including poultry keeping, Rabbit rearing, animal husbandry, crop planting and horticulture. He advises on the best practices, procedures and processes on how and when they are done to ensure maximum production and learning at Kamiti YCTC.¹⁵⁸

¹⁵⁷ Oral interview, Kevin Nderitu, Kamiti YCTC 18th October, 2018.

¹⁵⁸ Oral interview, Kyalo Muema, Kamiti 23rd October 2018.



Figure 4.2: Inmates attending to a vegetable garden as part of training

Source: photo taken by the researcher on 18th October, 2018



Figure 4.3: Green therapy practices

Source: photo taken by the researcher on 18th October, 2018

The inmates were also taught how to start and run small restaurants. They undergo catering training and best practices essential for a proper running of a restaurant. All the inmates are required to undergo this training during their stay here at Kamiti YCTC. It a training that takes a period of two

weeks. ‘We believe that it’s a very basic skill in life and anybody can make a living out of it,’ said Sergeant Patrick Abongo.¹⁵⁹



Figure 4.4: Catering & bakery lessons and lessons on how to start and run small restaurants

Source: photo taken by the researcher on 18th October, 2018

Others were trained on how to plant and manage flowers. The photo below shows some of the inmates planting flowers. ‘In this institution, all the different flowers are planted and maintained by the inmates under the supervision of our officers. It’s a skill that we instill into the inmates so

¹⁵⁹ Oral interview, Sergeant Patrick Abongo, Kamiti YCTC 18th October, 2018.

that they may use it even after their release back to the society. Most of them learn very fast and with a lot of positivity.’¹⁶⁰



Figure 4.5: Flower planting & management, a way of training for rehabilitation.

Source: photo taken by the researcher on 18th October, 2018.

4.3 Rehabilitation Programmes

According to Cyprian, the coordinator of programmes at Kamiti YCTC, he argued that the rehabilitation programmes at YCTC to the inmates, to Kenya prisons service and also to the society at large had a huge impact. However, there were some of the challenges encountered in their implementation.¹⁶¹

Sergeant Rose Wairimu, a security officer with an experience of over 5 years at kamiti YCTC asserted that generally the behavior of the inmates depended on various issues. It could be the background of the inmate, the age, the developmental growth or even the level of education. However, there are various activities in the institution meant to address those challenges and advice on how to deal with them.

¹⁶⁰ Oral interview, Chief Inspector of Prisons Charles Ogur, Deputy officer in charge, Kamiti YCTC 18th October, 2018.

¹⁶¹ Oral interview, Cyprian Oduor, Kamiti YCTC 23rd, October, 2018.

They consider some of the programmes meant to address the issues to be education among others. For instance, in charge of educational programme at Kamiti YCTC sergeant Abongo argued that there were various considerations towards formulation of the programmes, and their impact to the inmates.¹⁶² That way they could give education without discrimination to the convicts who after serving their terms are not left out of the world. ‘Most of the inmates who are school dropouts have the opportunity to go back to class and continue with their formal education. Those who are registered for final examinations are also facilitated to undertake just like any other student. Some of them who dropped out due to lack of school fees are lucky to get sponsors and scholarships through our office and they are able to continue with education after they are released back to the society’.

4.4 Skills and Employment for Ex-convicts

Kamiti YCTC focus on rehabilitation programs, vocational education and training that help offenders in the resettlement and reintegrated into the society where they can be economically active and productive other than becoming a liability to the community. In this way, they avoid the possibility of ex-convicts getting stigmatized in their communities when they return after completion of their jail terms. The skills gained assists in forestalling criminal behavior as inmates are positively and gainfully engaged. Vocational courses which they are exposed to include livestock production, including rearing of cattle, rabbits, pigs, fish, poultry etc, vegetable production and fruit production.

The study found out that the skills learnt in YCTC opened ways to a number of the ex-convicts. Some were able to go for academic line immediately they were out of the YCTC. Others pursued business in various fields like shops, agriculture productions. For example, John Njoroge, an ex-convict said that he was pursuing his bachelor’s degree at Jomo Kenyatta University of Agriculture and Technology, Nairobi. “Serving a sentence in prison was one way that really changed my perspective on how i approach things”. He argued that he saw the value of education and therefore was confident that he took the opportunity at first hand. He confessed that he acquired the relevant

¹⁶² Oral interview, Seargent Patrick Abongo, Kamiti YCTC 18th October, 2018.

skills in business. Beside his role as a student, he also sell second hand clothes. He will forever remain grateful to Kamiti YCTC for it gave him a second chance in life.¹⁶³

Micheal Njenga argued that the current convicts should not view their situation as a conviction but as a chance to show the world that they can do more. To him, life in the prison is a place under which the set perception is changed into a positive. Indeed, Micheal Njenga is an example of those ex-convicts who benefited with the institutions goals and mission of changing the character and impacting it with skills¹⁶⁴.

