

imprint

NOV 2008

Volume 1 – Number 3

Towards the progressive realisation of children's rights in Kenya



“Borstal Institutions: A forgotten case of Kenyan children?”

EDITORIAL

“Borstal Institutions: A forgotten case of Kenyan children?”

Welcome to the third edition of *Imprint*. *Imprint* is our quarterly policy brief that aims at exploring various issues surrounding child and human rights. The brief seeks to facilitate intellectual discourse in a bid to promote reform of policy, legislation and practice surrounding child rights in Kenya.

The policy brief works to create the platform for discourse on policies, legislation and emerging issues around children's rights with a particular focus on the current affairs and the state of the Kenyan Child but with a global view on matters facing the children. It contains opinions, findings and recommendations of researchers and practitioners working with children in towards rights and development.

The third edition of the policy brief focuses on the Borstal Institutions in Kenya. At the mention of the name borstal institution the ordinary Kenyan walks away at a loss. Those who dare hazard a guess say that it must be some place in Britain, and they are right, to an extent. The name 'borstal' originated from the City of Rochester in the UK where a prison reformer by the name of Sir Evelyn Ruggles-Brise (a prison governor who many believe to be the father of Borstal Institutions) expressed concern that so many young criminal offenders were being sent direct to ordinary gaols and were being tainted by hardened 'old-lags' to become themselves really 'hard-liners'. Sir Evelyn sold to the government of the day the idea of establishing separate 'institutions' for these youngsters, where an attempt could be made to reform them rather than let them drift further into crime. Eventually, he was offered him the use of a former convict prison which was the first borstal institution. Upon colonization by the British, Kenya adopted the concept of separate institutions for young criminal offenders.

THE BORSTAL INSTITUTIONS: THE DISCONNECT BETWEEN LAW & PRACTICE

Joan Kariuki, Youth Alive! Kenya

WHERE PRACTICE FAILS

“The law may be in place, it's the practice that's non-existent.”

Kenyan law is codified in the form of statutes with the supreme law of the land being the Constitution. Many of these laws were adopted from Britain, the country's former colonial power and India. Invariably with time, these laws have failed to adapt to the changing circumstances and have become obsolete. They tend to contain irrelevant provisions some of which are downright outrageous and discriminatory.

This is so even where the Britain itself has amended the laws in question to reflect prevailing circumstances. In some circumstances however the law is in line with existing international standards on the ground. In this case the law is in place but the practise is non existent. This analysis explores the disconnect between law and practice within the Borstal Institutions, looking at both local and international human rights law.

Physical environment and accommodation

Law: Rule 31 of The UN Rules for the Protection of Juveniles Deprived of their Liberty provides that juveniles deprived of their liberty have the right to facilities and services that

Currently, the country has three institutions; Shimo la Tewa in the coastal region, Shikutsa in Kakamega District and Kamiti Youth Corrective Training Centre.

These institutions are under the administration of the Prisons Department and are therefore part of the penal system of Kenya unlike other custodial institutions housing children which are managed by the Department of Children Services. The institutions are located in close proximity to adult prisons and only admit young male offenders between the ages of 15 to 17 years for a period of not more than 3 years. At present there is no Borstal Institution for young female offenders.

These institutions are governed by the Borstal Institution Act CAP 92 of the Laws of Kenya Section 3 of which empowers the Minister to establish or dissolve a Borstal Institution. The prison reforms that took place over the years 2002-2007 and more active corporate social responsibility by various local companies have improved the conditions in the institutions somewhat but a lot still needs to be done.

This edition of *Imprint* seeks to explore the law and practice surrounding borstal institutions and to highlight the role of these institutions and their relevance in line with the changing national and international framework on the rights of children deprived of liberty. This edition was compiled after interviews with a wide variety of stakeholders ranging from duty-bearers within the juvenile justice system to children who have gone through the justice system.

