



JIMMA UNIVERSITY

COLLAGE OF LAW AND GOVERNANCE

SCHOOL OF LAW

**THE ROLE OF PUBLIC PROSECUTORS IN THE
ENFORCEMENT OF PRISONERS' RIGHTS: THE CASE
OF BENCH-SHEKO ZONE CORRECTION CENTER**

**A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS OF LL.M. DEGREE IN HUMAN RIGHTS AND
CRIMINAL LAW**

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OCTOBER, 2019

Declaration

‘I declare that this thesis titled, “The Role of Public Prosecutors in the Enforcement of Prisoners’ Rights: The Case of Bench-Sheko Zone Correction Center” is my own work, that it has not been submitted before for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged as complete references.’

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AKNOWLEDGEMENT

First of all, I would like to praise Almighty Allah, for providing me the strength, patience and guidance to start and finish this thesis successfully. Second, my appreciation and thanks goes to my advisors Dr. Alemu Meheretu and Mr. Markos Debebe for their valuable comments and corrections which shape the study process to end up with fruitful academic writings. I also express my gratitude to my fellow classmate Maruf Aliye for his continuous appreciation and helping me with new ideas. Thank you my brother! I'm also grateful for those who contributed in the the collection of the empirical data in the study process, especially the prisoners representative in Bench-Sheko Zone correction center, thank you all. Last but not least, my heartfelt goes to My Mom Haluye, My Dad Husiye and the whole family for your prayer, appreciation and support, you are special to me, I don't want to thank you but love you always! My wife Zumi really you are special!

Abstract

Prisoners have the right to enjoy the same human rights as persons at liberty, subject only to those restrictions that are an unavoidable as a consequence of the confinement or restrictions part of sentence by the court. Accordingly various international human right instruments and specific rules and standards provide protections for Prisoners. In Ethiopia, both the FDRE and SNNPRS constitutions guaranteed the treatment of prisoners to be carried out respecting their human dignity. Specifically, the SNNPRS Manner of Treatment of Inmates of Prisons Regulation provides detail rules on the right of prisoners and their treatments in correction facilities.

On the other hand, the closed environment of correction facilities, including the unequal power relations between prison staff and prisoners, produce vulnerabilities and the risks of abuse in different forms. Therefore, there should be mechanisms to follow-up and check the proper implementations of prisoners' rights in correction facilities. One strategy which seeks to prevent ill-treatment and other breaches of rights in correction facilities has been to put in place mechanisms to inspect correction facilities and monitor how human rights obligations are being fulfilled by authorities. Correction facilities inspection and monitoring bodies are therefore important safeguards against breaches of human rights of prisoners. In line with this, various international instruments such as the Nelson Mandela Rules, requires the monitoring and inspection of correctional facilities by independent external oversight body in the regular basis. Domestically, in Ethiopia, particularly in SNNPRS, the power and responsibilities of monitoring and inspecting correction facilities is given to public prosecutors. The SNNPRS, Attorney General Establishment Proclamation No.177 /2018, provides the power of public prosecutors to visit and inspect the condition of the treatment of prisoners in correction facilities and to take appropriate corrective measures.

The objective of this study is therefore, to assess and examine the role of public prosecutors in the enforcement of the right of prisoners in Bench-Sheko Zone correction center. The study examines weather public prosecutors are conducting regular and frequent visit and inspection to Bench-Sheko Zone correction center to ensure the

implementation of prisoners right in accordance with the law. It also assess, weather public prosecutors are taking necessary corrective legal or administrative measure to ensure the observance of prisoners right in the correction center. To achieve this, the researcher employed both open-ended and closed-ended questionnaire and in-depth interviews with different key informants. Accordingly, the finding of the study shows that, in the study area, the public prosecutor role in the enforcements of prisoners' right is very weak. Although prosecutors are conducting some occasional visit to the correction center, they are not properly inspecting the condition of the treatment of prisoners in the correction center. The study further find out that, despite the existence of the prisoners' right violation and inadequacies on the treatment of prisoners and the facilities in the correction center, prosecutors are not taking appropriate corrective or other important legal measures to ensure the protection of the right of prisoners.

Key Word/Phrases: - Bench-Sheko Zone Correction Center, Prisoners, Prisoners Rights, Treatment of Prisoners, Public Prosecutors, Monitoring and Inspection

LIST OF ACRONYMS

ACmHPR	African Commission on Human and Peoples Rights
CRC	Convention on the Rights of Child
FDRE	Federal Democratic Republic of Ethiopia
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NGOs	Non-Governmental Organizations
SMR	United Nation Standard Minimum Rules for the Treatment of Prisoners
SNNPRS	Southern Nation Nationalities and Peoples Regional States
UDHR	Universal Declaration of Humans Right
UN	United Nation
UNCAT	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNHRC	United Nation Human Right Committee
UNODC	United Nations Office on Drugs and Crimes

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CHAPTER ONE

Introduction

1. Background of the Study

One of the ultimate purpose and justification of a sentence of imprisonment or a similar measure is to protect the society against crime and reduce recidivism.¹ And this can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.² From this point of view, it is basic to provide effective rehabilitation and correctional measures within correction facilities to enable prisoners to show attitudinal and behavioral changes and became law-abiding, peaceful and productive citizens when they reintegrated with the community. And this can be realized if there are effective and efficient correctional facilities. On the other hand, the effectiveness of rehabilitation and reformation processes is highly influenced by the correction facilities services and treatment of prisoners during their time of imprisonment.³ As such, government as the primary body responsible for imprisoning individuals also assumes the duty of care for prisoners to maintain their safety and dignity in these facilities.⁴ In line with this, various international and national instruments provides the right of prisoners as one part of the government obligation towards human rights of individuals.

The international convention that contains explicit reference to prisoners' rights includes the ICCPR, which guaranteed the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person.⁵ There are also relevant UN standards rules and principles which specifically addressed the protection of the right of prisoners in more detailed manner.⁶ Among others, these rules and principles provides protective

¹ United Nation Standard Minimum Rules for the Treatment of Prisoners -Nelson Mandela Rules, Resolution by the general Assembly on 17 December 2015[On the report of the third committee9A/70/490), Principle 4

²Ibid

³Fikadu K. and Wakitole D. (2017), Assessment of Living Conditions in Prison Centers in Oromia National Regional State, The International Journal of Business &Management, Vol. 5 Issue 3, pp.191

⁴ Handbook for prison leaders ,A basic training tool and curriculum for prison managers based on international standards and norms ,Criminal Justice Handbook Series, United Nations Office on Drugs and Crimes, 2010,,pp 26

⁵ International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by UN General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976, Article 10

⁶ Among these instruments the major ones are, United Nations Standard Minimum Rules for the Treatment of Prisoners, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977 ; United Nations Basic Principles for the Treatment of

rights for prisoners including the provisions related to separation of categories of prisoners, the right to proper accommodation, right to clothing and bedding, right to adequate food and water services, right to recreational facilities, right to medical services, the right to education and cultural activities, the right to work, the right to religion, prohibition of corporeal punishment, and all cruel, inhuman or degrading punishment, and right to information to and complaints by prisoners.⁷

Beside this, relevant United Nations Human Right Committee jurisprudence and general recommendation indicates that, State has the obligation to mandatorily undertake and observe the prisoners' rights, provided under the ICCPR and UN Minimum standards and basic principles. For instance, the committee in *Albert Womah Mukong v. Cameroon case* observed that, as to the conditions of detention in general, certain minimum standards regarding the conditions of detention must be observed regardless of a State party's level of development.⁸ Similarly in its General comment 9, the United Nation Human Right Committee noted that, the humane treatment and the respect for the dignity of all persons deprived of their liberty is a basic standard of universal application which cannot depend entirely on material resources.⁹

At national level, both the FDRE Constitution under article 21 and the SNNPR constitution under article 21 similarly provided the right of imprisoned person to appropriate treatments respecting their human dignity. More over the Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005 provided the detailed rule for the protection of the right of prisoners.

Prisoners Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Adopted by General Assembly resolution 43/173 of 9 December 1988; United Nation Standard Minimum Rules for the Treatment of Prisoners -Nelson Mandela Rules,Supra note 1 Resolution by the general Assembly on 17 December 2015[On the report of the third committee9A/70/490)

⁷ The detailed discussion of these rules is provided under chapter two section 2.1.1.2. of this paper

⁸*Albert Womah Mukong v. Cameroon*, Communication No. 458/1991, UN Human Rights Committee, CCPRIC/51/D/458/1991, Para. 9.3.;The committee further noted that, the state mandatory observation of detainees or prisoners right shall be in accordance with Rules 10, 12, 17, 19 and 20 of the U.N. Standard Minimum Rules for the Treatment of Prisoners, which includes minimum floor space and cubic content of air for each prisoner, adequate sanitary facilities, clothing which shall be in no manner degrading or humiliating, provision of a separate bed, and provision of food of nutritional value adequate for health and strength. It should be noted that these are minimum requirements which the Committee considers should always be observed, even if economic or budgetary considerations may make compliance with these obligations difficult.

⁹ General comment No. 9: Article 10 (Humane treatment of persons deprived of their liberty) Sixteenth session (1982), Para. 3, Compilation of general comments and general recommendations adopted by human rights treaty bodies ,pp.52

On the other hand, as correction facilities are places where men and women are detained against their will, the potential for abuse and improper treatment is always present.¹⁰ The closed environment of this institution added with unequal power relations between prison staff and prisoners, produce vulnerabilities and the risks of abuse in different forms.¹¹ Therefore, it is necessary to have appropriate mechanisms of supervision and institutional accountability to ensure the proper treatment of prisoners by prison administration and other responsible bodies. Supervising and inspecting the correction facilities is the basic elements of ensuring human rights compliance in prison and essential to make prison and prison leaders accountable for what happens in the prisons.¹² It is made with a view to make recommendations to change conditions in order to prevent torture, and other cruel, inhuman and degrading treatment or punishment, and ensure humane treatment of prisoners.¹³ In this respect, the United Nations Special Rapporteur on the question of torture emphasized that, “regular inspection of places of detention, especially when carried out as part of a system of periodic visits, constitutes one of the most effective preventive measures against torture.”¹⁴ The Committee on Torture on the other hand recommended that, independent governmental bodies consisting of person of high moral standing should be appointed to take over the inspection and monitoring of detention centers and places of imprisonments.¹⁵

Further, internationally it is observed that, the principal objective of monitoring human right compliance is to reinforce State responsibility to protect human rights.¹⁶ It is also widely recognized that upon incarceration, the obligation on State is to provide a meaningful institutional framework which allows prisoners to assert or protect their rights.¹⁷ To fulfill this responsibility, State should adopt structure of independent prison accountability built around

¹⁰ Andrew C. (2002), A Human Rights Approach to Prison Management, Handbook for prison staff, International Centre for Prison Studies, pp.111

¹¹ Assessing compliance with the Nelson Mandela Rules, A checklist for internal inspection mechanisms, United Nations Office on Drugs and Crime, Geneva, 2017, pp.12

¹² Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers, Professional Training Series No. 9, 2003, pp.368

¹³ Amnesty International (2001), Amnesty International’s Recommendations on Effective Protection and Promotion of Human Rights , pp.19

¹⁴ Report of the Special Rapporteur on Torture, UN Doc. E/Cn.4/1995/34, Para 926(c)

¹⁵ Report of the Special Rapporteur on Torture with regard to Namibia, UN doc. GAOR, A/52/44, p. 37, para. 244

¹⁶ Training Manual on Human Rights Monitoring , Professional Training Series No.7, United Nations Office of the High Commissioner for Human Rights , New York and Geneva, 2001, pp.100

¹⁷ Behan, C. and Kirkham, R. (2016), Monitoring, Inspection and Complaints Adjudication in Prison: The Limits of Prison Accountability Frameworks. The Howard Journal of Crime and Justice, pp.1

institution of monitoring and inspection.¹⁸As such, it is the obligation of States to provide independent monitoring and inspection of places of imprisonment to ensure the implementation of prisoners' right in place of imprisonments.¹⁹ There are relevant international instruments which obligates states to provided independent monitoring and inspection to correction facilities. For instance, the Nelson Mandela rules requires that, there shall be internal and external inspection of prison and penal services, the objective of which is to ensure that prisons are managed in accordance with the existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and correction services, and that the rights of prisoners are protected.²⁰ Further, both the UN Standard Minimum Rules for the Treatment of Prisoners and UN Body of Principles for the Protection of All Persons under Any Form of Detention require States to set up a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority to ensure that these institutions are administered in accordance with existing laws and regulations with a view to bringing about the objectives of penal and correctional services.²¹Both principles obligated States to provide prison visiting mechanism through qualified and experienced person in order to ensure the enforcement and adequate treatments of prisoners' right by correction facility administration. In this respect, the United Nation Human Right Committee , also considers that, reports should indicate the concrete measures being taken by the competent State organs to monitor the mandatory implementation of national legislation concerning the humane treatment and respect for the human dignity of all persons deprived of their liberty that article 10 paragraph 1 of the ICCPR requires.²²

In Ethiopia, the prison visit and supervision mechanism is conducted among others through public prosecutors. Among other core functions related with human right protection in criminal justice system, prosecutors have given an express mandate under the law to supervise correction facilities and to take appropriate measures in order to ensure the proper treatment of prisoners in

¹⁸ Ibid

¹⁹ Human Rights in the Administration of Justice: A Facilitator's Guide on Human Rights for Judges, Prosecutors and Lawyers', Professional Training Series No. 9/Add.1, United Nations Office of the High Commissioner for Human Rights, 2011, pp. 74

²⁰ The Nelson Mandela Rules , Supra note 1, Rule 83

²¹ SMR, Supra note 6, Rule 55

²² General comment No. 9: Supra note 9, Para.1

correction facilities.²³ At regional State level, specifically in SNNPRS, in which the study area is located, prosecutors are mandated by the SNNPRS Attorney General Establishment Proclamation, to visit and inspect the condition of the treatment of prisoners in correction facilities and to take appropriate corrective measures.²⁴ In this regard, the measure taken by the Ethiopian government to give public prosecutors the power and responsibility of supervising the treatment of prisoners is a positive step to integrate the very purpose of crimes prosecution and punishment of offenders.

As the purpose of punishment in modern criminal justice system depends on the principle of individual criminal's effective rehabilitation in prison facilities,²⁵ public prosecutors has special interest on the proper treatment and correction of prisoners. Beside this, prosecutors have special responsibilities to take all possible measures to bring to justice those who are suspected for the violation of human rights such as torture or cruel, inhuman or degrading treatments.²⁶ Their role is very essential with regards to remedying of the past human rights violation and to prevent the future violation.²⁷ In particular, as the prisoners stay in the correction facilities are prone to possibilities of human right abuses and improper treatments²⁸prosecutors have the key role in preventing and remedying such violations of prisoners' right. Thus, public prosecutors acting as an independent external oversight body, have a significant role in ensuring the implementation of prisoners' rights in correction facilities. Therefore, the purpose of this research is to deeply examine and analyze the role of public prosecutors correction facility monitoring and inspection to ensure the enforcement of prisoners' right in the context of Bench-Sheko Zone correction facility in SNNPRS.

²³ Federal Democratic Republic of Ethiopia Comprehensive Justice System Reform Program, Baseline Study Report, Ministry of Capacity Building Justice System Reform Program Office, 2005, pp. 198;See also, Federal Attorney General Establishment Proclamation No. 943/2016 ,article 6(8) (c)

²⁴ South Nations, Nationalities and Peoples' Region State Attorney General Establishment Proclamation No.177 /2018 , Article 6(5) (i)

²⁵ See for example, The Nelson Mandela Rule, Supra note 1, Rule 4 stated that "The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life. See also the Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No.414/2004,Preface, Para 8 stated that "wrongdoers instead of being made to suffer while in prison, take vocational training and participate in academic education, which would benefit them upon their release, reaffirms the great concern envisaged by the Criminal Code about the reform of criminals."

²⁶ See Human Rights in the Administration of Justice: Supra note 12,pp.369

²⁷ Ibid

²⁸ Monitoring Places of Detention : A Practical Guide , International Association for Torture, Geneva ,2004, pp.27

2. Statement of the Research Problem

As indicated above, prisoners are protected by a number of international human rights instruments and standards. International instruments are clear, that human rights safeguards must be an integral part of any prison system and furthermore that the prison staff at all levels must be fully aware of the fundamental rights of prisoners.²⁹ Thus, human rights of prisoners should be safeguarded at all times, that prisoners should retain all rights which are not expressly taken away by the fact of their imprisonments; that conditions in which prisoners are held and the prison regulations should not aggravate the suffering already caused by the loss of liberty; that the detrimental effects of imprisonment should be minimized so that prisoners do not lose their self-respect and sense of personal responsibility.³⁰ Further, because the living conditions in prison are an important prerequisite for achieving the objective of the penalty of imprisonment, the lack of adequate living conditions may have a negative impact on the rehabilitation and social reintegration of offenders.³¹ Accordingly, the security and wellbeing of prisoners are under the responsibility of the correction facilities, which should guarantee conditions of imprisonment that respect human rights and human dignity.³²

On the other hand, prisoners are vulnerable and particularly at risk of human rights violations. Far from public view and containing people who often elicit little public sympathy, correction facilities are places where tensions between the need for security and the simultaneous need to ensure human dignity come into sharp relief.³³ The closed and isolated nature of the institution can offers the opportunity for abusive actions to be committed with impunity in organized manner or through the actions of individual staff members of the institution.³⁴ As the fact of being cut off from the outside world continues to affect individuals throughout their imprisonment, appropriate steps must be there to mitigate corresponding risks and

²⁹ See, Handbook for prison leaders Supra note 4, pp.129

³⁰ Waruguru K. (2003), Prisoners' Rights: the Role of National Human Rights Institutions in Africa, a Dissertation Submitted in Partial Fulfillment of the Requirements of the Degree LLM , Political Science Department, American University in Cairo, Cairo, Egypt,pp.22-23

³¹ See Fikadu K. and Wakitole D. (2017), Supra note 3. pp.193

³² Mary R. (2019), Prison Inspection and Monitoring: The Need to Reform European Law and Policy, European Journal on Criminal Policy and Research,pp.2

³³ Ibid

³⁴ Andrew Coyle (2002), A Human Rights Approach to Prison Management, Handbook for prison staff, International Centre for Prison Studies, pp. 34

vulnerabilities.³⁵ Therefore, human rights protections are critically important in these environments through monitoring of their conditions of imprisonments.³⁶ One strategy which seeks to prevent ill-treatment and other breaches of rights in prisons has been to put in place mechanisms to inspect prisons and monitor how human rights obligations are being fulfilled by prison authorities.³⁷ Such visits, especially as carried out by independent bodies, offer ways to prevent violations of human rights, including the most egregious violations in the form of torture and inhuman or degrading treatment.³⁸ While there is great variety in the systems established to fulfil this aim, such activity tends to involve giving bodies the task of visiting prisons on a regular basis, reporting on their findings and making recommendations.³⁹ Monitoring detention conditions therefore forms an integral part of the system for protecting persons who are deprived of their liberty.⁴⁰ The international human rights instruments require that such a system be established. Some body or bodies not under the same administrative authority as the prison system should be able to inspect the conditions of imprisonment, assess whether there is ill-treatment, and report on their findings to a part of government that has the power to act on their findings.⁴¹ International instruments clearly require the monitoring of correction facilities by independent and qualified external oversight body in regular basis.⁴² It also requires that, the monitoring authorities must have the power to inspect the condition of the correction center and takes appropriate measures to ensure the observance of prisoners' rights.⁴³

