

Management Response

Review of RWI's Kenya Programme 2012-2014

Background

In June 2014, RWI commissioned an independent expert review of its Kenya Programme to assess the operation of the Programme as a whole, and to provide a basis for decision-making on future best alternatives by looking at lessons learnt, before the Programme would come to an end in December 2014.

The RWI Kenya Programme, funded by Swedish Development Cooperation (Sida), was initially designed as a two-year programme, for the period 2012-2013, but on agreement with Sida it was extended for a third year of programme implementation. The main component and focus of the Programme during this period concerned creating sustainable capacity within the Kenya Prisons Service (KPS) to meet relevant international human rights standards, in particular the UN Standard Minimum Rules for the Treatment of Prisoners (SMR). The Programme also included a smaller component designed to contribute to enhanced human rights perspectives in efforts for a coordinated, effective and consultative approach in the administration of justice and reform of the justice system in Kenya through relevant multi-stakeholder initiatives.

The review of the Kenya Programme intended to serve the purpose of informing the dialogue between Sida, RWI and concerned partners on possible continued cooperation beyond 2014. The objectives of the review were to generate information on how effective and efficient the Programme has been in achieving results, as well as on the relevance and sustainability of results achieved, identifying, where possible, factors influencing positive results achievement in relation to these factors, and providing suggestions for future relevant, effective and efficient results achievement of sustainable nature as well as potential new areas of cooperation. The review was limited to assessing Programme operations between January 2012 and June 2014.

The review was carried out during August-September 2014 by a team comprising Anneke Osse (Team Leader), Glenn Ross and JME Simekha, together bringing a combination of justice sector, human rights, development evaluation and specific correctional experience, as well as strong Kenyan contextual experience. A final report from the Review was submitted to RWI in late September 2014 and was subsequently shared and discussed with Sida and Programme partners.

General comments on the review process, findings and recommendations

In RWI's opinion, the review was professionally conducted and in accordance with the requirements of the Terms of Reference (ToR). The report from the Review is generally very thorough, providing well-evidenced answers to the questions posed in the ToR. The Review Team was able to incorporate a wide range of data from relevant documentation, interviews and site visits in Kenya during a limited timeframe. RWI additionally observes that the Review was constructive and participatory in nature, including both RWI and key partners in the design, implementation and follow-up.

RWI welcomes the main findings of the Review, in particular that the Kenya Programme has contributed to its intended impact of the *increased enjoyment of constitutional rights in Kenya and upholding government obligations to respect, protect and fulfil human rights*, as well as that the results achieved under the Programme are consistent with the specific objectives of the Programme. RWI welcomes in particular the findings confirming the Programme's relevance and strong local ownership, and that the Review also found the Programme to have been effective, especially considering the relatively short time span of its activities, noting also that the Programme was assessed to have greatly contributed towards a more positive attitude generally towards human rights within the Kenya Prisons Service.

RWI generally agrees with most of the recommendations put forward from the Review regarding how the Programme may be developed in order to enhance its relevance, effectiveness, efficiency and sustainability, and accordingly considers these recommendations both relevant and useful. In relation to the recommendations, RWI also notes that:

- Many of the recommendations are already addressed under the Programme reviewed.
- Some of the recommendations lie outside the authority of RWI, in particular those concerning the internal affairs of KPS, although in most instances RWI has encouraged and participated in relevant discussions and is positioned to assist with their implementation should KPS decide accordingly. A number of the recommendations are also incorporated into KPS's own forward planning.
- A number of recommendations relate to expanding the scope of the RWI Programme in a next phase, and then in particular increasing the number of persons that benefit directly from the Programme in various ways. Given that there is limited prospect for addressing all such recommendations, even under a significantly expanded new Programme, it will be necessary to establish together with partners exactly which such areas be prioritised.

In summary, and in terms of validity, reliability and usefulness, RWI assesses the review to in general have been of good quality, and to have met its purpose and objectives.

Responses to the recommendations from the Review are, together with actions to be taken, listed in the enclosed table below. Comments and responses to the recommendations (in summarised form) from the report from the Review are generally presented in the same order as recommendations appear in the report. In all cases, RWI has sought to respond to recommendations, and, where relevant, also indicate actions to be taken.

