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## KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT - THIRD SESSION - 2009

**REPORT OF THE DEPARTMENTAL COMMITTEE ON  
ADMINISTRATION, NATIONAL SECURITY AND  
LOCAL AUTHORITIES DURING ITS FACT FINDING  
VISITS TO THE NAIROBI CITY COUNCIL AND  
LANGATA WOMEN PRISON ON 24<sup>TH</sup> OCTOBER,  
2008; AND THE KAMITI MAXIMUM SECURITY  
PRISON ON DECEMBER 4<sup>TH</sup> 2008**

CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
**NAIROBI**

JUNE, 2009

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*Administration, National Security and Local Authorities Committee Report during its visit to Nairobi City Council Offices, Langata and Kamiti Maximum Prisons in Oct./Nov. 2008*

## **PREFACE**

**Mr. Speaker, Sir,**

The Parliamentary Departmental Committee on Administration, National Security and Local Authorities was constituted pursuant to the provisions of Standing Order No. 198 and has executed its duty in accordance with the provisions of the said Standing Order 198 (3), which mandates the Committee to;

- a) investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- b) study the programmes and policy objectives of the ministries and departments and their effectiveness for implementation;*
- c) study and review all legislation referred to it;*
- d) study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) investigate and inquire into all matters relating to the assigned ministries and departments as they deem necessary and as may be referred to them by the House or a Minister; and,*
- f) make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.*

**Mr. Speaker, Sir,**

The Committee oversees the following Ministries:

- i) Office of the President
- ii) Ministry of State for Provincial Administration and Internal Security
- iii) Ministry of State for Public Administration
- iv) Ministry of the Nairobi Metropolitan Development

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- v) Ministry of Home Affairs
- vi) Ministry of State for Special Programmes
- vii) Ministry of State for Immigration Services and Registration of Persons
- viii) Ministry of State for National Heritage and Culture
- ix) Ministry of State for Youth Affairs and Sports
- x) Ministry of Local Government.

**Membership**

The following are the Members of the Committee:

- The Hon. Fred Kapondi Chesebe, MP (Chairman)
- The Hon. John Ngata Kariuki, MP
- The Hon. Raphael Letimalo, MP
- The Hon. Peter Kiilu, MP
- The Hon. Lewis Nguyai, MP
- The Hon. Mohammed Hussein Ali, MP
- The Hon. Cyprian Omollo, MP
- The Hon. Joseph Kiuna, MP
- The Hon. Pollyins Ochieng', MP
- The Hon. Mwalimu Mwahima, MP
- The Hon. Clement Kungu Waibara, MP

**Mr. Speaker, Sir,**

Three Members of the Committee visited the City Council of Nairobi and the Langata Women's Prison on 24<sup>th</sup> October, 2008; They were;

- The Hon. Fred Chesebe Kapondi, MP - Committee Chairman
- The Hon. Peter Kiilu, MP
- The Hon. John Ngata Kariuki, MP

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On December 4<sup>th</sup> 2008, six Members also paid a visit to the Kamiti Maximum GoK Prison;

The Hon. Fred Kapondi, MP - Committee Chairman

The Hon. Ngata Kariuki, MP

The Hon. Peter Kiilu, MP

The Hon. Lewis Nguyai, MP

The Hon. Pollyins Ochieng, MP

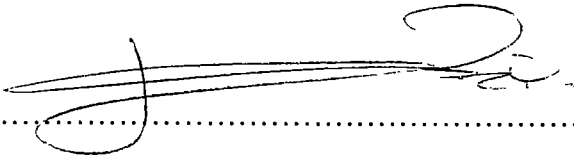
The Hon. Raphael Letimalo, MP

**Mr. Speaker, Sir,**

The Committee wishes to thank National Assembly for the logistical and financial support which enabled it to perform the tasks before it competently. The Committee is also grateful to the City Council of Nairobi, the Mayor, the Town Clerk, the Councillors, the public officers as well as the prison authorities for granting the Committee the opportunity to visit and inspect their institutions.