The editors wish to acknowledge the various contributors for their opinions and experiences that have formed this edition. We hope these insights will go a long way to improve the protection and rehabilitation of children in conflict with the law in Kenya.

meet all the requirements of health and human dignity. The detention facilities should respect the child's right to privacy, association, leisure and recreation. At the same time the facilities should be designed in such a way as to ensure that the risk of fire and other health hazards has been limited.

Section 4 of the Borstal Institution Act (hereinafter referred to as Cap 92) states in paragraph (a) that every borstal institution shall provide proper sanitary arrangements, water supply, food, clothing and bedding for the inmates thereof. Section 67 obligates the superintendent to take care that proper precautions against fire are adopted, and that the appliances for the extinction of fire are at all times kept in good order and ready for use.

Practice: Peter, who was interviewed in the process of this research, was committed to Shikutsa Borstal Institution for almost two years said that the sleeping areas comprised of one big room with mattresses laid down on the floor. The facility was locked down by 6pm and the children were expected to be asleep by 8pm in the night. The only door to the dormitory out which was locked from the outside reducing the chances of safe evacuation.

There are regular sleeping hours as the children have to

be asleep by 8 pm and awake by 6am. When Peter joined the institution in 2005 he tells of children sleeping on the cold bare floor with no cover whatsoever. However by the time he was leaving in 2007 mattresses had been provided for the children. Blankets were assigned one per child which is clearly insufficient considering that Shikutsa Borstal Institution is located in a cold region. The area also has high incidences of malaria infections but no mosquito nets are provided for the children.

Food

Law: Section 4 of Cap 92 states that every borstal institution shall provide proper food. Section 35 (1) states that every inmate shall be entitled to a sufficient quantity of plain wholesome food, in accordance with the borstal inmates diet set out in the First Schedule. A copy of the diet scale shall be displayed in a conspicuous place in the Borstal Institution.

Practice: The children are provided with three meals a day, gruel in the morning, ugali and beans/ sukuma wiki for both lunch and supper. The food is rarely sufficient and no second servings are allowed. The quality of the food is also wanting with the food being sometimes undercooked. It's only at the point of near death that the quality (including type) and quantity of food will take into consideration the health needs of a particular child. Religious or cultural needs are not really considered but that does not appear to be a priority to anyone including the children themselves. All the children really want is to get through their stay in the shortest period possible without drawing any kind of attention to themselves. The children are generally all served the same meal all the time throughout their stay at the institutions.

Education, vocational training and work

Law: Section 4 of the Kenyan Borstal Institution Act states that every borstal institution shall provide the means of giving such inmates educational, industrial or agricultural training. Rule 47 also provides that the superintendent shall make provision for educational classes for the inmates.

Practice: Interviews however revealed that work is actually what occupies most of the children's time that is spent at the institutions. Classes are there for only class 7 & 8 students and there is a general notion that the students do not want to read anyway. There are no provisions for those students who may have been at a lower level of study than these two classes. These ones are instead encouraged to take up vocational training at the institutions. The administration claims that the students who chose to undertake vocational training are not really interested in learning but interviews with those who had been at the institutions showed that though this might be the case for some, it definitely was not true for all and some children opted for vocational training because they had no other options. There is also no provision for special education for those with cognitive or learning difficulties.

Any library?

Rule 47 of the Borstal Institution Rules provides that a library for the use of inmates shall be provided in every borstal institution, and every inmate shall be permitted to draw books from the library in accordance with the Commissioner's directions.

Practice: None of the two institutions has a library. Upon arrival into the institutions the boys spend one month before they are allocated their 'work card' or 'job card'

¹ Name has been changed to preserve identity

after which they begin their schedule. Those lucky enough to be assigned to the school section will attend academic classes with the rest undergoing vocational training with not much to choose from as the only choices available are either carpentry or mechanics.

Rule 42 of the UN Rules dictates that the training ought to be in occupations likely to prepare him or her for future employment. The institutions appear to meet this criterion according to all the interviewees. Suggestions of teaching the children culinary skills were met with scepticism as facilities for this are lacking and some of the interviewees felt that the children being boys will be afraid to show their interest in this lest they get teased.

