

**THE LEGAL ANALYSIS OF THE HUMAN RIGHTS FOR THE PEOPLE IN DETENTION: A
CASE STUDY OF LUZIRA PRISON**

LENAH ATUHAIRE

2024/APRIL/LLB/AS2011/869/DAY

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW, IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE AWARD OF A DEGREE OF BACHELOR OF LAWS OF
UGANDA CHRISTIAN UNIVERSITY**

April, 2024



**UGANDA CHRISTIAN
UNIVERSITY**

A Centre of Excellence in the Heart of Africa

DECLARATION

I, **Atuhaire Lenah** declare that this dissertation titled “**The Legal analysis of the Human Rights for the people in detention: a case study of Luzira prison**” is my original work and has been not submitted to any Institution of learning for any award.

Signed: **Date:**

Atuhaire Lenah

APPROVAL

This dissertation titled “**The Legal analysis of the Human Rights for the people in detention: a case study of Luzira prison**” was done under my supervision as Institute Supervisor and has been submitted upon my approval.

Signed: **Date:**

Supervisor

Rev. Ronald Mukose

DEDICATION

I dedicate this work to my dear parents Rev DR Gordon Karuhanga and Mrs Justine Lenah Karuhanga, His Worship Matyama Paul, my beloved brothers, Grace, Yubu, Albert my sisters Lyn and Rabecca. And to my friends Alizick, Hannah, Esther, Monica, Veronica, Mercy, Karim

ACKNOWLEDGEMENT

The past four years of my study have involved hard work, reading, discussing, writing and rewriting. Not an easy process to do considering that such research is individually undertaken. But there was always a light at the end of the tunnel, present by the end result of the hard work.

However, undertaking such step and completing it would not have been possible to do if it was not for the guidance, help, patience of my parents, brothers and sisters, who supported me financially and have always been there to help provide their invaluable advice; cooperation has not been limited to academic matters but also present in all other aspects. For all of that I have to say thank you and I would like to express respect and gratitude.

I am heavily indebted to my supervisor Rev Ronald Musoke whose assistance, guidance, supervision and patience has not only boosted my intellectualism but has also enabled me to produce this material work.

I also wish to send my gratitude to all my friends, colleagues and classmates of Uganda Christian University for having accepted me as a friend and colleague. They inter alia include Alizick and Monica and my friend Monica who assisted me in assembling my work.

TABLE OF CONTENTS

DECLARATION.....	i
APPROVAL	ii
DEDICATION.....	iii
ACKNOWLEDGEMENT.....	iv
TABLE OF CONTENTS	v
LIST OF ABBREVIATIONS	viii
SYNOPSIS.....	ix
CHAPTER ONE	1
INTRODUCTION.....	1
1.1 Background of the study	1
1.2 Statement of the problem.....	4
1.3 Purpose of the study.....	6
1.4 Objectives of the study	6
1.5 Research Questions.....	6
1.6 Scope of the study.....	6
1.6.1 Content Scope.....	6
1.6.2 Geographical Scope	7
1.6.3 Time scope.....	7
1.8 Significance of the study	7
1.9 Justification of the study	7
LITERATURE REVIEW	9
2.0 Introduction.....	9
2.1 Theoretical Review	9
2.2 Physical environment in prison and human rights for the people in detention.....	12
2.3 Prisoner rehabilitation and human rights for the people in detention.	15
CHAPTER THREE	20
RESEARCH METHODOLOGY	20
3.0 Introduction.....	20

3.1 Research Design	20
3.2 Study Population.....	20
3.3 Sample size determination	20
3.4.1 Purposive sampling.....	21
3.4.2 Simple random sampling.....	21
3.5 Data Collection Methods	21
3.5.1 Interviewing.....	21
3.5.2 Documentary Reviews	21
3.5.3 Focus Group Discussion (FGD)	22
3.5.4 Observation method.....	22
3.6 Data collection instruments.....	22
3.6.1 Interview guide.....	22
3.6.2 Documentary review checklist	22
3.6.3 Focus Group Discussion Guide.....	22
3.6.4 Observation checklist.....	23
3.7 Data processing	23
3.8 Data analysis.....	23
3.9 Limitations/ Challenges	23
3.10 Ethical Considerations.....	24
CHAPTER FOUR.....	25
PRESENTATION, ANALYSIS AND INTEPRETATION OF FINDINGS	25
4.1 Prison as a Community	25
4.2 Discussions of the findings.....	26
4.2.1 Physical environment in prison and human rights for the people in detention	26
4.2.1.2 Food and nutrition in the prison.....	28
4.2.1.3 Water, hygiene and sanitation	29
4.2.2 Prisoner rehabilitation and human rights for the people in detention	29
4.2.2.1 The Nature of Prisoner Rehabilitation in the Luzira Maximum Prison	30
4.2.2.1.1 EDUCATION PROGRAMS.....	31
4.2.2.1.2 VOCATIONAL AND SKILLS TRAINING	34
4.2.2.3 FARMING AS REHABILITATION	35

4.2.3 Accountability in prison and human rights for people in detention	36
SUMMARY, DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS.....	38
5.0 Introduction.....	38
5.1 Summery of the findings	38
5.1.1 Physical environment in the prisons	38
5.1.2 Rehabilitation in the prison.....	39
5.1.3 Accountability in prison	40
5.2 Recommendations	41
5.3 Limitations to the study.....	42
5.4 Areas for further study.....	43

LIST OF ABBREVIATIONS

AIR	ALL INDIAN REPORTS
ECOSOC	ECONOMIC AND SOCIAL COUNCIL
ESCR	ECONOMIC SOCIAL AND CULTURAL RIGHTS
FHRI	FOUNDATIONS FOR HUMAN RIGHTS INITIATIVE
HRW	HUMAN RIGHTS WATCH
ICCPR	INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
ICPS	INTERNATIONAL CENTRE FOR PRISON STUDIES
ICRC	INTERNATIONAL COMMITTEE OF THE RED CROSS
ISO	INTERNAL SECURITY ORGANISATION
JLOS	JUSTICE LAW AND ORDER SERVICES
SIP	STRATEGIC INVESTMENT PLAN
SMRTP	STANDARD MINIMUM RULES FOR TREATMENT OF PRISONERS
TB	TUBERCULOSIS
UBOS	UGANDA BUREAU OF STATISTICS
UDHR	UNIVERSAL DECLARATION OF HUMAN RIGHTS
UHRC	UGANDA HUMAN RIGHTS COMMISSION
UN	UNITED NATION
UNHR	UNITED NATION HUMAN RIGHTS
UPS	UGANDA PRISONS SERVICE

SYNOPSIS

A short epitome of the topic which make up constitutional law and the human rights of the people in detention (Luzira prison) and the order in which they are treated in this paper probably gave a clear idea of its subject matter and they were catalogued as follows

Chapter One, entails the back ground of the study, statement of the problem, purpose of the study, objectives of the study, research questions, research hypothesis, scope of study, significance of study, and justification of study.

Chapter Two, covers the literature review including theoretical review, physical environment in prison and human rights for the people in detention, prisoner rehabilitation and human rights for the people in detention and accountability in prisons and human rights for the people in detention.

Chapter Three, highlights the methodology that was used during the study. It consists of the research design, study population, sample frame, data collection methods and instruments, data processing, limitations and ethical considerations.

Chapter Four, entails the findings and discussion of human right violation in Luzira maximum prison. It entails deep analysis and discussion with the SWRO, ASPs and the detainees in the prison. This chapter therefore details my findings and analysis in the light of physical environment, prisoner rehabilitation and accountability.

Chapter five, presents the summary and discussion of findings while making reference to other available literature. The chapter further presents recommendations and areas for further studie

CHAPTER ONE

INTRODUCTION

1.1 Background of the study

The concept of human rights is closely allied with ethics and morality; we can therefore state that rights are what are morally good and acceptable in a society. Chapter four (4)¹ stipulate the protection and promotion of fundamental and other human rights and freedoms to all Ugandans. Lazarus² outlined that prisoners occupy a special position in the rights debate because they are in an unusually close relationship with the state. The human rights situation of prisoners relates to prison populations as much as it reflects, among other factors, the quality of a country's penal system and prison culture.³

It is submitted by this paper that prisoners are human beings and they are that entitled to freedom of expression, freedom from discrimination and equality, freedom from torture. Right to the fair hearing but however they should only be denied the freedom of liberty and movement since they are paying for their crimes committed.⁴ Imprisonment creates a completely new experience for many, in a unique kind of context. Prisoners are completely under the control of other people, who on a daily basis influence their most basic human activities and concerns. This includes regulation of access to medical facilities, work, education, feeding and performance of bodily functions, as well as rights to religious practice and contact with the outside world.⁵

At the same time, prisoners are expected to reform their ways and return to society as better people. The lack of Convention dealing specifically with the treatment of prisoners and prisoners' rights as a whole has meant that various sets of guidelines and model standards formulated by the United

¹ The 1995 Constitution of the Republic of Uganda

² Lazarus, L. (2004). *Contrasting prisoners' rights a comparative examination of Germany and England*. Oxford: Oxford Univ. Press.

³ Sarkin-Hughes, J. (2008). *Human rights in African prisons*. Cape Town, South Africa; Athens, Ohio: HSRC Press; Ohio University Press.

⁴ The 1995 Constitution of the Republic of Uganda

⁵ Munakukaama, J. N. (2005). *The Treatment of Prisoners in Africa Social and Religious Concerns of East Africa: A Wajibu Anthology*. Nairobi: G. J. Wanjohi.

Nation comprised of particular significance in indicating standards agreed by a consensus of the international community

ECOSOC⁶ endorsed standard minimum rules of the treatment of prisoners which were the first of the guidelines adopted by the United Nation congress on the prevention of crime and treatment of offenders. The Rules provide for the basic principles of impartiality and non-discrimination, the Rules further outlines specific aspects of prison conditions from food to recreational facilities⁷. The Rules further more describe the appropriate treatment for specific categories of prisoners including prisoners serving sentences, insane mentally abnormally prisoners, those under arrest and on remand pending trial and civil prisoners.

Although the Standard Minimum Rules are not binding in International Law, they are considered of use in guidance as to the requirements of Article 10⁸ of International Covenant on Civil and political Rights requiring human treatment and a prison system with the essential aim of reformation and rehabilitation.

Since the adoption of the Rules, the UN has regularly surveyed their implementation and from 1984 member states were required to formally report on their progress on implementation. A United Nation General Assembly Resolution on Basic Principles reaffirmed the principles underlying the treatment of prisoners which was adopted and proclaimed by the General Assembly resolution 45/111.⁹

In the case of *Sunhri v Dehli Administration*¹⁰, the Supreme Court of India emphasised the need for humane treatment of prisoners. The court observed “Are prisoners’ persons? Yes, to answer this in the negative part of it is to convict the nation and constitution of this dehumanization and to repudiate the world legal order which recognises the rights of prisoners to which our country has signed asserts”.

While the government of Uganda has over time done its best to ensure that the prisons are a better place for reformation and rehabilitation, the inmates still remain one of the marginalized groups in

⁶ Economic and Social Council (ECOSOC, 1957)

⁷ Standard Minimum Rules of Treatment of Prisoners

⁸ International covenant on Civil and Political Rights

⁹ UN Human Rights, 14 December 1990

¹⁰ (1980) AIR 1582

the country and more in the world. The trend in the world today is that once one is convicted and locked up, they cease to exist. To those who contributed this mentally inconsequential prison has actually lost meaning in Uganda today because it has failed in its purpose in its first places of reformation and rehabilitation.