Elsewhere was Michael Wanyama, an ex convict who owns three (3) business stalls at Kahawa west market. To Him he achieved the miles with the help of the institution. Wanyama views his time in the prison as a well planned and executed agenda. To him, his stay in the prison was a new dawn. He learned cooking, management, reading, and communication which turned out to be a blessing immediately he left the prison.

The above examples were unique to the efforts put in place by the institution for the purposes of giving back to the society. The ex-convicts that took serious of what it meant to their life while serving their terms ended up absorbing a lot.

4.5 Extra Curriculum Activities

Use of recreational time is one of the most critical indices of understanding an offender's dynamic risks. According to the deputy officer in charge, Leisure time is used constructively in doing things such as playing sports, reading, meeting with pro-social friends etc. also, Some offender's "use of their free time is directly correlated with their risk of re- offending because they use their free time to abuse drugs or hang out with friends who are anti-social or anti-authority. As such it is crucial to explore how offenders spend their time during evening, weekends or if not working how they used to spend their entire day. We find out what they enjoy doing during their spare time and work with them to reintroduce pro-social ways of spending free time.¹⁶⁵

¹⁶³ Oral interview, John Njoroge, ex-convict Kamiti YCTC , 18th October 2018.

¹⁶⁴ Michael Njenga, ex-convict Kamiti YCTC,10th October 2018.

¹⁶⁵ Oral interview, Chief Inspector of Prisons Charles Ogur, Deputy officer in charge, Kamiti YCTC 18th October, 2018.

4.6 Counselling Services for Behaviour Change

In Kamiti YCTC counseling, which is a helping process has been highly embraced. The counselor employs special kind of relationship to help inmates to invoke their inner strength to be able to find solutions to their own problems. Counseling uses special skills and techniques to help people become more competent, contented and more creative. It creates a relationship that assists the inmates to explore their thoughts, feelings and behavior to self-understanding and creates coping mechanisms, good decision-making skills or take relevant actions. Since this programme is recommended for every inmate, its impact has been greatly felt. Inmates have had the opportunity to reflect on their past and also gain some hopes on their future life after prison. “it’s a very powerful program that we use to make the inmates accept that they are in prison during the first days of their incarceration”¹⁶⁶

Here, the counselor has to look at it from three main phases namely; exploration, understanding and action. The exploratory phase is for the client to assess self, to be able to get to know what is happening in his or herself as a whole. In the understanding phase, the counselor facilitates the client to place what they are going through in context. In the action phase, the client has become aware of what is happening in their lives and are ready to implement the actions towards the goals set of transformation to civic citizens¹⁶⁷.

4.7 Recidivism

However, there were reports on those ex-convicts who ended up being resistant to the society. For the fact that it was difficult to improve their life and change of character, they were again jailed. The ex-convicts who are doing well like Micheal Njenga and Wanyama do not understand why it is difficult for some of their colleagues ended up in prisons again. Some of the prison officers argued that the reason to why that was common were due to a binary of issues.

Of the challenges the ex-convicts experienced was that a majority were not accepted back. Therefore, due to that they were lonely and lacked the space to put in practice what they had learnt

¹⁶⁶ Mr. Joseph Mwaniki, a Psychosocial counselor and a mentor at Kamiti YCTC.

¹⁶⁷ Oral interview, Chief Inspector of Prisons Charles Ogur, Deputy officer in charge, Kamiti YCTC 18th October, 2018.

in the prison. To the prison officer rejection by the society is one big challenge to the ex-convicts which need to be addressed. The officer argument is unless that is addressed there is probability that the issue will be difficult manage.¹⁶⁸

The second issue was that the ex-convicts experienced culture shock after prison life. This mostly affected the inmates who served more than 10 years in the prison. They got used to the life in prison and therefore found it difficult adjusting to the outside life. Communities should be able to learn and stay with the ex-convicts which are a challenge for those who served longer imprisonment.