Law: Rule 43 states that with due regard to proper vocational selection and to the requirements of institutional administration, juveniles should be able to choose the type of work they wish to perform.

Practice: With the way things are at the moment, the boys do not have much variety to choose from and cannot be said to have much of a choice as to what vocational training they undertake.

Law: All protective national and international standards applicable to child labour and young workers should apply to juveniles deprived of their liberty.

Practice: One important issue to consider is whether the work that is done by these children comprises child labour. Child labour is defined as work that is detrimental to the child's physical and mental health and affects their access to education and developmental activities. Most of the interviewees told of continuous back-breaking work carried out by the children where they are only allowed to rest for lunch and dinner. All the children are involved in the work irrespective of whether any classes or vocational training had been scheduled.

The only exception made is for those who are about to sit their national primary exams. The work given is actually sanctioned by the Borstal Institution Act Section 19 which provides that every inmate of a borstal institution shall be liable to perform such work as may be directed by the superintendent. No limit is given to the amount of work given and the only qualification to this broad statement is that provided that an inmate shall not be required to perform any work, or any work other than light work, if the medical officer so orders. However, one interviewee stated that for one to be exempted on medical grounds they have to be so sick that they can barely move. This clearly contravenes Article 44 of the UN Rules.

Law: Part VIII of the Borstal Institution Act provides for the offences committed by inmates and the resultant punishments. One of the punishments given is the forfeiture of earnings creating the notion that the children are actually paid for their work. Article 46 of the UN Rules states that every juvenile who performs work should have the right to an equitable remuneration. The interests of the juveniles and of their vocational training should not be subordinated to the purpose of making a profit for the detention facility or a third party. Part of the earnings of a juvenile should normally be set aside to constitute a savings fund to be handed over to the juvenile on release. The juvenile should also have the right to use the remainder of those earnings to purchase articles for his or her own use or to indemnify the victim injured by his or her offence or to send it to his or her family or other persons outside the detention facility.

Practice: None of the boys interviewed told of any payment in any form and making this form of punishment inapplicable.

Recreation

Law: One of the punishments laid out in Cap 92 is deprivation of the privilege of playing games giving the impression that the boys have the opportunity to relax and play. Rule 47 of the UN Rules provides that the boys have the right to a suitable amount of time for daily exercise, in the open air whenever the air permits when they can be involved in appropriate recreational and physical training with adequate space, installations and equipment being provided for such activities.

Practice: Before 2007 the children in Shikutsa Borstal Institution were mainly involved in work or training but in 2007 they were allowed to play games mainly football and volleyball once a week from 12 noon till 4 in the afternoon. A typical day begins at 5.00am (at Shimo la Tewa) or 6:00am (Shikutsa) with chores & exercises followed by a roll call. The juveniles then have porridge and then separate into different sections for their respective classes. Breaks are allowed at 10:00am (Shimo La Tewa) / 12:00 noon (Shikutsa) for lunch and then classes resume for 3 more hours. Afterwards, they go to their dorms and rest with no recreational activities whatsoever. At around 6:00pm they have dinner and are then locked into their dormitories for the night.

Medical Care

Law: Section 4 of the Borstal Institution Act states that every borstal institution shall provide an infirmary or proper place for the reception of inmates who are ill. In addition, Rule 10 states that the medical officer shall see every inmate at least once a month.

Practice: Both institutions in the country indeed have clinics accessible to the boys. However such clinics are not always adequately stocked and the staff fail to give the inmates the attention required. The medical officer in no way makes an effort to see every inmate once a month. Referrals are made to the district or provincial hospitals where cases cannot be dealt with within the institution. However the children still do not receive the required care. They are made to share beds, are handcuffed to the bed and have to use a bucket placed under the bed as the bathroom. The food is also below standard. The boys interviewed stated that reporting illness was harder in times of a lot of increased demands on manual labour as it was seen as a way of avoiding work.

Contacts with the wider community

Law: Rule 41 of the Borstal Institutions Rules provides that an inmate shall be entitled to write one letter every week to persons approved by the superintendent and to receive letters as often as the superintendent considers desirable.

