

**HOW FAR IMPRISONMENT IN UGANDA HAS SERVED ITS
PURPOSE AS A MEANS OF PUNISHMENT.**

(A CASE STUDY OF KAMPALA DISTRICT)

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THE PREAMBLE:

DECLARATION:

I Akot Catherine do hereby, declare that, the information in this report is entirely my original work and the same work has never been submitted to any university or institution of Higher learning.

Signature.....

Akot Catherine.

Student Researcher.

Date of submission.....

APPROVAL

I declare that this work under the discipline of law and jurisprudence was done by Akot Catherine, under the approval and supervision of **Rev.Fr.Dr Katamba** and is now ready for submission for the award of Bachelor Degree in Law for the year 2006-2010.

Signature.....

Rev.Fr. Dr Katamba.

Date.....

DEDICATION

I hereby dedicate this book to my dear Auntie (Miss Carmen Akot), a member of the Uganda Public Service Commission. Who has tirelessly dedicated her efforts to educating me and uplifting my social status.

ACKNOWLEDGEMENT

I would like to extend my heart felt acknowledgment to some people for their contributions in one way or another towards the success of this compilation. Worth mention are: **Rev. Fr Dr, Katamba**, The Head of Department of Law and Jurisprudence at Kampala International University, for guiding me on how to adjust a broad topic into a concise legally suitable research topic.

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CHAPTER ONE:

1.1 INTRODUCTION:

The term imprisonment is not defined precisely, although generally speaking, it is the deprivation of personal liberty of a person. Thus,

According to the “**Black’s Law Dictionary**”, imprisonment connotes the act of being confined especially in prison. Secondly, it is the state of being confined; a period of confinement.¹

Prisons as a threat and reality have for the last two decades been used as a tool to remove offenders from society as a means of attempting to ensure that societal norms are adhered to. In theory, prison regimes are intended to guarantee justice, promote rehabilitation and re-integrate in society and safeguard individual’s rights and safety. However, prisons may also be used by the state authorities to perpetrate high-handed and tyrannical practices like torture, arbitrary killings, and other forms of ill treatment. It must be emphasized that people are taken to prisons as a punishment and not to be punished.² Subjecting them to abhorrent conditions and other forms of ill treatment are violations of their rights and freedoms far and above the denial of the right to liberty which is the only right that is lawfully taken away by imprisonment.

¹ Page.773 of T Black’s Law Dictionary.

² This view is also expressed by W.J Karuragyire 1996, the prison Act 2006, and the rights of inmates presented at state holder’s Roundtable on prison conditions in Uganda, 10th 10/2008, held at the Uganda Human Rights Commission offices

On this the former **Chief Justice of Zimbabwe, Gubbay C.J** authoritatively stated “The view is no longer firm in this jurisdiction and in many others that by reason of his crime a prisoner sheds all basic rights at the prison gate. Rather he retains all the rights of a free citizen save for those withdrawn from him by the law, expressly or by implications, or those inconsistent with the legitimate penological objectives of the correctional system.

1.2 THE BACKGROUND TO THE PROBLEM OF PUNISHMENT:

Punishment of wrong doer is as old as the society. For example, the story of man in the Garden of Eden. Wherever human being lived (s) there has always been behaviors that are proved and considered good and proper by the majority of the people. And there have been aspects of social behaviors that hurt the interests of the group. Thus, wrongs were reached to by punishment because of the essentials contained in the concept of punishment as an instrument of social justice.

When a wrong occurred, the reaction was getting rid of an offender by death or exile. Imprisonment in the olden days as a mode of punishment was virtually unknown, In Africa it was introduced by the colonialist and was first adopted by the church which used it extensively that imprisonment came to be the most principle method of punishing serious offender especially the common and special prisoners who arose in the 19th centaury. Thus, incapacitation is undoubted effect of imprisonment since the offender is incapacitated from committing other offense at the time when he is

imprisoned. It is arguable that, the traditional view indicates that the evil men and women need to be punished as the ultimate justification for the wrong doing and as a mode of social justice.

1.3 THE BRIEF HISTORICAL PERSPECTIVE OF THE PRISON SYSTEM IN UGANDA:

Suffice to say, there were no formal prisons in Africa before the advent of colonialism. Following the 1894 declaration of Uganda as a British protectorate, the 1901 order in council was passed which incorporated all English laws, including laws on prisons, into Uganda's legal system. It was only in 1958 that the first comprehensive legislation on prisons came into existence with the passing of the prison ordinance of 1958 which sought to consolidate and amend the laws relating to prisons. It also provided for their organization and the powers and duties of prison officers. It is important to note that the most of the provisions of this ordinance were adopted from the **United Nations Standard Minimum Rule for Treatment of Prisoners (UNSMR)**.³

By 1964, the prison service operated thirty prisons throughout the country, many of which were industrial or agricultural facilities intended to rehabilitate prisoners by means of subjecting them to physical labour.⁴In the same year the first African

³ Held at Geneva in 1955 and approved by the 4th economic and social council on 31st July 1957

⁴ Extracted from 'Uganda prison system' available at www.country-data.com/cgi-bin/query/r-14175.html. accessed 7th may 2009

Commissioner of prisons was appointed which was the turning point for the Ugandan prison service.⁵

During the 1970's, prisoner abuse became increasingly commonplace as civilian and military prison conditions deteriorated beyond imagination. This persisted throughout the 1980's. In 1987, National Resistance Movement allowed the international committee of the Red Cross (ICRC) to observe the conditions of prisoners in civil prisons. This undertaking initiated a process of slow but steady prison reforms in Uganda and since then there has been significant process in relation to the reformation of the prison system to bring it into line with internationally accepted standards. A very important development has been the passing of the **Prisons Act Cap 17 of 2006**. The prisons Act emphasizes prisoner's rights and is aligned to the 1995 constitution of the Republic of Uganda and the international and regional human rights instruments ratified by Uganda.

1.4 THE LAWS GOVERNING PRISONS IN UGANDA:

The Prisons Act Cap 17 of 2006.⁶ Constitutes a fundamental departure from the previous prison legislation as it seeks to promote the letter and the spirit of the 1995 constitution of the Republic of Uganda as well as a host of international and regional human rights instruments, including the United Nations Standard Minimum Rules for Treatment of prisoners (UNSMR).⁷

⁵ The Uganda prison service was established by the prison Act cap 17 of 2006. Edition volume 8

⁶ The prisons Act Cap 17 of 2006.