4.8 Impact on Society

Kamiti Youth Correctional Training Center programmes have had a major impact on the society. The different ways are evident and are impacting the society both positively and negatively.

4.8.1 Positive Impact

The effects of the institution to the society are in a binary aspect. On one hand was a blessing on the other a curse. There are various communities who argued that the institution helped reform those who went astray in the society. They got education which was offered to them free of charge, business ideas, and trainings in various aspects and even economic start ups. The ideas they got there in helped transform their communities and their lives.¹⁶⁹

4.8.2 Negative Impact

There are a number of the ex-convicts were believed to have been transformed to hardened criminals. They ended up not fearing the law and the fact of them being imprisoned. They preferred life in the prison due to the ‘good’ life like free food and other amenities that they did not access away from the institution.¹⁷⁰

¹⁶⁸ Oral interview, Chief Inspector of Prisons Charles Ogur, Deputy officer in charge, Kamiti YCTC 18th October, 2018.

¹⁶⁹ Mr. Joseph Mwaniki, a Psychosocial counselor and a mentor at Kamiti YCTC.

¹⁷⁰ Oral interview, Munene Mwangi, Kamiti YCTC 18th October, 2018.

There are many reasons why ex-convicts prefer to go back to crime and end up in prison again. Some ex-convicts perceive life outside prison as too harsh and difficult to cope with. High level poverty and in particular, the stress and frustration of making it in life, especially the difficulty in attaining basic needs at home increases food and insecurity problems of shelter. Indeed, poor counseling services and poorly framed counselors encourages re-offending in that prisoners are not adequately assisted to realize that though there is food, shelter and security in prison, human freedom and dignity are more paramount.

Again, the idea of mixing inmates of both lesser and greater offences enhances greater exchange of deviant norms, values and lifestyles and therefore shaping criminal careers among convicts. a person's successful re-entry into society can be viewed through how adequately they are able to meet six basic life needs: livelihood, residence, family, health, criminal justice compliance and social connections. Those needs manifest differently, depending on the phase an inmate is in when they're released.¹⁷¹

4.9 Conclusion

The chapter intent was to assess the impact of Kamiti YCTC. It has explained the aspect of inmates and ex-convicts and how they all were affected by the institution. Kamiti YCTC provided a conducive environment for the inmates and saved their lives since some of them committed crimes which were a threat to their neighborhoods in which they could have been killed.

Inmates from poor families were able to get care and protection. According to the Child Care Act, (2011), it is the principal objective of children rehabilitation institutions to offer suitable educational and training programs and other related resources for juveniles recommended to them by Law courts. They should have a vested interest in their interests, safety, health, welfare, as well as, their psychological, emotional and physical welfare. The chapter found out that both as inmates the Kamiti YCTC played a major role by impacting both theory and practical education to them. They were able to get proper basic needs and to continue with their education. They underwent

¹⁷¹ Oral interview, Munene Mwangi, Kamiti YCTC 18th October, 2018.

religious nourishment, equipped with agricultural skills, cooking skills, management skills, and education in general and startup capital for their business.

Counseling helped the children to understand their problems and how to tackle them. It provided proper care, guidance, supervision and initiated acceptable relationships between the inmates and their families, exercised appropriate ethical and disciplinary habits, and recognized individual, cultural, and linguistic identity.

However, there were various challenges associated with finances, staff, security, time and space. The institutions lacked enough funding, to run its activities, it lacked enough ration of staff to the inmates, some of the inmates were not able to transform their behaviors and last but not least there were an aspect where staff lacked security either in the camp, road and their residential.

The study concludes that recidivism is associated with nature of several factors such as the impact of rehabilitation programs in prisons, the nature environment prisoners are subjected while in prison, the level socio-economic status of ex-convicts immediately after prison and the nature of ex-convicts reception they receive from the community when they are released from prison.

It should however be noted that for optimum results to be achieved from rehabilitation programs and the levels of recidivism brought down to the minimum possible, the community, the authorities and the correctional facilities should work in collaboration to achieve this goal. This should not however mean that the inmates should occupy everyone's time to make them appear as though they are very special. They should be made to acknowledge that their criminal acts are wrong and then work from that point towards reforming from such acts.

