

PROBLEMS FACING CHILDREN IN LESOTHO PRISONS: WITH
SPECIAL REFERENCE TO THE JUVENILE TRAINING CENTRE.

BY:

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REGISTRATION NUMBER: 200200606

NOVEMBER 2005.

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A MINI-DISSERTATION SUBMITTED TO THE UNIVERSITY OF
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PROTECTION, IN THE SCHOOL OF LAW.

SUPERVISOR: PROFESSOR S.H.BUKURURA

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DEDICATIONS

This dissertation is dedicated to my mother Mamarumo and my late father Tsohang Mokoteli

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DECLARATION

I declare that this dissertation is my own work, unaided work. It is submitted to the department of law for masters in law and social work (Masters in Child Care and Protection) in the University of Kwa Zulu Natal (Westville Campus). It has never been submitted before for any degree in any other university.



Mokoteli Moliehi Florence



Date of submission

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CHAPTER 1

INTRODUCTION

1.1 Background of the study

Children are the future of the nation. As a result, they need to be socialised in such a way that they will become responsible and productive citizens in future. Children are tomorrow's leaders, workers, scientists and parents.¹ Being an important asset, every effort should be made to provide them with opportunities for development so that they can become robust citizens, physically fit, mentally alert, morally healthy and also endowed with the skills and motivations needed by society.²

Children learn at an early age the norms of their society through the process of socialisation. Socialisation is the conscious and unconscious process by which people learn the norms and the behaviour patterns that enable them to function appropriately in their social environment.³ The main institutions, which are responsible for socialising individuals, are the family, the community and the school. Despite the effort these institutions make in socialisation, some children's behaviour goes beyond the limit of tolerance; they become involved in deviance. This behaviour needs to be controlled because it can be a thread to people's life and their property. Furthermore, it can have an

¹ (Davel, 1998:8).

² (Paranjape, 1996:341).

³ (Finsterbusch, 2002:25).

impact on the economy of the country; it can disrupt economic activities hence discouraging tourists and investors.

There are many factors that drive children into crime or deviant behaviour. The following are some of them: Poverty in the family, poor parental control and guidance, conditions of the neighbourhood, peer group pressure and drug abuse as well as child abuse and neglect. Poverty is a potential cause of juvenile delinquency. Children from disadvantaged families often engage in criminal acts like theft in order to earn a living.⁴ Juvenile delinquency is caused by failure of the parents to provide necessities of life such as clothing, food and other basic needs. Children in such families are drawn into delinquency in order to earn money by whatever means. And at times, even the parents connive into these for the sake of petty monetary gains.

Furthermore, in most cases children from broken homes or unstable families, and those raised in families with high rates of conflict normally engage in criminal activities.⁵ The research indicates that a closely-knit family may play a very important role in the prevention of juvenile delinquency. Parental supervision and consistency in discipline also appear to be important insulators against delinquency. In addition, if one of the parents or older siblings are involved in criminal activity, this can have negative effect on the growing children. If the child's primary socialization agents are committing

⁴ (Paranjape, 1996:345).

⁵ (Thompson and Bynum, 1996:238).

delinquencies and crimes, children observe and learn the activities that are not of the conventional society.⁶

Another factor that motivates children to commit crime is peer pressure and the use of drugs and alcohol. Peer pressure, together with drugs may be the contributing factors to the increase of juvenile delinquencies nowadays. Peer groups exercise considerable influence over their members and thereby aggravating delinquency tendencies they may already have.

Abuse by parents also plays a substantial role in juvenile delinquency. Child abuse can be broadly defined as the infliction of physical or emotional damage on a child, while child neglect refers to deprivation of love, shelter, food and proper care. Children from families characterised by violence or neglect suffer from a variety of physical and emotional damage, which increases their chances of engaging in delinquent behaviour.⁷

Once the child has committed an offence, he or she is often taken to the criminal justice system in order to protect other citizens. The police arrest him or her, and hand the person over to the court, which will pass sentence in accordance with the offence(s). In courts, there are many sentencing options available for both children and adults.

The sentencing options for any person or children who committed an offence in Lesotho are set out in the Criminal Procedure and Evidence of 1981. The following sentences may

⁶(Ferdinand and Barlow, 1992:72).

⁷(Gaines and Miller, 2003:529).

be passed upon a person who has committed any offence: Imprisonment with or without solitary confinement and spare diet where it is specifically provided by law in respect of the offences charged. Children may be sentenced or detained in the Juvenile Training Centre (JTC). Payment of fines and whipping are other options.⁸ However, no female shall be sentenced to punishment of whipping and no male over the age of 45 years shall be sentenced to punishment of whipping.⁹ Another sentencing option is putting the accused under recognizance with conditions. Whenever a person is convicted by the high court or any subordinate court of any offence specified in schedule III, the court may postpone, for a period not exceeding 3 years, the passing of sentence and release that person on one or more conditions.¹⁰

Whenever a person is convicted by the high court or any subordinate court of any offence other than an offence specified in schedule III,¹¹ the court may pass sentence but order that the operation of the whole or any part be suspended for a period not exceeding 3 years, which period of suspension, in the absence of any order to the contrary, shall be computed in accordance with subsections (3) and (4) respectively, and the order shall be subject to such conditions (whether as the compensation to be made by that person for the damage or pecuniary loss, good conduct or otherwise) as the court may specify.¹²

⁸ section 247(4).

⁹ Section 309(1).

¹⁰ Section 314(1).

¹¹ (Schedule III: offences on conviction where the offender cannot be dealt with under section 314. murder, robbery, any conspiracy, incitement, or attempt to commit any of the above mentioned).

¹² Section 314(2).

Last but not least is community service. In Lesotho, a person can be sentenced to community service if he/she is convicted of minor offences.¹³ Although there are many sentencing options available for children in conflict with the law, in most cases children are sent to the Juvenile Training Centre (JTC) with the purpose of rehabilitating them. Rehabilitation is a process of resocialisation and reintegration of an individual into society as law abiding and socially productive members of society.¹⁴ The principle underlying rehabilitation is to return the offenders to society with negative attitude towards crime, but with affirmative and constructive equipment, physically, mentally and morally for law abidingness.¹⁵

In Lesotho the Juvenile Training Centre is the main centre for the rehabilitation of young offenders. Instead of rehabilitating children, they may experience problems, which make it difficult for them to reform and re-integrate into the community after being released. Due to the problems and treatment they receive in prison, the offenders develop a feeling of bitterness, hatred and revenge.

Problems facing children in prisons may differ from country to country. The following are some of the problems that may be encountered by young offenders in Lesotho prisons: Violence and abuse, Poor diet, Lack of hygiene and Difficulty to access medical care. Furthermore, Lack of education and training, Lack of physical activities, and inability to maintain family ties are some of the difficulties that may be encountered by children in Lesotho prisons.

¹³ (Legal Notice NO. 3 of 1999:221).

¹⁴ (Thulo 1989:13).

¹⁵ (Mtshali 1999:45).

Like in most institutions in Lesotho, poor management caused by lack of funds to run the institution, poor facilities and inadequate staff in terms of skills, knowledge and also number are some of the issues that may have effect on children in Lesotho prisons. Furthermore, All the Prisons in Lesotho including JTC and Maseru Female Prison are faced with the problem of overcrowding. Overcrowding of correctional services is one of the criminal justice system's most serious problems. The impact of institutional crowding is not constructive to the lives of the inmates and administration of facilities. But overcrowding leads to poor administration and has adverse impact on inmates.¹⁶

A great numbers of the prisoners are awaiting trials. Sometimes, they spend years on trial due to court delays in sentencing. Prison buildings are old; the conditions in all the prisons in Lesotho are inhuman, degrading and contrary to international human rights. According to the Molise Commission, most prisons in Lesotho were built in the colonial era, some as early as 1886.¹⁷ Despite the situation, in Lesotho there is limited use of alternative to institutionalisation of children.

1.2 Statement of the problem

In Lesotho, children like adults find themselves in conflict with the law, and most of these children end up in overcrowded prisons for committing relatively minor offences, like stealing a loaf of bread, from a shop. And in most cases they are first time offenders, that is, they do not have previous convictions. They are sent to prison with the purpose of

¹⁶ (Koetler and Liner 1992:24).

¹⁷ (Molise Commission 2003:10).

rehabilitating them. The Lesotho Children Protection Act no 6 of 1980 recommends that children in conflict with the law should undergo rehabilitation in an approved school. Therefore, in Lesotho, the Juvenile Training Centre is the main rehabilitation centre for juvenile offenders.

The Juvenile Training Centre is where young male offenders are kept, while young female offenders are accommodated in the Maseru Female Prison, in a different compartment from adult female offenders. All children in conflict with the law from the ten districts of Lesotho are kept in JTC and the Maseru Female Prison. These two are located in Thetsane, which is about ten kilometres away from the capital city of Lesotho, Maseru. All the prisons in Lesotho, including JTC and the Maseru Female Prison are under the Ministry of Justice, Prison and Rehabilitation, under the supervision of the Director of Prisons.

Rehabilitation of juveniles is a long process. It starts with interviewing the juveniles on admission, collecting 'home interviews' which provide the social background and the circumstances that lead the juveniles to commit the crimes. In addition, counseling, either individually or in a group is offered to the juveniles. Their rehabilitation also includes providing them with skills that are aimed at assisting them when they are released. While in prison they are offered training in the following: Carpentry, Poultry, Gardening, Knitting, Dressmaking and fashion design.

Furthermore, there is free primary education for inmates who wish to finish their primary schooling. Juveniles who wish to continue with their high school are given the opportunity to do so, by registering with the Lesotho Distance Teaching Centre. These centres have also established a working relationship with other agencies, which have particular interest in children. These include: the Lesotho save the children (United Kingdom), the Lesotho-Durham Link, the Blue-Cross Youth, the Department of Youth Affairs and department of Social Welfare.

The following are some of the rights that both children as well as adults have in Lesotho: the right to human dignity, the right to equity and non- discrimination, the right to life and security of the person, the right to freedom from slavery, servitude and forced labour and the right to privacy and confidentiality. There are also the right to religion, belief and opinion, the right to petition, make complains or request, the right to health-care, food, water and social security, the right to education and culture, the right to vote and other political rights, the right to just administrative action, the right to court and information, visitation and correspondence as well as the right to contact with the outside world and to independent inspections. Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and also fundamental violation of Human Rights.¹⁸ Despite all these rights that they have, prisoners and mostly children experience problems in prisons that often make their rehabilitation impossible. Instead of being rehabilitated, children come out hardened and unable to re integrate into the society, they become hard-core criminals.

¹⁸ (Constitution of Lesotho chapter 11, section 4-19).

The laws governing JTC are basically contained in the following: the Basutoland Prison Proclamation NO 30 of May 1957, the Basutoland Prison Rule Notice NO 27 of September 1957, and the Children Protection Act NO 6 of 1980. These are compatible and in conformity with other international instruments relevant to the rights and welfare of children in conflict with the law.

1.3 Key questions

- Do children experience problems in Lesotho prisons?
- If so what are the problems encountered by children in Lesotho prisons?
- What are the possible causes of the problems faced by children in Lesotho prisons?
- In which way do these problems impact on children?
- What are the possible solutions to the problems facing children in Lesotho prisons?

1.4 Objectives

1.4.1 General objective

To investigate problems encountered by children in Lesotho prisons

1.4.2 Specific objectives

- To find out the problems experienced by children in prison
- To investigate the possible causes of the problems facing children in prison.

- To find out if these problems have any effect on the children in prisons.
- To offer recommendations for addressing problems encountered by children in Lesotho prisons.

1.5 Hypotheses

In order to fulfill the objectives listed above the following hypotheses were be tested:

- In Lesotho prisons children are exposed to all forms of abuse.
- Prison staff in Lesotho does not care about the rights of children in prison.
- Facilities in Lesotho prisons are not enough to accommodate the needs of children

1.6 Motivation of the study

The scarcity of literature about the problems facing children in Lesotho prisons motivated the compilation of the study. There are quite few studies carried out in Lesotho prisons, especially on problems facing children in prisons, as a result, people have little or no knowledge about the problems that may be encountered by the inmates, in particular the children. Therefore, this study will create public awareness of the situation in prisons and the problems that children encounter while in prison, thus coming up with workable programs to attend to and address the problems.

1.7 Definition of concepts

Defining concepts is essential in any study because it gives the reader the context in which the words were used. The concepts which are defined in this study are criminal justice system, deviance, diversion, incarceration, juvenile, prison, reintegration and rehabilitation.

Criminal justice system- criminal justice system comprises agencies of government like police, courts and corrections, responsible for appending adjudicating, sanctioning and treating criminal offenders.¹⁹

Deviance- deviance is the behaviour or activities that most people consider wrong or disturbing and therefore worthy of punishment or treatment.²⁰

Diversion- diversion refers to the process of removing low risk offenders from the formal juvenile system by placing them in community-based rehabilitation.²¹

Incarceration- incarceration is confinement in jail or prison.²²

Juvenile- juvenile is a person who has not reached the age of majority.²³

Prison- prison is the state or federally operated facility for incarceration of offender sentenced by criminal court.²⁴

Re integration- reintegration is the goal of corrections that focuses on preparing the offenders for return to the community unmarred by further criminal behaviour.²⁵

¹⁹ (Siegel, 2002:331).

²⁰(Goode, 1996:21).

²¹(Gaines and Miller, 2003:392).

²² (Siegel, 2000:331).

²³ (Inciardi, 2000:413).

²⁴(Siegel, 2002:332).

Rehabilitation- rehabilitation is treatment of criminal offenders aiming at preventing future criminal behaviour.²⁶

1.8 General structure of the study

This study is divided into five chapters. Chapter one presents an outline of the study. Research questions, objectives, and hypotheses of the study have been discussed. Motivation of the study and definitions employed in this study are also presented.

Chapter two consists of a review of the relevant literature on the problems facing children in prisons; the factors leading children to commit criminal offences, problems they are faced with, causes of the problems they encounter and possible solutions to the problems.

Chapter three presents methodology. The following are discussed: Area of study, population and sample of study, sampling procedure, sample size, methods of data collection, data analysis and pilot study.

Chapter four contains data analysis and interpretation of data. And the last chapter, which is chapter five, contains the summary of findings, recommendations and conclusion.

²⁵ (Gaines and Miller, 2000:403).

²⁶ (Gaines and Miller, 2000:403).

CHAPTER 2

LITERATURE REVIEW

2.1 Introduction

The discussion in this chapter is based on the review of literature. The literature reviewed consisted of the international instruments and local legislation on the rights of incarcerated children, defining a child, criminal responsibility, children in conflict with the law and separating juveniles from adults. The chapter also discusses the Institutionalisation of children, Objectives of institutionalisation, Punishment of children, Rehabilitation, Problems encountered by children in prisons, causes of the problems experienced by children as well as the effect of imprisonment on children.

2.2 International instruments and local legislation relevant to the rights of incarcerated children

In Lesotho, there are a number of international and local legislations that provide a guide for the rights of incarcerated children. The United Nations Convention on the Rights of the Child (CRC) has been an important instrument in addressing the problems of children in difficult situations in most countries, including children in conflict with the law. In dealing with children in conflict with the law, the following are addressed: how to address the child's unacceptable behaviour and whether the sentencing is in the best interests of the child.