When it comes to the study at hand, in Ethiopia, the correction center monitoring and inspection is mostly undertaken by Public Prosecutors⁴⁴ and Ethiopian Human Right Commission. Regarding the Ethiopian Human Right Commission, it undertakes prison visit activities under its general mandates of human right protection. In this respect, Mohammed Abdo argued that,

³⁵ Assessing compliance with the Nelson Mandela Rules, Supra note 11,p.12

³⁶ Id,p.2

³⁷ See, Mary R. (2019), Supra note 32,pp.2

³⁸ Ibid

³⁹ Ibid

⁴⁰ Monitoring Places of Detention : A Practical Guide,Supra note 28, pp.70

⁴¹ International Centre for Prison Studies External inspection monitoring and redressing grievances, Guidance Note 11, 2004, pp.2

⁴² See for example the Nelson Mandela Rules,Supra note 6,Rule 83

⁴³ Ibid

⁴⁴See, Federal Democratic Republic of Ethiopia Comprehensive Justice System Reform Program, Baseline Study Report,Ibid; See also, Federal Attorney General Establishment Proclamation No. 943/2016, Article 6(8) (c); and South Nations, Nationalities and Peoples' Region State Attorney General Establishment Proclamation No.177, Article 6(5) (i)

although the Commission is not expressly mandated with the power to monitor detention facilities this can falls under its broad mandate.⁴⁵ However its prison monitoring activities did not confirm the adequate prison visit as it is emphasized by international standards which requires regular visit of prisons by well trained professional.⁴⁶ Further recently studies reveals that the human right commission's prison monitoring role particularly in SNNPR through its branch office at Hawassa, did not addressed all prison facilities in the region due to financial and man power constraints.⁴⁷ The remote place like Bench-Sheko Zone correctional facility (which is the focus of this study) is not regularly monitored by the commission.⁴⁸ On the other hand, public prosecutor's offices are established at Zonal level and Woreda level including Bench- Sheko Zone with the power and responsiblity to supervise the treatments of prisoners in correction facilities. Public Prosecutors are expressly mandated by the law to monitor the correction facilities and take appropriate measures to ensure the proper treatment of prisoners.⁴⁹

Specifically, the SNNPRS Attorney General Establishment Proclamation generally provided the power and responsibilities of the attorney general to visit prisoners and to take appropriate measures to ensure their handling and reside is carried out in accordance with the law, cause unlawful act to be corrected; take measures or cause measures to be taken based on the law against people who are found to have transgressed the law.⁵⁰ However, the law is not clear with

⁴⁵ Mohammed Abdo, *The Ethiopian Human Rights Commission and its Contribution in the Protection of Human Rights and Building of Good Governance: Challenges and Prospects*, pp.10

⁴⁶ See UN Standard Minimum Rules for the Treatment of Prisoners, Rule 25 and the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 29, requires the states to have regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority in order to supervise the strict observance of relevant laws and regulation by prison administration

⁴⁷ Zewdnes Z.(2016), *An appraisal of the Effectiveness of the Ethiopian Human Rights Commission to Promote and Protect Human Rights in Ethiopia: With Particular Emphasis to Hawassa Branch Office*, A thesis submitted in partial fulfillment of the requirements for the masters in human rights, Addis Ababa University, pp.88-90

⁴⁸ Interview with Mr. Gezachew Eyasu, Head of Mizan-Aman Town Public Prosecutors Office, on March 14 2019; Interview with Yasin Sani, Coordinator of West Omo Zone Public Prosecutors Office, and who was also served as public prosecutor in former Bench-Maji Zone Public prosecutor Office, on March 15 2019; Interview with One of the prisoners representative in bench- Sheko Zone correction center, name confidential, on March 16 2019. According their information from the Bench-Sheko Zone correction center administrators, the Ethiopian Human right commission, mostly visit Bench-Sheko Zone correction facility once a year and in this year the commission expert did not visit the facility. According to them the commission is not frequently monitoring and inspecting the correction center in regular basis to improve the treatment of prisoners.

⁴⁹ See Federal Attorney General Establishment Proclamation, Supra note 44, Article 6(8) (c) and South Nations, Nationalities and Peoples' Region State Attorney General Establishment Proclamation, Supra note , Article 6(5) (i)

⁵⁰ Id, SNNPRS, Attorney General Establishment Proclamation, Article 6(5) (i)

regards to the procedures which would enable public prosecutors to inspect the observance of prisoners' right based on international and national laws and accepted principles or prison standards. The manner and time length of prison visit, the communication between prisoners and prosecutors as well as prosecutors and prison officials is unregulated. Beside this, the procedural means for prosecutors to take measures or to cause measures to be taken based on the law against the violation of prisoners right and mistreatments are left unregulated. The extent of public prosecutors power and responsibilities to ensure the treatment of prisoners and their role to improve the prison condition in collaboration with other bodies are not clearly indicated. For instance, after observing inadequate and improper prisoners treatment the prosecutor lacks a procedure to bring his/her observation to the government bodies to work on the improvement of prison condition and/or to make the prison administrators accountable for their failure to treat prisoners in accordance with the law. Beside this legal unclarities, in the study area there is no reports or prior studies showing the public prosecutors visiting and inspecting activities in Bench- Sheko zone correction center. On the other hand, the researcher prior investigation in Bench-Sheko zone shows that, public prosecutors visit and inspection to the correction center is not carried out frequently and in regular basis.⁵¹ The purpose of this research is therefore to deeply examine and analyze the legal and practical impediments on the role of public prosecutors visit and inspection to correction facilities to enforce prisoners' rights, in the context of Bench-Sheko zone correction center. The study also intends to fill the research gaps with regards to the role of public prosecutors, weather their monitoring and visiting activities conforms internationally required oversight in correctional facilities.

3. Objective of the Study

3.1. General objective of the study

The general objective of this research is to examine weather public prosecutors are enforcing the rights of prisoners in Bench-Sheko Zone correction center.

⁵¹ Interview with prisoners representatives in Bench-Sheko Zone correction center, on March 2019; the researcher also interviewed members of the correction center staffs and some lawyers in Bench-Sheko Zone, and all the responses indicates that public prosecutors are not conducting regular and frequent visit to the correction center.

3.2. Specific objectives of the study

The specific objectives of the study are:

- To explore the right of prisoners provided under international and national legal instruments.
- To explore and analyze the role of public prosecutors in the enforcement of the right of prisoners' and the legal basis for their power and responsibilities under international and national legal instruments
- To examine the treatment of prisoners in Bench-Sheko Zone correction center
- To examine and assess whether public prosecutors are exercising their power and responsibilities to ensure the enforcement of the right of prisoners in Bench-Sheko Zone correction center based on existing laws.
- To examine measures (if any) taken by public prosecutor in relation with the protection of prisoners right or improvements on the treatment of prisoners in Bench-Sheko Zone correction center
- To show the legal and practical challenges that the public prosecutors are facing in their endeavor to enforce the rights of prisoners in Bench-Sheko Zone correction center.
- To Suggest and forward appropriate legal or administrative solutions and recommendation in order to overcome the challenges that the public prosecutors' are facing to enforce the right of prisoners in Bench-Sheko Zone correction center.

4. Research Question

Based on the aforementioned objectives, this study answers the following questions:

- What are the specific rights of the prisoners? What are the international and national legal frameworks pertinent to the protection of the right of prisoners?
- What are the conditions of treatments of prisoners in Bench-Sheko zone correction center?
- What is the role of public prosecutors in the enforcement of the rights of prisoners? What are the international and national legal frameworks relevant to the role of public prosecutor in the enforcement of prisoners' rights?

- Are public prosecutors effectively exercising their power and responsibility to enforce the right of prisoners in Bench-Sheko Zone correction center? If yes, what measures they are taking to ensure the protection and proper treatment of prisoners based on the law?
- What are the practical and legal challenges that the public prosecutors are facing in their endeavor to enforce the rights of prisoners in Bench-Sheko Zone correction center? If there are challenges, what are the alternative solutions?

5. Significance of the Study

The study has the following significances:-

- ✓ To set out challenges what public prosecutors are facing in the enforcement of prisoners right and to indicate appropriate solutions in order to enhance the public prosecutors role; specifically in Bench-Sheko Zone correction center
- ✓ To give relevant information for law making or decision making bodies at regional level to take appropriate legal or policy measures in order to improve the public prosecutors function in the enforcement of prisoners right in correction centers.
- ✓ To provide an important input for further inquiry in other correction centers at regional or national level so as to increase the effectiveness of public prosecutors role in the enforcement of the right of prisoners.

6. Scope of the Study

The main purpose of the study is to examine the role of public prosecutors in the enforcement of prisoners' right. In detail, the study explores the rights and protections of prisoners' in correction centers and examines whether public prosecutors are enforcing the rights and protection of those prisoners. Hence, the public prosecutors role in the enforcement of detainees' rights in police stations and other detention center is not under the scope of this study. The enforcement of the rights of detainees in correction center waiting the trial is also not under the scope of this study. Further in order to conduct effective and successful study in short period of time and with limited resource the researcher considered the practical analysis of the study at Bench-Sheko Zone correction center. Geographically, Bench-Sheko Zone correction center is located around k.m South of Addis Abeba in SNNPR, Bench-Sheko Zone, anMizan-Aman Town.

7. Description of the Study Area

Bench-Sheko Zone is located in south western part of Ethiopia, in Southern Nation Nationalities and Peoples Regional state, 568 k.m far to south of Addis Ababa and 683 km from Hawassa, the region capital city. The Zone is comprised of five Woredas and one town administration. Bench-Sheko Zone correction Center is located in Mizan-Aman town, which is the administrative capital of the Zone. The correction center is one of the regional prison institute governed by the SNNPRS prison institute commission. The correction center is found on 35° 34' 51.35''E longitude, 6° 59' 43.35''N latitude and 1421m altitude as GPS was measured at the in front of prison clinic. As counted on July 20 2019 at 11:30 am, 1530 male, 90 females and 8 juvenile offender prisoners are found in the correction center.

8. Research Methodology

The study employs both qualitative and quantitative research approaches (mixed approach). Qualitative research method is concerned with the interpretative understanding of the people under the study by closely listening and treating them as human being with knowledge and experience, instead of mere subjects of the study.⁵² It employs research data collection techniques such as participant observation, semi and unstructured interviewing, focus groups, and the qualitative examination of texts, among many others.⁵³ On the other hand, quantitative research method deals with numbers and anything that is measurable in systematic way of investigation of phenomena and their relationship.⁵⁴ Quantitative research uses different social survey techniques such as structured interviewing and self-administered questionnaire, experiments, structured observation, the analysis of official statistics.⁵⁵ Further, a mixed research method combines both qualitative and quantitative approaches, to provide a variety of perspectives from which a particular phenomenon can be studied and they share a common commitment to understanding and improving the human condition, a common goal of disseminating knowledge for practical use.⁵⁶ A combination of both approaches provides for cross-validation or triangulation of two or

⁵² Bryman, A. (2003), 'Quantitative and Qualitative Research: Further Reflections on their Integration', in *Mixing Methods: Qualitative and Quantitative Research*, Brannen J. (ed.), London, Ashgate, p.58

⁵³ Ibid

⁵⁴ Christina H.(2015), *Qualitative and Quantitative Approaches to Social Research*, University of Warwick, pp. 2

⁵⁵ See Bryman, A. (2003),*Supra* note 25 pp. 59

⁵⁶ Joanna E. et al. (2002), *Revisiting the Quantitative-Qualitative Debate: Implications for Mixed Methods Research*, Kluwer Academic Publishers,pp.48

more sources of data to study the same phenomena in order to gain a more complete understanding of that phenomenon and they also provide for the achievement of complementary results by using the strengths of one method to enhance the other.⁵⁷ Accordingly, the study employs questionnaire data collection techniques and analysis of the data based on numerical presentation as one part of quantitative research approach. Also, in order to triangulate the data observed through questionnaires, the study also uses in-depth interviews with different stake holders and focused individuals, under qualitative research approach.

8.1. Source of Data

In order to gather pertinent firsthand information the researcher has conducted analysis of relevant international and domestic legal instruments; case laws of UN human right committee and general recommendations given by different UN human rights Committees. Interviews and questionnaires gathered from key informants are also used as firsthand information. Books, journals, articles and online internet resources are also used to gather second hand information in order to provide the conceptual framework and a general picture of the problem and to obtain specific information on the study.

8.2. Methods of Data Collection

In the collection of the required data and information the researcher has employed the following data collection methods

8.2.1. Questionnaire

Questionnaires are found to be effective methods of data collection in which the anonymous nature of questionnaire leads to honest responses from respondents.⁵⁸ In questionnaires the independence and equality of opinion among respondents helps a lot to enhance the competency and reliability of the data gathered.⁵⁹ The justification to use this method in this specific study is that, the anonymous nature of questionnaires' helps the respondents especially prisoners to give reliable information independently and confidentially. The analysis of information obtained through questioners helps the researcher to deeply understand the treatments of prisoners and the

⁵⁷ Ibid

⁵⁸ Maurtala G.(2015), A Critical Analysis of the Techniques of Data Gathering in Legal Research, Journal of Social Science and Humanities, Vol.1,No.3,PP.266-274,p.268

⁵⁹ Ibid.

role of public prosecutors in the enforcement of prisoners' right in Bench-Sheko zone correction center. Accordingly this method is used to gather information from Bench –Sheko zone public prosecutors, public prosecutors at woreda level and prisoners in Bench-Sheko zone correction center. Relevant questionnaire composed of close-ended and open-ended questions that reflect the objectives of the study were prepared for all respondent categories participating in filling questionnaire.

8.2.2. Interview

This method is used to gather information from heads of public prosecutors in Bench- Sheko Zone both at zonal and woreda level , officials and staff members of Bench- Sheko zone correction center, judges both at zonal and woreda level, lawyers, defense attorney and prisoners. The justification for using this method in this particular study is that it helps the researcher to gather in-depth information among different informants about the treatments of prisoners and the role of public prosecutors' in the enforcement of the right of prisoners. It enables the researcher to triangulate the source of information in order to get reliable and accurate data about the treatment of prisoners and to check weather public prosecutors are enforcing right of prisoners' in Bench -Sheko zone correction center.

8.3. Sampling Methods

8.3.1. Sampling Area

The study covers the role of public prosecutors (both at zonal and woreda level) in the enforcement of the rights of prisoners in Bench-Sheko zone Correction center. Accordingly, in order to deeply understand the role of public prosecutors in the enforcement of the rights of prisoners, the researcher collected empirical data both from Bench-Sheko zone public prosecutors and randomly selected woreda public prosecutors.⁶⁰ In addition to this the sampling area of this study covers the Bench-Sheko Zone Correction Center, Bench-Sheko Zone High Court, Mizan-Aman Town First Instance court⁶¹ and lawyers working in Mizan-Aman Town.

⁶⁰Among the total of Five Woredas and One town Administration, the researcher selected participant public prosecutors from Mizan - Aman town, Semen Bench Woreda and Sheko woreda Using Simple Random sampling techniques

⁶¹ These all are located in Mizan-Aman Town which is administrative town for Bench-Sheko Zone

8.3.2. Sampling Techniques and Sample Size

The researcher employed a combination of different sampling techniques to identify resources of data. As far as interview concerned, in order to identify the concerned stakeholder or key informants, purposive and snowball sampling method has been employed. Purposive sampling technique is a sampling technique which typically used in qualitative research, involving the identification and selection of individuals or group of individuals that are proficient and well-informed with the phenomena under the study.⁶² In this sampling technique the researcher decides what needs to be known and sets out to find people who can and are willing to provide information.⁶³ Using this sampling technique the researcher have selected key informants among the members of prosecutors, prison managements and staff members, judges, lawyers, defense attorney and prisoners representatives.⁶⁴ And participants are interviewed using structured and semi-structured interview questions

The researcher also conducted an interview with prisoners using snowball sampling techniques. In snowball sampling informants with whom contact has been made use their social networks to refer the researcher about other people who have potential information to the study.⁶⁵ This helps the researcher to address hidden population groups that cannot be easily accessible through other sampling techniques. Using this sampling technique the researcher conducted an interview with prisoners who have provided special information for the study.⁶⁶

⁶² Ilker E., Sulaiman A. Rukyan S. (2016), Comparison of convenience Sampling and Purposive Sampling, American Journal of Theoretical and Applied Statistics. Vol.5, No.1, pp.2

⁶³ Ibid

⁶⁴ Concerning prosecutors, at zonal level the Bench- Sheko zone heads of public prosecutors and the coordinator for crime charges management and focal person for prison supervision have been interviewed. At woreda level, heads of public prosecutor at Sheko woreda, Semen Bench woreda and Mizan-Aman town administration have been interviewed. The researcher also conducted an interview with presidents and judges of Bench-Sheko zone high court and Mizan-Aman town first instance courts. The defense attorney at Bench-Sheko Zone high court is also interviewed. To extend the source of information the researcher has also conduct an interview with four lawyers out of the total of twelve lawyers in Mizan-Aman town. At Bench-Sheko zone correction center, the director of security and prisoners' management, and the director of inmates' rehabilitation and correction management are interviewed. However, the researcher attempt to interview the head administrator of the correction center was not succesfull, due to the administrator unwillingness to be interviewed. Three representatives of prisoners at Bench-Sheko zone correction center are also interviewed.

⁶⁵ Mahin N. Et Al. (2017), Snowball Sampling: A purposeful Methods of Sampling in Qualitative Research, pp.2

⁶⁶ Using this sampling techniques the researcher interviewed two prisoners through the prior information about these prisoners from the representatives of prisoners

Concerning quaternaries, the researcher employed simple random sampling techniques to select public prosecutors both from Bench-Sheko zone Public prosecutors and public prosecutors from selected woredas. In Simple random sampling techniques, each units of the population has equal chance of inclusion in the sample.⁶⁷ This sampling technique provides unbiased and better estimation of the parameters if the population is homogeneous.⁶⁸ Therefore the justification to use simple random sampling technique to select respondent public prosecutors is that public prosecutors forms homogeneous population to this specific study. The following table shows the total population and sampled respondents of public prosecutors in responding quaternaries.

No.	Key Informant Prosecutors Area	Population Size	Sample of Respondents	Percentage
1	Bench- Sheko Zone Public Prosecutors	12	6	50%
2	Mizan- Aman Town Public Prosecutora	8	4	50%
3	Sheko Woreda Public Prosecutors	6	3	50%
4	Semen Bench woreda public prosecutors	6	3	50
	Total	32	16	50%

Table 1: Sample size of respondent public prosecutors for questionnaires

As far as prisoners are concerned the researcher employed stratified sampling techniques to select different categories of respondents. A stratified sampling technique is applied to obtain representative sample, when the population from which a sample is drawn does not constitute a homogeneous group.⁶⁹ Under this sampling technique the population is divided in to several sub-populations that are individually more homogeneous than the total population.⁷⁰ Using this sampling technique the researcher divided the prisoners in Bench-Sheko zone correction center population in to four categories (Men, Women, Young Offenders and Prisoners with disabilities).

⁶⁷ Singh A. and Masuku.M (2014), Sampling Techniques and Determination of Sample Size in Applied Statistics Research :An Overview, International Journal of Economics, Commerce and Management, Vol. II, Issue 11,pp.4

⁶⁸ Ibid

⁶⁹ Hitesh M.(2018), Data Collection and Sampling,pp.28

⁷⁰ Ibid

The following table shows the respondent Sub- population of prisoners and the sample size selected by the researcher.