A main and overarching recommendation from the Review is to continue the Kenya Programme, with certain adjustments, which form the basis of many of the other recommendations from the Review. RWI agrees to this main recommendation and taking action on it consequently also involves seeking to take action on these other recommendations as part of continuing the Programme. As naturally a continued Kenya Programme is not entirely within RWI's control to pursue, due to funding reasons, RWI can in many cases only take action in terms of seeking to ensure certain aspects as part of such a new Programme. Since a new RWI Kenya Programme accordingly is the main reference for follow-up, exact deadlines for the completion of actions to be taken depend on when such a Programme can be realised.

RWI Management Response and Action Plan regarding Recommendations from Review of Kenya Programme 2012-2014			
No	Recommendation	RWI Management Response	Action
1.	<i>Continuation of the programme</i>	RWI agrees with this recommendation, and to build on the positive results to date to achieve further results while maintaining local ownership and working further towards sustainability. RWI also agrees, as suggested, to seek to scale up relevant activities in the first few years of a continuation towards the faster achievement of a critical mass of trained corrections officers. The further suggested strategy of having KPS staff gradually take over the training is reflective of the direction already taken during 2014, in which pairs of proven KPS trainers co-facilitated with – and were mentored by – RWI's facilitators in training activities. For a continuation, RWI would continue and broaden this approach, in support also of the new KPS Human Rights Office (HRO) Strategic Plan which aims for self-sufficient human rights training within a five-year period.	Prepare proposal for new Kenya Programme drawing on relevant Review recommendations and planning and consultations with partners, for submission to Sida.
1.1.	<i>Recommendations with regard to increasing the effectiveness of the programme:</i>		
1.1.1.	<i>Cultivate a closer practical working relationship with the top KPS leadership</i>	RWI agrees with the recommendation, and the matter has also been discussed with the top leadership of KPS, which has <i>inter alia</i> proposed the establishment of an internal national compliance committee, reporting directly to the Commissioner General of Prisons (CGP), to oversee systemic implementation of international standards throughout the service and which will also serve as liaison point for RWI where relevant to ensure the involvement of relevant senior officers. Such initiatives have also been directly discussed by RWI with the CGP, and will be further pursued in a continuation of the Programme, including the	Incorporate strategies in a new Kenya Programme for enabling and supporting a closer relationship with and involvement of the top KPS leadership.

		involvement of more senior officials in relevant activities, while the Embassy of Sweden in Nairobi has additionally contributed by offering to convene relevant meetings, including with the Principal Secretary of Coordination at the Ministry of Interior, under which KPS is placed.	
1.1.2.	<i>In order to embed human rights compliance in the entire line of command within KPS, give priority to:</i> <ul style="list-style-type: none"> • <i>Training Officers in Charge (OICs) and regional commanders as well as other senior managers.</i> • <i>Ensuring OIC and Human Rights Officers (HRO) are trained in tandem.</i> • <i>Focusing such leadership training on principles of good prison management</i> 	RWI agrees with the recommendation, which is reflective of the approach taken by the Programme to date, both in terms of training senior managers as well as their implementing staff, and also in terms of how the Kenya Programme's "human rights and leadership training" for such managers has been designed.	No specific action, other than continuing the approach taken to date in this respect.
1.1.3.	<i>Explore how human rights compliance can be better anchored in the management cycle to guarantee that human rights compliance moves beyond the good will of individual line managers and becomes an organizational feature</i>	RWI agrees with this recommendation, which has been discussed in detail with relevant managers at KPS, resulting <i>inter alia</i> in the proposal for a national compliance committee described in relation to 1.1.1. above, and which will include relevant monitoring and accountability mechanisms.	Incorporate (support to) relevant monitoring and accountability mechanisms in a new Kenya Programme.
1.1.4.	<i>Find ways to scale up the findings of the audits, to the KPS Management Team, and from there identify what areas require to be addressed at national level and identify the appropriate owner of the problem.</i>	RWI agrees with this recommendation, which as the Review notes already has been a feature of the Programme, and which will be further developed under the HRO Strategic Plan and through the national compliance committee when established.	See actions above in relation to points 1.1.1. and 1.1.3.
1.1.5.	<i>Expand the group of officers targeted for human rights training to include Deputy OICs and Senior Sergeants in charge of discipline in order to increase the span of trained officers' influence on human rights issues in prisons facilities</i>	RWI agrees with this recommendation, whilst noting that additional resources will be required to conduct such additional training as well as other programme expansions recommended, and that it will be necessary to establish	Consider recommendation for a new Kenya Programme in light of available resources and partner priorities

