

ACCESS TO JUSTICE AND INMATES AT KUMASI CENTRAL PRISON

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OF MASTER OF LAWS (LLM)**

**BY
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DECLARATION

I hereby declare that this research study is the result of my own original research and that no part of it has been presented whether wholly or partially for another degree in the university or elsewhere. All source of information have been acknowledged.

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DEDICATION

I dedicate this to my husband, children and grand-children for their love, care and support.

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My greatest and foremost appreciation and thanks goes to the Almighty God who has made it possible for me to write and finish this thesis on time.

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ABSTRACT

The study explores how inmates at the Kumasi Central Prison access justice. Purposely, the study seeks to outline the reasons for delay in access to justice for the inmates at the Kumasi prison. To examine the extent to which inmates access justice while at the Prison, and identify the various challenges they faced at the prisons. We collect data from a survey administered to 230 respondents from key technical persons and some selected inmates at the Kumasi Central Prisons. The study found out that factors such as few judges and magistrates available to adjudicate the massive backlogs of court cases, and lack of transparency of court document processing and publication of court decisions are the reasons for the delays. The study further found out that majority of the inmates were denied access to legal advice and service, and some of the inmates also expressed total ignorance so far as access to justice. We therefore, conclude that access to justice or legal representation is very difficult in the prison, and that many accused persons go through trial without being represented by a legal practitioner. The researcher therefore recommends a Legal Aid Policy that shall promote speedy access to justice, reformative programmes such as skills training for prisoners, a social protection and support programmes that could help for effective reintegration of remand prisoners into society, and the establishment of a remand home to avoid the mingling of remand prisoners with convicted prisoners.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 BACKGROUND OF THE STUDY

This is a research into the critical effects of lack of access to justice for the prisoners, and suspected criminals.¹ The term access to justice describes the ability of any person regardless of their income to use the legal system to advocate for themselves and their interest.² With regards to this paper, the term refers to what happens when a person is first arrested or accosted by security personnel to when he ends up in jail.

In Article 17 of the 1992 Constitution, All persons shall be equal before the law. In Article 19(1), a person charge with a criminal offence shall be given a fair hearing within a reasonable time by the court. These are hardly adhered to by the law enforcement agencies. The police institution flaunts these laws with impunity. As it has always been alleged, the rights of suspects are never read to them when they are arrested by these law enforcement agencies; suspects are never given hope or what their fundamental human rights are. Most of the prison inmates and the remand inmates do not understand the law or have not heard of Article 17 and Article 19.³ In 2007, a programme was initiated by the Ministry of Justice and AG's department⁴ in order to help promote access to Justice and for speedy trial of cases of remand prisoners.

¹ It states the inability of the state, to put measures in place to check the excess which has led to the over-congestion of the prison.

² Texas Access to Justice Commission, 2014 Report on increasing access to justice for low-income Texans

³ A. A. Alexandria, Equity and Fairness Foundation *counseling report*, 2017 on the Kumasi Prison inmates

⁴ Justice for All Program Report, 2012” retrieved from POS Foundation Annual Report 2014

According to Article 34(1) of the Ghana's 1992 Constitution which states, "the Directive Principles of State Policy contained in this Chapter shall guide all citizens, Parliament, the President, the Judiciary, the Council of State, the Cabinet, political parties and other bodies and persons in applying or interpreting this Constitution or any other law and in taking and implementing any policy decisions, for the establishment of a just and free society". Article 35(2) and (3) also states, "The State shall protect and safeguard the independence, unity and territorial integrity of Ghana, and shall seek the well being of all her citizens. The state shall promote just and reasonable access by all citizens to public facilities and services in accordance with law". The notion of access to justice is one of the essential beliefs of the rule of law. For that matter the onus lies on the government to provide for all its citizenry.

Therefore, this research is determined to help the inmates and suspects of crime at the Kumasi Central Prison and make them aware of the fact that the constitution makes provisions for prisoners and suspects of crime per Articles 17 and 19. Until proven guilty by a court of competent jurisdiction any person arrested is only a suspect under the law⁵.

1.2 STATEMENT OF THE PROBLEM

Access to justice is recognized as a fundamental human right by various international human rights agreements and in the constitutions and legislation of most of the countries. This right is significant because it is a mechanism for the actualisation of rights and furthers the rule of law, a critical precondition for social and economic development.

⁵ Conte Alex, Dr., Human Rights in the Prevention and Punishment of Terrorism, Springer Nature America, Inc, 2010.

Inability of many Ghanaian prisoners to access our courts is among the most important challenges facing Ghana's legal system today. Most inmates in our prisons are often denied access to justice. One of the major obstacles in accessing justice is the cost of legal advice and representation. Legal aid programmes are a central component of strategies to enhance access to justice.

The continuous detention of individuals who are awaiting trial is a matter of special concern to Stakeholders in the Justice sector. Their situation is quite different from those who have been convicted of an offence. Detained individuals are yet to be convicted of the offences they are accused of. In Ghana article 19 (2) of the 4th republican constitution (1992) stipulates that an accused person is innocent until he or she is proven guilty or has admitted the guilt. However, the enjoyment of the right to access justice to the criminal justice system is in most countries impeded by cost, delay, inaccessibility to courts, procedural difficulties arising out of the incomprehensibility of the law and rules of evidence and procedure, ignorance of the law and the quality of legal aid provided. This problem prompted the research into how inmates at Kumasi Central Prisons access justice. The paper seeks to outline the challenges faced by inmates at the prison and to examine the effect of delays in access to justice.

1.3 OBJECTIVES OF THE STUDY

This study will therefore seek to explore and investigate the following:

1. The reasons for delay in access to justice for the inmates at the Kumasi prison.
2. The extent to which inmates access justice whiles at the Kumasi Central Prison.
3. The various challenges faced by the inmates in Kumasi prisons in relation to access to justice.

1.4 RESEARCH QUESTIONS

The study in a boarder sense seeks to find answers to the questions like:

1. What are the causes of delay in access to justice in Ghanaian prisons?
2. How does the delay in access to justice affect prison administration in Ghana?
3. What are the effects of delaying access to justice on remand prisoners?
4. Factors that deny the inmate at the Kumasi prisons the access to justice?

1.5 JUSTIFICATION OF THE STUDY

This paper would examine issues bordering on access to justice to inmates in prison. Access to justice doesn't simply equate to legal aid. Access to justice means being treated fairly according to the law and if you are not treated fairly being able to get appropriate redress.⁶ With legal advice the rich can pay, the middle class will struggle to pay, but the poor cannot pay and the poor and the vulnerable will be shut out from legal access to justice.

Access to justice is expensive therefore the poor will find it difficult to access to it. The security institutions are also not helping in the delivery of access to justice to the less privileged. Their fundamental human rights are also ignored by the security services. The researcher will also make recommendations to the appropriate stakeholders on the findings

⁶ Professor Richard Moorhead, deputy head of Cardiff University Law School, *Access to justice is a fine concept*. He makes the point that access to justice doesn't simply equate to legal aid. Access to justice means being "treated fairly according to the law and if you are not treated fairly being able to get appropriate redress". <https://www.theguardian.com/law/2011/Oct/06/access-to-justice-legal-aid-cuts>

of the study, of access to justice to the less privileged in the society. This research is to ascertain how justice can be accessed by prisons inmates and the vulnerable.

The study will also serve as basis for further research in the future at institutions of similar characteristic to improve their operations. Awareness will be created among individuals and the general public especially the suspected persons, that access to justice is a right not a privilege. The study would provide the platform for the institution under study to discuss and identify its weaknesses regarding justice delivery for the necessary improvement to be made.

1.6 METHODOLOGY

The methodology adopted by the researcher will mainly be interviews, and observations, and interaction with researchers and qualitative data since the attention was on research prison inmates, data collection was restricted to Kumasi Central Prison. This point of the study summarizes the set of approaches adopted to obtain appropriate data for processing in order to answer the research questions posed in this study.

It also involves detailed discussions of the research design data sources, sampling population, sampling selection/ teaching research instrument and data analysis. Since the attention was on the inmates, data collection was restricted to Kumasi Central Prison.

1.7 SCOPE OF THE STUDY

The study should have covered all the prisons in the country but due to time and financial constraints only one of them, which is the Kumasi Central Prisons has been chosen. This study focused on the inmates at the Kumasi central prison and the prison

officers. Inputs from the various law enforcement agencies such as the Police service, and judges and magistrates were used. Also expert opinions from major stakeholders and desk review about the institution under study were sought.

1.8 LIMITATIONS OF THE STUDY

The constraint faced by this researcher is time, since many legal documents have to be read, analyzed and the relevant information extracted for use. Also, lack of logistical support hampered this study. Reluctance of inmates and officials to release information on the study affected our work enormously. Again submitting this research work on schedule was also a big challenge.

1.9 ORGANIZATION OF THE STUDY

This study had been structured to follow a sequence of five broad chapters. Chapter One, “Introduction”, introduces the Background of the study, the Statement of the Problem, the Purpose of the Study, the Research Questions, the Objectives, the Justification of the Study, and Limitation of the Study. Chapter Two, “Literature Review” takes up review of relevant literature related to access to justice in order to build a good argument for debate. Methodology is given in Chapter Three. Chapter Four, focuses on the Analysis of findings and discussions. Chapter Five, which is the last chapter of the study, presents the Summary of Findings, Recommendations and Conclusions.

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CHAPTER TWO

LITERATURE REVIEW: THE CONCEPT OF ACCESS TO JUSTICE

2.1 INTRODUCTION

The concept of access to justice is too broad a term to narrow down to a specific meaning. There have been many attempts by different authors to come up with a classic definition of this term. Access to justice is “an equal right to participate in every institution where law is debated, created, found, organized, administered, interpreted and applied”.⁷ Access to justice may also be defined as the “ability of people from disadvantaged groups to prevent and overcome human poverty by seeking and obtaining a remedy, through the justice system, for grievances in accordance with human rights principles and standards”.⁸ All these point to the fact that Access to justice is itself a human right and a denial of this is a denial of the basic tenets of human rights principles.

2.2 THE GHANAIAN CONSTITUTION AND ACCESS TO JUSTICE

Access to justice encompasses two major facets, namely, legal justice and social justice. The distinction between these two aspects of access to justice is important. Even if legal justice, were effectively administered, it would still produce a severely limited kind of justice and would most certainly not deliver social justice.⁹

⁷ Roderick A. MacDonald, “Access to Justice in Canada Today: Scope, Scale and Ambitions”, Julia Bass, W.A. Bogart and Frederick Zemans, eds., *Access to Justice for a New Century, The Way Forward* (Toronto: Law Society of Upper Canada, 2005), 19, 23.

⁸ The United Nations Development Programme (UNDP), 2003. Paper presented to the European Commission Expert Seminar on Rule of Law and the Administration of Justice as part of Good Governance, Brussels, 3-4 July 2003. This paper draws upon the reports of two UNDP workshops: Asia-Pacific Rights and Justice Initiative, Katmandú, 28-29 May 2003; and Conference on Justice and Security Sector Reforms, Oslo, 10-11 April 2003.

⁹ Dr. Raymond A. Atuguba, Mr. Kissi Agyebeng & Ms. Enyonam Dedey on their part conducted a desk review on real issues concerning access to justice (Law and Development Association - LADA Report, 2006). p7

Article 17 of Ghana's 1992 Constitution provides for equality of all persons before the law, which includes prison inmates. This commendable provision, at first blush, offers a level ground for access to justice to all manner of persons and enhances equity and fairness. However, in practice, this provision might be high sounding and dead letter if it is applied in a sweeping manner. In line with the constitutional injunction of equality before the law, the State has been charged, under the directive principles of state policy (Article 37(1) of the 1992 Constitution). It provides among other things to pursue a social objective of directing "its policy towards ensuring that every citizen has equality of rights, obligation and opportunities before the law." This idea is to be based on a secure and protected "social order founded on the ideals and principles of freedom, equality, justice, probity and accountability." Article 35 (3) of the constitution also provides that "the State shall promote just and reasonable access by all citizens to public facilities and services in accordance with law". This obviously includes public facilities for access to justice, and immediately implicates the state as the key duty-bearer in the provision of public facilities for access to justice. Whilst we may note that the highest Court of the land also has held that the Directive Principles of State Policy such as articles 35 and 37 of the Constitution are not of themselves justifiable, (unless they are expressly tagged to some other enforceable article of the Constitution), the guiding principles they enshrine remain valid according to the terms of Article 34. And Article 19 (1) also states that a person charged with a criminal offence shall be given a fair hearing within a reasonable time by a court.

