

**A CRITICAL ANALYSIS OF THE OBSERVANCE OF HUMAN RIGHTS OF PRISONERS BY
UGANDA PRISON SERVICE**

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DECLARATION

I NAMUGERE PRECIOUS MARY, do hereby declare that this dissertation was carried out in accordance with the requirements of the University's Regulations and Code of Practice for Research Degree Programmes and that it has not been submitted for any other academic award. Other works cited or referred to are accordingly acknowledged.

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APPROVAL

This dissertation has been submitted for examination with my approval as University Supervisor.

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ABSTRACT

This dissertation explores the treatment of prisoners in Uganda while focusing on prisons in Jinja District. It aims to understand how well the prisons in Jinja respect the prisoners' rights. I initially expected to find many cases of violations of Prisoners' rights as often reported in the media; however, through the interviews with prisoners and wardens, I discovered that prisons in Jinja District are generally doing a good job observing these rights. As the inmates reported that they have access to adequate food, medical care and are treated with respect. Overall, the research shows that also though Jinja prisons may still have some areas that need improvement, they have done a fairly good job in protecting the prisoners and this indicates that its possible for all prisons in Uganda to protect the prisoners in their custody.

DEDICATION

I dedicate this dissertation to myself. It represents countless hours of hard work and dedication while I was facing countless challenges and overcoming setbacks that created moments of doubt. This journey has tested my commitment and resilience. To all the times I thought about giving up but I didn't. I dedicate this research to my strength and determination that brought me here. Dear Self, this is for you!

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LIST OF ABBREVIATIONS

EM	Electronic Monitoring
UDHR	Universal Declaration of Human Rights
ICCPR	International Convention on Civil and Political Rights
ICESCR	International Convention of Economic, Social and Cultural Rights
CAT	UN Convention against Torture and other cruel, inhuman and degrading treatment or Punishment
NGO	Non-Governmental Organizations
UPS	Uganda Prison Service
AIDS	Acquired Immunodeficiency Syndrome
FHRI	Foundation for Human Rights Initiative
HRAPF	Human Rights Awareness and Promotion Forum
TEAN	The Environmental Action Network
ILO	International Labour Organization
UNAIDS	The Joint United Nations Programme on HIV/AIDS

CHAPTER ONE

INTRODUCTION

1.0 Introduction

Human Rights are those rights that accrue to one because they are human beings¹. They are to protect, preserve and promote the intrinsic value inherent in human nature. They are universal for every human being and are not gifts or privileges but are inherent.² All human beings are born free and equal in dignity and rights. They are endowed with reasons and conscience and should act towards one another in a spirit of brotherhood³.

A prisoner is an individual held in custody due to a violation of the law, deprived of their liberty, either through force or confinement.⁴ Addressing their rights is paramount as prisoners possess basic and legal rights including the aforementioned necessities, which should not be denied or infringed upon.⁵

The most celebrated statement of human rights is the universal declaration of human rights adopted by the general assembly of the United Nations in 1948. The issue of Human rights within the context of prisons is a critical area which warrants an in-depth examination. In recent years, protection and promotion of human rights has become central pillars of global discourse. My research aims at exploring the observance of human rights of prisoners by Uganda Prison Services. This study will investigate the existing legal landscape and the lived experiences of the

¹ Donnelly J' Human Rights Democracy and Development (1999) 213 Human Rights Quarterly 608

² African Commission on Human and People's Rights, prison conditions in Africa, Paris, pri,1997, pg 45

³ Article 1, Universal Declaration of Human Rights

⁴ Collins English Dictionary. (n.d). Prisoner. <https://www.collinsdictionary.com/jp/dictionary/english/prisoner>

⁵ Jacobs, J.B. (1980). The Prisoners' Rights Movement and its Impacts, 1960-80. Crime and Justice, 2, 429-470

prisoners. It will also be contributing to a comprehensive understanding and the potential avenues for reforms within Uganda's Penal system.

1.1 Background

In Uganda, prisons were introduced forcibly through colonial rule. The first prisons were built in the 1890s and by 1930s, there were approximately 300 penal institutions spread across. The majority of these were small lock ups and were run by local government authorities. The Central Government had the *Uganda Prisons Services* (UPS), which managed all those with long term sentences. Upon Milton Obote's violent overthrow of *Sir Edward Mutesa*, he introduced a new constitution, and one of the consequences of Obote's repressive policies was the steady increase in the prison population⁶. Prior to becoming an independent country in 1962, Uganda's justice system was a model for its neighbors because at the time, the police force was strong, respected and appreciated by the public.⁷

The Uganda Prisons Act was passed by Parliament at the end of 2005/06 and it became effective on 14th July, 2006⁸. Section 3 spells out the key objectives as to contribute to the protection of all members of society by providing reasonable, safe, secure and humane custody and rehabilitation of offenders in accordance to universally accepted standard⁹. This means its obligated to cater for the rights of the prisoners, to be kept in humane and safe custody.

⁶ Prisoner releases in postcolonial Uganda: power, politics, and the public – Katherine Bruce-Lockhart, 2022”
<https://journals.sagepub.com/doi/full/10.1177/26326663211059777>

⁷ Uganda Judicial Commission of Inquiry, Report of the Judicial Commission of Inquiry in to corruption in the Uganda Police Force; Main Report, 10 (1999-2000)

⁸ Functions and mandate of UPS|UPS <https://www.prisons.go.ug/aboutups/functions-and-mandate-ups>

⁹ Section 3 Uganda Prisons Act

Article 5 of the UDHR provides that no person shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. In **Ireland v UK**¹⁰, the suspected IRA terrorists were subjected to treatments which court termed as inhuman and torture. They were subjected to standing on the wall for hours, deprived of sleep, deprived of food and drinks and were subjected to continuous noise, court held that all that led to intense physical pain, mental suffering and later acute psychiatric disturbances. Therefore, any actions that involve anything of that kind must be avoided. Unfortunately, there are very many situations in Ugandan prisons that subject prisoners torture and inhuman treatment.

Despite the very many concerns from people about how incarcerated people are treated, especially from the people whose relatives are in these prisons, nothing seems to be done. The conditions in prisons remain harsh and is life threatening in some cases due to overcrowding, poor sanitary conditions, physical abuse of detainees by security staff and many other reasons. In November the UN Committee Against Torture stated that it “remains concerned at reports indicating that the practice [of using “ungazetted” or unauthorized places of detention or “safe houses”] still takes place in the country”. on June 22, *Chief Justice Alphonse Owiny Dollo* referred to the conditions in Gulu prison as “Horrorific”, noting that the prison was holding 1,365 inmates in a 247 person capacity structure¹¹

1.2 Statement of Problem

Before the enactment of the 1995 Constitution of Uganda, Uganda’s leaders used imprisonment and detention without trial and any person who was considered a threat to public order could be detained without trial. They selectively turned to releases, and the first release of prisoners was

¹⁰ Ireland v UK (hooded men case) 1978

¹¹ 415610_Uganda-2022-Human-Rights-Report

an important mechanism of mercy, and later large scale releases were used to foster a more positive image of the government and to cultivate a sense of unity.¹² Upon the enactment of the 1995 Constitution, steps were taken to protect the rights of prisoners. *The Uganda Human Rights Commission* (UHRC) was established under the 1995 constitution of Uganda and it states that UHRC shall visit jails, prisons, and places of detention or related facilities with a view of assessing and inspecting conditions of the inmates and make recommendations.¹³

However, despite the existing legal framework which was designed to protect the rights of prisoners, it also raises questions about the efficiency of its implementation, because there is still irregularity between the laws and how the prisoner's rights are actually observed.

1.3 Objectives of the study.

1.3.1 General objective

The objective of the study is to analyze the observance of human rights of prisoners by the Uganda Prison Service.

1.3.2 Specific Objectives

- a) To analyze the historical development of Human Rights observance in Uganda Prisons
- b) To analyze the legal and regulatory framework governing the observance of human rights in Uganda's prison service.
- c) To investigate the challenges in the observance of the rights of prisoners

¹² Bruce-Lockhart K (2020) 'how politics have played a big role in the release of prisoners' the conversation 15 June, available at: <https://theconversation.com/how-politics-have-played-a-big-role-in-the-release-of-prisoners-139371>

¹³ Article 52(1) 1995 Constitution of Uganda

- d) To propose recommendations for reform.