⁷ United Nations Standard Minimum Rules for Treatment of prisoners

Article 23 of the 1995 constitution of the Republic of Uganda,⁸ guarantees the right to liberty and sets out the limited circumstances under which the person's right to liberty can be curtailed, for example detention at a lawful detention centre and being produced in court of law or being released on police bond within 48 hours for all suspects.

In addition, the prisons Act entrenches the fundamental rights of prisoners into Uganda's domestic law and gives effect to the core obligation of fostering human rights as required by the **United Nations Standard Minimum Rules for Treatment of prisoners(UNSMR)**.⁹The Act also unifies the prison system by abolishing local administration prisons thus, sets up and operationalises different structures such as the prisons Authority (a body responsible for administration decision concerning senior prisons officers);the prison council (which is responsible for making administrative decisions concerning the Junior prison officers);the Regional prison committees (which comprise of Regional prison commanders who make administrative decisions for the region); and the (District prison committees which are responsible for making administrative decisions for a district. The effect of these provisions is meant to improve conditions in prisons and give effect to prisoner's right and dignity.

⁸ Article 23 of the 1995 constitution of the Republic of Uganda

⁹ Section. 57 expressly recognizes various rights of prisoners including freedom of worship, the right to gainful employment ,a right to treatment with dignity,access to health services available in the country and the right to participate in cultural activities

CHAPTER TWO:

2.1 STATEMENT OF THE PROBLEM:

Imprisoning individuals who break the law has many goals. Imprisonment shows society's abhorrence for certain antisocial behaviors and incarceration removes individuals from the community for some time. Most offenders however, are eventually released from prison. Thus, imprisonment like any other forms of punishment aims at rehabilitation of the offenders. Another goal of incarceration is that imprisonment will serve to deter offenders from engaging in further criminal behavior. Therefore, imprisonment has become a fairly common consequence of the law.

It is notable that, despite the positive goals of imprisonment mentioned above, it goes without mention that the conditions with which the prisoners are sometimes subjected are unconstitutional. For example, subjecting prisoners to beating is common practice yet it is against the provisions of **Article 24 of the 1995 constitution of the Republic of Uganda**¹⁰, detention of a suspect for over 48 hours before being produced to court for hearing is unconstitutional common practice, and detention of a prisoner in a place rather than that authorized by the law¹¹ to mention but a few are some of the evils which still monopolize our penal system. Thus, the statement of the problem seeks to analyze the extent with which some of these evils serve to defeat the original penal

¹⁰ Article 24 of the 1995 constitution of the Republic of Uganda

¹¹ Article 23(2) 1995 Constitution of Republic of Uganda.

objectives of imprisonment and how far it has achieved its objectives. And find appropriate recommendations in relation to the same.

2.2 OBJECTIVE OF THE STUDY:

The main objective of this study is to weigh the effects of imprisonment and observe whether it is consistent with the legitimate penological objectives of the correctional system. Thus, viewing how reformatory to the prisoner it is and how deterrent its values are for prospective criminals.

2.3 SCOPE OF THE STUDY

My study intends to focus within the confines of Kampala District and specifically to mention, Luzira prison is the major sample of the study areas from which I intend to draw a conclusion which is a general reflection of all other unstudied prisons in Uganda.

2.4 METHODOLOGY:

A number of methods were employed in the process of this data collection and these are as laid down below:

(a) INTERVIEW:

The interview method was employed in a way that I had one on one talk with a considerable number of prisoners who explained situations related to their well being and their experience behind bars. I also interviewed the welfare and rehabilitation officer, Madam Akoli Stella on the plans for a proper welfare of these prisoners and she

went on to explain the endeavors on the part of the Government to improve the living and the health conditions of the prisoners.

(b) QUESTIONNAIRE:

A number of written questionnaires were put to the prisoners as one of the methods of data collection. The answers given to the questions addressed by these questionnaires revealed the prison conditions in Uganda as a practical reality and the prisoner's experience of the life behind bars.

(c) OBSERVATION:

Under this method, I visited the women prison and the Macshion bay prison in Luzira Remand Prison and Women Prison and observed the conditions which the prisoners live. This process helped me not only in the process of data collection, but in drawing a conclusion as regards the prison conditions and its usefulness in Uganda today.

2.5 LITERATURE REVIEW:

To begin with, the right to personal liberty and security of a person is guaranteed under the provisions of Article 23 of the 1995 constitution of the Republic of Uganda. Crucially, this right has been rid of the wanton restrictions by way of claw-back clauses that underpinned the rights under the 1967 predecessor. Further, there are additional guarantees against preventive and incommunicado detention under (Article 23 (5), and

the order of Habeas corpus is guaranteed as a non-derogable right, Article 23(9) and 44 (d) which strengthens it as a remedy¹²

Further, it follows that the right to personal liberty should not be arbitrary. The grounds for such deprivations are spelt out under Article 23(1) of the 1995 constitution. However, the law and order agencies have not often shown sufficient cause to effect arrests rather, the tendency as incidents have attested is for the police to arrest and detain individuals upon a whim and without reasonable cause as to the commission or suspicions of commission of criminal offense the “**arrest first and investigate later**” approach in the law and order functioning of the police has been pointedly criticized, with the **Human Rights Commission observing in James Hafasha v D/SP John Bwango**.¹³

“We take exception to the practice in this country where the police have a culture of arresting people first then investigate later. This in our experience has denied a lot of innocent people their liberty. Even when prudence would have meant that a matter should be investigated first before an arrest and detention is made”.

On the other hand, the practice has prevailed where the individuals arrested and detained are not given reasons for arrest and detention or where a reason is availed, the reason cannot be brought within the parameters of articles 23 of the 1995 Constitution. Thus, in **Mohamood FE Hassouna v AG**.¹⁴ A charge preferred against an individual

¹² 1995 constitution of Uganda Articles 23(1,5,9,&44(d)

¹³ Complaint, UHRC No 335/1998.

¹⁴ Complaint, UHRC No 110/1998

arrested as being in respect of “state matters” was criticized as a charge that does not exist in any statute book in Uganda.

Several other literatures have been reviewed in this study and they attempt to show some scholar’s views of the concepts of imprisonment as a means of rehabilitation. Thus, Zamble and Porporino in the Book (**Bartol & Bartol, 1994 at page. 366**)¹⁵ concluded from their research that “prisons do not produce permanent harm to the psychological well-being of inmates”. However, as a matter of critique my study has found that there are certain prison conditions where this may not be the case, as where inmates are subjected to over-crowding and isolation.