To operationalize these policies and laws, Article 125(1) of the 1992 Constitution, an entrenched provision of the Constitution, establishes a judiciary, meant to be independent, and charged with administering justice to all. The very words of the article are instructive indeed:

“Justice emanates from the people and shall be administered in the name of the Republic by the Judiciary which shall be independent and subject only to this Constitution”.

A definition of access to justice must, therefore, include a function that allows for all manner of persons, however situated, being capable of bringing a legal problem to a person or body which can decide the issues and if necessary provide an appropriate remedy.

2.3 LACK OF ACCESS TO JUSTICE IN GHANA.

The often quoted maxim “Justice delayed is justice denied” echoes in Ghanaian Courts, when lawyers argue that litigants suffer due to delays in the delivery of justice. It is a matter of natural justice that delays should not just be frowned upon but should be redressed through adequate procedural safeguards.

Delayed justice is bad justice; unreasonable court delays may be equal to denial of justice.¹⁰ Delay in the administration of justice is used in a general sense to refer to the time spent before case disposition. Nevertheless, in real life situations, there are a lot of things are to be blame for delays in the administration of justice. The causes of delay are

¹⁰ *M Cappelletti, Access to Justice: comparative General Report*(p. 676) stated that For Italy, for example, Vigoriti, Ital. Report 6, noted that (in 1973) the cases of first instance before the pretore last 566 days; those in the tribunal of first instance last 944 days; and those in the Court of Appeal, of second instance, last 769 days. See also de Miguel v Alonso, Span. Report 12, where it is stated that it takes 5 years and 3 months for trial, appeal and recourse in Cassation in Spain. According to Kohl, the average duration of the first instance of civil actions in 1969 before the tribunal de grande instance in France was 1.9 years, before the Belgian tribunal de premiere instance 2.06 years, and before the Italian tribunal of first instance 2.33 years; Kohl, Ordinary Proceedings in First Instance - Belgium, France, Italy, Luxemburg and the Netherlands: Int. Encycl. Comp. L. VI Ch. 6/2

to be found partly in lawyers, partly in the court and partly in the rules which regulate procedural and appeal.

It affects accused persons who await trial for years only to find that they are innocent. Therefore, the problem of delay of cases denies people access to justice at all stages of the trial. Unless the institutions that are engaged in the process of administration of justice speed up the entire process, the problem of delay will remain an obstacle to the realisation of the right of access to justice.

Despite the importance attached to the right of access to justice, there are still several impediments to the enjoyment of this crucial human right globally. In Ghana, the situation is not different from other African countries where access to justice faces many obstacles. In some situations one factor can deny access to justice, while in other situations a combination of factors can deny access to justice.¹¹ Among the factors that may create institutional barriers are: inadequate physical infrastructure; administrative structures without sufficient capacity to manage systems; limited judicial capacity and a legal profession that is unable to service the full population. Access to justice is affected by the physical accessibility of justice institutions. Where justice institutions are physically remote, the barriers to justice will be greater especially if transport is poor or unaffordable.¹²

¹¹ Siobhán McInerney-Lankford. *Journal of Human Rights Practice*, Volume 1, Issue 1, 1 March 2009, Pages 51–82, <https://doi.org/10.1093/jhuman/hun005>

¹² Beqiraj J. & McNamara. L. (2014). *International Access to Justice: Barriers and Solutions*. Bingham Centre for the Rule of Law Report <http://www.ibanet.org/Document/Default.aspx?DocumentUId=7FCF610E-BEA8-4E06-99B1-B89C34A87BCD>

According to the Ghana Poverty Reduction Strategy (GPRS II):

“... The major difficulties associated with the administration of justice in Ghana can be categorized into two, namely judicial and attitudinal. Those that can be traced to the judiciary include delays and costs in administration of justice resulting in lack of confidence in the judiciary, and inaccessibility of justice and legal institutions. Key attitudinal issues relate to poor compliance with rules, regulations and procedures and weak enforcement of existing rules, regulations and procedures”.

The judicial processes are cumbersome and most poor people do not have access to the formal channels for justice services. The main principle of Access to Justice is that the legal system should be planned and managed in such a way that it provides the citizenry with inexpensive and timeous access to proper institutions and events through which they can maintain and defend their rights. The formal system is, however, not structured or administered in this manner. Rather, as is often said “the wheels of justice grind slowly” and in the context of Ghana, the wheels of justice have almost come to a halt in many respects. It is in this context that the mushrooming of informal/extra legal systems of justice must be assessed. In practical terms, and flowing from all of the above, there are obstacles faced by many in accessing justice. We set out some of the key obstacles here:

- Limited or no knowledge about legal rights and entitlements;
- Limited or no knowledge about legal and social responsibilities leading to the infringement of the rights of others and the denial of entitlements to those that deserves and has a right to them;
- Limited or no effective access to inexpensive social services which will forestall the need for justice avenues to resolve disputes relating to access;

2.3.1 The Police

The provisions in Article 200 of Ghana's 1992 Constitution states that:

1. There shall be a Police Service of Ghana
2. No person or authority shall raise any police service except by or under the authority of an Act of Parliament.
3. The Police Service shall be equipped and maintained to perform its traditional role of maintaining law and order.

Also section 1 (Functions of the Service) of the Police Service Act, 1970 (Act 350) states:

1. It shall be the duty of the Police Service to prevent and detect crime, to apprehend offenders, and to maintain public order and the safety of persons and property.
2. Every police officer shall perform such functions as are by law conferred upon a police officer and shall obey all lawful orders and directions in respect of the execution of his office which he may receive from his superiors in the Police Service.

An efficient police service that acts with a high sense of professionalism and is transparent with respect to its activities is an important factor in any democratic society. In Ghana, the Police Service is mandated to prevent and detect crimes, apprehend offenders, and to maintain public order and secure the safety of persons and property. Thus, the Ghana Police Service often becomes the first point of call for complainants who have been victims of a wrong in the nature of a crime. However, it is not unheard of that police officers are often used by individuals and institutions as debt collectors for a fee. Where the complaint is such that criminal sanctions must be invoked, the complainant must defer to the police, in terms of investigations and the decision regarding seeking redress in court.

Therefore, the inaction or indecision regarding a complaint ultimately implies that the complaint may never be redressed.

Sometimes, the Police in Ghana becomes an instrument of abuse. Not infrequently, the police arrest, detain, investigate, charge and prosecute a suspect all by itself without reference to any other institution of state. The Project has revealed that the police often fall foul of fundamental human rights provisions of the Constitution by keeping suspected criminals in custody for periods far above the constitutional injunction of 48 hours. And in a great number of cases, the police use arrest as a method of investigation than as the result of a concluded investigation. The Legal Resources Center's Project to Project, Promote, and Protect the Rights of Prisoners has also revealed that the Police are readily disposed to arresting, charging and detaining suspects in prisons cells and then abandoning them indefinitely. Such practices place suspects in jails for indeterminable lengths of time and it is even more egregious if the suspect is innocent. Despite all of these lapses, the police still constitute the first point of call for many who seek justice, and the police deal with both criminal and civil cases, even where such civil cases have virtually no criminal element in them.

Access to Justice in Ghana particularly to the indigent arrested persons is a big challenge. The seriousness of this can be clearly understood and appreciated when a person is involved in a criminal case. Human rights are owed by states to all individuals within their jurisdiction and in some situations also to groups of individuals.

Access to justice in Ghana is enshrined in various provisions of the 1992 Constitution. Article 12 demands from all absolute respect to uphold the fundamental human rights and freedoms as enshrined in the supreme law of the land. The personal liberty of the individual is protected in Article 14(1) of the Constitution that is “every person shall be entitled to his personal liberty and no person shall be deprived of his personal liberty except in accordance with the procedure permitted by law”.

Police in the performance of their statutory function sometimes infringe on the liberty and security of persons during the process of arrest, search, detention and trial of arrested person. Every state is therefore under legal obligations to take reasonable and appropriate measures to protect the liberty and security of persons in their jurisdiction.

With regard to “arbitrariness” it is not equated with against the law but must be interpreted more broadly to include elements of “inappropriateness in justice, lack of predictability and due process of the law”

According to Article 14(2) of the Constitution of Ghana, “A person who is arrested, restricted or detained shall be informed immediately; in a language that he understands, of the reasons for his arrest, restriction or detention and of his right to a lawyer of his choice”. One of the most important reasons for the requirement of “prompt” information on a criminal charge is to enable the arrested and detained person to request a prompt decision on the lawfulness of his arrest and detention by a competent judicial authority.

2.3.2 The Legal Aid Concept

The 1969 constitution contained specific provision on the fundamental human right and liabilities of individual. In addition, the 1969 constitution specially established the rights to legal aid, section 117 of the 1969 constitution under the late Dr. Kofi Abrefa Busia for the purpose of legal representation to an alleged accused person. Despite this provision in the legislature, Lawyers were never provided.

The right of every accused person to have his/her case heard. The rich and poor have equal right to justice as provided by Article 294 of Ghana's 1992 constitution. The legal aid board was established by the government to give legal aid to the poor in the society.¹³

A sound legal framework for the provision of legal aid will benefit the poor and vulnerable and ensure the achievement of liberty, equality of opportunity, freedom and justice as well as the protection and preservation of fundamental human rights and freedoms as stated in the preamble to the Constitution.

The new Act, that is the Legal Aid Commission Act, 2018 (Act 977) which repealed old Legal Aid Scheme Act, 1997 (Act 542), sought to providing legal aid and other legal services to individuals in accordance with Article 14, 17 and 294 of the Constitution, and to provide workable guidelines to access legal aid. The Act also introduces the option of Alternative Dispute Resolution in granting an application for legal

¹³ *The importance of legal aid to the less privilege especially access to remand inmates was expressed by an African jurist. In expressing his opinion he emphasized that the government and the legal profession have the obligation to device adequate machinery to ensure that the idea of equal justice before the law becomes a living reality that support justice in society.*

aid. Furthermore, regional and district offices and community meditation centres are provided to deliver legal aid where it is most required.

2.3.3 The “Justice for all Programme”

The “Justice for All Programme” introduced in Ghana in 2007 to help promote access to justice and for speedy trial of cases concerning remand Prisoners, (CDD, 2012/ Legal Resource Centre Annual Report, 2010). The programme was also designed to reduce the congestion in Ghana’s prisons. Challenges of access to justice in Ghana, has resulted in the rising numbers of remand cases in the prisons, this has necessitated the introduction of the “Justice for All Programme”. More importantly access to justice is a human rights issue which requires urgent government attention in a democracy.

Data from the Criminal records section of the Ghana Prisons Service show a rising remand population in the Country’s prisons (Ghana Prisons Service Annual Report, 2008). Ghana in its bid to eliminate the abuse of human rights unfortunately continues to keep suspects on remand for a long period which, in itself, is one of the infringements against the fundamental human rights of remand prisoners. Statistics from the Annual Report of the Ghana Prisons Service during the periods 2006, 2007, and 2008 showed that the average remand population in custody was 3,788, 4,211 and 4,285 respectively. This indicates the continuous increase of the remand population in the country’s prisons. The percentage increase between 2006 and 2007 was 11.2% and that between 2007 and 2008 was 1.2%. This steady growth is becoming alarming since the entire remand prison population now occupies more than half of the authorized prison capacity which is 7,875. To address this problem, the Attorney General and Minister of Justice in September 2007

launched the “Justice for All” initiative under which a special court sat at the defunct James Fort Prison in Accra and later at Nsawam Medium Security Prisons (NMSP).

Since the inception of the programme in 2007, out of a total of 3,293 inmates who appeared before the Justice for All court, 672 were discharged, 985 were granted bail and 135 were convicted. Those who have had their application rejected had their expired warrants renewed to enable them appear before the various trial court for the commencement of their trials. Per the prison records, overcrowding as at 2007 has reduced by 22% and 2016 by 16.1%. A remarkable achievement by the JFAP.