1.4 Research Questions.

- a) How has the observance of human rights evolved within Uganda Prisons service?
- b) What is the current legal and regulatory framework governing the observance of human rights within Uganda's prison service?
- c) What are the challenges affecting the observance of the rights of prisoners?
- d) What recommendations can be proposed to address these shortcomings and facilitate meaningful reform?

1.5 Significance of the study

This study is significant because its findings will help policy makers in making informed policy decisions that will help in the observance of the rights of prisoner and creating a humane environment within the Prisons in Uganda. The findings of the study will also fill the information gaps about the current treatment of prisoners and what can be done to keep forward with the positive changes and also put more effort on solving the challenges. Finally, this study will also be carried out in partial fulfillment for the award of *bachelors of laws degree* at Uganda Christian university which will enable the researcher obtain the degree.

1.6 Scope of Study.

1.6.1 Content scope.

This study will confine its investigation on the observance of human rights of prisoners in Uganda prisons. It will also encompass historical perspectives, current conditions and potential future trends while providing a clear understanding of the evolution and current state of observance of the rights of prisoners.

1.6.2 Geographical scope

The study will focus on Jinja district. The geographical scope is selected to provide a detailed examination of human rights observance of prisoners. Therefore, the study narrows focus on Jinja, aiming to capture distinctive factors that may contribute to a broader discourse on human rights considerations within the Ugandan prisons.

1.6.3 Time scope.

The case study will date back from 2018 to date, making it a 6 years' case study to understand how the human rights of prisoners have been protected or have evolved and current state of observance of the rights of prisoners.

1.7 Literature Review.

The Uganda Prison Service is under the control of *Ministry of Internal Affairs*. And although prisons and their services might have improved under Museveni's leadership, Prisons in Uganda still show a cause for concern. The fact that Prisoners are people deprived of their personal liberty, they are cut off from the outside world and this makes them vulnerable. Therefore, they solely depend on the authorities for basic needs and rights. *Lord Justice Woolf* emphasized that Prisoners are in the care of the state for 24 hours a day, and if the prisoner service does not meet the needs the needs of the prisoners, then no one else will do so, therefore since all prisoners are at one time going to return to the community, the experience in prison will affect them in some way¹⁴. This means that prison service must attempt to minimize the harm done by imprisonment since they are vulnerable to unlawful action.

¹⁴ Woolf Report Home Office (1991)

Overcrowding is the most pressing concern in African prisons, yet the buildings are old, poorly ventilated and with inadequate sewage systems. While it is a requirement that detention accommodation should provide adequate cubic content of air, floor space, lighting, heating and ventilation,¹⁵ this is not attained in Ugandan Prisons. In Kawolo Local Administration Prison, each twelve-foot by twelve-foot cell holds approximately thirty people, this overcrowding problem does not go away because the prisoners are rarely allowed to leave the cells.¹⁶ The overcrowding encourages transmission of communicable diseases. Some cells are too crowded that inmates sleep in shifts¹⁷. Just like on June 22nd, *Chief Justice Alphonse Owiny Dollo* referred to the conditions in Gulu prison as “**Horrific**”¹⁸ This also means that the prisons being overly crowded becomes difficult to the prison staff to supervise the prisoners and perhaps be able to provide higher standards of sanitation and feeding.

The UPS reported that the lengthy pretrial detention as well as inmate population rate that outstripped the rate at which prisons were able to expand were the leading drivers of overcrowding, and therefore causing abusive physical conditions¹⁹. The UHRC noted that pre-trial detainees remained very high at 48%, with many having been in detention for over five years, the prolonged pretrial detention contributed to the prison overcrowding where inmates sometimes have to wait for years before their cases are concluded. Such cases included Arua Prison where the UHRC found 508 inmates on remand and 745 convicted inmates, Kaweru

¹⁵ Prisons Act 2006 and Rules 13, UN Standard Minimum Rules on Treatment of Prisoners.

¹⁶ From Arrest to Release: The inside story of Uganda’s Penal system. (Brooke J. Oppenheimer-)

¹⁷ Prisons in Africa; An evaluation from the Human Rights perspective: sur. international journal on human rights accessed on 15th March 2024

¹⁸ Ibid

¹⁹ Uganda 2022 Human Rights Report

Prison with 383 remanded and 56 convicts, Kauga Prison with 235 inmates on remand and 64 convicts.²⁰

The Uganda Prison Service reported that the government can only supply blankets to twenty five percent of the inmates and clothes to thirty percent of them.²¹

In addition to the overcrowding problem, all prisons have inadequate amounts of food and water for the prisoners, they are rather served *Posho and beans* one to three times a day.²² It is noted that the commonest complaint from prisons is the poor quality of prison food, which is inedible, cold and in insufficient quality. Most prisoners suffer from malnutrition because of the poor diet in prisons. It has also been suggested that **10%** of inmates die while detained in prisons and it is believed that the main reasons for the death rate is AIDS and malnutrition.²³ In addition, the FHRI and the UPS noted that there were reports of prison food shortages which led some inmates to trade sex in exchange for food from fellow inmates and UPS staff.²⁴ On the contrary, UHRC reported that meals in prisons are served in adequate quantity and quality, inmates are also allowed to receive raw food from their relatives, and for most detention facilities, inmates had at least two meals a day consisting of food like cassava or posho or sweet potatoes and beans.²⁵

It was also noted that a few prison facilities still used the *“Bucket system”* for waste, where they used pit latrines during the day but buckets at night which they had to empty during day.²⁶ **Eddy Ssebuufu**, *Kyagulanyi’s head of security* said in an interview after his release that while they

²⁰ The 25th Annual Report on the state of Human Rights and Freedoms in Uganda in 2022 at page 213

²¹ Federal Research Division, Library of the Congress, Uganda: A country study (Ritah Byrnes ed, 1992)

²² Ibid at 13

²³ Coetzee & Clark

²⁴ “Uganda – United States Department of State” <https://www.state.gov/report/2018-country-reports-on-human-rights-practices/uganda/>

²⁵ Ibid 18

²⁶ Ibid

were held at Kitalya maximum security prison, they were forced into overcrowded cells that men slept on their sides, urinating where they lay to avoid losing their place on the ground and they were given buckets to urinate and defecate.²⁷

The health needs of pregnant women are largely unmet as the pregnant inmates receive little or no prenatal care. The pregnant and nursing women usually receive the same nutritionally deficient food as all the other prisoners. They are also forced to perform hard labor just like other prisoners and has led to reported miscarriage or injury.²⁸

Prisoners have in the recent years also complained about problems of unfair remuneration, long hours of work, and forced labor. Ex-prisoners confirmed complaints of mistreatment of prisoners during work to be true. Prisoners have reported being tortured and beaten by UPS staff and by fellow prisoners at the direction of UPS staff.²⁹ This is why the major perpetrators of torture in prisons are the fellow inmates. *Kato a 30-year-old mechanic* from Salama said he had been on remand for 1 year and 8 months and that there is physical torture at Kigo prison by the warders and that if one person disobeyed their instructions, they would beat up every other person in the same ward, unfortunately, there is no mechanism of reporting their grievances against the prison warders.³⁰ The UHRC reported that in 2017, it was awarded 800 million shillings in compensation to victims of torture. This clearly manifests how much prisoners are tortured within Uganda's Prison Service.