**Mr. Speaker, Sir,**

On behalf of the Committee, and pursuant to Standing Order 181 (3), I beg to lay on the table of the House the Report of the Committee on its visit to Nairobi City Council and Langata Women's Prison on 24<sup>th</sup> October, 2008; and Kamiti Maximum Security Prison from 4<sup>th</sup> December, 2008.

Signed..........Date.....3/06/09.....

**Hon. Fred Kapondi Chesebe, MP**  
**Chairman, Departmental Committee on Administration, National Security and Local Authorities**

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*Administration, National Security and Local Authorities Committee Report during its visit to Nairobi City Council Offices, Langata and Kamiti Maximum Prisons in Oct./Nov. 2008*

## **1.0 EXECUTIVE SUMMARY**

### **1.1 Objectives**

The departmental Committee on Administration, National Security and Local Authorities undertook a fact finding tour to the Nairobi City Council offices at City Hall, the Langata Women's Prison on 24<sup>th</sup> October, 2008 and the Kamiti GoK Maximum Security Prison on 4<sup>th</sup> December, 2008.

The visit to the Nairobi City Council offices was as a result of a number of meetings with some stakeholders in the Local Authorities arena. Previously, the Committee had held meetings with the Association of Local Government Authorities of Kenya [ALGAK] and the Kenya Alliance of Residents Association [KARA]. During these meetings a number of issues were raised in relation to the operations of the Local Government in Nairobi in particular. The concerns put forward included laxity and inefficiency at City Hall in the delivery of services, claims of rampant corruption, the repressive Cap. 265 of the Local Authorities Act, etc. The City fathers had also on several occasions voiced their displeasure on the failure of the legislative arm of Government to meet them and address pressing issues affecting the Nairobi City Council and the Local Authorities.

After the visit to the Nairobi City Council Offices, the Committee proceeded to the Langata Women's Prison. The visit was intended to find out the conditions under which the prison warders and prisoners lived with a view to making proposals to the House on areas for reforms. The visit was part of a countrywide endeavour by the Committee to inspect most correctional facilities and prisons.

On December 4<sup>th</sup>, 2008 the Committee also visited the Kamiti Maximum Security Prison. The objective of the visit was to establish the simmering

tension arising from the death of an inmate in the month of November and the subsequent searches conducted at the prison which led to public outcry owing to the manner in which they were carried out. The committee was met and conducted around the prison by the Senior Deputy Commissioner of Prisons, Mr. George Macgoye, the Prisons Officer in charge, Mr. Joshua Juma Maweu, the Prisons Deputy officer in Charge, G. Maina, SSP and other senior prison officers.

The committee received oral and written submissions (memoranda) from the convicts. The committee noted that the prison was faced with several challenges that needed to be addressed so as to make the institution run smoothly. Issues that emerged during the visit included;

- (i) Repeal of the contentious Cap. 90 of the Prisons Act.
- (ii) Congestion in the prison cells.
- (iii) Poor prison diet.
- (iv) Inactive Appeal Review Board.
- (v) Simmering animosity between the convicts and the warders.

The committee learnt that the prison holds 3,679 convicts at present way above the capacity; the numbers kept on increasing due to piling of cases and pending appeals in the High Court. It emerged that the recent crackdown was occasioned by allegation that illicit businesses were being carried out in the precincts of the prison. The situation was aggravated by the death of a prison inmate which prompted the prison authorities to launch investigations into the death of the prisoner Mr. Samson Ngacha.

It is alleged that the search that was ordered was executed with high handedness and unprecedented brutality. It is claimed that the events were captured on cameras and wide coverage of the footage shown in the mainstream print and electronic media.

Consequently the civil society and Human Rights as well as leaders from all walks of life condemned the actions of the prison warders and accused them of Human Rights Abuses. There were calls for independent investigations to be launched in order to get to the bottom of the problem afflicting the Kamiti Maximum Security Prison, but all other prisons across the country.

It is against this background that the committee on Administration, National Security and Local Authorities set out on a mission to establish the facts behind the problems affecting the Kamiti Maximum Security Prison.

## **1.2 Background**

**The Nairobi City Council** derives its existence from Chapter 265 of the Local Government Act. The City Council provides critical services to Nairobi such as water supply and sewerage disposal, fire fighting and emergency response, city lighting, public health and sanitation, community development pre-primary and primary schools education, etc. The Council is divided into various departments that are aimed at service delivery for Nairobi city.