In every matter concerning the child, his or her best interest shall be of paramount importance.²⁷ It also ensures the protection and the well being of children in conflict with the law.

The state parties shall ensure that institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, in health, in the number and suitability of their staff, as well as competent supervision.²⁸ Apart from CRC, there are other instruments like: the African Charter on the Rights and the Welfare of the Child (1990), the United Nations Standards Rules for Administration of Juvenile Justice (Beijing Rules, 1985), the United Nations Rules for the Protection of Juvenile Deprived of their Liberty (JDL's, 1990), the United Nations Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines, 1990) the United Nations Standard Minimum Rules for Non custodial Measures (Tokyo Rules, 1990) and the Standard Minimum Rules for Treatment of Prisoners.

²⁷ Article 1 of CRC provides that in all action concerning the child, whether undertaken by public or private social welfare institution, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be of a primary consideration.

²⁸ In article 3(3).

Legislations which are often referred to in Lesotho when addressing the issues relating to children in conflict with the law and the protection of their well-being include: the Children Protection Act NO6 of 1980(CPA), the Prison Proclamation 37 Of 1957 and the Constitution of Lesotho of 1994.

2.3 Defining a child

There is no single definition of a child. The definition differs from country to country and social settings. For instance, in some countries the child is a person under the age of 18 while in others the child is defined as someone who is 21 years.

In the international law, the definition of the child is generally directly or indirectly related to age.²⁹ The Convention on the Rights of the Child provides that a child is a human being below the age of 18 years unless the national law recognise otherwise.³⁰

The United Nations Rules for the Protection of Juveniles Deprived of their Liberty (J.D.L.) on the other hand do not mention age 18 as a threshold.

And the Beijing Rules provides that a juvenile is a child or young person who under the respective legal system may be dealt with for an offence in the manner, which is different from adult.³¹

The Lesotho's Children Protection Act of 1980 (CPA) defines a child as an unmarried person under the age of 18 years.³² This definition is in line with the CRC, however, other pieces of legislation define a child differently for different purposes (marriage, work and other purposes). The act does not provide for persons under the age of 18 who

²⁹ (Van Bueren 1995:171).

³⁰ Article 1.

³¹ Rule 2(2).

³² section 2.

are married. However, it does make provisions for any person who is under 18 and in need of care, abandoned, neglected abused, in a difficult situation or a juvenile offender.

The Age of majority Ordinance NO 62 of 1829 stipulates the age of majority as 21 years. Any person who has therefore attained age of 21 can freely contract and enter into marriage without seeking prior parental consent. Any person under twenty one is considered a minor requiring a parental consent in order to enter into a valid contract. Where a contract is to the benefit of the minor such as an apprenticeship, a minor is free to contract without prior parental consent.³³

Under common law, upon marriage at the age of 18 years, subject to parental consent, a male child attains majority, where a female child, even upon marriage at the same age, remains a minor with the perpetual status of a child under the guardianship and marital power of husband, if married in community of property. This legal position extends to all females even those married under Sesotho customary law.³⁴

The Labour Code Order NO. 118 of 1992 defines the child as anyone under the age of fifteen years for the purpose of employment. This act is commonly seen as applying only to industrial work.³⁵

³³ (Report by government of Lesotho on the preparation of the rights of the child, 1998:8).

³⁴ (Report by government of Lesotho on the preparation of the rights of the child, 1998:8).

³⁵ (Report by government of Lesotho on the preparation of the rights of the child, 1998:8).

The children in Lesotho Prison can be divided into three categories: children in conflict with the law, children in need of care, and those in prison with their mothers. Children in conflict with law are those who have been found guilty by the courts of law. Children in need of care are children under 18 who are neglected, abused and abandoned. Children in need of care should be dealt with differently from ordinary offenders.³⁶ The present study will basically concentrate on the children in conflict with the law.

2.4 Criminal responsibility

With regard to the age for criminal responsibility, the State Parties to the CRC are enjoined to establish a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.³⁷

The Roman-Dutch Law, which is the common law of Lesotho, defines a child for rebuttal criminal responsibility as a person between the age of 7 and 14 years. If a child is between the age of 7 and 14 knowingly and intentionally commits a crime, understanding the consequences of the wrongful act, he or she can be held criminally responsible once sufficient evidence is adduced.

³⁶ (Kimane, 1996:84).

³⁷As in (Article 40(3) (a) CRC.

2.5 Punishment of children

International law prohibits punishment of children. It states that: No child shall be subjected to torture, or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without the possibility of release shall be imposed for the offence committed by a person below 18 years of age.³⁸ The Beijing Rules is against the punishment of children. The Beijing Rules provides that: juveniles shall not be subjected to corporal punishment.³⁹ In addition, the Standard Minimum Rules for the Treatment of Prisoners, Rule 30 provides that: No prisoner shall be punished except with terms of such law or regulation and never twice for the same offence. In addition, Rule 31 provides that: corporal punishment, by placing in the dark cell shall be completely prohibited as punishment of disciplinary.

This concern is also been highlighted in the Children Protection Act of 1980 and the Constitution of Lesotho. The Children Protection Act states that: no child should be punished by imprisonment.⁴⁰ The Constitution of Lesotho is against not only punishment of children but also punishment of every person. The constitution provides that: no person shall be subjected to torture or to inhuman or degrading punishment or other treatment.⁴¹

While the laws in Lesotho are in line with CRC, there are some areas of conflict. According to CRC, children should not be subjected to solitary confinement and corporal

³⁸ Article 37[a].

³⁹ Rule 17.3.

⁴⁰ Section 26(1).

⁴¹ Section 8(1).

punishment. However, the Lesotho Criminal Procedure and Evidence Act 1981 allows corporal punishment for boys. For instance, whipping is one of the sentencing options available for young male offenders.⁴²

2.6 Institutionalisation of the children

Institutionalisation of children means putting children in conflict with the law in an institution, which is meant to cater for such children. Children in conflict with the law are those who have been found guilty of offences by the courts of law. The main objectives of institutionalising children in conflict with law is to train them, that is, to provide them with education, vocational skills as well as treatment in the form of counselling. This is done with the view to assist them to reintegrate into the society, and be responsible citizens when released. This is supported by the Beijing Rules, which stipulates that objectives of training and treatment of juveniles placed in the institutions is to provide care, protection, education and vocational skills, with a view to assist them to resume socially constructive and productive roles in the society.⁴³ Juveniles in institutions shall receive care, protection and all necessary assistance: social, educational, vocational, psychological, medical and physical.⁴⁴

However, various international instruments and local legislation discourage the institutionalisation of children where possible. The Beijing Rules states clearly that: the

⁴² Section 306(1) and 307(1).

⁴³ (Beijing Rule 26.1).

⁴⁴ (Beijing Rule 26.2).

placement of juveniles in institutions shall always be the last resort and for a minimum necessary period. This implies that children should not be incarcerated unless there are no other appropriate responses.

In addition, CRC provides that the arrest, detention or imprisonment shall be in compliance with the law, and shall be used as measures of last resort and for the shortest appropriate period of time.⁴⁵ Moreover, CRC shows that when dealing with children in conflict with the law, the speed of the judicial processes is of paramount importance. It also provides that: every child deprived of his or her liberty shall have prompt access to the legal and other appropriate assistance.⁴⁶ The Constitution of Lesotho states that a child can be held up to 48 hours after being charged with a crime before the court hearing. This implies that when dealing with the case involving a child, the matter shall be dealt with without delay. However, this is not the case in Lesotho; children are held for years, months or weeks.⁴⁷

The Children Protection Act states that: a court shall order a child to be sent to an approved school unless the court is satisfied with the child's previous conduct, and to the circumstances of the offence, and it is useful to his rehabilitation and prevention of further crimes, that he should undergo a period of training in the approved school.⁴⁸ In Lesotho, courts often refer to the Prison Proclamation 37 of 1957, when sentencing children. It states that: a child can be detained in the Juvenile Training Centre for a period

⁴⁵ CRC article 37(b).

⁴⁶ Article 37(d).

⁴⁷ (Report by government of Lesotho on the preparation of the rights of the child, 1998:8).

⁴⁸ Children's Protection Act, section 26(2).

not exceeding 3 years. ⁴⁹In practice, courts sentence juveniles to detention centre for unspecified period in most cases. This results in children staying in for 3 years. This departs from the provisions made by international instruments that clearly state that imprisonment of children should be avoided where possible and should be for the shortest period. ⁵⁰

There are different institutions, which accommodate incarcerated children, and they vary from country to country. Institutions can be categorised into three basic types: detention facilities, juvenile training school and group home. Detention facilities serve as a place to detain or hold juveniles who are waiting a hearing in court. Juvenile training schools are long-term facilities for housing juveniles and serve a function comparable to adult prison. They may operate under various names such as industrial schools or reformatories, but basically share common characteristics of being a place where the juvenile can be placed and send a young offender for an extended period of time. The third category of juvenile institutions revolves around the group home concept. These facilities can include halfway house, drug and alcohol rehabilitation homes and various types of youth shelters.

A court or parents who feel that a change in home environment will be beneficial for the juvenile can place a Juvenile there. The group homes usually resemble a dormitory type of living facility with juveniles being supervised during parts of the day and night, while being allowed limited participation in the larger community. In Lesotho, the Juvenile Training Centre serves the purpose of detention facilities and juvenile training school. It

⁴⁹ As stated in section 9(1) and (2).

⁵⁰ (Report by government of Lesotho, on the implementation of the rights of the child, 1998:11).

was established in 1971, it is acknowledged and accepted by Children Protection Act (CPA). According to CPA, a court shall order a child to be sent to an approved school for his rehabilitation and the prevention of crime.⁵¹ It is a detention centre where juveniles awaiting trial are kept. It is also a reformatory or industrial school where sentenced young offenders are sent by court for rehabilitation.

Rehabilitation embraces the notion that, given the proper care and treatment, criminals can be changed into productive law-abiding citizens. The rehabilitation school suggests that people commit crime through no fault of their own, instead, criminals themselves are victims of social injustices, poverty, and racism; their acts are responsible to a society that has betrayed them, and because of their disturbed and impoverished upbringing, they may be suffering psychological problems and personality disturbances that further enhance their crime-committing capacities.

This view of justice system, also known as the medical model portrays offenders as people who, because they failed to exercise self-control, need the help of the state. Research evidence suggests that correctional treatment can have an important influence on offenders. Programmes that are designed to teach interpersonal skills and the use of individual counselling and behaviour modification techniques have produced positive results both in the community and within correctional institutions.⁵²

⁵¹ Section 26 (2).

⁵² (Siegal, 2002:351).

Rehabilitation is the result of any planned intervention focused on the offender that reduces criminal activity, whether that reduction is achieved by change in personality, abilities, attitudes, values or behaviour. Excluded from rehabilitation are effects of fear intimidation or specific deterrence and maturational effects that cause older offenders to live a life of crime. The aim of this approach is to equip juveniles, as far as possible with the life skills they will require to function effectively in society. The principle underlying rehabilitation is to return the offenders to the society not with the negative vacuum of punishment induced in fear but with the affirmative and constructive equipment, physical, mental and moral for law abidingness.⁵³

Treatment programmes offered to the offenders must be able to rehabilitate them physically, mentally and morally. Once these mentioned elements within the offender have successfully been built up, the offender after being released from prison is more likely to become a law-abiding citizen and leave his criminal career.⁵⁴ Based on the findings of literature studies, it has appears that rehabilitation is a failure due to circumstances like overcrowding in prison; as a result, certain prisoners fail to be rehabilitated. Even though some prisoners can be rehabilitated, the attitudes of some people in the society towards them after being released are a huge problem. Many researchers suggest that the best and most appropriate rehabilitation is parole because there is greater involvement of community and the prisoners as well as prison social workers and other agencies.⁵⁵

⁵³ (Conklin, 1989:485).

⁵⁴ (Conklin, 1989:483).

⁵⁵ (Mtshali, 1999:37).

2.7 Separating juveniles from adults

International guidelines together with the Lesotho's Children Protection Act require that a child under the age of 18 must be kept separately from adults. The introduction of the concept of this separation is to ensure and maintain the physical and moral integrity of the child.⁵⁶ This is provided by the convention on the Rights of the Child. It reads as follows: children may be detained only for the shortest possible appropriate period of time and have the right to be kept separate from detained person over the age of 18 years, and treated in the manner and kept in the conditions that take care of their age.⁵⁷

In Lesotho, young male offenders are kept in the Juvenile Training Centre, which is separate from adult prisons. Young female offenders are kept in the Maseru female prison, but in a different compartment from the adult female offenders. The centres were introduced to cater for the needs of the children in prison; educational, health, recreational as well as protecting them from any harm or abuse. According to the Prison Proclamation, the Resident Commissioner may provide juvenile training centres, that is, a place in which persons under the age of 18 years, who are ordered to be detained in such centres, may be kept under the discipline suitable to persons of their age and description, and given such training and instruction as will contribute to their reformation and prevention of crime.

⁵⁶ (Van Bueren 1995:225).

⁵⁷ (Davel, 1998:91).

Although the law stipulates that juveniles have to be separated from adults, some are still mixed with older criminals. Most children are still placed in ordinary prisons.⁵⁸ In addition, there are increasing reports of juveniles imprisoned with adults.⁵⁹ Locking juveniles in prisons with older inmates will result in the older and hardcore criminals teaching young offenders new techniques of committing crime.⁶⁰ The detention of juveniles should only take place under conditions that take full account of age, type of offence and which ensure protection from harmful influences.⁶¹ Moreover, the UN Rules provide that in the detention centre children should be separated from adults unless they are members of the same family. United Nations Rules further provides that untried detainees should be separated from convicted juveniles.⁶²

2. 8 Problems encountered by children in prisons

While institutionalised, children's basic needs may not be met due to certain reasons. For instance, the treatment they receive may often be against the universal rights of children. The immediate problems that may confront children in Lesotho prisons may include the following: inadequate food, clothing, inadequate bedding facilities, and limited or no visitors at all. Other problems that may be faced by these children include poor medical facilities, poor recreational facilities, lack of educational and vocational training, Violence and abuse, as well as torture by the staff. These centres are often overcrowded and also understaffed.

⁵⁸ (Gill 1994:188).

⁵⁹ (Dausab 2003:13).

⁶⁰ (Mtshali 1999:140).

⁶¹ United Nations Rules, Rule 28.

⁶² Rule 17.