		together with partners exactly which such recommendations be prioritised.	
1.1.6.	<i>Re-engage with the Prison Staff Training College (PSTC), especially in view of the new developments related to the College.</i>	RWI agrees with this recommendation, whilst noting that PSTC has continued to be engaged throughout the Programme period, albeit not as intensively as in the first year of the Programme due to priorities established by the partners to maximise results achievement. The new HRO Strategic Plan includes work with integration of appropriate training on practical application of international standards into the PSTC curriculum for both new recruits and in-service trainees, and support by RWI to this area of the plan may therefore provide a relevant avenue for continued cooperation with the College.	Work with integration of appropriate training on practical application of international standards into the PSTC curriculum, in the context of the HRO Strategic Plan and a new Kenya Programme.
1.1.7.	<i>Monitor for negative (unintended) consequences which can result from interventions, so that mitigating action can be taken where required</i>	RWI agrees with the importance of monitoring for negative consequences of interventions, which has been done systematically at the prisons selected under the Programme for regular visits and human rights audit exercises. RWI lacks however both the authority and capacity to monitor every activity in the Kenyan prison system that might have been in some way influenced by its programming, which has reached hundreds of officers throughout the country, and instead seeks to address potential problems through capacity development of relevant officers to understand such consequences, and in particular of officers at regional and national level to monitor for them.	In a new Kenya Programme, continue to work with capacity development of relevant officers to understand negative consequences of actions, and in particular of officers at regional and national level to monitor for such consequences.
1.2.	<i>Recommendations with regard to the auditing process:</i>		
1.2.1	<i>Allow for direct, structured input from inmates regarding the situation in prisons, including from third sources, to inter alia corroborate the audit findings</i>	RWI agrees with the importance of hearing from rights holders, and that as the Programme has developed, more opportunities have presented themselves to do this in a safe and credible	No specific action in relation to the recommendation but to further explore relevant opportunities to develop aspects of making use of such input in a relevant manner under a new

		<p>manner. In particular, the Classification Research project ongoing throughout 2014 was based around confidential interviews with many hundreds of prisoners, which, while focussing primarily on risk/needs assessment, naturally also touched upon conditions of detention. RWI has also explored with KPS opportunities to further develop such approaches under a new Kenya Programme through relevant capacity development activities that could serve to complement and validate the findings of the audits.</p>	<p>Kenya Programme, for example with training for relevant officers on interview techniques, and potentially involving other stakeholders in similar activities.</p>
1.2.2.	<p><i>Have the audit reports provided to the respective KPS Directors for their involvement and attention, and include officers with expertise in rehabilitation, health, and constructions in the audit teams after them having been provided with a modified, limited training programme in the respective relevant SMR</i></p>	<p>RWI agrees that broader distribution of audit results within KPS may have potential benefits, but notes that any decisions in this respect would be internal to KPS. RWI has however encouraged and participated in discussions on this issue, which is under consideration by KPS particularly in relation to the national compliance committee. RWI also notes that officers with a wide variety of specialisations, including rehabilitation and constructions, have been members of audit teams, and agrees regarding the desirability of thematic training, whilst emphasising that it is important for all officers to have a good understanding of the standards as a whole. Such thematic training was considered as an option during the course of the Programme, although to date not prioritised by Programme partners in planning discussions due to resource constraints (while it is noted that many HROs trained under the programme have gone on to provide specific training on relevant thematic areas to their colleagues). Similarly in a new Kenya Programme, additional resources will be required to conduct such additional training as well as other programme expansions recommended, and it will be necessary to</p>	<p>Consider recommendation for a new Kenya Programme in light of available resources and partner priorities.</p>