Practice: According to the interviewees it is much harder for the boys to communicate to the outside community than implied by the law. This is mainly because they are not given any stationery to write letters on.

Disciplinary procedures

Law: One of the punishments listed in Section 32 of CAP 92 is the deprivation of earnings.

Practice: The deprivation of earnings is meaningless as children are not paid for their work.

Law: Section 36 provides for corporal punishment but this provision was amended by the Criminal Law Amendment Act that did away with all forms of corporal punishment.

Practice: The reality on the ground is however very different. There were many repeated complaints of brutality of canings, beatings with kicks and slaps and isolation as punishment. When the boys are at manual work, they are watched by guards with sticks who beat them at liberty if they think they are not working hard enough. The beatings are by far worse for those children who had attempted escape and are caught. These are beaten to the point of hospitalisation and oftentimes suffer permanent physical and psychological damage. Even expressing the intention to escape will earn you a thorough beating.

The isolation cells are described as small, with one small window with metal bars. The room is empty with water poured on the floor so the child cannot lie down and sleep. When in the isolation cell, one gets only one meal a day, supper and a lot of water. They are beaten by every officer who comes on duty and have a bucket to use as a toilet. They stay there at the mercy of the superintendent who will be the one to say when they will be let out. There are other instances of cruel and degrading treatment like being stripped naked in front of the other boys and being beaten. The other boys are actually encouraged to assist in the beating.

Channels of making complaints

Law: Rule 28 and 29 of the Borstal Institutions Rules provide that upon admission, the children receive sufficient information as to the rules concerning the disciplinary requirements of the borstal institution and the channels of making complaints. The Superintendent should ensure that these rights and obligations have been understood.

Practice: the boys are told of the rules a month after admission when they are given their jail cards/ work cards and no one bothers to explain them. Some of the children cannot read but are still expected to read and understand the rules given them.

Law: Cap 90 in section 20 gives the Minister the power to establish a Board of visitors one of whose mandate is to listen to the inmates' complaints. Rule 49 of the Borstal Institutions Rules provides that any request by an inmate to see the Commissioner or a member of the Board of Visitors shall be recorded by the officer to whom it is made and conveyed without delay to the superintendent, who shall inform the Commissioner or a member of the Board of Visitors, as the case may be, of any such request.

Practice: Attempts to complain are futile unless probably the guards catch the offending boy red handed. Complaints to the superintendent have to be made in writing but the boys are not provided with stationery to enhance the process. They have to ask the guards for this and the guards may be the same people they are complaining against. Any attempts to complain to the board during visiting days are not considered wise as one is beaten after they they leave.

"The best way to survive a borstal institution", one interviewee said, "is to make friends with the guards and lie low."

OF FAULTY LAWS AND ARCHAIC PROVISIONS

"When the law makes no sense"

The administration of Juvenile Justice in Kenya is by three core criminal justice institutions; police, court & custodial institutions. All these have various laws that govern their mandate. However for a long time, Kenyan laws on juvenile justice administration have not been reviewed and co-ordinated to reflect international rules and standards. Many are archaic and irrelevant to the current situation at the borstal institutions and require amendment or being struck out all together.

Medical Care

Sections 15 and 16 of the Borstal Institutions Act deal with cases of mental illness and leprosy in an inmate. Section 16 has an archaic provision stating that an inmate found to be suffering from leprosy shall be removed from the institution and taken to a leper settlement until they are cured or when the period of their confinement comes to an end. None of the administrators interviewed were aware of these provision and none knew of any leper settlement. This is a case of an archaic law still being retained in our statutes, a law that has glaring statements of discrimination.

Notification of death & illness

The law does not provide for the juvenile to be informed at the earliest possible time of death, serious illness or injury of any immediate family member and for that child to be given the opportunity to attend the funeral of the deceased or go to the bedside of the critically ill relative.