Overcrowding of prisons is common in Uganda. The International Centre for Prison Studies (ICPS)¹¹ reported that while the official capacity of the Uganda prison system was 15,000 the prison population had reached 39,394 by December 2013. This implied an occupancy level of 252%. Moreover, as the Uganda Human Rights Commission (UHRC)¹² reports, limited infrastructure development had been undertaken by the UPS to accommodate the ever-surging numbers of inmates. This chronic overcrowding had consequences for prisoners such as poor hygiene and ill health (Dissel, 2008). On top of the overcrowding; shortages in food, beddings, medical supplies and treatment, and overall lack of recreation facilities constitute many of the challenges facing the prisons in Uganda.¹³ It also diminished both the scope and capacity of educational or work programs due to excessive demand and poor space provision. Luzira Maximum Security Prison in particular, the country's largest, housed 8,500 inmates, yet its capacity was 3,000.¹⁴

Hard labour and mistreatment are the other commonly reported practices in Uganda's prisons. The Human Rights Watch¹⁵ noted that prisoners in Uganda are subjected to long hours of crop cultivation, fetching water and firewood. They work in oppressive conditions of heat and rain, and are sometimes intentionally denied food, water, or bathroom breaks. They are beaten for being slow or handcuffed, stoned or burned if they refuse to work. Vulnerable prisoners including children, the sick, the elderly and pregnant women are also beaten and forced to work. HRW¹⁶ observed that this is contrary to the 1955 UN Standard Minimum Rules for the Treatment of Prisoners that Uganda has committed to observe, which provides that prison labour must not be

¹¹ The International Centre for Prison Studies (ICPS) December 2013

¹² Uganda Human Rights Commission (UHRC), 2013

¹³ Auditor General. (2010). Value for Money Audit Report on the Uganda Prison Service: Provision of Basic Necessities to Prisoners. Kampala: Office of the Auditor General.

¹⁴ Uganda Human Rights Report, 2017

¹⁵ Human Rights Watch (14 July 2011) *Uganda: Forced Labor, Disease Imperil Prisoners*

¹⁶ Ibid

afflictive but rather of a vocational nature, and prisoners should be allowed to choose the type of work they wish to perform.

Another human rights derogation that prisoners in Uganda face is prolonged detentions, which arise from inordinate delays in the execution of justice. Prisoners take long awaiting trial leading to large numbers of remand suspects. The Uganda Human Rights Commission observed that in 2013 alone, the remand population grew at 1.8% compared to the convict population, which grew at only 0.3%. The Commission further noted that 56% of the prison population had never been convicted of any crime yet they continued to stay in prison for years.¹⁷

Based on the above argument, the main intention and focus of this research was to find out whether or not prisoners do enjoy their rights as humans. This objective was achieved by a detailed study of the conditions in Luzira Prison in Uganda and how they affect the enjoyment of the basic rights and freedom. The motivation behind carrying out of this research was the fact that prisoners are one of the largest most marginalized groups in the country and more so in the world. The best way to deal with this problem was to start looking at prisoners as human beings and not things that are a liability to society and need to be discarded. The case study in this research was Luzira prison Uganda. Luzira prison stretches across a hill 12 km South East of Kampala overlooking Lake Victoria. The Upper maximum prison is a grim relic of colonial days built in 1920's for a population of 500. Luzira prison is the largest prison in the country and is a home to over 5000 inmates and 3000 prison staff and their families living in the barracks. The prison has a huge compound that comprises of remand to maximum security personnel, a chapel and houses for the personnel and their families. It accommodates both female and male prisoners, the women at Murchison Bay, and male inmates at the Upper maximum. It further accommodates both the inmates convicted

Based on the above fact, the researcher felt there were many factors constituting to human rights violations of inmates at Luzira maximum security prison.

1.2 Statement of the problem.

Fundamental rights for people in detention only suffer shrinkage necessitated by incarceration. Imprisonment does not take away the fundamental rights of prisoners. The treatment accorded to

¹⁷ Uganda Human Rights Commission report, 2013

people in detention must not be inconsistent with the notion of human dignity under the Ugandan Constitution of 1995.

Chapter four (4)¹⁸ of the 1995 Constitution of the Republic of Uganda stipulates the protection and promotion of fundamental and other human rights and freedoms to all Ugandans. It is submitted by this paper that prisoners are human beings and that they are entitled to freedom of expression, freedom from discrimination and equality, freedom from torture. Right to fair hearing but however they should only be denied the freedom of liberty and movement since they are paying for their crimes committed.¹⁹

Whereas International standards for the treatment of prisoners have steadily evolved since the United Nation was established, the inmates in Luzira prison still remain one of the marginalized groups in the country like any other part of the world. Prison conditions have remained harsh and frequently life threatening.

According to the International Centre for Prison Studies, as of 2007 there were over 26,000 individuals behind bars in the country's 224 prisons, twice the official capacity of the prison system. More than 500 prisoners die annually as a result of poor diet, sanitation, and medical care. Pre-trial detainees constitute more than half of the prison population.²⁰ The Overcrowding, compounded by dilapidated prison infrastructure and delays in the judicial process, continued to affect the wellbeing of detainees in prisons administered by the Uganda Prisons Service.²¹ The overcrowding was further confirmed by the Inspector General of Prisons Johnson Byabashaija who on June 19 told local media that the Uganda Prisons Service (UPS) held 55,784 inmates, yet its capacity was 22,000. Luzira Maximum Security Prison in particular, the country's largest, housed 8,500 inmates, yet its capacity was 3,000.²²

While serious problems in prisons outside of Kampala included congestion, inadequate staff, and lack of food, water, medical care, and bedding; these challenges are also faced by Luzira Prison although FHRI reported that access to medical care improved during the year, especially for HIV/AIDS patients in prisons in Lira, Apac, and Luzira. Overcrowding, malnutrition, poor

¹⁸ The 1995 Constitution of the Republic of Uganda

¹⁹ Chapter 4, 1995 Constitution of the Republic of Uganda

²⁰ Freedom House, 16th July 2009, Freedom in the world 2009, Uganda

²¹ International committee of the Red Cross Annual Report 2008, Uganda.

²² Uganda Human Rights Report , 2017

sanitation, disease, overwork, and lack of medical care resulted in 149 prisoner deaths nationwide, according to the Prisons Service.²³

The congestion and other aforementioned challenges like poor diet, poor sanitation, poor medical care, disease, overworking, inadequate staff and bedding are believed by the researcher to have interfered with the basic human rights of the inmates. Based on the above fact, the researcher felt there were many factors constituting to human rights violations of inmates at Luzira maximum security prison. Therefore, in my research, I laboured to find out means to rectify the violation of human rights for the people in detention.

1.3 Purpose of the study

The purpose of the study was to assess the situation of the human rights for the people in detention within the context of Luzira Prison.

1.4 Objectives of the study

The study was guided by the following objectives:

- i. To establish the effects of Physical environment in prison on human rights for the people in detention.
- ii. To find out the effect of prisoner rehabilitation on human rights for the people in detention.
- iii. To find out the effect of accountability on human rights for the people in detention

1.5 Research Questions

- i. How does the Physical environment in prison affect the human rights for people in detention?
- ii. How does the prisoner rehabilitation affect the human rights for people in detention?
- iii. How does accountability affect human rights for the people in detention?

1.6 Scope of the study

1.6.1 Content Scope

The research study mainly focused on the legal analysis of human rights for the people in detention.

²³ United States Department of State (25 February 2009), Country Reports on Human Rights Practices Uganda

1.6.2 Geographical Scope

The research study was carried out within Luzira Maximum Security Prison; the largest government prison in the country.

1.6.3 Time scope

The research study was mainly focused on a period of 7 years from 2016 and 2023.

1.8 Significance of the study

The findings of this study will be relevant to the Uganda prisons service and ministry of Internal affairs since it would have brought out the existing living conditions in prisons and as such will enable them to address the existing human right concerns in prisons.

The findings of this study would enable the Ugandan Parliament and Ministry of Finance to allot sufficient funding for the budget for Ugandan prisons to ensure conditions consistent with international standards without reliance on the income generated by the forced labour of convicted or physically unfit inmates.

The study will also enable the researcher to fulfil the requirements for the award of Bachelor of Laws at Uganda Christian University.

1.9 Justification of the study

Fundamental rights for people in detention only suffer shrinkage necessitated by incarceration. Imprisonment does not take away the fundamental rights of prisoners. The treatment accorded to people in detention must not inconsistent with the notion of human dignity under the Ugandan Constitution of 1995. Whereas International standards for the treatment of prisoners have steadily evolved since the United Nation was established, the inmates in Luzira prison still remain one of the marginalized groups in the country like any other part of the world.

Prison conditions have remained harsh and frequently life threatening. The Overcrowding is the situation when a place contains too many people than is comfortable, safe, or permissible. The Uganda's largest prison, Luzira, near the capital Kampala was designed to hold 600 inmates but the number of inmates in Luzira prisons has doubled in the past years to over 18,000 causing dangerous overcrowding, investigations are slow which leads to delays in cases being disposed of.

There is overcrowding in the Luzira Prisons and many of the prisoners are held on remand.²⁴ This overcrowding has led to outbreaks of disease among the inmates, a reduction in food rations and problems in transporting prisoners from the cells to the law courts.

Delays in the judicial process, investigations are slow which leads to delays in cases being disposed of and there continued to affect the wellbeing of detainees in prisons administered by the Uganda Prisons Service.²⁵ The congestion and other aforementioned challenges like poor diet, poor sanitation, poor medical care, disease, overwork, inadequate staff and bedding are believed by the researcher to have interfered with the basic human rights of the inmates and that is why the researcher found it necessary to carry out a study to analyse the situation the human rights for the people in detention.

²⁴ News conference, Uganda Prison Service spokesperson Frank Baine

²⁵ International Committee of the Red Cross (ICRC) (27 May 2008) ICRC Annual Report 2007-Uganda

LITERATURE REVIEW

2.0 Introduction

This chapter presents scholarly writings about the study obtained from secondary sources of information that included reports, journals, publications, textbooks, dissertations, newspaper articles and Internet. The chapter looked at the theoretical review and factors-objectives that influence the violations of human rights of people in detention.

2.1 Theoretical Review

The study was underpinned by the rights-based approach to social policy which connoted the introduction of a set of institutions and policies within a society that secured every member's reasonable access to a social minimum. It ensured that policy spoke to national and international human rights standards, and that policy delivery was not contravening these rights and entitlements. As espoused by Marshall²⁶, these rights, characterised by the Universal Declaration of Human Rights (UDHR) as Economic Social and Cultural Rights (ESCR), related to the ways and means by which human beings obtained livelihoods and were able to participate in the human society.

Transposing this understanding of social (welfare) rights to the prison community, Ward²⁷ posited that the key human rights ingredient is dignity: that prisoners have a right to be included with dignity, parity of participation and the avoidance of systematic social inequalities. The concept of dignity designates the equal moral worth or value of all human beings. Individual's inherent dignity grounds their authority to claim basic entitlements to resources and non-interference from others in pursuit of justified goals.²⁸ It also connotes the right to participate in society and it reflects the status of the individual as a person seen to be important.²⁹

²⁶ Marshall 1950 cited in Hartley, 2007

²⁷ Ward, T. (2009). Dignity and Human Rights in Correctional Practice. *European Journal of Probation*, 1 (2), 112-127.

²⁸ Nussbaum, M. C. (2006). *Frontiers of justice: Disability, nationality, species membership*. Cambridge, Mass.: The Belknap Press: Harvard University Press.

²⁹ Muntingh, L. (2007). *Prisons in South Africa's Constitutional Democracy*. Braamfontein, South Africa: Centre for the Study of Violence and Reconciliation.

Human rights are further grounded in the theory of dignity and can be conceptualised as moral (and their accompanying legal) norms that are designated to protect the core needs, capacities, and experiences of all human beings. In other words, the purpose of human rights is to ensure that the inherent dignity of all human beings is maintained. If they are violated it will result in diminished and broken lives.³⁰ Individuals (including offenders) hold human rights simply because they are members of the human race, and as such are entitled to a life characterised by dignity.³¹ Hence, correctional practice ought to be implemented in accordance with the dignity and rights of offenders.³²

At the same time, rights imply duties. Since all people possess equal dignity, each person has a corresponding obligation to respond appropriately to other people's legitimate claims. Therefore, whatever entitlements are extended to offenders, these should always be balanced against the core interest and core human rights of others and the safety of the community at large. This conceptual connection between human rights entitlements and obligations fits well with the aims of offender rehabilitation, that is, wellbeing enhancement of the offender and risk reduction to society.³³

Ward³⁴ asserted that correctional practice bears the duty to acknowledge the inherent potential of each prisoner to contribute to society and be able to lead a socially reasonable and crime free life. It is the expectation therefore that even though prisoners' movements are confined, they should be able to enjoy human rights as much as it is possible, without undue regard to their legal status. It is in this spirit that Justice Hoexter's of South Africa opined thus: "... *prisoners were entitled to all their personal rights and personal dignity not temporarily taken away by law or necessarily inconsistent with the circumstances in which they had been placed ...*".³⁵ This opinion implied that imprisonment per se is not a justification for the limitation of prisoners' rights, except those that are absolutely necessary to curtail in order to implement the sentence.³⁶ This requirement is also

³⁰ Griffin, J. (2008). On human rights

³¹ Ward, T. (2009). Dignity and Human Rights in Correctional Practice. *European Journal of Probation*, 1 (2), 112-127.