As at December, 2014, JFAP had saved at least Gh ¢ 716,877.00 per annum of public funds in terms of the daily feeding grant of Gh ¢ 1.80 multiplies by the number of beneficiaries. Through the JFAP some degree of confidence in the Ghanaian Justice system has been restored both nationally and internationally.

2.3.4 The Remand Inmates

Remand into custody pursuant to lawful arrest must not only be lawful but reasonable in the circumstance. Remand into custody must further be necessary in all the circumstances, for example

- To prevent flight,
- Interference with evidence or
- Recurrence of the commission of crime.
- In the “interest” of the suspect. Example destroying a village only source of drinking water.

It is for the Police or the judiciary to show that these factors are present in a particular case. In a situation where a victim had been in detention for more than it is allowed by the constitution or law, with the view to forcing him to disclose his accomplices or accept responsibility or to show him or her where ‘Power lies’ or demand some considerations.

Article 14 (4) of Ghana’s 1992 Constitution provides that “Where a person arrested, restricted or detained under paragraph (a) or (b) of clause (3) of this article is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular, conditions reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial”.¹⁴

This provision enforces the legal principle that an accused person is presumed innocent until proven guilty. Reasonable time as provided in Article 14(4) is a vague stipulation which in my view has contributed to overcrowding in our prisons, which situation led to the creation of the Justice For All Programme (JFAP) in 2007 by the then Attorney General and Ministry of Justice in active partnership with the Judicial Service of Ghana, the Police and the Prisons Services. The JFAP seeks to alleviate the problem of overcrowding by setting up special in-prison courts to adjudicate remand prisoner case throughout the country”. As earlier indicated, research on the “Justice for All Programme”, remand prisoners and their rights is still in its infancy (Legal Resource Centre Annual Report, 2010). The available sources on the subject tend to consist of country and human

¹⁴ Jonathan Osei Owusu, executive director – POS Foundation, in his article titled the Justice for all Programme: the Hope of the Remand Prisoner published in the Judicial Digest (volume six).

rights based organizational policy reports and these are mostly from the developed world. This being said, it would be inaccurate to deduce that academic scholarship on remand prisoners is completely nonexistent. At least certain areas have received extensive examinations over the past decades.

The issue of remand prisoners and violations of their rights is not a recent phenomenon. As pointed out by scholars (Rusche & Kirchheimer 1968; Foulcault 1977; Ignatieff 1978 and Stephen Pete) detention that is keeping offenders in custody in order to determine their fate. Imprisonment existed in Africa, centuries before the birth of the modern form of imprisonment where a suspect is tried to establish the person's innocence or guilt before imprisonment. Long before modernity, slaves, and criminals were subjected to detention of one kind or another with all kinds of abuses. In fact, James S. Read (1969), in his book opined that remanding people in custody was practiced in pre-colonial time though he added it was not a normal practice. However, Reads (1969), argues that "prisons were introduced only after the advent of British rule" Thierno Bah (2003) corroborated this assertion of Read but pointed out that, detainees and prisoners were subjected to "physical cruelty and starvation".

One of the areas that has been the focus of scholars and policy makers is the conditions under which prisoners as well as remand prisoners live, and the kind of treatment being meted out to them. In this light several bodies – international and regional have been set up to enforce the standards laid down by the UN and other regional bodies. Their mandates include the examinations of prisons and places of detentions to find out whether countries are treating convicts and remandees according to the standards put forth.

The purposes for which remand strategies are utilized, the effects of competing goals on remand decision-makers, and how achievements of the goals of custodial remand (and its alternatives) could be better measured. They conceive remand decision-makers are required to preserve the integrity and credibility of the justice system, to ensure the protection of the community and, at the same time, to take account of the best interests of defendants.¹⁵ However it is undoubtedly true that remand prisoners have contributed to the increasing prisoner numbers across the world. The numbers of prisoners far outnumbered the prisons and most prisons especially those in Africa, house more prisoners (both remand and convicted prisoners) than they are supposed to accommodate.¹⁶

Another significant area that has been underscored is the issues of merging of remand Prisoners and convicted Prisoners. A research conducted in 2006 found out that the rights of remand prisoners are violated.¹⁷ The issue of juvenile remandees has also received critical examinations especially in the developed world. A number of studies have found out that juveniles are among the groups of people who are susceptible to remand. Scholars have focused on how the young and the juveniles have been a subject of pre-trial detention vis-à-vis their rights. It has been observed that it is well known that young subjects are more vulnerable than adult suspects and once incarcerated have the propensity to giving information which may be “unreliable, misleading or self-incriminatory” There have been attempts by researchers to track the patterns of persons under remand globally.

18

¹⁵ King, M. (1971), *Bail or Remand*, London: Cohen Trust. p14,36

¹⁶ Africa Commission on Human and People's Right (ACHPR) Mission Report, 5 March 2000, Commissioner Kamel Rezag Bara, assisted by Mr. Robert Kotchani, Legal Officer at the Secretariat of the Commission.

¹⁷ Edudzi Ofori and Chelsea Paradis in a research entitled “Prisoner's Right in Ghana” Ghana Human Development Report 2007.

¹⁸ Fiona Brookman & Harriet Pierpoint and Sanders & Young, (1994) `Access to Legal Advice or advocating for the suspect "a limited deterrent effect on the police, making rules as much.

However, to address the perception that suspects commit offences while on bail, some efforts probably in response to political demands have been made, in this regard academic literature has significantly paid attention to the criteria for granting bail. Consequently, improvement of bail process has received greater attention in many jurisdictions. Incidentally, academics have not paid much attention to the study of the bail process. Whereas government investigations have focused on procedures for bail, very little attention has been paid to the decision making process itself. Once a good number of suspects obtain police bail, there is very little proportion who will contest applications in court. When one is refused police bail, then, the only option left is to apply for court bail.

Since the inception of the programme in 2007, out of a total of 3,293 inmates who appeared before the Justice for All courts, 672 were discharged, 985 were granted bail and 135 were convicted. Those who had their applications rejected had their expired warrants renewed to enable them to appear before the various trial courts for the commencement of their trials. Per the prison records, overcrowding as at 2007 had reduced by 22% and in 2016 by 16.1%, a remarkable achievement by the JFAP.

2.4 ACCESS TO JUSTICE AND HUMAN RIGHTS

Human rights are part of the rights which emanate out of the desire to place limits upon how people may be treated by others especially by those who exercise power. Human rights are rights that humans have “simply in virtue of being human”.¹⁹ Human rights are in the sense that they belong to all human beings rather than to members of any particular nation, race, religion, gender or social class. In the literature, human rights are regarded as

¹⁹ James Griffin (2001), *First Steps in Discrepancies between the best Philosophical Account of Human Rights and the International Law of Human Rights*.

‘fundamental’ rights because they are absolute; “they cannot be traded or revoked”.²⁰ Violations of the rights of remand prisoners abound not only in Ghana but in other jurisdictions as well. Historically, a case of abuse of rights abounds all over the globe. In both classical and contemporary era, violation of rights including that of prisoners is topical in political and legal discourse.

A detained person has the right to consult with, and be assisted by a lawyer in connection with the proceedings taken to test the legality of his or her detention. In most cases access to lawyers is difficult. Financial and geographic inaccessibility to lawyer(s) of choice are limitation to the right of access to justice by indigent arrested person. Having a prompt access to a lawyer at an early stage of police investigations may be essential in order to avoid lasting prejudice with regard to the rights of defense. How many lawyers practice in the rural areas, and are they prepared to work “pro bono” i.e. for free?

Torture and other forms of ill-treatment are prohibited at all times, throughout criminal investigation. They can never be justified; they must be prevented, investigated and punished. Conditions such as overcrowding in Police cells and prison custody, lack of toilets and other facilities amount to mental torture.

Every country and all parties to human rights treaties including Ghana have undertaken to ensure the enjoyment of rights and fundamental freedoms without distinction on such grounds as race, colour, sex, language and social status, religion and political and other opinion. In order for these rights to be effectively realised, government, all legal professions, that is judges, prosecutors and lawyers alike have essential roles to

²⁰Andrew Heywood, 1994, Political Ideas and Concepts: An Introduction

play. The police have a professional duty under the Constitution and International law to protect these rights. Judges must at all times be alert to any sign that such important rights as the right to freedom and torture, the right to effective access to legal counsel, the right not to be compelled to testify against oneself and the right to prepare an effective defense have to be respected. Finally, the government should intensify public education on Human Rights in addition to equipping the agencies under the Criminal Justice Administration.

Jurisprudence of the ECtHR on access to justice

The ECtHR has many cases on access to justice, especially on breach of rights per Article 6(1) of the European Convention on Human Rights:

Following some violent disturbances in a prison, the applicant – one of the prisoners – was accused by a prison warden of having been actively involved. This accusation went into his prison record, so he decided to challenge it by way of an action for defamation. However, he was unable to consult a lawyer about this matter because a specific authorisation was required from the Home Secretary. The applicant argued that this restriction represented a breach of his rights under Article 6(1). In response, the UK Government argued that rights under this Article only related to the fair conduct of a trial once proceedings had commenced.²¹

The ECtHR, relying on the references to the ‘rule of law’ in the preamble to the European Convention, read into the Article 6 an obligation of state parties to guarantee access to a court. This had to be interpreted as including access to a

²¹ *Golder v UK* (1975), European Court of Human Rights, Ref. 4451/70, [1975] 1 EHRR 524, [1975] ECHR 1, A prisoner was denied a solicitor while imprisoned, so could not seek advice about his potential maltreatment. Upon being released, the prisoner claimed that his right to a fair trial (art. 6 ECHR) had been infringed.

lawyer to prepare the case, to permit access to effective judicial remedies. Access to justice could not be contingent on the discretionary exercise of power by administrative authorities or a private person.

Also in the case of *Airey v Ireland* (1979), per Article 6(1) breach of rights. A wife who was destitute was refused legal aid to bring proceedings in the Irish High Court for judicial separation. Given the complexity of the proceedings, the need to examine expert witnesses, and the emotional significance for the parties, the ECtHR held that the applicant required legal representation, which needed to be free of charge in the light of her financial circumstances. The court rejected the argument of the Irish government that the right of access to a court did not include a positive obligation to provide free legal aid in particular circumstances – even though this obligation had financial consequences.²²

The applicant brought civil proceedings challenging the Secretary of State's decision under the Mental Health Act 1959 which had the effect of continuing his detention in a secure mental health hospital. However, there was no liability for anything done under this Act unless it was done in bad faith or with a lack of reasonable care. In addition, a claim could only be brought with the permission of the High Court if there were 'substantial grounds' for believing one of the conditions was met.²³

²² *Airey v Ireland* (1979) 32 European Court of Human Rights: [1979] 2 E.H.R.R. 305, Mrs Airey claimed that the rights to a fair trial, respect for family life and non-discrimination guaranteed a right to legal aid in cases for judicial ordered separation; positive obligations of State; economic and social nature of civil and political rights; self-representation may not result in effective remedy; legal assistance to be provided where indispensable for determination of civil rights.

²³ *Ashingdane v UK* (1985), Ref: 8225/78, (1985) 7 EHRR 528, [1985] ECHR 8, 14/1983/70/106, [1985] Mr Ashingdane was a Broadmoor patient who was deemed ready for transfer back into his local hospital, but was denied a bed there because the nurses' trade union operated a ban on taking special hospital patients. He launched proceedings against the . .

The ECtHR held that these limitations on access to the court were not in breach of Article 6(1). Although the Act placed a limitation on liability, this had the legitimate aim of preventing those caring for patients from being harassed by litigation. Allowing a claim only if someone had acted in bad faith or with a lack of reasonable care was a proportionate approach and left intact the right of access to the court once the merits of the case had been established.

Again in *Steel and Morris v United Kingdom* (2005), also argued per Article 6(1) on breach of rights. The applicants, part of the campaigning group London Greenpeace, were sued for libel by the multinational company McDonalds. They were alleged to have been closely involved in the publication and distribution of a leaflet making a number of allegations against the company. Having been refused legal aid to defend the claims, the applicants largely represented themselves at the trial (which lasted 313 court days) and had damages awarded against them. They complained that these defamation proceedings violated their right to a fair trial under Article 6(1) and that there had also been a disproportionate interference in their freedom of expression under Article 10. The ECtHR held unanimously that there had been violations of both Article 6(1) and Article 10.²⁴

With regard to Article 6(1), the court held that it was central to the concept of a fair trial that a litigant should have the chance of presenting his or her case effectively and should enjoy equality of arms with the other side. Total equality of arms was not required, provided each side had a reasonable opportunity to present its case.