No.	Key Informant Categories	Population Size	Sample of Respondents	Percentage
1	Men	1527	305	20%
2	Females	90	18	20%
3	Juvenile offenders	8	3	37%
4	Inmates with disability	3	1	33%
	Total	1628	327	20%

Table 2: Sample size of respondent inmates for questionnaires

9. Organization of the study

This research paper contains five chapters. Chapter one introduces the paper and provides general picture of the study. Chapter two explores international and national legal frameworks relevant to the protection of the rights of prisoners. It also explicates international and national legal frameworks on the role of public prosecutor in the enforcement of prisoners' right. Under this chapter, the power and responsibility of public prosecutor to enforce the right of prisoners is analyzed in line with the state responsibility to inspect and monitor the treatment of prisoners in correction center, under international law. Chapter three deals with the practice of the treatments of prisoners in Bench-Sheko Zone correction center. Then, chapter four presents the practical assessment on the role of public prosecutors in the enforcement of prisoners' right at Bench-Sheko Zone correction center. The fifth and final chapter provides concluding observation on Public Prosecutors role in the enforcement of prisoners' right in Bench –Sheko Zone correction center. The chapter also included appropriate recommendations.

CHAPTER TWO

Legal Frameworks on the Rights of Prisoners and the Role of public Prosecutors in the Enforcement of Prisoners Right

The purpose of this chapter is first to synopsise the legal protection provided for prisoners under international and domestic legal instruments. It also presents the legal basis for public prosecutor role in the enforcement of the right of prisoners both at international and domestic level. Accordingly, the chapter is divided into two major parts. While the first part presents international, regional(African) and national legal frameworks relevant to the protection of the right of prisoners, the second part deals with international, and national legal frameworks on the role of public prosecutor in the enforcement of prisoners' right.

2.1. Legal Frameworks on the Rights of Prisoners

Currently, at international and national level there are various human right instruments and minimum standards and principles that are directly and indirectly relevant to the protection of the right of prisoners. These human right instruments guaranteed the treatments of all prisoners with respect to their inherent dignity and prohibit and protect them from torture and other forms of ill-treatment. This section of the chapter, discusses the legal protection provided for prisoners at international, and national level.

2.1.1. International Legal Frameworks

This sub-section presents the legal protection provided for prisoners under general human right instruments and specific laws dealing with prisoners' rights at international level.

2.1.1.1. International Human Right Instruments

Almost similar with individuals leading normal ways of life prisoners are entitled to every human right protections subject to the conditions prescribed by law. As one of the basic principle of human rights is that they are inalienable and under no circumstances can any authority take away individuals basic human rights, prisoners as individuals do not lose their basic human rights.⁷¹ Accordingly, the prison authority and prison staffs have no right to inflict additional punishments on prisoners by treating them as lesser human beings who have forfeited the right to

⁷¹ Reports on Workshop on Prisons and Human Rights, Commonwealth Human Rights Initiative and Madhya Pradesh Human Rights Commission, 1998, pp.3

be respected because of what they have done.⁷² Hereunder some of international human right treaties or declarations that have direct and indirect relevance in managing prisons and prisoner's rights are indicated.

I. Universal Declaration on Human Rights

The UDHR contains different human right provisions that are directly and indirect relevant to the protection of prisoners' rights. These includes but not limited to, the right to life, liberty and security of person; the prohibition of torture and of cruel, inhuman and degrading treatment or punishment; and the right to adequate standard of living.⁷³ While these provisions are most directly relevant to the administration of justice, the entire text of the UDHR offers guidance for the work of prison officials.⁷⁴ Accordingly the declaration is as its paramount importance in the protection of the right of prisoners.

II. International Convention on Civil and Political Rights

Other general international instrument that has impact on the human rights of prisoners is the ICCPR. For instance, article 7 of the convention prohibits torture or other cruel, inhuman and degrading treatment or punishment. In this respect, the Human Rights Committee has noted with regard to this provision that it allows no limitation to the right and no derogations.⁷⁵ According to the committee, the prohibition imposed by covenant relates to acts that cause either physical pain and mental suffering or both. And, these acts include corporal punishment and prolonged solitary confinement.⁷⁶

Further the convention provided that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.⁷⁷ The Human Rights Committee in its General Comment No. 21 has interpreted this in the light of detained persons to mean that they may not be subjected to hardship or constraint other than that resulting from the

⁷² See Andrew C. (2002), Supra note 10, pp.31

⁷³ Universal Declaration of Human Rights, Adopted and proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948, articles 3, 5 and 25 respectively.

⁷⁴ Human Rights and Prisons, Manual on Human Rights Training for Prison Officials, Office of the United Nations High Commissioner for Human Rights, United Nations New York and Geneva, 2005, pp.8

⁷⁵ General comment No. 20: Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), UN Human Right Committee, Forty-fourth session (1992) para.3

⁷⁶ Ibid, Para.5

⁷⁷ ICCPR, Supra note 5, article 10

deprivation of liberty; respect for the dignity of such persons must be regarded under the same conditions as that for free persons.⁷⁸ The only restrictions that should be imposed are those unavoidable in a closed environment. The committee further elaborated that the State party has a positive obligation towards those persons who are particularly vulnerable because of their status as persons deprived of their liberty.⁷⁹ The Committee considers the treatment of all persons deprived of their liberty with humanity and dignity a fundamental and universally applicable rule, the application of which, as a minimum, does not depend on the material resources available within a State party.⁸⁰

The Committee, in its general comments indicated, *inter alia*, the following factors as being relevant to its consideration whether the conditions of detention in any country are humane as required by the Covenant. First, whether the Standard Minimum Rules for the Treatment of Prisoners and other UN standards are being implemented.⁸¹ Second, details about prisoners' diet, in terms of both quality and quantity; prison sanitation; over-crowding, that is, the average number of prisoners per cell; and health care.⁸²

Most importantly the ICCPR has expressly considered the objective of punishment as reformation and social rehabilitation stating that, the penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.⁸³ In this respect the Human Rights Committee emphasized in its general comments that penitentiary system should essentially seek the reformation and social rehabilitation of the prisoner, and not only retributory.⁸⁴

With respect to juveniles the convention provided that, juvenile offenders shall be segregated from adults and be accorded treatment.⁸⁵ Additionally, in the case of juvenile persons, the

⁷⁸ General comment No. 21: Article 10 (Humane treatment of persons deprived of their liberty), UN Human Right Committee, Forty-fourth session (1992), para.3.

⁷⁹ Ibid

⁸⁰ Ibid, Para 4

⁸¹ Ibid ,Para 5

⁸² Paul R Williams, Treatment of Detainees: Examination of Issues Relevant to Detention by the United Nations

⁸³ ICCPR, Supra note5, Article 10(3).

⁸⁴ General Comment No. 21, Supra note 78, para.10.

⁸⁵ ICCPR, Supra note 5, article 10(3)

procedure shall take account their age and the desirability of promoting their rehabilitation”.⁸⁶ Finally, Ethiopia has ratified this instrument which obliges it to take the necessary steps to adopt laws or other measures as may be necessary to give effect to these rights of prisoners.⁸⁷

III. International Covenant on Economic, Social and Cultural Rights

The ICESCR provides the right of everyone to an adequate standard of living condition.⁸⁸ Stating the right of everyone to an adequate standard of living is particularly important to the rights of prisoners.⁸⁹ This right, as stated under the convention, includes the right to adequate food, clothing and housing and to the continuous improvement of living conditions.⁹⁰ It also recognizes the fundamental right of everyone to be free from hunger.⁹¹ In addition to this the Covenant provide details on the rights to work; to reasonable conditions of employment; to organize trade unions; to social security and social insurance; to protection of families and children; to health; to education; and to take part in cultural life.⁹²

The convention deals with the right to health which is an important right with regard to prisoners. The United Nations Committee on Economic Social and Cultural Rights considers that it is a legal obligation for states not to deny or limit equal access to all persons including prisoners or detainees to preventive, curative and palliative health services.⁹³ Further, the Committee on ICESCR in its general comment adopted that the right to adequate food and the right to drinking water are relevant to the conditions of imprisonment and detention.⁹⁴

IV. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

⁸⁶ Id, article 14(4)

⁸⁷ Ethiopia Ratified the ICCPR, See The United Nations Human Rights office of the High Commissioner, UN Treaty Data Base, Available at <<http://tbinternet.ohchr.org/>>

⁸⁸ International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976 ,Article 11,

⁸⁹ See Human Rights and Prisons (2005), supra note 8, pp.9

⁹⁰ ICESCR, Supra note 88, Article 11, paragraph 1,

⁹¹ Ibid, paragraph 2

⁹² ICESCR, Supra note 88, Articles 6, 7, 8, 9, 10, 12, 13 and 15, respectively

⁹³ General Comment 14 of the Committee on Economic, Social and Cultural Rights, Para. 36

⁹⁴ The Committee on Economic, Social and Cultural Rights adopted General Comment No. 12 (1999) on the right to adequate food (art. 11 of the Covenant) and General Comment No. 15 (2002) on the right to water (arts. 11 and 12 of the Covenant).

The convention obligated state parties to investigate and punish the act of torture committed in its territory including by the act of government authorities. According to the convention, each State party has duty to ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction”.⁹⁵ Further, it provides each state parties duty to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.⁹⁶

The convention also provided some provisions directly related with the treatment of prisoners. For instance, the convention requires states to include education and information regarding the prohibition against torture are in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.⁹⁷ Most importantly, the convention obligated governments to keep under review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.⁹⁸

V. Some Other relevant International human right instruments on vulnerable prisoners’ right

The Convention on the Right of Child and the United Nations Convention on the Rights of Persons with Disabilities are among major international human right instruments expressly addressed the issue of vulnerable groups’ right in the context of imprisonment. In the first place, the CRC requires State parties to ensure that no child is subjected to torture or other cruel, inhuman or degrading treatment or punishment.⁹⁹ It also requires juveniles in conflict with the

⁹⁵ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted and opened for signature, ratification, and accession by GA Resolution 39/49 of 10 December 1984, article 12

⁹⁶ Id, Article 16(1)

⁹⁷ Id, Article 10

⁹⁸ Id,Article 11

⁹⁹ Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990,Article 37

law to be treated with humanity and respect for the dignity of the human person, and in a manner which takes into account their age. Every child deprived of liberty are also required to be separated from adults unless it is considered in the child's best interest not to do so and to maintain contact with their family through correspondence and visits, save in exceptional circumstances.¹⁰⁰

On the other hand, the principle of non-discrimination enshrined under the United Nations Convention on the Rights of Persons with Disabilities is recommended to be applied to all persons with disabilities, including those facing criminal prosecution, detainees and prisoners.¹⁰¹ The UNCRPD obligated States Parties to ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation.¹⁰² Further, the convention prohibited torture or cruel, inhuman or degrading treatment or punishments against persons with disabilities.¹⁰³ Most importantly the convention provides the protection for prisoners with serious physical handicaps and those of advanced age to be accommodated in such a way as to allow as normal a life as possible and should not be segregated from the general prison population.¹⁰⁴

Additionally, although it has not incorporated the context of imprisoned women's right expressly, the general rules of non-discrimination and equal treatment guaranteed under Convention on the Elimination of All Forms of Discrimination against Women is important to women prisoners to treat them equally with men prisoners. The convention obligated state parties to refrain from engaging in any act or practice of discrimination against women; to ensure that public authorities and institutions shall act in conformity with this obligation and to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.¹⁰⁵ This

¹⁰⁰ Ibid

¹⁰¹ Handbook on Prisoners with Special Needs, Criminal Justice Handbook Series, United Nations Office on Drugs and Crime, Vienna(2009), pp. 46

¹⁰² Convention on the Rights of Persons with Disabilities, agreed on 13 December 2006 and opened for signature on 30 March 2007, Article 14(2)

¹⁰³ Id, Article 15

¹⁰⁴ Id,Article 50

¹⁰⁵ Convention on the Elimination of All Forms of Discrimination against Women, Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 entry into force 3

provision of the convention is important to prevent all discriminatory practice or treatments against women everywhere including the correction facilities.

2.1.1.2. The Rights of Prisoners under United Nation Minimum Rules and Standards for the Treatment of Prisoners

Beyond the above general human rights instruments there are also another relevant UN standard minimum rules and principles which provide a comprehensive set of safeguards for the protection of the rights of imprisoned persons in detailed manner.¹⁰⁶ According to the International Centre for Prison Studies the more detailed standards which are set out in these principles, minimum rules or guidelines provides a valuable complement to the broad principles contained in the legal treaties.¹⁰⁷ This part of the discussion presented specific rights and protections of prisoners provided by these international instruments under different categories.

I. Duty to respect the dignity of prisoners and to protect them from torture

Various provisions of the UN basic principles on the treatment of prisoners specifically require the treatment of prisoners in dignified manner and prohibited torture and other inhuman treatments. For instance, the UN Basic Principles and the UN Body of Principles similarly guarantees all persons under any form of detention or imprisonment to be treated in a humane manner and with respect for the inherent dignity of the human person.”¹⁰⁸ Further, the Body of Principles prohibited torture or other cruel, inhuman or degrading treatment or punishment under any form of detention or imprisonment.¹⁰⁹

Additionally the Nelson Mandela Rules on treatment of prisoners, reaffirming the above provisions provided that, all prisoners shall be treated with the respect due to their inherent dignity and value as human beings and shall not be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for

September 1981, Article 2

¹⁰⁶ These rules are the SMR, UN Basic Principles, UN Body of Principles, Nelson Mandela Rules, Code of Conduct for Law Enforcement Officials, the Bangkok Rules and United Nations Standard Minimum Rules for the Administration of Juvenile Justice; for further information see Supra note 6

¹⁰⁷ Andrew Coyle (2009), A Human Rights Approach to Prison Management, Handbook for Prison Staff, Second Edition, International Centre for Prison Studies, pp7

¹⁰⁸ UN Body of Principles, Supra note 6, Principle 1 and UN basic Principles, Supra note 6, Principle 1

¹⁰⁹ UN Body of Principles, Supra note 6, Principle 6

which no circumstances whatsoever may be invoked as a justification.¹¹⁰ On the other hand, the Code of Conduct for Law Enforcement Officials put a restriction on the law enforcement officials to use force only when strictly necessary and to the extent required for the performance of their duty.¹¹¹

II. The right to adequate standard of living condition and accommodation

As the UN Manual on Human Rights Training for Prison Officials noted, the deprivation of adequate food, water, clothing and proper accommodation can often result in ill-treatment of prisoners which may amount to torture in severe cases.¹¹² It further emphasized that physical infliction of torture or other cruel, inhuman or degrading treatment is not the only manner of violating the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment may constitute the act of torture.¹¹³ Thus providing adequate standard of living condition and accommodation is essential step with regards to the protection of the right of prisoners.

Under the UN instruments on the treatment of prisoners, the persons deprived of their liberty have guaranteed the right to an adequate standard of living, including adequate food, drinking water, accommodation, clothing and bedding. Regarding the accommodation of prisoners, the SMR provided that in case where sleeping accommodation is in single cells or rooms, each prisoner should occupy a night cell or room by himself and where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions.¹¹⁴ It also requires all accommodation provided for the use of prisoners and in particular all sleeping accommodation to meet all requirements of health, climatic conditions and particularly to cubic contents of air, minimum floor space, lighting, heating and ventilation.¹¹⁵

Further according to the Rule, every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good

¹¹⁰ The Nelson Mandela Rules, Supra note 1, Rule 1

¹¹¹ Code of Conduct for Law Enforcement Officials, Adopted by General Assembly resolution 34/169 of 17 December 1979, Article 3

¹¹² See Human Rights and Prisons (2005), Supra note 8, pp.47

¹¹³ Ibid

¹¹⁴ SMR, Supra note 6, Rule 9

¹¹⁵ Id, Rule 10

health.¹¹⁶ And such clothing shall in no manner be degrading or humiliating. It also provides every prisoner right to be accommodated with separate and sufficient bedding, clean when issued and changed often enough to ensure its cleanliness in accordance with local or national standards.¹¹⁷ Every prisoner is also guaranteed, the right to be provided with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served and drinking water by the administration at the usual hours.¹¹⁸ Additionally, the Nelson Mandela Rules guaranteed, the right of prisoners to adequate living condition in detailed manner in similar way with the SMR.

III. The right to adequate health care service

Imprisoned Persons retain their fundamental right to enjoy good health, both physical and mental, and they retain their entitlement to a standard of medical care which is at least the equivalent of that provided in the wider community.¹¹⁹ Specific international instruments set out the healthcare provision to be made by prison administrations for prisoners.

In this regard, the Nelson Mandela Rules provided that, every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.¹²⁰ Further, it requires the prison facilities to have the services of at least one qualified medical officer and the medical services should be organized in close relationship to the general health administration of the community or nation.¹²¹ Similarly, UN Basic Principles and the UN Body of Principles, guaranteed prisoners right to have access to free health care services available in the country without discrimination on the grounds of their legal situation.¹²²

IV. The right to Education, Culture, and Recreational Activities

The UN Basic Principles guaranteed all prisoners the right to take part in cultural activities and

¹¹⁶ Id,Rule 17

¹¹⁷ Id,Rule 19

¹¹⁸ Id,Rule 20 (1)

¹¹⁹ Andrew C. and Helen F (2018), A Human Rights Approach to Prison Management, Handbook for prison staff, Third Edition, Institute for Criminal Policy Research at Birkbeck, University of London,pp.51 -52

¹²⁰ The Nelson Mandela Rules, Supra note 1, Rule 25

¹²¹ Id, Rule 22

¹²² UN Basic Principles,Supra note 6, Principle 9, and UN Body of Principles, Supra note 6 ,Principle 24

education aimed at the full development of the human personality.¹²³ The SMR also provided the right to education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible.¹²⁴ According to this specific rule the education of illiterates and young prisoners shall be compulsory and the education of prisoners shall be integrated with the educational system of the country so as to continue their education after their release without difficulty. The same rule also requires recreational and cultural activities to be provided in all institutions for the benefit of the mental and physical health of prisoners.¹²⁵ The correction facilities are also required to have library service for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.¹²⁶

V. The right to religion

Regarding the religious freedom of prisoners, the SMR stipulated that “if the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved.”¹²⁷ Accordingly, qualified representative appointed or approved shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times. Further it requires that, so far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.¹²⁸

VI. The right to work

One of the essentials to accelerate the rehabilitation of prisoners is to provide them with adequately remunerated work. Depending on this, the UN Basic Principles requires enabling conditions to be created for prisoners to undertake meaningful remunerated employment to facilitate their reintegration into the country's labour market and permit them to contribute to

¹²³ Id, UN Basic Principles , Principle 6

¹²⁴ SMR, Supra note 6, Rule 77

¹²⁵ Id, Rule 78

¹²⁶ Id, Rule 40

¹²⁷ Id, Rule 41

¹²⁸ Id, Rule 42

their own financial support and to that of their families.¹²⁹

On the other hand, the SMR provided that prison labour must not be of an afflictive nature and all prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.¹³⁰ Sufficient work of a useful nature shall also be provided to keep prisoners actively employed for a normal working day and so far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release. Further, the rule stated that, the organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life. The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution.¹³¹ The rule also requires fixing of maximum daily and weekly working hours of the prisoners by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen.¹³² Moreover, according to the rule, the system of equitable remuneration of the work shall be provided for prisoners and they shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.¹³³

VII. Contact with outsiders

The SMR provided that prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.¹³⁴ Special attentions shall also be given to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.¹³⁵ Similarly, the UN Body of Principles guaranteed the prisoners right to be visited by and to correspond with, in particular, members of his family and shall be given adequate opportunity to communicate with the outside world, subject to reasonable conditions and restrictions as

¹²⁹ UN Basic Principles, Supra note 6, Principle 8

¹³⁰ SMR, Supra note 6, Rule 71

¹³¹ Id, Rule 72

¹³² Id, Rule 75

¹³³ Id, Rule 76

¹³⁴ Id, Rule 37

¹³⁵ Id, Rule 79

specified by law or lawful regulations.¹³⁶

VIII. The treatment of Special Categories of Prisoners

The UN principles and minimum rules on the treatment of prisoners recognized special categories of prisoners who need special care due to their vulnerability. For instances the UN Body Principles under Principle 5 provided that “measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers, children and juveniles; aged, sick or handicapped persons shall not be discriminatory.”