³² Lazarus, L. (2004). *Contrasting prisoners' rights a comparative examination of Germany and England*. Oxford: Oxford Univ. Press.

³³ Ward, T. (2011). Human Rights and Dignity in Offender Rehabilitation. *Journal of Forensic Psychology Practice*, 11 (2/3), 103-123. doi: 10.1080/15228932.2011.537580

³⁴ Ibid

³⁵ August & Anor v Electoral Commission & others, 1999

³⁶ Muntingh, L. (2007). *Prisons in South Africa's Constitutional Democracy*. Braamfontein, South Africa: Centre for the Study of Violence and Reconciliation.

emphasised in the African Charter on Prisoners' Rights and Uganda's Prison Act, 2006, section 57.

Ward³⁷ however discussed four implications for adopting human rights-based approach to offender treatment. First, he noted the importance of avoiding unjustified discrimination on grounds such as offenders' ethnicity, religious beliefs, occupation, and gender. He alluded to more persuasive grounds for discrimination, for example, the type and severity of prisoners' offence and their assessed level of risk. Ward and Bridgen³⁸ observed that 'high risk' or 'serious' offenders are subject to additional levels of security meaning that they already have less access to goods such as joint leisure, vocational training, and educational resources.

Secondly, is the dilemma of dealing with inevitable pressures towards paternalism, which if present poses a threat to human rights. Beauchamp and Childress³⁹ defined paternalism as the intentional restriction or overriding of a subordinate person's preferences or freedoms by those in authority. If paternalism is unjustified, it violates the autonomy and freedom requirements of human rights and therefore is ethically unacceptable.⁴⁰

Thirdly is the need to adopt a desistance program approach. Kazemian⁴¹ defined desistance as a termination point, "the last officially recorded or self-reported offence." According to Laws and Ward⁴², desistance-oriented programs focus on the offenders' social environment beyond the correctional orbit, and therapeutic efforts aim to equip them with strengths to tap into desistance opportunities such as employment, education, and relationships. Ward⁴³ opined that from a human rights perspective, desistance-oriented rehabilitation is more responsive to offenders' specific

³⁷ Ward, T. (2011). Human Rights and Dignity in Offender Rehabilitation. *Journal of Forensic Psychology Practice*, 11 (2/3), 103-123. doi: 10.1080/15228932.2011.537580

³⁸ Ward, T., & Birdgen, A. (2007). Human Rights and Correctional Clinical Practice. *Aggression and Violent Behaviour*, 12, 628-643.

³⁹ Beauchamp, T. L., & Childress, J. F. (2009). *Principles of biomedical ethics*. New York: Oxford University Press.

⁴⁰ Ward, T. (2011). Human Rights and Dignity in Offender Rehabilitation. *Journal of Forensic Psychology Practice*, 11 (2/3), 103-123. doi: 10.1080/15228932.2011.537580

⁴¹ Kazemian, L. (2007). Desistance from Crime: Theoretical, Empirical, Methodological, and Policy Considerations. *Journal of Contemporary Criminal Justice*, 23 (1), 5-27

⁴² Ward, T. (2011). Human Rights and Dignity in Offender Rehabilitation. *Journal of Forensic Psychology Practice*, 11 (2/3), 103-123. doi: 10.1080/15228932.2011.537580

⁴³ Ibid

needs and values; thus, participating in well-structured desistance-oriented rehabilitation will increase the likelihood of that individuals will seek out desistance opportunities after release.

The fourth implication is that correctional practitioners need to work with offenders to promote good or better lives rather than adopting a simple risk reduction and management approach. Ward and Maruna⁴⁴ suggested that rehabilitation should aim to help offenders acquire competencies and social opportunities and supports necessary to realise their endorsed personal goals.

From the discussed approach above, more attention should therefore be attached dignity of human beings, including offenders, giving rise to their equal moral worth; and that human rights are meant to protect this dignity. As such, the prison should adopt a more correctional approach in attempt to deliver programs that respond to the needs and aspirations of offenders, and that, their conditions within prisons do not fall below acceptable human rights standards.

2.2 Physical environment in prison and human rights for the people in detention

Physical environment in prison as an independent variable dimension are categorized into overcrowding, food and nutrition and water, hygiene and sanitation. There is however several other conditions that constitute Physical environment for example bedding, the prison infrastructure among others.

The John Howard Society of Canada argued that the quality of the prison environment has immediate and longer-term consequences for safety and wellbeing while stating that Prison is a stressful place to live and work. This therefore implies that the prisons and detention must be designed in a way they don't compromise on the human rights of the detainees⁴⁵. Although international standards establish basic requirements with respect to prisoners' accommodations, including with regard to ventilation, floor space, bedding, and room temperature, 15 of the 16 prisons visited by Human Rights Watch were significantly over their official capacity.⁴⁶

⁴⁴ Ward, T., & Maruna, S. (2007). *Rehabilitation: Beyond the risk paradigm*. Routledge. <https://doi.org/10.4324/9780203962176> accessed on 6th may, 2024

⁴⁵ The John Howard Society of Canada (June, 12 2019) [The John Howard Society of Canada - The John Howard Society of Canada : The John Howard Society of Canada](#)

⁴⁶ Human Rights Watch, 2011

Human Rights Watch further reported that Deprivation of food in prison constitutes an inhuman condition of detention in violation of the International Covenant on Civil and Political Rights. International standards require that prisoners be supplied with “*food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.*” Under Ugandan law, prisoners are entitled to nutritious food “*adequate for health and strength.*” The Human Rights Watch further noted that there is a deficiency in terms of micronutrients, including A and C as reported by the prisons medical team and this in long term leads to development blindness, and infections like TB.

The Human Rights Watch further argued that the lack of adequate nutrition is particularly problematic for pregnant women prisoners and women with small children in prison. Pregnant women typically do not receive extra food rations; they eat exactly the same diet as other prisoners. Despite international standards calling for special provisions for children incarcerated with their parents, and Ugandan law requiring children imprisoned with their mothers to be supplied with “*necessities of life,*” food is not generally provided for these young children. Whereas International standards specify that sanitary facilities shall “*enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner*” and despite efforts to overhaul sewage systems at a few prisons in recent years, prisoners at some prisons reported inadequate toilet facilities including the use of buckets.⁴⁷

Gross overcrowding remained a problem. On June 19, Inspector General of Prisons Johnson Byabashaija told local media that the Uganda Prisons Service (UPS) held 55,784 inmates, yet its capacity was 22,000. The researcher found out that the Inspector General of Prisons plea contradicted with that UPS that told local media on June 19, that it had transferred 100 inmates from Luzira Maximum Security prison and distributed them among Jinja, Nakasongola, Kitalya, and Kigo prisons to reduce congestion.⁴⁸ FHRI further reported that at Katwe and Kabalagala police stations, detainees had to remain in a sitting position on the floor at night, because there was insufficient room for them to lie down.⁴⁹

⁴⁷ Human Rights Watch, 2011

⁴⁸ Uganda Human Rights Report, 2017

⁴⁹ Ibid

The prison population however depends on multiple factors, which include but are not limited to the country's population growth, its socioeconomic trends, and the efficiency of the criminal justice system. Uganda's population increased from 24.4 million in 2002 to an estimated 33.0 million people in 2012.⁵⁰ The current projection is 35.9 million people as of July 2014.⁵¹ This trend of population growth is reflected in the prison population. By June 30, 2009, the prison population in the country was 32,000 prisoners and had increased to 37,936 as of 30th November 2013.⁵² The annual prisoner turnover is estimated at 100,000 prisoners with a growth rate of 10% each year.⁵³ The Uganda Bureau of Statistics reported that in 2011 alone, the prisoner population increased by 12.3%. These figures are significantly above the country's population growth rate, which have been constant at an average of 3.2% per annum.⁵⁴

There are too few judges and magistrates to preside over the numerous cases, thereby causing delayed justice that is to say justice delayed is justice denied, and justice should not be done only but must be seen to be done. This in turn contributes to the large numbers of people in prison who are not convicted, having been committed to the high court, and therefore waiting for the judge.⁵⁵

Other problems of the judicial system include lack of (and resistance to) alternative forms of sentencing that would contribute to decongestion of prisons, keeping people on remand beyond the legally allowed 48 hours.

Poverty of majority of offenders who cannot afford a lawyer. Such people often remain in prison for years. If they are lucky, they can get access to justice through Pro bono legal services or Legal Aid Services. The Uganda's 1995 Constitution makes several proclamations regarding equal access to justice.⁵⁶ Article 21(a) states that all persons are equal before and under the law in all spheres of political, economic, social, and cultural life and in every other respect and shall enjoy equal protection of the law. Article 28(1) states that in the determination of civil rights and obligations or any criminal charge, a person shall be entitled to fair, speedy and public hearing

⁵⁰ Uganda Bureau of Statistics, 2017

⁵¹ Index Mundi, 2014

⁵² Auditor General. (2010). Value for Money Audit Report on the Uganda Prison Service: Provision of Basic Necessities to Prisoners. Kampala: Office of the Auditor General.

⁵³ The International Centre for Prisons Studies, 2013 [wpp1.12.pdf \(prisonstudies.org\)](http://wpp1.12.pdf(prisonstudies.org)) accessed 6th may,2024

⁵⁴ Uganda Bureau of Statistics, 2012

⁵⁵ Kaweesa, G. (2012). *Case Backlog and the Right to Due Process: The Uganda Judiciary*. Makerere University, Makerere University. Retrieved September 18, 2014 from www.parliament.go.ug/new/images/stories/jud_backlog.pdf

⁵⁶ The 1995 Constitution of Uganda, Articles 21, 28 and 126

before independent and impartial court or tribunal established by law. Article 126 (2) (a) provides that in the adjudication of civil and criminal cases, the courts shall administer justice to all irrespective of their social and economic status

2.3 Prisoner rehabilitation and human rights for the people in detention.

Correctional practice and indeed prison rehabilitation programs are designed to equip offenders with essential living and coping skills that will enable them lead socially responsible and crime free lives.⁵⁷ Examples include vocational programs which aim to help offenders acquire employment related skills and treatment programs set out to reduce risk factors and develop core psychological and social competences.⁵⁸ Muntingh⁵⁹ argued that without such services and conditions, it is unlikely that prisoners will subscribe to the values of self-worth, respect for others, and respect for the rule of law. He avers that degrading and humiliating treatment and conditions do not create an environment supportive of the rehabilitative ideal. Thus, a strong symbiotic link is made between respect for human rights and effective rehabilitation.

Rehabilitation means to restore to useful life as through therapy and education, or to restore to good condition, operation, or capacity.⁶⁰ Elsewhere, and in more sociological terms, it is defined as the process of helping a person adapt to society⁶¹, or a punishment intended to reform a convict so that he or she can lead a 'productive' life free of crime. Rehabilitation seeks to reduce criminal propensity by changing attitudes, cognitive patterns, social relationships, and/or resources of offenders.

Citing Irwin (1980), Kathryn Campbell⁶² reported that ideas of rehabilitation through punishment were first embodied in the United States' penitentiaries of the 19th century when it was hoped that

⁵⁷Lazarus, Liora, *Contrasting Prisoners' Rights: A Comparative Examination of England and Germany*, Oxford Monographs on Criminal Law and Justice (Oxford, 2004; online edn, Oxford Academic, 22 Mar. 2012), <https://doi.org/10.1093/acprof:oso/9780199259830.001.0001> , accessed 21 Apr. 2024.