Similarly, **Bartol C.R, & Bartol, A.M (1994) Psychology and Law: Research and Application (2nd edition.)**¹⁶. It is stated that, whether an inmate becomes severally psychologically affected by solitary confinement is dependent on how much time is spent in isolation. For instance, an inmate who is placed in isolation for a few days will not be as psychologically affected by the experience in comparison to an inmate who is isolated for a longer period of time.

Further, the overall results of the studies have shown that, individual inmate react differently to confinement, they discovered that emotional disruption and adjustment were clearly problems for most inmates during the early stages of their sentence s, resulting from the dramatic disruptions to their life caused by the many restrictions, and

¹⁵ 1994 at page 366

¹⁶ 2nd Edition at page 366-368

restraints inherent in prison. The studies have found that during the time span of an inmate's sentence, psychological reactions to imprisonment will often follow a (U-shape) pattern, with the strongest emotional stress reactions occurring at the beginning of the sentence, and at the end of their sentence and as the time to be released approaches. This is partly due to the anticipation and feelings of uncertainty about one's ability to adjust and cope in the outside world again, after having adjusted to the prison life. During the middle of the sentence, anxiety is usually quite low and some acceptance of prison life is generally gained.

In respect of the prisoner's rights, **Chief Justice of Zimbabwe, Gubbay C.J**¹⁷ authoritatively stated "The view is no longer firm in this jurisdiction and in many others that by reason of his crime a prisoner sheds all basic rights at the prison gate. Rather he retains all the rights of a free citizen save for those withdrawn from him by the law, expressly or by implications, or those inconsistent with the legitimate penological objectives of the correctional system.

The above statement as a matter of fact is true to the extent that the prisoner has every inherent right of any other human being and those rights are not shaded off by the fact of they having lost their right to personal liberty through arrest and detention. However, as a matter of critique, there is usually a difference between the law in books and the law in practice. Thus, in practical reality the study points that the prisoner is subjected to a number of ill treatments such as torture, forced labour in the names of communal service, poor accommodation and feeding to mention but a few. All these constitutes a

¹⁷ ibid

deprivation of other rights of prisoners other than those withdrawn from him by the law or those inconsistent with the legitimate penological objectives of the correctional system.

An additional literature review is stipulated in the Good News Bible in the **Book of Mathew chapter. 27** on (The crucification of Jesus), which explains “They crucified him and then divided his clothes among them by throwing dice. After that they sat there and watched him. Above his head they put the written notice of the accusation against him: “this is Jesus the king of Jews.” Then they crucified two bandits with Jesus, one on his right and the other on the left¹⁸

It follows that, the crucifixion of Jesus was a form of imprisonment on the cross. This is because it constituted incarceration, humiliation, and a total deprivation of his personal liberty to continue doing the mission of God. This points out to the fact that imprisonment is not a new concept to our society but stressed its origin way back from the biblical point of view when it was used by the Pharisees to punish and get rid of Jesus who according to them fell below their expectations and failed to relieve them from the Roman dominion.

¹⁸ (Mk 15.21-32.26-43; John ,19.17-27

CHAPTER THREE:

3.1 CAUSES OF IMPRISONMENT IN UGANDA:

A number of factors are advanced for leading to persons being imprisoned in Uganda and some of these factors are briefly explained below:

a) BREACH OF THE LAW:

In any country where the rule of law prevails, people who breach the provisions of the law are liable to punishment. Thus, it is upon the court to revisit which penalty such a breach calls for. If it is imprisonment then a convict faces his fate at the law as a consequence of his actions.

b) IGNORANCE OF THE LAW:

The common law doctrine is that the ignorance of the law is no defense. However, some people find themselves in prison for reasons they can not explain but their wrongful acts are rather explainable in the letters and the spirit of the law due to their ignorance of the existence of these laws.

(c) MORAL DEGENERATION:

In Uganda, just like in many parts of the world, human morals have greatly degenerated to the extent that some hardened criminals no longer care whether they are imprisoned or that what they do is morally upright or not. What matters to most people is that they have satisfied their ego. For example, thefts, corruption, bribery, are some

of the offenses that call for long time imprisonment but they are committed each day on a large scale.

(d) THE WIDE GAP BETWEEN THE RICH AND THE POOR:

The song of the wide gap between the rich and the poor is a common one to all the developing countries, Uganda in particular as a case in point. In such situation the poor always fight their way to make a living from those who have in plenty whether through working for them or stealing from them, an evil that gives birth to criminality which calls for among others the imprisonment of such offenders.

(e) THE NEED FOR SOCIETY TO RID ITSELF OF CERTAIN DANGEROUS INDIVIDUALS:

There are some individuals who are so dangerous to the security of the society at large. For example the hardened criminals such as murderer, rapists, robbers, to mention but a few who are a threat to be continued in the society. Thus, such individuals are better confined as a means of societal justice. It is also sometime in the interest of protecting such criminals that they ought to be confined since if left at large, they could run a risk of being lynched by the community of people who are tired of their antisocial behaviors.

(f) ILLITERACY:

This is one phenomenon that leads to the breaking of the law in which a punishment such as imprisonment accords. Some people in Uganda are still unable to read and write and as a result they fall prey to the wrong side of the law. A good example is where a sign is

put reading 'don't throw rubbish here or else you will pay a fine of 100,000 or serve a term of imprisonment in default'. Such signs only communicate to those who can read. Thus leaving out those who can not liable for the penalties that follow as a result of their inability or illiteracy.

(g) POVERTY:

They wide spread poverty is one of the major causes of imprisonment in our world today.

For example, a poor person may have no option but to steal from some body in order to eat for that day yet imprisonment is a penalty that follows theft in case one is apprehended and brought to book.

h) CULTURAL DEGENERATION:

It is notable that the western culture which has dominated The African culture is not only the good ones. Some of which have degenerating effects that are not appropriate to the African settings. For example, it may not be an offence for a white man to marry a relative yet this is an abomination to some cultures in Uganda and in the statue books it could lead to incest which is a very serious offence punishable by life imprisonment or death.

(i) EXISTENCE OF OBNOXIOUS PROVISIONS IN THE LAW BOOKS:

There are some provisions in the law books which are so ambiguous to be understood and interpreted by an ordinary man. Most especially those laws that exist to suppress the political opponents. In these instances, prisons may be used by state authorities to perpetrate high-handed and tyrannical practices like torture, arbitrary killings and other

forms of ill treatment. For example, the treason suspects and those arrested for idle and disorderly or suspected suicide bombers.

