THE CHALLENGES FACING REHABILITATION OF PRISONERS IN KENYA AND THE MITIGATION STRATEGIES

OMBOTO JOHN ONYANGO
Associate lecturer- Criminology and security studies Departments of Egerton and Mount Kenya Universities,
Senior Prison officer- Government of Kenya
Email: ombotojohn@yahoo.com

ABSTRACT

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 (KHRC 2002). 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 in line with the findings of two University of Nairobi academic research projects conducted in 2003 and 2010 in prisons by this writer. The probability sampling was employed in the selection of the research participants in both the studies; the 2003 study involved a sample of 55 inmates selected from a frame of 120 inmates by simple random sampling method, while the 2010 project had a sample size of 60 inmates and 20 members of staff who were selected by proportionate sampling method. The data for the two studies were collected by the use of questionnaires and personal interviews. 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 discusses these four major challenges and present solutions which can in the end improve on the rehabilitation of offenders in prisons.

Keywords:-
Challenges facing Rehabilitation of prisoners Mitigation strategies Kenya Over-population of prison Institutions, and the harsh conditions for inmates

The harsh prison conditions in developing countries like Kenya which is characterized by overcrowding and congestion, poor diet, degrading clothing and bedding, lack of clean water, poor sanitation, infectious diseases, homosexuality among others (Omboto 2010) can be attributed to several factors. Historians for instance opine that the colonial government established and maintained prisons in poor state because the prisoners were Africans, particularly the rebels such as the militants who had put resistance to the white rule. In Kenya, such resistance necessitated the declaration of state of emergency in 1952 which led to arrest and incarceration of about 24,000 natives who were confined in crowded camps which served as prison institutions then (KHRC 2002). However even in post colonial period, over-population is the root cause of decay in prisons in Kenya. First, due to the rise in crime rate, the rate of conviction and length of sentences have proportionally risen, and so the prison population is always quite high, this pushes up the cost of prisoners maintenance beyond what the economy can support. The end result is normally harsh unhygienic prison conditions that cause rampant deaths because of insufficient medical care. Omboto (2010:45) established that homosexuality, abuse of tobacco and drugs smuggled by dishonest prisons staff has also become a menace in our prison institutions. The harsh conditions in prisons and work without pay not only negate on rehabilitation of prisoners but also make them bitter and rebellious, therefore, at the end of their prison term they commit crimes of revenge against the society, which also does not offer much support to them as ex-prisoners Odera Oruka (1985).
The capacity of prison officers in rehabilitation of offenders

Another cause of prisons failure in rehabilitation rest on the people entrusted with the responsibility to reform the prisoners. It is important to appreciate that if the officers who come in contact with prisoners on a daily basis, both junior and senior officers are not people of integrity who are well educated and specifically trained for this job that require an in-depth understanding of human behaviour, human motivation, human worth and human destiny then it is impossible for them to rehabilitate the offenders.

In terms of training for the job, the core function of reformation and rehabilitation require that prison officers must first accept that prisoners are incarcerated as a punishment and not for punishment, and they must have the ability to facilitate behaviour and attitude change. This requires that professionals such as psychiatrists, psychologists, pastors, professional counsellors, social workers, sociologists, criminologists and other social scientists should serve as uniformed officers who come into contact with the prisoners daily because only such experts have what it takes to make positive changes in the human mind: where criminality is fostered. This is not the case as studies show that a good number of prisoners have attained university and college education compared to the prison officers Omboto (2010:39).

On the integrity of the prison officers, it is worth to point out that prisons department like any other organization has some dishonest employees, for example, the report titled “Warder seized over bang smuggling”[1] and another “Prison Officer is seized over robbery.”[2] confirm the existence of such prison officers. These dishonest officers have shamelessly enabled some prisoners to continue with illegal activities such as drug abuse right inside jails as mentioned earlier, therefore making rehabilitation of such offenders impossible. The use of mobile phones by prisoners also is illegal but such officers have smuggled them into prison institutions thus enabling prisoners to communicate freely with the outside world in the end maintaining criminal links and carrying out criminal acts such as defrauding.

The poor terms and conditions of work of prison officers impart negatively on their work

The third reason why our prisons cannot reform inmates established by Omboto (2003) is related to the poor working conditions of the prisons staff. Morale of the lower cadre officers is at the lowest ebb for the delicate work. Though the government slightly improved the salary, housing is a serious problem while for security reasons, prison warders cannot rent houses outside the prisons’ compound; yet what is available for the majority of prison staff in towns are Mabati (Iron sheets) structures which are not comfortable both in cold and warm weather because they get either too cold or too hot. In rural prisons; there are grass thatched mud walled houses, these very structures are in most cases shared by at least two families. The new recruits leave college to prison institutions to be housed in unpartitioned halls where privacy is unaffordable luxury. Even the free electricity provision is not enjoyed by all the prison staff even in the main prisons situated in our cities.