CHAPTER FIVE

FINDINGS AND RECOMMENDATIONS

5.0 Introduction

The study was set out to examine the training of youthful offenders in Kenya. Young offenders are often forgotten or ignored by the society and yet recidivism. Recidivism, which is a serious drain on resources worldwide has been the subject of much research and policy development. Education helps offenders reduce recidivism and improves employability. The Specific objectives were to examine programmes offered at Kamiti Youth Correction and Training Centre, to examine the challenges facing Kamiti Youth Correction and Training Centre Programmes and to examine the impact of programmes offered at Kamiti Youth Correction and Training Centre.

The study sought to establish the components programme, the structures put in place to implement it, its effectiveness and the Constraints it faced from 1990 to 2017. The year 1990 has been chosen because it was at that time the Kamiti prison pioneered this programme. The year 2017 marked the inauguration of a new strategic plan for the KPS, hence the need to undertake the place of young offenders in the department projections.

The study adopted the social control approach and the labelling theory. In criminology, there are social control mechanisms which exploit the processes of socialization and social learning that build self - control which in turn reduces the inclination to indulge in behaviour recognized as antisocial. It derives from functionalism theories of crime and was developed by Ivan Nye .the four ways that he gave through which social control could be exercised include direct: where compliance is achieved when punishment is threatened or applied for wrongful behaviour, and compliance is rewarded by parents, family, and authority figures, internal: whereby an individual is controlled by the conscience and superego to refrain from criminal behavior, indirect: through mentorship from those who influence behavior, say because his or her delinquent act might cause pain and disappointment to parents and others with whom he or she has close relationships, and control through needs satisfaction, i.e. if all an individual's needs are met, there is no point in criminal activity. The theory therefore supports the concept of rehabilitation, the social contracts that are in existence within the society seek to constrain deviant behavior and limit individual's propensity of committing deviant behavior, through the society forming means of making those

whose behavior is deviant tore the line. It emphasizes the process of socialization and social learning that builds self-control, thus reducing the risk of engaging in behaviour that is frowned upon by society. This theory whose foundation is inclined towards rehabilitation outlined those steps that are employed to achieve rehabilitation in youthful offenders as an aspect of social control.

The study adopted a qualitative research method which was designed in a manner that will help reveal the behaviour and perception of a target audience with reference to a particular topic. In this regard the project paper relied on secondary data collection. The secondary data was collected through reading of various journals, books, project papers and articles.

Gaps in the literature from written sources were filled by primary sources by way of oral interviews. Consequently, this research utilised primary data. Respondents were identified using purposive and snowballing sampling methods. By this method the study selected a sample from the participants or group of participants that are judged to be appropriate or especially informative for the purpose of the research. For the purposes of this study, could only be accurately evaluated if the sample was purposively selected. At each level of purposive sampling, the critical sample size was obtained by the snowball sampling method.

Content analysis was the method used to analyse the information collected through open- ended questions. In this regard, the key elements in the information given by the persons interviewed were transformed into units that facilitated their description and analysis. The answers were codified according to the most common responses provided and later classified accordingly into answer categories. This method was very useful to infer objectives and reliable statements based on the data provided by the interviews and based on the context in which they were made.

The study observed lack of resources as one of the major obstacle hindering effective training of the inmates as well as shortage of modern training equipments and facilities for training. There is inadequate skilled personnel and in most cases the department depend on outsourced experts. The study also observed that the institution lacks some of the important vocational programmes like electrical wiring, masonry, catering, and sports among others which can be very helpful to the

inmates. There is need to strengthen the formal education for the benefit of the inmates. In most cases the institution does not meet the goals and objectives of its mandate and especially to the youthful offenders.

The study recommends the need to introduce market-oriented programs which can benefit the inmates after leaving the institution. It should employ or train experts who would offer effective training to the inmates. The length of sentence is very short, 4 months and nothing tangible can be achieved within that short period and therefore there recommends the sentence duration to be extended for the purpose of productive training to the youthful offenders. The institution should be equipped with modern and adequate equipments for the youthful inmates. There is need to review prison's Act CAP 90 in order to clearly specify the necessary rehabilitation programmes which are supposed to be administered at the institution. Some of the harsh and punitive programs are outdated and needs to be revised or abolished all together and replaced with other beneficial programmes. The only evidence which can prove that one has been trained is a certificate and therefore the institution needs to introduce trade test and certificates for the trainings undertaken for reference and record keeping.