(j) PERMISSIVENESS OF OUR SOCIETIES:

At the present date, no one in the society seems to care about the other but each man for himself and God for all. A good example can be linked to the wide spread corruption which has been given a rest at every place. For example, the Local Councils are also so corrupted that they prefer to take bribes from the criminals and go on to protect them instead of standing in for the right things.

(k) MENTAL DISORDER:

Some persons commit crimes which lead to their imprisonment due to a mental disorder or disillusion. It should however be noted that a very large blanket is often thrown to cover criminals who fall into such category not because they are believed to be mentally ill at the time of commission of the crime, but they are usually rushed to the mental hospital for examination just as a delay tactics to protect the offender from the angry masses.

3.2 SIGNIFICANCE OF IMPRISONMENT:

Imprisonment as a means of rehabilitation has a number of significant impact on criminal behaviors, public security, and law enforcement policy and these significance can be exhausted as below:

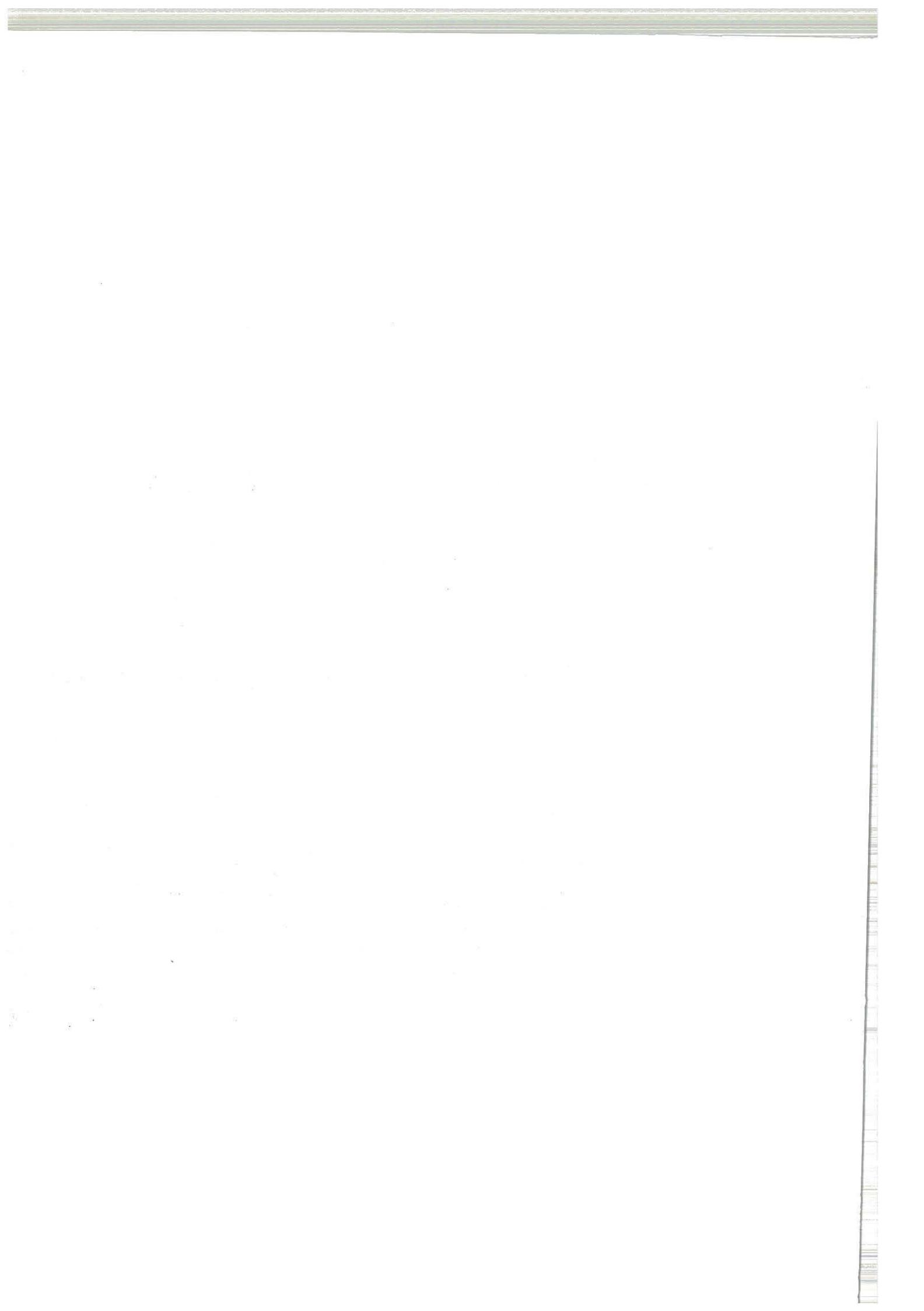
- a) It helps in the situations of emergency where there is need to protect the society from the harmful criminal behaviors of certain dangerous elements who need to be removed from the community with immediate effects. for example serial killers, harmed robbers, and so forth. Thus, it is not only a means of rehabilitation of offenders but a means of protecting the societal peace.
- b) Closely related to the above, imprisonment serves in some instances as a means of ensuring national security. For example, by imprisoning the treason suspects or suicide bomber suspects, the national security is guaranteed.
- c) Imprisonment is also a method of crime prevention. This is closely linked to the deterrence values that imprisonment contains. The incarceration not only make the offenders handicapped from committing further crimes, but also has the effect of deterring prospective criminals from engaging into open criminal acts due to the fears of being jailed too
- d) The correction policy is one of the significant goals that imprisonment has achieved to some extent. This is because imprisonment contains the qualities of rehabilitation and re-integration into the society. It is believed that the pain of confinement in which a prisoner experiences a limitation of movement and moral rejection has correctional values.
- e) Imprisonment is a law enforcement policy. It sends a signal of threat to criminals and to the public at large that the law does not end on paper and ink, but extends to be implemented by ensuring that those held accountable for the breach of its provisions are punished.