2.9 Health conditions

In many countries the prison conditions are life threatening, leading to inmates' death from diseases, malnutrition and physical abuse.⁶³ United Nations Rules provides that juveniles deprived of their liberty, should be provided with facilities and services that meets all the requirements of the health and human dignity.⁶⁴ In addition, every juvenile should, in accordance with local or national standards, be provided with separate and sufficient bedding which should be clean when issued, kept in good order and changed often enough to ensure cleanliness.⁶⁵ The UN Rules provides that sanitary installation should be located and of sufficient standard to enable every juvenile to comply as required, with their physical needs and privacy, and in a clean and decent manner.⁶⁶

Furthermore, the Prison Proclamation provides that the medical officer shall supervise the hygiene of the prison and of the prisoners, including arrangement for the cleanliness, sanitation, heating, lighting and ventilation, and shall advise the gaoler thereon.⁶⁷ However, this may not be the case in most prisons in Africa, including Lesotho. In most prisons, the cells are small and usually overcrowded.⁶⁸ This view is shared by Bukurura who argues that overcrowding is one of the problems that pose danger to the inmates. Ventilation and access to drinking water is also inadequate.⁶⁹

In the Molise commission, it has been observed that in some prisons like in the Central Prison, some drains were blocked and, there was a terrible dispelling stench of urine, in

⁶³ (Amnesty International and Council for Development of Social Science in Africa 2003:1).

⁶⁴ Rule 31.

⁶⁵ Rules 33 and 35.

⁶⁶ Rules 34.

⁶⁷ Section 84.

⁶⁸ (Amnesty International and Council for Development of Social Sciences in Africa 2000:15).

⁶⁹ (Bukurura, 2003: 83).

all the toilets a striking contrast to the sparkling floors in the adjacent corridors and dormitory. Ablution facilities are also shared by far more people than they are intended for. There is no water borne sewage in the cells and when prisoners are locked up for the night (from 4 pm to 6 am), they must defecate and urinate into the buckets. During the day, the prisoners must wash themselves and clothes in the same buckets.⁷⁰

2.10 Medical treatment

Every juvenile shall receive adequate medical care both preventive and remedial, including dental and mental health care as well as pharmaceutical products and special diets as medically indicated. All such medical care should, where possible, be provided to detained juveniles through the appropriate health facilities and services of the community in which the detention facilities are located in order to prevent stigmatisation of the juvenile and promote self respect and integration.⁷¹

Every detention facility for juveniles should have immediate access to adequate medical facilities, equipment appropriate to the number and requirements of its residents, and staff trained in preventive health care and handling of medical emergencies. Every juvenile who is ill, or who complains of illness or who demonstrates symptoms of physical or mental difficulties should be examined promptly by a medical officer.⁷² Although it has been stated that inmates should have access to medical attention this may not always be the case in Juvenile Training Centre.

⁷⁰ (Molise Commission, 2003 :15).

⁷¹ UN Rules 49-51.

⁷² UN Rules 49-51.

In most prisons in Africa, access to medication is a problem for prisoners. The prisoners are not automatically given access to be attended and examined by a doctor from outside, the chance to see private doctors are frequently blocked or delayed.⁷³ In Lesotho, there are no medical facilities or medicines in the prisons. If the inmate falls sick, he will not be examined until such time when the doctor visits the prison and, if necessary, be referred to the hospital. There are also no trained nurses or Para-medics in the Lesotho prisons.⁷⁴ The Prison Proclamation provides that every officer who forms the opinion that physical and mental health of the prisoner deserves special notice and care shall report such opinion to the officer in charge or gaoler, even if such prisoner does not complain.⁷⁵ The officer in charge shall bring such case to the notice of the medical officer without delay. However, the detainees have no rights to see the doctor of their own choice. In short, once detained, a person is isolated from the outside world and completely at the mercy of his captors.⁷⁶

According to a study by the Community Law Centre, the general conditions of children in prisons are poor. Many of them are covered with sores and stunted in growth, and display many symptoms of children from poor and disadvantaged backgrounds, as marks of previous physical violence.⁷⁷ The Basic Principle for the Treatment of Prisoners, which was adopted by the Standard Minimum Rules, in the General Assembly of the United Nations in 1990 provides that the inmates have access to health services and such

⁷³ (Amnesty International and Council for Development of Social Sciences in Africa 2000:15).

⁷⁴ (Molise Commission, 2003:15).

⁷⁵ Section 77.

⁷⁶ See the study conducted by (Robertson 1991:43).

⁷⁷ (Community Law Centre 1995:26).

services should be available to them. However, health care is often neglected in prisons until the problem has reached critical stage.

2.11 Diet and meals

Every detention facility shall ensure that every juvenile receive food that is properly prepared and presented at normal meal times and of the quality and quantity to satisfy the standards of dietics, hygiene and health.⁷⁸ The Prison Proclamation also provides that food provided to the prisoners shall be of nutritional value adequate to health and strength, wholesome and well prepared.⁷⁹

However, in the prisons visited by the Molise commission, there were complaints about food and meals at almost all the prisons. The meals are served early in the morning and in the mid afternoon. The afternoon meal is usually the combination of lunch and supper. Children in prison complained of being hungry. At some institutions, the children complained that food was tasteless and insufficient, and that they felt hungry most of the time, and others said that same food was served everyday.⁸⁰ In Lesotho prisons food provided in all prisons including JTC are of no nutritional value, and not adequate for health and strength. The prisoners are served the following meals day in and day out: for breakfast, they are served soft porridge, for lunch they are served hard porridge and beans or peas, and for supper, they are served hard porridge with beans or peas. In addition, they are provided with meat once a month or two months. Bread is served once a year, on

⁷⁸ According to UN Rules 37

⁷⁹ Section 88

⁸⁰ (Community Law Centre 1995:26)

Christmas Day, and vegetables when there are rains and if their gardens produced vegetables ⁸¹

2.12 Beds and bedding

The UN Rules provides that every child should, in accordance with local or national standards, be provided with separate and sufficient bedding which should be clean when issued, kept in good conditions when issued, kept in good order and changed often enough to ensure cleanliness. And sleeping accommodation should normally consist of small group dormitories or individual bedrooms, while bearing in mind local standards. ⁸²

In addition, the Prison proclamation provides that every prisoner shall be provided with a separate bed, or bed board, or sleep mat, according to his classification and with separate bedding adequate for warmth and health

2.13 Abuse in prisons

In prison, assault can be categorised into physical, sexual and verbal, by either the fellow inmates or prison staff. The studies show that physical emotional and sexual abuse of children in institutions like prisons are widespread, although firm evidence about its incidence as it is extremely difficult to find them and are rarely acknowledged. ⁸³

⁸¹ (Molise commission ,2003:17).

⁸² Rule 33 and 35.

⁸³ (Tolfree, 1995:14).

The UN Rules provide that all disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement.⁸⁴

Additionally, the Prison Proclamation provides that no officer shall use force unnecessarily when dealing with prisoners. If the application of force to a prisoner cannot be avoided, no more force than is necessary shall be used and an immediate report shall be made to the director.⁸⁵ Moreover, no officer shall deliberately act in the manner calculated to provoke a prisoner⁸⁶. Cruel, inhuman or degrading treatment is regarded as any harsh or neglectful treatment that could damage a detainee's physical or mental health. Such treatment may be characterised, for instance, by prison conditions.⁸⁷ For instance, poor prison conditions, lack of sanitation, lack of access to medication or poor diet imposed on prisoners will constitute, in the majority of cases, cruel, inhuman or degrading treatment.

The child has the right to be treated with respect and dignity as a human being. And the child shall be protected against torture and all forms of cruel, inhuman or degrading treatment or punishment.⁸⁸ Deprivation of food and water constitute torture. This implies that children who are kept in juvenile centres or prisons should be treated fairly. The

⁸⁴ UN Rules 67.

⁸⁵ Section 31(1).

⁸⁶ Section 31(2).

⁸⁷ (Amnesty International and Council for Development of Social Sciences in Africa, 2000:11).

⁸⁸ (Nel and Bezuidenhout, 1997:135).

torture, cruel, in human and degrading treatment and punishment are prohibited under a wide range of global and regional treaties.⁸⁹

The torture, cruel inhuman and degrading treatment and punishment are prohibited to all individuals and in all aspects of life. When children are deprived of their liberty, they become more vulnerable to such treatment.

2.14 Corporal punishment

Physical abuse in prison can be in the form of corporal punishment. This may occur in prison when one member of the staff wants to obtain information from a child. And if the child refuses he or she is likely to be tortured. Furthermore, the prisoners, especially children may be exposed to punishment as the way of disciplining them. The prohibition is provided in the Convention on the Rights of the Child.⁹⁰ In addition, article 5 provides that no child shall be subjected to torture, or other cruel in human degrading treatment or punishment.⁹¹

Unlike CRC, the Prison Proclamation allows application of corporal punishment. For instance, it provides that the officer in charge and the medical officer shall attend all corporal punishment. And the medical officer shall, immediately before punishment is inflicted, examine the prisoner and satisfy himself that he is both mentally and physically

⁸⁹ (Van Bueren, 1995:223).

⁹⁰ Article 37(1).

⁹¹ (Robertson, 1991:91).

fit to undergo punishment.⁹² In the study carried by the Community Law Centre, some of the boys reported the use of corporal punishment and some use bad language by warders.⁹³ Though the study was carried out in South Africa this can also be the case in Lesotho.

Corporal punishment has been used in all the prisons throughout South Africa, and it is believed that corporal punishment can serve as a deterrent to deviant behaviour. The effect of punishment can have a serious physical and psychological effect to an individual in the long run. Anyone who attempts to modify a firm young person's behaviour by inflicting severe physical punishment is providing an aggressive means of responding to interpersonal situations. Such treatment does not only destroy the individual's dignity and self-respect but also have an impact on the community that will accommodate the inmate after imprisonment.⁹⁴

2.15 Sexual assault

In addition to the general abuse suffered by young prison inmates an alarming form of violence among the inmates is sexual assault. What is far more common than homosexual rape in correctional institutions is sexual harassment in which the threat of sexual assault by one inmate over another is used as a form of dominance.⁹⁵ It is difficult to determine exactly how widespread the problem of sexual assault in prison is. Prison officials are aware that sexual assault occurs, but most inmates are ashamed of being rape

⁹² section 44(1).

⁹³ (Community Law Centre, 1995:53).

⁹⁴ (Mtshali, 1999:33).

⁹⁵ (Roslyn and Roberts, 1996:199).

victims and refuse to report instances of sexual assault. Whatever the figures, prison rape like all rapes is considered primarily an act of violence rather than sex. Inmates subject to rape ('punks') are near the bottom of the prison power structure and, in some instances, may accept rape by one particularly powerful inmate in return for the protection from others.⁹⁶

Raped inmates often suffer from rape trauma syndrome and a host of psychological ailments including suicidal tendencies. Many prisons do not offer sufficient medical treatment for rape victims, nor do the prison staff members take necessary measure to protect obvious targets of rape, which are often young, slightly built, non-violent offenders. It is difficult to determine the extent of sexual activities in prison because studies must rely on self-reporting, which is distorted by embarrassment or fear of reprisal. Sex is prohibited in most prison system, therefore this causes the inmates to deny their involvement in sexual activity. Sex in prison usually takes place in a situation of violence or intimidation, thus both perpetrators and victims are disinclined to discuss its occurrence.

Homosexual activity is illegal in every Southern African country with the exception of South Africa. However, according to UNAIDS reports 10-60% of prisoners have participated in homosexual activity at least once. Man to man sexual activity in prison makes it a high risk for sexually transmitted infections. Those who serve as the receptive partners were usually juveniles or young adults, who have no relatives from outside to help and care for them. The ones they usually turn to are those who have outside supplies.

⁹⁶ (Gaines and Miller, 2003:472).

The relationship between them can be described as similar to those between a poor prostitute and a rich client.

Rape or forced sodomy is the major problem in many prisons. For instance at Leeukop, if a rape is reported, the victim is removed, although the boys say this may only be for a very short period of time. A social worker or psychologist does not often attend to the victims. Though, many prisoners said they had been victims of sodomy and rape, few had any contact with a social worker or a counsellor.⁹⁷

Classification is important in determining the type of prisons and the level of security to which the offender will be assigned. This process defines dangerousness and the likelihood that an offender will constitute a risk to other prisoners. If they are not classified, they may be a possibility of sexual abuse especially to the young inmates by the older.⁹⁸ In the study conducted by Sasha Gear, a researcher for the Centre for the Study of Violence and Reconciliation, on sexual violence, it has been found that many officials in the department of correctional services were reluctant to acknowledge that sexual contacts occur inside the prisons. People arriving in prison for the first time are particularly vulnerable. Other prisoners see them as source of goods like clothing, and money as well as potential sex partners. Some people are turned into wives through rape. New prisoners do not know how prison works, so they are easily intimidated and trickled. Young prisoners are generally considered to be at particularly high risk of becoming rape

⁹⁷ The study carried out by Community Law Centre (1995:51).

⁹⁸ (Maghan, 1997:78).

victims. This has compelled authorities to separate juveniles from older prisoners, but juveniles can also rape.⁹⁹

2.16 Education and training

Education is vital to the prisoners so that he or she will be able to assume a productive life after release. In prison, the educational services include literacy and basic arithmetic for illiterate prisoners. Literate prisoners can further their studies through correspondence. Where possible, classroom instruction by suitable qualified staff members is given to them up to a metric level in different subjects.

Every child of compulsory school age has the right to education suited to his or her for return to society. Such education should be provided outside the detention facilitates in community schools, where possible and, in any case, by a qualified teacher. Juveniles above compulsory school age who wish to continue their education should be permitted and encouraged to do so, and every effort should be made to provide them with access to appropriate educational programmes.¹⁰⁰

⁹⁹ (Drum Magazine, 8 April, 2004:19).

¹⁰⁰ (UN Rules 38 and 39).

2.17 Recreation

Every juvenile should have a right to a suitable amount of time daily for free exercise, in open air, whenever the weather permits, during which time appropriate recreational and physical training should normally be provided. Adequate space, installation and equipment should be provided for these activities. Every juvenile should have daily leisure activities and the detention facilities should ensure that the each juvenile is physically able to participate in available programmes of physical education.¹⁰¹ At Pretoria local prison, awaiting trial boys complained of being bored and usually cells are locked all the day. Opportunities for recreation are extremely limited.¹⁰² This may be the case in Lesotho prisons.

2.18 Contact with the family

The family is a core unit and its role in the development of a child cannot be underestimated. The family is central to the life of a child. However, the problem is how the child in detention maintains contact with the family.¹⁰³ According to the United Nations Convention on the Rights of the Child parties, shall respect the rights of the child separated from one or both parents to maintain personal relations and direct contact with both of them.¹⁰⁴

¹⁰¹ (UN Rules 47.

¹⁰² From the study by Community Law Centre (1995:29).

¹⁰³ (Skelton, 1996:184).

¹⁰⁴ Article 9(3).

Moreover, the UN Rules provides that every means should be provided to ensure that juveniles have adequate communication with the outside world, which is an integral part of the right to fair and humane treatment and is essential in the preparation of juveniles for their return to society.¹⁰⁵

Furthermore, the Prison Proclamation provides that special attention shall be given to the maintenance of the relationship between a prisoner and his family as are desirable in the best interest of both prisoner and the family members.¹⁰⁶ The prisoner's relationship with the family and the friends is important for the rehabilitation of the inmates, and it is encouraged. A prisoner next of kin must be informed of his or her transfer.¹⁰⁷ Family must be informed of a prisoner's illness, death, certification as mentally ill or any accident involving him or her. In addition the young offenders should make contact with the immediate family, extended family as well as the members of the society who have interest in him or her.¹⁰⁸ This will facilitate the transition from the confined environment to the outside environment before ultimate release.