²⁷ "Ugandan activists describe months of physical abuse in prison | Uganda | The Guardian" <https://amp.theguardian.com/world/2021/jul/20/ugandan-activist-physical-abuse-prison-president-museveni-robert-kyagulanyi>

²⁸ "Even Dead Bodies Must Work": Health, Herd Labor, and Abuse in Ugandan Prisons | HRW" <https://www.hrw.org/report/2011/07/14/even-dead-bodies-must-work/health-heard-labor-and-abuse-ugandan-prisons>

²⁹ "US sanctions Uganda Prisons boss over torture claims | The East African" <https://www.theeastafrican.co.ke/tea/news/east-africa/us-sanctions-uganda-prisons-boss-over-torture-4459108?veiw=htmlamp>

³⁰ "7.4. THE UGANDA PRISONS SERVICE-Issuu" https://issuu.com.avocatssansfrontieres/docs/asf_baseline_survey_-_protecting-constitutional_an/s/17909146

The torture methods reportedly used in Uganda include;

kandoya (tying hands and the feet behind the victim);

Suspension from the ceiling while tied up;

Water torture/" Liverpool" (forcing the victim to lie face up, mouth open while the tap is turned on into the mouth);

Severe beatings with metal rods, pistols, fists, sticks with nails;

Death threats including putting the nozzle of the pistol into the victim's mouth, showing him fresh graves, dead bodies or snakes;

Putting the victim in the back of the vehicle where his captors sit or put their boots on him; abusive language and threats; and kicking with boots all parts of the body;

Gang rape of female victims;

Mutilating genitalia of male suspects through kicking, beating with sticks³¹

Fortunately, prisoner rights have received increased attention throughout Africa. ***The Kampala Declaration*** which addressed the issues on prison conditions, remand prisoners, prison staff and alternative sentencing, called for cooperation of states, the UN and the intergovernmental organizations in the improvement of prison conditions in Africa, it therefore recommends action to be taken by states in improving prisoner's conditions.³² Prisons also have programs which are used to enable the inmates to acquire skills and also act as a source of income for example carpentry. Hairdressing, crafts and so much more. Study opportunities are also available from primary to university as the Ministry of Education and Sports sends teachers to teach in the

³¹ April-Torture-in-Uganda-A-Baseline-Study-on-the-Situation-of-Torture-Survivors-in-Uganda.

³² The Kampala Declaration on prison conditions in Africa.

prisons. The learning and development opportunities may vary from prison to prison.³³ They are also allowed to practice religions of their choice.

1.8 Methodology.

This study will consist of both the qualitative and quantitative methods. The qualitative will consist of desktop research including a review of relevant literatures such as textbooks, journals, Articles and statutes. The Quantitative will then consist of information and numbers of prisoners and prisoner personnel's that have been examined for the study.

³³ "Uganda: prisoner pack-GOV.UK" <https://www.gov.uk/government/publications/uganda-prisoner-pack/uganda-prisoner-pack>

CHAPTER TWO

THE LEGAL AND REGULATORY FRAMEWORK GOVERNING THE OBSERVANCE OF HUMAN RIGHTS OF PRISONERS IN UGANDA.

2.0 Introduction.

The promotion and protection of Human rights of prisoners has been provided for in the international, regional and national human rights legal framework. *Lord Wilberforce* in *Raymond v Hone* stated that, under English law, a convicted prisoner, in spite of his imprisonment, retains all civil rights which are not taken away expressly or by necessary implication and this remains the classic statement on prisoners' rights today.³⁴ They are all highlighted below.

2.1 International legal framework.

The international legal framework provides for humane and dignified treatment of prisoners. The principle international instruments that protect the rights of prisoners are the the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant On Economic, Social and Cultural Rights (ICESCR) and Convention against Torture and other cruel, Inhuman and Degrading Treatment or Punishment (CAT).

³⁴ [1983]1 AC 1 p10.

2.1.1 The Universal Declaration of Human Rights

The UDHR continues to serve a foundation for national and international laws and standards in order to protect human Rights.³⁵ *Article 5* of the (UDHR) provides that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

2.1.2 International Covenant on Civil and Political Rights(ICCPR)

The *ICCPR* is a cornerstone of Human Rights Legislation. It establishes a comprehensive framework for protecting the civil and political rights, including those of detainees.³⁶ As it establishes that state parties have a duty to ensure equal rights of men and women to the enjoyment of all rights set forth in the covenant.³⁷ The prisoners have a right to have their sentence reviewed by a higher tribunal and be given opportunity to defend himself in person or through legal assistance of his own choosing.³⁸ This means that prisoners have a right to meet their legal representatives while in the prisons so that they have an opportunity to defend themselves because the law.

2.1.3 International Covenant on Economic, Social and Cultural Rights.

The state shall take steps to enable the full realization of Prisoners' rights to include technical and vocational guidance and training programs, policies and techniques³⁹ and the state shall also recognize everyone's right to education.⁴⁰ Everyone therefore includes prisoners too. They have

³⁵ "Universal Declaration of Human Rights|Amnesty International "<https://amnesty.ca/universal-declaration-human-rights>|"

³⁶ International Mechanisms and Prisoners' Rights: Ensuring Human Dignity and Justice; Samina Ashraf and Mahwish Nazir

³⁷ Article 3

³⁸ Article 14

³⁹ Article 6

⁴⁰ Article 13

a right to education though it does not clearly state what levels of education they can attain while in prison.

2.2.4 The UN Convention against Torture and other cruel, inhuman and degrading treatment or Punishment.

Uganda ratified the UN Convention against Torture and other cruel, inhuman and degrading treatment or punishment in 1986. Prisoners are protected under this act and they are protected from torture and segregation. The CAT defines torture to mean

“...any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her information, punishing him for an act he or a third person has committed...

The CAT is of utmost importance of prisoner’s rights as it was designed to prevent and combat torture and ill-treatment. It forbids torture and mandates that states take concrete steps to prevent it within their borders. The CAT establishes the committee which is permitted to visit all places of detention which are defined by the convention as “any place within its jurisdiction where the persons are deprived of their liberty by a public authority.

2.2 Regional Instruments.

2.2.1 African Charter on Human and People’s Rights.

The African Charter on Human and Peoples’ Rights (African Charter) was ratified by Uganda on May 10, 1986 and is the major human rights instrument under this regional framework. *Article 5* of the Act prohibits acts of torture, inhuman and degrading treatment. It protects people’s right to

life, integrity, liberty and security where deprivation of liberty should only be according to the law.⁴¹ The African Charter establishes the African Commission on Human and Peoples Rights (*African Commission*), whose functions are laid out under *Article 45* and include amongst others to “formulate and laydown principles and rules aimed at solving legal problems relating to human and people’s rights and fundamental freedoms upon which African Governments can base their legislations.⁴²

The African Commission has issued several decisions upholding the rights of prisoners, for instance, *in Egyptian Initiative for Personal Rights and INTERIGHTS v. Arab Republic of Egypt*,⁴³ the complainants brought the complaint on behalf of several men who alleged that they were detained, tried, and sentenced to death after being accused of several bombings. During their detention, the victims alleged that they were tortured to elicit confessions. The African Commission found overall that the action of Egypt constituted multiple violations of Article 5 of the African Charter.

Furthermore, in the case of *Gabriel Shumba v. Zimbabwe*,⁴⁴ personnel from the Central Intelligence Organization arrested the complainant, a human rights lawyer, beat him, detained him without charge or access to counsel, and denied him food and water. The day after his arrest, he was moved to a different location and tortured. He was subsequently charged with organizing, planning, and conspiring to overthrow the government. The African Commission found that the state was in violation of the victim’s rights under *Article 5* of the African Charter to not be tortured and ill-treated. The African Commission found that he was *beaten and electrocuted*, and that the state did not take steps to investigate or addressed these actions. Thus, the African

⁴¹ Article 4 and 16 of the African Charter of Human and People’s Rights

⁴²Article 45(1) (b) of the African Charter on Human and Peoples Rights

⁴³ (1 March 2011, ACHPR, 334/06, 9th Extra-ordinary Session)

⁴⁴ (April 2012, ACHPR, 288/04, 51st Ordinary Session)

Commission recommended that the state pay the victim compensation and attempt to bring to justice the officials who committed the torture.⁴⁵

2.2.2 East African Community Human and People's Bill of Rights, 2011

The purpose of this Act is to establish a mechanism for the recognition, protection and promotion of Human and peoples rights in accordance with the provision of the African Charter on Human and Peoples Rights. It provides for the right to life of all people⁴⁶, and also emphasizes that all people are equal before the law which also means that they are entitled to equal enjoyment of all rights and protection by the law.⁴⁷ Children are also to be kept in separate custody from the adults while in confinement and are to be assigned an advocate at the expense of the Partner state.⁴⁸ Every person, including prisoners shall not be detained without trial except during state of emergency and no person shall be subjected to torture or subjected to corporal punishment.⁴⁹ The Act further emphasizes that all persons have right to access information, this is important for the prisoners as it keeps them informed and connected to the outside world,⁵⁰ it is safe to say that it also encourages their rehabilitation as they remain expectant to reintegrate back into the outside world. Since the prisoners also work, they are entitled to the right to fair labor practices which include a worker having fair remuneration and reasonable working conditions.⁵¹ In addition, all people have a right to health care services including reproductive healthcare and

⁴⁵ Rosemary Karoro, "The Regional and National Framework for the Prevention of Torture, Cruel Inhuman, Degrading Treatment or Punishment in Uganda" pg 6

⁴⁶ Section 6

⁴⁷ Section 7

⁴⁸ Section 12

⁴⁹ Section 17

⁵⁰ Section 23

⁵¹ Section 31

they also have a right to education, which means the prisoners are entitled to these rights as much as all the other people. They are also entitled to have a clean environment and safe water in adequate quantities.⁵²

2.3 NATIONAL INSTRUMENTS.

2.3.1 The 1995 Constitution of Uganda. (As amended)

The Constitution of Uganda is the supreme law of the Uganda, outlining the fundamental rights and freedoms of all citizens, including those who are imprisoned. Within the context of prisoners' rights, the constitution establishes the frame work designed to protect the dignity, well-being and human rights of individuals in detention. The following articles outline the specific constitutional provisions that are relevant to the rights of prisoners.