Rule 43 of the Borstal Institutions Rules states that should an inmate who is dangerously ill desire to be visited by a near relative or friend, the superintendent may give an order in writing for the admission of that relative or friend. This shows that the administration does not have to inform the sick child's guardian or parents of the illness unless the critically ill child so requests.

Recommendation: A juvenile should be informed at the earliest possible time of the death, serious illness or injury of any immediate family member and should be provided with the opportunity to attend the funeral of the deceased or go to the bedside of a critically ill relative.

The superintendent should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death, illness requiring transfer of the juvenile to an outside medical facility, or a condition requiring clinical care within the detention facility for more than 48 hours. This communication does not necessarily have to be initiated by the sick child.

Contacts with the wider community

Rule 41 of the Borstal Institutions Rules provides that an inmate shall be entitled to receive one visit of thirty minutes duration every month from three persons on such conditions relating to visits as may be imposed by the superintendent. The degree of supervision to be exercised during visits to inmates shall be within the discretion of the superintendent.

Recommendation: Every one of the boys should have the right to receive regular and frequent visits in privacy and in circumstances that ensure unrestricted communication

with family and their legal counsel.

Rule 45 of the Borstal Institutions Rules further provides that every letter to or from an inmate shall be read by the superintendent, or by an officer deputed by him for the purpose and it shall be within the discretion of the superintendent to stop any letter on the grounds that he considers its contents are objectionable or that it is of inordinate length. The juvenile's right to receive the letters is also at the discretion of the superintendent (Rule 41)

Recommendation: this provision clearly violates the right to privacy which is integral to the development of the child. This would enhance their right to fair and humane treatment and is essential to their preparation for return to society. The fact that a letter may be intercepted on the grounds that it is of "inordinate length" is ridiculous! It should be struck out completely.

Personnel

The Borstal Institutions Act makes no provision for the qualifications or training requirements that the staff of the institution would need. In practice the institutions are manned by prison officers who are not offered any special training for dealing with the special needs of children including developmental and participation needs. They are accustomed to dealing with adult prisoners and end up treating children like small adults. This is reflected in the way they physically & verbally abuse the children and treat the institution as a means of retribution instead of rehabilitation. There are also no counsellors on staff to help the children deal with any psychological issues. This need is met by probation officers during their infrequent visits to the institution.

Recommendation: Personnel should be appropriately skilled for working with these children and should include a sufficient number of specialists such as educators, vocational instructors, counsellors and social workers. These should be employed on a permanent basis. They should receive training that will enable them carry out their duties effectively in particular training on child psychology and international standards on human and child rights.

Disciplinary procedures

Cap 92 provides that one of the means of punishing an offence in the institution shall be through confinement. Rule 19 of the Borstal Institution Rules provides that in every borstal institution, rooms shall from time to time be set aside for the confinement of inmates under-going punishment for borstal institution offences. The Act also provides for punishment through restricted diets which may take place for longer than 3 days (Rule 54). The privilege of writing and receiving letters and receiving visits may, at the discretion of the superintendent, be postponed at any time in case of misconduct (Rule 42).

Recommendation: all disciplinary measures constituting cruel, inhuman or degrading treatment should be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juveniles. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose.

Personal Care

Rule 26 of the Borstal Institution Rules provides that every inmate shall, unless exempted by the superintendent or the medical officer, take a bath or shower on admission and thereafter whenever ordered by the superintendent.

This provision is subject to abuse as the children can only bathe at the discretion of the Superintendent. This has created a situation where in Shimo la Tewa only prefects bathe regularly and there is no running water. Toothpaste, toothbrushes, underwear, soap, towels and toilet paper are provided mostly by family and friends on the outside. In Shikutsa the children who have stayed at the institutions for a longer period are allowed to move more freely than the ones who are relatively new. They therefore have the opportunity to fetch water and bathe at more regular instances. The reason they do not is because they are not provided with soaps and towels. The newcomers however are taken once a week to a nearby river where they take communal showers.

Recommendation: the number of bathes that the inmates are allowed to take should be made more specific and the institution's authorities ought to be obligated to provide them with soap and water for this purpose.