⁵⁸ Levenson & D'Amora, 2005

⁵⁹ Muntingh, L. (2007). *Prisons in South Africa's Constitutional Democracy*. Braamfontein, South Africa: Centre for the Study of Violence and Reconciliation.

⁶⁰ The American Heritage Dictionary of the English Language, 2014 [American Heritage Dictionary - Search \(ahdictionary.com\)](https://www.ahdictionary.com) accessed on 6th may, 2024

⁶¹ Campbell, K. M. (2005). *Rehabilitation Theory*. *Encyclopedia of Prisons & Correctional Facilities*. SAGE Publications, Inc. Thousand Oaks, CA: SAGE Publications, Inc. [Encyclopaedia of prisons & correctional facilities : Free Download, Borrow, and Streaming : Internet Archive](https://www.encyclopaediaofprisons.com) accessed on 6th may, 2024

⁶² Ibid

felons, if kept in solitude, would reflect penitently on their sins in order that they might cleanse and transform themselves. This later transformed into a system of Labour performed in silence. Campbell⁶³ further explained that prisoners were expected to meditate over why they chose a criminal path in order to amend their ways. At this time, prisoners were effectively responsible for their own rehabilitation since the causes of crime were thought to result from individuals' inability to lead orderly and God-fearing lives.

Campbell⁶⁴ added that the medical model of rehabilitation emerged at the turn of the 19th to the 20th century in response to perceived ineffectiveness of earlier means of rehabilitation. New scientific disciplines like psychiatry, psychology, and criminology viewed offenders as by-products of socioeconomic or psychological forces beyond their control. Professionals saw crime as a socially generated sickness, and the objective of corrections was to cure the offender. The medical model soon fell out of favour due to some of its inhumane and often illegal procedures that violated rights of prisoners, to the extent that some prisoners could be incarcerated indefinitely if it was determined that they had not been sufficiently rehabilitated.

In his discussion on penal modernism and post-modernism, David Garland⁶⁵ observed that contemporary penalty has undergone significant transformation, to emphasize and refine the rehabilitative ideal. He noted that the culture of modern penalty is one of utility, rationality, the rights of man and the rule of law. Under this approach, punishments are to be carefully calibrated to ensure maximum effect from the minimum pain, they must be put to good use, rather than striking out destructively, and should be made positive in their results; corrective measures should be individualized and adapted to a specific case or particular problem.

Munakukaama⁶⁶ noted that one of the values of imprisonment in crime control is reformation, which assumes that punishment is a strong means of influencing human behavior, and therefore has a corrective value when used properly. Accordingly, offenders are imprisoned to be reformed

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Garland, D. (2003). Penal Modernism and Post Modernism. In G. T. Blomberg & S. Cohen (Eds.), *Punishment and Social Control* (Second ed.). New Brunswick, New Jersey: Transaction Publishers. <https://www.taylorfrancis.com/>

⁶⁶ Munakukaama, J. N. (2005). The Treatment of Prisoners in Africa *Social and Religious Concerns of East Africa: A Wajibu Anthology*. Nairobi: G. J. Wanjohi. Published Online:1 Jan 1995 https://hdl.handle.net/10520/AJA10169717_635 accessed on 6th may,2024

or rehabilitated. During the time they are in prison, they are supposed to be helped to realize that committing a crime is wrong. In this regard, Munakukaama⁶⁷ added, measures employed to treat offenders essentially serve therapeutic functions designed to bring about changes in behavior in the interest of their own happiness, and in the interest of social welfare.

Contrary to this is what Munakukaama defined as the philanthropic view, which he says is humanistic, and characterized by a more sympathetic understanding of the prisoners' situation. He cited Lord Wilberforce of the United Kingdom who, in the case of *Raymond v Honey* decided on 4 March 1981, held that "*a convicted prisoner, in spite of his imprisonment, retains all civil rights, which are not taken away expressly, or by necessary implication*"⁶⁸. Munakukaama opined that the purpose and justification of imprisonment or a similar measure derivative of liberty, is ultimately to protect society.

According to Andrew Von Hirsh⁶⁹ prison-based rehabilitation is expected to satisfy multiple interests: the citizenry would benefit through reduced recidivism, and the offender would gain through programs aimed at his or her needs. Von Hirsh⁷⁰ recognized that much of the rehabilitation ideal's attractiveness lies in its commitment to doing good. However, he doubted that rehabilitative programs are in fact designed to achieve these intentions because, in his view, their criterion for success is whether recidivism is reduced. He postulated that such a reduction helps society but not necessarily the offender.

The literature in this section draws heavily on the United States experiences because, as indicated there is paucity of information on this subject in Uganda, and indeed the African context. While the researcher acknowledges that the US correctional system differs greatly from that in Africa, the researcher has used these examples to expose some general principles of prisoner rehabilitation that are acceptable across jurisdictions.

2.4 Accountability in prisons and human rights for the people in detention.

⁶⁷ Ibid

⁶⁸ "*Raymond v Honey*," 4 March 1981 [1981] UKHL 8 (04 March 1981)

⁶⁹ Von Hirsh, A. (2003). *The Future of Proportionate Sentence*. In G. T. Blomberg & S. Cohen (Eds.), *Punishment and Social Control* (Second ed.). New Brunswick, New Jersey: Transaction Publishers.

⁷⁰ Ibid

The term accountability in its regular usage has developed option connotation such as employee inspection, auditing to ascertain degree to which responsibility laid down are fulfilled by workers (Okitsu,2011). Steward (1984) as cited by Okitsu (2011:230), differentiates two forms of accountability, accountability component and accountability evaluation. According to him, accountability component encompasses a detailed examination of what activities were done i.e. an account of steps undertaken to fulfil tasks.

For Kagon (1984), accountability is an interaction process involving two individual groups where one sets the actions or tasks to be fulfilled by the other groups. This creates hierarchy between two groups. The outcome of this hierarchy, the group setting tasks will maintain authority in inspecting the action passed by the other individual; where the higher authority holds the others accountable. In a prison setting based on this, the prison warders are accountable to the prison superintendents who are in turn accountable to different commissioners who directly report to the commissioner general of prisons. The commissioner general is therefore accountable to the president, ministry, legislature and Judiciary.

The law requires that judges or prosecutors issue a warrant before an arrest is made, unless the arrest is made during commission of a crime or while in pursuit of a perpetrator. Nevertheless, authorities often arrested suspects without warrants. The law requires authorities to arraign suspects within 48 hours of arrest, but they frequently held suspects longer without charge.

Authorities must try suspects arrested under the Antiterrorism Law within 120 days (360 days if charged with a capital offense) or release them on bail; if prosecution presents the case to the court before the expiration of this period, there is no limit on further pre-trial detention.

While the law requires authorities to inform detainees immediately of the reasons for detention, at times they did not do so. The law provides for bail at the judge's discretion, but many suspects were unaware of the law or lacked the financial means to cover the bond.⁷¹

In a bid to promote accountability, Uganda Prisons Service sacked seven of its staff over corruption allegations, after investigations carried out by Prison's Council pinned them. This however; just

⁷¹ Uganda human rights report, 2017 <https://www.state.gov> accessed on 6th may,2024

constituted a small proportion of the challenges faced by the Uganda prison services.⁷² **Uganda Prison Services was set to lay off 17 of their former employees who allegedly abandoned their stations of duty, the Deputy Commissioner General of Prisons James Mwanje had said. The same newspaper further reported on the same date that** the Prison's department faced a shortage of 4,000 staff with a staffing level of over 40,000 inmates against 6,500 staff. *"Most of the officers join the forces expecting great remuneration and other fringe benefits, but after being disappointed with the salary; they end up deserting the service for greener pastures,"* Mwanje observed.⁷³ International standards recommend a ratio of 1:3 and yet Uganda Prison's staffs to inmate ratio stands at about 1:5.

All these factors discussed in this literature constitute the issues of accountability which the researcher sought to explore whether they have a relation with the human rights of people in detention in Luzira Prison.

⁷² The New Vision paper of 14th 2014

⁷³ The New Vision paper of 17th June 2015

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 Introduction

The chapter highlights the methodology that was used during the study. It consists of the research design, study population, sample frame, data collection methods and instruments, data processing, limitations and ethical considerations.

3.1 Research Design

The researcher employed a cross sectional research design. This entailed collection of data on more than one case at a single point in time and observation of all the population. The qualitative approach was adopted for this study as well because “the main focus of research was to understand, explain, explore, discover and clarify situations, feelings, perceptions, attitudes, values, beliefs and experiences of a group of people” (Kumar, 2011) which was the overall goal of the study.

3.2 Study Population

Mugenda and Mugenda⁷⁴ described study/target population as the population to which a researcher wants to generalize the results of a study and should be defined according to the study. The study population was 31 respondents, who comprised of Adult Detainees (12), Juvenile detainees (12), Assistant superintendents of prison (2), prison warders (3) and prison health workers (2). All these individuals were drawn from Luzira prison.

3.3 Sample size determination

A sample size of 29 respondents for the study was used. This was determined according to Krejcie and Morgan (1970).

⁷⁴ Mugenda, O.M. and Mugenda, A.G. (2003) *Research Methods, Quantitative and Qualitative Approaches*, (1st Ed). Nairobi; Acts Press African Centre for Technology Studies

3.4 Sampling Techniques and Procedures

3.4.1 Purposive sampling

Purposive sampling technique involved identifying and selecting individuals or groups of individuals that were especially knowledgeable about or experienced with a phenomenon of interest.⁷⁵ This sampling technique was used on the detainees, prison health workers, prison warders and superintendents. The choice of this technique is that, it facilitated the researcher to identify respondents who provided a collection of rich and valuable information about the study.

3.4.2 Simple random sampling

Under this technique, members were selected randomly into the study. The method was used on the detainees. The detainees were randomly selected and then put into clusters of men, women, juvenile boys and juvenile girls. The technique was considered because it was simple to interpret the data collected and its limited biasness since each member had an equal chance of being selected into the study.

3.5 Data Collection Methods

3.5.1 Interviewing

Mangal et al, 2013 revealed that interviewing is a data collection method used through direct and verbal interaction between respondents. The method was used because it was quick, easy to administer and allowed clarification of certain issues. The method was applied to Assistant superintendents of prison, prison warders and prison health workers.

3.5.2 Documentary Reviews

The researcher reviewed a few documents from the different officers at the prisons. It included the UPS Strategic Investment Plan (SIP) III and other related policy documents and workshop notes. This involved review of some of the important findings on the existing human rights violations in

⁷⁵ Cresswell, J.W, & Plano, C. V. L. (2011). *Designing and Conducting Mixed Method research*. 2nd Sage; Thousand Oaks, CA

prisons. The document review method was deemed appropriate for the study as it provided recorded facts about the study, complemented more information to other methods and it was cheaper as the researcher needed not to purchase books

3.5.3 Focus Group Discussion (FGD)

FGD enabled the researcher to get perceptions, attitudes, and opinions about the topic of study from respondents. The researcher led in the discussion in the selected groups. The method was applied to both the mature and juvenile detainees.

3.5.4 Observation method

The method entailed directly observing and recording events that transpired in the area of study (prison). Observation enabled the researcher to obtain information about the living conditions and treatment of detainees in prison.

3.6 Data collection instruments

3.6.1 Interview guide

The questions were designed in such a way that they were easy to understand by the respondents. It facilitated probing for more information, clarification key respondents. The instrument helped the researcher to collect information that was not directly observed. The instrument was used to get information from Assistant superintendents of prison, prison warders and prison health workers

3.6.2 Documentary review checklist

The tool entailed a list of secondary sources that were queried for information. The checklist had secondary documents and mainly human rights reports by various stakeholders, publications, Uganda Christian University dissertations and the Internet.

3.6.3 Focus Group Discussion Guide.

This consisted of a set of questions that were administered to respondents/detainees during Focused Group Discussion session.