²⁴ *Steel and Morris v United Kingdom* (2005), Ref: Times 16-Feb-2005, 68416/01, [2005] ECHR 103, (2005) 41 EHRR 403, [2011] ECHR 2272. The applicants had been sued in defamation by McDonalds. They had no resources, and English law precluded legal aid for such cases. The trial was the longest in English legal history. They complained that the non-availability of legal aid infringed their right to a fair trial...

A legal aid scheme was one means by which fair trial rights could be guaranteed. Whether legal aid was necessary for a fair hearing depended on a number of factors, including what was at stake for the applicant, the complexity of the law and procedure and the applicant's ability to represent him or herself effectively. The right of access to a court was not an absolute one, but any restrictions had to be a proportionate means of pursuing a legitimate aim. It was acceptable to restrict access to legal aid, for example, by taking account of the litigant's financial circumstances and his or her prospects of success.

Although defamation cases did not determine important family rights and relationships, in this case the applicants had chosen to defend themselves against a claim to protect their freedom of expression. The case had significant financial consequences for them and the proceedings were complex, involving extensive preliminary hearings. Although the applicants appeared to be articulate and resourceful and had received some pro bono help from lawyers, this was no substitute for competent and sustained legal representation. In these circumstances, the denial of legal aid was a breach of Article 6(1).

Granting of Amnesty to Prisoners is also important for human rights and access to justice. The amnesty is the exercise of the President's prerogative of mercy under Article 72 of the 1992 Constitution of Ghana. As of 30 December 2016, 148 prisoners were on death row in Ghana - 144 men and four women. All were sentenced to death for murder. The Amnesty International Ghana, report also revealed that there has not been any execution for the past 23 years even though the courts continued to sentence people to death.²⁵

²⁵ Amnesty International Ghana, 2016 Report. And as result have developed a document called Advocacy Toolkit, for Abolition of Death Penalty in West Africa

Also during the commemoration of Ghana's 54th Republic Anniversary, 1,104 categories of prisoners benefitted from outright release from prisons across the country, the statement issued by then deputy minister of interior, Mr. James Agalga. The statement said the categories of prisoners benefitting from the amnesty include 1001 first offenders who had served at least half of their sentences for outright release. Others are 21 prisoners on death roll who have served at least 10 years and have had their sentences commuted to life, while 71 prisoners serving life sentences and have served at least 10 years had their sentences commuted to a definite term of 20 years.²⁶

²⁶ The Ministry of Interior Statement (2010); The report stated that nine seriously ill prisoners were recommended for outright release on medical grounds, one prisoner serving at the President's pleasure was recommended by the Medical Board for outright release, whereas one was released upon special recommendation. It is important to note that those recommended for have already been freed by the prison authorities.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 INTRODUCTION

This study intends to examine and discuss access to justice, and to what extent do the inmates at Kumasi Central Prisons get access to justice? The study's approach was to generate both qualitative and quantitative data for analysis. The source of core data included interviews questionnaire and textbooks provided by the main library and the law school library of the University (KNUST). Additionally, varied documentation received from the mass media, published articles and journals.

3.1 RESEARCH DESIGN

Research design is a procedural plan that is adopted by the researcher to answer questions vividly, objectively, accurately and economically.²⁷ The study is designed on qualitative method. The choice of qualitative technique is informed by the fact that access to justice is a social issue. Kumepkor (2002) states that social data are basically qualitative in form and this usually presents difficulty to them being studied by scientific methods which usually use objective criteria.²⁸ Data were collected between January 2018 and September 2018.

A descriptive research methodology was adopted for this study and a survey used to administer to selected prisoners at the Kumasi Central Prison, and some key technical persons. The data for the study comprise documents, field notes and interview questionnaires. The interviews were conducted for the prisoners at the prison and for the

²⁷ Kumar, Y. D. 2005, Investigating the Research Approaches for Examining Technology Adoption Issues

²⁸ Kumepkor, K. B. 2002, Research Methods & Techniques of Social Research, Ghana, SonLife Printing Press and Services.

key informants, some face to face and others on the telephone. After the interviews were completed in prison, something happened that might have changed the study context. A high court was inaugurated on the premises of the Kumasi Central Prisons, to facilitate speedy resolution of applications of remand and criminal cases from the circuit and district courts, on 17th October, 2018.

3.2 POPULATION AND SAMPLING

The Research was conducted at the Kumasi Central Prison, and the target population was made up of all categories of prisoners including the remand prisoners. Of the total population of the prisoners, stratified random sampling technique was used to select the sample size. The sample for the study was made up of 215 inmates, one judge, four policemen, three lawyers, one lawyer from the Attorney General's Department, two staff and two prison officers at the Ghana Prisons Service, Kumasi, and one staff from Commission on Human Rights and Administrative Justice (CHRAJ). These respondents were selected based on the technical capacity.

3.3 RESEARCH INSTRUMENTS

The primary data would be collected through a survey conducted using detail structured questionnaire. The questionnaire is designed in a way that respondent will only be required to mark option(s) applicable to them. Both open-ended and close-ended items were provided in the questionnaire to ensure maximum content validity. The researcher deemed the use of questionnaires as the most appropriate research instrument to help achieve the objectives of the study because most of the respondents (key technical persons) are literate and can read and understand the content.

Again some of the interviews were directed towards the key technical persons that gave the researcher the opportunity to get information about access to justice in Ghana from people who have considerable experience in the justice delivery institutions in the country. The interview with the key technical persons were unstructured, in this case a full scaled interview questionnaire was not used since it could limit the amount of information the respondents could give. Also interviews were conducted to confirm some of the responses on the questionnaires conducted for the prison inmates. This allows for an in-depth probing of responses or the reasons behind respondents' answers.

3.4 DATA ANALYSIS

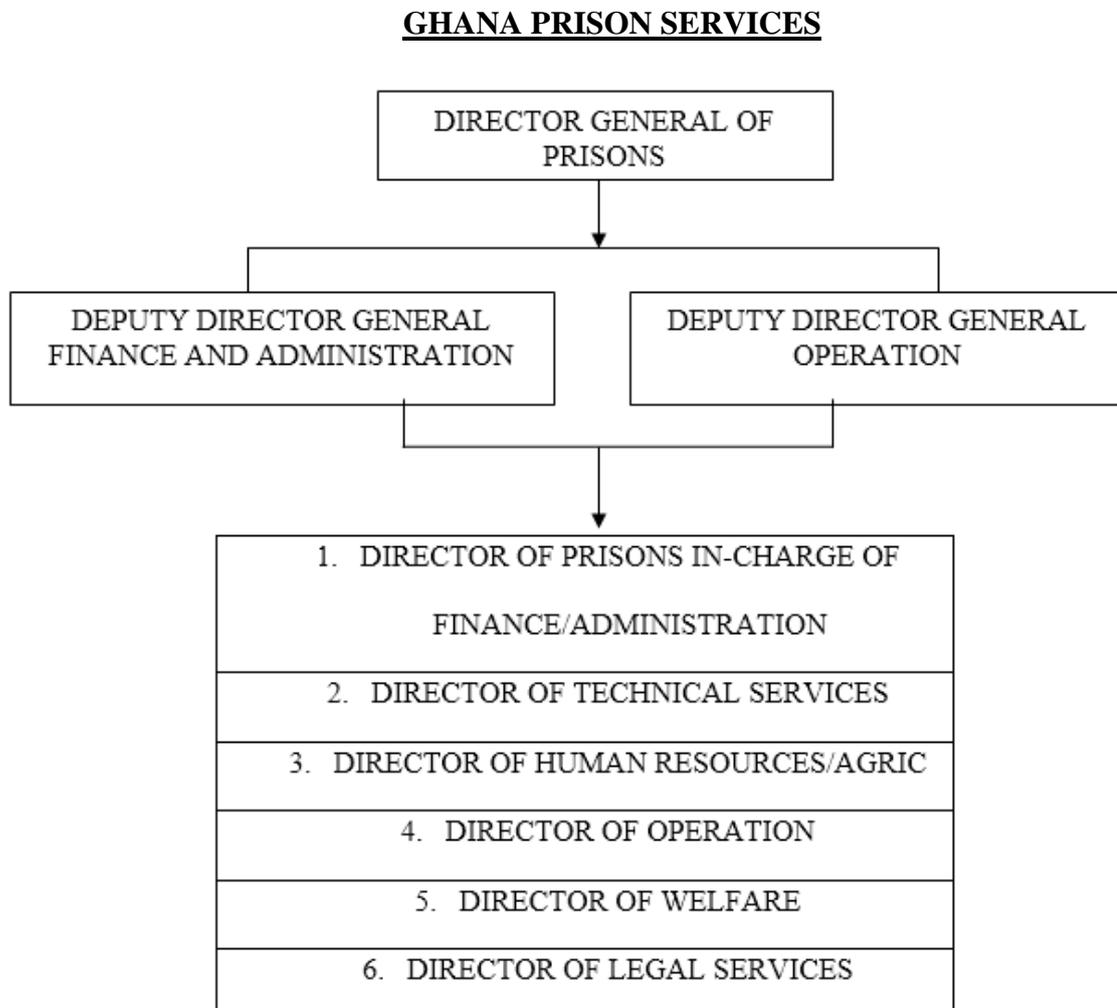
Raw data obtained from a research is useless unless it is transmuted for the purpose of decision-making. Data analysis usually involves reducing the raw data into a manageable size, developing summaries and applying statistical inferences.²⁹ The data collected were processed using simple descriptive tables. Percentages were computed to enhance an understanding of the data collected.

Descriptive statistics such as frequencies and percentages were used to present the results of the analysis and ascertain the percentages of respondents who chose each alternative for each question based on the objectives of the study. The statistical tools were aligned with the objectives of the research. Major findings were determined based on the data presented and linked to the reviewed literature.

²⁹ Kumar (2005), as 25 above

3.5 ORGANIZATIONAL PROFILE

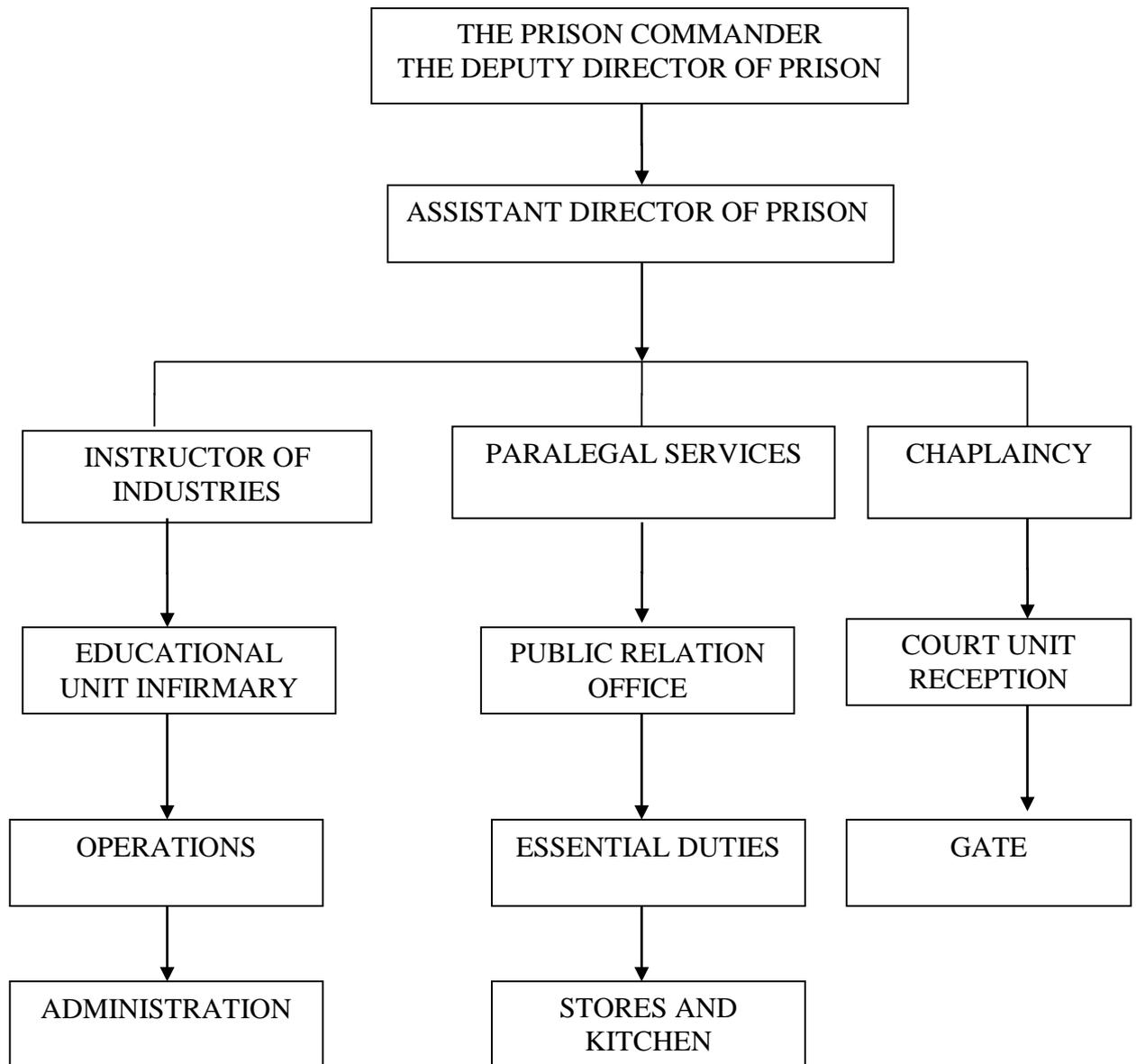
Kumasi Central Prison was built to cater for 400 inmates.³⁰ Both the convicted prisoners and suspected criminals. It now caters for about 2000 inmates. The prison has a male and a female section which are commanded by male and female prison officers. They are in the Rank of Deputy Superintendent of Prisons. The Commanders have 40 Senior officers with 220 Junior officers under them who provide various support services and also guard the prison facility. Both the male and the female sections have their different organizational structures, with the male and female having two different Second in Command (2IC) to the Commander.