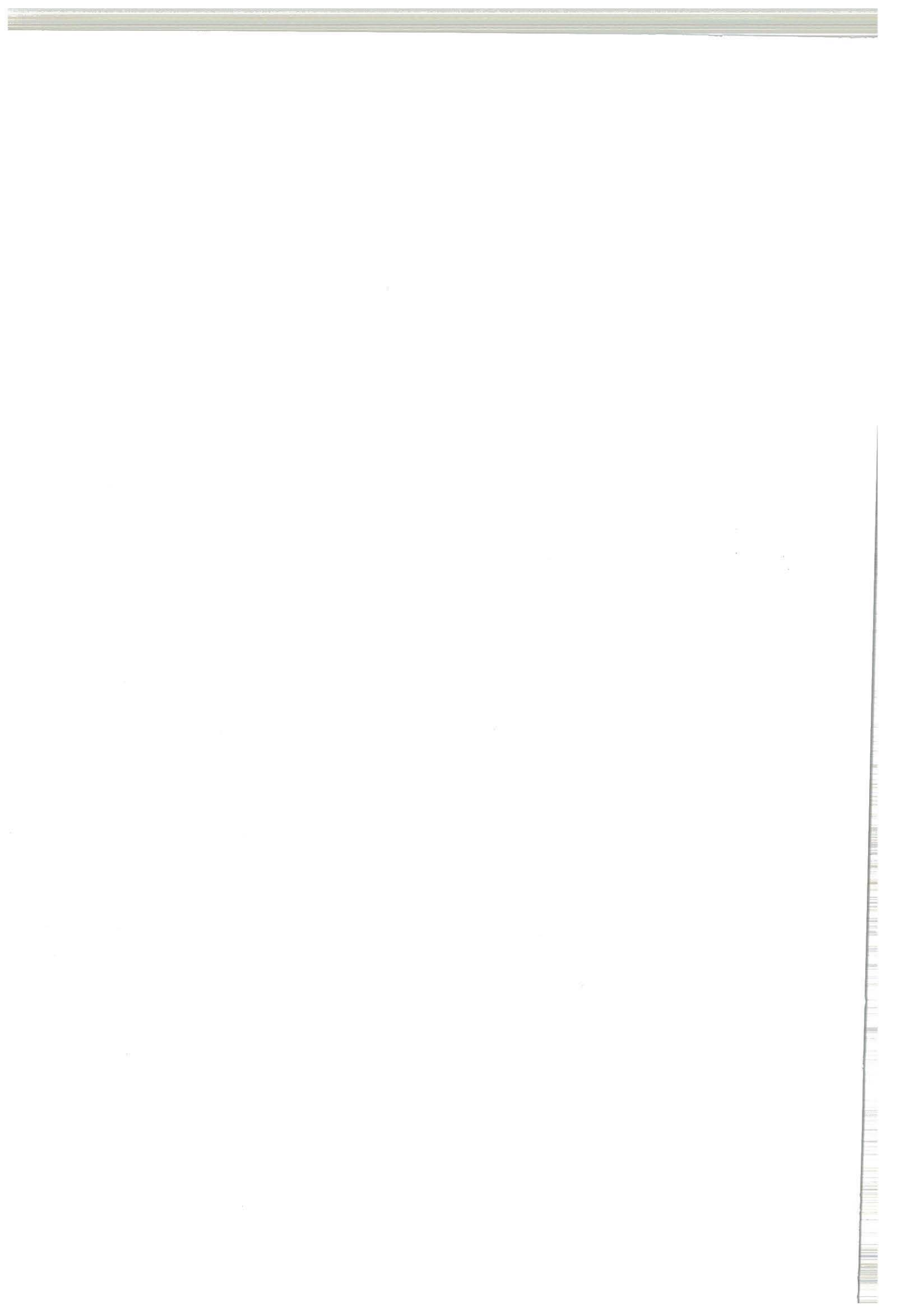
- f) It promotes peace and order in the societies. This is because the disorderly and dangerous harmful individuals are handed-down and incarcerated leaving the society at a considerable degree of order and peace for the time such threats are handicapped.
- g) Imprisonment has greatly reduced the tendencies of mob justice from the societies. By eliminating such unwanted elements ,it does not only protect the society but also such individuals from the wrath of the society so that they are not lynched, stoned or beaten to death as an expression of the society's abhorrence for their anti-social behaviors.
- h) By imprisoning an offender, satisfaction is caused in the hearts of the victims. Thus, one would not be wrong to say that justice is revenge disguised by a legal custom. This is because once an offender is punished, justice is said to have met its very end result.

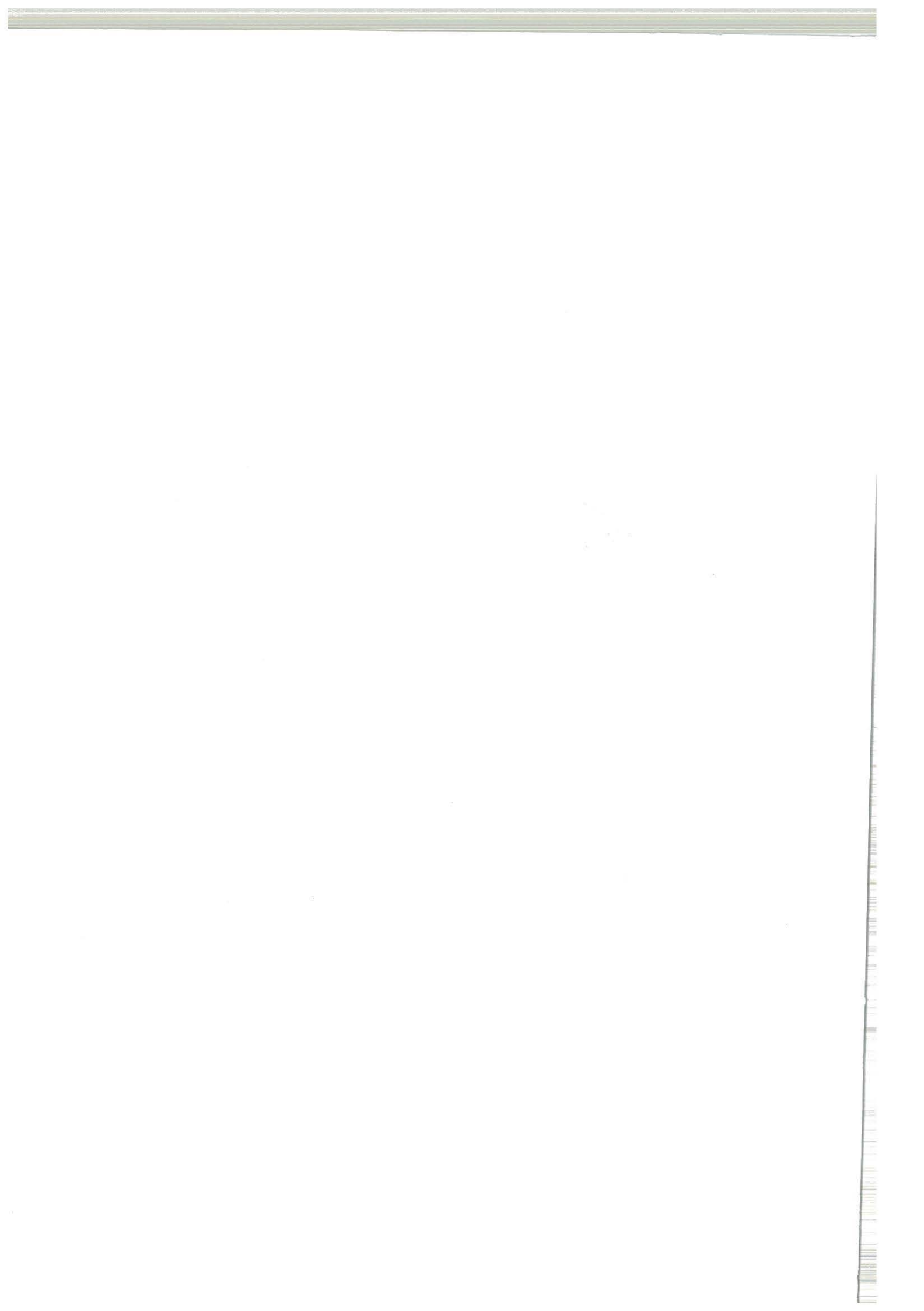
3.3 LIMITATIONS OF IMPRISONMENT:

