

## USE OF NEW TECHNOLOGIES TO PREVENT RECIDIVISM IN KENYA

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### Abstract

Kenya has witnessed high crime rates in the past years, with majority of these been petty crimes that attract 3 years and below imprisonment. Available evidence suggests that some of these petty offenders when released from their custodial sentences or pardoned become felons who commit more serious crimes. As a result, the country has continued to witness high levels of recidivism. This paper suggests that technological interventions (new technologies) can be introduced to help in the live-monitoring of released petty and other offenders (and bondees) who are conditionally released. These technologies can prevent recidivism and ensure successful decongesting of prisons in Kenya, thereby preventing crime and enhancing safety of the society at large. It also calls for the continuous monitoring of all released prisoners who if are to be successfully re-integrated into the society need assistance in safe and conducive, welcoming environments.

**Keywords:** Prison, crime, technology.

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### 1. INTRODUCTION

The high rate of recidivism has become a matter of concern across the globe. This is due to the fact that they distort the criminal justice systems (Osayi, 2013). Recidivism refers to the return of ex-convicts into criminal acts once released from prisons. It is basically measured by ex-offenders returning to prison for a new crime or a repeat of the same criminal act (Mears, Cochran, & Cullen, 2015). Recidivism rates have recently contributed to a crime surge across various Nations as depicted by the International Centre for Prison Studies.

The global prison population has grown in rapidlyKi and this rapid growth is associated with increased number of prisoners who were rearrested after their release from the prisons (UNODC, 2018). In addition, high rates of recidivism result in tremendous costs both in terms of public safety and in tax money spent to arrest, prosecute, and incarcerate re-offenders thus leading to devastating social costs to the communities and families of offenders, as well as the personal costs to the offenders themselves (Prince and Butters, 2013). Offenders face myriad challenges at individual and community levels.

An examination of the re-offending rate as highlighted by this paper depicts the problem of recidivism. The recent statistics on the rate of recidivism around the world have revealed that some countries have recorded high and others low rates of recidivism. United States of America has the highest recidivism rate of 90%, followed by Germany and Asia at 74%.

Netherlands came third at 70% despite its contradicting factor that it is the place with least criminals and has plans to close its prisons. However, the rate of reoffending within five years after imprisonment was found very high (Travis, Western, & Redburn, 2014).

In Africa, South Africa has a 74% recidivism rate. Kenya recidivism rate is at 37%, Rwanda and Tanzania 36% and Zambia 33%. Uganda stands out among African countries ranking fourth lowest globally with a recidivism rate of 32%. These statistics throughout the globe suggest that most prisoners coming out of prison are likely to be re-sentenced within three years of their release. (Stahler et al, 2013).

As revealed by recent studies, in effort to curb recidivism rate, most developed countries have adopted new technologies in correctional facilities. According to Ken Dalley, the chair and founder of GUARDIAN RFID, who has pioneered inmate tracking technologies in US for two decades, the advancements that technology management systems offered, were too significant to ignore.

According to William (2010) millions of the ex-convicts are supervised in their communities as they await trial and sentence terms and as a result many state agencies are increasingly using electronic monitoring technologies to enable efficient supervision and tracking offenders' movement. The Pew Charitable Trusts (2015) interviewed a number of experts about their perspective on the using the electronic monitoring technologies in prison. The interview revealed that the technologies held individuals accountable for their actions thus deterrent to reoffending.

Another view given in this study was that the new technologies made community supervision easier and therefore contributed to changing offender's behavior thus could not commit new crimes.

In the United States, the use of electronic monitoring has in the recent years increased as the number of monitored individuals has more doubled over the last 10 years. According to a survey conducted by The Pew Charitable Trusts (2015), 40% of offenders in the US were monitored with ankle bracelets and other electronic tracking devices. This was an increase from ten years ago.

Despite the expansion of electronic tracking that brought forth a significant improvement in reoffending rate, the survey however pointed out that technology still remained relatively rare in U.S correctional facilities and thus a lot of studies and public awareness were needed to spread this growth across the globe, especially in less developed countries that are lagging behind in developments due to rapid increase in crime rate.

In this case, Kenya is not exceptional with reported increased crime rates in the past few years. Therein lies the problem. Reports of high recidivism rates following pardons and releases have been reported in Kenya.

Previous studies have not presented their views yet on challenging the existing strategies to reduce recidivism thus no significant improvement has been made so far. Therefore, this paper sought to assess the country's rate of recidivism and to provide a starting point for reviewing efforts aimed at reducing recidivism by using technology.

Despite the government efforts to reform and reintegrate offenders, a high rate of recidivism has been recorded in the country. According to the Kenya National Bureau of Statistics Report (2019), it was established that there were 17,231 recidivists in prisons from the total of 53,625 offenders, which was 35.4% of the total population.