On the other hand the SMR requires different categories of prisoners to be kept in separate institutions or parts of institutions, taking in to account their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment.¹³⁷ Further it provides that in women’s institutions there shall be special accommodation for all necessary prenatal and post-natal care and treatment.¹³⁸

Specifically, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules) requires accommodation of women prisoners to have facilities and materials required to meet women’s specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.¹³⁹

Regarding juvenile offenders, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice provides that, while in custody, juveniles shall receive care, protection and all necessary individual assistance – social, educational, vocational, psychological, medical and physical – that they may require in view of their age, sex and personality.¹⁴⁰ Further this rule recognized that, the objective of training and treatment of juveniles placed in institutions is to provide care, protection, education and vocational skills,

¹³⁶ UN Body of Principles, Supra note 6, Principle 19

¹³⁷ SMR, Supra note 6, Rule 8

¹³⁸ Id, Rule 23

¹³⁹ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), Rule 5

¹⁴⁰ The United Nations Standard Minimum Rules for the Administration of Juvenile Justice, Rule 13

with a view to assisting them to assume socially constructive and productive roles in society.¹⁴¹ It also requires the juveniles to be kept separate from adults and shall be detained in a separate institution or in a separate part of an institution also holding adults.

IX. The right to compliant

During their stay in correctional facilities prisoners are likely to perceive an element of unfairness in the way they are treated, either individually or in a group even in the best managed prisons.¹⁴² Due to this fact it is important that there should be a set of procedures which allow prisoners to make special requests and to register any complaints which they have.¹⁴³ Recognizing this, the UN principles on the treatment of prisoners provided the right of prisoners to bring their complaints for the prison administration or other higher authorities.

For instance, the UN Body of Principles provided that “imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.¹⁴⁴ The principle further requires that, every request or complaint shall be promptly dealt with and replied without undue delay and if the request or complaint is rejected, or in case of inordinate delay, the complainant shall be entitled to bring it before a judicial or other authority.¹⁴⁵ Moreover it guaranteed the immunity of detained or imprisoned person or any other complainants from suffer prejudice for making a request or complaint.¹⁴⁶

Similarly the SMR provides every prisoner right to have the opportunity each weekday of making requests or complaints to the director of the institution or the officer authorized to represent him.¹⁴⁷ And it shall be possible for prisoners to make requests or complaints to the inspector of prisons during his inspection and to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present. Further, the rule

¹⁴¹ Id,Rule 26

¹⁴² See Andrew (2002), Supra note 10 ,pp.105

¹⁴³ Ibid

¹⁴⁴ UN Body of Principles,Supra note 6, Principle 33

¹⁴⁵ Ibid

¹⁴⁶ Ibid

¹⁴⁷ SMR,Supra note6, Rrule 36

guaranteed every prisoner right to be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.¹⁴⁸ And according to the rule, unless it is evidently frivolous or groundless, every request or complaint is required to be promptly dealt with and replied without undue delay.¹⁴⁹

Additionally the Nelson Mandela Rules, in similar ways with the above instruments guaranteed every prisoners right to make request or complaint; to get their request or complaint be promptly dealt with and replied without delay; to be immune from any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.¹⁵⁰

2.1.2. Regional (African) Legal Frameworks

The African Charter on Human and Peoples' Rights like other international human right instruments sets out fundamental rights and freedoms that apply to individuals in general regardless of their status. Article 5 of the Charter has particular relevance for the protection of the right of prisoners which declares every individual right to the respect of their human dignity and prohibited all forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment. The Charter also provides a number of other rights such as the right to life, liberty and security of the person, religion, the right to work, health and education¹⁵¹ which are also relevant for the protection of prisoners' right.

On the other hand the African Charter on the Rights and Welfare of the Child provided the state parties duty to ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment and that the child is separated from adults in the place of detention.¹⁵²

Beside this the African Commission on Human and Peoples' Rights adopted different declarations on the treatment of prisoners. These are the Kampala Declaration on Prison

¹⁴⁸ Id, Rrule 130

¹⁴⁹ Ibid

¹⁵⁰ The Nelson Mandela Rules, Supra note 1, Rule 56 and 57 respectively.

¹⁵¹ African Charter on Human & Peoples' Rights, Adopted 27 June 1981, Articles 4,6,8,15,16and 17 respectively

¹⁵² African Charter on the Rights and Welfare of the Child, Article 17 (2) (a) and (b)

Conditions in Africa,¹⁵³ and ‘Robben Island Guidelines’. The Kampala Declaration recommends that the human rights of prisoners should be safeguarded at all time; that prisoners should retain all rights which are not expressly taken away by the fact of their detention; that conditions in which prisoners are held and the prison regulations should not aggravate the suffering already caused by the loss of liberty; that the detrimental effects of imprisonment should be minimized so that prisoners do not lose their self-respect and sense of personal responsibility.¹⁵⁴ On the other hand, the Robben Island Guidelines stipulated that, states should take appropriate steps to ensure that the treatment of all persons deprived of their liberty is in conformity with international standards guided by the UN Standard Minimum Rules for the Treatment of Prisoners’.¹⁵⁵ It further requires States to take steps to improve conditions in places of detention which do not conform to international standards.¹⁵⁶

2.1.3. Domestic Legal Frameworks

In addition to the above international and regional legal frameworks the proper treatment of prisoners and their rights is also guaranteed under the Ethiopian domestic laws both at federal and regional state level. This part of the discussion provides the domestic legal frameworks of Ethiopia relevant to the treatment of prisoners both at Federal and regional state level (Particularly the laws of SNNPRS).

2.1.3.1. Legal Frameworks on the Treatments of Prisoners at Federal Level

The FDRE constitution guaranteed all persons held in custody and persons imprisoned upon conviction and sentencing have the rights to treatments respecting their human dignity.¹⁵⁷ It also provides the right of prisoners to communicate with, and to be visited by, their spouses or partners, close relatives, friends, religious councilors, medical doctors and their legal counsel.¹⁵⁸ Beside this the constitution under article 9(4) stipulates that “all international agreements ratified

¹⁵³Kampala Declaration on Prison Conditions in Africa, Held from 19-21 September 1996 in Kampala, Uganda, Available at <[www.un.org/ documents/ ecosoc/res/1997/eres1997-36.htm](http://www.un.org/documents/ecosoc/res/1997/eres1997-36.htm)>

¹⁵⁴ See Supra note 37 ,Kampala Declaration on Prison Conditions, Paras.1-2 & 4-5

¹⁵⁵ African Commission on Human and Peoples’ Rights, Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines), 2002, Guideline 33

¹⁵⁶ Id, Guideline 34

¹⁵⁷ Constitution of the Federal Democratic Republic of Ethiopia, Federal Negarit Gazetta, Proclamation No. 1/ 1995.Article 21

¹⁵⁸ Ibid, sub article 2

by Ethiopia are an integral part of the law of the land. Accordingly international human rights instruments in general and those exclusively dedicated to detained persons rights can be invoked by prisoners so long as ratified by Ethiopia.¹⁵⁹

To further the constitutional objectives on the treatment of prisoners the Federal Prisons Commission Establishment Proclamation¹⁶⁰ is adopted by the house of people's representatives. The proclamation clearly indicated the federal prison commission's goal which is to admit and ward prisoners, and provide them with reformative and rehabilitative service in order to enable them make attitudinal and behavioral changes, and become law abiding, peaceful and productive citizens.¹⁶¹ The proclamation guaranteed the right of prisoners to be treated with due regard to their human dignity¹⁶² while it prohibits adverse discrimination on grounds of gender, religion, political opinion, nation, nationality, of social origin.¹⁶³ In addition to this, the proclamation among others provided the prison commission responsibilities to provide health care, free medical treatment, food and shelter, academic education, vocational training, and social work services and counseling services to facilitate their post-release rehabilitation for prisoners; and separate premises for female prisoners while it requires segregation on the basis of age, offences and similar factors is subject to the extent that circumstances allow.¹⁶⁴

There is also the Council Of Ministers Regulations on the Treatment of Federal Prisoners¹⁶⁵ which provided detailed rules on the treatment of prisoners and their right. According to the regulation the treatment of prisoners shall be based on the basic principles of discrimination; respect to the prisoners human dignity and ensuring the executions of penalties as educative and rehabilitative.¹⁶⁶ Further, similar to the UN Standard Minimum Rules for the Treatment of Prisoners the regulations provided detailed rules including, registration of a newly

¹⁵⁹ Addisu Gulilat(2012), The Human Rights of Detained Persons in Ethiopia Case Study in Addis Ababa, A thesis submitted to Addis Ababa University, School of Graduate, faculty of law, school of graduate studies in Partial Fulfillment of the Requirement of the Degree of Masters in Human Rights Law, Addis Ababa University, Ethiopia Supra note 19, pp. 39

¹⁶⁰ Federal Prisons Commission Establishment Proclamation, 2003, Proc. No 365, Neg. Gaz. Year 9, No.90

¹⁶¹ Id, article 5

¹⁶² Id, article 22

¹⁶³ Id, article 24

¹⁶⁴ Id, Articles 6 and 25 respectively

¹⁶⁵ Council of Ministers Regulations on the Treatment of Federal Prisoners, 2007, Reg. no 138, Neg. Gaz., Year 13, No.

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¹⁶⁶ Id, Article 39

admitted prisoner; separate premises for male and female prisoners and separate accommodation for juvenile prisoners; right to food and water; right to health care service; right to communicate with outsiders; right to education; right to religion; right to compliant; and right to work and reasonable remuneration.¹⁶⁷

The FDRE revised criminal code¹⁶⁸ also included some provision relevant in the context of the treatment of prisoners. The code in its preface uphold the principle that, wrongdoers, 'instead of being made to suffer while in prison, take vocational training and participate in academic education, which would benefit them upon their release, reaffirms the great concern envisaged by the Criminal Code about the reform of criminals. On the other hand the code provides the segregation of prisoners based on their status.¹⁶⁹ Accordingly, prisoners of different sexes shall serve their sentences in different prisons and, in default of this, prisoners of different sexes shall be kept in different sections of the same prison and shall not be allowed to mix with prisoners of the other sex; Prisoners who are sentenced to rigorous imprisonment or special confinement shall be kept separate from prisoners under the age of eighteen years or from adult prisoners who are serving a sentence of simple imprisonment. Most importantly, the code criminalized the acts of torture directed against persons who are under custody.¹⁷⁰

2.1.3.2. Legal Frameworks on the Treatments of Prisoners at Regional State level (i.e. South Nation Nationalities People Regional State)

At regional state level, the SNNPRS constitution¹⁷¹ like the FDRE constitution guaranteed the right of person deprived of their liberty in the same terminologies. The constitution guaranteed all persons under custody and imprisoned person the rights to treatments respecting their human dignity.¹⁷² It also guaranteed the right of prisoners to communicate with, and to be visited by, their spouses or partners, close relatives, friends, religious councilors, medical doctors and their legal counsel. Beside this the constitution provided different human right provisions which are relevant to the protection of the right of prisoners. Among others the constitution guaranteed the

¹⁶⁷Treatment of Federal Prisoners, Council of Ministers Regulations No. 138/2007,Articles 4,5,10,11,18,23,26,28 and 30-35 respectively

¹⁶⁸ Proclamation of the Criminal Code of the Federal Democratic Republic of Ethiopia, 2005, proc. no.414/2004

¹⁶⁹ Id,article 110

¹⁷⁰ Id,article 424(1)

¹⁷¹ Revised Constitution of the Southern Nation Nationalities and Peoples Regional State Proclamation No. 35/2001

¹⁷² Id, Article 21

right to life; security of person; right to liberty; prohibition against inhuman treatment ;right to honor and reputation; freedom of religion, conscience and belief.¹⁷³

Furthermore in order to provide detailed regulations that helps to make prisoners of prisons to be treated with due respect to their human rights during their stay in prison and to enable them become responsible and law-abiding citizens upon reintegration in to the society, the executive council of the southern Nations Nationalities and Peoples Regional State issued regional state manner or treatment of inmates of prisons regulation.¹⁷⁴ The regulation provides the principle of imprisonment which includes the applicability of the rules of the regulation to all without discrimination.¹⁷⁵ According to the regulation, imprisonment shall be carried out in a manner that ensures human dignity physically and morally and in full compliance with the provisions of the constitution and other relevant laws.¹⁷⁶ Further it requires the execution of sentence of imprisonment to contribute for the rehabilitation and facilitation of the post-release reintegration of inmates.¹⁷⁷

Furthermore, similar to the Council Of Ministers Regulations on the Treatment of Federal Prisoners this regulation provides detailed rules for the protection and treatment of prisoners in line with international standards on the treatment of Prisoners. These includes, the admission and registration of inmates; provision of separate accommodation for different categories of prisoners; the right to adequate accommodation standards, the right of prisoners to adequate standard of clothing, bedroom and sanitation; the right to nutrition; the right to medical service; the right of prisoners correspondence with persons outside the prison; right to work and reasonable remuneration; right to information and petition; the right to education; the right to counseling; and freedom of religion.¹⁷⁸

2.2. Legal Frameworks on Prosecutors Role in the Enforcement of Prisoners Right

As it is attempted to indicate in the above section of this chapter, international legal instruments contain strict rules about the treatment of prisoners which are applicable at all times. And States

¹⁷³ Id, Articles 15,16,17,18,24 and 27

¹⁷⁴ Southern Nations Nationalities and Peoples Regional State Manner Of Treatment Of Inmates Of Prisons Regulation No. 45/2005,preamble

¹⁷⁵ Id,Article 4

¹⁷⁶ Ibid

¹⁷⁷ Ibid

¹⁷⁸ Id, ,Articles 5,6,7,8,9,10,12,21-26,27 and 29,30,32 and 33 respectively.

are under a legal duty to take the necessary legislative and practical measures to put an end to all practices that violate these rules. As such, states has responsibility not only to respect the right of prisoners but they are also obligated to ensure the enforcement of the right of prisoners in correction facilities. To put this in practice, beyond fulfilling necessary facilities in correction center, States may provide independent supervisory organ in order to follow-up the effective enforcement of prisoners right in correction facilities. In countries like Ethiopia, the power and responsibility on supervision of prisoners' treatment and the implementation of their right is expressly given to government bodies like public prosecutors.¹⁷⁹ Accordingly, the discussion under this section provides the legal basis for the role of public prosecutors in the enforcement of the right of prisoners both at international and national level.

2.2.1. International Legal Frameworks

The UN Office of the High Commissioner for Human Rights found that, prosecutors and lawyers have primordial importance in contributing to an increased respect for the legal rules that will help safeguard the life, security and dignity of people deprived of their liberty.¹⁸⁰ Thus, prosecutors have the key role and professional duty to ensure the effective implementation of the existing domestic and international rules for the protection of the rights of people deprived of their liberty.¹⁸¹ In this respect, there are some international guidelines that are relevant on the role of public prosecutors in the enforcement of the right of imprisoned persons.

The UN Guidelines on the Role of Prosecutors stated that, “prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.”¹⁸² Further, the guideline provided that, prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court

¹⁷⁹ FDRE Comprehensive Justice System Reform Program, Baseline Study Report Supra note 23; and Federal Attorney General Establishment Proclamation, Supra note 44, Article 6(8) (c) ; See also, SNNPRS Attorney General Establishment Proclamation, Supra note 24, Article 6(5) (i)

¹⁸⁰ See Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers, Supra note 12, pp.117

¹⁸¹ Ibid

¹⁸² Guidelines on the Role of Prosecutors, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, Guideline 12

decisions and the exercise of other functions as representatives of the public interest.¹⁸³ Similarly the International Association of Prosecutors Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors provided that, “When, under local law and practice, prosecutors exercise a supervisory function in relation to the implementation of court decisions or perform other non-prosecutorial functions, they will always act in the public interest.¹⁸⁴” Concerning this specific guideline, the United Nations Office on Drugs and Crime and International Association of Prosecutors Guide emphasized that depending on the jurisdiction prosecutors may have a number of roles to play at the post-sentencing stage including supervision of prison conditions for those serving a sentence.¹⁸⁵

In both the above instruments the recognition of the role of public prosecutors to supervise the execution of court decision is important in the case of imprisoned person who are sentenced by the courts decision. As the imprisonment principle in modern criminal justice system is the proper rehabilitation and the correction of criminal offenders,¹⁸⁶ supervision of the execution of court decision of imprisonment by public prosecutor as required by the above instruments could be well observed through the prosecutors’ effective follow-up and monitoring of prisoners’ treatment in correction facilities. Some Countries experience also shows that, prosecutors play an important role in the execution of sentences and exercise supervision over the legality of detentions and of the living conditions of the detainees within prisons.¹⁸⁷For instance the Netherlands Model Protocol on Human Rights for Public Prosecutors, Rule 3 provided that “Public prosecutors should uphold the rule of law, in particular the right of Convicted offenders who are sentenced to prison should, for instance, not be subject to torture or other ill-treatment and be treated with humanity and respect.”¹⁸⁸

¹⁸³ Id, Guideline 11

¹⁸⁴ International Association of Prosecutors Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors, Standard 4

¹⁸⁵ The Status and Role of Prosecutors ,A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide, Criminal Justice Handbook Series, 2014,pp.49

¹⁸⁶ See for example the The Nelson Mandela Rule, Supra note 1, Rule 4; and Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation, Supra note 168 Preface, Para 8 which stated that “wrongdoers instead of being made to suffer while in prison, take vocational training and participate in academic education, which would benefit them upon their release, reaffirms the great concern envisaged by the Criminal Code about the reform of criminals.”

¹⁸⁷See Supra note 49, Ibid

¹⁸⁸Increasing Accountability and Respect for Human Rights by Judicial Authorities, the Netherlands Helsinki Committee (NHC) and the Helsinki Foundation for Human Rights (HFHR) , 2016

On the other hand, there are some international instruments which impose duty on states to set up an independent and qualified authority to inspect prison condition and to follow up the effective treatment of prisoners and the observance of their right in accordance with international standards. For instance the SMR requires regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority, to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.¹⁸⁹ Similarly the UN Body of Principles provided that, in order to supervise the strict observance of relevant laws and regulations, places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of imprisonment.¹⁹⁰ This principle further requires that, imprisoned person must be given the opportunity to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment, subject to reasonable conditions to ensure security and good order in such places.¹⁹¹ Additionally the Nelson Mandela Rules requires states to formulate twofold system for regular inspections of prisons and penal services. Which is internal or administrative inspections conducted by the central prison administration; and external inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.¹⁹²

In Africa the Robben Island Guidelines requires States to establish, support and strengthen independent national institutions such as human rights commissions, ombudspersons and commissions of parliamentarians, with the mandate to conduct visits to all places of detention and to generally address the issue of the prevention of torture, cruel, inhuman and degrading treatment or punishment.¹⁹³

As these all international instruments requires states to set up an independent and qualified body to inspect and monitor prison condition and the treatment of prisoners, different states take

¹⁸⁹ SMR ,Supra note 6, Rule 55

¹⁹⁰ UN Body of Principles,Supra note 6, Principle, 29 (1)

¹⁹¹ Ibid

¹⁹² The Nelson Mandela Rules, Supra note 1, Rule 83

¹⁹³ African Commission on Human and Peoples' Rights, Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines), 2002

different approaches. Although the nature of inspections carried out in correction facilities varies from country to country, most systems provide both an internal as well as an external system.¹⁹⁴ In some countries national external inspection bodies may include commissions or persons appointed by the government, presidential human rights commissions, and inspection bodies appointed by parliament, such a human rights commission, and lay inspection bodies (sometimes referred to as monitoring boards).¹⁹⁵ The external oversight bodies may also consists of the main judicial functionaries such as judges, public prosecutors, committees of the legislature, national human rights commissions and ombudsman offices, lawyers and NGOs both local and international.¹⁹⁶ When it comes to Ethiopia, as there is no independent ‘watchdog’ exists, the inspection of prisons is believed to be legally the duty of prosecutors who should control the legality of the custody of prisoners and their treatment.¹⁹⁷The next sub-section deals with this issue.