The Nairobi City Council operates largely through laws and guidelines as spelt out by the Ministry of Local Government. The Ministry controls the City Council and enforces the City by laws which the Local Government Minister has executive powers on. The executive powers of the Local Authorities are entirely vested on the Minister and the officers of the Ministry.

**The Kenya Prisons Service** is established under Chapter 90 and 92 (Prisons and Borstal Acts) of the Laws of Kenya. The Service is an integral part of the Criminal Justice System. It contributes to public safety and security through safety custody and social rehabilitation of offenders which is geared to community reintegration. There are ninety seven (97) penal institutions countrywide. Ninety four (94) are for adult offenders while three (3) are for male



youth offenders. The average number of prisoners held countrywide daily oscillates between 45,000 and 50,000. 52% of the total offenders in custody are convicted prisoners serving various forms of custodial sentences, whilst 48% are remandees. These figures are way beyond the established capacity of accommodating 17,000 prisoners, which stretches the prison facilities by 289%. The Service has staff establishment of 16,000 uniformed and 2,000 civilians.

There have been numerous claims that the laws governing the prisons service are obsolete having been enacted during the colonial period. The problems that have,experienced over the years range from congestion in prisons, piling of cases pending appeals, housing for staff, poor prison diets, outbreak of diseases, prison break- outs, poor staff remunerations and so on.

Reforms were introduced about a year ago in an attempt to streamline prison services and make conditions more humane to the prisoners. But these reforms have been met with resistance by the prison warders of the lower cadres who claim that the reforms were geared at improving the lives of the prisoners and leaving out their interests, yet they claim their living and working conditions are no better. There have been intermittent strikes and go-slows from prison staff in the past few years seeking to have their general livelihoods improved. In April 2008 the government set up the Marsden Madoka Commission to look into the issues leading into the general unrest within the prisons.

## **2.0 VISIT TO THE NAIROBI CITY COUNCIL**

The visit was a fact finding endeavour by the Committee to establish the problems affecting the Council. There have been frequent complaints by the Councillors over the overall operations and management of the City Council.

## **2.1 Meeting with the Town Clerk, the City Council Mayor and his Councillors**

The Committee held a meeting with the Mayor, the Town Clerk and the Councillors during which the Committee heard that;

- o The Council was beset by myriad problems which affected the operations of the Council. These ranged from low pay to interference from the Executive arm of the Government, lack of finances to run the Council effectively and among other challenges.
- o The Council had made tangible achievements in the course of discharging its functions, as well as grappling with the challenges that have been a consistent constraint to its operations.

The challenges faced by the Council included the following;

### **2.1.1 Low Payment**

Members were informed that the over one hundred councillors at the Council had to cope with low pay despite the fact that the electorate at the wards are consistently requesting for financial support from them. This has lowered the working morale for Councillors and was a major contribution to the rampant graft at the Council. However, the Councillors were happy to hear that a motion was before the House to address issues of remuneration in the Councils.

### **2.1.2 Support from Parliament**

The Councillors pointed out that support from Parliamentarians tended to decline particularly when the electoral process ends, despite the fact that Councillors are at the wards virtually at all times whilst the latter tended to be less present. Parliamentarians were requested to enact council-friendly laws since they are the law-making institution countrywide.

It was alleged that Members of Parliament were instituting selective transfers in councils where the Councillors and chief officers were co-existing well so as to micro-manage those Councils. The fact that MPs were the law-makers and Councillors were the service-providers, there was the need to collaborate more extensively, it was pointed out.

### **2.1.3 Public Officers**

Members were informed of the prevailing strain between the Councillors and public officers at City Hall, beginning with the Town Clerk. The former were reported as being inefficient since they were answerable not to the Council itself but to the Permanent Secretary of the Ministry of Local Government.

Councillors were also facing frustrations in decision-making since once they pass the resolutions during council meetings, the final decisions on implementation of deliberations usually lies with the chief officers, who at times hide behind administrative protocols to dictate the course of affairs.