Rule 32 (1) provides that every inmate shall be supplied with and shall wear such clothing as may be directed by the superintendent. In practice the children upon arrival are provided with one pair of uniform. On their weekly showers they are required to wash their uniforms. They then wear this uniforms while still wet since they don't have a change of clothing and return with this to the institution. Due to this there are high instances of influenza and pneumonia at the institutions.

Recommendation: The Act should specify the number of uniforms that each individual boy is provided with and this should be more than one.

AFTER INSTITUTIONALISATION, WHAT NEXT?

An interview with Hannah Maingi, the Deputy Provincial Probation Officer, Nairobi

Where does the department of probation and aftercare services come in the borstal institution process?

When a child is found guilty of an offence or admits guilt, a probation officer is assigned to the case to dig into the background of the child and recommend the appropriate rehabilitative process for that child. He presents his recommendation in the form of a report known as the Social Inquiry Report. The court is not bound to follow the recommendation but must give reasons why not. In most cases this recommendation is adhered to and thus the probation office is involved in the committal of the child to the borstal institution.

The department is part of the aftercare committee that alongside the superintendent visits the institution, listens to the children's complaints and inspects their punishment book.

The department is also involved in developing the report after the first year of committal of the child to the institution as part of the Board of Visitors. The report recommends whether the child is ready for release back to the society. In most cases, the committee recommends release. However, before making this recommendation, they have to talk to the community surrounding the child and find out whether it is ready to accept the child back to its fold. In some cases the family of the child completely disowns that child. In that case the team may recommend the child's continued stay at the institution. Sometimes the child may be transferred to a probation hostel. The children are disappointed or "crushed" when they do not get to leave after that first year partly because all the friends they had made during the first year have probably left.

In cases of a sensitive nature, the department shall be working on easing relations even before the first year is over to ensure that when the time comes they shall not be rejected. The reconciliation process brings in the community leaders including chiefs and religious leaders. All the department's activities are community-based and their success depends largely on the goodwill of the community.

Where the child is released, the department finances the child's continued education in cases where there is such need. They partner with the child's parents or guardians in this to ensure that they act in the best interest of the particular child.

Sometimes it is in his best interest to undergo vocational training instead of pursuing formal education which they may lack interest in or in cases where they have missed out on too many classes to get back into the flow of things. In some cases, the department buys the tools for this.

Because the child is committed to the borstal institution for a maximum of three years, in cases where the child is released after one year the probation officer who was attached to his case at the trial level shall supervise the reintegration and rehabilitation of this child while within the community.

All the probation officers are trained in reconciliation, peace building and mediation. Teamwork also enhances the quality of their work as they learn from each other. Probation officers meet during what is called case conferences and discuss any cases that are complex or have special circumstances surrounding them.

Is the borstal process as it is at the moment rehabilitative or retributive?

The process is indeed meant to be rehabilitative but sometimes can be retributive.

Are the children allowed visitors and how frequently?

They are and this is actually encouraged as this aids in the rehabilitative and reintegration process of the child. Actually where a child has not been visited because of financial constraints faced by the parents then the department comes in to meet the transport costs of visiting the child.

Sexual assault

I am not aware of any instances of sexual assault but it is

possible that it occurs. What makes it possible is because the prison warders cannot go into the wards after 6pm because the children are by that time on lock-down and could seriously assault the guards. All they hear are complaints but there is no way of proving these. There is no problem of overcrowding because most of the children are released after one year.

Do you think the Borstal Institution Act requires any amendment?

From an implementation perspective the Borstal Institution Act is one of the best statutes around concerning children. This is because it stipulates in a very detailed manner the handling of the child through the whole process of committal and residence in the borstal institution and after care. The responsible party at every stage is also clearly stated.

However the probation office is not mentioned as one of the members that form the board of visitors while in actual fact it does. This should be amended as at the moment it appears that the office forms part of the board as part of administrative arrangements.