2.2.2. Domestic Legal Frameworks

At national level, the Ethiopian government provides a mechanism of prison visit and supervision mechanism among others through the public prosecutors. Among other core functions related with human right protection in criminal justice system, prosecutors are empowered by law to work on the protection of the right of prisoners. In this respect, the Federal Attorney General Establishment Proclamation provided the power and duties of public prosecutors to visit persons under correction facilities, to ensure whether their handling and stay is carried out in accordance with the law, cause unlawful act to be corrected; take measures or cause measures to be taken based on the law against people who are found to have transgressed the law.¹⁹⁸

At regional state level (specifically in SNNPRS) the power and duties of public prosecutors to protect the right of prisoners are also recognized. In 1995 when the functions of public prosecutors are under the SNNPRS justice bureau, the proclamation on the definition of powers

¹⁹⁴ See, Handbook for prison leaders ,Supra note 4, pp.129

¹⁹⁵ Ibid

¹⁹⁶ Waruguru K. (2003), Prisoners’ Rights: the Role of National Human Rights Institutions in Africa, a Dissertation Submitted in Partial Fulfillment of the Requirements of the Degree LLM , Political Science Department, American University in Cairo, Cairo, Egypt, pp.38

¹⁹⁷ Federal Democratic Republic of Ethiopia Comprehensive Justice System Reform Program, Baseline Study Report, Supra note 23,pp. 198

¹⁹⁸ See Federal Attorney General Establishment Proclamation,Supra note 44, Article 6(8) (c)

and duties of executive organ provided the power and duties of the bureau to cause the protection of legal and human right of detainees and prisoners that are in prison, temporary center of detention and correction institutions.¹⁹⁹ Further it provides the power and responsibilities of the justice bureau to ensure the proper rehabilitation and treatment of prisoners and improvement of their life avoiding their social and justice problem in prison facilities.²⁰⁰ Recently this proclamation is replaced by the new proclamation establishing the Attorney General at regional level which also recognized the power and duties of public prosecutors to follow-up the enforcement of prisoners' right.

Almost in the same terminologies with the Federal attorney general establishment proclamation, the newly enacted proclamation provides the power and duties of Attorney General at state level to visit suspected and inmates under custody at police stations and prisons, ensure their handling and reside is carried out in accordance with the law, cause unlawful act to be corrected; take measures or cause measures to be taken based on the law against people who are found to have transgressed the law.²⁰¹ Beside this, the same proclamation provides the Attorney General power and duty to lead, follow up, and coordinate principally the activities of Regional prisons administration commission.²⁰² It also provides that, the SNNPRS prisons administration commission is accountable to the Attorney General.²⁰³

Thus, generally in Ethiopia and particularly in SNNPRS, the regional attorney general, particularly public prosecutors are a major governmental oversight body to follow the activities of the correction facilities so as to ensure the proper treatment of prisoners' and its conformity with the law. Public prosecutors have a clear mandated to inspect and monitor the proper treatment of prisoners in correction facilities. As such they are under legal responsibility to regularly inspect the prison condition and monitor the treatment of prisoners and should take appropriate measures. In this respect, the United Nations Office on Drugs and Crime and International Association of Prosecutors Guide emphasized that, where public prosecutors are assigned to the task of prison inspection and monitoring they are expected to ensure that the

¹⁹⁹ Definition of Powers and Duties of the Executive organs of the South Nation Nationalities and Peoples Regional State Proclamation No.3/1995,Article 8(9)

²⁰⁰ Id, Article 8(10) to (12)

²⁰¹SNNPRS Attorney General Establishment Proclamation,Supra note 24

²⁰² Id, Article 6(12)

²⁰³ Id, Article 18(4)

conditions of detention do not amount to degrading or inhuman treatment and that the human rights of detainees are safeguarded.²⁰⁴ And in case of any breach of legal regulations within the process of detention, prosecutors should respond by requesting strict compliance with the applicable legal provisions and should initiate or promote, where appropriate, disciplinary or criminal proceedings against those responsible.²⁰⁵ In sum, the government action to assign the responsibility of visiting correction facilities and monitoring the proper treatment of prisoners to public prosecutor is an important step to fulfill its international obligation to set up an independent and qualified body responsible for prison inspection and follow-up.

Conclusion

The discussion under the preceding chapter, presented under two major sections, indicates international and national legal frameworks on the right of prisoners and the role of public prosecutors' in the protection of prisoners right. The protection of prisoners' rights and their humane treatment is required and guaranteed by various international and national legal instruments. As imprisonment does not prevent the treatment of prisoners as a human being, they are also under the protection of the general human right instruments. Accordingly, various human right stipulations that are enshrined under major international instruments such as the UDHR, ICCPR, ICESCR, CAT and other relevant instruments are therefore equally important to the treatment of prisoners. Major guarantees provided under such international human right instruments which are relevant to prisoners includes among others, the right to life; the right to be free from torture or other ill-treatments; the right to respected human dignity; the right to lead adequate standard of living condition, the right to health; the right to freedom of religion and cultural practice and the right to respect for family life and the right to self-development. There are also prisoners' specific rules and standards such as the SMR, the Nelson Mandela Rules, and the UN Body of Principles and the UN Basic principles which provides details on the proper treatment of prisoners. These rules and standards put various specific requirements on the treatment of prisoners. Starting from the prohibition of torture and other inhuman treatments on prisoners, these rules and principles puts different standards necessary for prisoners to lead dignified and safe life in the correction facilities.

²⁰⁴ See A United Nations Office on Drugs and Crime and International Association of Prosecutors Guide ,supra note 51, Ibid

²⁰⁵ Ibid

Domestically, prisoners are also provided with legal protections important to their proper rehabilitations. Both the FDRE and the SNNPRS constitution guaranteed the treatment of prisoners respecting their dignity and humanity. The prisoners' rights also get important attention under specific legislation both at federal and SNNPRS level. Among others these rules guaranteed, the prisoners freedom from torture and other ill treatments; the separation of different categories of prisoners; the prisoners' rights to adequate health care service; the right to adequate and sufficient standard of nutrition; the right to adequate bedding and sanitary facilities; the right to religious and cultural freedoms; the right to educational and training programs; the right to recreational and sporting activities; the right to contact with outsiders; and the right to information and bringing complaints.

After all, the above international and national legal protections for prisoners are not end by itself. As such international and national legislations requires independent monitoring of correction facilities to ensure the implementation of those prisoners' rights. Accordingly, international instruments such as the SMR and the Nelson Mandala rules requires the appointment of independent and qualified bodies to inspect and monitor the correction facilities in regular basis. At national level, specifically in SNNPRS, prosecutors are mandated by the law to visit and inspect the correction facilities to ensure the treatments of prisoners are carried out in accordance with the law and takes corrective measures when the prisoners' rights are violated or not observed. Accordingly, chapter four of this paper examines and analyzes the practice of public prosecutor role of visiting and inspecting the Bench-Sheko Zone correction center

CHAPTER THREE

The Treatment of Prisoners in Bench-Sheko Zone Correction Center

The practical assessment under this study, considers both the treatment of prisoners and the role of public prosecutors in the enforcement of the right of prisoners in Bench-Sheko Zone correction center. Although the primary objective of this study is to examine the role of public prosecutors in the enforcement of prisoners' right in the study area, the researcher looks at the practice of the treatment of prisoners. This is because, the assessment on the treatment of prisoners helps the research to deeply understand and examine the practical relevance of public prosecutors prison monitoring and inspection, to solve the problems what prisoners are facing in this particular study area. Accordingly, the discussion under this chapter deals with the practice of the treatment of prisoners in Bench-Sheko Zone correction center.

Depending on the data gathered through questionnaire and in-depth interviews the treatment of prisoners in the correction center is examined. The gaps and limitation of the correction center on the treatment of prisoners is also indicated. The data utilized under this chapter are obtained from prisoners, prisoners' representatives, public prosecutors, lawyers and some management members of the correction center. Accordingly, the following data presentation and analysis shows the treatment of prisoners in Bench-Sheko Zone correction center. To simply understand the conditions of the treatment of prisoners, the researcher examine the situation of prisoners' treatment under different categories.

3.1. The right of prisoners to Physical and Mental Integrity

International law clearly provided that, there are absolutely no circumstances in which torture or other cruel, inhuman or degrading treatment or punishment can ever be justified.²⁰⁶ The UN Human Rights Committee also noted that, respect for human dignity constitutes norm of general international law not subject to derogation.²⁰⁷ Hence, as universal prohibition on torture and ill

²⁰⁶ UNCAT, Supra note 95, Article 2(2) and ICCPR, Supra note 5, Article 4 ; See also A. Coyle(2009) supra note ,107, pp.33

²⁰⁷ General Comment No. 29, State of emergency(Article 4),CCPR/C21?Rev.1/Add.11,August 2001,para.13a

treatment stems from the inherent dignity of all people, the treatment of prisoners at all times needs to be in a humane and dignified manner.²⁰⁸

Domestically, both the FDRE and SNNPRS constitutions guaranteed the right of imprisoned person to be treated in dignified manner.²⁰⁹ The same constitution also prohibits torture or other cruel, inhuman or degrading treatments or punishments.²¹⁰ More specifically, the SNNPR’s Manner of Treatment of Inmates of Prisons Regulation stated that imprisonment shall be carried out in accordance with the constitution and relevant law ensuring the physical and mental integrity of prisoners.²¹¹ In line with these legal instruments, the correction facilities are expected to respect and ensure inmates right to mental and physical integrity.

Coming to the Bench –Sheko zone correction center, as shown under the table 3 below, most of respondents for questionnaire believed that, the protection and respect for prisoners’ physical and mental integrity in the correction center is good. According to the response given, 52% of the respondents replied as they have not experienced or noticed any act of torture or other ill treatments such as beating and chaining of hands and legs, while 48% of the respondents replied that, they have experienced or noticed such acts. With this response, above a half of the respondents believed that the correction center is in good condition with regards to the treatment of prisoners respecting their mental and physical integrity.

Respondents	Total Sample Size	Measure	Response	
			Yes	No
Prisoners	327	Frequency	157	170
		Percentage	48%	52%

Table3: The response given by prisoners on the existence of abusive acts by the correction center members, offending the prisoners’ physical and mental integrity

However, the data observed from prisoners and other respondents through open ended questionnaire and interviews, demonstrates the instances of ill treatments and torture of prisoners

²⁰⁸ See Human Rights and Prisons, A Pocketbook of International Human Rights Standards for Prison Officials, United Nations New York and Geneva, 2005,pp.31

²⁰⁹ See the FDRE constitution,Supra note 157, Article 21 and the SNNPRS constitution,Supra note 171, Article21

²¹⁰ Id, the FDRE constitution article 18 and SNNPRS constitution article 18

²¹¹See SNNPRS Manner of Treatment Of Inmates Of Prisons Regulation ,Supra note 174,Article 4(2)

by the prison security forces. According to the responses given to open ended questionnaire by prisoners²¹², in some instance the correction center guards uses excessive power that offends the physical and mental integrity of prisoners. Among the 48% of respondents as indicated in table 3, majority of them replied that, they have noticed the torture or other ill treatments on other prisoners. The respondents prisoner indicated that, prisoners who attempted to escape or who is suspected to instigate a riot in the correction center is subjected to punishments like beating, chaining of hands with rope, metal bond or catena, and may be confined in isolated area of the prison.

The interview conducted by the researcher with some prisoners, prisoners' representatives, public prosecutors and lawyers also supports the existence of occasional violent acts in the correction center that affects the physical and mental wellbeing's of prisoners. For instance, according to one lawyer interviewed by the researcher, around the year 2012 there was one room in the correction center, which is darken and isolated, used to beat and harass prisoners.²¹³ This fact is confirmed by one of the prisoners' representative who personally observed such fact during that time. He further stated that during that time this torture room is known by its name as "Qera" and used to intimidate other prisoners.²¹⁴ However today this torturing room is abounded after the deputy-chief administrator of the institution at that time was deposed from his position.

There are also recent incidents in which the correction center guards inflicted physical injury on prisoners who attempted to escape. The head of Bench-Sheko Zone public prosecutors, told the researcher that, in recent time (around the end of 2018), one of the prisoners who attempted to escape the correction center, had severely injured on his hand after one of the prison guard chained the prisoner hand by rope.²¹⁵ This incident is confirmed by the heads of Mizan-Aman town public prosecutors, who further stated that prisoners who attempted to escape the correction center are facing sever chaining, beating and isolation, due to the correction center guards lacks of awareness about the humane treatment of prisoners.²¹⁶ This act contravenes the provision of

²¹² This response is given by 48% of the population who replied that they have experienced or noticed the act that harms the physical and mental integrity of prisoners in the correction center.as indicated in above under table 3.

²¹³ Interview with one of the lawyers in Mizan-Aman Town, name confidential, on July 20, 2019

²¹⁴ Interview with one of the prisoners representatives in Bench-Sheko zone correction center, name confidential, on July 22, 2019

²¹⁵ Interview with Commander Dawit Timotewos, Head of Bench-Sheko Zone Public Prosecutors, on July 10, 20 19

²¹⁶ Interview with Mr. Gezachew Eyasu, Head of Mizan-Aman Town Public Prosecutors, on July 11, 2019

international and national legal instruments, which provides the immunity of person deprived of liberty from inhuman and degrading treatments.²¹⁷

The case law of African Human right commission also concluded that the violent act committed against the prisoners is the violation of article 5 of the African charter. In the case against Zaire, the commission found that, beating of detainees/prisoners with fists, sticks and boots, keeping them in chain offend the human dignity and such acts, together and separately, constitutes the violation of article 5 of the African Charter.²¹⁸ Similarly, in the case against Malawi, the commission concluded that the act committed against the prisoners including the ill-treatment and punishment for disciplinary reasons such as.....chaining for two days of the arms and legs with no access to sanitary facilities, detention in a dark cell without access to natural light, water or food and beating with sticks and iron bars; were “examples of torture, cruel and degrading punishment and treatment” that constitutes the violation of article 5 of the African charter.²¹⁹

Furthermore, some prisoners in the correction center informed the researcher that, they are repeatedly facing intimidation because they are requesting their right. One of the prisoners who is transferred from another correction center informed the researcher that, while he was in previous correction center, he was severely beaten and harmed in his leg. Accordingly, he has explained his concern to officials in present correction center to sue the previous correction center and its officials who are responsible for the torture committed against him. However, the current correction center officials strongly warned him to stop his question otherwise they told him that they will sent him to other correction center far away from his family.²²⁰ This act of the correction center officials is against the government duty towards the convention against torture, which requires state parties to take a prompt and impartial investigation whenever there is reasonable ground to believe that an act of torture has been committed.²²¹

²¹⁷ See article 10 of the ICCPR ; Article 11 and 16 of UN Convention Against Torture; Principle 1 of the UN Body of Principles on the Treatment of Prisoners and Rule 1 of the Nelson Mandela Rules on Treatment of Prisoners

²¹⁸ ACHPR, *World Organization against Torture and Others v. Zaire*, Communications Nos. 25/89, 47/90, 56/91 and 100/93, decision adopted during the 19th session, March 1996, para. 65

²¹⁹ ACHPR, *Krishna Achuthan and Amnesty International (on behalf of Aleke Banda and Orton and Vera Chirwa) v. Malawi*, Communications Nos. 64/92, 68/92 and 78/92, decision adopted during the 16th session, October-November 1994, para. 33

²²⁰ Interview with one of the prisoners in Bench-Sheko correction center ,name confidential, on July 25, 2019

²²¹ See UNCAT,Supra noe 95, Article 12

Beside this, one of the prisoners' representatives told the researcher that, prisoners who are complaining on the correction center and facilities are facing intimidation and the denial of probation time.²²² In sum, all the above facts shows that, although certain number of respondents agreed that the protection of prisoners against torture in the correction center is in good condition, some incidents reveals the existence of violent practices that offends the physical and mental integrity of prisoners.

3.2. Separate Accommodation for Prisoners

Providing separate accommodation for prisoners helps to protect the physical and mental integrity of prisoners, to better monitor them individually and to contribute to their rehabilitation.²²³ International standards and national laws as noted in chapter two of this paper, requires the prison facilities to have separate accommodation for prisoners based on their age, sex, criminal records, health condition and legal reason for their detention.²²⁴ The law requires women prisoners' to be separated from men, juveniles' from adults, untried person from convicted prisoners, and those prisoners with health problem from others.

Moving to Bench-Sheko Zone correction center, the provision of separate accommodation for prisoners in the correction center is good with regards to some categories of prisoners and not existed for some other categories of prisoners. As indicated under the table 4 below, 80% of inmates and 57% of public prosecutor respondents rated the condition of separation of female and male prisoners in the correction center as good and above, while 20 % of inmates and 33 % of public prosecutors rated poor and below. According to this response, most of the respondents agreed that, the correction center provides separate accommodation for female respondents. Further, the interview conducted by the researcher with some prosecutors, prisoners' representatives and some staff members of the correction center also shows that, the correction center is in better condition with regards to providing separate accommodation for female

²²² Interview with one of the prisoners representative in Bench-Sheko zone correction center ,name confidential, on July 23, 2019

²²³ UNODC Second Specialized Module on Classification, Sentence Management and Rehabilitation, Manual for Trainers,2013,pp.21

²²⁴ See for example Rule 8 of SMR,Supra note 6, rules which requires separation of different categories of prisoners based on sex, age, criminal record, the legal reason for their detention and the necessity of their treatments; See also Article 6 of the Southern Nations Nationalities and Peoples Regional State Manner Of Treatment Of Inmates Of Prisons Regulation No. 45/2005" which requires separation

prisoners.²²⁵ According to the information the male and female cell accommodation is separated by corrugated iron fences and the female prisoners are guarded by female police members of the correction center.²²⁶ On the other hand, regarding separation of prisoners with communicable disease, 60% of inmate and 62% of public prosecutor respondents agreed that there is separation of categories, while 40 % of inmate and 38% of prosecutors are not. This data demonstrates that, although the provision of separate accommodation for prisoners with communicable disease is to some extent observed by the correction center, it needs improvements as some responses show the gap in this respect.

Further, regarding juvenile offenders, above the half of respondents (54 % of prisoners and 56 % of prosecutors' respondents) replied that there is no separation between juveniles and adult prisoners. The data observed from prisoners and other respondents through interviews also indicates that the correction center has no separate accommodation for juvenile offenders.²²⁷ Thus, although the correction center has good status on separation of females and male prisoners, it fails to provide separate accommodating for juveniles' in violation of international and national laws that stated above. In this regard, the UN human right committee in *Brought v Australia* case, stressed that it is the violation of article 10 of the ICCPR to accommodate young offenders with adult prisoners.²²⁸

No.	Respondents	Total Sample Size	Separate accommodation For	Measure	Responses						
					Not Exist	Extremely Poor	Very poor	Poor	Good	Very Good	Excellent
1	Prisoners	327	Women Prisoners	Frequency	–	–	–	65	174	55	33
				Percentage	–	–	–	20%	53%	17%	10%
			Young offenders	Frequency	176	51	35	65	–	–	–
				Percentage	54%	15	11%	20%			
			Prisoners with communicable disease	Frequency	20	26	18	68	161	15	19
				Percentage	6%	8%	5%	21%	49%	5%	6%

²²⁵ Interview with Mr. Gezachew Eyasu, Supra note 216; Interview with Mr. Kyrito, Supra note 312 and Interview with One of prisoners representatives, Supra note 235

²²⁶ Ibid

²²⁷ All public prosecutors and prisoners representatives interviewed by the researcher informed that, one of the serious problems in the correction center is related with the absence of separate accommodation for young offenders.