Due to the current laws enacted by the House, final decisions on Council programs are not in the hands of Councillors but with the chief officers, starting with the clerk of the Council.

The Councillors alleged that they carry the blame for failed initiatives; no one blames the public officers. It was noted that Councillors don't have much say even on the projects to be undertaken in their own wards, and the Council called for more powers to be given to individual Councillors to determine the priorities of their respective wards.

### **2.1.4 The Local Authorities Act Chapter 265**

Cap. 265 of the LA Act was said to be the genesis of all the troubles facing the operations of City Council and the wards. The Councillors pointed out that the review of the Act would not be so effective if it did not address pertinent issues such as powers of the Mayor vis-à-vis the role of the public officers in running

the affairs of the Council. The Chairman of the Committee informed Councillors that the Committee would soon be meeting the Association of Local Authorities in Kenya (ALGAK) to discuss the Act at length.

#### **2.1.5 Public Profile of Councillors**

The Committee heard that support from MPs to councillors waned soon after elections which tended to lower their public standing. They pointed out that Kenya is one of the few countries where Councillors are not held in the high esteem, noting that in most nations the Mayor and his Councillors are part of the national leadership profile. They maintained that all elected leaders needed to be respected and recognized adding that frustrating Councillors is tantamount to frustrating the electorate who have high expectations from the former. Members were further informed that Nairobi City Council alone had over ten graduates; hence professionalism was gradually taking root at the institution.

#### **2.1.6 Roads Levy**

The Committee heard that Parliament intended to shift the Council funds from this kitty to a different oversight authority so as to control the resources thereof, a fact that did not go well with the Councillors.

#### **2.1.7 Tenure of office**

It was pointed out that His Worship the Mayor term of eighteen months in office was too little to institute any tangible achievements at the council, and councillors called for the review of the Mayor's tenure. The Councillors appealed to Members to champion their cause since no one else could present their case better than Parliament.

### **2.1.8 Vested interests**

The Committee was informed that there were vested interests by those in authority who wanted to control and manipulate local authorities, and hence were determined at opposing its independence. Therefore the Council continued to operate under the whims of the Minister for Local Government.

### **2.1.9 Council Revenues**

The Committee heard that in most countries, local authorities get a lot of funding from the central government, whereas in Kenya the funds they obtain from the central government are not sufficient to undertake even a quarter of their operations.

Currently the government owes the Council a whopping Kshs. 6.4 billion.

Telkom Kenya on its part owes the Councils over Kshs. 200 million.

It was noted that 60% of Nairobi's 3.5 million people live in slums and related settlements, yet this is the group from whom the Council is expected to collect revenue in form of structure rates.

The remaining 40% of the population has devised witty ways of evading the revenue collection dragnet.

In addition, various firms have come up in the recent past claiming, through court processes, to be collecting and utilizing taxes. For instance, Karen/Langata Association (Karengata Firm) holds more than Kshs. 150 million that in essence belongs to the Council. The firm wants to be licensed to register houses (and has done so in Langata) but cannot construct roads or provide other amenities. The Committee was requested to raise the matter in the House regarding the activities Karengata is undertaking using collected revenue. Various individuals were also behind claims that billboard advertising rates were to decline, and this was being seen as a threat to revenue collection since billboards especially in Nairobi are a major revenue bank.

### **3.0 Way forward**

The Committee proposed to engage in further interactive sessions with other relevant Committees in an attempt to improve service delivery by the Council. In his closing remarks, the Chairman of the Committee assured the Councillors and officers that the Tenth Parliament was determined to improve the efficiency of the Council as well as the welfare of the councillors. He also noted that the Committee and Parliament as a whole wishes to have cordial relations with local authorities so that at the end of the day the electorate can benefit. He pointed out that the House would soon introduce more effective laws like the review of Cap. 265 of the L/A Act to deal effectively with policy issues, in order to remove the stumbling blocks faced by the Council. The Committee noted the need for Parliament and Local Authorities to work together, and also agreed that the Councils need more power to operate effectively. The Committee advised the Councils to have a policy for recruiting qualified technical and professional staff, and further pointed out that there was need for the Councils to halt any major/ long-term plans by illegal groups to control estates through illicit taxation and charges. The Committee also informed the Council that in the New Constitution to be promulgated in 2009, more powers would be devolved to the local authorities. In conclusion, the Committee noted that the public was generally proud of the City's image that the Council had so far managed to build.