Right to Health and Medical Attention

Objective XIV states that

“all Ugandans enjoy the rights and opportunities and access education, health services, clean and safe water...”⁵³

Although the Constitution does not explicitly mention health and safety, these are considered inherent in the broader rights to humane treatment and dignity.

Incarceration is no reason to deprive an individual of their right to health by denying them access to more specialized medical attention that would in the end lead to a deprivation of the right to

⁵² Section 37

⁵³ Objective XIV(b) of the National Objectives and Directive Principles of State Policy.

life which rights are all provided for and upheld by the constitution of Uganda.⁵⁴ Exercises keep prisoners in good physical health and kill boredom, the author of the article commended the importance of giving prisoners entertainment in a bid to reform them. It keeps them active and restores their hope to once return to society once they are released. This further the process of social reintegration of prisoners into their communities.⁵⁵ Additionally, exercises and recreational activities also facilitate social reintegration of prisoners with their communities through organizing competitions between inmates and community members.⁵⁶

Right to work.

Prisoners also have a right to work. This is established in *Objective XIV* of the National Objectives that

“...all Ugandans enjoy the rights and opportunities and work...”⁵⁷

The right to work for prisoners is a significant aspect of rehabilitation and reintegration in to society. The work programs offer inmates a sense of purpose and potentially generate income. Uganda is a signatory to various international human rights treaties that support prisoner’s rights to work. *The International Labour Organization (ILO)* has conventions on prion labour and it emphasizes that work should not be forced or exploitative. **The United Nations Standard Minimum Rules for the Treatment of Prisoners**, also known as the *Mandela Rules*, emphasizes the importance of work for rehabilitation and personal development.

⁵⁴ “The Right to Health of Persons under Incarceration-CEPIL” <https://cepiluganda/news-blog/the-right-to-health-of-persons-under-incarceration/>

⁵⁵ Nuwagaba Edwin, “Theatre Factory takes Easter to Luzira Prison”, Daily Monitor, Tuesday, 6th April 2010. The author of the article commended the importance of giving prisoners entertainment in a bid to reform them.

⁵⁶ Westminster Advisors White Paper, Prisoner Rehabilitation and Offender Management, April 2010 available at <www.westminsteradvisers.com.uk/assets/resources/criminal-justice-system-wa-white-paper>

⁵⁷ Ibid 52

Work programs provide the prisoners with skill that can be helpful for prisoners to secure employment upon their release. In addition, since work gives the prisoners a sense of purpose, it allows the prisoners to develop discipline and teamwork skills, contributing to their personal growth and emotional well-being. It is also worth noting that prison work programs contribute to the overall operation of the prison, as inmates assisting in tasks like cleaning, maintenance and food preparation. These contributions can help reduce prison costs and improve the quality of life without the prison system.

Right to Life

Article 22 of the constitution guarantees the right to life. This provision mandates that no one shall be deprived of life except in execution of a sentence passed by a court after a fair trial. In the ***Constitutional Appeal of Attorney General vs. Susan Kigula***, court struck down the mandatory death penalty as violation of fundamental human rights including the right to life and freedom from torture and inhumane treatment. Supreme court also held in ***Kharak Singh v State of Uttar Pradesh*** that life means not merely the right to the continuance of a person's animal existence but a right to possession of each of his organs, arms, legs etc.

Right to freedom from Torture and Cruel Treatment.

Article 24 states that “no person shall be subjected to any form of torture or cruel, inhuman or degrading treatment of prisoners, prohibiting any form of torture or abuse by prison authorities. It establishes a clear standard for the humane treatment of individuals in custody.

The Constitutional Court in the case of ***Centre for Human Rights and Development vs. Attorney General***⁵⁸ was persuaded by decisions of the African Commission to expound on what

⁵⁸ Constitutional Petition No. 16 of 2011

constitutes torture and to reiterate its prohibition; “...we find that the language of *sections 45(5)* of the Trial on Indictments Act is derogatory and thus contravenes *Article 24* of the Constitution that provides for respect for human dignity and protection from inhuman treatment. It strips mentally disabled/impaired persons of dignity...We thus come to the conclusion on this aspect, section 45(5) violates the letter and spirit of Article 24 of the Constitution as it subjects persons living with mental illness/impairment to inhuman and degrading treatment in the language used to describe them, contrary to Article 24 of the Constitution....”⁵⁹

Right to fair Hearing

Article 28 guarantees the right to a *fair hearing* in all judicial proceedings. This provision has implications for prisoners as it ensures that their trials are conducted fairly and that they have the opportunity to defend themselves against charges. This right usually works hand in hand with right to prisoners to have *legal representatives* whenever they need to and also appear in court. Prisoners have a right to legal counsel and the prison officials must allow reasonable times and places for prisoners to communicate confidentially with their lawyers. Therefore, they should be able to access courts. In *Human Rights Awareness and Promotion Forum (HRAPF) v Attorney General*, Court held that when the accused was held for about a month and 10 days and was denied access to their counsel, it was a violation of their right to fair hearing.⁶⁰

Right to Education

The right to Education is fundamental to personal development and is outlined in *Article 30⁶¹* of the constitution, which states that all individuals have a right to education. The initial idea was to

⁵⁹ Rosemary Karoro, “The Regional and National Framework for the Prevention of Torture, Cruel Inhuman, Degrading Treatment or Punishment in Uganda” pg10

⁶⁰ Misc. Cause No. 81 of 2020

⁶¹ Constitution of the Republic of Uganda

impart vocational skills and not for education purposes but rather production, in 1974, a conscious decision was taken to primarily teach vocational courses that would then feed in to production and over time, prisoners developed a need to enhance their knowledge levels after a visit by Comboni missionaries in 1994, said *Anatoli Owakubaruho Biryomumaisho*, the *senior welfare and rehabilitation officer at Uganda Prisons* in an interview.⁶² Prison education was introduced in 2000 with primary level and later secondary and diploma levels were included. It enables personal development and prepares the prisoners for reintegration in to society. The Uganda Prisons Act emphasizes the importance of providing educational opportunities to inmates, including literacy programs, vocational training and formal education. The UDHR and the ICESCR both of which Uganda is a signatory to, emphasize the right to education, reinforcing the obligation to ensure prisoners have access to learning opportunities.

The Commissioner Rehabilitation, David Nsarasata noted at a graduation function of prisoners that the prison is supposed to be a correction facility and not a place for confinement, and that education is a human right which in-mates must enjoy.⁶³

It is important to note that prison education in Uganda aims to reduce recidivism and improve inmates' prospects upon release. Educational programs often include vocational training in areas such as carpentry, tailoring and agriculture, providing practical skills that can lead to employment especially when they come out of the prisons. The government and non-government organizations work together to facilitate these programs, ensuring that prisoners have the tools to better themselves during their incarceration.

⁶² "Prison education: How learning occurs behind bars" <https://observer.ugg/education-how-learning-occurs-behind-bars>

⁶³ "Rehabilitating Prisoners Through Education|Monitor" <https://www.monitor.com.ug/uganda/lifestyle/reviews-profiles/rehabilitating-prisoners-through-education-1519356>

The Right to be visited by Family and Friends.