		establish together with partners exactly which such recommendations be prioritised.	
1.2.3.	<i>Consider adding priorities to certain international standards in seeking to enhance compliance</i>	RWI agrees that some standards are more important than others, and notes that in audits there is a degree of hierarchy through the assignment of “absolute” status to certain critical standards which can only be considered to be met in full or not at all. RWI maintains however that all standards are important and that it is important to encourage positive change in any area, however seemingly minor. RWI further believes that if prioritisation would mean diminished importance be given to acting on “lesser” standards then such an approach could be counterproductive, not least because it can provide an excuse not to act where solutions are realistically achievable. RWI additionally notes that “quick wins” may be achievable with some such standards, which in turn may make a significant contribution to demonstrating and encouraging processes that can subsequently support the most critical reforms.	No action
1.2.4.	<i>Explore how audits and accompanying actions plans can be shared with other prisons, so that the effect is multiplied, reaches more inmates, and also that there is a bigger chance that it will lead to institutional change</i>	As with the distribution of results amongst other directorates (1.2.2.) RWI agrees that broader distribution of audit results within KPS may have potential benefits, but notes that any decisions in this respect would be internal to KPS. RWI has however encouraged and participated in the discussion on this issue, which is under consideration by KPS particularly in relation to the proposed national compliance committee.	See point 1.2.2. above.
1.2.5.	<i>Consider developing an audit mechanism for KPS as a whole</i>	RWI agrees with the importance of an audit mechanism for KPS as a whole, but argues that this has already been undertaken through presentation of systemic issues determined from audit results across a range of stations. RWI	No specific action, beyond continuing to address systemic issues identified through the audit process in the context of a new Kenya Programme.

		further notes that the SMR not included in the RWI/KPS audit instrument are statements of general principle that are elaborated in the more specific and hence auditable standards that follow, the compilation of results from which thereby address those statements.	
1.3	<i>Recommendations with regard to the (position of the) Human Rights Officers (HROs):</i>		
1.3.1.	<i>Explore opportunities to work with the KPS Human Resources Department to identify criteria to select the right people as HROs, and make linkages to career development in KPS from human rights work</i>	RWI agrees that it is important that HROs are selected according to specific criteria, and notes that these criteria have already been defined in the Terms of Reference for HROs. The process by which HROs are actually selected with reference to the criteria, as well as the linkage to career development, are naturally internal issues for KPS. RWI has however encouraged and participated in the discussion on these issues, both of which are addressed in the new HRO Strategic Plan.	Seek to, in the context of the HRO Strategic Plan and a new Kenya Programme, support the improvements of the process according to which HROs are selected and HRO career development.
1.3.2.	<i>Train OIC first, before training the accompanying HRO</i>	RWI agrees with this recommendation, which accurately reflects its existing methodologies.	No specific action, other than continuing the approach taken to date in this respect.
1.3.3.	<i>Support HROs to acquire better advocacy/influencing skills, to be able to manage the process of organizational change.</i>	RWI agrees regarding the desirability of such training for HROs, whilst noting that additional resources will be required to conduct such additional training as well as other programme expansions recommended, and that it will be necessary to establish together with partners exactly which such recommendations be prioritised.	Consider recommendation for a new Kenya Programme in light of available resources and partner priorities.
1.3.4.	<i>Have a reporting format/structure that allows HROs to report back to the region and national level, so that their achievements can be analyzed and made accessible to others, and have the regional HRO as the connecting link between institutions in one region</i>	RWI agrees regarding the desirability of such reporting formats and mechanisms, including the role of the regional HRO, the development of which is included in the HRO Strategic Plan.	Seek to, in the context of the HRO Strategic Plan and a new Kenya Programme, support the development of improved HRO reporting mechanisms.

1.3.5.	<i>Consider adding a second HRO per institution to reduce vulnerability</i>	RWI agrees with this recommendation, which is reflected in the Terms of Reference for HROs that call for “at least one” HRO in each institution, as well as the stated role of the HRO in mentoring assistants/successors. RWI further notes that a minimum of one trained HRO per station plus an assistant is included in the five-year vision of the HRO Strategic Plan.	Support the HRO Strategic Plan as part of a new RWI Kenya Programme.
1.3.6.	<i>Make provision of a designated training budget, by KPS, for HROs to implement local training</i>	RWI agrees to this recommendation, which is naturally an internal issue for KPS, although RWI has encouraged and participated in discussions on this issue. RWI also notes that steps to secure such a budget are included in the HRO Strategic Plan.	Seek to support steps to secure a designated training budget by KPS for HROs, through RWI primarily supporting the implementation of the HRO Strategic Plan, under a new RWI Kenya Programme, and seek to design such a new Programme so as to reduce support from RWI as support from KPS would increase.
2.	<i>Anchor the programme in a more effective and inclusive accountability structure</i>	RWI agrees with the importance of strengthening both internal and external oversight mechanisms, and that, although, as is noted in the Review report, these are decisions for KPS to take, RWI is positioned to be supportive of these processes. RWI also generally welcomes the related suggestion in the Review report to in this respect also seek to work on enhancing the relationship between KPS and bodies such as the Kenya National Commission on Human Rights, and to explore such possibilities accordingly.	Seek to support processes to strengthen appropriate external oversight mechanisms and enhance relationships between KPS and <i>inter alia</i> the Kenya National Commission on Human Rights under a new RWI Kenya Programme.
3.	<i>Re-establish efforts related to component 2</i>	RWI agrees with the recommendation to continue activity in relation to Component 2, noting also that such efforts in no way have been halted; work continued in this area throughout the review period and a relevant activity was conducted under the Kenya Programme in 2014, although after the end of	Seek to also maintain a second component in a new Kenya Programme with the objective to support the development of more informed justice sector reform initiatives, policies and programmes, in terms of responsiveness to human rights, stakeholder needs and context with and between justice sector institutions,