In the study carried out by Community Law Centre, it is found that, generally, juveniles in prisons felt separated from their families and deprived of the family support because of their infrequency of family visit.¹⁰⁹ it was added that many of the children interviewed were desperately home sick. And the interviews with social workers revealed that some

¹⁰⁵ Rule 59.

¹⁰⁶ Section 62(1).

¹⁰⁷ (McLachlan, 1984:42).

¹⁰⁸ (Skelton, 1996:184).

¹⁰⁹ (Community Law Centre, 1995:34).

children are imprisoned far from their homes and their parents are unable to visit them. Due to this sometimes children say or assume that nobody knows where they are.

2.19 Causes of the problems experienced by children

There are quite a number of reasons that may possibly be the causes of the problems facing children in Lesotho prisons. Some of them include overcrowding, inadequate trained staff and lack of funds to run the department.

2.20 Overcrowding

Overcrowding is one of the causes of the problems facing Lesotho prisons. The overcrowding of correctional institutions is one of the criminal justice system's most serious problems. ¹¹⁰Overcrowding is horrendous in Lesotho prisons. There is no room for beds, and prisoners must sleep cheek by jowl on mats on cement floors; there is no space between the mats. There are so many prisoners in the prison that wherever one goes one will have a claustrophobic feeling of the crowd of prisoners around. ¹¹¹

There are numerous problems that stem from prisons overcrowding. Not only is overcrowding itself is a problem, but it becomes a source of other institutional problems as well. For example, it places enormous strain on classification, sorting, housing assignments, food and medical services, especially in the light of AIDS and TB. High

¹¹⁰ (Koetler and Liner, 1992: 14).

¹¹¹ (Molise commission, 2003:14).

population density affects the physical and mental health as well as safety of inmates and the staff.

The appalling physical conditions in Southern Africa along with inadequate nutrition and health services exacerbate the incidence of AIDS and Tuberculosis (TB), which can easily be spread in overcrowded prison conditions. People with HIV are especially vulnerable to TB; HIV people can transmit the disease to those not infected with HIV.¹¹² Due to overcrowding individuals are exposed to air infected with tuberculosis. Most prison environments today are extremely conducive to TB transmission. They are overcrowded, have poor ventilation systems and are comprised of individuals most likely to be TB infected¹¹³. Prison overcrowding leads to deterioration in both physical and mental health. Overcrowding violates the basic human rights of the prisoners to be detained in humane conditions. It enhances the spread of contagious diseases like TB and is a fertile ground for spread of HIV/AIDS.¹¹⁴

Due to overcrowding, facilities such as toilets and bathrooms are overused and sanitation is poor. Toilets and most wards smell badly and are generally unclean. Prisoners sleep on bare floor.¹¹⁵ Due to overcrowding individuals may be exposed to air infected with tuberculosis and with these droplets they can become infected too.

Overcrowding also results in diminished standard of hygiene. Classification systems and work assignment are also hindered. There is overabundance of workers and too much

¹¹² (Www irinnews.co.za).

¹¹³ (Rosylin and Roberts, 1996:222).

¹¹⁴ (WWW. Hrw.org.prison/Africa.com).

¹¹⁵ (WWW. Hrw.org.prison/Africa.com).

idleness. Overcrowding makes it hard for the prison officials to keep hit men away from those who seek protection.

Overcrowding disrupts the daily routine of facilities and places additional pressure on budgetary allowances. Overcrowding tends to intensify an individual's typical negative reaction to his or her environment, so there is increased stress on correctional staff and heightened possibility for violence, riots and escapes. Overcrowding also leads to poor administration of the institution.¹¹⁶ Proper human relations among inmates are extremely difficult because overcrowding contributes to high level of stress. Overcrowding is also a breeding ground for 'gangsterism' and undermines the safety of inmates.

Furthermore, due to overcrowding, classification of prisoners is impossible.¹¹⁷ Overcrowding in juvenile prisons may put the juveniles in conditions that set their welfare at stake. For instance, the youth may be exposed to various forms of illnesses, especially the airborne diseases like tuberculosis. Overcrowding is associated with a number of psychological problems that can lead to violence.¹¹⁸ The consequences of overcrowding reach beyond institutional operations by affecting both inmates and staff. The socio-psychological effect it creates results in anger, hostility, violence, anxiety, and depression. Jails are by their nature stressful environments; overcrowding merely compounds pre-existing problems that result in warehousing too many persons in too little space.¹¹⁹

¹¹⁶ (Kotler and Liner, 1992).

¹¹⁷ (Molise Commission, 2003:18).

¹¹⁸ (Sieh, 1989: 42).

¹¹⁹ (Welch, 1994: 262).

2.22 Lack of trained staff

Training is the most important issue for improving the quality of juvenile detention services. However, funding for the training is often not part of many institutional budgets, and only limited time and resources are allowed for staff training activities. Lack of resources for hiring the most qualified person has been a problem. It also impacts on the number of employees, especially in the areas of psychological and psychiatric treatment. According to the Standard Minimum Rules for the treatment of Prisoners adopted in 1955, the personnel shall possess adequate standard of education and intelligence.¹²⁰ Before assuming duty, the personnel shall be given training in their general and specific duties and be required to pass theoretical and practical tests. During their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-services training to be organised at suitable intervals.¹²¹ As far as possible the personnel shall include sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors¹²².

2.23 Effects of imprisonment

Although the offender can be rehabilitated in all different forms, the stigma of being an ex-prisoner will always exist for him or her, and in the minds and attitudes of society.

¹²⁰ Rule 47(1).

¹²¹ Rule 47(2).

¹²² Rule 49(1).

Because of the stigma attached to an ex-prisoner or criminal, he may internalise that label and externalised it through objectivation and thus create a solid world of criminality.¹²³

This situation forces those convicted of criminal offences to interact with others, perhaps more experienced criminals, thus becoming socialised into variety of criminal roles, other than learning the required skills and the criminal value system.

This occurs as a result of an individual being told by courts that he or she is a criminal and being placed in an institution where inmates and correctional officers define the individual as criminal.¹²⁴ Imprisonment can be dehumanising and often leaves children feeling insecure. They also become uncertain about themselves and their future. Emotional disturbances, which manifest themselves during detention as well as from the past experiences, are common among young offenders. These include anxiety, uncertainty, fear, hostility and distrust. The only manner in which the detained child can be helped to deal with this and arise above his or her situation is the help and motivation by adequately trained staff through rehabilitation.

If the Correctional Services have suitable staff and adequate facilities in the institutions, rehabilitation will be able to achieve its goal.¹²⁵ The need to recruit staff sensitive to the needs of the child is also reflected in the United Nations Rules for Protection of Juveniles Deprived of their Liberty (JDLs). It stipulates that the administration should provide for the careful recruitment and selection of every grade and type of personnel since the

¹²³ (Glanz, 1990:188).

¹²⁴ (Inciardi, 2000:383).

¹²⁵ (Mokoteli 2002:20).

proper management of detention facilities depends on their integrity, humanity and professional capacity to deal with juveniles as well as personal suitability for the work.¹²⁶

¹²⁶ Rule 82.

CHAPTER 3

METHODOLOGY

3.1 Introduction

This chapter deals with the methodology used in the study: where the study was conducted, the population and sample of the study, how the sample was selected, the size of the sample, how the data was collected, and how it was analysed.

3.2 Area of the study

There are twelve prisons in Lesotho, which are distributed in all ten districts. The following are the prisons in Lesotho: Qachas'nek Prison, Quthing Prison, Berea Prison, Leribe Prison, Mafeteng Prison, Mochale's Hoek Prison, ThabaTseka Prison, Butha-bothe Prison, Mokhotlong Prison, Maseru central Prison, Female Prison, and Juvenile Training Centre. In all the prisons including the Juvenile Training Centre, there are two sections, the security section and rehabilitation section.

The study was conducted at two prisons, JTC and the Maseru Female Prison. These are the only places in Lesotho, which accommodate children in conflict with the law, both convicted and awaiting trial. Young male offenders are kept in the Juvenile Training Centre, while females are in the Maseru Female Prison.

3.4 Population and sample of the study

During the data collection period, Lesotho prisons had the population of about 3260 inmates. The table below shows the distribution of the prison population in all the prisons in Lesotho, their capacity as well as their percent occupation.

PRISON	CURRENT POPULATION	CAPACITY	%OCCUPATION
CENTRAL	1022	690	148.1
JTC	76	120	56.7
FEMALE	59	240	24.6
BEREA	334	135	247.4
LERIBE	439	300	146.3
BUTHA BUTHE	195	160	121.9
MOKHOTLONG	168	240	70.0
THABA TSEKA	149	240	62.1
QACHA'SNEK	127	130	97.1
QUTHING	132	66	200.0
MOHALE'S HOEK	335	534	62.7
MAFETENG	228	135	168.9
TOTAL	3260	2990	1405.8

Source: Lesotho Prison Service Report, April 2004

The population for the study comprised all the young offenders in both Juvenile Training Centre and Maseru Female Prison. These are the main areas that accommodate all the children in conflict with the law. All the members of a group who share one or more similar characteristics defined by the investigation of the study are referred to as a population. The study population is that aggregation of elements from which the sample is actually selected.¹²⁷

The sample of the study was drawn from the two prisons. A sample of the study can be described as the subset of the whole population which is actually investigated by the researcher, and whose characteristics will be generalised to the entire population.¹²⁸

The sample of the study was drawn from the total population of JTC and Maseru Female Prison. The sample consisted of juveniles as well as prison rehabilitation staff members from the two mentioned areas. These two groups of respondents were in the position to answer the research questions. Juveniles are the ones who experience the problems, while the staff members know the juveniles' problems as they are working with them on a daily basis.

3.5 Sampling procedure

Sampling is the procedure whereby a specified number of elements are drawn from the sampling frame that represents the entire population. There are two main sampling procedures in social sciences, namely, the probability and non-probability samplings.

¹²⁷ (Pittenger, 2003:165).

¹²⁸ (Bless and Higson-Smith, 1995:86).

Probability sampling gives all the members of the population under study equal chances of being selected. The distinguishing characteristic of probability sampling is that the researcher can specify each element of the population that it will be included in the sample.¹²⁹ Probability sampling is designed to allow a determination of how likely members of sampling are to be representative of the population from where they are drawn.¹³⁰

For this study, probability sampling and non-probability sampling were used. Probability sampling was used to select a sample of 50 from 75 juveniles in the Juvenile Training Centre. Since there are different forms of probability sampling, like simple random, systematic, stratified and cluster sampling, systematic sampling was used. In this type of sampling every n^{th} element is selected from a list after the first element is randomly selected within the first n cases. And this type of sampling is convenient when the population elements are arranged consecutively.¹³¹

This was possible for the study as there was a list of the juveniles in the Juvenile Training Centre. The first number was selected randomly through the use of a dice. Two was the number selected randomly. Then the other elements were selected by calculating the sampling interval. Sampling interval can be described as the total number of cases in the population divided by the number of cases required.¹³²

¹²⁹ (pittenger,2003:154).

¹³⁰ (Wysocki, 2004:155).

¹³¹ (Wysocki, 2004:156).

¹³² (Wysocki, 2004:156).

$$\text{Sampling interval} = \frac{\text{population size}}{\text{Sample size}}$$

The number of the juveniles in the Juvenile Training Centre was obtained from the rehabilitation section. The total number of all young male offenders at the time of study was a 76 and 10 young female offenders. The intended sample size is 50. All the female young offenders were included in the sample because they were few in number. In order to get the remaining 40 cases, the sampling interval was calculated by dividing 76 by 40, which gives 19. Therefore, every 19th elements from the list of all inmates in the Juvenile Training Centre were considered for the study.

Non-probability sampling, in particular purposive sampling was employed to select the cases from the Maseru Female Prison. In this kind of sampling one uses his or her own judgment about which respondents to select, and picks only those who meet the purpose of the study. The sampling is directed straight to a specific type of people who can provide the exact desired information, because they have those characteristics needed and also meet the criteria set in the study.¹³³

Purposive sampling involves the choice of subjects who are in the best position to provide the information required.¹³⁴ Therefore, all ten young female offenders were considered for the study. They serve the purpose of the study because as it is mainly on the problems encountered by young offenders in prisons, not all the inmates. Furthermore, all the staff members working in the rehabilitation section of both prisons were selected as they also serve the purpose of the study. They closely supervise and

¹³³ (Bailey, 1987:87).

¹³⁴ (wysocki, 2004:157).

attend to daily complains of the offenders, as opposed to the other staff in the security section who are mainly concerned with the security of the prisons.

3.6 Sample size

About 50 juveniles were interviewed in this study. This sample is representative of the entire population because there were about 86 young offenders during the time of the study, 76 males and 10 females. The sample of the study was selected systematically, except for the case of female young offenders; they were all interviewed because they were few in number.

3.7 Methods of data collection

In order to provide greater depth of understanding of the present study, it was necessary that various techniques should be utilised. For this study both qualitative and quantitative data were used.

3.7.1 Qualitative methods and quantitative methods

Qualitative research method is generally concerned with non-quantifiable, non-numerical data, which is quite often specific to a particular situation. Research strategies in this category are aimed at generating interpretative data, and may include interviewing and field observation. This type of data utilised in qualitative research often include historical accounts, a variety of text as well as transcripts of interviews.¹³⁵ The qualitative research explores attitudes, behaviour and experiences through such methods as interviews or

¹³⁵ (Yin, 1984: 56).

focus groups. It attempts to get in-depth opinion from the participants. Quantitative methods are generally geared towards the collection of numerical or quantifiable data, which is then analysed and interpreted in a way that generally provides standardised information, which can be relatively manipulated. Quantitative methods generate statistics through the use of questionnaires or structured interviews.¹³⁶

Methods used in collecting data on the problems facing children in Lesotho prisons include the use of: the scheduled structured interviews, the focused groups (also known as group interviews) and the self-administered questionnaires. The combination of both quantitative and qualitative methods is referred to as triangulation of methods. By combining methods in the same study, one can overcome deficiencies that flow from one method.¹³⁷ This combination of both qualitative and quantitative is a good way of approaching research as it enables you to counteract the weaknesses in both qualitative and quantitative methods.¹³⁸

3.7.2 Interviews

Interviewing is one of the tools commonly used in qualitative research to obtain data. In interviews, the interviewer and the respondent must have direct personal contact. Interview can be described as the conversation between the interviewer and the respondent with the aim of obtaining information needed for the research topic. The

¹³⁶ (wysocki 2004:159).

¹³⁷ (Babbie and Mouton 1998:275).

¹³⁸ (wysocki, 2004:160).

respondents were asked questions, they gave their comments, and the interviewer recorded the responses.