The constitution of Uganda emphasizes the importance of personal liberty and family ties. Although the constitution doesn't explicitly detail it, the right to maintain contact with family and friends aligns with the broader protection of personal liberty. All prisoners have a right to be visited following scheduled visiting hours.⁶⁴ Visits are important because they can improve the prisoners' mental health and contribute to their rehabilitation. The Uganda Prisons Service has specific regulations governing visits to ensure security while allowing inmates to maintain social connections. These regulations often include visiting hours, visitor registration, and security checks. The right to visitation supports inmates well-being.

The Right to Food

Article 22 states that every person has the right to life, which encompasses adequate nutrition for survival. The right to adequate Food is a basic human right and Uganda's prison system is responsible for providing prisoners with sufficient and nutritious meals. The provision of food in prisons must meet basic nutritious standards, taking into account religious, cultural and dietary restrictions. However, challenges like overcrowding and budget constraints can affect the quality and quantity of food provided to prisoners.

The right to Vote.

The right to vote is a fundamental component of citizenship and democracy. *Article 59* grants the right to vote to every citizen of Uganda who is at least *18 years* of age. Although the constitution does not prohibit prisoners from voting, the Uganda Electoral Commission has not made arrangements for prisoners to vote. In the case of *Kalali Steven v Attorney General and the*

⁶⁴ "what are the rights of a prisoner? – Justice Centers Uganda" <https://justicecentres.go.ug/what-are-the-rights-of-a-prisoner/>

Electoral Commission, the high court held that prisoners have a right to vote and that the commission should put in place arrangements for them to vote.⁶⁵ Because refusing them to vote would amount to discrimination.

Right to clean and Healthy Environment.

The constitution's provisions on environmental protection and public health indirectly support the right to a clean environment for prisoners. *Article 39* gives every person the right to a clean and healthy environment. This right extends to prisons, where adequate sanitation, proper waste management and access to clean water are essential for ensuring prisoners' health and wellbeing. In the case of *The Environmental Action Network (TEAN) v Attorney General & NEMA*, the petitioners sought for and court granted a declaration that smoking in public places violated the right of non-smoking members of the public to a clean and healthy environment guaranteed under *Article 39*. The National Environment Act is responsible for monitoring and supervising all activities in that it helps to protect the environment from any activity that would be harmful to people including the prisoners. The Water Act also provides that there must be a clean and safe water supply.⁶⁶

Right to Access Information.

Article 41, states that every citizen has the right to access information in possession of the state or any state agency. This right is important for prisoners, allowing them to understand their legal situations and access educational materials. While prison regulations may limit certain types of information, the broader principles of information access remain a key aspect of prisoners' rights. Educational resources such as books, study materials and vocational training guides help

⁶⁵ (Miscellaneous cause No. 35 of 2018) [2020] UGHCCD 172

⁶⁶ The Water Act Cap 152

prisoners acquire new skills and knowledge, facilitation their reintegration into society upon release.

Information can have a positive impact on the prisoners' mental health by providing them with a connection to the outside world, especially through access to news.

Freedom from Discrimination.

Article 21 prohibits discrimination based on race, colour, sex, religion, political or other opinion, nationality, social origin or other status. This protection extends to prisoners ensuring they are not discriminated against within the prison system. This right encompasses equal treatment, access to resources, protection from discriminatory practices.

Right to Cultural Activities.

The right to cultural activities reflects the Constitution's support for cultural diversity and freedom of *religion*. *Article 37* states that every person has the right to belong to, enjoy, practice, profess, maintain and promote any culture, cultural institution, language, tradition, creed, or religion in community with others. This right allows prisoners to participate in cultural and religious activities, contributing to their emotional well-being and sense of identity. Prisoners should have an opportunity to practice their religions.⁶⁷

Conclusively, the constitution provides a solid foundation for protecting the rights of prisoners through various articles that emphasize human dignity, personal liberty and non-discrimination.

While the constitution does not explicitly detail all the rights of prisoners, its principles and wider protections guide laws and regulations that ensure prisoners are treated humanely and

⁶⁷ Executive Director of prison fellowship Uganda, Mwesigye David, "Religios Education can reduce prison congestion", published in the New Vison, Monday, 29th September,2008

fairly. Therefore, observing these rights requires vigilance from the Uganda Prison Service and the Prisoners too, to not violate each other's rights.

2.3.2 PRISONS ACT 2006

The Prisons Act 2006, mandates Uganda Prisons Service to provide reasonably safe, secure and human custody and rehabilitation of inmates in accordance with the universally accepted standards. The Act establishes that prisoners must be treated humanely. It stipulates that prisoner should not be subjected to any form of torture or degrading conditions. This ensures the dignity and fair treatment of prisoners within the prisons.⁶⁸ It also requires prison authorities for provide inmates with proper meals, ensuring that the food is sufficient and meets the basic dietary needs.⁶⁹ Considering that prisoners have a right to healthcare, the act also mandates the prison authorities to provide medical care, including regular health checks, emergency treatment and referrals to specialized medical treatment when necessary.⁷⁰

The act also grants prisoners the right to communicate with family and friends as well as receive visits.⁷¹ Prisoners have a right to communicate with their legal representative and seek legal advice or representation regarding the case,⁷² and the act also emphasizes the importance of rehabilitation and education of the prisoners. This enables prisoners to acquire skills and prepare for successful reintegration in to society.⁷³ The prisoners' right to religious education is enshrined in section 45 of the Act and it allows the prisoners to practice their religion and participate in religious activities. The act also requires the prison authorities to maintain a safe environment for the inmates, including measures to prevent violence, abuse or harm within the

⁶⁸ Section 57 of the Prisons Act 2006

⁶⁹ Section 47(1) (a)

⁷⁰ Section 48

⁷¹ Section 56

⁷² Section 54(2)

⁷³ Section 40

prison system.⁷⁴ The prisoners additionally have a right to receive and send information, subject to certain restrictions. Therefore, they are allowed to access information including legal and educational resources.⁷⁵

Conclusively, the Prisons Act provides a comprehensive legal framework for the rights of prisoners by outlining the specific rights and the corresponding sections, the Act also aims to ensure humane treatment, proper rehabilitation, and fair access to legal and social resources.

2.4 Regulatory Framework

The Regulatory framework of the observance of Prisoners' rights provides a legal basis for ensuring that the prisoners are treated with respect and their rights are also recognized and respected. Hereunder, I will discuss the Uganda Prison Service, the Judiciary and the NGOs, as regulatory frameworks.

2.4.1 Uganda Prison Service.

The Uganda Prison service is part of the integrated justice, law and order sector which is an agency set up to coordinate the institutions responsible for administering justice and observance of human rights.⁷⁶ Primarily, the Uganda Prison Service is the national body which is responsible for managing the prison system in Uganda, including the women's, men's and juveniles' detention centers. The mandate of the UPS is to contribute to the protection of all members of society by providing reasonable, safe, secure and humane custody and rehabilitation of the offenders.⁷⁷ The UPS also has a responsibility to facilitate the social rehabilitation of the prisoners and reintegration of prisoners in the community. *Rehabilitation* was explained to mean

⁷⁴ Section 55

⁷⁵ Section 39

⁷⁶ "prisoner rehabilitation in Uganda Prison Service-GRIN" <https://www.grin.com/document/322664?ang=en>

⁷⁷ Section 3 of the Police Act

restoration to useful life as through therapy and education or to restore to good condition or capacity.⁷⁸

Police officers should therefore be equipped with information on the dos and donts when relating with people in detention, this is why it is common practice that police officers are trained about prevention of torture.⁷⁹

2.4.2 The Judiciary

The mandate of the Judiciary as enshrined in the constitution that “Judicial power is derived from the people and shall be exercised by the courts established under this constitution in the name of the people and in conformity with law and with values, norms and aspirations of the people”⁸⁰ and to apply the law and to resolve disputes. The judiciary shall be administered in a way that everyone has access to free trial and is entitled to access equal treatment before the law.