### **4.0 VISIT TO THE LANGATA WOMEN PRISON**

The visit was intended to find out the conditions under which the prison warders and prisoners lived with a view to making proposals to the House on areas for improvement.

#### **4.1 Meeting with the Langata Women Prison Officers**

During the meeting, the Provincial Prisons Commander (Nairobi) and the Officer in Charge of the facility, briefed the Committee on the various achievements they had attained in the course of discharging their duties, together with the challenges that have been a consistent constraint to their operations. An extensive tour of the facility was also undertaken.

##### **4.1.1 Grabbing of prison land**

Members were informed that part of the Prison's land had been grabbed through illegal and irregular allocation of land especially during the reign of the former regime. Consequently the current acreage was very small. For instance, ten acres had been grabbed from the staff housing area itself. The land grabbing had been in the form of the Prison bosses writing to the Provincial Commissioner of Land stating they no longer needed certain portions of land within the Prison area. This kind of grabbing involved 'voluntary surrender of land' by the Prison's management.

##### **4.1.2 Staff Housing**

It was pointed out that the facility was host to over 500 officers since it also housed staff from the Prison Headquarters. Only 200 were enjoying the newly built house units. Quite a number were staying in mud houses, and moreover there is a security risk since ordinary 'wananchi' live within and among prison staff (so an inmate can for instance easily camouflage herself as a civilian and walk away, though under rare circumstances). The Officers proposed the need to have uniform housing designs countrywide so as to easily identify them, just as is the case with the army. It was also noted that whilst the housing situation was fairly admirable at Langata, the reality countrywide was by far worse.

#### **4.1.3 Slum-Upgrading Project**

Members were informed that a slum-upgrading project by the Government adjacent to the Prison is being viewed as a security threat since occupants at the top floors can easily see the prison compound. The risk is that raids on the prison can be planned from these buildings. During the post-election violence, the buildings posed a great threat since they could have been used to petrol-bomb the prison. The construction had been done with extremely minimal consultation with the Langata Officers. Most of the planning had been undertaken at the Prison Headquarters, and even the Nairobi Provincial Security Committee had not been involved at all. The proposal is that these houses should be given to prison staff.

#### **4.1.4 Electricity Problem**

Members heard that the electricity situation at the facility was a serious security issue since blackouts had become frequent in recent days and yet there was no generator at hand. This was a sobering issue considering that Langata is a maximum Security Prison that houses hardcore convicts on death row or life sentences, hence a need to address the lighting system.

#### **4.1.5 Security Surveillance**

It was noted that a Closed Circuit TV (CCTV) camera should be introduced to avoid the current system of physically monitoring the inmates. In Israel for instance, terrorists' prisons have many CCTV cameras and hence human surveillance is very minimal. Physical checks are both ineffective and outdated. The Prison has a perimeter wall, and since its construction there have been no escapees.

#### **4.1.6 Remandees and Convicts**

It was pointed out that the prison handles both Remandees (those under ordinary charges) and convicts, including those under capital offences. There



are currently 501 inmates against a capacity of 800 –a rare scenario in Kenya prisons. 300 had been granted Presidential pardon. However, those under death row were 44 against a capacity of 18. The longest sentenced prisoner at Langata is serving 30 years.

#### **4.1.7 Death Row convicts**

Members heard that over 900 death row convicts are in Nairobi prisons, and the total countrywide is 5,000. There is need to repeal the Death Row law to handle the issue since such convicts are a huge risk. This is because death sentences usually don't serve any eventual benefit to the convict. The death row convicts cannot be put to work in the prison industries since they can harm or kill others without even being provoked. In addition, no convict has ever been executed for over 20 years. One proposal was to convert sentences of those who had served 14 years (or were over 60 years old) from death to life sentences. At Kamiti Prison for instance, an inmate on death row had stayed there for 34 years since conviction. At Langata, a death row inmate had in the recent past killed a prison officer. This trend was worrying.