Chapter two has reviewed that Kenya's legal system is hungered on its statutory law, English common law, tribal law and Islamic law whereby the courts follow the principle of *stare decisis* like other common law countries where the legal system is adversarial in its procedure. Theoretically, a suspect is presumed innocent until proven guilty but sometimes suspected are treated as if they are already convicted. The treatment of juvenile offenders in Kenyan justice system is still wanting despite provisions related to access to justice. This study highlights the need for more welfare-oriented approaches focusing on what law demands as opposed to what may be best interest of children. The colonial parliament formed in the basis of the criminal laws in Kenya after it was declared a crown colony by Britain. The study has established that the issue of juvenile offenders and how they should be treated in Kenya started way back about nine decades ago. There have been challenges in dealing with the juvenile offenders occasioned by Kenya's historical past in addition to the practical policies brought about at the independence and most recently the new constitution in 2010 which emphasis on rights and welfare of children.

During the state of emergency in 1952 in Kenya, there was deterioration of treatment of the prisoners and as a result 622 prisoners were executed in 1954, 605 being freedom fighters. In 1955, 230 prisoners were executed among them 222 freedom fighters. The situation worsened and in 1959 there was the “Holo Tragedy” whereby the Mau Mau emergency detainees died due to ill-treatment in the hands of prison administration. The study established that the Kenya prisons and Borstal institutions aimed at transforming prisons from places of punishment to place where offenders could be reformed but there are challenges and nothing much has been achieved.

A historic document, the Geneva Declaration of the child adopted by the 5th Assembly of the League of Nations in 1924 was the founding instrument for recognition of the rights of children but the implementation failed due to the dissolution of the League of Nations. This shows that efforts have been made to address the rights of juvenile offenders globally. The United Nations Convention on the right of the child (CRC) obligates state parties to ensure that no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment. The Beijing rules were the first international legal instrument to deal with the administration of juvenile justice and provide a guideline for states in protecting children rights. The Beijing rules also centralize the principle of diversion emphasizing on consideration to be given where appropriate when dealing with juvenile offenders.

The chapter also tackled the African Charter on the rights and welfare of the child (ACRWC) which was tailored to cater for the needs of the African child and was adopted on 11th July 1990 by the organization of African Unity currently referred to as the African Union which addresses provisions for the protection of the rights of the child but fails to adequately cater for the rights of the child offenders. In the development of juvenile justice in Kenya, colonial import of western concept of juvenile justice to African countries holds true to Kenya which emphasis on two school of thoughts; protection and rehabilitation of child offenders and the other one dealing with respect and innate racial and criminal characteristics. It seeks to differentiate childhood and adolescence in the African context whereby a child is defined as being under 14 years while a young person as being under 16 years of age thus recommending that children should have separate court hearings. This study observed that the first approved school was established in Kenya in 1934 followed by a second one in 1937 as a residential school for the care and protection of children in need together

with delinquents. The approved schools were later converted to rehabilitation schools in 2001. Due to the increase of juvenile offenders, juvenile remand homes were established which are run by the Department of Children Services and are responsible for child welfare. The study also pointed out that Borstal institutions in Kenya originated from UK after realizing that many young criminal offenders were directly sent to the ordinary prisons. The Borstal institutions offer programmes such as formal education, vocational training, agriculture, counseling as well as life skills training. In 1962 Kenya Youth Corrective Training Centre (KYCTC) was established to cater for unruly boys and needed 'short-sharp-shock' treatment. The Kamiti Youth Correction and Training Centre is situated within Kamiti Maximum Prison which admits core criminals.

Chapter three discusses the role of Kamiti Youth Correction and Training Centre by ensuring that the prisoners are properly prepared to re-join society as useful and law abiding citizens of the community. The legal framework (the prison Act Cap 90) is applied to deal with young people who are in conflict with the law. The chapter also observed the concept of the Short Sharp Shock sentences on juvenile rehabilitation which directs that the juvenile offenders be detained for four (4) months. Kamiti YCTC offers programmes such as agriculture, vocational training (carpentry and tailoring), life skills training among others in the effort of making the convicts better people able to fit into society after completion of their jail terms.

It is observed that Kamiti Youth Correction and Training Centre (YCTC) faces challenges ranging from shortage of funds to congestion thus hindering provision of good services. Due to the rising number of juvenile offenders, the correction centres full to capacity thus the limited resources and facilities continue struggling in the effort of proving better services.