Interviews may be defined as structured, semi-structured and unstructured. A structured interview implies a rigid set of pre-established questions asked in the same order and the same manner to each respondent. The questions generally have limited number of response, that is, either a questionnaire or 'tick list'. These interviews are used to address a defined topic and in instances where a large number of people are going to be interviewed around the same topic in a short period of time. In this situation, the interviewer is assumed to take a neutral position and the information attained tends to be highly quantifiable. An unstructured interview implies a probing into the way the interviewee is thinking about the topic.

Types of unstructured interviews include open-ended ethnographic interviews, participant observations, oral history and conversations. This interview is important when an appreciation or understanding of the way that an interviewee conceptualises a particular topic is required. It allows the establishment of human-to-human relation with the respondents and the desire to understand rather than to explain. A semi-structured interview lies in between these two. In semi-structured interviews, it is necessary to have guidelines in order to ensure that the specific area of interest to the interviewer is covered. However, this is not a rigid set of questions to be answered as like structured

interview. The interview is somehow directive, but also flexible and serves to guide the interviewee only when necessary.¹³⁹

3.7.3 Scheduled structured interviews

The most structured way of getting information directly from the respondents is by means of scheduled structured interviews. This method is based on the establishment of questionnaire, which is a set of questions with fixed wording and sequence of presentation, as well as more precise indications of how to answer each question.¹⁴⁰

Face-to-face interviews were used in the research among juveniles in JTC as well as young offenders in the Female Prison. The interviews schedules had both open ended and closed ended questions. There are a number of reasons why the researcher decided to use interviews. An interview as compared to other methods of collecting data is better as it saves time. In addition, the response rate is high compared to the other techniques. Interviews also assist the respondents to ask for clarification of the questions they do not understand, and it was helpful for the juveniles who are illiterate. The advantage of interviews is its flexibility. Interviewers can probe for more specific answers and can repeat a question when the response indicates that the respondents misunderstood the question. The interviews tend to have a better response rate than other techniques.¹⁴¹

¹³⁹ (Blessa and Higson-Smith,1995:133).

¹⁴⁰ (Bless and Higson-Smith 1995:106).

¹⁴¹ (Bailey, 1994:174).

Furthermore, the interviewer is present to observe the non-verbal behaviour and to assess the validity of the respondent's answer. The interviewer also has control over question order and can ensure that respondents do not answer the questions out of order or any ways thwart the structure of the questionnaire. The interviewer can record spontaneous answers. The interviews can also ensure that all answers are complete.¹⁴² In addition, the interviews typically attain a higher response rate than other methods. If respondents clearly misunderstand the intent of a question or indicate that he or she does not understand the question, the interviewer will clarify matters thereby obtaining relevant responses.¹⁴³ The questions were translated into Sesotho because majority of the young offenders do not know English.

3.7.4 Focused groups

Focused groups may also be called discussion groups or group interviews. A number of people are asked together in a group to discuss a certain issue. The discussion will be led by a moderator or facilitator who introduces the topic, asks specific questions, controls digressions, and stops breaking away conversations. The facilitator makes sure that no one dominates the discussions whilst trying to ensure that all the participants contribute to the discussion.¹⁴⁴ A group interview is defined as a systematic questioning of several individuals simultaneously in formal or in informal settings.¹⁴⁵ A focused group can be described as a purposive discussion of a specific or related topic between eight and ten people, with similar background and common interests. The group interaction will consist

¹⁴² (Bailey, 1994:174).

¹⁴³ (Rubin and Babbie 1997:354).

¹⁴⁴ (De Vos, 1998:314).

¹⁴⁵ (Wysocki,2004:236).

of verbal and non-verbal communication, and interplay of the perceptions and opinions that stimulate the discussion without modifying or changing the ideas and opinions of participating individuals.¹⁴⁶

In this study, about five focused groups were formed, 4 from JTC and 1 from Female Prison. Each focused group was made of 10 members. Questions relating to the life in the institutions were asked to respective groups. The responses from each group were recorded.

3.7.5 Questionnaires

Part of the data was collected through the use of questionnaires. In this technique, there is no direct contact with the respondents. A questionnaire can be described as a pre-formulated written set of questions to which respondents record their answers, usually within closely defined alternative.¹⁴⁷ A questionnaire involves the written questions that are given to the respondent through the mail, email or in person. In this study, self-administered questionnaire was used.¹⁴⁸ The self-administered questionnaire allows the respondents receive the questionnaire, fill them on their own and return them back to the investigator.¹⁴⁹ In this study, the questionnaires were left with the prison staff working in the rehabilitation section to be completed. After two weeks the questionnaires were collected. They were checked for errors and omissions, and were immediately rectified.

¹⁴⁶ (De Vos 1998:314).

¹⁴⁷ (Sekaran, 1992:200).

¹⁴⁸ (Wysocki, 2004: 202).

¹⁴⁹ (Wysocki, 2004:177).

There are a number of reasons why questionnaire was used as a tool for collecting the data. Questionnaire as compare to other methods saves time and it is less costly. This is advantageous for a study in which there are limited resources to carry it out it. It is also advantageous for the staff members that were busy with their daily duty. It gave them chance to fill the answers during their own convenient time. It has a low response rate as compared to interviews; some questions may be left unanswered because there is no clarification of some questions, which the respondents might find difficult to answer.¹⁵⁰

3.8 Data analysis

The data is analysed using descriptive statistics. The analysis is based on the careful scrutiny of the questions and responses obtained from the interviews. Descriptive statistics is a statistical computation describing either the characteristics of the sample or the relationship among variables in a sample. In descriptive statistics, the data can be categorised by a number of variables involved.¹⁵¹ Univariate statistics describe one variable, while bivariate statistics is about the statistical relationship between two variables, and multivariate is one that has more than two variables.¹⁵²

Descriptive statistics is concerned with the description and /or summarisation of data obtained for a group of individuals. Descriptive statistics include frequencies as well as

¹⁵⁰ (Babbie 1992:267).

¹⁵¹ (Babbie, 1992:457).

¹⁵² (Wysocki, 2004:257).

measures of central tendency, namely, the mean, mode, median, and measures of dispersion-the range, standard deviation and variance. ¹⁵³

3.9 Pilot study

Before the actual study, a pilot study was conducted at JTC. About five inmates were interviewed, and questionnaires were administered to two members of staff at JTC Rehabilitation Section. This was done in order to pre test the questionnaire and interview schedules. A few questions were modified; some questions were deleted and a few were added. A Pilot study is described as a rehearsal of the final research project that ensures that the procedures will allow the collection of the data needed for the study. ¹⁵⁴ With pilot study is where the questionnaires are distributed or interviews are conducted to a small group of individuals who are representative of the population for which the questionnaires are intended. It tests the questions and help to determine the costs of research. ¹⁵⁵

3.10 Summary

The chapter has outlined the methodology. The following topics have been were discussed in detail: area of study, population and sample of study, sampling procedure, sample size, methods of data collection, data analysis and pilot study. Regarding the area of study the description of the area where the study was conducted has been provided. Population and sample of study is discussed in this chapter, showing why it is important

¹⁵³ (Huysamen, 1990:3).

¹⁵⁴ (Pittenger, 2003:337).

¹⁵⁵ (Babbie., 1992: 336).

to sample. It also dealt with different sampling procedures utilised in the study. Different research techniques employed in data collection has been discussed, mainly their advantages and disadvantages. It dealt in detail with what methods of data collections were used. It has also described the procedures for selecting the subjects for sampling and what to do with the information collected.

The sample of the study is drawn from the inmates and the staff of Juvenile Training Centre and Female Prison in Lesotho. Combinations of methods were employed in this study as both qualitative and quantitative methods were used. Qualitative methods including individual interviews focus groups and observations. Quantitative involves the use of questionnaires or unstructured interviews. Quantitative methods are geared towards the collection of numerical or quantifiable data that then analysed and interpreted in a way that generally provides standardised information that can be easily manipulated. Qualitative methods on the other hand, tend to collect information, which is more descriptive or illustrative of a particular situation.¹⁵⁶

The information from the inmates was collected through the use of interviews; scheduled structured interviews and focused group discussions. In addition, questionnaires were administered to the prison staff as another means of collecting information.

¹⁵⁶ (Yin, 1984:55).

CHAPTER FOUR

ANALYSIS AND INTERPRETATION OF DATA

4.1 Introduction

It is necessary to interpret and analyse the data in the research, in order to identify trends emerging from the data collected. It is also important if the data collected is in line with objectives of the study. The data on the problems facing children in Lesotho prisons have been collected through the use of questionnaires and interview schedules and focus group discussions. Face-to-face interviews were conducted with juveniles in JTC and Maseru female prison. Focus group interviews were also conducted with juveniles from both institutions. Questionnaires were administered to the staff. The present chapter presents the empirical findings based on interview schedules conducted with 50 juveniles, 40 from JTC and 10 from Maseru Female Prison. At the time of study, there were 76 male young offenders and 10 young female offenders. Furthermore, Questionnaires were administered to 10 prison staff members. The data collected in the study is presented by means of the frequency tables.

4.2 Profiles of juveniles

Table 1 below shows the age groups of respondents. It shows that most juveniles fall between ages 16-20, which made 39 (78%) of total interviewed inmates. 9(18%) are between age 10-15, and only 2 (4%) are between 21-24. From the table majority of respondents are below the age of 20.and very few children are between 21-24. in support, Miller and Gaines: 526 shows that there is a relationship between age and crime. Age is

the constant factor in criminal behaviour. Children commit few crimes, as they grow older. This process is called aging out. Aging out is the term used to explain the fact that criminal activity declines with age.

Table 1: Age group of respondents

Age group	Frequency	Percentage
10-15	9	18
16-20	39	78
21-24	2	4
Total	50	100

Table 2: Gender of respondents

Gender	Frequency	Percentage
Male	40	80
Female	10	20
Total	50	100

Table 2 above demonstrates the gender of respondents. About (40) 80% of the respondents are males, while 10 (20%) are females. The table above shows that young male offenders are arrested more than the females. More males than females are likely to be arrested. This gender variation in crime rates is almost the same in all societies. It has been popularly believed that part of the difference in crime rates between males and

females may be attributed to biological differences such as hormones that lead men to aggressive behaviour. However, much of the difference is due to the contrasting gender roles that men and women are socialized to play. Traditionally, most boys and young men have been socially encouraged to be aggressive and competitive. Such attributes were generally considered useful in achieving occupational success and upward and social mobility. On the other hand, girls and young women were expected to achieve only the family-oriented and home-based objective of marriage and motherhood.¹⁵⁷

Table 3: Level of education

Level of education	Frequency	Percentage
Illiterate	11	22
Primary	27	54
Secondary	12	24
Total	50	100

The table 3 above is about the level of education of respondents. The table indicates that majority of respondents in the sample have no tertiary or high school education. The results presented above indicate that 27(54 %) of respondents had received primary education. A further 12(24%) had attained secondary education (junior certificate). 11(22%) have never been to school before. This is explained by Gill who points out that there is high rate of dropouts in secondary schools, this is due to the fact that parents

¹⁵⁷ (Thomson and Bynum: 103).

often cease to afford their children's education. Furthermore, unlike primary education secondary, education is expensive.¹⁵⁸

This is evident in the results obtained in table 3. The educational level attained by individual generally is factor in determining standard of living, lifestyle and employment. Therefore, the low level of education may be a contributing factor to crime.

Table 4: Occupation of respondents

Occupation	Frequency	Percentage
Studying	25	50
Working	13	26
Neither studying nor working	12	24
Total	50	100

Table 4 above shows the occupational status of respondents prior to imprisonment. The above table indicates that 25(50%) of respondents were studying before imprisonment, 13(26%) were working. Among 13 who stated that they were working, 8 were working as herd boys, while 5 were domestic workers. 12(24%) of respondents were neither studying nor working, before imprisonment.

¹⁵⁸ (Gill, 1994: 169).

Table 5: Criminal offences of respondents

Criminal offence	Frequency	Percentage
Theft common	17	34
House-breaking theft	11	22
Robbery	3	6
Assault	3	6
Rape	7	14
Damage to property	1	2
Dangerous medicine	1	2
Concealment of childbirth	3	6
Counterfeit currency	1	2
Motor vehicle theft	1	2
Murder	1	2
Kidnapping	1	2
Total	50	100

Table 5 above represents the criminal offences of respondents. The findings in the table above indicate that the types of crimes committed by majority of juveniles are related to low socio-economic status, because many of them committed poverty related crimes like housebreaking and theft, and common theft. Theft common 17(34%), housebreaking and theft 11(22%), rape 7(14%). Robbery has 3(6%) cases, assault has 3(6%) cases and concealment of childbirth has about 3(6%) cases. Damage to property, dangerous medicine, motor vehicle theft, and murder have few cases. Each of them has 1(2%).

Among the respondents, 12 are awaiting trails; 5 for theft; 3 for rape; 1 for murder, 1 for assaults, 1 for kidnapping, and 1 for damage to property.

Unlike in South Africa and other countries abortion or termination of pregnancy is regarded as a criminal offence. There are increasing number of women convicted of infanticide, exposure or abandonment of an infant and concealment of birth. Infanticide and exposure and abandonment of infant are common law offences along with concealment of birth, which is the crime of disposing of a child with the intent to conceal the fact of birth, whether the child died before, during or after birth.¹⁵⁹

Table 6: Previous convictions

Previous convictions	Frequency	Percentage
None	33	66
One	12	24
Two or more	5	10
Total	50	100

Table 6 above is about previous convictions of the respondents. In the table it is indicated that 33(66%) of respondents have never been convicted before, 12(24%) have been convicted once, while 5(10%) have more than two convictions. Out of 17 who have previous convictions 16(94%) are males while 1(6%) are females. From the table it is evident that majority of children in Lesotho prisons are first time offenders.

¹⁵⁹ (Gill, 1994: 236).

Table 7: Views on the factors that influenced juveniles to commit crime

Factors	Frequency	Percentage
Poverty	30	60
Peer pressure	11	22
Alcohol	2	4
Others	7	14
Total	50	100

Table 7 above shows factors that lead children into crime. Majority of respondents 30(60%) indicated that poverty is a factor that drove them to commit crimes. 11(22%) stated that they were influenced by their friends to commit crime, while the 2(4%) blamed alcohol for their imprisonment and 7(14%) gave other reasons. They stated that the parents or other elderly people encouraged them. No child is born delinquent. Delinquency or criminal behaviour is learned and is acquired through a learning process. Peer group and the neighbourhood to a great extent contribute towards juvenile delinquency. In addition, Conklin shows that crime and delinquent behaviour are learned through face-to-face interaction. People learn the necessary techniques and the motives, drives, rationalisations and attitudes of deviant behaviour from people whom they associate with. This is possible if they have greater tendency to deviate from societal norms when they frequently associate with individuals who are more favourable towards deviance than conformity.¹⁶⁰

Table 8: Respondents' views on meal offered

How are the meals	Frequency	Percentage
Good	4	8
Bad	42	84
Very bad	4	8
Total	50	100

Table 8 above represents the views of respondents about the food offered to them in prisons. In the Table above, 4(8%) indicated the meals are good, while 42(84%) showed that the meals are bad, and 4(8%) stated that the meals are very bad. Those who stated that it is bad and very bad indicated that they eat the same food over and over. They eat peas every day. This concurs with the findings in the Molise commission as it was found that in all prisons in Lesotho including JTC and the Female Prison food provided are not of nutritional value, they are inadequate for health and strength. They are served hard porridge and beans or peas except in rainy seasons when their gardens produce vegetables. They eat meat once a month.¹⁶¹

Table 9: Views on whether they complained or not

Complained	Frequency	Percentage
Yes	16	35
No	30	65
Total	46	100

¹⁶¹(Molise commission, 2003:16).