2.4.3 Non-Governmental Organizations.

NGOs are non-governmental and this means they operate independently from the government. Many organizations especially advocacy NGOs focus on exposing human rights violations and holding abuser accountable. *Foundation for Human Rights Initiative* is one of the NGOs that have greatly fought for the rights of the prisoners in Uganda. FHRI seeks to remove impediments to democratic developments and meaningful enjoyment of the fundamental freedoms enshrined in the constitution and other internationally recognized human rights.⁸¹ A number of prison facilities across the county continue to hold mentally ill inmates instead of having them on treatment. *Dr. Livingstone Ssewanyana*, the FHRI director, warned that prisons should not

⁷⁸ The American Heritage Dictionary of the English language, 2014

⁷⁹ *ibid*

⁸⁰ Henry Peter Adonyo, Acting Chief Registrar; a paper presented during the induction of new magistrates grade one at Ridar Hoetl, Seeta Mukono on 24th September 2012

⁸¹ “foundation for human rights initiative-FHRI” <https://fhri.or.oug>

remain warehouses for the mentally-ill.⁸² In the *Suzan Kigula case*, which is the leading case on the unconstitutionality of death penalty, FHRI condemned death penalty and the delay of three years or more in carrying out the execution to have horrible effects on the mental health of the prisoners. This explains how well the NGOs have fought to the protection and promotion of the rights of prisoners in Uganda.

⁸² "FHRI Speaks Out on Mentally ill prisoners:: Uganda Radionetwork" <https://ugandaradionetwork.net/story/fhri-speaks-out-on-mentally-ill-prisoners>

CHAPTER THREE.

CHALLENGES AFFECTING THE OBSERVANCE OF THE RIGHTS OF PRISONERS

3.0 Introduction.

This chapter examines the non-legal aspects of human rights observance in Ugandan prisons, including sociological, cultural, historical and psychological dimensions. It explores factors that impact the treatment and conditions of prisoners, public perceptions of incarceration, and the broader social context in which Ugandan prisons operate. The chapter aims to provide a comprehensive understanding of the underlying factors that influence human rights practices in Ugandan prisons.

3.1 Sociological, Public perception and stigma.

In Uganda, public perceptions of crime and punishment often influence the treatment of prisoners. When you ask anyone what prison is, most would say that prison is where criminals are left to pay for their crimes and keep the public safe. Prison to some derives a negative connotation that most would prefer not to associate with.⁸³ Most of these thoughts are derived from what they think they know. Stigma can lead to harsher conditions and reduced sympathy for prisoners. The society's attitude towards crimes results in to discrimination against the prisoners, and this also affects their employment opportunities and social standing when they get released. This extend further to the prisons where the prisoners are usually treated as undeserving of humane conditions and the poor conditions in the prisons are usually overlooked since the society believes that the prisoners are criminals and therefore do not deserve any decent

⁸³ "CHALLENGING THE PUBLIC PERCEPTIONS OF PRISON" <https://nafisikatrust.home.blog/2021/06/18/challenging-the-public-perceptions-of-prison/>

treatment. This lack of concern therefore contributes to the ongoing human rights violations of the prisoners.

Stigma is also thought to lead to defensive behavior, distress, fear and the actual avoidance of situations which impairs functioning.⁸⁴

3.2 Hierarchies and Power dynamics.

The hierarchies and power dynamics within prisons can contribute to human rights violations. This section explores how factors such as ethnicity, gender and socio-economic status influence prisoners' experience within the Ugandan prison system. Power dynamics in prisons refers to distribution of power among stakeholders i.e. the prison staff, the inmates and the administrative authorities, determining who controls, who sets the rules and who enforces them. The prison staff hold power over the inmates and their everyday decisions including provision of basic needs such as healthcare, food and personal liberty. This creates an environment where abuse of power can occur with relative impunity. The authority of the prison staff may lead to abuse including physical violence and degrading treatment especially where the prison is not monitored. *Byabashaija* confirmed that there have been reports of torture in some prison facilities across the country and warned that officers and wardens who were reported for violating prisoners' rights will be held accountable and face severe disciplinary action.⁸⁵

However, the inmates also have hierarchies and these are influenced by factors like seniority, race or gang. These internal hierarchies give power to certain groups over others and may cause them to command respect and even engage in violence against the prisoners with lower

⁸⁴ "THE EFFECT OF STIGMA ON CRIMINAL OFFENDERS' FUNCTIONING: A LONGITUDINAL MEDIATIONAL MODEL* - PMC" <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4788463>

⁸⁵ Byabashaija warns prisons officials against torture of inmates" <https://nilepost.co.ug/news/188849/byabashaija-warns-prisons-officials-against-torture-of-inmates>

hierarchy. *Joel a prisoner at Murchison Bay Prison* stated that inmates are reluctant to report cases of torture perpetrated by fellow prisoners because in most cases, the prisoners are on orders of the warders themselves, therefore they cannot report cases of torture as they will be victimized. Fellow inmates were recorded as the major perpetrators of torture (77%) followed by the wardens at (33%)⁸⁶

3.3 Lack of Communication

Lack of communication by the inmates with their family and friends was considered a cause of stress and mental anguish within the inmates. This stress can make some of them violent as some plot to escape from prisons, hence causing upon themselves harsher treatment. This would in the end affect the observance of their rights because some of their rights will be restricted.

3.4 Health and Mental health in prisons.

This subsection discusses the prevalence of mental health issues among Ugandan Prisoners, including depression, anxiety and post-traumatic stress disorder. It explores how the conditions of confinement, social isolation and limited access to mental health care contributes to these challenges. In *Suzan Kigula v Attorney General*, court condemned the delay of three or more years in carrying out the execution of the death sentence that the wait and uncertainty had horrible effects on the mental health of the prisoners.⁸⁷ According to an article in the *Journal of the American Academy of Psychiatry and the Law*, isolation can be as distressing as physical torture.

⁸⁶ "OTHER CHALLENGES EXPERIENCED-issuu" https://issuu.com/avocatssafrontieres/docs/asf_baseline_survey_-_protecting_constitutional_as/s/17909144

⁸⁷ "Advocacy for the Progressive abolition of the Death Penalty-Foundation for Human Rights Initiative (FHRI) <https://fhri.or.ug/abolition-of-the-death-penalty/>

3.5 Impact of overcrowding and inhumane conditions.

Overcrowding and inhumane conditions are common in many Ugandan prisons. This sub-section examines how these factors affect prisoners' psychological well-being and contribute to human rights violations. It also considers the broader impact on prisons staff and overall prison environment. Overcrowding occurs when the rate at which people are incarcerated exceeds the rate at which other prisoners are released or die thereby freeing up prison space.

3.5.1 Sexual abuse and sexual behavior of inmates in prisons has a direct relationship with overcrowding in prison.⁸⁸ Prison sexuality is shaped by multiple levels of social life that are determined by mainstream culture and amplified by the characteristic subculture of correlational confinement. The former prisoners who return to society may exhibit sexual behavior that is largely shaped by their prior incarceration experiences.⁸⁹ In an interview, the UPS admitted that homosexuality secretly exists in Ugandan Prisons. It was also emphasized that the prevalence of HIV among prisoners is 7.2 times higher compared to adults in the general population. According to UNAIDS, HIV prevalence among people in prisons has increased by 13% since 2017 to date.⁹⁰

3.6 Security and Censorships

This is a challenge for the observance of the right to access of information by the prisoners as prisons often restrict the types of information prisoners can access due to security concerns. Censorship may limit prisoner's access to certain materials or communication channels, affecting their ability to stay informed. However, limited funding can also be a challenge because it will

⁸⁸ Carson and Golinelli (Carson, E. Ann. Prisoners in 2014 Washington DC: Bureau of Justice Statistics, 2015

⁸⁹ Damiano Kato, Miph Musoke and Robinah Mirembe; influence of overcrowding on change in sexual behavior of inmates in prisons of Uganda.

⁹⁰ "Uganda Prisons Challenge Link Between Homosexuality and Rising HIV Rates – Insights Post Uganda"
<https://insightpostug.com/uganda-prisons-challenge-link-between-homosexuality-and -risinghiv-rates/>

result to having outdated or inadequate information reaching the prisoners, reducing their ability to access information for education and personal development.