3.6.4 Observation checklist

The researcher used the instrument to guide her obtain information/data around the prison. The instrument was chosen because it was more efficient and convenient. The instrument was not too demanding of time while helped to capture data from its natural context. It entailed a list of events that the researcher put a tick to affirm the presence or absence of an activity or task. However, observation checklist resulted in missing critical data when observations were restricted to only those items on the observation checklist.

3.7 Data processing

The data collected through the various methods were edited, coded, transcribed, and synthesized to uncover important themes and trends. The data was processed in themes and patterns during data collection. The researcher utilized the Microsoft word document capture the various themes since the researcher only utilized qualitative data.

3.8 Data analysis

Data collected using focus group discussions, observations checklist, interviews guides and document reviews were carefully transcribed and described analytically. Sorting and sifting through the materials to identify similar phrases, relations between variables, patterns, and themes. The analyses then led to designing of thematic themes or narrative statements which corresponded with the study objectives.

3.9 Limitations/ Challenges

Some respondents (detainees) were not cooperative because they were not sure what the information meant for. The researcher was able to overcome this by building rapport before interview and assuring the respondents of confidentiality.

Some respondents (the prison workers) did not cooperate given the fact that human rights is a sensitive issue and suspected that the research was a human rights undercover study and not academic. The researcher wrote to prison leadership and also moved with introductory letter from the university to prove that the researcher was actually the student doing research as an essential requirement for the Bachelor Degree in Law.

Some respondents lacked time for interviews and so the researcher had to first set an appointment with such respondents so as to fix a specific time for interviews.

3.10 Ethical Considerations

Confidentiality; the researcher attached simple introductory statements on the focus group discussions guide, observations checklist and interviews guide. The researcher-built rapport by introducing herself and moved with university identity card. This helped to seek informed consent about their participation and assurance that the research study was purely for academic purpose.

Justice principle; Identification of respondents was based on the fact that they provided information relevant to the study variables and not because they were able to access, available and less able to decline participating.

Research Plagiarism; Citation and referencing was done to avoid plagiarism, since the study required collecting data from primary and secondary sources.

Beneficence; the researcher ensured that she maximized benefits for participants and minimized risks for participants. The respondents were treated politely and with respect for their human dignity.

CHAPTER FOUR

PRESENTATION, ANALYSIS AND INTERPRETATION OF FINDINGS

4.0 Introduction

In this research, I set out to find out the prevailing human rights conditions for people living in detention with a keen interest in Luzira prison maximum prison in Uganda, clearly analysing the physical condition/environment, prisoner rehabilitation and accountability in view of human rights framework. This chapter details my findings and analysis in the light of physical environment, prisoner rehabilitation and accountability.

4.1 Prison as a Community

In my visit to Luzira maximum prison, I realised that imprisonment creates a completely new experience for many, in a unique kind of context. Prisoners are completely under the control of other people, who on a daily basis influence their most basic human activities and concerns. This observation is in line with the finding of Munakukaama⁷⁶ who found out in his study that this influence includes regulation of access to medical facilities, work, education, feeding and performance of bodily functions, as well as rights to religious practice and contact with the outside world. At the same time, these prisoners are expected to reform their ways and return to society as better people.

Inmates have needs that vary from poor psychological and mental health, physical ill health and sexual needs; and for those who stay in prison for long, there is erosion of existing knowledge,

⁷⁶ Munakukaama, J. N. (2005). *The Treatment of Prisoners in Africa Social and Religious Concerns of East Africa: A Wajibu Anthology*. Nairobi: G. J. Wanjohi. Published Online:1 Jan 1995 https://hdl.handle.net/10520/AJA10169717_635 accessed on 6th may,2024

information, and skills. Like Sarkin⁷⁷ stated there is weariness and fear of what one will or will not be able to do when they leave prison, and how they will be able to cope in the mainstream society. There are also more gender specific problems. For example, in Luzira prison, women are sometimes incarcerated with their young children, as they would have no other form of care away from their mothers. Others deliver their babies while in prison. These children then become part of the prison community and their needs for health, education, and general welfare abound.

In order to understand the physical environment, prison rehabilitation and accountability, the study used the concept of ‘prison as a community’ as discussed by Clemmer his investigation into imprisonment. He described the prison as a unique social system - a community with its own pecking order and value system that exists apart from and often contradicts that of the outside society.⁷⁸ Just like Gillespie⁷⁹ noted that the prison world is not static but changes rapidly and inevitably in response to events both outside and inside it. The rationale for treating the prison as a community in this study was because, as contended by Hayner and Ash⁸⁰, if the function of a prison is to protect society, the convict must learn during their period of incarceration how-to live-in society. They need to learn to play the role of a citizen, must be engaged in activities similar to those taking place outside the prison, and develop a sense of social responsibility.

4.2 Discussions of the findings

4.2.1 Physical environment in prison and human rights for the people in detention

Physical environment in prison as an independent variable dimension was categorized into overcrowding, food and nutrition and water, hygiene and sanitation. There are however several other conditions that constitute Physical environment for example bedding, the prison infrastructure among others.

⁷⁷ Sarkin, J. (2008). Prisons in Africa: An evaluation from a human rights perspective. *SUR -SAO PAULO-* (9), 23-50. <https://papers.ssrn.com/sol3/papers.cfm>? Accessed on 6th may,2024

⁷⁸ Clemmer, D. (1940). *The Prison Community*. Boston: Christopher Publishing. <https://psycnet.apa.org/> accessed on 6th may,2024

⁷⁹ Gillespie, W. (2004). The Context of Imprisonment. In S. Stanko, W. Gillespie, & G. Crews, A. (Eds.), *Living in Prison: A History of the Correctional System with an Insider View* (pp. 62-87). Westport, Connecticut: Greenwood Press

⁸⁰ Hayner, N. S., & Ash, E. (1940). The Prison As a Community. *American Sociological Review*, 5 (4), 577-583. doi: 10.2307/2084432 <https://www.semanticscholar.org/paper> accessed on 6th may ,2024

4.2.1.1 Overcrowding/population and bedding in the prison.

The annual prisoner turnover is estimated at 100,000 prisoners with a growth rate of 10% each year.⁸¹ The Uganda Bureau of Statistics reported that in 2011 alone, the prisoner population increased by 12.3%. These figures are significantly above the country's population growth rate, which have been constant at an average of 3.2% per annum.⁸² I contend that one of the key contributors to ever-increasing prison population is the challenges that the judicial system in Uganda. There are too few judges and magistrates to preside over the numerous cases, thereby causing delayed justice. Just like Kaweesa and Kyalimpa⁸³ put it, this in turn contributes to the large numbers of people in prison who are not convicted, having been committed to the high court, and therefore waiting for the judge. Other problems of the judicial system include lack of (and resistance to) alternative forms of sentencing that would contribute to decongestion of prisons, keeping people on remand beyond the legally allowed 48 hours⁸⁴ and, poverty of majority of offenders who cannot afford a lawyer. Such people often remain in prison for years. In the discussion that ensued with the ASPs, prison warders and the detainees themselves, they all agreed that the population in the prisons are very high. An observation of the cell sizes indicated that the cell rooms themselves are very small. The researcher attempted to know the actual sizes but was denied. The detainees admitted to have no enough space in that in most cases, they have to sleep while seated which is very uncomfortable. This is in line with the finding of the human rights watch who stated that although international standards established basic requirements with respect to prisoners' accommodations, including with regard to ventilation, floor space, bedding, and room temperature, 15 of the 16 prisons visited by Human Rights Watch were significantly over their official capacity.⁸⁵

⁸¹ ICPS. (2013). World Prison Brief: Uganda. Retrieved May 3, 2014, from www.prisonstudies.org/country/ Uganda accessed on 6th may,2-24

⁸² UBOS. (2012). Uganda Statistical Abstract 2012. Kampala, Uganda: Uganda Bureau of Statistics.

⁸³ Kyalimpa, J. (9 December 2009). Uganda: Mob Justice Increases as Court Backlogs Escalate. *Inter Press Service*. Retrieved September 16, 2014 from www.ipsnews.net/2009/12/uganda-mob-justice-increases-as-court-backlogs-escalate/ accessed on 6th may 2024

⁸⁴ JLOS. (n.d.). A Study on Sentencing and Offences Legislation in Uganda. www.commonlii.org : Justice Law and Order Sector.

⁸⁵ Human Rights Watch, 2011, accessed on 6th may,2024

4.2.1.2 Food and nutrition in the prison

The Human Rights Watch argued that the lack of adequate nutrition is particularly problematic for pregnant women prisoners and women with small children in prison. Pregnant women typically do not receive extra food rations; they eat exactly the same diet as other prisoners.⁸⁶ The researcher contends that while inadequate nutrition is particularly problematic for pregnant women, the finding shows that it is beyond the pregnant women alone. While discussing with the ASP he noted that “*while it is their desire that they provide adequate nutrition to all the detainees, they are constrained by resources with limited budgeting among*”. The detainees also intimated that during FDG that the only meal that they have known while in prison is posho and beans that are not fried that are provided in very portions and in most cases leaves them unsatisfied. The researcher attempted to visit the kitchen and find out the kinds of meals that is being prepared but was restrained by the prison warders are also provided in very portions that in most cases leaves them unsatisfied. Despite international standards calling for special provisions for children incarcerated with their parents, and Ugandan law requiring children imprisoned with their mothers to be supplied with “*necessities of life,*” food is not generally provided for these young children. Whereas International standards specify that sanitary facilities shall “*enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner*” and despite efforts to overhaul sewage systems at a few prisons in recent years, prisoners at some prisons reported inadequate toilet facilities including the use of buckets.⁸⁷

Human Rights Watch further reported that Deprivation of food in prison constitutes an inhuman condition of detention in violation of the International Covenant on Civil and Political Rights. International standards require that prisoners be supplied with “*food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.*” Under Ugandan law, prisoners are entitled to nutritious food “*adequate for health and strength.*” The Human Rights Watch further noted that there is a deficiency in terms of micronutrients, including A and C as reported by the prisons medical team and this in long term leads to development blindness, and infections like TB.

⁸⁶ Ibid

⁸⁷ Ibid

4.2.1.3 Water, hygiene and sanitation

There was an evidence of a water source in Luzira maximum prison with taps observed. According to one of the prison warders, the prison tries to maintain a clean source of water with a constant water flow. A discussion with the detainees however came to a conclusion that these water supplies are not enough given that the fact the prison is large as compared to the services offered. The general hygiene and sanitation remain one of the challenges in the prison. There are very few toilet facilities and as such the detainees intimated during the discussions that they still use buckets. This finding is in conformity with the finding of the human rights watch who found out that whereas International standards specify that sanitary facilities shall “*enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner*” and despite efforts to overhaul sewage systems at a few prisons in recent years, prisoners at some prisons reported inadequate toilet facilities including the use of buckets.⁸⁸

4.2.2 Prisoner rehabilitation and human rights for the people in detention

The study sought as well to know how the UPS conceptualises rehabilitation both in policy documents and within its institutions, and whether this conceptualisation is premised within any academic thinking. The researcher explored the UPS’ understanding of the term rehabilitation, its rehabilitative ideal, its rationale for delivering rehabilitation programs, and the ultimate aim of prisoner rehabilitation. This was done through my interviews with staff in charge of welfare and rehabilitation at Luzira maximum prison. The Senior Welfare and Rehabilitation Officer (SWRO) who generally understood prisoner rehabilitation to mean those actions and processes that restore the social functionality of those who are incarcerated for committing a crime. He argued that prisoners need to be transformed into useful citizens to make them better morally and ‘skill-wise’. As the SWRO put it, “*The ultimate aim of rehabilitation of prisoners by the UPS is to change prisoners’ mindsets, give them skills, and change their outlook so that they can survive without committing crime.*”

⁸⁸ Ibid

Significantly, while the respondent said that there was no academic thinking or theoretical principles behind delivering rehabilitation to prisoners in the UPS, it should be noted that the UPS has a human rights-centred vision and mission with the ultimate objective to protect society from criminal acts. The respondent noted UPS also has a mandate to provide humane custody of offenders following internationally acceptable standards, and it is within this mandate therefore that they offer rehabilitation to prisoners.