³⁰ The Kumasi Central Prison was built in 1901 by the British under Sir Gordon Gurgisberg

These are the management Heads of The Prison Services. The senior officers also have a stake in the running of the prisons. All the above commission officers collaborate with the senior officers in the smooth running of the prisons.

KUMASI CENTRAL PRISONS



The United Nations Development Programme (UNDP), 2003. Paper presented to the European Commission Expert Seminal on Rule of Law and the Administration of Justice as part of Good Governance, Brussels.

STATISTICS AND DISTRIBUTION OF COURTS IN GHANA

COURTS	WESTERN REGION	CENTRAL REGION	GREATER-ACCRA REGION	VOLTA REGION	EASTERN REGION	ASHANTI REGION	BRONG-AHAFO REGION	NORTHERN REGION	UPPER-EAST REGION	UPPER-WEST REGION	NO. OF COURTS	TOTAL NO. OF NORMAL COURT	
SUPREME COURT			1								1	1	
COURT OF APPEAL		1	1	1	1	1		1			6	6	
TOTAL HIGH COURTS	7	8	48	6	9	15	6	4	2	1	105	108	
High Court (General)	5	6	9	6	6	8	4	2	2	1	49	108	
Criminal Courts			4								4		
Probate & L. A. Courts			3								3		
Human Rights & Economic Crime Courts						1					1		
Divorce and Matrimonial Courts			3								3		
Land Courts			13			2					15		
Financial Courts			2								2		
Human Rights Courts			2								2		
Industrial Courts			2								2		
Commercial Courts	2	2	10		2	4	2	2			24		
Prison High Courts					1	1		1			3		
TOTAL CIRCUIT COURTS	5	6	17	7	10	14	7	2	2	2	72		72
Circuit Court (General)	4	6	15	7	10	13	7	2	2	2	68		72
Gender Based Violence Courts	1		2			1					4		
TOTAL DISTRICT COURTS	20	20	35	26	20	32	19	9	6	5	192	192	
District Court (General)	20	20	32	26	20	32	19	9	6	5	189	192	
Family & Juvenile Courts			3								3		
REGIONAL TOTAL NO. OF COURTS	32	35	102	40	40	63	32	17	10	8	379	379	
TOTAL NO. OF COURTS	379												

SOURCE – 2017-2018 Annual Report (Judicial Service)

Although we have all these courts in the country justice delivery is slow and sluggish and access to justice is not readily available and very expensive.

CHAPTER FOUR

FINDINGS AND DISCUSSIONS

This chapter presents and discusses the findings of the study. To help in the discussion of the findings, tables have been drawn up from the responses to the various items on the questionnaire. Percentages have also been computed to enhance an understanding of the data collected. Characteristics of the respondents have been depicted in tabular form.

The data were therefore, presented and analysed as follows:

1. Reasons for Delays in Access to Justice at the Prison.
2. The Extent to which Inmates at Kumasi Central Prisons get Access to Justice.
3. Barriers and Challenges that impinge on Access to Justice.

4.1 BACKGROUND ANALYSIS OF DATA

As discussed in the Research Method section, all the 215 inmates from the Kumasi Central Prisons selected for the interviews to fill the questionnaire responded. Some key technical (informants) persons were also selected for in-depth interview sessions. They were from Police Service (4), Lawyers (3) Attorney General's Department (1), Judicial Service (1), Prison Service (4-(2) and CHRAJ (1). Out of the fifteen (15) respondents sampled for the interviews scheduled with the key technical person, only twelve (12) responded representing 80% response rate. (Ref. Table 1)

Table 1: Data Collection Summary

S. NO.	CATEGORY	NO. OF INTERVIEWS/ QUESTIONNAIRES SENT	NO. OF INTERVIEWS/ QUESTIONNAIRES COLLECTED	RESPONSE RATE
1	Prison Inmates	215	215	100%
2	Key Informants	15	12	80%
Total		230	227	90%

Source: Survey, 2018

The analysis of prison inmates respondents' demographic characteristics relating to their level of education indicates that about 172 (80%) of the respondents have had formal education up to the Junior High School level. and the rest had above Senior High educational qualifications. Table 2 shows the various level of education of the prison inmates.

Table 2: Socio-Demographic Data of inmate Respondents - Education

Response	Number(s)	Percentage (%)
1 st Degree & above	15	7
Senior High	28	13
Up to JHS	43	20
		60
Up to Primary/No Education	129	
Total	215	100

Source: Survey, 2018

The analysis of respondents' demographic characteristics about their educational level indicates that about 129 (60%) of the inmates have at minimum a primary school education or no education at all. 20% had up to JHS level and the remainder had related educational qualifications above JHS level. In analyzing prison inmates respondents' age, the researcher resolved in varying age units and thus put ages into class intervals. The age categories show that 89% of the respondents were within the age group of 18–25, 6% also fell within age group 26 – 32 with 5% in group 33 – 39 and it shows that respondents are the youth below 40 years. (Ref. Table 3).

The first task was to find out the offence(s) that inmates are currently facing in jail, official records was reviewed and the data gathered has been presented in Table 3.

Table 3: Various crimes committed by prisoners at Kumasi Central Prisons (KCP)

Types of Crime	% of inmates and their Education	Marital Status of the Inmates	Percentage of the Crime in the prison	Average Ages of Inmates
Murder	5%	60%	20%	30yrs – 60yrs
Manslaughter	20%	45%	30%	25yrs – 55yrs
Rape	35%	40%	12%	18yrs – 40yrs
Defilement	25%	45%	10%	35yrs – 70yrs
Causing harm	16%	50%	10%	18yrs – 35yrs
Robbery	20%	20%	35%	16yrs – 50yrs
Stealing	50%	50%	45%	16yrs – 70yrs
Possess of offensive weapon	12%	50%	2%	25yrs – 50yrs
Assault/ Battery	20%	60%	25%	17yrs – 35yrs
Kidnapping	5%	40%	1%	25yrs – 50yrs
Narcotics	30%	45%	30%	17yrs – 50yrs
Forgery	35%	40%	0.8%	25yrs – 50yrs
Defrauding by false pretence	40%	50%	2%	30yrs – 60yrs
Dishonest appropriation	40%	50%	0.5%	30yrs – 65yrs
Breach of Trust	25%	40%	0.2%	40yrs – 60yrs

Source: Prisons – KCP³¹

³¹ 1. Murder: Contrary to section 46 of Criminal Offensive Act, (Act 29) of 1960

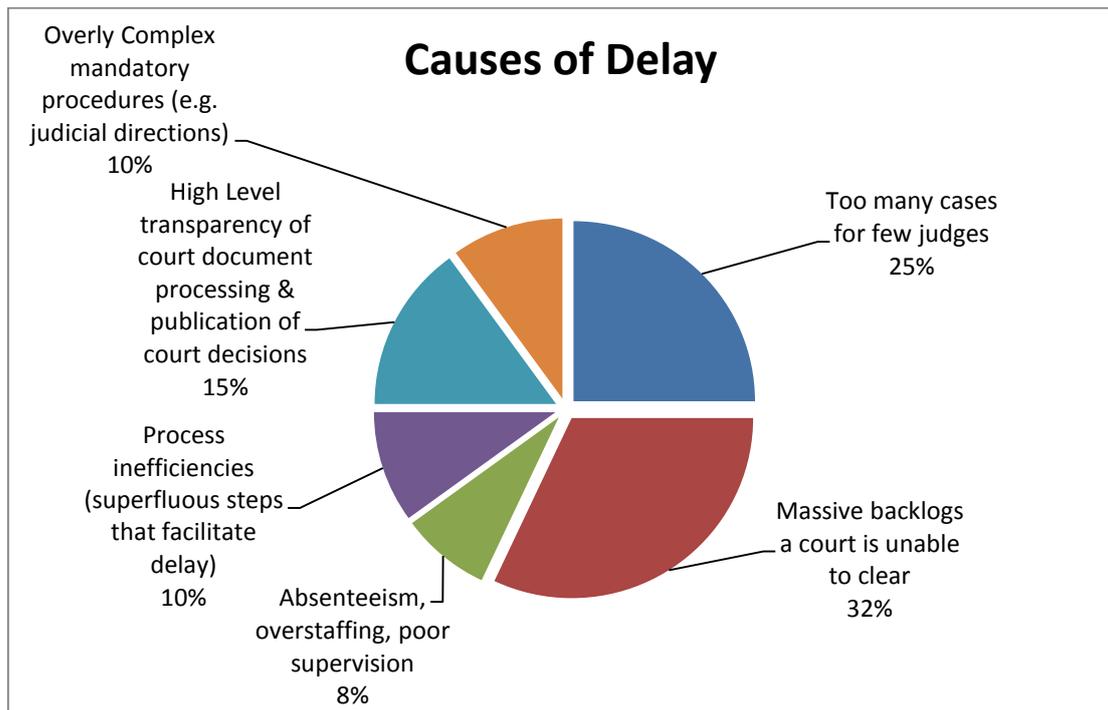
From the above table, it was made clear stealing (45%) is the most prevalent crime followed by robbery (35%) of which majority of them are not married (about 80%). Again it was revealed that narcotics offences (30%) are committed by people with an average age between 17 - 50years. Murder is also noted to be committed by people with no or little education, as indicated only 5% of criminals who are convicted of murder have had education. Offences such as Possession of offensive weapons (2%), Kidnapping (1%), Forgery (0.8%), Defrauding by false pretence (2%), Dishonest Appropriation (0.5%), and Breach of Trust (0.2%) were found out to be less common at the Kumasi Central Prison.

4.1.1 Reasons for Delays in Access to Justice at the Prison

The views of the key technical persons on the reasons for delays in access to justice have been presented in Table 4. This was to confirm whether or not there were indeed structural, institutional or individuals that causes delay in the delivery of justice.