²²⁸ Communication No. 1184/2003, *Brough v Australia*, (Views adopted on 17 March 2006), para.9.3&9.4

2	Public prosecutors	16	Women prisoners	Frequency		2		5	3	6	
				Percentage		12%		31%	19%	38%	
			Young offenders	Frequency	9	-	-	7			
				Percentage	56%	-	-	44%			
			prisoners with communicable disease	Frequency				6	10		
				Percentage				38%	62%		

Table 4: Separation of accommodation in Bench-Sheko zone correction center

3.3. Room and Bedding accommodation

International standards requires prisoners sleeping accommodation to meet all requirements of health, due regards being paid to climatic condition and particularly the cubic content of air, minimum floor space, lighting, heating and ventilation.²²⁹ Windows in living and working place of prisoners needs to be large enough which allow the entrance of fresh air and natural light to enable the prisoners to read or to work.²³⁰ Also there should be artificial light sufficient for the prisoners to read or to work without injury to eyesight.²³¹ With regards to bedding every prisoner shall be provided with a separate bed, and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanness.²³²

At domestic level, the SNNPR's State Manner of Treatment of Inmates of Prisons Regulation requires the living place of prisoners to have windows through which light sufficient to read during the day and fresh air enters and light which is sufficient to read and that is harmless to eyes during the night.²³³ The regulation further provided that to the extent possible inmates are entitled to place and garments necessary for sleeping.²³⁴ However, contrary to these legal instruments, the room and bedding accommodation in the correction center is placed in bad condition violating the prisoners' right to live in healthy and well accommodated place of confinement. The following practical data support this point.

According to the data observed through open-ended questionnaire presented to prisoners and

²²⁹ SMR, Supra note 6, Rule 10.

²³⁰ Id, Rule 11(a).

²³¹ Id, Rule 11(b).

²³² Id, Rule 19.

²³³ See The SNNPR State Manner Of Treatment Of Inmates Of Prisons Regulation, Supra note 174, Article 7

²³⁴ Id, Article 8(2)

public prosecutors the correction center room and bedding accommodation is in a bad condition. As indicated under the table 5 below, most of inmate respondents (64%) agreed that, the bedding accommodation in the correction center is extremely poor, while 75% of public prosecutors agreed that it is very poor. The spacing of room accommodation per individual is rated by 100% inmates and public prosecutor respondents as poor and below. Further, 56% of inmates and 81% of public prosecutors agreed that the natural light and artificial light in the room is insufficient. The room accommodation for entrance of free air is rated by 80 % of inmate and 100% prosecutors as poor and below poor level. Accordingly, most of the respondents agreed that prisoners are not adequately provided with the room and bedding facilities suitable for their confinement in healthy environment.

No.	Respondents	Total Sample Size	Room and Bedding accommodation	Measure	Responses									
					Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent			
1	Inmates	327	Adequate bedding facility	Frequency		208	23	80	16					
				Percentage		64%	7%	24%	5%					
			Enough Space per inmates in room	Frequency		215	69	43						
				Percentage		66%	21%	13%						
			Enough natural and artificial light in room	Frequency		112	20	51	96	48				
				Percentage		34%	6%	16%	29%	15%				
			Clean and adequate air	Frequency		144	39	80	64					
				Percentage		44%	12%	24%	20%					
			2	Public prosecutors	16	Adequate bedding facility	Frequency		4	12				
							Percentage		25%	75%				
Enough Space per inmates in room	Frequency					3	13							
	Percentage					19%	81%							
Enough natural and artificial light in room	Frequency						5	8	3					
	Percentage							31%	50%	19%				
Clean and adequate air	Frequency						11	5						
	Percentage							69%	31%					

Table 5: Bedding and Room accommodation in the correction center

Further, the interview conducted with prisoners' representatives also reveals that, in the correction center prisoners are not provided with adequate room and bedding facilities. According to the information provided, in prisoners dormitories the only bedding means is to sleep on scattered row woods which itself has no mattress, sponge or other related materials for the safety of prisoners' body to sleep. Prisoners themselves are required to provide blanket, mattress or sponge for their sleeping purpose. The sleeping dormitory with a number of overcrowded prisoners has only one or two doors without windows to enter fresh air or natural light. The dormitories are also in bad condition of sanitation and the toilet around the dormitories had bad odor on prisoners.²³⁵

In sum, with all its unsuitable condition, the sleeping accommodation of the correction center violates the prisoners' right to live in healthy and safe place of confinement as it is required by international and domestic instruments mentioned above. It also violates article 10 of the ICCPR which deals with the right of person deprived of liberty to be treated with humanity and with respect for the inherent dignity of the human person. In this regard, the UN human right committee, in *Robinson* case found that, the author imprisonment in the condition where there was complete lack of mattress, other bedding and furniture in the cell and there was no integral sanitation in the cell is amounted as the violation of article 10(1) of the International Covenant.²³⁶

3.4. Daily Provisions of Adequate and Healthy Food and Drinking Water

One of the most basic obligations of care is that prison administrations should provide all prisoners with sufficient food and drink to ensure that they do not suffer from hunger or an illness associated with under-nourishment.²³⁷ International standards requires every prisoners to be provided with the administration of food with nutritional value adequate for health and strength of whole some quality and well prepared and served at the usual hours of consumption.²³⁸ It also requires the provision of drinking water to every prisoner whenever s/he

²³⁵ Interview with one of the prisoners' representatives in Bench-Sheko Zone correction center, name confidential, conducted on July 22 2019.

²³⁶ Communication No. 731/1996, *M. Robinson v. Jamaica* (Views adopted on 29 March 2000), in UN doc. GAOR, A/55/40 (vol. II), p. 128, paras. 10.1-10.2.

²³⁷ See, Andrew Coyle (2009) ,Supra note107, pp. 34

²³⁸ SMR,Supra note 6, Rule, 20(1)

needs it.²³⁹The SNNPRS Manners of Inmates Treatment Regulation also provided every prisoner, according to the budget allocated to him/her, the right to sufficient, healthy and balanced diet; and sufficient and pure drinking water.²⁴⁰ However, contrary to these stipulations, one of the serious problems what the prisoners are facing in Bench-Sheko zone correction center is related with the provision of adequate and healthy food and water service.

In this regard, the respondents answer for questionnaire provided to check the food and water provision in the correction center indicates the gaps and insufficiencies on the correction center fulfillment of prisoners’ right to adequate and sufficient food and water service.

No.	Respondents	Total Sample Size	Daily Food and Drinking water	Measure	Responses						
					Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	327	Daily Provision of adequate and healthy food	Frequency		176	39	40	72		
				Percentage		54%	12%	12%	22%		
			Daily provision of healthy drinking water	Frequency		168	68	91			
				Percentage		51%	21%	28%			
2	Public prosecutors	16	Daily Provision of adequate and healthy food	Frequency			2	11	3		
				Percentage			12%	69%	19%		
			Daily provision of healthy drinking water	Frequency				12	4		
				Percentage				75%	25%		

Table 6: Daily Provision of adequate and healthy food and drinking water in the correction center

As indicated under table 6 above, most of the respondents replied that the provision of adequate and healthy food and water for prisoners is in a bad condition. From the total inmate respondents, the correction center food provision is rated as extremely poor (54%), very poor (12%) and poor (12%). Public prosecutor respondents also rated the food provision in the correction center as extremely poor (12%) and poor (69%). Likewise the water service of the correction center is rated by most of inmate respondents as extremely poor (51%), very poor (21%) and poor (28%).

²³⁹ Id, Rule 20(2)

²⁴⁰ See the SNNPR State Manner Of Treatment Of Inmates Of Prisons Regulation, Supra note 174,article 9(1) and (2)

And 75% of public prosecutors responded that the water service in the correction center is poor. Based on these responses, most of the respondents agreed that, the correction center is not providing adequate and healthy food and water provisions for prisoners. The data observed from prisoners' representatives also indicates the inadequacies of the correction center food and water provision for prisoners.

According to the interview with prisoners' representatives, prisoners in the correction center are taking insufficient and unhealthy food. Every day prisoners are taking only one kind of food item locally called 'Shiro and Enjera' which itself is not sufficient and healthy. Further, because the food is not sufficient sometimes prisoners themselves provide some foods by sharing money.²⁴¹ Regarding the water service the correction center allows only 20 litter water for 5 inmates per week, which itself may not be available for some weeks. And due to the insufficient provision of water service prisoners are forced to buy water from water sellers in the correction center or outside, which sometimes may not be available. This forced the prisoners to pass weeks or months without healthy water provisions for drinking and bathing.²⁴²

In sum, all the above data shows that, the correction center provisions of food and water does not satisfy the daily need of prisoners in violation of international and national legal instruments. In this respect, the UN Human Right Committee *in Robinson case* mentioned the fact that, the conditions of the author's imprisonment amounted to a violation of article 10 (1) of the International Covenant because the quality of food and drink given was very poor.²⁴³

3.5. Sanitary facilities

International instrument requires the sanitary installation to be adequate to enable every prisoner to comply with the need of nature when necessary and in clean and decent manner.²⁴⁴ Prisoners are required to keep their person clean, and to this end they shall be provided with water and with such toilet articles.²⁴⁵ The SNNPRS Manner of Treatment of Inmates of Prisons Regulation also stipulated the right of inmates to be provided with sufficient water and utensils for bathing

²⁴¹ Interview with prisoners representatives in Bench-Sheko Zone correction center, name confidential, conducted on July14, 2019

²⁴² Ibid

²⁴³ See , *M. Robinson v. Jamaica Case*, Supra note 236 ,Ibid

²⁴⁴ SMR,Supra note 6, Rule 12

²⁴⁵ Id, Rule 15

and the necessary sanitation as well as sufficient toilet.²⁴⁶

Failing to comply with these legal instruments, the practical data observed from the study area indicates that, the condition of sanitation in the correction center is in bad condition as the provision of sanitary facilities by the institution is inadequate. The following data observed from prisoners and public prosecutors shows the inadequacy of the sanitation and toilet facility in the correction center.

No.	Respondents	Total Sample Size	Sanitary and toilet Service	Measure	Responses									
					Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent			
1	Inmates	327	Personal hygiene facilities	Frequency	78	63		131	55					
				Percentage	24%	19%		40%	17%					
			Room and Surrounding hygiene	Frequency		110	36	128	53					
				Percentage		34%	11%	39%	16%					
			Special Sanitary facility for Women's	Frequency		130	32	124	41					
				Percentage		40%	10%	38%	12%					
			Toilet facility	Frequency		117	42	136	32					
				Percentage		36%	13%	41%	10%					
			2	Public prosecutors	16	Personal hygiene facilities	Frequency			4	7	5		
							Percentage			25%	44%	31%		
Room and Surrounding hygiene	Frequency						3	9	4					
	Percentage						19%	56%	25%					
Special Sanitary facility for Women's	Frequency							12	4					
	Percentage							75%	25%					
Toilet facility	Frequency						4	8	4					
	Percentage						25%	50%	25%					

Table 7: Sanitary and toilet service in the correction center

As it is indicated in the table 7 above, 24% of inmate respondents believed that, the personal hygiene facilities in the correction center is not provided, while 19% and 40% of respondents

²⁴⁶ The SNNPRS Manner Of Treatment Of Inmates Of Prisons Regulation, Supra note 174, Article 8(3)

respectively rated it as extremely poor and poor .Most of sampled public prosecutors also rated the personal hygiene facility in the correction center as poor (44%) and very poor (25%). Regarding the room and surrounding hygiene, above 85% of inmate and 75 % public prosecutor respondents agreed that it is poor or below poor level. The provision of special sanitary facility for women’s prisoners is also rated by 40% of inmate respondents as extremely poor, while 38% of inmate and 75% of public prosecutor respondents agreed that it is poor. Further, 36% of inmate respondents agreed that the toilet facility in the correction center is extremely poor. And most of the respondents (50% of public prosecutor and 41% of prisoners) replied that the toilet service is poor. Up on this, all the responses indicate that, the correction center sanitation facilities is inadequate and in bad condition. According to the responses, prisoners are not provided with adequate personal hygiene facilities. The room and surrounding sanitation as well as the toilet service are placed in a bad condition. Beside this, female prisoners are also not provided with special sanitary materials.

Further, the data observed from prisoners’ representatives reinforced the above facts. According to the researcher interview with one of the prisoners’ representatives, prisoners are not provided with sufficient water to keep their personal hygiene clean. The water service of the institution is insufficient for drinking purpose let alone for sanitary purpose. As a result, it is the day today reality in the correction center for prisoners to pass days and weeks without bathing and washing their cloths. The provisions of other sanitary materials such as soaps and special sanitation need for female prisoners during menstruation time are not known by prisoners. The toilet facilities of the institution are also inadequate and its sanitation is very poor.²⁴⁷

To meet the right of all people to keep themselves in clean and to maintain their self-respect, access to proper sanitation is essential in prisons as a means of reducing the possible spread of illness among prisoners and staffs.²⁴⁸ The sanitary arrangements such as toilet facilities, water and bathing arrangements, laundry services and other sanitary equipment’s needs to be accessible ,clean and private enough to ensure the dignity and self-respect of prisoners.²⁴⁹ There is also the need to provide special sanitary service for women prisoners to fulfill the respect for

²⁴⁷ Interview with one of the prisoners representatives in Bench-Sheko Zone correction center,Supra note 214

²⁴⁸ Andrew Coyle (2009),Supra note 107, pp.43

²⁴⁹ Ibid

their dignity.²⁵⁰ However, the above practical data demonstrates failure of the correction center to fulfill its responsibility of providing the sanitary facility for prisoners in violation of international and national laws.

3.6. Free and adequate health care service

Prisoners retain their fundamental right to enjoy good health, both physical and mental, and retain their entitlement to a standard of health care that is at least equivalent of that provided for the wider community.²⁵¹ The right of everyone to the enjoyment of the highest attainable standard of physical and mental health is provided under article 12 of the International Covenant on Economic, Social and Cultural rights. This provision is applicable to prisoners just as it does to every other human being.²⁵² More specifically, the Nelson Mandela Rules requires every prison to provide a health care service in order to evaluate, promote, protect and improve the physical and mental health of prisoners.²⁵³ Further, the UN Basic principle and the UN Body of Principles both require prisoners to have access to health care service available in the country.²⁵⁴ Likewise, the SNNPR State Manner of Inmates Treatment Regulation provided the right of prisoners to medical service free of charge including the medication in healthcare center out of the prison.²⁵⁵

As to the health and medical service, the practical data observed from prisoners and prosecutors through quaternaries placed the institution health care service in better condition. According to table 7 below, most of the respondents 44% of inmate and 69 % of public prosecutor respondents replied that the health care service in the correction center is good, while 7% of inmates and 6% of public prosecutors rated it as very good. Accordingly, most of the respondent agreed that, prisoners' right to health care service is observed by correction center. Further the information observed in the correction center shows that, prisoners are provided with free health care service in the correction center including the possibility to transfer to medication in hospitals outside the correction center.²⁵⁶ However, the health care service of the institution is limited to medication to

²⁵⁰ Ibid

²⁵¹ Stefan E., Et Al. (2014), Prison and Health , World Health Organization, pp,6

²⁵² Ibid

²⁵³ Nelson Mandela Rules, Supra note 1, Rule 25

²⁵⁴ UN Basic Principles, Supra note 6, Principle 9

²⁵⁵ SNNPR State Manner of Inmates Treatment Regulation, Supra note 174, Article 10

²⁵⁶ Interview with Mr. Wondmgegn Bench-Sheko Zone correction center health officer, on July 23 2019 and Interview with one of the Prisoners representatives, Supra note 235

cure sick prisoners as its preventive function is very weak.

As the conditions under which prisoners are detained will have a major impact on their health and well-being, prison administrations has responsibility to ensure appropriate standards in all those areas which may affect the health and hygiene of prisoners.²⁵⁷ The physical conditions of the accommodation, the food and the arrangements for hygiene and sanitation should all be designed in such a way as to help those who are unwell to recover and to prevent the spread of infection to the healthy.²⁵⁸ In contrast, the institution health care service prevention of disease is inadequate. The simple indication for this is the correction center sanitation service and equipment is not properly provided to prisoners in order to preserve their personal and surrounding hygiene.²⁵⁹ In sum, even though the correction center health care service is good with regards to the treatment of sick prisoners, there is a gap on the prevention of disease.

No.	Respondents	Total Sample Size	Measure	Responses						
				Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	327	Frequency		45	96	20	144	22	
			Percentage		14%	29%	6%	44%	7%	
2	Public prosecutors	16	Frequency				4	11	1	
			Percentage				25%	69%	6%	

Table 7: Free and adequate health care service in the correction center

3.7. Education and training programs

Education and training in prison increases the opportunity for prisoners to have better chances of employment after prison, ensure successful re-entry into society and finally provide one with a

²⁵⁷ See Andrew Coyle (2009), Supra note 107 ,p54

²⁵⁸ Id,pp.55

²⁵⁹ For instance, the discussion under section 3.5 of this chapter reveals that the correction center sanitation in food and water provision is very weak. The shortage of health water service also, affects the prisoners' opportunity to preserve their personal hygiene. Further the discussion under section indicates that the sanitation and toilet service of the institution is in bad condition.

real alternative to crime and thereby reduce criminality.²⁶⁰ By providing positive learning environments, prisons can support the inmates to make good use of their sentence; to address gaps in their learning skills; to improve their employability; and to change their personal attitudes and perceptions.²⁶¹ In this regard, the UN Special Rapporteur on the right to education found that education in prison is much more than a tool for change; it is an imperative in its own right.²⁶²

Recognizing the essence of education in correction centers, the SMR rules, rule 77, UN Body of Principles, principle 28 and the SNNPRS Manner of Treatment of Inmates of Prisons Regulation, article 30 provides the right of prisoners to get educational programs in correction center that is integrated with the national education system.

The practice in Bench-Sheko zone correction center suggests that, even though it is not observed in its full sense, prisoners have a chance to get educational and training programs. In the correction center, the tasks to follow and execute the prisoners' educational and training programs are led by the inmates' correction and rehabilitation department. According to Mr. Kyrito Tadesse, the correction center is providing inmates with formal educational and training programs aimed at facilitating the rehabilitation and proper correction of prisoners.²⁶³ Currently, the institution is giving formal educational program for prisoners up to grade eight. After grade eight prisoners may continue their education through distance education. The institution is also providing Poly-technique and agricultural training programs in collaboration with Bench-Sheko zone poly- technique institution.²⁶⁴ However, more than a half of inmate respondents for questionnaire agreed that the education and training program in the correction center is poor, although the public prosecutor respondents agreed otherwise.

²⁶⁰ Stephen G.(2014), The Right to Education as a Tool in the Rehabilitation of Prisoners: a Study of Kamiti prison, Kenya a Research Project Submitted in Partial Fulfillment of the Requirements for the Award of Masters of Arts Degree in Human Rights, University of Nairobi, p.2

²⁶¹ Id, p.2

²⁶² United Nations General Assembly (2009), the right to education of persons in detention: Report of the Special Rapporteur on the right to education, Geneva.