In an interview, Senior Welfare and Rehabilitation Officer (SWRO) observed that the primary belief behind rehabilitation is that humans are capable of changing and prison should offer offenders the opportunity to change. Moreover, the UPS has a mandate to ensure that prisoners do not harm communities ‘again’ once released and that they become productive members of society. Otherwise, the participant did not discuss at length the conceptualisation of rehabilitation.

In our interview, the SWRO lamented that due to the political instability between 1970 and 1986 that led to a near complete breakdown of government institutions, the Welfare and Rehabilitation Section and its functions did not develop. It was between 1987 and 1990 that the UPS, under Commissioner of Prisons Joseph Etima that the service began to revamp itself and reattempt rehabilitation services to prisoners. Therefore, an assessment of the scale and quality of rehabilitation in the Uganda’s prisons must take cognisance of the significant negative impact that the nation’s recent history of political upheaval and past dictatorship had on the pace of policy and infrastructural development of the prison system.

4.2.2.1 The Nature of Prisoner Rehabilitation in the Luzira Maximum Prison

Prisoner rehabilitation in the UPS is a function of its Rehabilitation and Social Welfare Division. The mandate of the division is to ensure social rehabilitation and reintegration of offenders into society as law-abiding citizens, while promoting the social welfare of both prisoners and staff.⁸⁹ In this section, I will limit myself to the descriptive aspect on this research; explaining what exactly

⁸⁹ UPS. (2011). *Strategic Direction and Re-alignment of the Prisons Welfare and Rehabilitation Division: Proposals for Enhancing Correctional Service Delivery*. Welfare and Rehabilitation Division. Unpublished. <https://prisons.go.ug/> accessed on 6th may,2024

constitutes prisoner rehabilitation, how it is being done, who receives rehabilitation and who is left out, and who delivers rehabilitation programs.

4.2.2.1.1 EDUCATION PROGRAMS

In Uganda, education to prisoners dates back to colonial times, and was meant to promote literacy and facilitate vocational training. Currently, the UPS bases its provision of education on section 57 (d) of The Prisons Act 2006 that entitles prisoners to “take part in cultural activities and education aimed at the full development of the human personality;” and on the recognition that majority of prisoners have very low levels of education, if any. Although actual figures were not readily available during this research, interview respondents repeatedly emphasised this point; and some reports that were provided key informants⁹⁰ assert that majority of offenders in Uganda’s prisons are illiterate or semi-literate. This is similar to the observation by Mackenzie⁹¹ who alluded that there is a strong correlation between educational level and criminal activity internationally. A report of the “From Prison Back Home Project” for example shows that of the 581 prisoners handled by the project between 1994 and 2007, 21% had no formal education while 26% had only primary school education.⁹² Unsurprisingly, some of the officials that I interviewed claimed that there is a connection between rates of crime and levels of literacy and education. One of the warders for example said, *“Many of the prisoners here have not gone to school or they dropped out in the lower classes due to problems in the home. They also cannot get money to pay for courses where they can get a skill. So, they become idle and end up committing crime in an attempt to survive”*

As such, the UPS is actively pursuing education programs as a core rehabilitative strategy for prisoners. The following comprise initiatives in the prison education program:

Functional Adult Literacy (FAL)

⁹⁰ UPS. (2010). Education and Training in Prisons in Uganda: Quest for Universal Post Primary Education and Training and the Transition to Government Aided Status. Unpublished. [Education | UPS \(prisons.go.ug\)](https://prisons.go.ug) accessed on 6th may,2024

⁹¹Mackenzie, D. L. (2006). *What works in corrections: Reducing the criminal activities of offenders and delinquents*. Cambridge University Press. <https://doi.org/10.1017/CBO9780511499470> accessed on 6th may,2024

⁹² Omita-Okoth, R., Atwagala, D., & Hasiyo, A. (2011). *From Prison Back Home Project: Progress and Reflections*. Kampala.

According to the Senior Welfare and Rehabilitation Officer (SWRO), this program provides skills in reading, writing, and numeracy, to adults, integrated with practical knowledge and skills. In the prison context, FAL is provided to interested learners who are not able to join formal education mostly because they have never been to school or only attended preliminary (infant) schooling. FAL is used to usher such prisoners into formal or vocational education programs within the prison. The FAL program is delivered using FAL manuals and charts designed by the Ministry of Gender Labour and Social Development but the prison system does not work with this ministry to deliver the program. Crucially, the interviews with prison staff suggested that prisons do not typically receive resources to deliver FAL. Rather, they collaborate with NGOs and local government councils to modify and deliver the training in ways that are suitable to prevailing prison situations and resources. The adult detainees admitted they are being provided with literacy training. One of the adult detainees stated that *“I am happy that I am attending literacy and at least by the time my prison sentence ends, I will be able to at least read and write since I arrived with complete lack of knowledge on how to read and write”*.

Primary Education

The Senior Welfare and Rehabilitation Officer (SWRO) at Luzira Maximum prison mentioned that formal education was first introduced into the prison system in the mid-1990s, with the first school established in Luzira Upper Prison. It was formalised in the year 2000 when the Ministry of Education and Sports (MoES) designated the prison school a Uganda National Examinations Board (UNEB) centre so they could now host national Primary Leaving Examinations. All the prisons in the Luzira group of prisons as well as neighbouring prisons like Kigo use this centre for national examinations, although they conduct lessons within their respective premises. The juvenile as well as the adult detainees admitted to be attending primary schooling with the prison. They however reiterated that it is optional.

According to the SWRO, primary schooling in prisons, while recognised as beneficial, is treated as a private enterprise and is not supported by the MoES in terms of resources like teachers and other scholastic inputs. Because of this, the teaching staff for prison primary schooling are almost entirely prisoners who were either professional or practicing⁹³ teachers at the time of

⁹³ Many people in Uganda teach in primary and secondary schools even when they are not necessarily trained as teachers.

imprisonment, or other highly skilled prisoners (lawyers, accountants, engineers, etc) who are interested in teaching. These people are identified during the process of reception and admission of prisoners.

Secondary Education

One of the assistant superintendents of prisons (ASP) stated during the interview that secondary schooling at both Ordinary and Advanced (O' and A') levels is an old practice in the UPS. However, a review of a UPS report to the MoES⁹⁴ indicated that secondary schooling in prisons was only formalised at the Luzira Upper prison in the year 2000. In that year, the prison secondary school at the Luzira Upper prison had their first national O' Level examinations and two years later, in 2002, it had the first sitting of the national A' Level examinations. The official prison secondary school at Luzira Maximum Prison is Luzira Upper prison secondary school. The prison secondary school is under MoES on a public-private partnership basis, in the category of private schools. The ministry recruits teaching staff for the school, who are supplemented by 'inmate teachers', prison staff teachers including the WRO as head teacher, and others outsourced from the Prison Staff College and Training School. According to the above-mentioned report⁹⁵, the outsourced teachers are part-timers while the prison staff teachers also have other duties to attend. This means that the teaching staffs are unreliable in terms of availability to deliver quality education. To fill the gaps for the candidate classes, the Luzira Upper prison has in the past collaborated with NGOs to obtain the textbooks recommended by the MoES and the National Curriculum Development Centre.⁹⁶ They have also received regular support from the Franciscan Missionary Sisters to hire teachers from neighbouring schools to help complete the syllabi and prepare learners for final national examinations.⁹⁷

I was not able to establish from the interviews how many learners are currently participating in secondary schooling. A review of a July 2010 UPS report to MoES however indicated that at that time enrolment in the Luzira Upper secondary school from senior one to senior six was 213. The

⁹⁴ UPS. (2010). Education and Training in Prisons in Uganda: Quest for Universal Post Primary Education and Training and the Transition to Government Aided Status. Unpublished. <https://prisons.go.ug/Programmes/education> accessed on 6th may,2024

⁹⁵ Ibid

⁹⁶ Ibid

⁹⁷ Ibid

report also indicates that candidates who completed O' Level increased from 9 in the year 2000 to 38 in the year 2005, and decreased in subsequent years to an average of 26 candidates by the year 2009. Those who completed A' level increased from 7 in the year 2000 to 40 in the year 2008 and then decreased to 26 in the year 2009.⁹⁸ The reasons for the reduction in enrolment were not given, but from the discussions that I had with the SWRO at UPS headquarters, student numbers depend on the prison population, education levels, and requirements of prisoners in a given school year. This however is contrary to the discussion with the inmates who reiterated that most of them are willing to study but the facilities are few and that's why very few of them are studying.

Tertiary Education

The UPS established an Inmates University Study Centre at Luzira Upper prison in 2009. The centre came into collaboration with Makerere University Business School (MUBS) to offer a diploma course in Entrepreneurship and Small Business Management. It is an open learning centre where all universities are free to conduct various courses that are beneficial to inmates. So far, there have been five graduations in the Luzira upper prison with the known one having taken place in 2014.

4.2.2.1.2 VOCATIONAL AND SKILLS TRAINING

Vocational training has been practiced in Uganda's prisons for a long time. According to SWRO at Luzira Maximum Prison, the most important reason for the UPS vocational training program is to enable inmates to acquire skills that will enable them engage in economic activities for self-sustenance after release. In addition, these informants confirmed, it is hoped that during the process of training, prisoners would achieve behaviour and attitude change towards a life without further involvement in crime. The PVET policy framework⁹⁹ further notes that one of the cardinal

⁹⁸ Ibid

⁹⁹ UPS. (2013). *Prisons' Vocational and Entrepreneurship Training (PVET) Policy Framework: Enhancing Prisoners' Vocational / Entrepreneurship Skills and Management Accountability*. Unpublished. https://www.researchgate.net/publication/332801386_Core_Self-Evaluations_among_Prisoners_on_Formal_and_Vocational_Training_in_Uganda%27s_Luzira_Prison accessed on 6th may,2024

objectives of vocational training is to offer employment to long serving prisoners as an opportunity for meaningful use of their time in prison.

Interviews with respondents across the study revealed that generally, the UPS offers training in a variety of vocational enterprises, the most prominent of which being carpentry and joinery; metal welding and fabrication, bricklaying and construction; tailoring; handcraft; shoe making; spinning, weaving, and embroidery; salon training; and, art. The only skills training programs carried out in other prisons are carpentry, farming, and bricklaying and construction for male prisoners. This was also confirmed during the discussion with the inmates and it is also not adequate given a big population of detainees.

The Welfare and Rehabilitation staff that I interviewed indicated that training takes place in an apprenticeship mode. Learners work with instructors on specifically pre-ordered products, for example, school or prison furniture in the case of carpentry; or a school and prison buildings in the case of bricklaying and construction. The instructors work with groups of learners at a time, showing them what to do and letting them practice each step of the process. Carpentry and joinery training session accommodates a maximum of 30 learners at a time out of the 796 prisoners. When these have completed the process (which is not time bound), another group of 30 starts, but depending on whether there are orders for products to be made. More often than not, the orders are few (for example one sofa set) and are made by prison staff.

4.2.2.3 FARMING AS REHABILITATION

Many prisons in Uganda engage inmates in some form of farming activity (Luzira Maximum Prison is not exceptional) whether they are at a prison farm or not. At the prison farm, the primary activity for prisoners is to provide labour for agriculture and animal husbandry for the production of food for prisoners.

A discussion with the SWRO of Luzira yielded that in growing food for prison use, inmates learn relatively modern ways of farming from planting to storage, for example, preparing nursery beds, growing crops in straight lines, horticulture on small pieces of land, poultry management, and zero grazing, among others. He further argued that many prisoners have no background whatsoever in

farming or using any form of farming tools, which contributes to redundancy and therefore propensity to commit crime. For such prisoners therefore, she maintains that farming becomes an important rehabilitation activity, particularly for those with low education and skills for engaging in alternative economically viable activities.

4.2.3 Accountability in prison and human rights for people in detention

In a prison setting, the prison warders are accountable to the prison superintendents who are in turn accountable to different commissioners who directly report to the commissioner general of prisons. The commissioner general is therefore accountable to the president, ministry, legislature and Judiciary.

The law requires that judges or prosecutors issue a warrant before an arrest is made, unless the arrest is made during commission of a crime or while in pursuit of a perpetrator. Nevertheless, authorities often arrested suspects without warrants. The law requires authorities to arraign suspects within 48 hours of arrest, but they frequently held suspects longer without charge. During my interaction with a prison warden, he stated that they try as much as possible not to torture the detainees. He however stated that not all the prison authorities think in the same and as such others may end up torturing the detainees. This however contradicts the actual finding on the ground. During a focused group discussion with the adult detainees, they intimated to me that they are tortured most especially if they are told to do something against their will.

The researcher tried to get evidence from some of the inmates during the discussions but they were afraid as they said they would be singled out after the interview for ill treatment. On observation, the way some of the detainees were walking on the compound suggested that they were going through a lot of pain and this suggests that there is existing torture in the prisons.

The researcher also found out that some of the detainees are kept for long without trial and yet some are even having small cases that could have been solved using mediation. An interview with the ASP however suggested that this is not true because every detainee has a right to fair. He however pointed out that some of these detainees lack legal representatives and as such end up staying in the detention for long. This though contradicts and violates the rights of people in

detention since authorities must try suspects arrested under the Antiterrorism Law within 120 days (360 days if charged with a capital offense) or release them on bail; if prosecution presents the case to the court before the expiration of this period, there is no limit on further pre-trial detention.

In an interview with one of the warders, he expressed the fact some of the warders who torture detainees have been held responsible and prosecuted for violation of the rights of those in detention. The researcher found this not to hold any water since the researcher herself has never even heard of a story about a prison warder who was prosecuted.

In a bid to promote accountability, Uganda Prisons Service sacked seven of its staff over corruption allegations, after investigations carried out by Prison's Council pinned them. This however; just constituted a small proportion of the challenges faced by the Uganda prison services.¹⁰⁰ This however has not improved matter since according to the discussion with the detainees suggested that it is those whose relatives have money to bribe are the ones who taken to court without delay. One detainee intimated that *"I am being false accused of stealing a neighbour's cow and as a result of poverty, I am still languishing in the prison we I do have money to buy my freedom". with the salary; they end up deserting the service for greener pastures,*" Mwanje observed.¹⁰¹

¹⁰⁰ The New Vision paper of 14th 2014

¹⁰¹ The New Vision paper of 17th June 2015

CHAPTER FIVE

SUMMARY, DISCUSSIONS, CONCLUSIONS AND RECOMMENDATIONS

5.0 Introduction

This chapter presents the summary and discussion of findings while making reference to other available literature. The chapter further presents recommendations and areas for further studies.

5.1 Summary of the findings

5.1.1 Physical environment in the prisons

In the discussion that ensued with the ASPs, prison warders and the detainees themselves, they all agreed that the population in the prisons are very high. An observation of the cell sizes indicated that the cell rooms themselves are very small. The researcher attempted to know the actual sizes

but was denied. The detainees admitted to have no enough space in that in most cases, they have to sleep while seated which is very uncomfortable. According to the findings by the researcher; overcrowding, poor hygiene, poor beddings and poor nutrition of prisons is common in Uganda as noted from Luzira maximum prison. This finding is in agreement with the finding of the International Centre for Prison Studies (ICPS)¹⁰² who reported that while the official capacity of the Uganda prison system is 15,000 the prison population had reached 39,394 by December 2013. This implied an occupancy level of 252%. Moreover, as the Uganda Human Rights Commission (UHRC) reported, limited infrastructure development has been undertaken by the UPS to accommodate the ever-surging numbers of inmates.¹⁰³ The above finding is in agreement with the finding of Dissel¹⁰⁴ who found out that chronic overcrowding has consequences for prisoners such as poor hygiene and ill health, shortages in food, beddings, medical supplies and treatment, and overall lack of recreation facilities. This diminishes the scope of space and general living conditions of people in detention and as such constitutes the gross violation of human rights of the people in detention.

5.1.2 Rehabilitation in the prison

According to the finding of the research, there are efforts that the UPS has put in place to contribute to the rehabilitation. These rehabilitation efforts include functional adult literacy, primary education, secondary education, tertiary education and vocational and skills training. This however continues to face challenges like limited structure, limited number of facilitators, limited financial support thus affecting the rehabilitation programs. It was also noted by the ASP of Luzira maximum prison that even the few prisoners who get a chance to attend some of these rehabilitation programs are only taught in English and Kiswahili and such many people get excluded from the program. It was also found out that rehabilitation is only aimed at minimizing redundancy and boredom according to the set. This as well constitutes to human rights violations

¹⁰² ICPS. (2013). World Prison Brief: Uganda. Retrieved May 3, 2014, from www.prisonstudies.org/country/ Uganda

¹⁰³ UHRC. (2013). The 16th Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda. Kampala, Uganda.

¹⁰⁴ Dissel, A. (2008). Rehabilitation and Reintegration in African Prisons. *Human Rights in African Prisons / ed. by Jeremy Sarkin, ISBN 9780796922069*, 155-177. [Rehabilitation and reintegration in Afri.pdf \(csvr.org.za\)](#) accessed on 6th may,2024

of the people in detention. This suggests that while the UPS has good intentions in providing rehabilitation to prisoners, there is still a thin line between the rehabilitation objective and merely keeping inmates busy or freeing them from redundancy, particularly where farming is concerned. Levels of idleness are high: on one hand, there are too many prisoners and too few rehabilitation programs, on the other, as earlier mentioned, programs only admit convicted prisoners, yet the prison population is mostly comprised of people on remand many of whom have been in prison for five or more years. My research is in agreement with the John Howard Society of Alberta¹⁰⁵ who commenting on prisons in the UK, noted that in situations where overcrowding exists majority inmates are engaged in ‘daily idleness’

5.1.3 Accountability in prison

According to the research findings, it was found out that hard labour and mistreatment still continue in the prison. It was also found out during the discussion with the detainees, suspects still continue to be arrested without warrant, detainees are taken long to be taken to court. A discussion with the adult detainees revealed that they are tortured most especially if they are told to do something against their will. The finding is in line with that of the Human Rights Watch¹⁰⁶ noted that prisoners in Uganda are subjected to long hours of crop cultivation, fetching water and firewood. They work in oppressive conditions of heat and rain, and are sometimes intentionally denied food, water, or bathroom breaks. They are beaten for being slow or handcuffed, stoned or burned if they refuse to work. Vulnerable prisoners including children, the sick, the elderly and pregnant women are also beaten and forced to work. HRW¹⁰⁷ observed that this is contrary to the 1955 UN Standard Minimum Rules for the Treatment of Prisoners that Uganda has committed to observe, which provide that prison labour must not be afflictive but rather of a vocational nature, and prisoners should be allowed to choose the type of work they wish to perform and yet this is not the case every detainee has a right to fair hearing. A discussion with the ASP however pointed out that some of these detainees lack legal representatives and as such end up staying in the detention for

¹⁰⁵ John Howard Society of Alberta. (1996). *Prison overcrowding: A briefing paper*. Edmonton, Alta.: John Howard Society of Alberta. [Prison Overcrowding \(1996\) – The John Howard Society Of Alberta](#) accessed on 6th may,2024

¹⁰⁶ HRW. (2011). *Even Dead Bodies Must Work: Health, Hard Labour, and Abuse in Ugandan Prisons*. Geneva, Switzerland. <https://www.hrw.org/report/2011/07/14/even-dead-bodies-must-work/health-hard-labor-and-abuse-ugandan-prison> accessed on 6th may,2024

¹⁰⁷ Ibid

long. This though contradicts and violets the rights of people in detention since authorities must try suspects arrested under the Antiterrorism Law within 120 days (360 days if charged with a capital offense) or release them on bail; if prosecution presents the case to the court before the expiration of this period, there is no limit on further pre-trial detention. There was also no evidence on report of any prison authority who was held responsible for torture of people in detention. This violates the human rights principles of equality of human dignity, and I agree with McCarthy¹⁰⁸ that having committed a particularly vicious crime does not on its own warrant that an offender should be denied the opportunity to participate in reform processes, which would contribute to restoration of their diminished dignity.

5.2 Recommendations

UPS also needs to develop a theoretical foundation for its rehabilitation programs, as this will motivate improvements in the design and delivery or rehabilitation, as well as providing a well-founded basis for measuring success.

UPS needs to develop a synergy with the private sector and NGO to support in contributing to the resource envelop to support to running some of the prison programs like education.

The UPS authority and the ministry of gender, labour and social development should work hold the prison staff who torture detainee's accountability for their misconduct.

There UPS should device ways to decongest Luzira maximum prison by sending other detainees to various prisons in the country to create more space within Luzira maximum prison.

¹⁰⁸ McCarthy, M. (2010). *Incarceration and human rights: The Oxford Amnesty Lecture 2007*. Manchester: Manchester University Press
https://books.google.co.ug/books/about/Incarceration_and_Human_Rights.html?id=BqLJyAECAAJ&redir_esc= accessed on 6th may,2024

The UPS should work closely with the police and the judiciary to ensure that detainees are taken to court as quick as possible so as to ensure that justice is not delayed. The authorities should consider utilization the state attorneys to support in this work.

5.3 Limitations to the study

All Luzira maximum prison staff interviewed for this research took part on voluntary basis, while the SWRO and inmates participated following instructions from the OC. For the latter group therefore, while many participated cheerfully and gave deep insights into the phenomenon of prison treatment, I would be hesitant to affirm that they did so voluntarily. It is my opinion that their participation was a dutiful response to instructions from above. In fact, one ASP was grudgingly shallow in her response, which gave me the impression that she was unwilling to participate and I had to terminate the interview with her after about 15 minutes. This is anticipated that it might have compromised on the quality of the findings.

Furthermore, there are ethical issues surrounding research with prisoners as respondents, and these arise out of the facility settings, rules and regulations, as well as the disempowered status of research participants. As observed by the Gostin et al¹⁰⁹, prisoners face restrictions on liberty and autonomy, and have limited privacy. These factors act as barriers to the acquisition of voluntary informed consent and protection of privacy. This observation resonates very well with my experience. As alluded to earlier stated pointed, inmates did not have the opportunity to choose whether to participate in the research or not. They received instructions to meet and give me the information I needed.

Secondly, I held all interviews with inmates in the office of the SWRO, in the presence of a prison staff. On one or two occasions, the prison staff interjected in the discussion. Extra information was gotten in the situation the authority moved out. In another instance, I experienced an argumentative

¹⁰⁹Institute of Medicine (US) Committee on Ethical Considerations for Revisions to DHHS Regulations for Protection of Prisoners Involved in Research. Ethical Considerations for Research Involving Prisoners. Gostin LO, Vanchieri C, Pope A, editors. Washington (DC): National Academies Press (US); 2007. PMID: 20669441.

exchange between two inmates who disagreed on the state and quality of the education program in Luzira maximum prison. The one talking in favour was a long termer who had a cordial relationship with the warders and the one against was new and therefore still seeing things, possibly, as they really are, more or less as an outsider. In addition, generally, in every place I went on around the prison premises, I was accompanied by prison officer, usually a warder. This obviously may have affected the accuracy of responses I obtained. That is why it was also very important that I observe some processes to corroborate the responses from FGDs with inmates

5.4 Areas for further study

It is important to understand how education provision contributes to prevention of crime and offending in Uganda. Particularly, it would be good to study the relationship between the type and quality of education provided and the labour market needs of the country, and how this ultimately affects crime and offending. At the same time, such a study would be beneficial to the designing of appropriate prison education models.

The researcher looked the general Human rights of people in detention, it would be important to conduct a study on how accountability particularly affects the rights of individuals in detention.

References:

Auditor General. (2010). Value for Money Audit Report on the Uganda Prison Service: Provision of Basic Necessities to Prisoners. Kampala: Office of the Auditor General. Published on 1st march,2024

Beauchamp, T. L., & Childress, J. F. (2009). *Principles of biomedical ethics*. New York: Oxford University Press Eighth edition, Publication Date - 01 October 2019

Campbell, K. M. (2005). *Rehabilitation Theory*. *Encyclopedia of Prisons & Correctional Facilities*. SAGE Publications, Inc. Thousand Oaks, CA: SAGE Publications, Inc [Encyclopedia of Prisons and Correctional Facilities | SAGE Publications Inc.](#) (accessed on 6th may,2024)

Clemmer, D. (1940). *The Prison Community*. Boston: Christopher Publishing.