Table 9 above shows whether the children who are not happy about the food ever complain to the staff members. Majority of children 30(65%) stated that they never complain about the meals offered, while 16(35%) indicated that they complained.

The following are the reasons put forward by the children as to why they do not complain if they are not satisfied about the food offered to them:

- There is no use to complain because nothing will change.
- The staff members are not willing to help them.
- They are scared because, if they complain that will be used against them.

Table 10: views about missing home

Do you miss home?	Frequency	Percentage
Yes	46	92
No	4	8
Total	50	100

Table 10 above shows the respondents' views about missing their families. A large proportion of respondents 46(92%) revealed that they miss their families. Only 4(8%) said they do not miss their families.

The following are some of the reasons put forward by children:

- Parents neglected them and abandoned them.
- They never stayed with them before imprisonment.

Table 11: Views about whether children are visited

Are you visited?	Frequency	Percentage
Yes	30	60
No	20	40
Total	50	100

Table 11 above shows whether their family members as well as other people from the communities visit children. Total of 30 (60%) respondents stated that their family members visit them, while 20 (40%) indicated that their family members do not visit them.

Children gave the following as the reasons why they are not visited like other children: parents are working most of the time, they do not have money, they are far from their homes and parents are still angry with them. The family is seen to be so important in the lives of prison inmates and visiting inmates is aimed at showing them that the family and the society has not deserted them, and that people still cares for them. ¹⁶²Families are allowed to visit, but the many children reported that their parents do not visit them. Several children admitted that perhaps their parents do not want them back at all, since they do not visit them.

Table 12 above is about children's views about how other inmates treat them. Majority of respondents 32(64%) reported shows that other inmates are treating them well, while about 18(38%) stated that the other inmates are not treating them well.

¹⁶² (Mtshali, 1999: 100).

Table 12: Views on how other inmates treat them

Treatment	Frequency	Percentage
Good	32	64
Bad	18	38
Total	50	100

Table 13 Treatments of inmates by age groups

Treatment	Age group of respondents			Total
	10-15	16-20	21-25	
Good	5	36	3	32
Bad	14	3	1	18
Total	9	39	4	50

Table 13 above is the illustration of the treatment of other inmates by their age- groups. From the table, majority of children who are not treated well by their fellow inmates are those in the age-group 10-15, out of 18 those who stated that they are not treated well; 14 are between the ages 10-15; 3 are between ages 16-20; while there 21-25 is only one person.

Table 14: Views of respondents on their relationship with the staff.

Relationship	Frequency	Percentage
Good	19	38
Bad	31	62
Total	50	100

Table 14 is about the relationship of the children with prison staff. A total of 19 (38%) stated that their relationship with the staff in prison is good. About 31 (62%) stated that their relationship with the staff is bad. The following reasons were put forward for the negative relationship. They call them by their offence, use abusive language, they sometimes slap them for minor reasons, they do not give them time to play and they overwork them. Sutherland (1947) states that the prison officers frequently have an attitude of retaliation towards the prisoners. This is because the prison officers often reflect the attitude of the general public towards offenders or towards certain types of offences. The general law of society is: "if the person breaks a rule, punish him." The attitude of the prison officers is therefore due to a tradition carried into the institution from outside.¹⁶³ It is possible by proper training to modify this attitude.

Table 15: relationship between staff and inmates by gender

	Relationship by gender of respondents		
Relationship	Male	Female	Total
Good	17	2	19
Bad	23	8	31
Total	40	10	50

Table 15 above is about the relationship between the children and the staff members. 17(89%) of those who stated that their relationship with the prison staff members is good are male young offenders, while only 2(11%) are females. 23 (74%) of those who said the

¹⁶³ Coded by (Mtshali ,1999: 120).

relations is bad are males, while 8(26%) are females. Furthermore, only 2 females stated that their relationship with staff is good. From the above table, even though the respondents from all sexes stated that their relationship with the staff is not good, majority of the girls show that they do not have good relations with the staff. This is supported Stojkovic and Farkas who state that their research indicated that the pressures and stresses of correctional work might be felt more by female correctional officers. They experience gender-based form of stress not experienced by their male counterparts. The female officers are confronted by sex discrimination, as well as lack of intervention and support by supervisors. Male co-workers are a strong source of opposition, along with male supervisors; therefore women have to work hard in order to prove that they are able to perform the job on equal basis with men. This creates stress among female correctional officers; therefore, they often release it to the subordinate, who in this case are inmates.¹⁶⁴

Table 16: Are the recreational facilities satisfactory?

How are recreational facilities?	Frequency	Percentage
Not satisfactory	33	66
Satisfactory	17	34
Total	50	100

Table 16 above shows the respondents' views about recreational facilities. From the table it shows that majority of respondents 33 (66%) are not satisfied with the available facilities in prisons, while only 17(34%) stated that they are satisfied.

¹⁶⁴ (Stojkovic and Farkas, 2003:69)

Table 17: About recreational activities by gender

	Gender of respondents		Total
	Male	Female	
Satisfactory			
Yes	15	2	17(34%)
No	25	8	33(66%)
Total	40	10	50(100%)

Table 17 above illustrates gender and satisfaction of respondents about recreational activities in prison. From the table only 15 boys out of 40 agreed that they are satisfied, while 25 are dissatisfied. Furthermore, only 2 out of 10 females stated that they are satisfied, while 8 indicated that they are not satisfied.

4.2.1 Response regarding participation in recreational activities:

All the respondents stated that it is important for them to participate in recreational activities. The following are the reasons put forward by respondents on participating in recreational activities:

They keep them busy

They make them forget about their problems while in prison

They increase their physical strength and keep them healthy.

Table 18: response on attending vocational training

Yes	35	70
No	15	30
Total	50	100

Table 18 above represents respondents' views on attending vocational training. With regards to training, majority 35(70%) of respondents indicated that they undergo some training in prisons, for instance they do carpentry, dressmaking, poultry and gardening.

Table 19: Views on whether the skills acquired will be of help in future

Will it help?	Frequency	Percentage
Yes	30	60
No	20	40
Total	50	100

Table 19 above is about the views of respondents on whether the skills acquired will help them after being released. From the table above, majority of respondents 30 (60%) are of the view that the skills acquired while in prison will help them when released. While about 20(40%) argued that it will not help them. The following are some of the reasons mentioned by those with the view that it will help them:

This will help in future because they will have chances of getting jobs, as they will have some skills. It could also help them to earn a living through self-employment.

Table 20: Response about the use of corporal punishment

Yes	14	28
No	36	72
Total	50	100

Table 20 above is about the respondents' views towards the use of corporal punishment. Quite few respondents 14(28%) argue that they are exposed to corporal punishment, while majority 36(72%) reported that they never received any corporal punishment. Although corporal punishment is not used often on children, it is still in use. Lesotho prison proclamation allows the use of corporal punishment.

Table 21: Response about the use of corporal punishment by gender

Corporal punishment	Male	Female	Total
Yes	7	7	14
No	33	3	36
Total	40	10	50

Table 21 above is about the response concerning the use of corporal punishment. Majority of respondents who stated that they received corporal punishment are girls. That is 7(70%) of girls stated that they received corporal punishment, while 3(30%) stated that they never received the punishment. Only 7 boys stated that they received corporal punishment, while majority (33) stated that they never receive any corporal punishment.

4.2.2 Views of respondents from group discussions

Another set of information was collected through the use of group discussions. About 5 group discussions were conducted. The discussion groups were made up of children of different age groups and genders. Each discussion group was made up of 8 to 10 people. For females, all the girls were considered, while for boys, young were put into their groups and older on their own. This was to allow freedom of communication during the discussions.

The following were the topics that led the discussions:

Do the children have problems in prison?

What are the problems experienced by children?

Are there other ways of dealing with the problems?

What are the effects of being imprisoned?

4.2.3 Problems experienced by children in Lesotho prisons

All the interviewed children agreed that they experience problems while serving their sentences. The following are some of the problems:

The food offered to them is not nutritious, majority of children also stated that it is monotonous; they eat one type of food over and over. They mainly eat soft porridge in the morning, and hard porridge with peas for lunch and supper. Children showed that they bathe with cold water throughout the year, which affects their health especially in winter as majority of them experience swollen and sore feet. "I prefer not to wash in winter as I can not stand cold water." This contravenes the Standard International Rules,

Article 13 which reads as follows: adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath, shower at the temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate. This concurs with the findings of the Molise Commission (2003) that stated that in Lesotho prisons there is no hot water for shower or washing, therefore, the prisoners are compelled to wash with cold water in both summer and winter.

Children also reported that they experienced some form of illnesses; they often suffer from heartburns, allergies, flu and common cold in winter. They reported that they are not attended to immediately when they are ill, regardless of whether they reported or not. “ We are attended to when the matter is getting worse, if one complains today, the matter will be attended to after a week.” These concur with the findings of the Molise Commission, which showed that there are no medical facilities or medicines in prisons. If a prisoner falls sick he will be examined when the doctor visits the prison and, be referred to Queen Elizabeth II Hospital, which is the nearby hospital. Furthermore, there are no trained nurses or paramedics in Lesotho prisons, including JTC and Maseru Female Prison.¹⁶⁵ Moreover, the overcrowding and poor food worsens the spread of diseases for instance HIV/AIDS and Tuberculosis.

Furthermore, children showed that they are staying in the dirty surrounding; the toilets are not in good conditions. They are often blocked and smelling. This corresponds with the findings of Molise Commission, which showed that some prison drains are blocked

¹⁶⁵ (Molise Commission, 2003:15).

and this is inhygienic and causes unpleasant smell. Another problem the children mentioned is the issue of clothes. They stated that their clothes are old and ragged. Some do not fit them properly; they are either tight or too big. In addition, some of them do not have shoes; they walk bare-footed. They indicated that the matter becomes worse in winter as it is very cold. Majority of the ladies indicated that they do not have under wears; furthermore they showed that sanitary pads are a problem, they are not enough and are of low quality.¹⁶⁶

All the children reported that on their admission to JTC, they were told that they would be allowed to play on specified days like Wednesdays and Saturdays; however, they are not allowed in most cases. Instead, they are overworked in gardens. Girls showed that they are not treated like boys. They mentioned that boys have better playing facilities than them, boys have balls to play with, and in most cases if not all, JTC receives playing materials while the girls are often forgotten. One of the girls stated that: “ We are treated like adults not children, boys are given more privileges.” Some children complained about abuse especially the younger inmates. Younger inmates reported that the older boys often abuse them physically and in some cases sexually. They reported that this is more common when one is new in the institution; they often state that they are initiating them to be tougher.

Girls complained that the staff members are not treating them well. They often insult them, they call them by their criminal offences, “ This is painful and with this attitude it would not be easy to be rehabilitated but rather it develops the feeling of hatred and

¹⁶⁶ (Molise Commission, 2003:14).

bitterness.” Children also complained about the training offered to them. They mentioned that they are not given a choice to select the one, which suits their own interests. Majority of boys indicated that they like carpentry, but quite a few of them argued that they are denied that opportunity; only few are given that chance. One boy reported that: “ I wanted to do carpentry, but I was not allowed, instead I am placed in the kitchen, I do not think I am gaining anything in cooking as I will never cook when released.”

Therefore, it is a waste of time to train people to do some things they do not have interest in. Majority of the children agreed that they often miss home. Others complained about not having visitors, as their parents are staying far, and do not have money for transport. A few mentioned that they stayed long in prison, for instance, some stayed for more than nine months before being convicted. In addition, children showed that adults who commit similar offences with them are often given shorter sentences, while children are sentenced to three years. These contravene international law, which clearly stipulates that imprisonment should be a measure of last resort and be for the shortest time possible.

4.2.4 Effect of imprisonment on children

Children stated that imprisonment would have negative effect on them. Firstly, they stated that they miss opportunity to continue with their studies, therefore, their future is at risk. Furthermore, they maintained that because of the stigma they have of being ex-prisoners, their chances of being admitted in schools are little. Besides, studying, their chances of being employed are also ruined due to the fact that they have criminal records; no one would be willing to employ anyone who has a criminal record.

Others stated that their imprisonment would have an unpleasant effect on the relationship with their family members, friends as well as the community at large. Imprisonment has an effect on self and it also harms the social relationship of people who are labelled criminals. Even if the self-concept does not change, a person might experience difficulty in relationship with parents, relatives, friends, teachers and potential employers if those people react negatively to the label of delinquent or criminal. Labelling might close legitimate opportunities or harm social relationships.¹⁶⁷

4.2.5 Recommendations suggested by children

The following are the recommendations children provided with regard to problems they experience while serving their sentences in prison:

- They suggested that diet has to be improved, they have to be served balanced diet. They should be provided with hot water for washing.
- Children recommended that they should be supplied with uniform, which is in good conditions.
- They agreed that it is necessary to classify inmates according to their age in order to prevent maltreatment of the younger inmates by the older ones.
- They recommended in all the districts of Lesotho prisons that will accommodate children, must be introduced so that the children can be nearer to their families in order to avoid boredom and reduce overcrowding.

¹⁶⁷ (Conklin, 2001:300).

- Training facilities should be improved and more skill training must be introduced in order to serve the interests of all the children.
- Furthermore, they suggested that more recreational facilities must be introduced.
- They also stated that staff members should treat them like human beings.
- They also recommended that there should be a clinic or a nurse placed in prison so that if the inmates are sick, they can be attended immediately before the condition becomes worse.
- There should be improvements on the clothing of the inmates.

4.3 Profile of the staff

As it has been mentioned in the chapter on methodology, interviews and questionnaires were used to collect data. The interviews were administered to the juveniles while the questionnaires were distributed to the rehabilitation staff members to be filled in. Therefore, in the next section, an analysis of the data gathered through the questionnaires from the 10 staff members will be discussed and be interpreted through the use of frequency and percentage.

Table 22: Age group of the staff members

Age group	Frequency	Percentage
20-27	2	20
28-35	6	60
36-43	2	20
Total	10	100

Table 22 represents the age groups of staff members. According to the findings in the table above, most correctional officers in rehabilitation section fall between ages 28-35. Table above indicates that 6 (60%) of them fall between ages 28-35 and 2(20%) are between 20-27 and another 2 (20%) falls between ages 36-40. This shows that majority of the staff members in the rehabilitation section are relatively young; therefore one would expect that interaction and communication with the young offenders would be much easier. Age plays a vital role in that it allows for communication to develop between the juvenile and prison staff. This is supported by the high levels of response given by juveniles regarding a positive relationship between the juveniles and the staff.¹⁶⁸ However this is not in accord with the study as most juveniles revealed that they have negative relationship with the prison staff.