-
2. Manslaughters: Contrary to section 50 of Criminal Offensive Act, (Act 29) of 1960
 3. Possession of Firearms without authority: Contrary to section 192 of Criminal Offensive Act, (Act 29) of 1960
 4. Rape: Contrary to section 97 of Criminal Offensive Act, (Act 29) of 1960
 5. Causing Harm: Contrary to section 69 of Criminal Offensive Act, (Act 29) of 1960
 6. Use of Offensive weapons: Contrary to section of Criminal Offensive Act, (Act 29) of 1960
 7. Assault: Contrary to section 84 of Criminal Offensive Act, (Act 29) of 1960
 8. Battery: Contrary to section 86 of Criminal Offensive Act, (Act 29) of 1960
 9. Kidnapping: Contrary to section 89 of Criminal Offensive Act, (Act 29) of 1960
 10. Defilement: Contrary to section 101 of Criminal Offensive Act, (Act 29) of 1960
 11. Abetment and Conspiracy: Contrary to section 20 of Criminal Offensive Act, (Act 29) of 1960
 12. Dishonest appropriation: Contrary to section 120 of Criminal Offensive Act, (Act 29) of 1960
 13. Stealing: Contrary to section 124 of Criminal Offensive Act, (Act 29) of 1960
 14. Defrauding by false Pretence: Contrary to section 132 of Criminal Offensive Act, (Act 29) of 1960
 15. Robbery: Contrary to section 89 of Criminal Offensive Act, (Act 29) of 1960

Chart 1: Causes of delay in accessing justice at courts



Source: Survey, 2018

According to the above chart, it was evident that 72 percent of the respondent believed factors such as few judges and magistrates available to adjudicate the massive backlogs of court cases and lack of transparency of court document processing and publication of court decisions are the cause of delays in our courts.

The researcher further identified the following as causes of delay in accessing justice:

1. Suspects are usually abandon by Police at remand with the excuse that the Policemen handling the case have been transferred, on peacekeeping mission, is dead, has deserted post, or even on retirement. This has become burdensome to the prison, because the Police have the sole responsibility for sending a remand inmate to court.
2. At time the Police give excuses that they are still investigating the crime especially murder and manslaughter.

3. Some of the inmates, their family have abandoned them, so they don't have any person outside to press on the Police to come and pick them to court.
4. Sometimes the warrants are long overdue as far as two years.
5. The court system is cumbersome, too much of paper work, and/or excuses such as the judges are on break, leave, transfer, has traveled outside for a course stifle justice delivery.
6. Sometimes dalliance in getting hold of the court proceedings of the inmates in order for the advocacy, lawyer/solicitor to help the inmate to access justice is unbearable.
7. Some of the inmates have long been forgotten and abandoned by their close relations especially the men by their wives.

In meeting the objective of the study on whether delays in accessing justice affect the Prison Administration, respondents' views gathered have been presented in Table 4.

Table 4: Effects of the delays in access to justice on Prison Administration

Response	Number(s)	Percentage (%)
Yes	11	95
No	1	5
Don't Know	0	0
Total	12	100

Source: Survey, 2018

Out of the 12 technical persons who responded to the interview as indicated in Table 4, one respondent representing 5% said the delays had no effect on the prison administration. Whereas majority of the respondent believed that delays in accessing justice affect the operations of the Prison Service.

Table 5 displays the views of respondents on whether their rights were read to them at the point of their arrest.

Table 5: The Rights of suspects being read to them at the point of arrest

Response	Number(s)	Percentage (%)
Yes	15	7
No	157	73
Don't Know	43	20
Total	215	100

Source: Survey, 2018

As shown in Table 5, 157 (73%) of the inmates' response was 'No', while 43 (20%) were not even aware of such procedures, and the remaining 15 (7%) responded positively.

Table 6 displays results of respondents views on how they get access to legal assistance while in prison.

Table 6: Getting Access to Legal Assistance by the inmates while in prison

Response	Number(s)	Percentage (%)
Paralegal office	104	48
Advocacy groups	63	29
Social worker	48	23
Total	215	100

Source: Survey, 2018

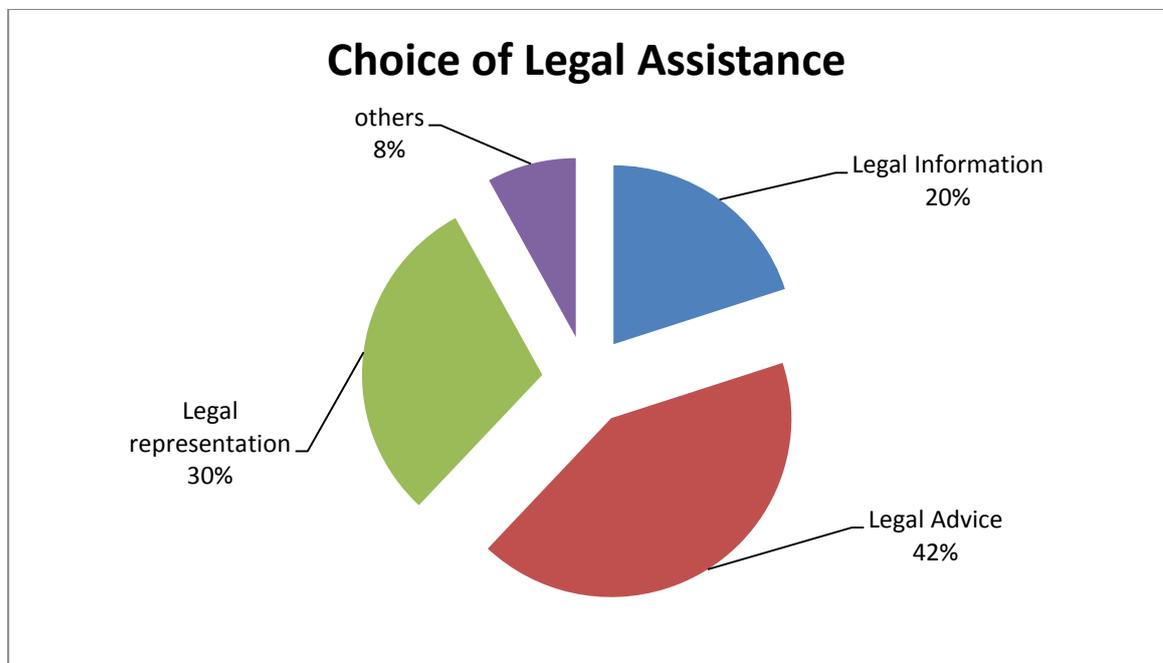
Table 6 reveals that, out of 215 respondents, 104 (48%) of them said they get legal help at the Paralegal office in the prison, and from the lady from the Law Faculty who comes to

visit (advocacy), and from the social worker from the Social Welfare department who comes on Monday to Friday.

4.1.2 Challenges faced by prison inmates

The study further found out the views of the inmates on whether they face difficulties in getting legal information and advice while in prison as presented in chart 2.

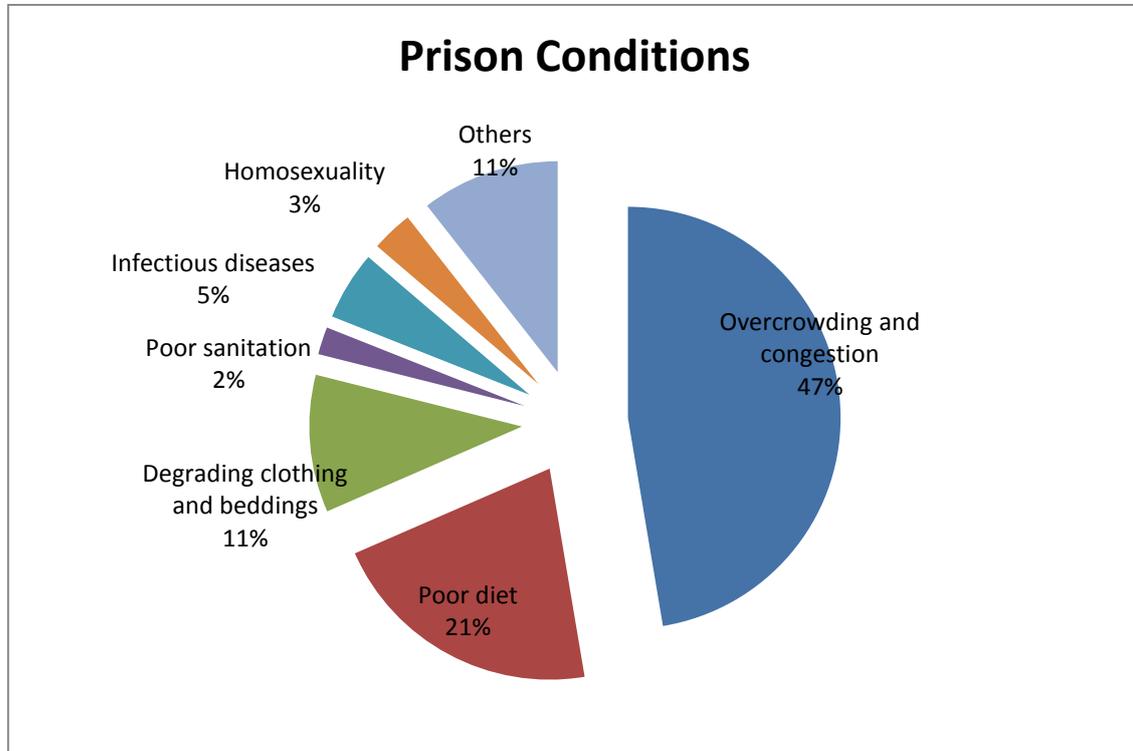
Chart 2: The choices available to inmates in dealing with their legal problems



Out of the 215 inmates who responded to the questionnaire as indicated in chart 2 above, 197 respondents representing 92% were aware of the various legal assistance resources available to them, as majority of them have one way or the other have benefited from a legal advice (42%), legal representation (30%) or legal information (20%). Whereas 18(8%) of them were not aware of the various legal assistance. This is a clear indication that majority of the inmates at the prison are aware of the existence of the legal assistance.

In meeting the objective of the study on the general conditions at the Kumasi Central Prison, respondents' views gathered have been presented in Chart 3.

Chart 3: The general conditions creating a major problem at the KCP



According to Chart 3 above, it was evident that out of the 12 key technical persons who participated in the study, 5 of them representing 47% believed that overcrowding is the major problem facing the inmates at the prison, whereas all the other six (6) conditions represent 53%. The results gathered in Chart 3 however, indicate that congestion is a major problem at the prison.

Again, as part of the field work, the researcher made the following observations, that:

1. Majority of the inmates both convicts and suspects at Kumasi Central Prison lack knowledge of human rights issues especially access to justices.
2. When they were arrested by the Police the suspects were usually denied access to lawyers for legal advice and representation.

3. Their charges pressed against them when arrested were not read to them by the Police.
4. The Police usually in a rush to press charges against suspects by opting for inappropriate charges, e.g causing harm instead of assault, defilement instead of rape, robbery instead of stealing.etc.
5. The inmates at Kumasi Central Prison as well as the citizenry do not understand court processes.
6. The inmates and the citizenry have phobia for going to court.
7. The rule of law frowns on vigilantism and its attendant mob action which sometimes leads to the death of innocent people. Any citizen who is confronted with a legal problem must seek redress at the court through access to justice.
8. Political disputes are best and peacefully resolved using access to justice at the courts and therefore ensuring the fact that the country sustains the title of bastion of democracy in Africa.
9. Access to justice in particular and other human rights in general are the best and effective means of ensuring promotion and sustenance of both national and global peace, security, cooperation, social progress and development.
10. Access to justice when judiciously and appropriately applied can be use to control and reduce crime rate.
11. Human rights especially access to justice can be used to decongest KCP and other prisons nationwide.
12. Access to justice ensures promotion and sustenance of rule of law and good governance.

4.2 Discussion of the Results

This study sought to find out from all the respondents the causes of delay in accessing justice by the technical persons and the prison inmates. While some of the respondents were reluctant to comment on specific individuals and institutions that are responsible for the delays in accessing justice at the courts. However, majority of the technical persons asserted to the fact that delay in accessing justice are caused by multiplicity of factors such as underproductive staff, too many cases each year for the number of judges, court rules and judicial directions.

Delayed justice is bad justice; unreasonable court delays may be equal to denial of justice. Delay in the administration of justice is used in a general sense to refer to the time spent before case disposition. Nevertheless in real life situations, there are a lot of things that are to be blame for delays in the administration of justice. The causes of delay are to be found partly in lawyers, partly in the court and partly in the rules which regulate procedural and appeal.³²

The study therefore found out that the delay in accessing justice adversely affects the prison administration because it puts pressure on prison facilities such as clinics, infirmary, and vehicles. Such delays also increase the risk in the work of the prison officers. Overcrowding was found out to be one of the negative effects of the delay on prison administration. It further puts undue strain on the budget of the prisons especially on items such as fuel bills, medical supplies, and waste management.