The Act dictates that a large proportion of the child's stay at the institution shall be spent on agricultural activities. This takes up a lot of their time leaving little for recreational or educational activities. There are also only class 7 and 8 classes. This was decided because of the age of the children committed to the institution (15-17 years). However that means that dropouts of lower classes cannot study.

The name should be changed from 'Borstal' to something that the community can actually relate with. Many people do not know that borstal institutions exist and what they are all about. The community needs to be sensitised about the whole system and the importance of working in unison with the institutions to ensure the complete rehabilitation and reintegration of the children instead of stigmatising them. Such awareness has led to better services in the Shikutsa Borstal Institution as the community feels involved. However, there exists some lethargy in Shimo La Tewa Borstal Institution where even the board of visitors is not as active as it should be.

Is the Act implemented in the institutions?

There has been great improvement in the way the institutions are run ever since the prison reforms began. In 1998 a great percentage of the children were malnourished and were suffering from tuberculosis and scabies as a result of the poor living conditions at the institutions. However now they are provided with more than one uniform, they sleep on mattresses and the place is cleaner than it used to be.

There is a medical facility at the institutions with a resident nurse on board. However the facility is not well equipped. The serious cases are referred to the nearest public hospital whose conditions are deplorable. There are police officers stationed at the hospitals around the clock to guard the sick boys and the boys are handcuffed to the beds throughout their stay there.

There is no resident counsellor at the institutions meaning that the children obtain psychosocial support haphazardly from the probation officers as they make random visits to the institutions. There is thus no specialised treatment of criminogenic factors. All children are lumped together in the rehabilitation process and any special factors that

may cause them to commit an offence are actually not treated or dealt with.

Concluding words

"The law is not all that bad. It is the accompanying practice that is non-existent".

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Youth Alive! Kenya

Youth Alive! Kenya is an independent national youth-led non-governmental organisation committed to the empowerment of young people in Kenya to take active responsibility for their lives to shape their destiny. Founded in late 1998 and registered as a community-based organisation in 1999 then a national NGO in December 2003, Youth Alive! Kenya has a vision of a free, just and equitable world where young people are able to translate their aspirations and potential into productive and fulfilling life. To this end, our mission is to provide a platform where young people and their communities share skills and explore innate abilities towards lasting development. Working in the areas of Health, Justice & Human Rights, Democracy & Governance and Environment & Livelihoods, we facilitate learning and innovation through partnerships, advocacy, research and public education.

The policy brief is a project component under the Youth Alive! Kenya Justice & Human Rights Programme (JHR). JHR seeks to ensure access to justice by the most vulnerable and most marginalised and to promote the respect for and the protection of human rights in Kenya.

The programme has specialised projects that aid in realisation of the above objectives. One of these projects is the Juvenile Justice Project that seeks to promote an effective juvenile justice system in Kenya bent on restoration of young offenders by improving the quality of rehabilitation provided by government institutions while strengthening community capacity and linkages to support reintegration of discharged child offenders. The project operates in the districts of Nairobi and Kisumu and is implemented in partnership with the Department of Children Services of the Ministry of Gender & Children Affairs.

As part of this process, the project works to foster development of appropriate laws, policies and practices concerning children and the justice system in Kenya and in this end one of the mechanisms adopted for the actualisation of the above is the use of quarterly briefs that will facilitate dialogue and promote reform of policy, legislation and practice around children's rights.

This publication was made possible by the generous funding of the Finnish NGO Foundation for Human Rights (**KIOS**).



Published by Youth Alive! Kenya

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Editorial Board

George Kogolla
Joan Kariuki

Contributors

Joan Karikuki
Hannah Maingi
Discharged child offenders

Layout & Design

Felix Mokua - SoffEnd Inc.



Youth Alive! Kenya

Princess Park Flats 2nd Floor
Kabarnet Road off Ngong Road, behind the Embassy of the Republic of Yemen
PO Box 5844 00100 Nairobi
Tel: +254-(0)20 386 2871 / +254-(0)20 205 2494
Fax: +254-(0)20 386 2871
Email: info@youthalivekenya.org
Website: www.youthalivekenya.org