#### **4.1.8 Staff and Prisoners Uniforms**

It was pointed out that there is very little supply of both uniforms and beddings, particularly in other prisons. The prisons usually get less than a quarter of what they requisition for. Some prisoners cannot even go to farm work outside since they have no presentable attire to wear.

#### **4.1.9 Funding**

The Committee was informed that by October 2008, the prison had not yet received its first quarter (July to September 2008) funds from Treasury, and this was posing a big challenge to the operations of the Prison.

## **4.2 Dispensary**

The Prison runs a well-stocked prison dispensary with a ward. There is also a maternity wing where convicted mothers get three months leave from prison work after birth.

### **4.2.1 Prison Industry**

The Committee was informed that this is a form of rehabilitation through training, and involves handcrafts, knitting, embroidery work, needlework, fibre work, pottery, and other crafts that individual inmates choose to undertake. Products made are sold and proceedings reinvested through a Revolving Fund to cater for more training and also for government operations. The way forward is to modernize the machinery being used (most were bought in the 1970s), e.g. procuring the latest single and double-knit machines, and to increase funding to the sector. Prisoners should also get allowances for the work they do, it was proposed.

### **4.2.2 Other Physical Facilities**

- i. Dormitories -Most have been donor-funded, and the best are set aside for well-behaved inmates and suckling mothers. Some prisoners don't have mattresses as part of their beddings.
- ii. Basketball Court –available to inmates for recreation.
- iii. School –a primary school exists. Books are obtained through donations. There is need for the Ministry of Education to post teachers to the facility.
- iv. Computer Lab –there are eleven computers through which both staff and inmates learn basic computer skills after which certificates are awarded. The initiative is by the FARAJA Trust.
- v. Counselling Room –offers specialized counselling services to inmates

- vi. Chaplaincy –there are three Protestant preachers, three Catholic chaplains, and one Muslim teacher. In addition there is a church to which guests preachers are invited regularly. Bibles and other religious literature are donated by well-wishers.
- vii. Kitchen –it is in a poor state. The roofing needs replacement. Firewood is the main source of energy. Rice and vegetables are the usual diet, with the vegetables being locally planted within the institution.
- viii. Television sets –around six TVs are placed in the halls in the prison.
- ix. Remandees rooms –have been well constructed, painted and equipped with beddings and other amenities by the FARAJA Trust. On October 24, 2008 there were a total of 171 remandees at the facility, including a four year old boy born at the prison. There is also an industry for remandees, including a GTZ funded bread-baking project.

## **5.0 Way forward**

The Chairman and the Committee Members spoke to the inmates and assured them of the Committee's commitment to improving their welfare, which the Chairman noted was a priority to the Committee. The Committee informed inmates that it was looking at areas of reform for the Prisons Service, and encouraged inmates to be strong. The Parliamentary Committee on Administration of Justice is to be requested to handle the issue of appeals by remandees and convicts since hearings currently take even longer durations exceeding seven months, and up to seven years at times for capital offences mainly due to lack of judges. The Committee is to meet the Ministry of Public Works for the latter to explain why there is a stalled building project at Langata prison. The Officer in Charge thanked the Committee, pointing out that those who visit prisoners are indeed those who love and care for them.

## **6.0 VISIT TO THE KAMITI MAXIMUM PRISON**

The Committee visited the Kamiti Maximum GoK Prison on November, 2008. The Members made a tour of the facility and had the opportunity to interact and talk to prisoners serving different prison terms as well as the warders. The Committee received oral and written submissions from the following prisoners:

### **6.1 Prisoner A**

During a session with the Committee, the prisoner;

- Said that appeals were taking too long to consider.
- Lamented that appeals pending at the Machakos court had never been heard.
- Alleged that investigations into robbery were shoddily conducted with violence cases and that some cases could not be categorized as robbery with violence since they were so petty.
- Also said that trials were unfair and are sometimes fuelled by personal vendetta and that most cases were not given representation by counsel.
- Commended that judgments were delayed even after appeals were considered.
- Requested periodical visits by judicial officers to prisons to appraise the courts on the progress of the appeal cases.

