
The Permanent Mission of the Republic of Kenya to the United Nations avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

New York, May 7, 2015

Office of the High Commissioner for Human Rights (OHCHR),
CH-1211 Geneva 10, Switzerland

Attn: Ms. Vivian Talash Ntimama
MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE

MFA.UN 15/34

30th April, 2015

Ambassador/Permanent Representative
Permanent Mission of Kenya to the United Nations
NEW YORK.

Attn: Susan W. Mwangi

HUMAN RIGHTS COUNCIL RESOLUTION 24/12 ON THE “HUMAN RIGHTS IN THE ADMINISTRATION OF JUSTICE, INCLUDING JUVENILE JUSTICE”

I refer to your letter KMUN/ECO/SHI/21 of 1st April, 2015 on the above subject.

Forwarded is a report Ref. No. PRIS 1/18 VOL.I (TJ)/26 dated 21st April, 2015 from the Commissioner General of Prisons, Kenya Prisons Service.

The report is a response to the issues raised by the OHCHR.

Kennedy Mokaya
FOR: PRINCIPAL SECRETARY

Cc: The Ambassador/ Permanent Representative
Permanent Mission of the Republic of Kenya to United Nations & Other International Organizations
GENEVA
Attn: Vivian Talash Ntimama-Kindly forward a copy of the report to
OHCHR-United Nations Office at Geneva
CH-1211 Geneva10, Switzerland
Fax: +41229179008
Email:registry@ohchr.org
A. INTRODUCTION

Kenya Prisons Service (KPS) is a Department in the Ministry of Interior and Coordination of National Government charged with safe custody and rehabilitation of prisoners. It derives its mandate from the Constitution of Kenya, Prisons Act Cap 90 and Prison Rules, Borstal Institutions Act Cap 92 of the Laws of Kenya, Kenya Prisons Service Standing Orders and Kenya Prisons Service Strategic Plan. It performs the following core functions:

1. Containing and keeping offenders in safe custody;
2. Rehabilitating offenders;
3. Facilitating administration of justice;
4. Training of young offenders;
5. Provision of facilities for children aged below four years accompanying their mothers in prison; and
6. Recruiting, training and development of suitable personnel for the service.

B. CONGESTION IN PRISONS

KPS has been able to realize numerous achievements through coordinated efforts with agencies and organizations (governmental and non-governmental) in the criminal justice chain, thus improving service delivery. They include provision of adequate accommodation facilities, improved healthcare, rehabilitation programmes, strengthening of human rights in prisons and staff development.

Despite all the above-mentioned achievements, KPS has encountered many challenges linked to overcrowding in prisons. Currently, the prison facilities are overstretched holding large number of prisoners as compared to the recommended capacity. KPS in collaboration with other stakeholders and partners in the criminal justice sector has made strides in decongesting prisons by constructing more prisons and making recommendations to the Judiciary on prisoners who
can qualify to serve community service as opposed to custodial sentences. However, prisons still remain overcrowded a fact that can be attributed to the following, inter alia:

i. Criminal trials take relatively long periods before conclusion;

ii. Non-custodial sentencing options such as Community Service, Probation and suspended sentences in case of petty offences have not been fully implemented;

iii. Failure or inability of accused persons to meet bail terms or to adequately represent themselves in court;

iv. Failure of convicted persons to pay fines imposed upon them;

The consequences of congestion in prisons are grave; they range from inadequacy of essential facilities, lack of proper classification, disorder, contamination, ineffective rehabilitation and ultimately recidivism due to ineffective reintegration.

C. POSSIBLE SOLUTIONS

i. The Courts should be encouraged to use the available options of non-custodial sentencing and only incarcerating serious and long term offenders;

ii. The Judiciary should establish Courts of small claims and petty offences;

iii. Full operationalization of parole and other forms of early release;

iv. Expediency in appeal cases;

v. Provision of affordable bail terms and fines;

vi. Provision of legal aid and human rights awareness to prisoners; and

vii. Proper classification of prisoners based on risk and needs assessment.