³² M Cappelletti *The Judicial process: A comparative perspective* (1985)

When respondents were asked about whether their rights were read to them at the point of their arrest. They admitted that their charges were not read to them. To further explore whether respondents were denied access to legal advice and service, seventy (70%) of the inmates said that they were denied, and some also expressed total ignorance. The results gathered in Table 4 indicate that respondents were not aware that they can be provided with a lawyer (pro-bono) by the government. Furthermore, from the data gathered, it clearly indicates that, most of the respondents 172 (80%) confirmed that they were detained more than necessary at remand before they were actually sentenced.

According to Article 14(2) of the Constitution of Ghana provides that “A person who is arrested, restricted or detained shall be informed immediately; in a language that he understands, of the reasons for his arrest, restriction or detention and of his right to a lawyer of his choice”. Access to Justice in Ghana particularly to the indigent arrested persons is a big challenge. The seriousness of this can be clearly understood and appreciated when a person is involved in a criminal case. An efficient police service that acts with a high sense of professionalism and is transparent with respect to its activities is an important factor in any democratic society. In Ghana, the Police Service is mandated to prevent and detect crimes, apprehend offenders, and to maintain public order and secure the safety of persons and property. Sometimes, the Police in Ghana becomes an instrument of abuse. Police in the performance of their statutory function sometimes infringe on the liberty and security of persons during the process of arrest, search, detention and trial of arrested person.³³

³³ Dr. Raymond A. Atuguba, Mr. Kissi Agyebeng & Ms. Enyonam Dedey on their part conducted a desk review on real issues concerning access to justice (Law and Development Association - LADA Report, 2006).

The Police are not helping in the justice delivery system, because the Police refuse to go through thorough investigation but rather interested in arm chair investigation. The Police are always in a hurry to write their own charges because most of their charges are non-bailable offence, or charges that the judges will find it difficult to grant bail. And sometimes too the bail conditions are so outrageous, that the alleged accused person's family will find it very difficult to post for the bail. There was a perception among some interviewees that police were doing this deliberately, so they could re-arrest certain inmates upon release.

The situation of the inmates in the Kumasi Central Prison is not quite different in terms of access to justice to that of the European Union. However, as earlier indicated, there are lessons and benefit we can learn from ECHR cases on access to justice to improve the Ghanaian legal system. These cases which were argued on breach of rights, as per Article 6(1), corroborate the assertion that access to justice is a human right issue and anybody irrespective of who you are, whether a prisoner or incarceration access to justice is assured per Article 7 and Article 9 of the 1992 Constitution of Ghana.³⁴ As it was held in the case of *Golder v UK* (1975) "Access to justice could not be contingent on the discretionary exercise of power by administrative authorities or a private person". Also in the case of *Airey v Ireland* (1979), "a claim could only be brought with the permission of the High Court if there were 'substantial grounds' for believing one of the conditions was met", access to justice will be assured. Access to justice is a human rights issue, which should be encourage by the Government of Ghana.

³⁴ Article 7 Equality before the Law, and Article 9 Fair trial

Ghana has legislations and constitutional provisions to ensure that the accused is represented by a defense lawyer or practitioners or counsel.

Article 17(1) of the 1992 constitution of Ghana affirms that all persons shall be equal before the law.

Article 19 also states that, a person charged with a criminal offense shall be given a fair hearing within a reasonable time by the court.

From my findings it seems that Article 19 of the constitution is more of a myth than a constitutional provision inside the prison. It is very difficult for alleged criminals to get access to a legal counsel and let alone fair access to justice, it does not exist. The reason is that the legal practitioners are not interested in criminal cases. The criminal procedures and the criminal justice system in most common law countries make it imperative that the accused be accorded the right to legal representation and the right to dignity. The conditions experienced by accused persons inside the prison is so degrading that it will not be wished for your worst enemies.

The researcher observed that because of the challenges that inmates encounter while incarcerated, they are forced to obtain information about legal issues from other inmates instead of getting it from the appropriate persons such as the prison staff, the visiting legal advice service, from lawyers. It was also observed that there were some specific barriers in relation to inmates' access to legal information and advice. Prison officers are tasked with maintaining the security and good order of the prison.³⁵

³⁵ Doherty, M. J. and East, R. (1985) 'Bail decisions in magistrates' courts', *British Journal of Criminology*, 25, 251–66

The field data therefore reveal that the “Justice for All Programme” has positive effect on remand prisoners because those who appeared before the courts implementing the programme were acquitted and discharged. This therefore contrasts the assertion that being on remand is associated with an increased likelihood of a plea of guilty, an increased likelihood of an accused being convicted in response to a plea of not guilty, and an increased likelihood of a sentence of imprisonment.³⁶ The Justice for All Programme has raised the confidence of the remand prisoners in the country’s justice system because those remand prisoner who said they are innocent thought they will be set free if they appear before the Justice for All courts.

A high court has been inaugurated on the premises of the Kumasi Central Prisons to facilitate speedy resolution of applications of remand and criminal cases from the circuit and district courts. The facility was funded by the government of Denmark through its Danish International Development Agency (DANIDA) programme.

It is expected to reduce the cost of transporting remand prisoners to the various high courts in the region and speed up remand cases, and also minimise congestion in the Kumasi Central Prisons, which currently houses 2,115 inmates as against its required number of 800. Inaugurating it, Chief Justice Sofia Abena Akuffo urged government to support the Judicial Service to expedite the construction of modern court facilities, recommending that, "designs of future prison facilities should include full-scale court premises for smooth and quality justice delivery in the country."³⁷

³⁶King S (2006) *The Changing of the guard: conceptualisations of prison officers’ work in three South Australian prisons* Unpublished PhD thesis Adelaide: Flinders Institute of Public Policy and Management.

³⁷ News Report by Faustina Kwabea Osei ([All Africa News Ghana](#)), **High Court Inaugurated in Kumasi Central Prisons, Thu 18th Oct, 2018**

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATION

5.1 INTRODUCTION

This chapter presents the summary of findings and concluding recommendations of the study. The study was directed at finding out how inmates at the Kumasi Central Prison can access justice without any impediments.

5.2 SUMMARY

Article 12 to Article 33 of the 1992 Constitution is all about Human Rights. This tells the Ghanaian that the framers of the Constitution were very much involved in the protection of the fundamental Human Rights of its citizenry. This paper established that:

1. Access to justice or legal representation is very difficult in Ghana. Many accused persons go through trial without being represented by a legal practitioner.
2. Ghana has legislation and constitutional provisions to ensure that the accused is represented by a defense lawyer. It is enshrined in Article 17 and Article 19 of the 1992 constitution.
3. That majority of the inmates at the Kumasi Central Prison are aware of the existence of the legal assistance, but lack knowledge on how to access it.
4. There are still problems and lack of legal representation to our prison inmates especially the remand prisoners.
5. Dalliace in getting hold of court proceedings of the inmates in order for the advocacy, lawyer/solicitor to help the inmate to access justice is unbearable.
6. That overcrowding or congestion is a major problem at the Kumasi Central Prison.

5.3 RECOMMENDATIONS.

With international human right instrument emphasizing the right to representation at the court for accused persons, the United Nations basic principles on the role of lawyers mandate Professional Association of lawyers and all Governments to promote programmes to inform the public about their rights and responsibilities. The law and the important role of protecting their fundamental human rights, equality and equal protection under the law is one of the human rights of the citizenry.

The researcher made the following recommendations based on the findings of the study:

1. The Government must as a matter of urgency set up advocacy institutions to educate the citizens on relevance, importance and respect for human rights especially access to justice.
2. The Government must ensure that prison inmates go to school. Also the inmates must be encouraged to learn trades of their own choice during their period of incarcerated to enable them become responsible and useful citizens after their discharge.
3. The government must mandate the advocacy groups, individuals and institutions to leave no stone unturned to ensure that the citizenry become well educated on the need for good knowledge, importance, relevance and respect for human rights especially access to justice. As the citizenry are educated to know, apply, protect and respect access to justice, they must likewise respect the human rights of other citizenry. The advocacy groups and institutions must also educate the citizenry on court process and therefore help abolish the citizenry's phobia for going to court.

4. Until any individual who is arrested by the Police is arraigned before court of competent jurisdiction, and given fair trial is either convicted or acquitted and discharge, that individual remains a suspect. Government must therefore as a matter of urgency advise the Attorney General (AG) to ensure that the police personnel do not deny any suspect the right to engage a lawyer. And also the right to apply for legal advice and representation. The Police must be advised by the Attorney General's Department to prefer appropriate charges against all suspects.
5. The Police must also follow due process and rule of law and read all charges preferred against to them (suspects).
6. The Chief Justice must order all court Registrars to see to it that no court case is unduly delayed because justice delayed is justice denied. The legal Aid office and officers should be well equipped, in order to help in accessing Justice. Court registrars must also attend promptly to all applications for court documents, e.g. proceedings, summons to ensure speedily and fair trial.
7. The Chief Justice must ensure that judges dispense justice without fear or favor and within a reasonable period of time. Judges must always be able to give a reasonable response to any legal issue a lawyer may pose and avoid undue adjournments which can have adverse effects on dispensation of justice.
8. Kumasi Central Prison is currently congested particularly the remand inmates section. Modern building structures on open grounds or land are needed to solve the congestion problem. The Infirmary at KCP needs expansion and improvements in equipment and supply of basic drugs. Transportation logistics also needs improvement. Inmates of KCP must be mandated to engage in commercial ventures, e. g farming, sanitary activities with Kumasi

Metropolitan Assembly (K.M.A), construction works to generate revenue for the prison service and the inmates. Separate residential blocks must be put up for both adult and minor inmates of Kumasi Central Prison. Kumasi Central Prison must be developed to model correctional centre for prison inmates. The facility must be replicated in all prisons nationwide.

5.4 CONCLUSION

There are many other areas of future research from the issues assessed in this study. First, the access to justice and inmates at KCP should be examined further in different ways, and also extend to the other prisons in Ghana. Second, key stakeholders' responsibility towards access to justice in general is now a major concern. There should be more research on ways to improve justice delivery in this area.

BIBLIOGRAPHY

BOOKS

- Andrew Heywood, *Political Ideas and Concepts: An Introduction* (Macmillan, 1994 - Political science - 369 pages)
- Cappelletti M. *The Judicial process: A comparative perspective* (Oxford ; New York : Clarendon Press, 1989) eBook
- Cappelletti M. and B. Garth, (Eds), *Access to Justice Volume I: A World Survey Book 1*, (Alphen aan den Rijn ; Milan : Sijthoff and Noordhoff : Giuffrè Editore-Milan, 1978) 21)
- Conte Alex, Dr., *Human Rights in the Prevention and Punishment of Terrorism*, Springer Nature America, Inc, Springer-Verlag Berlin Heidelberg 2010.
- Roderick A. MacDonald, "Access to Justice in Canada Today: Scope, Scale and Ambitions", Julia Bass, W.A. Bogart and Frederick Zemans, eds., *Access to Justice for a New Century, The Way Forward* (Toronto: Law Society of Upper Canada, 2005), 19, 23.

ARTICLES

- Amnesty International Ghana, 2016 Report. And as result have developed a document called Advocacy Toolkit, for Abolition of Death Penalty in West Africa.
- Ghana Publishing Corporation Assembly Press, Accra, *Constitution of the Republic of Ghana (1992): Article 14(1) (2) (4); Article 17; Article 35 (3); Article 37(1); Article 125(1); Article 200; Article 294*
- Edudzi Ofori and Chelsea Paradis, "Prisoner's Right in Ghana" Ghana Human Development Report 2007.\
- Fiona Brookman & Harriet Pierpoint and Sanders & Young, (1994) "Access to Legal Advice or advocating for the suspect".