(a) BACKLOG:

This is found to cause substantial problem for criminal cases and the prisons system. When I talked to different prisoners from the different prison, they all complained of the backlog and their inability to come before the judge or the magistrate quickly. Out of about 600 prisoners being held at each prison about 100 had actually been convicted of a crime, while the rest of the prisoners are either waiting to be committed or on remand yet constitutionally they are supposed to be committed within 48 hours or be







released on police bond but in actuality this often does not happen. In that respect, two of the female prisoners I interviewed in Luzira women prison one Kia and Namatovu have been in prison for 19 days and not yet committed.

It should be noted that the above act constitutes a violation of **Article 28(3) a of the 1995 Constitution of the Republic of Uganda¹⁹ and many other provisions**. This gives every accused person a right to be presumed innocent until proven guilty. Thus the fact that some of these accused persons are locked behind bars as mere suspects whose guilt or innocence is yet to be proved is surely a violation of the constitutional provisions.

(b) THE RIGHT TO FOOD:

Section. 69 of the prisons Act provides²⁰ that ‘a prisoner shall be provided with food of nutritious value adequate for health and strength by the prison administration, at the usual hours and the food shall be of wholesome quality, well prepared and served. And that drinking water shall be available to every prisoners whenever he or she needs it ‘. This provision is a restatement of **Rule 20 of the United Nation Standard Minimum Rules for Treatment of Prisoner.²¹**

However, most of the places of detention visited by civil society organizations fell below this standard in many regards. First, it was found that meals are served irregularly due to the ever-increasing number of prisoners, lack of food and adequate cooking and eating utensils. At Kigo prison, for example, prisoners had a two –in –one

¹⁹ Article 28(3) a

²⁰ Cap 17 of 2006.

²¹ Rule 20 of United Nations Standard Minimum Rules for Treatment of Prisoners

meal of yellow maize flour mixed with hot water and served at approximately 15h00 as both lunch and supper. The same practice was found in Masaka Central Prison with the only improvement being a breakfast of porridge served at 07h00. In the some prisons, like Kabula, it was found that prisoners received two meals per day being lunch and supper. However, in all the prisons visited there were no special diets for the sick prisoners.

The food provided to inmates is not only insufficient in quality but also of low nutritional value. Consequently some prisoners, especially those in the rural areas appear malnourished. Food for prisoners is usually produced by prisoners on prison farms. However, it is alarming to find that in police cells in Uganda there is no mechanism for feeding detainees and most of them went without food or depended on meals brought by their relatives. Nutrition in places of detention remains a serious problem and needs urgent attention.

(c) ACCESS TO MEDICAL CARE:

The right to health care is a fundamental right for all human beings and prisoners are no exception to this. For all prisoners adequate health care begins at the time of admission into custody and prisoners have to be examined within 24 hours of admission to establish their health status. **Section.57 (f) of the Prisons Act** ²² provides for the rights of prisoners which include the right to have access to health services available in the country without discrimination due to their legal situation. This provision is

²² Cap 17 of 2006.

supplemented by **section. 75 of the Prison Act**²³ which provides for the transferring a prisoner to hospital if he or she can no longer remain in prison. However, it's a great concern that these provisions are not yet functional in many prisons.

Following the Civil Society Prison Reform Initiative research, through routine visits to prisons, observation reflected some improvements in this regard. A patient referral system whereby sick inmates are transferred to better medical facilities for treatment has been established. Importantly, at the end of 2007 the Uganda prison service had secured approval from the ministry of Public Service to recruit 111 health workers.

Further progress is that HIV, AIDS-positive inmates continue to receive antiretroviral drugs and over 800 prisoners are on this therapy. This improved access to medical services has, according to **The Commissioner General of Prisons, Dr. Johnson Byabashaija**, reduced the mortality rate, especially in the Kampala Extra region, by 66%.²⁴

There is however, a persistent shortage of the required drugs as well as qualified medical personnel at most prisons. Consequently, the sick prisoners are taken to the nearby health centers for all ailments ranging from common cold and flu to diarrhea and malaria. In respect of (HIV/AIDS), it was observed that most prisoners in urban centers had facilities and had attempted to facilitate access to (ARVS) but this was not always successful. At Kigo prison the supply of (ARVS) and other drugs were found to

²³ supra

²⁴ In a speech delivered during the Annual Report consultative meeting held at Rider Hotel, seta (mukono), on 22nd February 2008.

be irregular. In summary, it must be acknowledged that access to medical care has improved greatly but there remain a number of serious and persistent challenges.