From this trend of recidivism in Kenya, there are a staggeringly high number of offenders being incarcerated and eventually released back to the community, and the high risk of re-arrest and re-incarceration is a concern for policymakers, criminologists and correctional managers. As a result of this, crime by ex-convicts alone account for a substantial share of current and future crimes. From this background, peace, safety of lives and property are threatened thereby affecting the rate of investment in social and economic growth and developmental processes.

Also, in spite of the Governments efforts in rehabilitating prisoners, the current correctional system is impervious to all intervention. Thus, this paper seeks to suggest the use of the new technologies to reduce recidivism in Kenya.

**METHODS**

The Kenya prisons records were the main source of data for this paper. Desktop research was also applied through reviewing of the Kenya National Police Service reports, media publications and other related internet databases. The researcher conducted personal interviews with 4 experts with extensive knowledge of offenders rehabilitation, reoffending and possible reintegration draws from the National Government Administrative officials, correctional management; probation officer and prison official and a senior official from the Power of Mercy Advisory Committee who shared their professional overview of recidivism in Kenya.

**2. RESULTS AND DISCUSSION**

The findings revealed that as at October 2022, the total number of prisoners in Kenya were 56,643 adults and 231 children. In reference to gender, the number of male prisoners was found higher than their female counterparts, that is 53,834 (95%) and 2,809 (5%) respectively. In addition, majority had a sentence term of more than 3 years (17,358) while 9,830 had less than 3 years sentence term. The various types of sentences established by the study for those convicted already were: mental, lifers and death row while those not convicted yet were Capital/Ordinary, Mental, Borstal and YCTC.

**Table 1: Distribution of the prisoners across the country**

Gender	Convicted			Lifers	Death Row	Unconvicted		Borstal	YCTC	Total
	<3YRS	>3YRS	Mental			Capital/Ordinary	Mental			
Male	9,113	16,711	105	4,364	632	22,405	137	347	20	53,834
Female	717	647	1	45	27	1,339	5	28	-	2,809
Total	9,830	17,358	106	4,409	659	23,744	142	375	20	56,643
Children										231

**Determining the rate of recidivism in Kenya**

This paper categorized the forms of release from prison namely: bail and bond, pardons (Power of Mercy by the president), upon completing the sentence term, if the crimes committed were considered petty, and for good behaviour in prison during the serving of a sentence. From the records, it was established that in the last 10 years, majority of the offenders were released on bail and bond, (72%), followed by petty crimes 15%, pardons were 10% and lastly 3% were released after completing their sentence terms.

**Table 2: The rate of recidivism**

Form of release	Number of offenders	Percent of all offenders (%)	Recidivism rate%
Bail and bond	504,000	72	40
petty crimes	105,000	15	20
Pardons	70,000	10	34
After completing sentence term	21,000	3	26
<b>TOTAL</b>	<b>700,000</b>	<b>100</b>	<b>100</b>

There were an approximate of 70,000 offenders who had been released. Those released on bail and bond had the highest recidivism rate of 40%, followed closely by pardons at 34%, after completing sentence term was at 26% and lastly those considered to had committed petty crimes were at 20%.

According to the prison official who was a key informant, sometimes petty crimes are overlooked and upon the release of the petty offenders, they are reluctant to keep off related crimes.

To date, 196 offenders have been pardoned by H.E. the President on the advice of the Power of Mercy Advisory Committee as indicated on table 3.

**Table 3. Breakdown of Offenders Pardoned Pursuant to Article 133 of the Constitution**

S/NO.	YEAR OF PARDON	NUMBER OF OFFENDERS PARDONED
<b>1.</b>	<b>2016</b>	<b>101</b>
<b>2.</b>	<b>2015</b>	<b>48</b>
<b>3.</b>	<b>2014</b>	<b>47</b>
<b>TOTAL</b>		<b>196</b>

In an unpublished report study by the Committee as a follow up to trace pardoned offenders, some observations were made. Out of the targeted population of 196 pardoned offenders, researchers with the assistance of probation officers and national government administration officers were able to trace ninety-seven (97) pardoned offenders.

The rest of the population of pardoned offenders could not be located by the time the research survey was conducted. This could be attributed to the lengthy period that had lapsed since the release of the pardoned offenders. Out of the 97 pardoned offenders that were traced by the researchers, 4 declined to participate in the survey.

The above draws a conclusion that the tracing of ex-offenders by Government bodies is difficult because there is no system of accountability or regular surveillance for released persons. Some melt into the community and continue reoffending this time with more experience.

Others according to an official from the National Government Administration become ‘*masterminds, who graduate to kingpins and have hirelings to do their simple works and know of many tricks to avoid being caught*’.