²⁶³ Interview with Mr. Kyrito Tadesse ,The Inmates Correction and Rehabilitation Department Head Officer in Bench-Sheko Zone correction center, on July 21 2019

²⁶⁴ Ibid

No.	Respondents	Total Sample Size	Measure	Responses						
				Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	405	Frequency		33	38	96	160		
			Percentage		10%	12%	29%	49%		
2	Public prosecutors	16	Frequency				5	11		
			Percentage				31%	69%		

Table 9: Educational and training program in the correction center

According to the table 9 above, the majority of public prosecutor respondents (69%) and 49% of inmate respondents believed that the educational and training program provided by the correction center is good. And the remaining 31 % of public prosecutor respondents agreed that the educational and training programs are poor, while 29%, 12% and 10% of inmate respondents respectively rated poor, very poor and extremely poor. In these, although the majority of public prosecutor respondents agreed that the educational and training program in the correction center is good this is not agreed by the majority of prisoners’ respondents. Prisoners are not satisfied with the educational and training programs, because the institution is not giving considerable attention for it. For instance, according to the prisoners’ representatives, the educational programs in the correction center is not satisfying the need of prisoners, because the formal education provided for prisoners in the correction center is only up to grade eight. Because the correction center have no communication with the community educational systems or provided secondary school, a number of prisoners who accomplish grade eight miss the opportunity to continue their education.²⁶⁵ Furthermore in most cases the training program is given to prisoners only for a single month which is inadequate to develop or improve the skills of prisoners.²⁶⁶ Generally, all the above information demonstrates that, although the correction center is providing educational and training services to some extents, however there is a gap on providing secondary education. The skill training programs also needs improvements.

²⁶⁵ Interview with one of prisoners representatives, Supra note 222
²⁶⁶ Ibid

3.8. Freedom of Cultural activities and Freedom of religion

The SMR rule under rule 41, the Nelson Mandela rule under rule 65 and the SNNPRS Manner of Treatment of Inmates of Prisons Regulation under article 33 provided the right of prisoners to have religious freedom in correction facilities. Prisoners have also the right to freely exercise their own cultural activities.²⁶⁷ Furthermore, Principle 3 of the Basic Principles adds that, it is “desirable to respect the religious beliefs and cultural precepts of the group to which prisoners belong, whenever local conditions so require”. Moving to the status of these rights in Bench-Sheko zone correction center, the most of the responses supports the observance of the prisoners’ right to religious and cultural freedom in the correction center.

No.	Respondents	Total Sample Size	Freedom of Culture and Religion	Measure	Responses						
					Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	327	Freedom of religion	Frequency	7	11	9	10	128	32	130
				Percentage	2%	3%	3%	3%	39%	10%	40%
			Freedom of Cultural activities	Frequency	16	52	62	30	167		
				Percentage	5%	16%	19%	9%	51%		
2	Public prosecutors	16	Freedom of religion	Frequency				7	9		
				Percentage				44%	56%		
			Freedom of Cultural activities	Frequency				3	4	9	
				Percentage				19%	25%	56%	

Table10: Freedom of cultural activities and freedom of religion in the correction center

As shown under the table 10 above, 40%of inmate respondents rated the religious freedom in the correction center excellent while 49% of them agreed that it is good/very good. The majority of public prosecutor respondents (56%) also agreed that the religious freedom in the correction center is good. In similar way, the prisoners’ freedom to exercise their cultural rights in the

²⁶⁷ UN Basic Principles, Supra note 6, Principle 6, provides all prisoners the right to take part in cultural activities and education aimed at the full development of the human personality.

correction center is agreed as good by 51% of prisoner respondents while 56% of public prosecutors agreed that it is very good. Further, the interview conducted with prisoners and prisoners’ representatives’ indicates that, the correction center has provided a place of worship for all religion follower prisoners and there is no interference on religious freedoms of prisoners.²⁶⁸

3.9. Sport and Recreational Facilities

The provision of sport and recreation programs to inmates within the prison system provides a unique context to investigate the role of sport in enacting social change.²⁶⁹ It is the main type of activity that has a significant impact on inmates’ physical, mental and social health in modern imprisonment institutions’.²⁷⁰ The phenomena of recreation and leisure are a powerful rehabilitative tool. Understood and applied in the corrections situation, leisure pursuits can provide the inmate with identity, inner satisfaction, a sense of accomplishment and necessary socially acceptable outlets as possible deterrents to antisocial behavior.²⁷¹

Recognizing the importance of sport and recreational activities for the rehabilitation of prisoners, international and national instruments requires the provision these activities in the correction centers. For instance, the SMR Rules requires recreational and cultural activities to be provided in all institutions for the benefit of the mental and physical health of prisoners.²⁷² Further it has provided that young prisoners, and others of suitable age and physique”, they “shall receive physical and recreational training during the period of exercise”, and, “to this end space, installations and equipment should be provided.²⁷³

No.	Respondents	Total Sample Size	Measure	Responses						
				Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	327	Frequency		87	48	64%	96	32	

²⁶⁸ Interview with Prisoners representatives indicated under Supra notes 214 and 215

²⁶⁹ Gallant, D., et al., (2014), Recreation or rehabilitation?, Managing sport for development programs with prison populations. Sport Management Review , pp.3

²⁷⁰ Ibid

²⁷¹ David M. and Carroll R. (1980), Facilitating Leisure Development of Inmates in Local & County Jails, correctional Recreation Project Center For Public Affairs Virginia Commonwealth University Richmond,pp.2

²⁷² SMR,Supra note 6, Rule 78

²⁷³ Id, Rule 21(2).

			Percentage		26%	16%	19%	29%	10%	
2	Public prosecutors	16	Frequency			2	8	6		
			Percentage			12%	51%	37%		

Table 11: Sport and recreational facilities in the correction center

Coming to the practice, as shown under the table 11 above, the majority of inmate respondents (60%) agreed that the sport and recreational activities in the correction center is poor and below poor level, while 51% of public prosecutor respondents agreed that it is poor. According, most of the respondents agreed that, the correction center fails to provide adequate sport and recreational facilities. The correction center has not provided adequate places and materials for prisoners to conduct sporting activities. Likewise recreational needs of prisoners are also not properly considered by the correction center as there were no or inadequate place and equipment’s for recreational purposes.²⁷⁴

3.10. Right to Work and the Implementation of Forced Labour

Prison work encourages prisoners to become involved in a regular routine which involves getting up, going to a place of work and spending several hours each day working alongside other people in organized manner.²⁷⁵ If the experience of work is to prepare prisoners for life after release and not merely to be seen by them as forced labour, it is important that they should receive some form of remuneration for the work which they do similar to the worker in civil society.²⁷⁶

International and national instruments require every prisoner to be provided with the opportunity to work and to get adequate remuneration. Internationally, the UN Basic principles requires the Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their integration into the country’s labour market and permit them to contribute to their own financial support and to that of their families.²⁷⁷ On the other hand, the SMR rules require every prisoner to work, subject to their physical and mental fitness as

²⁷⁴ Interview with one of prisoners representatives, name confidential, Supra note 214
²⁷⁵ See Andrew Coyle (2002),Supra note 10, p.88
²⁷⁶ Ibid
²⁷⁷ UN Basic principles,Supra note 6, Principle 8

determined by the medical officer.²⁷⁸ Domestically, the SNNPRS Manner of Treatment of Inmates of Prisons Regulation requires prisoners to perform compulsory work with remuneration.²⁷⁹ It also provides an opportunity for every prisoner to work outside the correction center premises and to receive wages subject local market and the contract entered in to by the prison.²⁸⁰

Moving to the practice, the empirical data observed in the study area reveals that, the enforcement of prisoners’ right to work and adequate remuneration and the implementation of compulsory labour is not observed. The respondents answer for questionnaires suggests the gaps in this respect.

No.	Respondents	Total Sample Size	Right to work and forced labour implementation	Measure	Responses						
					Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	405	Right to work and adequate remuneration	Frequency	23	85	47	90	44	38	
				Percentage	7%	26%	14%	28%	13%	12%	
			Implementation of forced labour	Frequency		85	22	112	62	46	
				Percentage		26%	7%	34%	19%	14%	
2	Public prosecutors	16	Right to work and adequate remuneration	Frequency				10	6		
				Percentage				63%	37%		
			Implementation of compulsory labour	Frequency			8	6	2		
				Percentage			51%	37%	12%		

Table12: Right to work and implementation of compulsory labour in the correction center

As indicated under table 12, the most of prisoner respondents (75%) agreed that, the prisoners’ opportunity to work and adequate remuneration in the correction center is poor or below poor level, while 63% of public prosecutor respondents replied that it is poor. Furthermore, the majority of public prosecutor respondents, 51% and 37%, respectively rated the implementation of compulsory labour in the correction center as very poor and poor respectively. Similarly, 65%

²⁷⁸ SMR, Supra note 6 ,Rule 71(2); For more see the discussion under chapter 2 section

²⁷⁹ See SNNPRS Manner of Treatment of Inmates of Prisons Regulation, Supra note 174 , Article 21-25

²⁸⁰ Id, Article 26

of inmate respondents rated the implementation of compulsory labour in the correction center as poor and below poor level. Accordingly, most of the response suggests that, the correction center is not providing adequate working opportunity with remuneration for prisoners. Further, the information reveals that, the correction center is not properly implementing the provision of compulsory labour on prisoners.

The information observed from prisoner's representative also indicated that in the correction center prisoners are not provided with an opportunity to engage in work and generate income. One of the prisoners' representatives informed the researcher that, although prisoners are performing some labour services, they are not getting adequate payments. Most of the labour works including budgeted works in the correction center are performed by prisoners without payments. Moreover the prisoners' opportunity to generate income is very weak due to the poor working condition in the correction center.²⁸¹ In sum, as there is no adequate opportunity for prisoners to work and generate income, the correction center fails to observe the rights of prisoners, contrary to international and national legal instruments mentioned above.

3.11. Free contact with families and other outsiders

International instruments requires prisoners to be allowed, under necessary supervision, to communicate with their family and friends at regular intervals by corresponding in writing and using, where available, telecommunication, electronic, digital and other means; and by receiving visits.²⁸² At domestic level, the SNNPRS Manner of Treatment of Inmates of Prisons Regulation under article 12 provides the right of inmates to be allowed to communicate or visited by be allowed to be visited by persons outside the prison including spouses, close relative, friends, physicians, legal counsels and religious fathers.

Looking at the practice, according to the table 14 below, most of prisoners' respondents (75%) and most of public prosecutor respondents (88%) agreed that in the correction center, the prisoners' freedom to contact with families and other outsiders is respected. The researcher also noticed that around the gate of the correction center, there is arranged place for prisoners to meet their visitors.

²⁸¹ Interview with one of prisoners representatives, Supra note 235

²⁸² The Nelson Mandela Rules, Supra note 1, Rule 58 and UN Body of Principles, Supra note 6, Principle 19

Regarding the telecommunication service, as it is not allowed for prisoners to keep their own cell phone, the only source of telecommunication is to use the correction center telephone line. However, the researcher interviews with prisoners' representatives and some prisoners indicate that, prisoners are not provided with free telecommunication service to contact with their relatives and friends. For instance, one of the prisoners interviewed by the researcher also said that, although he repeatedly asked the correction center staff members about to make a call for his family but they refused to do so.²⁸³ Further, according to one of the prisoners' representatives, officials of the correction center mostly refuses the prisoners question to make a call for their relatives and other outsiders saying that the correction center has no budget for this service.²⁸⁴ In sum, although the prisoners' right to physically contact with their visitor is observed by the correction center, the prisoners' opportunity to communicate with outsiders through telecommunication service is very limited.

No.	Respondents	Total Sample Size	Measure	Responses						
				Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	405	Frequency		32	18	32	104	46	95
			Percentage		10%	5%	10%	32%	14%	29%
2	Public prosecutors	16	Frequency				2	10	4	
			Percentage				12%	63%	25%	

Table 14: Free contact with families and other outsiders in the correction center

3.12. Adequate compliant procedure and effective response

Even in the best managed prisons, prisoners are likely to perceive an element of unfairness in the way they are treated, either individually or in a group.²⁸⁵ As a result prisoners should have an opportunity to raise the request or complaint with the authorities who are in charge of the prison or if the matter still cannot be resolved, access to a superior authority outside the prison.²⁸⁶ The

²⁸³ Interview with one of the prisoners in Bench- Sheko zone correction center, name confidential, on July 16, 2019

²⁸⁴ Interview with one of the prisoners representative, Supra note 222

²⁸⁵ See Andrew Coyle and Helen F. (2018), Supra note 119 .pp. 115

²⁸⁶ Ibid

existence of efficient complaints procedures and the consistent and vigorous investigation and prosecution of grievances of persons deprived of their liberty have a strong effect on the incidence of all forms of torture and cruel, inhuman or degrading treatment and punishment.²⁸⁷ Considering its importance, international and national instruments provides prisoners' to have the right to an effective remedy for alleged violations of their human rights, including but not limited to ,the right to freedom from torture and other forms of ill-treatment.

Internationally, the ICCPR requires state parties to ensure that, any person whose rights or freedoms as recognized the covenant are violated, shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.²⁸⁸ In this regard, the Human Rights Committee in its General Comment No. 20, emphasized that “the right to lodge complaints against maltreatment prohibited by article 7 must be recognized in the domestic law”, and that “complaints must be investigated promptly and impartially by competent authorities so as to make the remedy effective”.²⁸⁹ The Committee further emphasized that, there is the need to make effective remedies available to any person whose rights are violated is particularly urgent in respect of the obligations embodied in articles 7, 9 and 10 of the Covenant.²⁹⁰

Specifically, according to the UN Body of Principles, Principle 33 and SMR Rules, Rule 36, imprisoned person or his counsel shall have the right to make a request or complaint regarding his treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial power. Further, every request or complaint are required to be promptly dealt with and replied to without undue delay, unless it is evidently frivolous or groundless.²⁹¹ Domestically, the SNNPRS Manner of Treatment of Inmates of Prisons Regulation also provides every inmate to have the right to petition orally or in writing to the appropriate level of administrative hierarchy and shall

²⁸⁷ Human Rights and Prisons, Manual on Human Rights Training for Prison Officials (2005), Supra note 74, P.366

²⁸⁸ ICCPR, Supra note 5, Article 2

²⁸⁹ General Comment No. 20, UN Human Rights Committee , Supra note 75 Para.14

²⁹⁰ Ibid

²⁹¹ SMR, Supra note 6, Rule 36(4)

be informed promptly of the decision given on the petition.²⁹²

Coming to the practice, according to the information observed from the correction center, prisoners have the opportunity to bring their complaints to managements of the correction center. Some management members informed the researcher that, if prisoners feel they are improperly treated by the guards they may bring their complaint for the correction center prisoners' affairs and security department. Then if they are not satisfied with the response given, they may bring their grievance to the chief administrator of the correction center. Further, according to them, if prisoners have complaints about the facility of the correction center they may bring their complaints for each department related with the issue²⁹³ then to the correction center administrator.²⁹⁴

The response given by public prosecutors also shows that, the correction center have compliant entertaining procedures. According to the table 14 below, most of public prosecutor respondents (56%) agreed that, the prisoners have the opportunity to bring their complaints for the correction center managements. However, most of the prisoners' respondents (84%) replied that the correction center compliant procedure is inadequate. Up on this response, prisoners are not agreed with the above responses provided by prosecutors and the correction center management members. In this respect, the researcher interview with one of the prisoners' representative indicates that, in principle prisoners are allowed to bring their complaints to the correction center managements. However, according to him prisoners are not willing to bring complaint about the gaps of the correction center to its own officials. Further, according to him, the correction center has no independent committee to hear the prisoners' complaints.²⁹⁵ Accordingly, although prisoners are in fact allowed to bring their complaint to the correction center managements, this is not adequate opportunity. Bringing complaints to the same body that are responsible for the problems may not bring fair and unbiased responses. Further, with regards to giving effective responses on time, as shown under table 15 below, most of respondents (88% of prisoners and (69%) public prosecutor) agreed that, the correction center management is not providing

²⁹² See SNNPRS Manner of Treatment of Inmates of Prisons Regulation, Supra note 174, Articles 27(2) and 28(1).

²⁹³ According to the researcher information in the correction center, there are four major departments under the correction Center managements. These are Inmates administration and Security Department; Basic Services Departments; Inmates Correction and Rehabilitation Department and Inmates Afair Excuting Departmnt.

²⁹⁴ Interview with Inspector Wondemu Jemal and Mr. Kyrito Tadesse, infra notes 311 and 312 respectively

²⁹⁵ Interview with one of the prisoners representatives, Supra note 214

effective and timely response for the compliant made by prisoners.

No.	Respondents	Total Sample Size	Compliant procedures and Remedies	Measure	Responses						
					Not Exist	Extremely Poor	Very Poor	Poor	Good	Very Good	Excellent
1	Inmates	405	Adequate compliant procedure	Frequency	18	99	89	69	52		
				Percentage	6%	30%	27%	21%	16%		
			Effective and timely response for complaints	Frequency	32	69	100	66	60		
				Percentage	10%	21%	31%	20%	18%		
2	Public prosecutors	16	Adequate compliant procedure	Frequency				9	7		
				Percentage				56%	44%		
			Effective and timely response for complaints	Frequency				11	5		
				Percentage				69%	31%		

Table 15: Compliant procedure and remedies in the correction center

The data observed from prisoners, prisoner representatives and public prosecutors through interviews also suggests that, in the correction center prisoners are not free to bring their complaints and to get effective remedies. For instance, according to Mr. Dawit, prisoners are not willing to complain about their improper treatment because they fear this will lead them to trouble or they may be denied the probation period.²⁹⁶ One of the prisoners' representatives interviewed by the researcher share this idea. According to him prisoners who are bringing complaints on the service of the correction center are facing repeated intimidation and the denial of probation time. Due to this reason prisoners are not willing to make complaints on their treatments or on over all condition of the correction center.²⁹⁷ And one of the prisoners raised the fact that, because he is repeatedly complaining on the facilities of the correction center he is denied to be benefited from probation period and pardon for four consecutive years. Moreover, one of the lawyer interviewed by the researcher stated the fact that, while he was attempted to bring complaints about the treatments of his customer imprisoned in the correction center, the

²⁹⁶ Interview with Mr. Dawit Gebremedhen, Bench –Sheko zone Public prosecutor's office coordinator, on July 13 2019

²⁹⁷ Interview with one of prisoners representatives, Supra note 214

correction center authorities refused to accept the complaint.²⁹⁸ In sum, the correction center has not provided adequate complaint procedures or the officials are not willing to receive grievances from prisoners and providing appropriate timely responses.

Conclusion

Generally, according to the discussion provided under this chapter, the treatment of prisoners in Bench-Sheko Zone correction center is not carried out in accordance with the law respecting the prisoners' right. The study reveals that, there are some instances in which prisoners are exposed to bodily injury and intimidation. Regarding separation of prisoners' categories, although the correction center is in better condition with regards to separating female and male offenders, it fails to provide such separate place for young offenders contrary to the law. The food and water provision in the correction center are inadequate both in its quality and quantity. The health service is good with regards to sick prisoners; however it is inadequate as to prevention of disease. The dormitories are not well equipped with sleeping facilities. There is no bedding service. The dormitories are overcrowded with insufficient entrance of natural light and fresh air. The sanitary condition of the correction center is also deteriorating. Further prisoners are not getting adequate facilities to keep their person and cloth clean. The educational and training programs provided by the correction center are also insufficient, not satisfying the need of prisoners. The correction center has no adequate facilities for sport and recreational activities. The prisoners' right to work and receive adequate remuneration is not properly observed by the correction center. Likewise, the implementation of forced labour by the correction center is inadequate. Further, although prisoners are free to physically contact with their families and relatives in the correction center, the prisoners' opportunity to use telecommunication service is very limited. Besides, prisoners in the correction center are not getting adequate complaint procedure to bring their grievance and to get appropriate responses on time. Finally, one of the good practices the study found in the correction center is that, the prisoners' religious and cultural freedom is adequately observed.