Other problems that face several prison institutions, like poor drainage and sanitation, and water shortage also hamper the work of prison officers. Added to the unfavourable scheme of service, that do not give clear career progression path; such as the automatic movement from one job group to another, and the requirements for such movements that is not dependent on the whims of the senior officers; claims that some prisoners e.g. the trustees (the special stage prisoners) are happy and comfortable in prisons than the prison warders cannot be dismissed.

On promotions for instance, findings of the 2003 study revealed disquiet among prisons’ staff. The officers complained that, in the prisons department, uniformed staff with similar academic qualifications, experience and personal file records (i.e. whether they have breached prisons’ regulations or not) scatter in all ranks. For instance, it is not surprising to find an ‘A’ level with two principles, Division Three mean grade holders, all with 10 years working experience who were employed as warders in all ranks namely: warders (the lowest rank), chief officers (five ranks up) and even other ranks above. For example, some warders at the Youth Corrective Training Centre had served the prisons department for over twenty years in that lowest rank. This situation de-motivates and demoralises, it is worst when one realises that his/her senior is of lower qualifications (academic and professional experience) therefore it a positive step that the prison administration from the year 2008 has made efforts to steam line promotions.

From a special report, members of the parliamentary committee on Administration, National Security and
Local Authorities who visited prison institutions all over Kenya made the following observations on the problems facing prison warders. The former Mwea MP Alfred Nderitu observed that:

warders live in deplorable conditions, sharing rooms....
The warders still live in colonial style aluminium huts, some of them were put up at independence. In Kodiaga in Kisumu, there are no toilets and they relieve themselves in buckets.\(^3\)

The late David Mwenje, the then Embakasi MP who chaired the committee correctly observed that “warders have no uniforms, they buy their own shoes, sometimes they buy even the whistle.” Based on the foregoing, the prison staff strike of 2008 over their exclusion in the risk allowance that was awarded to the police was a mere outlet of a long suppressed anger and discontent among them as far as poor terms and conditions of work is concerned.

The frustrations imposed on the prison officers by such conditions cannot enable them to reform the prisoners, even if they were skilled for the work; this is because they are not emotionally stable themselves as they go about their duties. Instead some have been recruited in crime by the very criminals they were supposed to reform.

The availability of drugs and substances in prison institutions

The rehabilitation mandate of prisons is difficult to achieve in an environment where inmates abuse drugs and substances this is because cases of inmates’ indiscipline and infractions rises. Omboto (2010) established that the problem of drugs and substances exist in Kenyan prisons with cannabis sativa being the most common drug followed by psychotropic substances. These drugs and substances are smuggled into prison institutions by the prison staff. That the expensive and highly addictive drugs such as heroin and cocaine are also available in our prisons compounds the problem because the inmates who use them will only crave for more when they get addicted thus increasing their demand in prison.

However, the problem of illicit drugs in prisons and related indiscipline is not restricted to Kenya but is a global phenomenon. For instance in United Kingdom rioting Ford Open Prison inmates caused heavy damage to a low-security prison in 2010, smashing windows and setting fires that engulfed buildings and spewed clouds of black smoke. Mark Freeman, deputy general secretary of the Prison Officers Association, said the riot started after some prisoners refused to take breath tests after a large amount of alcohol had been found at the prison. In another incident at the same prison two inmates were captured on CCTV injecting drugs intravenously in a prison laundry (shortenk@qnp.newsltd.com.au), Mbugua (2011).

ADRESSING THE ABOVE CHALLENGES WILL IMPROVE PRISONERS REHABILITATION

To ensure that the prisoners are reformed during their incarceration, and properly rehabilitated into the society as law abiding citizens after release, the above challenges should be addressed.

How to ameliorate the problem of congestion and overcrowding in prisons

To eliminate the problem of congestion in Kenya prisons requires a broader perspective which include taking into account how the other actors within the criminal justice system such as the Police, the Office of the Attorney General, Prosecution, the Judiciary, Children’s Department, and the Lawyers contribute to the problem. For instance, shortage of judicial staff, prosecution officers and investigators, and their frequent transfers, missing court files, and fewer courts, and unnecessary adjournments by advocates do greatly negate on the trial process by making the cases to drag in courts for a long time thus the high number of un-convicted offenders in prison custody has contributed to the rise in prison population. In ability to pay fines in cases where offenders have the option due to poverty and underutilization of alternative methods such as Community Service Order (CSO) by courts also contribute to overcrowding in prison institutions.