According to the Prison official who is also an expert on counter-terrorism, this was his observation,

*“A few of them who were Christians when they were arrested join the Islamic faith and become staunch Muslims. When released we believe they become extremists and travel to Somalia and Yemen because of their hard stances. This has been confirmed by a few cases I have personally dealt with.”*

According to the prison officer who was a key informant, some of the pardoned prisoners irresistibly find themselves engaged in robbery, livestock theft, stealing vehicles and drug trafficking as this had become a trend. Police officers had registered their fear that many ex-convicts released on presidential pardon go back to crime almost immediately.

. The CEO, POMAC who was a key informant in this study reported;

“There were overlaps of duties in the institutions in the pardon process. There is no synchronization and clear-cut mandates where one actor knows but instead a spill over and leads to gaps that the offenders can exploit. There is a big gap on who are the players in the reintegration process and the duties of each stakeholder. This makes it hard for tracing and follow-ups on the progress of these pardoned offenders”.

These findings resonate with those of Evans and Willem (2022) who argued that it was pointless releasing prisoners without first establishing good relationship between the victims and offenders or even the general community. The scholars emphasized on the importance of social reintegration programmes that seek to equip prisoners with basic skills for them to engage on income generating activities.

### **Recidivism by gender**

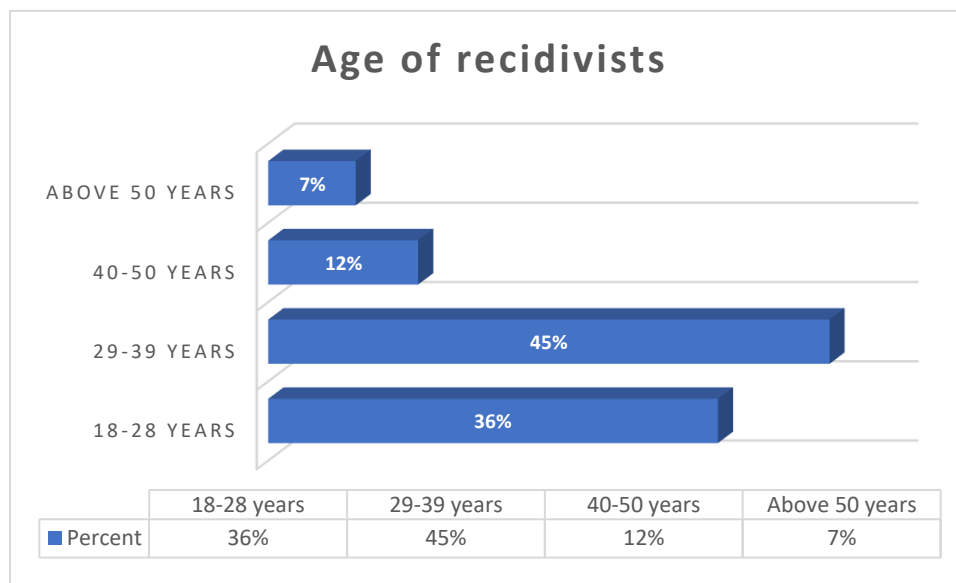
The overall recidivism rate for the male was 71% and 29% for female. This means that the number of male recidivists in Kenyan prisons is higher than that of their female counterparts.

The above finding concur with the findings of Oruta (2016) that men were more prone to rearrests and reoffending than women because they are believed to have more socio-economic responsibilities compared to women, thus they are more likely to get involved in crime and later recidivate. In addition, male agility and physical strength also makes them more explorative.

**Recidivism by age**

In reference to age, the study established that 45% of recidivists fall in the age bracket 29 to 39 years, followed by 18 to 28 years, age bracket of 40-50 years and above 50 years follow at 12% and 7% respectively. The findings were illustrated on figure 2 below:

**Figure 2: Recidivism by age**



This result agrees with the findings of Anyango (2017) that most of the recidivists are young or middle-aged adults. This may be because within these age range individuals still have many goals in life to achieve such as buying property and settling down with families.

If they cannot achieve these obligations by legal and honest means, they are more likely to engage in criminal activities and may turn into recidivists. Conversely, individuals aged above 40 years are more likely to have settled down in life in terms of starting families.

**Recidivism by offense/crime**

Commonly committed offenses by recidivists were categorized into 10 primary offense groups. They included: Fraudulent business, Murder/killing, Drug abuse, Careless driving, Assault/violence, Property destruction, Robbery/theft/ Burglary, Sexual harassment /rape, Poaching and others. Drug abuse had the highest number of offenders, 32,458 (57.3%)

Robbery/theft/ Burglary had the highest recidivism rate of 69.0%, followed by Property destruction at 64.6%. The crime with the lowest recidivism rate was Poaching at 28.2%. The results concur with the Kenya National Police Crime report (2020) that ranked robbery and property crimes as top urban crimes.

According to the Probation officer, who was a key informant, tracking reincarnation of ex-offenders was found inconsistent and there were no established strategies to effectively follow up the individuals for a particular period of time after their release.

