

1. THE SOCIO-ECONOMIC, DEMOGRAPHIC AND WELFARE PROFILE OF PRISONERS

Living With a Death Sentence in Kenya: Prisoners' Experiences of Crime, Punishment and Death Row



Studies of the socio-economic profile of prisoners sentenced to death in jurisdictions other than Kenya suggest they are often not the most heinous offenders, but the most disadvantaged and vulnerable, tending to be economically marginalised, from low social classes and poorly educated. This leaves them exposed to crime and without the resources to navigate the criminal justice process.

Data from our new study show that these burdens also afflict prisoners sentenced to death in Kenya. They are an overwhelmingly disadvantaged, vulnerable, poorly educated group, which suffers much higher rates of substance abuse and mental ill-health than the general population.

At the time of their offence, most of our Kenyan sample were not in permanent full-time employment, and many were in precarious work. The vast majority - 79% - were in 'routine' or 'semi-routine' jobs. Only 1% were 'professionals' or 'higher managers'. They earned on average just over 20,000 Kenyan Shillings (about £133) a month, which is below Kenya's living wage.

Another indicator of disadvantage in Kenya is language. None of the sample had English as a first language, which in Kenya, is the language of government, business, law, the media, and higher education: the language of the educated and upwardly mobile.

Only 2% spoke Swahili as their first language, much lower than the 25% of the general population. Instead, they spoke a wide range of local and tribal languages.

Routine workers convicted of robbery were earning considerably less (on average 15,241 Kenyan shillings a month) than those in the same types of jobs but convicted of murder (24,542 shillings per month), a finding which speaks to their greater financial need. Overall, the average wage of survey participants was below the Kenyan minimum wage, though most - 89% - were supporting dependents. Not surprisingly, over a third were in debt.

At the time of arrest, 43% of prisoners had been relying on alcohol and almost a third had a history of alcohol or substance misuse, rates that are higher than the national average - across Kenya, 6% of the population is reported to have an alcohol use disorder. Reported rates of cannabis use at the time of arrest were also higher than those reported across Kenya in national health studies.

A greater proportion - 15% - had been experiencing mental health problems at the time they committed the offence than we would expect to see across the general population (according to the WHO, 10%). Of the whole sample 18%, and of the female prisoners 30%, had experienced abuse in their home or from someone close to them.

More than 10% of the sample had never been in formal education, more than two thirds had only completed primary school, with almost half of these only completing up to class 4 of primary education. Less than two percent had been to university.

Conclusion

Overall, the data paint a picture of a population who, when they committed their crimes, were relatively uneducated, comparatively poor and in low-level, precarious jobs, with little financial security, yet had considerable responsibility for others' financial welfare.

It is safe to conclude that Kenya's death row is populated largely by the vulnerable and disadvantaged rather than 'the worst of the worst'. Their disadvantages help explain their pathways into crime, and especially the temptation to commit acquisitive crime such as robbery. Their poor level of education and inability to access the English media is also likely to deprive them of an informed perspective on the possible consequences of offending - such as being sentenced to death.

All this may, and arguably should, make a significant impact on the debate over whether Kenya should remove capital punishment from its statute book. Here Kenya appears to conform to patterns seen in jurisdictions such as the United States. American death row prisoners tend to be from ethnic minorities, the poor, those with low educational achievement, learning disabilities, experiences of substance abuse, and neurological disorders, often triggered by physical and emotional trauma. They also lack the resources for private and competent legal representation. Evidence of this kind has played an important role in debates of death penalty abolition elsewhere.

This is one of three short papers drawn from the longer report '*Living With a Death Sentence in Kenya: Prisoners' Experiences of Crime, Punishment and Death Row*'. It is based on structured interviews conducted by our colleagues from the Kenya National Commission on Human Rights with a statistically significant sample of 671 prisoners (of whom 33 were women) sentenced to death in Kenya for murder (44% of the total) and robbery with violence (56%). Just over a quarter of the total sample have had their sentences commuted to life. The sample is large, covers the whole of Kenya, and is representative of all prisoners sentenced to death in the country.

Download the report

The report is available to download from our website: deathpenaltyproject.org
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