These other actors in the criminal justice system should be streamline so that they do not negatively affect rehabilitation of offenders in prisons due to congestion. For instance the courts must employ alternatives to imprisonment such as Community Service Order (CSO), suspended sentence, and affordable fines to ensure that the many petty offenders do not congest prisons and remand homes. Measures to ensure speedy conclusion of cases must also be put in place within the police, the judiciary
and the prosecution, it should not take too long to process, hear and determine appeal cases.

Another cause of congestion in prison institutions in Kenya is the presence of a large number of prisoners who have been sentenced to death over the years but have not been executed. The Advisory Committee on the Prerogative of Mercy whose task is to advise the President as per Section 28 and 29 of the Constitution should advice on what to be done with these offenders, and the county decides on the way forward as concerns the death penalty given that since 1985/1986 no executions have been done yet prisoners on death row in thousands significantly contribute to the prison congestion currently experienced. By 2008 the death row inmates were 3481 with 360 awaiting execution and 3121 having pending appeals (Madoka 2008). However, increased funding to the prisons department and proper utilization of funds by prison administrators to ameliorate the harsh conditions is recommended. Expansion of existing prison institutions and building of new ones to correspond with the increased population, and crime rate is also necessary.

It is imperative to have effective rehabilitators in place

As concerns training and education level of prisons personnel, it’s worth to note that when the original prisons were established, the work of the warders was basically surveillance; to prevent escapes from custody, and meting of physical punishment to inflict pain on the inmates who did not toe the line. For this, there was no need of a more than basic education, provided one was physically fit. Thus, the consideration for employment was a “physique contest” where physical fitness was the ultimate qualification for prison officers.

Though the society is dynamic, it surprises that most prisons in African have not fully evolved out of this mentality. Given that the present day criminal is not the same with the one of say 1970s when most offenders were illiterate and ignorant, today a good number of prisoners attained university and college education. Therefore the required qualification today, on top of the physique, for any individual prison officer and their roles should be expanded from mere guarding against escapes to being educator and counsellor, which is only possible when the officers are specifically trained. To Klare (1966; 98-103) such knowledgeable prison officers are important for rehabilitation because they can establish the aetiology of antisocial behaviour; and apply the correct treatment techniques. Mushanga; (1976; 182-183), decry that,

> in most cases, the guards and their chiefs are poorly educated and have no basic ideas about human behaviour..., due to low education and poor training’.

He recommends that “prison guards must be better educated even than judges, for while a judge may be involved in determining whether or not the suspect violated the law, a work that may take hours, or days or even weeks, it is the prison guard who is charged with the task of reforming the convict.

The best that can be done to the prisons staff in Kenya to reform the department; so as to ensure performance and efficiency in rehabilitation, is to ensure that the present and future prison officers are trained in relevant disciplines for their work.

However, to tackle the problem of integrity of the prison staff, though this suggestion will make the recruitment process more tedious; we can rid off the prisons of such unworthy employees, by ensuring that those who are enlisted are not of questionable character by conducting background investigation which involves checking whether the would-be-officers were obedient students in schools and colleges, and in the villages of upbringing among others.

The improvement of the prison staff welfare

First on promotions; the Human Resource Development practice which demands that work experience, academic qualifications and professional relevance be the first criteria in evaluation and promotion of employees should be put to practice. People with similar qualifications and duration of service must be on the same salary scale, anything short of this is an injustice and a catalyst to corruption. Promotions and salary increments should come automatically as the length of service progresses, clean record maintained and relevant skills acquired.

The working and living conditions for prison staff such as their salaries and allowances, stores and uniforms, housing and other provision such as water and electricity must be improved for any meaningful reformation and rehabilitation of offenders to take place. It has also been observed that prison officers who are frustrated, demotivated and demoralized always engage in vices such as corruption and mistreatment of inmates. Generally the Kenyan government should ensure that prison officers have enabling environment for reformation of offenders
such as the machines and equipments, and workshops to train prisoners in useful skills for use after release from prison.

The control of illicit drugs and substances in prison
Stamping out drugs in prisons will surely enhance rehabilitation of offenders. This can be made possible by ensuring the integrity of the prison staff, but given that some of them smuggle drugs and substances in prisons as a form of business, the government should improved their terms and conditions of work.

Strategies such as effective surprise and routine searches can also reduce the menace but prison authorities should also sensitize both the inmates and the staff on the dangers of drugs and substances. There is also a need for effective treatment measures in prison institutions for drug offenders and addicts. The medications for mental patients which the 2010 study confirmed to be abused by inmates in Kenya must also be strictly controlled so as not to land on the wrong hands of those who should not use them. Though the abuse of substances such as glue, paint thinner e.t.c, was confirmed by the respondents to be very low, all that can be abused from the prison industries must be strictly controlled.

REFERENCES
5. Mbugua James Miring’u (2011) The Effects of Prisons reforms on inmates Discipline in Kenya: