
PARTICIPANTS' PAPERS

CORRECTIONAL SYSTEMS IN KENYA

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The correctional system in Kenya is made up of two key government agencies, namely, the Kenya Prisons Service and the Department of Probation and Aftercare Service. These departments draw their mandates for criminal justice legislation from the Constitution of Kenya 2010, the Criminal Procedure Code, the Penal Code, and the Sexual Offences Act, among others. The Department of Children's Services plays a corrective role in so far as rehabilitating children who are committed to rehabilitation schools in the country. Their major role is taking care of the welfare of children in the country as outlined in the Children's Act 2001. The Kenya Prisons Service derives its mandate from the Prisons Act, Chapter 90, and Borstal Institutions Act, Chapter 92, Laws of Kenya. The Department of Probation and Aftercare Service draws its mandate from the Probation of Offenders Act, Chapter 64, Laws of Kenya and The Community Service Orders Act, Chapter 10, of 1998.

I. KENYA PRISONS SERVICE

The Kenya Prisons Service falls under the Ministry of Internal and Coordination of National Government. There are 107 prisons in the country including two Borstal institutions and one Youth Corrective and Training Centre. The Prisons Service is charged with the responsibility of containment of prisoners and rehabilitation of offenders. It has various vocational rehabilitation programmes in line with offender needs which are administered by prisons officers, chaplains, psychologists, welfare officers, counselors, social workers and medical personnel. These vocational rehabilitation programmes are geared to enable social re-integration of the offenders at the end of their prison terms. The department also works with various non-state actors who assist with various supplementary programmes.

A. Borstal Institutions

There are two Borstal institutions run by the Prisons Service. Shimo-La-Tewa Borstal Institution falls under the Shimo-La-Tewa Maximum Security Prison in Mombasa City. Shikusa Borstal Institution is based at the Shikusa Prison in Kakamega Town in the Western part of the country. The inmates at these two institutions are male juvenile offenders aged between 15 and 18 years and are committed by the courts at the recommendation of probation officers. Among the vocational programmes in these institutions are: formal education, leatherwork, carpentry, poultry and animal farming, horticulture, metalwork and auto mechanics. The inmates undergoing formal education sit for national examinations while the ones undergoing vocational training sit for national trade tests. The commitment period is three years but after a period of one year, the inmates can be released on a special license and are supervised within the community for a period of three years by probation officers. At the moment, a Borstal for girls is under construction.

B. Kamiti Youth Corrective and Training Centre

The Prisons Service has only one Youth Corrective and Training Centre that is based within the Kamiti Maximum Security Prison. These youth are males aged between 15 and 20 years and are committed for a period of four months on the recommendation of probation officers. However, at the end of the four month period, the inmates are released unconditionally. They similarly undergo vocational rehabilitation programmes tailor made to fit into the four months such as poultry and animal keeping, farming, life skills training, among others.

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II. DEPARTMENT OF PROBATION AND AFTERCARE SERVICE

The Department of Probation and Aftercare falls under the Ministry of Interior and Coordination of National Government. It is the sole government administrator of community-based sanctions in Kenya. The Constitution of Kenya and various statutes empower the Department to participate in the implementation of criminal law and correctional services. Specifically, the Department derives its mandate from the Constitution of Kenya 2010 and the following statutes:

- The Probation of Offenders Act, Chapter 64, Laws of Kenya
- The Community Service Orders Act, No. 10 of 1998, Laws of Kenya
- Prisons Act, Chapter 90, Laws of Kenya
- Children's Act 2001, Laws of Kenya
- The Borstal Institutions Act, Chapter 92, Laws of Kenya
- The Sexual Offences Act No. 6 of 2006, Laws of Kenya
- The Power of Mercy Act of 2011, Laws of Kenya
- The Criminal Procedure Code, Chapter 75, Laws of Kenya
- The Penal Code, Chapter 63, Laws of Kenya
- The Mental Health Act, Chapter 248, Laws of Kenya

The Department's vision is "A just, secure and crime free society". The mission is "to promote and enhance administration of justice, community safety and public protection through provision of social inquiry reports, supervision and re-integration of non-custodial offenders, victim support and social crime prevention".

The Department works with courts and other criminal justice agencies in order to facilitate the administration of justice through provision of social inquiry reports, supervision of court sanctions and rehabilitation, re-integration and resettlement of offenders, and promotion and participation in victim's rights and welfare. The Department operates 120 stations which serve all courts countrywide, four probation hostels and two community resource centres. The headquarters is based on the 11th floor of the Re-insurance Plaza in Nairobi.

Probation and Aftercare Service has, on average, been supervising over 30,000 offenders daily who are subject to probation and community service orders. It generates social inquiry reports for court sanctions, i.e., probation and community service orders. Other reports generated are for pre-bail assessment, aftercare reports for ex-Borstal inmates, ex-long-term prisoners and Special Category Offenders released by the exercise of the Presidential Power of Mercy. Aftercare and Special Category Offender programmes are relatively new areas and so far the Department is engaged with relevant agencies in an internal arrangement, though without legislative mandate. These arrangements exist because the Probation Department is the only government agency that generates social inquiry reports for non-custodial sanctions.

III. DEPARTMENT OF CHILDREN'S SERVICES

The Department of Children's Services falls under the Ministry of Labour, Social Security and Services. It is mandated to safeguard the welfare of children under the Children's Act 2001, Laws of Kenya, and deals with two categories of children, i.e., children in need of care and protection and those in conflict with the law. The Department conducts social enquiries and provides reports to courts and, in addition, provides accommodation to children in need of care and protection in rescue centres while those in conflict with the law are committed to rehabilitation schools on the recommendation of Probation Officers. Children whose court cases are ongoing are remanded to children's remand homes. The judiciary has designated children's courts and trained magistrates to deal with children's cases within all the law courts countrywide.

Children undergoing rehabilitation in rehabilitation schools are offered a wide range of programmes which include formal education and vocational training. They are also provided with psychosocial support by the children's officers, counselors and spiritual leaders. Facilities for children in the country include 14 police stations that have child protection units, 12 remand homes, 10 rehabili-

tation schools, 2 reception centres and 4 child rescue centres.

IV. CONCLUSION

It is apparent that Probation and Aftercare Service is the only agency that cuts across all the correctional services and works with all categories of offenders from these institutions. It is therefore imperative that the staff are equipped with the necessary skills to handle offenders effectively. Correctional Services in Kenya work in collaboration to offer services in their various specialization areas with the objective of rehabilitating, re-integrating and resettling offenders while upholding community safety and promoting victims' rights and welfare. This has been made easier with the establishment of the National Council on Administration of Justice (NCAJ), an umbrella high level organ under the leadership of the Chief Justice and comprises heads of agencies in the criminal justice system and other civil society organizations.