- J. B. Grossman and Austin Sarat, 'Access to Justice and the Limits of Law' (1981)
3 Law and Policy Quarterly
- Jonathan Osei Owusu , (Executive Director) – POS Foundation, The Justice for all Programme: The Hope of the Remand Prisoner published in the Judicial Digest (volume six). Centre/Commonwealth Human Rights Initiative/Solace Brothers/Africa Centre for International Law and Accountability (ACILA) – JOINT UPR SUBMISSION – 2017
- Kamel Rezag Bara (Commissioner) & Mr. Robert Kotchani (Legal Officer), Africa Commission on Human and People's Right (ACHPR) Mission Report, 5 March 2000, King M. (1971), Bail or Remand, London: Cohen Trust.
- Raymond A. Atuguba (Dr.), Kissi Agyebeng & Enyonam Dedey on their part conducted a desk review on real issues concerning access to justice (Law and Development Association - LADA Report, 2006).
- Ross Cranston, 'Access to Justice in South and South East Asia' in Julio Faundez (Ed.) Good Government and the Law: Legal and Institutional Reform in Developing Countries, (Macmillan Press, 1997) 233
- The United Nations Development Programme (UNDP), 2003. Paper presented to the European Commission Expert Seminal on Rule of Law and the Administration of Justice as part of Good Governance, Brussels.

INTERNET

- Access to Justice and the Provision of Legal Services
<https://www.strath.ac.uk/research/subjects/law/accesstojusticetheprovisionoflegalservices>. (Accessed 26/05/18)

Andrew Monkhouse and Samantha Lucifora, Speaker's Corner: Civil delays and access to justice, March 6, 2017 <www.lawtimesnews.com> (Accessed 13/06/18)
(Accessed 06/04/18)

- Beqiraj J. & McNamara. L. (2014). International Access to Justice: Barriers and Solutions. Bingham Centre for the Rule of Law Report [http://www.ibanet.org/Document/Default.aspx? Document Uid= 7FCF610E-BEA8-4E06-99B1-B89C34A87BCD](http://www.ibanet.org/Document/Default.aspx?DocumentUid=7FCF610E-BEA8-4E06-99B1-B89C34A87BCD) (Accessed 2/06/18)
- Cases: Golder v UK (1975), Airey v Ireland (1979), Ashingdane v UK (1985), Steel and Morris v United Kingdom (2005) (Accessed 7/06/18)
- J Beqiraj - 2014 International Access to Justice: Barriers and Solutions Bingham Centre for the Rule of Law Report <[www.biicl.org/view_document.php? ...internationalaccesstojusticebarrierandsolutions..](http://www.biicl.org/view_document.php?...internationalaccesstojusticebarrierandsolutions..)>. (Accessed 2/07/18)
- James Griffin (2001), First Steps in Discrepancies between the best Philosophical Account of Human Rights and the International Law of Human Rights. www.onlinelibrary.wiley.com (Accessed 10/08/18)
- James S. Read (1969) Ideas and Procedures in African Customary Law. <journals.sagepub.com/doi/abs/10.1177/030639686901100226> (Accessed 28/08/18)
- JUSTICE FOR ALL PROGRAMME FOR REMAND PRISONERS <<http://posfoundation.org/justice-for-all-programme-for-remand-prisoners/>> (Accessed 28/08/18)
- King S. Bamford, D. & Sarre.R (2006) Factors that influence remand custody <Forthcoming on [http://www. Aic.gov.au./crc/](http://www.Aic.gov.au/crc/)> (Accessed 26/05/18)

- Kumar, Y. D. 2005, Investigating the Research Approaches for Examining Technology Adoption Issues <http://books.google.com> (Accessed 16/05/18)
- Richard Moorhead, Prof. (Deputy Head of Cardiff University Law School), *Access to justice is a fine concept. What does it...?* Commentary by Jon Robins, 7 April 2013 [https://www.theguardian.com/law/2011/Oct/06/ access-to-justice-legal-aid-cuts](https://www.theguardian.com/law/2011/Oct/06/access-to-justice-legal-aid-cuts) (Accessed 11/07/18)
- Rusche & Kirchheimer 1968; Foulcault 1977; Ignatieff 1978 and Stephen Pete A Test of the Stability of Punishment Hypothesis: The Case of California, 1851-1970 <<https://www.jstor.org/stable/2095080>> (Accessed 8/06/18)
- Siobhán McInerney-Lankford, Human Rights and Development: a Comment on Challenges and Opportunities from a Legal Perspective, *Journal of Human Rights Practice*, Volume 1, Issue 1, 1 March 2009, Pages 51–82, <[https://doi.org/ 10.1093/jhuman/hun005](https://doi.org/10.1093/jhuman/hun005)> (Accessed 26/05/18)
- Texas Access to Justice Commission (Report), 2014 <www.texasatj.org/what-access-justice>. (Accessed 26/05/18)
- Thierno Bah (2003), HUMAN RIGHTS IN AFRICAN PRISONS (RESEARCH IN INTERNATIONAL STUDIES) www.crea-africa.org/mediaresources/file (Accessed 14/08/18)

APPENDIX A

The Questionnaire

The purpose of this questionnaire is to examine the access to justice and inmates at the Kumasi Central Prisons. The result from the study is purely for academic purpose.

In line with this, you are kindly requested to complete this questionnaire. The questionnaire is designed in a way that can be completed with no trouble, in each question you are requested just to mark option(s) applicable. Your responses will be treated confidentially and only for the purposes of this research.

If you would like to receive copy of the research result, please write your

Email in here _____

I am very grateful for devoting your time and completing this questionnaire!!

With best regards

ALEXANDRA A. AKOTO

LLM Student

KNUST – Faculty of Law

KEY TECHNICAL RESPONDENTS

GENERAL INFORMATION

Please provide the following information about your institution by writing in the space provided.

A. REASONS OF DELAY IN ACCESS TO JUSTICE.

1. What are the causes of delay in justice in Ghanaian courts? *(Please select all that apply)*

- Too many cases each year for the number of judges []
- Massive backlogs a court is unable to clear []
- Underproductive staff (e.g. absenteeism, overstaffing, poor supervision) []
- Process inefficiencies (superfluous steps that facilitate delay) []
- Overly complex mandatory procedures (e.g. court rules, judicial directions)[]
- High level corruption among judges and prosecutors []
- Lack of transparency of court document processing and publication of court decisions[]

2. Which of the following do you consider as a factor(s) that deny the inmate at the Kumasi prisons the access to justice? *(Please mark each boxes as much as it is applicable)*

- Poverty []
- Delay in the administration of justice, []

- Technicalities of the law and]
- Other factors, specify _____

3. Are there structural causes of delay? Yes] No] Don't Know]

If yes, Name them: _____

4. Are there individuals who you think cause the delay? Name them:

5. Are there Institutions that cause the delay? Name them:

Effect of the delay on Prison Administration.

6. Does the delay in access to justice by prisoners affect prison administration?

Yes], No] Don't Know]

If yes, in what ways? _____

7. Are there specific departments in Prison Administration that are more affected? Yes], No] Don't Know]

If yes, Name them: _____

B. ACCESS TO JUSTICE AT THE POINT OF ARREST

8. What has been the practice, in situations where offenders fails to meet the conditions relating to bail, surety or bond?

9. In your opinion, is incarceration good for human beings? Yes [], No [], Don't Know []

10. Medical doctors are needed for health care and likewise lawyers are needed for access to justice and rule of law. Do you support the idea of government providing lawyers for criminals who can't afford? Yes [], No [] Don't Know []

C. CHALLENGES FACED BY PRISON INMATES

11. What are conditions like in the prison? Which of these would you consider is/are the major problems at the prison in your opinion? (Please select all that apply)

- Overcrowding and congestion, []
- Poor diet, []
- Degrading clothing and beddings, []
- Poor sanitation, []
- Infectious diseases, []
- Homosexuality []
- Other, specify _____

12. What is punishment like in prison? Is it ever physical?

If yes, please describe these incidents.

13. What are the biggest problems between inmates? _____

14. Would you consider the capacity of prison officers in rehabilitation of offenders as adequate? Yes [], No [] Don't Know []

15. Can the poor terms and conditions of work of prison officers impart negatively on their work reform inmates?

Yes [], No [] Don't Know []

16. Do you consider the availability of drugs and substances in prison institutions as a perception? Yes [], No [] Don't Know []

APPENDIX B

Questionnaire for Prison Inmates Interviews

Informed Consent

Thank you for speaking with us. We are speaking with prisoners about their access to justice. We would like to interview you as a part of this research, and we will write a report based on our interviews. The result from the study is purely for academic purpose.

We can't offer you any direct assistance, but by talking to us, the hope is that you will help us to push for changes in laws and practices.

We anticipate that the interview will take about one hour. You can stop the interview at any time or take a break. Some of the questions we ask might be about very personal matters. You should feel free to take your time in answering or not answer, if you wish. Everything you tell us will be kept confidential. We won't use your name in the report, and instead will use a pretend name. We won't include information that identifies you specifically. You do not have to talk to us if you don't want to. Do you have any questions for me? Do you agree to be interviewed?

With best regards

ALEXANDRA A. AKOTO

LLM Student

KNUST – Faculty of Law

Date	
Prisoner Category	
Unique Prisoner Code	

A. DEMOGRAPHIC INFORMATION

A1. Age
A2. Sex
A3. Country of origin
A4. Education level
A5. Marital status
A6. Occupation prior to arrest

B. ACCESS TO JUSTICE AT THE POINT OF ARREST

B7. At the time of your arrest were your rights read to you?

Yes [], No [], Don't Know []

If yes, were you told of the crime(s) that you have been charged with or convicted of?

Yes [], No [], Don't Know []

B8. Were you detained? Yes [], No [], Don't Know []

B9. Have you been detained continuously since then?

Yes [], No [], Don't Know []

B10. While at the police cell, were you denied access to legal advice and service?

Yes [], No [] Don't Know []

B11. Were you offered bail, police bond or surety, and if so were you able to meet the conditions? Yes [], No [], Don't Know []

B12. When did you enter this prison?_____

B13. How long were you held in police custody?_____

B14. Were you ever subject to physical abuse in police custody?

Yes [], No [], Don't Know []

If YES, ask B15

If NO, skip to B18

B15. How many times?_____

B16. Did you suffer a serious injury or health problem because of the beating?

Yes [], No [], Don't Know []

B17. If so, did you receive any medical care? Yes [], No [], Don't Know []

B18. Have you appeared before a magistrate or judge?

Yes [], No [], Don't Know []

If YES, go to B19

If NO, go to B20

B19. How much time passed between your arrest and your first appearance before a magistrate or judge? _____

B20. Do you or did you ever have a lawyer? Yes [], No [], Don't Know []

If YES, go to B21

If NO, go to C22

B21. Is/Was your lawyer government-provided or private? Yes [], No [], Don't Know []

B22. For how long have you been on prison remand? _____

B23. Do you think there is a delay in accessing justice? Yes [], No [] Don't Know []

If yes, how does this delay affect you? _____

C. CHALLENGES FACED BY PRISON INMATES

Medical Care

C24. Did you receive any medical tests when you first entered this prison?

Yes [], No [], Don't Know []

C25. Have you had health problems in prison? Yes [], No [], Don't Know []

C26. Did you receive treatment for the problem? Yes [], No [], Don't Know []

If yes, where did you receive treatment? _____

Physical Abuse

C27. Since your most recent incarceration, have you been beaten by prison officers?

Yes [], No [], Don't Know []

If yes, How many times? _____

C28. Did you suffer a serious injury or health problem because of the beating?

Yes [], No [], Don't Know []

C29. If so, did you receive any medical care? Yes [], No [], Don't Know []

C30. Since your confinement, have you been beaten as a form of punishment by another inmate with disciplinary authority? Yes [], No [], Don't Know []

If yes, how many times? _____

C31. Did you suffer a serious injury or health problem because of the beating?

Yes [], No [], Don't Know []

C32. Have you ever been sexually abused by the guards?

Yes [], No [], Don't Know []

Cell Conditions

C33. What is your cell number? _____

C34. How many people slept in your cell last night, including yourself? _____

Yes [], No [], Don't Know []

C35. How many people slept on each mattress or sleeping pad last night? _____

C36. Did you sleep under a mosquito net in your cell last night?

Yes [], No [], Don't Know []

C37. How many times a day do you receive food and water?

Yes [], No [], Don't Know []

If yes, is it sufficient? Yes [], No [], Don't Know []

C38. Does the prison provide you with: soap, toothpaste, toilet paper, sanitary

napkins (for females)? Yes [], No [], Don't Know []