		the review period.	including the possibility for further support to e.g. the Taskforce to Develop Bail and Bond Policy Guidelines. This also to support and complement the main cooperation with KPS.
4.	<i>Support the drafting of new legislation and policies</i>	RWI agrees with the recommendation noting that this is included in the HRO Strategic Plan that RWI, as well as an area of relevant intervention under a future Component 2.	Seek to include in a new Kenya Programme legislation and policy review and implementation, in particular as part of the support to the HRO Strategic Plan and as part of interventions under the envisaged second component of such a Programme.
5.	<i>Expand programme to include probation and the Swedish Prisons and Probation Service.</i>	RWI agrees with the recommendation to seek to include the Kenya Probation and Aftercare Service (KPAS) and SPPS in the programme, noting that a first joint activity was held involving both Kenyan prisons and probation officers under the RWI Kenya Programme in October 2014, with positive results and a request for further cooperation. There have also been closer linkages developed between RWI and SPPS during 2014, including RWI support to SPPS programme development in relation to Kenya, and a first representation from SPPS in RWI Kenya Programme capacity development activities. RWI agrees that such cooperation could support also other activities in relation to e.g. classification work.	Consider including, when relevant, the Kenya Probation and Aftercare Service and the Swedish Prisons and Probation Service in a new RWI Kenya Programme, in particular when it comes to classification work.
6.	<i>Strengthen partnerships with civil society actors and criminal justice agencies</i>	RWI agrees with the recommendation to continue sharing information and engaging with other partners, noting that information on programming – although never human rights monitoring information – is regularly shared and that further efforts can be made to strengthen such partnerships under a new Kenya Programme.	Increase efforts under a new Kenya Programme to share information and engage with other relevant partners

7.	<i>Improve the design and reporting of the programme, including through the better anchoring of a Results Based Management approach and the inclusion of a comprehensive monitoring, evaluation and reporting system</i>	RWI agrees that more information could be made available in accessible format in reporting as regards achievements under the Programme. RWI also notes that only KPS has both the authority and potential capacity to systematically gather all such information. RWI further notes that the development of relevant reporting formats and mechanisms is included in the HRO Strategic Plan that RWI would seek to support under a new Programme, thereby strengthening such internal reporting capacity per 1.3.4. above. In relation to Programme design, RWI will continue to refine expected results and strengthen causality throughout the results chain, so as also to facilitate all implementers to systematically assess performance and collect relevant data in an integrated manner, making further use of the unique and comprehensive framework for M&E and reporting provided by the programming methodologies. It is to be noted that certain frameworks for capturing RBM and M&E approaches generally employed are guided by – and all Programme documents and reports are drawn up according to – agreed procedures and templates under RWI's General Agreement with Sida, although RWI remains open to continue reviewing such processes for optimum clarity, utility and coherence across programmes, whilst remaining compliant with its obligations vis-à-vis Sida.	Support the development of relevant reporting formats and mechanisms as included in the HRO Strategic Plan under a new Kenya Programme, and thereby seek to strengthen internal reporting capacity, as well as continue to review and improve RWI RBM and M&E approaches, systems and methodologies as well as Programme reporting procedures and content in line with agreed standards with Sida, so as to in all ways better capture results from Programme activities.
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