In addition, the ex-offenders were expected to pay for some cost associated with supervision upon release. He also held that it is practically impossible to supervise a majority of released offenders. This is because of the limitation in the number of probation officers in Kenya.

Also they do not have the resources like vehicles, airtime and other personnel. They also do not have advanced equipment to track or trace ex-offenders who need to be supervised. In almost all instances, the Probation Officers rely on members of the National Government Administration. He posted that;

*“ We rely greatly on Chiefs and their Assistants as they are locals and we must cultivate good rapport with them, otherwise, we cannot succeed in supervising an ex-con. If a chief is cooperative, we breakthrough, but in some instances, Chiefs do not assist since its not their mandate, thus the community and ex-offender suffers”*

The findings reveal that prisons are increasingly being expected not only to house offenders, but also to contribute to transforming them into law-abiding citizens. These expectations lead to many different approaches that have the potential to transform prisons and, in this case, new technologies are best bet.

### **Factors attributed to increased recidivism rate**

This paper highlights five key factors that have caused high rate of reoffending as reported by the study key informants.

#### **1. Lack of employment**

Unemployment was one of the major challenges that were experienced by many ex-offenders. Despite their having the necessary work-related skills, the key informants indicated that a history of serving a criminal sentence has a negative impact on ex-prisoners’ employment prospects. Explanations from the key informants indicated that getting employment after serving time in prison is a major challenge.

This is because the view that a criminal record or time in prison makes individuals less employable, given that most employers do background checks on prospective employees. Further, most of the skills training certificates obtained by ex-offenders indicate that they were attained in prison. This has resulted in a situation where prospective employers view employing ex-offenders as a risk not worth taking, thus committal of offense so as to survive

## **2. Family and community relationships**

From the data collected it was evident that ex-offenders face social stigma from their families and community. This fact was also indicated through the large number of ex-offenders that had relocated from their home areas often without leaving behind any contact details. Without family support, access to basic needs such as clothing, shelter, food and accommodation may become difficult. In many ways this impedes reintegration, given that such ex-offenders may end up destitute thereby falling back into crime. This perpetuates rather than prevents crime.

## **3. Psycho-social challenges**

A common challenge experienced by many ex-offenders was the feeling of hopelessness and mental anguish. The key informants noted that being in prison for a lengthy period contributed to stagnation in one's life. Such that by the time ex-offenders came out of prison, they had lost out on key economic and social progress opportunities compared to their peers. It was also observed that many of the ex-offenders were of advanced age which leads to a lot of stress and regret, which are issues that are difficult to deal with. It is possible that if issues at the psychosocial level are not dealt with, reoffending occurs.

## **4. Struggle with change of environment**

It is evident from the research that some ex-offenders find it hard to adjust to a new life outside the prison environment particularly after spending many years in confinement. This is made worse by the fact that some of the pardoned offenders struggle to get family and community acceptance or a source of livelihood when they are released from prison. This makes adjustment difficult and the resulting stress and strain leading to recidivism or alcohol and drug abuse.

## **5. Inadequate after-care services**

The struggle to adjust after imprisonment may largely be as a result of limited aftercare service provision to ex-offenders. After-care consists of regularly checking on the offender to see if they are adjusting to the outside environment and helping them deal with the problems associated with resettlement and reintegration. Some of the after-care services could include provision of counselling and social support, in addition to aiding reconciliation efforts between the offender and his/her family, victims and immediate community.

After-care services are vital for successful reintegration and while these services are currently provided to pardoned offenders, their impact is hindered by lack of adequate resources that would enable the provision of comprehensive aftercare. A failure to offer such support may increase the chances of recidivism.

## **3. CONCLUSION**

Most of the challenges highlighted through this research study would be mitigated if comprehensive post release support services which have integrated technology, were offered to ex-offenders. This could be done by facilitating the Department of Correctional Services

that is currently able to provide limited support to provide such services comprehensively. Additionally, county governments and non-governmental and private organizations should be incorporated in the provision of aftercare for ex-offenders.

Such technologies including closed surveillance using RFIDs and attached to the body like smart watches and ankle bracelets can lead to the monitoring of convicted sex-offenders, those suspected to be in drug crimes, flights risks including those who are on free Bonds or Bail and could not afford the money required. These technologies can also be used on those on parole and on probation. These monitors that rely on GPS are an integral part in monitoring behaviour and controlling re-offending

Kenya has been grappling with the increasing rate of recidivism that has seen the country's safety and security uncertain, development and investment projects sunk due to high crime rates. In addition, the study established that the existing strategies put in place to reduce recidivism were yet to deposit a significant result therefore, the paper suggested use of new technologies that will enhance tracking of ex-convicts out of prison that they do not go back to crime. This will help decongesting of the prisons in Kenya, thereby preventing crime and enhancing safety of the society at large.

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