The table below shows the gender of the staff members 3(30%) is male and 7(70%) are females. From the table it shows that majority of them are females.

Table 23: Gender of Staff members

Gender	Frequency	Percentage
Male	3	30
Female	7	70
Total	10	100

¹⁶⁸ (Mtshali, 1999:122).

Table 24: Educational level of the staff members

Educational	Frequency	Percentage
Secondary	2	20
High school	5	50
Tertiary education	3	30
Total	10	100

Table 24 above illustrates the educational levels of staff members. According to the findings in the table above 2(20%) have secondary education (Junior certificate), 5(50%) had attended high school (Cambridge overseas certificate). Those who have tertiary education have degrees in sociology.

Table 25: Occupation of staff

Occupation	Frequency	Percentage
Prison officer	8	80
Senior rehabilitator	2	20
Total	10	100

The table shows the occupation of respondents. From the table above, majority of respondents are prison officers, which made up 8(80%) of the total interviewed staff members 2(20%) are senior rehabilitators. This is due to the fact that most rehabilitation officers entered the Lesotho Prison Service in 1990. Before that they were quite few.

Table 26: Years of service of the staff members

Years of service	Frequency	Percentage
1-5	6	60
6-10	3	30
11⁺	1	10
Total	10	100

Table 26 above is about years of services of staff members. Majority of them have been working for the period between 1-5 years. From the table 6(60%) worked for the period between 1-5, 3(30%) have service between 6-10; 1(10%) has service of 11 years and more.

Table 27: Views about their skills and experience

Are they enough	Frequency	Percentage
Yes	-	-
No	10	100
Total	10	100

Table 27 shows the responses about whether the prison staff has enough skills and experiences. They agreed that the skills they have are not sufficient to do the work. All the staff members argued that they lack skills especially in counselling. Majority of correctional officers, especially in the rehabilitation section, do not have skills and training needed to perform their functions successfully. Most of them acquired the skills on the job, too often through trial and error. This method of on the job training is dangerous because the restless and abnormal behaviour of prisoners must be handed with

care and proficiency, not trial and error. Professional incompetence also makes it hard to put constructive programming into effect.¹⁶⁹

Table 28: About meals offered to inmates

Meal offered	Frequency	Percentage
Good	3	30
Bad	7	70
Total	10	100

The table 28 represents the views of staff members about the meals served to children in prisons. About 3(30%) agreed that the meals are good, while about 7(70%) showed that they are bad. Their views were identical to those presented by children in regard to the food, because majority of them stated that the food provided is not healthy.

4.3.1 Views of staff about seeing a doctor

All the interviewed prison staff argued that children are given the opportunity to see the doctor if they are ill.

4.3.2 Views of the staff concerning the causes of criminal offences among children

The interviewed staff presented a number of factors that influenced children to commit offences. The following are some of them:

Peer pressure: children may steal just for the sake of getting recognition from their peers.

Poverty in the family may also lead children to commit offences.

4.3.3 Views of staff regarding overcrowding in prison

All of the interviewed staff members reported that the prisons are overcrowded. Due to overcrowding, some children have to sleep on the floor. Overcrowding also has an effect on their work; it puts more pressure on their work, it makes classification difficult, thereby resulting in inability to manage the work. As a result, there may be frequent escapes of the inmates.

Table 29: Views of staff regarding their relationship with inmates

How is the relationship	Frequency	Percentage
Good	8	80
Not good	2	20
Total	10	100

Table 29 above is about the views of staff regarding their relationship with children. According to Stojkovic and Farkas, attitude towards inmates vary among the correctional officers.¹⁷⁰ About 8(80%) of them stated that they have good relationship with the children. While about 2(20%) indicated that the relationship between them and children are not good. They added that children do not respect them. Those who stated that the relationship between them and children is not good are all aged between 20 and 27 years have been in the service for less than 5 years. Stojkovic and Farkas state that majority of studies have shown that the age of the officer makes a difference in the way he/she will interact with inmates. The older the correctional officers generally have a more

¹⁷⁰ (Stojkovic and Farkas, 2003: 65).

favourable orientation towards inmates and are less punitive. More experienced officers have more positive attitude towards inmates and are more rehabilitative in their outlook. Officers with high role conflict have a more punitive attitude towards inmates.

The role conflict is a result of ambiguous definitions that do not clarify which specific institutional goals workers should emphasise in the performance. The officers who indicated that they do not have good relationship with children stated that the inmates do not respect them. The fact that they are not happy that they are in prison makes them cheeky. In support, Stojkovic and Farkas showed that even while officers try to help inmates and maintain good rapport or good working relationships with them, they must be alert to the possibility of being manipulated or taken advantage of by inmates. This is a population of human beings that are held against their will, and as such they may be expected to be resistive to correctional staff.¹⁷¹

4.3.4 Views of the staff regarding homosexuality

Regarding homosexual practices in prison all the staff members reported that homosexuality occurs in prisons, although it is not easy to state clearly as to what extent it occurs. They stated that it is not easy to control or to prevent it, because victims are not so free to report it.

¹⁷¹ (Stojkovic and Farkas, 2003: 66).

4.3.5 Views of the staff regarding visiting

All the staff members stated that visiting is important to the inmates as it makes them believe that they are still wanted by the outside world. Therefore, it makes re-integration into the society easier. It also reduces boredom as well as escapes among the inmates.

4.3.6 Views of staff regarding vocational training

The staff members stated that there are skills training offered in prisons for children. However, they are few; therefore, they cannot accommodate all the children. Furthermore, the facilities to run such training are not adequate.

4.3.7 Views of staff regarding the recreational facilities for children

All staff members agreed that there are few recreational activities for children; they stated that the main sport for boys is soccer, while girls play netball. In addition, the balls they use are no longer in good conditions. Lack of facilities in prisons does not allow children to use up their energies in a constructive way. This may account for boredom and the tendency to escape.

4.3.8 Views of the staff members regarding the quantity and the quality of staff in the prisons

There is shortage of staff in the rehabilitation section, especially the qualified social workers; due to this problem, sociologists are employed. Furthermore, quite few staff members in rehabilitation had opportunities to attend in service-training. In service-training is considered to be a necessity in service- oriented occupation like rehabilitation.

However this should not apply only to rehabilitation staff only, but also to all other workers in prisons. In service training will help them to handle problems that confront children while in prison because children frequently have severe problems that is socially and personally. Often unqualified staff multiple these problems.

From the data it has been revealed that none of the rehabilitation staff had had any training that would enable them handle problems of children in prison. Majority of them (70%) indicated that there is staff shortage in all the prisons, and rehabilitation is seriously affected, while only about 30% stated that there is sufficient staff in prison. Judging from the high response rate of the staff, it shows that there is shortage of staff in JTC and Female Prison.

4.3.9 Recommendations made by staff members

The interviewed staff stated that not enough is done for children in prison; the government does not show interest in the plight of the children in prison. Some of the recommendations made by officers are homogenous to those suggested by children. The following are the recommendations made by staff with regard to how the problems experienced by children in Lesotho prisons can be addressed:

They agreed that there should be an improvement in food served to children; that is, the government should increase the budget for the prisons so that children must be served balanced meal daily, and be able to buy uniform for children. The government must also increase the budget so that the recreational facilities for children should be improved.

This will reduce boredom and escapes in prisons. They also suggested that there should be more skill training introduced in prisons. This can only be released if the government allocates budget for that. Buildings in prisons must be renovated and more dormitories should be added.

Staff members recommended that additional social workers must be hired so that the workload should be reduced. This will give them time to be able to address children 's problems more efficiently. They also recommended that regular in service training for the staff members dealing with children should be considered as a requirement. In service training can be in the form of courses with outside bodies on the issues relating to their work.

Besides, they also suggested that offenders should be classified depending on the nature of their criminal offences, so as to avoid abuse both physically and sexually. Furthermore, it could prevent contamination; the younger and less dangerous would not be able to learn new tricks from the habitual criminals. The staff members highly recommended that non-custodial measures must be used for children who committed petty offence. This will alleviate overpopulation as well as problems experienced by children in Lesotho prisons.

4.4 Summary of data analysis

This chapter has dealt with data analysis and interpretation. Descriptive type of data was used. Frequency tables were used to describe the data. Both individual responses to

individual items and overall attitude analysis were used. The analyses were mainly on the data collected from staff members as well as children.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In this final chapter, the findings, the conclusions that are drawn and also suggested recommendations in attempt to address the problems faced by children in prison are provided. The present study has been an attempt to find out the problems experienced by children in Lesotho prisons, specifically JTC and Maseru Female Prison. The study concentrated on the following aspects: problems encountered by children in Lesotho prisons, causes of the problems experienced by children, effects of imprisonment on children as well as possible solutions to the problems encountered by children.

The findings indicated that children in Lesotho prisons experience a number of problems, which put their welfare at stake. Having established that children encounter problems in prisons, a combination of factors seem to be responsible for the problems experienced by children in Lesotho prisons, and it is hoped that the findings and recommendations would result in some improvement in the way the prisons are run in Lesotho, especially those meant to accommodate young offenders. The methodology that directed the present study has been discussed. The various procedures and techniques that were utilised in the gathering of data and presentation of the data are described. The main methods of data collection include focus groups, interviews and questionnaires. Findings in this chapter are derived from the juveniles and the rehabilitation staff. The data used in this chapter

was collected from 50 juveniles and 10 staff members. Because of the large amount of information that was gathered about problems experienced by children in Lesotho prisons, it is necessary to deal with general findings and conclusions under separate headings.

5.2 General findings and conclusions

5.2.1 Personal details of the respondents.

The findings relating to offenders regarding age group, gender, educational qualification, occupation, offence(s) of respondents were considered important to this study because it gives the reader the picture of the respondents' personal data. The findings in respect of the age group of respondents show that majority of respondents are between the age 16 and 20. They make out 78% of the total study population. The findings pertaining to the age of the offenders allowed the researcher to conclude that majority of children in Lesotho prisons are relatively young. The data relating to gender of respondents indicated that majority of respondents are males. A variety of factors may be responsible for this, one of which may have been that females are likely to be offered beneficial plea bargain. Miller and Gaines show that several self –reported studies have shown that judges may treat female defendants more gently than males.¹⁷²

The present study found that the majority of respondents have low level of education, as a result, those who stated that they were working before imprisonment. Indicated that they

¹⁷² (Miller and Gaines, 2003: 392).

were in low status occupation like herding animals and working as domestic workers. The data relating to the criminal offences of the children indicated that the criminal offences committed by majority of them are directly related to low socio-economic status, as many committed crimes of theft, house-breaking and robbery. Furthermore, majority of children have never been convicted before, about 33(66%) have previous convictions, while 12(24%) have been convicted once, and 5(10%) have been convicted more than once. From the findings, it can be concluded that children in Lesotho prisons are in prisons for the first time.

5.2.2 Factors that influenced children to commit the crime

Children in Lesotho were stimulated by different factors to commit crimes. Some have committed crimes due to poverty in the family; peer group pressure is another factor, which stimulated children to commit offences. In addition, the parents or elder members of the family who are also engaged in crime encourage some children to commit offences. From the findings it has been observed that majority of children committed criminal offences due to poverty in the family.

5.2.3 Problems faced by children in prisons

The findings of the study revealed that children in Lesotho prisons experience some problems. The following are some of them food served to children is not of nutritional worth, and majority of the children are not satisfied with the food offered. Quite few have

stated that the meals are good, while majority of them argued that the meals are not satisfactory at all. Furthermore, the staff members are of the same view with the children. With regard to the food offered in prison. They agreed that it is not nutritious. Even though children stated that food offered is not satisfactory, majority indicated that they never complained due to the fact that they are scared that they will be punished. They also showed that it is useless to complain because there will be no improvement. Moreover, majority are not satisfied with the clothes offered to them by the prison. They are often old, tattered and tight. Furthermore, most girls showed that they do not have enough under-wears. Sanitary pads are also not enough and are of poor quality.

On the issue of accommodation, it has been found that cell beds in JTC cannot accommodate all the children. Due to this, majority of the children are forced to sleep on the floor. However, this is not the case in the Maseru Female Prison where, all the girls have enough beds. This is due to the low population in female prisons. The findings further reveal that although most families visit in prison, majority of them stated that they do miss them, except for the few who indicated that they do not.

In the study, it was stated that majority of the children are treated well by their fellow inmates, except for the few who mentioned that they are not treated well by the other inmates. Majority of those who stated that they are not treated well are those below the age of 16. In addition, children indicated that their relationship with the staff is not so good. About 31(62%) of them reported that the relationship between them and the staff is

not good, while 19(38%) argued that the relationship between them is good. Majority of the girls indicated that the relationship between them and the staff is not good.

On the issue of abuse of children in prisons, the findings in the study show that children experience some forms of abuse in prisons. For instance, others sexually molest them, they are abused verbally by some of the staff members and they are emotionally abused by the situation in prison. Children also lack facilities for recreation, and the resources for skill training are lacking. In addition, friends and families do not visit them.

5.2.4 Causes of the problems in Lesotho prisons

The following general conclusions were made with regard to these aspects. From the data, it was found that one of the problems experienced by children in Lesotho prisons is caused by the shortage of staff. The shortage of staff in prisons particularly the social workers is a serious problem in the sense that the rehabilitation of offenders cannot be properly done. In Lesotho there is a shortage of qualified staff prisons. Due to inability of the department to get social workers, sociologists were hired. In addition, some of the prison warders have to be posted to the rehabilitation section.¹⁷³

Furthermore, the findings of the study revealed that prisons in Lesotho are overcrowded; therefore, they cannot accommodate all the inmates' population. JTC is not overcrowded in terms of capacity percentage, it is found that the beds are not enough to accommodate all children; as a result, some children have to sleep on the floor. Moreover, the findings

¹⁷³ (Mokoteli, 2002:36).

of the study revealed that the physical conditions of prisons are not up to standard, that is, the buildings are old, for instance, JTC was built in 1970 therefore, it must be upgraded.

5.3 Recommendations

The present study has thrown much light on the situation in JTC and Female Prison. It found that children in Lesotho prisons are frequently faced with problems. After careful analysis of the data, a number of recommendations are made which will help in alleviating the problems encountered by children in Lesotho prisons. Based on the findings in the present chapter, the following recommendations were made in an effort to improve the conditions under which the children are living:

5.3.1 Appointment of more staff in rehabilitation

Social workers, trained in children's rights should be assigned to juvenile detention centres to work with children. Staff members need to be trained on children's rights including awareness of international rules, conventions specifically addressing issues affecting children.

The social workers who are trained in this particular sphere and who have opportunity and responsibility of using their professional skills to help at detention centres and referrals, are better equipped to handle problems related to juveniles better than prison officer. More social workers need to be employed so that they can easily deal with the

juveniles in rehabilitating them. More empowering programmes should be provided and the existing ones should be strengthened to ensure that juveniles are equipped with necessary skills. They should take the form of academic, technical and life skills. In view of the above, it was further concluded that those who are already in the service need further training, especially on the rights of children.