Chapter four discusses the impact of Kamiti Youth Correction and Training programmes based on character building and rehabilitation whereby juvenile offenders are guided on how to change their criminal behavior and reform to become respectable members of the society. Although the maximum duration the juvenile offenders stay in the correctional centres is limited to only four months, majority of them conform and adjust their way of life. Rehabilitation programmes helps the juvenile offenders to learn new skills which keeps them busy physically as well as spiritually and in the process some reform and become good people. It is through these programmes that the

offenders realize that there meaningful opportunities like farming, carpentry, tailoring and others which can help them make a positive way of living instead of engaging in crime.

The correction and training programmes prepares the convicts on how to become responsible citizens and they can use the skills acquired to change their lives once they leave the correction centres after completion of their jail terms. They learn discipline and how to restrain from going back to crime. Through the Youth Correction and Training programmes, prison services are boosted in the manpower in that the vegetables planted by the convicts are used as food for themselves as well as prison staff. Activities like cleaning of the prisons facilities are done by the inmates. The horticulture farming helps to generate income for the prisons by selling the products such as flowers and pyrethrum which are produced by the inmates.

5.1 Findings

The study observed that there is inadequate resources for effective training and that there is shortage of funds to acquire the required items for training. It was also noted that the skilled personnel who are assigned the training responsibilities are not enough. Most of the juvenile offenders are illiterate and others semi-illiterate therefore creating a communication barrier. The study also observed that there is lack of adequate and modern training equipments in that there were only three old computers in a training room and only one computer was working.

The study noted that offenses committed by minors are dealt with by the juvenile criminal law and there is a tendency of apprehending young people who commit offences as quickly as possible and therefore lack of proper investigation to get the root course of the criminal acts. The young offenders require proper support and guidance and that is why there are youth probation service and Department of children who are supposed to ensure that the rights of children are catered for. The study also realized that early intervention plays an important role in preventing minors from embarking on a life of crime once they have been released after completion of their jail terms. Some inmates have benefited from the education and training programmes and advanced their education whereby some have passed the examinations and look for means on how they can join secondary and University for further studies. The government of Kenya has given priorities to

combating the problem with gangs of youth who engage in crime by employing aftercare, punitive, educational and employment measures where necessary.

5.2 Recommendations

There is need to introduce market-oriented programmes in the correction and training institutions that will enable the ex-convicts get paying jobs or self-employment to earn a living after they are released from the correctional institutions. Creation of an aftercare service centre for the Kamiti YCTC for inmates who find it necessary to finalise what they start in the correction institution would do them good other than getting out half trained and one has no resources or means to advance the little knowledge gained. Introduction of computer laboratories with skilled personnel would boost the training. Provision of modern sewing machines would be of good help and those who qualify can be given certificates which they can use to look for employment or they can start their own tailoring businesses.

There is need to introduce classes for basic education for juvenile offenders who do not know how to read and write in all centres to atleast enable them gain knowledge on how to write and read simple things like their names. The study observed that some juvenile offenders are naïve and can change their bad habits of crime but only when they are provided with a better option. The researcher recommends for some cases being committed to correctional institutions be supervised in the community while on probation orders or on community service orders.

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Chief inspector Charles Ogur, the deputy officer in charge Kamiti YCTC.

Cyprian Oduor, the coordinator of programmes at kamiti YCTC.

John Njoroge, Kamiti YCTC ex-convict who is pursuing his bachelor's degree at JKUAT University Nairobi.

Kevin Nderitu, an ex-convict from Kamiti YCTC who has benefited a lot from Kamiti YCTC.

Kyalo Muema, an agricultural economist in charge of agricultural programmes at kamiti YCTC.

Maalim Moha Mohamed Practising at Kamiti command prison.

Michael Wanyama Njega, an ex-convict who has been fully rehabilitated by Kamiti YCTC

Mr Manene Mwangi, a counselor practicing at Kamiti YCTC.

Mr. Joseph Mwaniki , a Psychosocial counselor and a mentor at Kamiti YCTC.

Sergeant Patrick Abongo, officer in charge of educational programmes at Kamiti YCTC.

Sergeant Rose Wairimu, a security officer who has an experience of over 5 years at kamiti YCTC.

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