Covenant Word Ministries (December 2008) *Uganda Government Prisons by District* [The prison community. \(apa.org\)](#) (accessed on 6th may,2024)

Cresswell, J.W, & Plano, C. V. L. (2011). *Designing and Conducting Mixed Method research*. 2nd Sage; Thousand Oaks, CA, third edition

Dissel, A. (2008). Rehabilitation and Reintegration in African Prisons. *Human Rights in African Prisons / ed. by Jeremy Sarkin, ISBN 9780796922069, 155-177. [Rehabilitation and reintegration in Afri.pdf \(csvr.org.za\)](#)* , accessed on 6th may,2024

Freedom House (16 July 2009) *Freedom in the World 2009-Uganda* [Freedom in the World 2009 - Uganda | Refworld](#) (accessed on 6th may,2024)

Gillespie, W. (2004). The Context of Imprisonment. In S. Stanko, W. Gillespie, & G. Crews, A. (Eds.), *Living in Prison: A History of the Correctional System with an Insider View* (pp. 62-87). Westport, Connecticut: Greenwood Press

Institute of Medicine (US) Committee on Ethical Considerations for Revisions to DHHS Regulations for Protection of Prisoners Involved in Research. *Ethical Considerations for Research Involving Prisoners*. Gostin LO, Vanchieri C, Pope A, editors. Washington (DC): National Academies Press (US); 2007. PMID: 20669441.

Crisp, Roger (ed.), *Griffin on Human Rights* (Oxford, 2014; online edn, Oxford Academic, 23 Oct. 2014), <https://doi.org/10.1093/acprof:oso/9780199668731.001.0001>, accessed 26 Apr. 2024.

Hayner, N. S., & Ash, E. (1940). The Prison as a Community. *American Sociological Review*, 5 (4), 577-583. doi: 10.2307/2084432

HRW. (2011). *Even Dead Bodies Must Work: Health, Hard Labour, and Abuse in Ugandan Prisons*. Geneva, Switzerland.

Human Rights Watch (14 July 2011) *Uganda: Forced Labor, Disease Imperil Prisoners* [Uganda: Forced Labor, Disease Imperil Prisoners | Human Rights Watch \(hrw.org\)](#) accessed on 6th may,2024

Human Rights Watch (17 July 2009) *Uganda: Charge or Release People Secretly Detained* <https://www.hrw.org/news/2009/07/17/uganda-charge-or-release-people-secretly-detained> accessed on 6th may,2024

Human Rights Watch (13 July 2009) *Uganda: Gov't response to alleged new rebel group in the north calls for reflection published in daily monitor, Uganda* : [Gov't response to alleged new rebel group in the north calls for reflection | Human Rights Watch \(hrw.org\)](#) accessed on 6th may,2024

Human Rights Watch (24 June 2009) *Uganda: Act Swiftly on Long-Term Detainees* [Uganda: Act Swiftly on Long-Term Detainees | Human Rights Watch \(hrw.org\)](#) accessed on 6th may,2024

Human Rights Watch, 2011 [World Report 2011 | Human Rights Watch \(hrw.org\)](#) accessed on 6th may 2024

ICPS. (2013). World Prison Brief: Uganda. Retrieved May 3, 2014, from www.prisonstudies.org/country/uganda (visited on 4th May,2024)

International Committee of the Red Cross (ICRC) (27 May 2008) *ICRC Annual Report 2007 Uganda* [ICRC Annual Report 2007 - Uganda | Refworld](#) visited on 6th may,2024

JLOS. (n.d.). A Study on Sentencing and Offences Legislation in Uganda. www.commonlii.org: Justice Law and Order Sector. (accessed On 6th may,2024)

John Howard Society of Alberta. (1996). *Prison overcrowding: A briefing paper*. Edmonton, Alta.: John Howard Society of Alberta.

Kaweesa, G. (2012). *Case Backlog and the Right to Due Process: The Uganda Judiciary*. Makerere University, Makerere University. Retrieved September 18, 2014 from www.parliament.go.ug/new/images/stories/jud_backlog.pdf (accessed on 6th may,2024)

Kazemian, L. (2007). Desistance from Crime: Theoretical, Empirical, Methodological, and Policy Considerations. *Journal of Contemporary Criminal Justice*, 23 (1), 5-27

Kyalimpa, J. (9 December 2009). Uganda: Mob Justice Increases as Court Backlogs Escalate. *Inter Press Service*. Retrieved September 16, 2014 from www.ipsnews.net/2009/12/uganda-mob-justice-increases-as-court-backlogs-escalate/ (accessed on 6th may, 2024)

Lazarus, L. (2004). *Contrasting prisoners' rights, a comparative examination of Germany and England*. Oxford: Oxford Univ. Press.

MacKenzie, D. L. (2006). *What works in corrections: Reducing the criminal activities of offenders and delinquents*. New York: Cambridge University Press.

Many people in Uganda teach in primary and secondary schools even when they are not necessarily trained as teachers.

Marshall, T. H. (1950). *Citizenship and social class, and other essays*. Cambridge [England: University Press.

McCarthy, M. (2010). *Incarceration and human rights: The Oxford Amnesty Lecture 2007*. Manchester: Manchester University Press.

Mudoola, P. (n.d.). 161 Children in Prison for No Crime. *The New Vision*. Retrieved May 26, 2014 from www.newvision.co.ug/mobile/Detail.aspx?NewsID=628368&CatID=1 accessed on 6th may,2024

Mugenda, O.M & Mugenda, A.G. (1999). *Research Methods, Quantitative & Qualitative Approaches*. Kenya: Kenya ACTS Press. African Centre for Technology Studies, 1999, revised edition

Munakukaama, J. N. (2005). The Treatment of Prisoners in Africa *Social and Religious Concerns of East Africa: A Wajibu Anthology*. Nairobi: G. J. Wanjohi. published Online:1 Jan 1995 https://hdl.handle.net/10520/AJA10169717_635 accessed on 6th may,2024

Muntingh, L. (2007). *Prisons in South Africa's Constitutional Democracy*. Braamfontein, South Africa: Centre for the Study of Violence and Reconciliation.

The Belknap Press: Harvard University Press. Nussbaum, Martha C. *Frontiers of Justice: Disability, Nationality, Species Membership*. Harvard University Press, 2006. *JSTOR*, <https://doi.org/10.2307/j.ctv1c7zftw>. Accessed 6 May 2024.

Omita-Okoth, R., Atwagala, D., & Hasiyo, A. (2011). *From Prison Back Home Project: Progress and Reflections*. Kampala.

Peté, S. (2008). A Brief History of Human Rights in the Prisons of Africa. *Human Rights in African Prisons / ed. by Jeremy Sarkin, ISBN 9780796922069*, 40-66. [Human rights in African prisons / \(berkeley.edu\)](#) accessed 6th may,2024

Peté, S., & Devenish, A. (2005). Flogging, fear and food: Punishment and race in colonial Natal. *Journal of Southern African studies Journal of Southern African Studies*, 31 (1), 3-21.

Sarkin, J. (2008). Prisons in Africa: An evaluation from a human rights perspective. *SUR -SAO PAULO-* (9), 23-50.

Sarkin-Hughes, J. (2008). *Human rights in African prisons*. Cape Town, South Africa; Athens, Ohio: HSRC Press; Ohio University Press.

Robinson, G. (2014). Rehabilitation. In: Bruinsma, G., Weisburd, D. (eds) *Encyclopaedia of Criminology and Criminal Justice*. Springer, New York, NY. https://doi.org/10.1007/978-1-4614-5690-2_608

The 1995 constitution of Uganda

The American Heritage Dictionary of the English Language. (2014). www.ahdictionary.com accessed 6th may,2024

The International Centre for Prison Studies (ICPS) December 2013 18th Edition – November - December 2013 [icps_news_digest_nov-dec_2013.pdf \(prisonstudies.org\)](#)

The John Howard Society of Canada (June, 12 2019) [The John Howard Society of Canada - The John Howard Society of Canada : The John Howard Society of Canada](#) accessed 6th may,2024

The New Vision paper of 14th 2014

The New Vision paper of 17th June 2015

UBOS. (2012). Uganda Statistical Abstract 2012. Kampala, Uganda: Uganda Bureau of Statistics.

Uganda human rights report, 2017

Uganda Prisons Service (October 2009) *Uganda Prisons Service Statistics Report* [UGANDA PRISONS STATISTICAL REPORTS. | UPS](#) accessed on 6th may,2024

UHRC. (2009). 12th Annual Report. Kampala, Uganda. [UHRC Reports – Uganda Human Rights Commission \(UHRC\)](#) visited on 6th may, 2024

UHRC. (2012). 15th Annual Report of the Uganda Human Rights Commission. Kampala, Uganda [UHRC 15th Annual Report 2012 – Uganda Human Rights Commission \(UHRC\)](#) accessed 6th may,2024

UHRC. (2013). The 16th Annual Report of the Uganda Human Rights Commission to the Parliament of the Republic of Uganda. Kampala, Uganda. [UHRC Reports – Uganda Human Rights Commission \(UHRC\)](#) accessed on 6th may,2024

UN Human Rights Council (28 May 2008) Report of the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy. Addendum: Situations in Specific Countries or Territories [Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy \(un.org\)](#) accessed 6th may,2024

United States Department of State (25 February 2009) *2008 Country Reports on Human Rights Practices Uganda* [Country Reports on Human Rights Practices 2007 \(state.gov\)](#). (accessed on 6th may,2024)

UPS. (2010). Education and Training in Prisons in Uganda: Quest for Universal Post Primary Education and Training and the Transition to Government Aided Status. Unpublished. <https://prisons.go.ug/Programmes/education> (accessed on 6th may,2024)

UPS. (2011). *Strategic Direction and Re-alignment of the Prisons Welfare and Rehabilitation Division: Proposals for Enhancing Correctional Service Delivery*. Welfare and Rehabilitation Division. Unpublished. <https://www.prisons.go.ug/> (visited on 6th may,2024)

UPS. (2012). *Uganda Prison Service Strategic Investment Plan III 2012/13 - 2016/17*. Kampala, Uganda.

UPS. (2013). *Prisons' Vocational and Entrepreneurship Training (PVET) Policy Framework: Enhancing Prisoners' Vocational / Entrepreneurship Skills and Management Accountability*. Unpublished. [Vocational Training | UPS \(prisons.go.ug\)](https://www.prisons.go.ug/) (visited on 6th may,2024)

von Hirsch, Andrew, and Andrew Ashworth, *Proportionate Sentencing: Exploring the Principles* (Oxford, 2005; onlineedn, OxfordAcademic,1Jan.2010), <https://doi.org/10.1093/acprof:oso/9780199272600.001.0001>, accessed 16 Apr. 2024.

Ward, T. (2009). Dignity and Human Rights in Correctional Practice. *European Journal of Probation*, 1 (2), 112-127 <https://doi.org/10.1177/206622030900100204>. (visited 6th may, 2024)

- Ward, T. (2011). Human Rights and Dignity in Offender Rehabilitation. *Journal of Forensic Psychology Practice*, 11 (2/3), Published online: 23 Mar 2011 <https://doi.org/10.1080/15228932.2011.537580> (accessed on 6th may,2024)

Ward, T., & Birgden, A. (2007). Human rights and correctional clinical practice. *Aggression and Violent Behavior*, 12(6), 628–643. <https://doi.org/10.1016/j.avb.2007.05.001>. (visited 6th may,2024)

Ward, T., & Maruna, S. (2007). *Rehabilitation: Beyond the risk paradigm*. London; New York Routledge. <https://doi.org/10.4324/9780203962176>. (Accessed on 6th may,2024)

Was Karl Marx truly against human rights? (*J Lacroix, JY Pranchère, SL Raillard - Revue française de science ...*, 2012 - [Cairn-int.info](http:// Cairn-int.info)) Volume 62, Issue 3, 2012. <https://www.cairn-int.info/journal-revue-francaise-de-science-politique-2012-3.htm>. (Accessed on 6th may 2024.)