Furthermore, there is also a need for further training of personnel in the children 's court, especially on the issues relating to children's rights, that is, the best interests of the child should be fundamental when dealing with children in conflict with the law. Although there are several welfare dispositions in the children's court, they are not often made use of. A magistrate is not obliged to request a probation officer to furnish a report (pre sentence report). He therefore makes a decision without taking into consideration the child's background and circumstances that may have led him into trouble in the first place. Added to this is the fact that magistrate's background and training is purely legal and is based on rules of evidence and procedure. The human element is often omitted in the process of establishing concrete evidence and guilt.

5.3.2 Welfare of children in prison

According to international law, placement of children in institution is supposed to be temporary, but in Lesotho children stay up to three years in these institutions. And there is no separation of convicted and children on trial. They are all kept in JTC and Maseru Female Prison. JTC does not fit the profile of a place of safety or reformatory school in the researcher's opinion. Instead, it is more of a prison than a rehabilitation centre for

young offenders. Furthermore, JTC is situated in Maseru only. In the other nine districts of Lesotho, children end up being in prison with adults while they are on trial because there are no separate facilities to accommodate them. This also becomes a problem to children who are from other districts to be visited by their family members because of the distance and transportation. Therefore, there should be other branches of JTC in the other districts in order to cater for these categories of children. This will alleviate loneliness and escapes among children, as they will be visited more often.

Overcrowding must be alleviated and cleanliness of the cell must be maintained in accordance with basic standards of hygiene. Adequate blankets, sheets and clothing must be issued to children. Effort must be made to ensure that meals served are of nutritional value. There should be greater involvement of children in sports, arts, regular exercise and also greater involvement of the outside community through recreational programmes. With regard to food, children should be served nutritional food daily to maintain the good health of children.

In order to facilitate meaningful skill and educational development, the educational training programmes offered to young offenders must be constructed in such a way that it takes into consideration the needs of children, both in the short and long run. With regard to recreational facilities, efforts should be made to improve them for children in order to reduce boredom and to enhance their physical development.

5.3.3 legislation

Many gaps and limitation in legislations have been found at JTC and Maseru Female Prison that at times ignore or deliberately contravene international law on the issues concerning children in conflict with the law. For instance, international law is against the institutionalisation of children, as it is stated that it should be used as a measure of last resort. But looking at the offences committed by children in Lesotho, other measures could have been used to deal with children as majority of them have committed criminal offences that could be tolerable to the community. In addition, international law clearly stipulates that children should not be punished by imprisonment but rather be rehabilitated, however, this is not the case in Lesotho prisons, and children are in a difficult situation that hinders their reintegration into the community after being released.

It is in this regard that the procedures that will safeguard the welfare of young offenders in prisons have to be formulated and implemented. An area of legislation that should be seriously revisited is the Prison Proclamation, which allows the corporal punishment, as it contravenes with the international law that prohibits the use of corporal punishment. The Criminal Procedure and Evidence has certain provisions that safeguard the child, there are nevertheless several excuses, which in fact leave the children unprotected. For instance, it provides that: a child can be released into his parents' custody pending a court appearance ¹⁷⁴The tendency however, is to detain in police cells or prison, where they often stay for longer periods and in the process encounter problems that could have been avoided.

¹⁷⁴ (section 306[2].

Moreover, even though the Children Protection Act specifically addresses the issues relating to children in Lesotho, is silent on the alternatives that can be used, in cases that would be seen as less serious, as article 40(3)(b) of the United Nations Convention on the rights of the child recommended, therefore it also needs to be amended. ¹⁷⁵

5.3.4 Alternatives to imprisonment

Institutionalisation of children seems to be more expensive than the cost of dealing with children in conflict with the law outside the institution. The findings of the study revealed that most prisons in Lesotho are overcrowded and lack facilities needed for the rehabilitation of inmates. To reduce overcrowding in Lesotho prisons, there are several alternatives that could be used. The following are some of the alternatives that can be used: diversion, compensation and restitution.

5.3.4.1 Diversion

Diversion is the process of removing low risk offenders from the formal juvenile justice system by placing them in community based rehabilitation programmes. With the diversion workers, the offenders begin by accepting that they did commit the offence(s) and take responsibility for their action in question, and then plan what can be done in response. ¹⁷⁶ Diversion can be used for children in conflict with the law in Lesotho

¹⁷⁵ Article 40(3)(b) of CRC.

¹⁷⁶ (Gaines and Miller, 2003: 514).

because most criminal offences fall into the category of petty crime and it is practically impossible, as well as unnecessary, to imprison every offender for every offence. Diverting criminals to alternative modes of punishment ensures that only the most dangerous criminals consume scarce incarceration resources.¹⁷⁷

Diversion has quite a number of advantages like avoiding the stigma often associated with the criminal justice system. Stigmatisation can intensify a deviant self-image and lead to further acts of deviance therefore, diversion prevents such behaviour. Diversion can also avoid contamination in that it prevents immature and early offenders from meeting more experienced offenders. It is felt that, for those who are first time offenders, the criminal justice system is too heavy and it should be the last resort. Furthermore, proponents of diversion believe that contact with the formal juvenile justice system 'labels' the youth a delinquent, which lead to further delinquent. Although Diversion programs vary, it can be categorised into the following three general categories: probation, treatment and aid and restitution.

5.3.4.2 Probation

In this programme the juvenile is returned to the community but placed under supervision of a juvenile probation officer. If the youth breaks the conditions of probation, he or she is returned to formal juvenile justice system.¹⁷⁸

¹⁷⁷ (Inciardi, 2003: 403).

¹⁷⁸ (Gaines and Miller, 2003: 517).

5.3.4.3 Restitution

In these programs offenders repay or compensate the victim his/her victim either directly or in the case of community service. Compensation is the action taken by the state to restore some or all the lost made by a crime victim. It benefits both the offender and the victim, in a sense that the victim can be compensated, while the offender is keep away from going to prison. In community service the child is assessed for suitability by social workers at the reception and assessment centre and given an appropriate placement.¹⁷⁹ Community service could alleviate overcrowding in prisons and also eliminates detrimental effects that imprisonment may have on certain offenders. Community service keeps the offender in the community and combines the punitive and rehabilitative aspects of a sentence.¹⁸⁰

5.3.4.4 Treatment and aid

Many juveniles have behavioural or medical conditions that contribute to their delinquent behaviour and many diversion programs after remedial education, drug and alcohol treatment, and other form of counselling to alleviate these problems. Juvenile school, family youth council, victim offender mediation and the journey fall under Treatment and aid.

¹⁷⁹ (Skelton, 1993:86).

¹⁸⁰ (Mtshali, 1999: 38).

Juvenile school is particularly favoured for the young offenders, in the courses offering counselling, street law education and life skill training. Victim offender mediation is an alternative dispute resolution method of dealing with offenders, and makes offenders face up the responsibility for their own actions in a very direct way. A family youth council consists of representative of the extended 'family', the juvenile, a social worker, a police officer, a community representative or teacher or an interested NGO representative will be overseen by a youth justice officer. The aim is to find alternatives to prosecution in dealing with the offender who admits guilt, and these alternatives could include any of the above. The attractive aspects of the family youth court are its involvement with the family and community, as well as the victim. This is a satisfying way of dealing with wrongdoers, as people will feel involved. Possible disadvantages are that it might be uncontrollable and difficult to arrange. ¹⁸¹

5.3.4.5 Parole

Parole is another way of alleviating overpopulation in prison. This is the conditional release of inmates from prison after serving half of the sentence. The basic function of parole is to facilitate the transition from the rigid, rigorous and artificial setting of prison to life in the community ¹⁸²

¹⁸¹ Report on International Seminar On Children in Trouble with the Law (1993:87).

¹⁸² (Gaines and Miller, 2003:517).

5.4 Conclusion

As it has been revealed in this study, imprisonment has negative effects on children. Overcrowding and inadequate staff exacerbates these problems. It is hoped that the understanding of this study will deepen the concern and awareness of others, especially the government. It appears from the findings that one of the major obstacles in the smooth and effective running of the prison in Lesotho, is that the government does not provide the prisons with adequate budget, therefore, it becomes difficult for them to achieve its goals. Looking at the problems faced by children in Lesotho prisons, it is felt that it is necessary to seek for alternative non-custodial punitive measures; institutionalisation should be for serious and habitual offenders. In addition, the three years sentence must be revisited; each juvenile's circumstances must be a determining factor when it comes to sentencing.

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Interview schedule for juveniles

(A) DEMOGRAPHIC INFORMATION

1 AGE GROUP 10-15

16-20

21-24

OTHER (SPECIFY)

2 GENDER MALE

FEMALE

3 LEVEL OF EDUCATION ILLITERATE

PRIMARY

SECONDARY

HIGH

OTHER (SPECIFY)

4 OCCUPATION (before imprisonment) STUDYING

WORKING

NEITHER STUDYING NOR

WORKING

(B) CRIMINAL RECORD

5 WHAT OFFENCE (S) HAVE YOU BEEN CONVICTED OF?-----

6 HOW LONG IS YOUR SENTENCE?-----

7DO YOU HAVE PREVIOUS CONVICTIONS? YES

NO

8 IF YES, NAME THEM-----

(C) CONDITIONS IN PRISON

9 HOW MANY MEALS OFFERED TO YOU DAILY? -----

10 IS THE MEAL OFFERED TO YOU 1GOOD

2BAD

3VERY BAD

**11 IF NOT GOOD DID YOU EVER COMPLAINED ABOUT IT? 1 YES
2 NO**

12 IF YES WHAT WAS THE RESPOND?-----

IF NO WHY YOU DID NOT COMPLAIN?-----

**13 DO YOU HAVE ACCESS TO MEDICAL FACILITIES? 1 YES
2 NO**

14 IF NO, ELABORATE-----

15 DO YOU EVER MISS YOUR FAMILY?-----

**16 DID THEY EVER VISIT YOU? 1YES
2NO**

17IF YES, HOW OFTEN? -----

IF NO, WHY?-----

18DESCRIBE HOW ARE OTHER INMATES TREATING YOU?-----

19 IF THEY ARE NOT TREATING YOU WELL, DID YOU REPORTED?

1 YES

2 NO

20 IF YES, WHAT WAS THE RESPOND?-----

21 IF NO, WHAT WAS THE REASON THAT YOU DID NOT REPORT?-----

22DESCRIBE YOUR RELATIONSHIP WITH THE STAFF-----

23 WHAT REGREATIONAL FACILITIES ARE AVAILABLE AT JTC?-----

24 DO THEY SATISFY YOU PERSONAL INTERESTS? 1 YES

2 NO

25 IF NO, WHAT CAN BE DONE IN ORDER TO IMPROVE THEM?-----

26DO YOU TAKE ANY PART IN SPORT? 1 YES

2 NO

27 IF YES, NAME THE SPORT YOU PARTICIPATE IN-----

28 IS IT IMPORTANT TO TAKE PART IN SPORT? 1 YES

2 NO

29 IF YES, DESCRIBE HOW IMPORTANT IT CAN BE?-----

30 DO YOU ATTEND ANY VOCATIONAL TRAINING IN PRISON? 1 YES

2 NO

31 DO YOU THINK IT WILL BE OF ANY HELP TO YOU IN FUTURE?

1 YES

2NO

32 IF YES, DESCRIBE -----

IF NO, ELLABORATE-----

**33 SINCE YOU HAVE BEEN ADMITTED IN JTC, DID YOU EVER
RECEIVE ANY PUNISHMENT? 1 YES**

2 NO

34 WHAT ARE THE MAIN PROBLEMS FACING CHILDREN IN JTC?-----

**35 GIVE YOUR RECOMMENDATIONS AS TO HOW THESE PROBLEMS
CAN BE DONE.-----**

QUESTIONNAIRE FOR PRISON STAFF

- 1 AGE GROUP** **1 20-27**
 2 28-35
 3 36-43
 4 44 AND ABOVE

- 2 GENDER** **1 MALE**
 2 FEMALE

- 3 EDUCATIONAL LEVEL** **1 PRIMARY**
 2 SECONDARY
 3 HIGH SCHOOL
 4 TERTIARY (SPECIFY)

4 OCCUPATION

5 HOW LONG HAVE YOU BEEN IN THE SERVICE?-----

6 DO YOU THINK THE SKILLS AND EXPERIENCE THAT YOU HAVE IS ENOUGH FOR THE WORK THAT YOU ARE DOING? 1 YES

2 NO

7 IF NO WHAT CAN BE DONE TO IMPROVE THE SITUATION?-----

8 IN A DAY HOW OFTEN DO THE JUVENILES RECEIVE THEIR MEALS?

1 ONCE

2 TWICE

3 THREE TIMES

9 DESCRIBE THE MEALS OFFERED TO THE INMATES 1 GOOD

2 BAD

3 NOT SO GOOD

10 IF NOT GOOD, DO THE INMATES EVER COMPLAIN ABOUT IT?

1 YES

2 NO

11 IF YES, WHAT WERE THE RESPONSES?-----

12 DO THE JUVENILES HAVE ACCESS TO MEDICAL FACILITIES?

1 YES

2 NO

13 HOW OFTEN THE MEDICAL OFFICER VISIT THE INMATES?-----

14 WHAT ARE THE MAJOR HEALTH PROBLEMS AMONG THE JUVENILES?-----

15 WHAT ARE THE COURSES OFFERED TO THE JUVENILES?-----

16 WHAT ARE CRITERIA USED IN THEIR APPOINTMENT?-----

17 ARE THE JUVENILES ALLOWED TO CHANGE IF THEY HAVE VALID REASONS TO DO SO? 1 YES

2 NO

18 IF NO, WHAT ARE THE REASONS?-----

19 DO YOU THINK THE SKILLS THEY OBTAIN WILL HELP THEM AFTER THEIR RELEASE? 1 YES

2 NO

20 ELABORATE-----

21 ARE THE FACILITIES AND TRAINING OFFERED ENOUGH? 1 YES

2 NO

22 IF NO, WHICH ONES SHOULD BE INCLUDED?-----

23 ARE JUVENILES ALLOWED TO HAVE VISITS?

1 YES

2 NO

24 DO MOST OF THEM RECEIVE VISITS FROM THE FAMILY MEMBERS?

1 YES

2 NO

25 IF NO, WHAT ARE THE REASONS?-----

26 DO YOU SEE ANY NEED FOR THE JUVENILES TO BE VISITED?

1 YES

2 NO

27 ARE THE RECREATIONAL FACILITIES ENOUGH FOR THE JUVENILES? 1 YES

2 NO

28 IF NOT, DID YOU EVER RAISED THE COMPLAIN ABOUT IT?

1YES

2 NO

29 IF YES, WHAT WERE THE RESPONSES?-----

30 IS CORPORAL PUNISHMENT STILL ADMINISTERED TO THE INMATES? 1 YES

2 NO

31 IS IT LAWFUL TO DO SO? 1YES

2 NO

32 ELABORATE-----

33 IN YOUR OPINION, WHAT DO YOU THINK ARE THE MAJOR PROBLEMS FACING CHILDREN IN JTC?-----

34 WHAT ARE YOUR RECOMMENDATIONS?-----