(d) ACCOMODATION:

Rule.10 of the United Nations Standard Minimum Rules for Treatment of Prisoner²⁵ provides that, “all accommodation provided for the use of prisoners and in particular all sleeping accommodation must meet all requirements of good health. This includes due regard to climatic conditions, cubic content of air, minimum floor space, lightening, heating and ventilations.” Even though the prisons Act makes no direct provision for standards in respect of clothing, bedding and accommodation, these are indirectly referred to in the provision for the development of regulations. **(Section. 124) of the Act²⁶** mandate the minister to develop regulations it provides ‘the minister may in consultation with the commissioner General, by statutory instrument, make regulations for the effective management and government of prisons and the prisoners whether in, above or beyond the limits of the prison, and generally for the better carrying out of the provision and purposes of this Act.’ More specifically, the Regulations need to address: 2(e) the safe custody, management, organization, hours, mode and kind of labour and employment, clothing, maintenance, instruction, discipline, treatment, restraint, correction and discharge of prisoners.”

Rule .10 of the United Nation Standard Minimum Rules for Treatment of Prisoners²⁷ is far from being adhered to as most prison facilities were found to be in a

²⁵ United Nations Standard Minimum Rules for Treatment of prisoners.

²⁶ The Prison Act Cap 17 of 2006.

²⁷ Ibid

deplorable state. For example, at Kabula prison, prisoners were detained in an old building with cracking walls. At Arua prison the roof of one of the sections had been blown off during a storm and had not been repaired. Most of the structures visited were dilapidated and posed a risk of collapsing on the prisoners. It's clear from the above findings that most of the prison buildings are in poor state, Poor hygiene and sanitation in and around the prisons is also cause for alarm. It was found that most of the water sources in the prisons are unsafe and water supply infrastructure dilapidated.

(e) PRISON OVERCROWDING:

This is one of the most pressing challenges facing the Uganda prison Service with most of the cells having twice, thrice or even fivefold the number of inmates in excess of capacity. The total available prison capacity at the end of 2009 was 9428, but Ugandan prison provided accommodation to 19 289 prisoners; more than double the specified capacity. For example Nakasongola prison, with a capacity of 31 had 207 inmates at the time of the visit by the civil society prison reform initiative team on 16th Of February 2009 translating into an occupation rate of 668% and Masaka central prison had 677 inmates in a space meant for 206.²⁸

The problem of overcrowding as is the case elsewhere in Africa, can be attributed to the fact that most prisons were built in the 1940's and although the population of Uganda has increased dramatically since then, the prison facilities have remained the same.

²⁸ The Foundation for Human Rights Initiative page 40.

(f) FREEDOM FROM TORTURE:

Article 24 of the 1995 constitution of the Republic of Uganda²⁹ provides for an absolute prohibition of torture.³⁰ In line with **Article 10(10) of the International Covenant On Civil and Political Rights**³¹ which provides that persons deprived of their liberty should be treated with humanity and with respect for the inherent dignity of the person. The respect for dignity must be guaranteed under the same conditions as for the free persons. Uganda acceded to the United Nations against Torture in the 1986 and the international Covenant on Civil and political Rights in 1995. However the findings show that it is still commonplace for suspects to be beaten to the extent of sustaining serious injuries by prison warders or Katikiros.³² Such cases were reported in Kiburara, Lwamagwa, Ssembabule, Amuria and Soroti Central prison. Torture remains regrettably a major problem in the Uganda's prisons.

Aside from the above limitations, there are other challenges of imprisonment such as:

(g) Imprisonment is costly on the taxes payer's money. Unlike other forms of punishment such as fines, hanging, community services to mention but a few. The imprisoned ought to be fed, accommodated, medically assisted and so forth all these are counted down from the taxes payer's money.

(h) It is not every one behind bar who is guilty of a felony. This is because at the seen of the crime most time it is only the offender and the victim plus a few by- standers

²⁹ Article 24 Of the 1995 Constitution of The Republic of Uganda.

³⁰ Article 44 buttresses it by making the right to freedom from torture absolute.

³¹ International Convention on Civil and Political Rights.

³² These are leaders among the prisoners.

who might also fail to properly remember the face of the parties during the time to give testimony, but not the judge or any of the presiding officers in the matter who are often bribed or prejudiced to pass a sentence of imprisonment against an innocent party. This is why justice is described by the great men as Thomas Aquinas as “just is that that aids the most powerful.”

(i) Prison aim to cure criminals of crime however their record has not been encouraging. Instead prisons do more harm than good. The pains of jail confinement affect all prisoners in different ways. To begin with the prisoners need to withstand the entry shock by adapting quickly to prison life. Prisoners are exposed to a new culture, which is very different from their own culture. Then they need to maintain outside links. For example, keeping in contact with family and friends becomes frustrating as manifested by reported suicidal tendencies in prisons.

(j) There is threat of deterioration. This is because there is lack of personal choice within the prison environment which may affect prisoners. After many years of being told what to do they may well lose the ability to think for themselves and make there own decisions and choices freely.

(k) It has failed to completely eliminate all the dangerous individuals from the societies. Thus, in many society criminals are still so many that have never been handed-down.

(l) It exposes prison officer to dangers of attacks by the hardened criminals who do not care of living in prison for the rest of their lives.

3.4 PROBLEMS ENCOUNTERED DURING THE PROCESS OF DATA COLLECTION:

(a) FINANCIAL CONSTRAINT:

This was one of first and the foremost difficulty faced during the process of this research. This is because every process needed money for example photocopying, surfing the internet for data, transport to the prisons and libraries, typing, binding and so forth all needed money.

(b) HESITANT NATURE OF THE RESPONDENTS:

Some respondents regarded me with a considerable degree of qualifications believing that the research is not only for academic purposes but could be used against them by state intelligence or organizations which would demand that they are also exposed by names and addresses, a fact that caused fear among them making it difficult to extract information from them.

(c) LANGUAGE BARIER:

Some of the respondents could not express themselves in the official language to the questions put to them but could only speak their local languages, so that problem threw me to the need of finding interpreters who could help me during such occasions yet they were never for free.

(d) ILLITERACY:

Quite a number of prisoners could not read or write the questionnaires. This became a major challenge because I had to explain the question in the local language and come back to translation which was a risky process because it involved the possibility of having the meaning of the questions changed from the original intended purpose the questions were designed to achieve.

(e) CORRUPTION:

This is a vice that has killed the soul of everyone in this nation. It happened that everyone I needed information from would first demand for something popularly styled as “**kitu kidogo**”. meaning some form of a bribe to open the way for me to the place I needed to reach or for him to release the information in his knowledge. For example one Matovu a prisoner in Luzira who I approached with the questionnaire and asked if he was in possession to answer, replied and said “madam its okay as long as you have come with my lunch today.”