### **6.2 Prisoner B**

In his submission, he reported that;

- The prison cells were very congested holding up to 15 inmates instead of the intended 3.
- Idleness was a major challenge as this gave the inmates time to hatch criminal ideas.

- Presidential pardon was the way to go since many of the prisoners had reformed and were remorseful of their past deeds.

### **6.3 Prisoner C**

The prisoner told the committee that;

- Problems affecting the prison hinged on Human Rights abuses by the prison authorities.
- There have been persistent conflicts between the staff and the convicts.
- Congestion had become a major problem for prisoners from 117 holding capacities to 800 current numbers.
- Convicts need another block to reduce congestion from the main block.
- Prisoners had a bold message to Kenyans *“that they had confessed their sins and are now reformed...”* Hence they had formed a group called “Prisoners Rehabilitation Lobby” to help prisoners to reform and become better citizens in the future. The group makes a follow up of the released prisoners to ascertain that they lead a good life once released.

### **6.4 Prisoner D**

The prisoner had been behind bars for eight years, he hails from Tanzania. During his submission, he informed the committee that;

- The search that had been conducted in the prison had resulted to torture of the prisoners by the warders.
- He boldly pointed out one warder whom he accused of being in the group of warders who participated in the torture.
- Prisoners would pay Kshs. 500 bribe to be taken to Kenyatta National Hospital for treatment.
- Basic items such as soap and tissue paper were not provided in the prison. The food was deliberately undercooked. When prisoners refused

to eat this partly cooked food, it was loaded onto trucks and sold off to owners of pigs to feed.

- The deceased inmate, Samson Ngacha, had been tortured and bludgeoned to death.
- The search that followed the death of inmate was brutal. Forms of torture included pouring of boiling water or soup on prisoners. Others were battered with blunt objects or made to crawl on bellies.
- Prisoners lost personal items such as blankets, pocket radios, etc.
- The Prison's Officer in charge had fabricated information to the effect that the prisoners were planning a major riot.
- There was widespread favouritism and discrimination with wealthy/well to do prisoners getting preference and better treatment in all aspects. An example of such favouritism was extended to Thomas Chomndoley. He was allowed privileges such as unlimited visits, good food, TV and radio entertainment etc.

### **6.5 Prisoner E**

He informed the committee that;

- He was a death row convict
- The prison was very congested especially in the A block known as the isolation or execution block.
- Prayed for presidential pardon as most of the prisoners were changed.
- Most prisoners stayed idle all the time which was a major challenge to the prison as during these idle moments, treacherous plots were hatched.

### **6.6 Prisoner F**

The prisoner told the Committee that;

- Audio speakers placed in the cells had been removed by the warders so as to cut communication from the outside world and make their lives even more unbearable.
- Tribalism, nepotism and favouritism were widely practiced by the Officer in charge of the Prison and the warders.

### **6.7 Prisoner G**

The prisoner who was the head of the Trustee group of prisoners, had the following to say;

- This group of prisoners was serving life imprisonment sentences.
- The cases Review Board was no longer effective and many cases were pending before the board.
- Two of the prisoners had gained good skills and needed to be provided with tools to put their experience into use once they left prison.
- Prisoners who had served for long needed to have the number of years reduced.
- Those jailed for long sentences should also benefit from the Presidential pardons.
- Since 2003, prisoners who had been released had managed to stay out of trouble, which was good news for others.
- The prisoners who had been jailed by judges implicated of impropriety during the judicial purge in 2003 ought to be set free. The basis of this argument is that since the judges were found guilty of malpractices, then it follows that those jailed during this time were product of undue process and therefore, might have as well been innocent.

- Frequent transfers of prisoners should not be entertained as it tended to encourage hardcore prisoners from other prisons to meet and interact with their counterparts in other prisons.
- Foreigners also need to benefit from the presidential pardon.
- If a prisoner had served for 30 years then they needed to be pardoned on the basis that the years behind bars had taught them a lesson and they had reformed.
- It was generally believed that if there was frequent review of cases, many prisoners would go home.
- Prosecutions were not done procedurally and many people found themselves behind bars due to poor handling of their cases by acts of omission or commission by the prosecutors.