3.7 Risk of Exploitation and Forced Labour.

One of the biggest concerns of prison labor is the risk of exploitation and forced labour. Inmates often have limited bargaining power that they may be coerced into work without fair compensation or proper safety measures. The ILO emphasized that prison labour should not be forced or involuntary. The compensation given to the prisoners for their labour is also minimal as some usually get it as allowances

CHAPTER FOUR:

ANALYSIS AND FINDINGS

4.0 INTRODUCTION.

This chapter presents the analysis and findings of the research conducted in Jinja District, with a focus on the observation and protection of prisoner's rights in local prisons. Contrary to the common perception that prisons in Uganda are notorious for violating inmates' rights. This research reveals that prisons in Jinja district exhibit a commendable level of compliance with the established standards for prisoners' treatment. Through field observation and interviews, this chapter explores the extent to which prisoners' rights are respected, highlighting areas where prisons are performing well, as well as any challenges or areas for improvement.

The investigation examined various aspects of prisoners' rights, including access to food, medical care, legal representation, visits from family and friends and rehabilitation opportunities. The findings indicate that the prisons in the Jinja district generally meet these fundamental rights, suggesting a positive trend toward the humane treatment of inmates.

By presenting this analysis, the chapter seeks to provide an understanding of the realities within Ugandan Prisons, particularly those in Jinja district. While acknowledging that some prisons may face challenges or require further improvement, the results suggest that it is possible to maintain a prison system that respects human rights and treats prisoners with dignity. This chapter aims to contribute to a broader conversation about the state of prisons in Uganda and the potential for positive change.

The interviews were conducted with wardens and prisoners in Jinja District prisons, with emphasis on Bugembe Prison and Kirinya Prison. The interviews aimed to gather insights in to

the daily experiences of prisoners, the treatment they receive, and the general environment within the prisons. Additionally, the interviews with wardens were intended to understand their roles, perspectives on prisoners' rights and any challenges they face in maintaining a secure and humane prison system.

4.1 Demographics of the interviewees.

The interviews included 4 wardens and 17 prisoners across several facilities in Jinja District. The wardens ranged in rank from junior officers to the senior office who was the Prison officer in charge, with experience varying from a few years to over a decade. The prisoners included both male and female inmates, aged between 20 and 36 years. They all had varying lengths of imprisonment and offences.

4.2 Observance of Prisoners' Rights.

The interviews indicated that the prisons in Jinja district generally uphold the fundamental rights of prisoner. The following sub-themes emerged from the interview;

- **Adequate Food**

Prisoners reported receiving regular meals, with most describing the food as adequate in quantity. *“here you can eat until you stop yourself because the food is always too much”*⁹¹ the wardens also emphasized that ensuring proper food supply to the prisoners is a priority because it contributes to a healthier and more manageable prison environment. One prisoner stated *“we*

⁹¹ Said a prisoner at Bugembe Prison who was found cooking with other inmates

take porridge for breakfast, then we later have lunch and supper, it could be posho, potatoes or cassava. The food is not perfect but it is always enough.”

- **Medical care and health services.**

The prisoners’ right to access medical care was reported by the prisoners to be satisfactory. The prisoner mentioned that they have a clinic in the prison where they are taken for emergency or sicknesses that do not require referral to a hospital.⁹² Got an opportunity to see the clinic, it was not fully equipped but it was still functional. The prisoners also mentioned that the clinic was able to carry out routine check-ups. A warden mentioned that they have protocol for inmates who require referral to hospital and they are urgently taken to Jinja Referral Hospital in Jinja town.

The prisoners noted that water is very accessible and they always have it in good quantities. I observed the prisoners fetch water from the nearby water source in the compound of **Bbaba Fm.**⁹³

- **Clean and healthy environment.**

The prisons were found clean, with the women sweeping the compound, weeding around the premises and some mopping around the entrance. The men however were in charge of fetching water and collecting firewood.

- **Family Visits and Communication.**

The prisoners reported that they were able to receive visits from their families and friends. They also informed me that they were given permission to access a lawyer when they required to do so. A warden noted that visitations for prisoners is important because it helps them connect with the outside world and also supports their rehabilitation.

⁹² Interview with the prisoners from Bugembe Prison

⁹³ This was observed from Bugembe Prison

- **Beddings and Clothing**

Article 17 provides that every prisoner shall be provided with suitable clothing which shall in no manner be degrading or humiliating.⁹⁴

- **The relationship between Wardens and Prisoners.**

The interview of both the prisoners and the wardens showed that the two parties have a positive relationship between each other as they all acknowledge each other's roles in the prison. In regards to **respect**, a prisoner stated that *"the wardens here greet us in the morning and ask about how we are copying up in everyday, it is not an easy thing to find wardens greeting the prisoners, but here, they treat us like human beings."*⁹⁵ The prisoners also emphasized that the wardens do not mistreat them. However, they reported that the punishments given to them include cooking for a week, mopping, or digging for a week. They punishments were considered fair to the prisoners. They also noted that what they feared most was doing a dangerously wrong act, this would make the wardens write a day's extension on their sentence in prison, so this made them very cooperative while in prison.

The wardens emphasized that they encourage the prisoners to behave well, learn when they are given the opportunity to learn especially from the vocational skills they are provided with like tailoring and weaving, they also encourage them to raise concerns in regards to their work or stay with other inmates. "we usually have talks with the prisoners in the mornings and when we meet with them on the compound along the day"⁹⁶

⁹⁴ The Minimum Standard Rules for the Treatment of Prisoners

⁹⁵ A prisoner in Bugembe Prison.

⁹⁶ Stated a prison warden at Kirinya Prison

4.3 Prisoners' awareness of their rights.

15 out of the 17 prisoners interviewed knew some of their rights as provided by the law. They were given a chance to each name at least 5 rights that they know about as their rights. A number of them unanimously identified their right to food, medical care, visitations, freedom from torture and ability to meet their legal representatives.

When asked what they would change about the prison services and their conditions, a prisoner at Bugembe prison said *“the water tank here is very dirty, the prisoner in charge of keeping it does not care about it yet it is where we get our drinking water”* he proceeded angrily while showing me the water tank he was talking about. Another mentioned that the money they are given for doing work like digging for is very little yet they have to do a lot of work. It is important to note that they hesitated to talk about the exact amount of money they are given, but this shows that since everyone is entitled to fair pay for the work they have done and so are the prisoners. They are as much entitled to fair pay as the other Ugandans.

Both the prison wardens and the prisoners of Bugembe prison reported that they do not have any issues with overcrowding.

The prisoners however reported that the prison environment guides them in to finding a new path in their lives. They stated that the prison environment is not so challenging, *“I was a very dangerous and unruly man before I came here, even the day I was brought here, I fought with an inmate and broke his tooth, but now, I am a changed man, I can't wait to get out and take care of my daughter as good man and father”* said one of the prisoners at Kirinya prison.

4.4 CHALLENGES FACED IN THE PRISONS.

Despite the generally positive observations and feedback from the interviewees, some challenges and areas that need improvement were highlighted in the prisons.

4.4.1 Overcrowding and limited resources.

This is one of the challenges faced in the prisons. Though Bugembe prison did not have the challenge of overcrowding, Kirinya Prison identified that they have this problem. One of the wardens stated that they do their best but sometimes the number of inmates becomes too high and the space becomes limited for the prisoners. The overcrowding also becomes a strain on the resources and it makes the resources very limited.

4.5 ANALYSIS OF THE INTERVIEW.

According to the interviews, Jinja prison observes the prisoners' rights and also maintains humane environment. This research contrasts with the common perception of violations of prisoners' rights in Ugandan Prisons.

The wardens' commitment to fair treatment plays a key role in ensuring that prisoners' rights are respected. The open conversations between the prisoners and the wardens like the one observed in Bugembe Prison, contributes to a more harmonious environment in the prisons.

In addition, the ability of the prisoners to communicate with their family and friends through the visits supports their mental well-being and helps with their rehabilitation, this also encourages the prisoners to behave and therefore making the wardens' work easy and promoting a safe environment for the prisoners, free from violence. The prison wardens talked about their custodial duties which one of them said included keeping the prisoners in safe custody, taking

them to court safely whenever they had to appear before court and guiding the prisoners. They also make sure the prisoners eat food on time⁹⁷

The vigilance of the wardens also creates a key role in the ensurance of prisoners' rights. A warden explained that they have "*annual locks*", he explained this to mean the morning periods where they are opening the doors for the prisoners in the morning and they first ascertain whether the number of prisoners they locked up a night before was still the same number as the one they are opening for. This procedure keeps the prisoners on a safe side that would not involve violence against them in case they are caught trying to escape from prison.