(f) BAD WEATHER:

This season with which this research was conducted was unpredictable, could rain or shine any minute making the roads so muddy and traffic jam associated so much with these leading to a lot of inconvenience. Sometimes I could reach the prisons past the time of visitation and could be denied a chance to see the prisoners until the next day.

(g) TIME FACTOR:

Time balancing is the one I mean here in particularly, it was hard to work during the day, attend lectures in the evening and go on researching for data related to my topic. Thus I was between the rocks.

(h) BUREAUCRACY:

This exercise entangled me into many processes. To every institution I would visit, there was need to introduce myself with an introductory letter from the university from one desk to the next, show of identity card and sometimes I was told to go back the next day because the officer in charge who would enable me to get the information had not worked on that day to mention but a few.

CHAPTER FOUR:

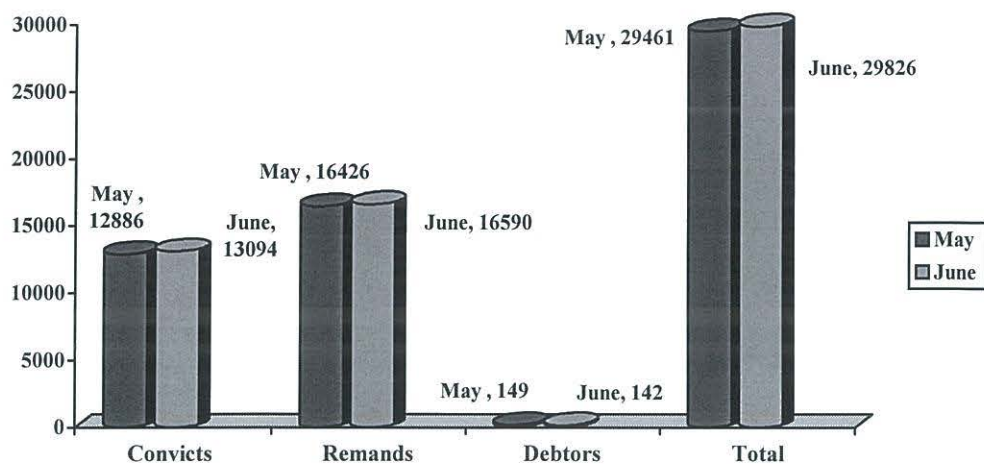
4.1 STATISTICAL REFLECTION OF THE STUDY AREAS:

The summed up statistic below points to the different categories of prisoners detained in Luzira in an attempt to show that most of the prisoners in cells constitutes the greatest number of individuals who are not yet pronounced guilty but either on remand or debtors who are categories transferred from one prison to another.

Table 1: Summary of UPS Prisoners Statistical Returns June, 2009.

	JUNE			MAY			JUNE% OF MAY
CATEGORY	MALE	FEMALE	TOTAL	MALE	FEMALE	TOTAL	
Convicted Prisoners	12644	450	13094	12475	411	12886	101.6
Remand Prisoners	15843	747	16590	15662	764	16426	101
Total Debtors			142			149	
Total population	28487	1197	29826	28137	1175	29461	101.2
Approved Accommodation			13373			13373	
Occupancy Percentage			223			221	

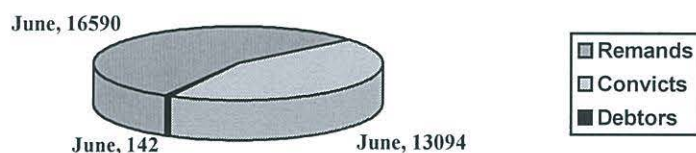
Figure1: Population for June 2009 as Compared to May.



Compared to the previous month of may, the overall population increased by 1.2% with an absolute increase of 365 prisoners.

There was an increase in convicted prisoners by 1.6% absolute increase of 208, remand prisoners increased by 1% absolute increase of 164, Debtors decreased by 4.7% absolute decrease of 7 prisoners as shown in the table above.

Figure 2: Category of Inmates During the Month of June, 2009



4.2 FINDINGS OF THE STUDY:

Imprisonment as a mode of rehabilitation could be termed as one of the best measure of handling criminals because of the deterrence value and the qualities of rehabilitation contained in its concepts.

Thus, according to the findings of this research, it has to a greater extend served its purpose since the research shows that because of it the crime rate has dropped by 15% in 2009 and that a number of convicts express a lot of fear towards custodial sentence and instead prefer the other forms of punishments .However, the significant challenges toward the prison system which undermines its ability to completely serve its original penological objectives is that of failure to meet the minimum requirements for humane detention which can not be dealt with just overnight, but calls for a combined efforts not only on the part of the government but also the international community, non governmental organizations and the civil society at large.

4.3 THEORETICAL FRAMEWORK / RECOMMENDATION;

It must be appreciated that Uganda has made tremendous strides in the improvement of prison conditions. This can be manifested in the passing of the Prison Act, setting a human rights-based legislative framework recognizing the full rang of prisoner's rights. However, there is still a long way to go in combating the challenges of prison overcrowding, torture, inadequate nutrition, accommodation and poor hygiene.

The Prison Act is a superb piece of legislation which if implemented would turn Uganda prison into some of the best prisons in Africa. Similarly, the problem of

backlog if not treated with urgency may have far reaching consequences on prison reform. Therefore the government should recruit more judicial officers and pay them handsomely in time in order to enhance their devotion to do justice and also ensure that money allocated for prisons service is tricked down to the rightful beneficiaries by holding accountable those who misappropriate these funds to counteract these shortcomings

4.4. CONCLUSIVE REMARKS:

The prisons system in Uganda is discovered to have served its primary penological objectives to a greater extent although the question of welfare remains the biggest challenge, the welfare and psychological freedom of the individual inmate does not depend on how much education, recreation, and counseling he receives but rather, on how he manages to live and relate with the other inmates who constitute his crucial and only meaningful word.

It is what the prisoner experiences in this world; how they attain satisfaction, and how they avoid its detrimental effects through adjustment process known as prisonization, that ultimately decides how, if ever, they will emerge.

It has also been recognized, through simulations of prison environments, that lockups and isolation have the habit of dehumanizing prisoners by making them feel anonymous, and breeding ill feelings because of their rejection and condemnation by the society as a whole.

Likewise, it must be remembered that offenders have been drawn from society in which possessions are closely linked with concepts of personal worth by numerous cultural definitions. However, in prison, inmates find themselves reduced to a level of living near bear subsistence.

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