## **7.0 OBSERVATIONS**

### **7.1 Nairobi City Council**

1. The government as a firm grip over the councils. Decision making is a long process that must be sanctioned by the minister for Local Government. This renders the councils into toothless entities who are at the mercy of executives from the central government.
2. There was open hostility between the city Councillors and the Mayor on one hand and the Town Clerk and his officers on the other. There was a distinct power struggle between the Mayor and the Town Clerk. This animosity was obviously slowing down the development initiatives in the City.
3. Councillors were really unhappy with Cap. 265 of the Local Authorities Act which curtailed their powers and vested the same to



the Chief executives in the Ministry and they were in agreement that this law should be reviewed.

4. The City of Nairobi had seen an influx of professionals in the past election in that a number of the Councillors were graduates. This was good for the City which had previously been inundated by Councillors of all shades regardless of their educational background.

## **7.2 Kenya Prisons Service**

1. There was simmering hatred and mistrust between warders and prisoners which if no urgent measures were taken to address the problem, matters were bound to explode out in the open with devastating effects.

Rampant corruption prevailed in the prison service with numerous cartels involving prison warders and prisoners themselves engaging in illicit trade.

2. The government is rather slow in implementing the many recommendations and proposals that have been put down through various reports of commissions.
3. There is a lot of resistance by prison cartels to quit their illegal activities. The lucrative illicit trade involves even the senior officers in the prison cadre.
4. Many prisoners were willing to talk about their problems and suffering without the fear of the repercussions from the warders.

5. The warders themselves were economical in revealing information to the committee members in an open forum perhaps for fear that they could be reprimanded later.
6. There was a general mood of optimism among the warders in the sense that the newly appointed Commissioner and Deputy Commissioner would inject into the prison service the freshness that has been lacking and also fast-track the proposed reforms.
7. Some of the convicted prisoners were well schooled and could understand the law and interpret it easily especially cap. 90 of the laws of Kenya that touched on their welfare.
8. The Deputy Commissioner relates very well with both the prisoners and the warders. This good gesture made many prisoners to open up and speak their minds. The warders were equally enthusiastic in the presence of the Deputy Commissioner of Prison Service.

## **8.0 RECOMMENDATIONS**

### **Nairobi City Council**

1. The Government must move swiftly to amend Chapter 265 of the Local Government Act that seems to be the genesis of the myriad problems affecting the city Council of Nairobi.
2. Local Authorities Transfer Funds (LATF) should be merged with the Constituency Development Fund (CDF) to broaden the financial base and increase devolved funds at the constituency level. This merger will remove the possibility of duplicating the same devolved funds whose objectives are the same.

### **The Prisons Service**

3. Far reaching reforms, many of which have been proposed by numerous reports produced should be implemented so as to achieve positive changes in the Kenya Prison Service.
4. The appointment of the Commissioner of the Prisons Service should be based on merit, experience and qualifications. Parliament should be involved in the process of appointing the Commissioner. The President nominates the candidate, Parliaments vets and approves the nominee through the relevant Committee then the President confirms appointment.
5. The government should make a conscious effort to construct housing units for warders. The mud structures for the warders are unacceptable and they tend to kill their working morale and also promote corruption.

6. The contentious chapter 90 of the laws of Kenya must be amended to bring about the much needed reforms into the service. The law that was enacted during the colonial times may not be applicable in present day realities in our prisons.
7. The court processes handling appellate cases for prisoners should expedite hearing of appeals so that the appellants can either be sent to the gallows or released. Cases that drag for long periods result in congestion of the prisons and pile up in the courts. The police and the judiciary should move swiftly to deal with a backlog of over 700,000 pending court cases.
8. Death penalty should be abolished and be replaced with life imprisonment. This would reduce incidents of unrest in the Prisons which are usually planned and executed by the idle death row convicts.
9. The cases review Board should meet regularly, at least twice in a year to deal with pending cases and minimize backlogs.
10. In instances where prison land has been grabbed, the Government should strive and move with speed to regain it. Title deeds should be issued to protect Prison land.
11. Construction of high rise buildings next to the Prisons walls should forthwith stop. Such buildings pose a serious security threat to the Prison where occupants of these houses can actually see and monitor the activities inside the prisons.