⁹⁷ An interview with one of the wardens at Bugembe Prison

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSION.

5.0 INTRODUCTION:

Based on the findings and the analysis of my study, it is clear that while some prisons in Jinja district uphold most of the prisoners' rights, there are still areas requiring attention to ensure that all prisoners' rights are protected across all prisons in Uganda as a whole. Challenges like overcrowding and limited rehabilitation opportunities were identified. The recommendations have been explained herein under;

Overcrowding; To encounter the problem of overcrowding that in the long run also causes poor living conditions can be encountered by the justice system adopting alternative modes of incarceration. Options such as *electronic monitoring* or probation can help in reducing the challenge of overcrowding. Electronic monitoring can be called a form of digital incarceration; often in form of a wrist or ankle bracelet attached to the body that monitors a subject's movements and location.⁹⁸ Though some people believe that EM will be a good escape route for criminals as they will not face the true gravity of their punishment to their crime and they will easily commit the same crime they committed a little while ago, it has been noted that EM actually have negative impacts on the subjects. EM can still have negative psychological impacts on offenders and home detention still limits freedom.⁹⁹ *Vanhaelemeesh* notes that EM diminishes

⁹⁸ "Electronic Monitoring as an alternative to Incarceration – AZZOPARDI BORG & ASSOCIATES ADVOCATES"
<https://abalegal.eu/electronic-monitoring-as-an-alternative-to-incarceration/>

⁹⁹ Delphine Vanhaelemeesh, 'Experiencing electronic monitoring' (2014) *Criminal Justice Matters* 95 (1) 12, 13.

the social activities of the co-residents, as they feel guilty about leaving the offender at home due to their restrictions.¹⁰⁰

Educational and rehabilitation opportunities; Education and rehabilitation are crucial for the successful reintegration of prisoners in to society. This section explores the availability and quality of educational and rehabilitation programs in Ugandan prisons. As part of rehabilitation, *Mugume* a prisoner, completed a diploma in entrepreneurship and was introduced to commercial agricultural practices, this has given him the opportunity to have money whenever he needs to. This is a sign that all prisoners who desire to study should be given the opportunity to do so, so that they are able to get a source of income when they get back in the society.

Partnerships with NGOs; The UPS should collaborate with NGOs to enhance the quality and variety of the rehabilitation programs. These can also develop effective educational and vocational initiatives.

The Ministry of finance should also **increase the budget allocation to Uganda prisons**. The funds will enable the prison service to provide adequate services to the prisoners that they cannot be able to access without the funds. Currently, the budget allocated to prisons is not enough and this is why some prisoners do not have beddings and some get insufficient funds.

However, there is a challenge of *Case backlog* in the Judiciary, where many prisoners are kept in custody for longer than they would have been had their cases been handled by court in time. Case backlog refers to uncompleted cases which have stayed in the justice system for more than two years from the date of filling without judgement being passed.¹⁰¹ However, a few proposals have been made to *eliminate the issue of case backlog* so that courts can properly meet their

¹⁰⁰ ibid

¹⁰¹ "court case backlog – justice centres Uganda" <https://justicecentres.go.ug/gloassary/court-case-backlog-2>

purpose and the prisoners also be able to have their matter handled. Some proposals include; that judges should spend more time in the court room handling cases and reduce the amount of events that the judges attend and disrupt ordinary work of court, the judiciary should also weed out nonstarter cases so that cases that are not relevant can be taken off the list in order to give the relevant cases a chance and time to be handled by the courts.¹⁰² This is a great way to encounter case backlog and also create an opportunity for prisoners to answer to their cases and be heard.

In response to the matter of sexual abuse, prisoners should be granted conjugal rights and visits. A conjugal right is a scheduled period in which an inmate is permitted to spend several hours or days in private with a visitor, usually their legal spouse. The parties may engage in sexual activity.¹⁰³ *Mr. Simeo Nsubuga (NRM – Kasanda South)* argued that prisoners did not lose all their constitutional rights, so they were still entitled to conjugal rights as part of their freedoms.¹⁰⁴ Although I disagree with the notion that the prisoners should stay with their spouses for a couple of days for this activity regarding the fact that we may never know how dangerous it is to leave an inmate with an outside person for such a long time, ideally, the prisoners could have a scheduled period or just one day to enjoy this right with their partners.¹⁰⁵

It is important to note that the debate on conjugal rights in Uganda has not yet escalated but it should be considered. The ability for the prisoners to have their partners for the sexual intercourse would reduce the urge of some from forcefully abusing other inmates sexually. This would therefore be a good solution for this problem and so will the levels of homosexuality and other forms of sexual abuse reduce in the prisons.

¹⁰² The report of the case backlog reduction committee, 29th March, 2017

¹⁰³ Ssentongo Yakub; (The right of inmates to conjugal rights. Uganda in Perspective) UNILAG LAW REFORM vol. no1

¹⁰⁴ M. Kyeyune, 'MPS disagree over conjugal rights for convicts' www.monitor.co.ug/News/National/Mps-disagreeconjugalrightsinmates/688334-3486242-u74nd0z/index.html

¹⁰⁵ *ibid*

The prison service and the government have a duty to *observe health in the prisons*. Extra attention on this subject would reduce the problem of poor health services in the prisons. According to my observation, the clinics in the prisons did not have enough supplies and some prisoners reported that some tablets were out of stock. Government should therefore ensure the quality of the centres is adjusted, make health a priority and provide very skilled doctors to prisons. They should also ensure enough supply of medication so that all prisoners are catered for.

Each prisoner should also have a confidential clinical health record giving all essential details of the individuals' health profile.¹⁰⁶ This is important because it guides the wardens in knowing which inmates shall be subjected to what amounts of work and which ones are not healthy enough to handle that assignment. In addition, the ones that have illnesses like AIDS will be followed up and will be encouraged to collect their medication on time.

5.1 CONCLUSION.

The research conducted in the prisons of Jinja district reveal that despite the common perceptions of widespread violations, that the prisoners' rights are routinely violated, these facilities generally observe prisoners' rights and provide a safe environment. The key factors contributing to this positive trend include open communications between the prisoners and the wardens and the focus of the wardens on the basic needs of the prisoners. The positive trend suggests that with effective management and focus on basic human rights, prisons have the ability to create humane environment for the prisoners.

¹⁰⁶ The kampala declaration.

The study also identified challenges like limited rehabilitation programs that makes it hard for prisoners to reintegrate in the society and the issue of overcrowding that sometimes becomes inevitable in Kirinya Prison. The conclusion drawn from this research contribute to a broader understanding of the prison conditions in Uganda and it also offers insights on how other prisons can improve their practices. Prisons can therefore create a humane environment to the prisoners because despite the fact that they are criminals, they are still human who have human rights.

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APPENDICES

APPENDIX 1

INTERVIEW QUESTIONS FOR PRISONERS.

1. Why were you imprisoned and for how long have you been here?
2. Can you describe the general living conditions in this prisons?
3. Are you aware of your rights? If yes, mention 5 rights that you know of.
4. Do you feel those rights are being upheld by the staff in this prison?
5. How do you describe the way you are treated by the wardens?
6. Have you witnessed or experienced any form of abuse or mistreatment?
7. Do you have access to adequate water, food and healthcare?
8. What about educational and vocational programs? Do you enjoy any of those opportunities in this prison?
9. How is the communication with your family and legal representatives? Are you allowed to meet them? If yes, what days of the week are you allowed to?
10. Do you work?
11. Do you get paid for the work done? If yes, how are you paid?
12. Are there any specific areas where you think improvement is needed?

APPENDIX 2

INTERVIEW QUESTIONS FOR WARDENS.

1. How do you describe prisoner?
2. Do you believe the Prisoners have rights? If No, give reasons why.
3. What are your primary responsibilities in the prison?
4. How do you ensure the safety and security of the prisoners?
5. What protocols are in place to ensure that all prisoners are treated with respect and more so fairly?
6. How do you address the complaints of the prisoners?
7. Can you describe the prison's daily operations?
8. How do you manage overcrowding if it is an issue in your facility?
9. What rehabilitation or educational programs are available at this prison?
10. How successful do you think these programs are in helping the prisoners when they leave the prison?
11. Prisoners are entitled to health care and adequate meals, do they enjoy these rights in this facility?
12. What areas do you think are open to improvement?