²⁹⁸ Interview with one of the lawyers in Mizan-Aman Town, name confidential, on July 21, 2019

CHAPTER FOUR

Assessment on the Role of Public Prosecutors in the Enforcement of Prisoners Right in Bench-Sheko Zone Correction Center

Introduction

As indicated briefly under the introductory chapter of this paper, external oversight over the correction facilities is one of the effective mechanisms to ensure the enforcement of prisoners' right. And this can be realized through conducting prison monitoring and inspection of the treatment of prisoners and the condition of the correction center in regular basis by independent body. International instruments are clear in this regard, requiring all prison facilities to be subject to a system of inspection which is independent of the authority responsible for administering those prisons.²⁹⁹ Providing independent government oversight bodies are therefore one of the indispensable part of States human right obligations under international law, which is important to enhance the transparency of correctional facilities and holding them accountable for being safe and humane institutions for inmates.³⁰⁰

Domestically, in Ethiopia, and specifically in SNNPRS, public prosecutors as a government oversight body, takes the primary responsibility and power to monitor and inspect the correction facilities so as to ensure the proper treatment of inmates. The SNNPRS Attorney General Establishment Proclamation, provides the power and responsibility of public prosecutors to visit inmates in correction facilities in order to ensure their handling and reside is carried out in accordance with the law, to cause unlawful act to be corrected; and to take measures or cause measures to be taken based on the law against people who are found to have transgressed the law.³⁰¹ Although the proclamation has no detail provision on the procedure of visit and inspection, it is clear as to requiring public prosecutor to conduct an independent visit, to inspect whether the treatment of prisoners' and the condition of the correction center is conforming relevant laws; and to take appropriate corrective measures when there is violation of the law.

²⁹⁹ See for instance, The Nelson Mandela rules, Supra note 1, Rule 83 ;the UN Body of Principles on the treatment of prisoners, Principle 29 ,all requires the supervision of strict observance of relevant laws and regulations, in correction facilities through regularly visit by qualified and experienced persons independent from the imprisonment authorities.

³⁰⁰ Michele D.(2012), The Need for Independent Prison Oversight in a Post-PLRA World, Federal Sentencing Reporter, Vol. 24, No. 4, pp. 236–244, pp. 243

³⁰¹ SNNPRS Attorney General Establishment Proclamation ,Supra note 24 , Article 6(5) (i)

Therefore public prosecutors as an external government oversight body are expected to conduct regular visit and inspection in the correction center to ensure the enforcement of the right of prisoners as guaranteed by the law. In this respect, the United Nations Office on Drugs and Crime pointed out that, the basic function of monitoring and inspecting of prisons, whether internal or external, should be seen against its contribution to a safe, secure and humane prison environment.³⁰² And this can be realized through taking different actions including, getting a proper understanding of all relevant aspects of prisons, including structural causes of any problems identified; comparing actual prison conditions, management and practice against relevant provisions in national and international law; and by submitting a report and recommendations on how the prison system and the treatment of prisoners could be improved.³⁰³ Therefore this chapter examines whether public prosecutors, as an independent governmental oversight bodies, are meeting their responsibility to monitor and inspects the proper treatment of inmates in Bench-Sheko Zone correction center.

Further, as indicated under chapter three of this paper, prisoners in Bench-Sheko Zone correction center are facing a number of problems related to their physical integrity, the provision of services important to their adequate living standards and the physical condition of the correction center. In presence of those indicated gaps and prisoners' right violation in the correction center, this part of the study examines whether public prosecutors are working their part to understand the problems and take appropriate measures to improve the treatment of inmates. Specifically the chapter examines whether public prosecutors are conducting efficient and regular visit to the correction center; whether they deeply inspect the treatment of prisoners and the condition of the correction center are observed in line with international and national instruments; and weather they are taking appropriate corrective solution or recommendation to overcome the problem what prisoners are facing in the study area. Depending on the data observed through in-depth interviews and questioners the gaps and limitations of public prosecutors role in ensuring the enforcement of prisoners' right in Bench-Sheko Zone correction center is examined. Accordingly the following data presentation and analysis indicates the practice of public prosecutors' prison oversight in Bench-Sheko Zone correction center.

³⁰²See ,Assessing compliance with the Nelson Mandela Rules, A checklist for internal inspection mechanisms, Supra note 11 ,pp.2

³⁰³ Ibid

4.1. Conducting Regular Visit in the Correction Center

To ensure the effective enforcement of prisoners' right, the external oversight body needs to have a mandate to conduct regular and routine visit and inspections of the correction facilities.³⁰⁴ Regular and frequent visit to the correction center helps the visiting body to understand the potential problems and gaps in the correction center and to take immediate solution as intervening action. It is also important to check whether improvements is undertaken by the correction center authorities on the treatment of prisoners, based on recommendations and corrective measures indicated in the previous visits.

International instruments are also clear in this regard, requiring the visit in correction facilities to be conducted by independent body in a regular basis. For instance, the SMR and UN Body Of Principles requires regular visit to be conducted by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment in order to supervise the strict observance of relevant laws and regulations, places of imprisonment.³⁰⁵ At domestic level, the SNNPRS Attorney General Establishment Proclamation under article 6(5) (i) simply requires public prosecutors to conduct visit in correction facility. The provision is not clear as to whether public prosecutors are required to conduct regular and frequent visit or not. However this provision should be interpreted in a way it requires public prosecutors to conduct regular visit as provided under the above international instruments. In this regard, the United Nation Human Right Committee in its general comment pointed out that, States parties are obligated to apply the UN standards relevant to the treatment of prisoners including the standards mentioned above.³⁰⁶ As such, Ethiopia as state party to the ICCPR and recognizing the competency of the committee³⁰⁷ is expected to follow the above international standards. Hence the public

³⁰⁴ Michele D. (2010), Special Populations and the Importance of Prison Oversight, AM. J. CRIM. L., Vol. 37:3, pp.303

³⁰⁵ See SMR, Supra note, Rule 55 and UN Body Of Principles, Supra note Principle 29

³⁰⁶ See General comment No. 21, Supra note Article 10 (Humane treatment of persons deprived of their liberty) Forty-fourth session (1992), Para 5

³⁰⁷ As per article 9(4) of the FDRE constitution international agreements ratified by Ethiopia are an integral part of the law of the land. Ethiopia Ratified the ICCPR, See, The United Nations Human Rights office of the High Commissioner, UN Treaty Data Base, Available at <http://tbinternet.ohchr.org/>; Accordingly the ICCPR provisions including those provisions recognizing the competency of the ICCPR committee have binding effect in Ethiopia. Hence, the ICCPR committee recommendation given based on article 40(4) of the covenant is authoritative in Ethiopia.

prosecutors visit to the correction center needs to be conducted in regular basis to conform international standards.

When it comes to the practice, the data observed from Bench-Sheko Zone public prosecutor's office shows that, zonal public prosecutors are conducting regular visit to Bench-Sheko Zone correction center two times in a single month as part of the office yearly work plan. And, within the interval of two weeks, the office is sending one or two prosecutors to the correction center in order to supervise the treatment of all prisoners in the correction center.³⁰⁸ However, according to the zonal public prosecutors responses to open ended questionnaires, some prosecutor replied that they are visiting the correction center once in a month. On the other hand, regarding the woreda public prosecutors, visit to the correction center is made every three months as part of a yearly work plan.³⁰⁹ All the woreda public prosecutors response to the questioners also indicates that they are conducting visit to the correction center four times in a given year (i.e. with the interval of three months). The practice indicates that, every woreda public prosecutor is expected to visit only the prisoners who come from the woreda, from which the prosecutor is sent to supervision.³¹⁰ Further, the information obtained at both level indicates that the visit to correction center is conducted at regular basis as the ordinary function of the prosecutor's office.

However the information observed from prisoners and staff members in Bench-Sheko zone correction center shows that, public prosecutors in each level are not conducting regular and programed frequent visit in the correction center. For instance, according to the researcher interview with Inspector Wondemu, although public prosecutors are visiting the correction center in some occasions, it is not conducted in the regular basis and frequently.³¹¹ Mr. Kyrito shares this idea, saying that the prosecutors visit to the correction center is conducted rarely and it is not programed visit as a result it is difficult to say that they are supervising the institution.³¹² Some prosecutors also confirmed this. One of the public prosecutors, who served three years as public prosecutor in Bench-Sheko Zone public prosecutor's office, informed the researcher that, due to

³⁰⁸ Interview with Commander Dawit Timotewos ,Supra note 215 and Interview with Mr. Dawit Gebremedhen, Supra note 296

³⁰⁹ Interview with Mr. Gezachew Eyasu, Supra note 216

³¹⁰ Ibid

³¹¹ Interview with Inspector Wondemu Jemal, Director of Bench-Sheko Zone Correction Center Prisoners' Administration and Security Directorate, on July 15 2019

³¹² Interview with Mr kyrito Tadesse , Director of the Inmates Correction and Rehabilitation Department head in Bench-Sheko Zone correction center, on July 15 2019

work load of public prosecutors and the absence of integrated correction center visiting procedure, mostly prosecutors are not supervising the correction center in regular basis.³¹³ Further he indicated that, in his three years of service, yet he has not conducted any visit to the correction center but he knows about the bad condition of the correction center during his presence in the institution for another reason.³¹⁴

Furthermore, according to the prisoners' response to questionnaires which is provided to check the frequency of public prosecutors visit in the correction center, some prisoners replied that they have not noticed the visiting public prosecutor and some other replied that prosecutors are visiting the correction center only once a year or twice a year.

Respondents	Total Sample Size	Measure	Responses		
			Not Visiting	Once in a Year	Twice in a Year
Inmates	327	Frequency	108	88	131
		Percentage	33%	27%	40%

Table 16: Prisoners response about the visit conducted by Public Prosecutor in Bench-Sheko zone correction center

As indicated under the table 16 above, 33% of the respondents replied that public prosecutors are not visiting the correction center, while 27% and 40 % of the respondents' respectively agreed that the correction center is visited by prosecutors once a year or twice a year. Up on this response, almost above half of prisoner respondents (66%) agreed that they have witnessed the visiting public prosecutors in the correction center. But, there are a considerable variation between their response and the public prosecutors. The prosecutors replies indicates that they are conducting a visit to the correction center twice or once a month, while prisoners believed that such visit is conducted once or twice in a year not in a single month. This implies the public prosecutors visit to the correction center is either not well known by prisoners or their contact with prisoners is very weak. According to one of prisoners' representatives, one of the reasons for less popularity of public prosecutors visit among prisoners in the correction center is that,

³¹³ Interview with one of Bench-Sheko Zone Public prosecutors , name confidential, on July 11 2019

³¹⁴ Ibid

their visit is not frequently undertaken as to enable prisoners to recognize such facts.³¹⁵ And according to him the other reason is that, most of the time the prosecutors contact during their occasional visit is limited to the institution officials or some prisoners who are found around the office for different reason.³¹⁶ In this respect some prisoners informed the researcher that, in some instances although they heard about the public prosecutors visit to the correction center, still they have not noticed or personally communicated with them.³¹⁷ Further they expressed their dissatisfaction on the way prosecutors are visiting the correction center, stating that if prosecutors are truly committed or concerned with the protection of the prisoners' right they would have to visit the correction center frequently and regularly communicate with prisoners.³¹⁸

All the information obtained in the correction center shows that, public prosecutors efforts of visiting the correction center are minimal as it is not conducted frequently in a regular basis. Although most public prosecutors insist that they are visiting the correction center in most cases once or twice a month, the correction center management members and inmates do not agree with this response. Despite this, one undeniable fact from both sides is that, in some occasions public prosecutors are visiting the correction center. However, through occasional and infrequent visit to the correction center, it is difficult for prosecutors to understand the gaps on the treatment of prisoners and to take corrective measures as it is required by the SNNPRS Attorney General Establishment Proclamation. They are also not conforming international instruments which require the correction center to be visited by independent external oversight body in regular basis.

Sources indicated that, one of the essential elements within the monitoring and inspection system is conducting regular visits by independent bodies to the places of imprisonment, followed by reports and recommendations to the correction facilities and if necessary taking correctives measures to avert potential problems.³¹⁹ Further, experience shows that visits will be much more effective in terms of the prevention of torture or ill-treatment, and promoting sustained improvement, if it is conducted in regular basis.³²⁰ It also needs to be conducted frequently to

³¹⁵ Interview with One of the prisoners representatives, Supra note 222

³¹⁶ Ibid

³¹⁷ Interview with three prisoners in Bench-Sheko zone correction center ,name confidential, on July 22 2019

³¹⁸ Ibid

³¹⁹ See, Monitoring Places of Detention : A Practical Guide, Supra note 28, pp.70

³²⁰ Ibid

achieve its intended purpose of protecting the right of prisoners which in most time under the potential of abuse or maltreatment.³²¹ In any case, conducting regular and frequent visit is pivotal to bring consistent and progressive improvements on the treatment of prisoners in correction facilities. If the practice of public prosecutors visit to the correction center is seen from this perspective, it is far from reaching its intended purpose as external oversight body under international instruments.

Further, as the discussion under chapter three of this paper suggests, prisoners in Bench-Sheko zone correction center are facing problems related with bad condition of the correction center, lack of adequate services important to adequate living standard, and in many instance their bodily and mental integrity is exposed to abuse. In such condition in which most of the prisoners right is not respected, public prosecutors needs to conduct consistent and frequent follow up to the correction center to avert those potential problems and to take measures to improve the treatment of prisoners. But currently this is not the case in the study area. Despite prisoners in the correction center are still complaining about the poor condition of their treatment, the correction center facilities and managements are not under clear and effective supervision by public prosecutors. The next part shows how this insufficient visit to the correction center affects the public prosecutors inspecting power and duty in the correction center.

4.2. Inspecting Conditions of the Correction Center and the Treatment of Prisoners

Human right monitoring requires careful techniques for collecting accurate and precise information thorough inquiries, follow-up and analysis to producing well-documented reports, which can then be used to encourage action by the authorities.³²² When this comes to monitoring of correction facilities, it involves checking the conditions of the institution correspondence to national and international human rights standards and that those deprived of their liberty are treated with the respect due to their inherent dignity and value as human beings.³²³ To meet this, correction facilities visitors needs to have unfettered and confidential access to facilities, prisoners, staff, documents, and materials and they should have the ability to visit any part of a

³²¹ See Handbook for prison leaders ,A basic training tool and curriculum for prison managers based on international standards and norms, Supra note 4,pp.129

³²² See Training Manual on Human Rights Monitoring , Professional training series no. 7, Supra note 16, pp.100

³²³ See, Monitoring Places of Detention : A Practical Guide, Supra note 28, pp.63

facility at any time of day without prior notice.³²⁴ Thus, through deep inspection about the treatment of prisoners and the condition of the correction facilities external oversight bodies can bring significant improvement of the treatment of prisoners and the condition of the facilities.

Under International instruments the objective of the inspections is to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and corrections service, and that the rights of prisoners are protected.³²⁵ Inspectors have the power to access all information on the number of prisoners and all information relevant to the treatment of prisoners, including their records and condition of detention.³²⁶ They have also the power to conduct private and fully confidential interviews with prisoners and prison staff in the course of their visits.³²⁷ At domestic level, the SNNPRS Attorney General Establishment Proclamation is explicit regarding the purpose of prosecutors visit to correction facility, which is to ensure that in the correction facilities the treatment of inmates is carried out in accordance with the law.³²⁸ However neither this proclamation nor other subsidiary legislations provides details about how prosecutors could inspect the treatment of prisoners and the condition of the correction center.

On the other hand effective inspection of the correction facilities requires collecting relevant information about the treatment of prisoners and the condition of the correction center through practical observation of the correction center facilities, interview with inmates and correction facility managements.³²⁹ Thus, despite the absence of clear laws at domestic level, it is important to see the practice how prosecutors are inspecting the condition of the correction center and the treatment of prisoners during their occasional visit. Accordingly the following discussion shows the practice of public prosecutors observation of the correction center and their contact with prisoners and managements of the institution.

³²⁴ See Michele D.(2012), Supra note 300,pp.303

³²⁵ See,Supra note 6, The Nelson Mandela Rules, Rule 83(2), See also SMR ,Rule 55 and UN Body of Principles, Principle 29

³²⁶ The Nelson Mandela Rules,Supra note 1, Rule 81(1)(a)

³²⁷ Id, 84(1)(c)

³²⁸ See the SNNPRS Attorney General Establishment Proclamation, Supra note 24, Ibid

³²⁹ Assessing compliance with the nelson Mandela Rules, A checklist for internal inspection mechanisms, Supra note 11, pp.17

4.2.1. Taking Observation on the Condition of the Correction Center

Correction center inspectors need to observe and examine relevant aspects and parts of the prison, such as infrastructure and material conditions in cells and common areas, the prison clinic, the kitchen, workshop facilities, and premises used for prisoners undergoing disciplinary sanctions.³³⁰ Their observations should also include witnessing key processes in prison, such as those related to safety and security, admission, outdoor exercise, or vocational training and/or work.³³¹ Moving to the practice, the information obtained from prisoners' representatives and some correction center managements indicates that public prosecutors are not conducting deep inspection to the correction center. For instance, Inspector Wondemu informed the researcher that, though prosecutors have occasional visit to the correction center they are not adequately inspecting and following the internal conditions of the correction center.³³² One of the prisoners' representatives also informed the researcher that, although public prosecutors in some instance enter the premise of the inmates' confinement area, they are not inspecting all the physical conditions and the facilities of the institution.³³³ The provision of basic service of inmates such as water and food services are not adequately followed. Likewise the physical condition of the correction center such as toilet and shower installations, the sanitation of the institutions, the dormitories and sleeping accommodation are not under the effective inspection of prosecutors. According to him prosecutors are also not checking whether correction center clinic service, educational and training programs and recreational services are meeting the needs of inmates.³³⁴

However, the information obtained in Bench-Sheko Zone public prosecutor's office shows that public prosecutors are properly inspecting the treatments of inmates' and the condition of the correction center. Concerning woreda public prosecutors, as the primary responsibility to follow up the correction center lies to zonal public prosecutors, the practice indicates that, the woreda public prosecutors visit is limited to supervising the treatment of their own inmates and giving them awareness creating education.³³⁵ On the other hand, the information obtained from Bench-Sheko zone public prosecutor's office shows that during their visit public prosecutors are deeply

³³⁰ Ibid

³³¹ Ibid

³³² Interview with Inspector Wondemu Jemal, Supra note 311

³³³ Interview with One of the prisoners representatives, Supra note 235

³³⁴ Ibid

³³⁵ Interview with Mr. Gezachew Eyasu, Supra note 216

inspecting the treatment of prisoners and the condition of the correction center.³³⁶ According to the information, prosecutors are following whether the service provided by the correction center confirms the law and the freedom of prisoners from torture and other inhuman degrading treatment is respected.³³⁷ But, according to the researcher assessment, the office has no procedure or detail guidelines to conduct inspection in the correction center.³³⁸ Besides, there is no document which shows the public prosecutors observation of the correction center facilities and the condition of treatment of inmates.

The researcher asked officials about whether there is a document which shows the inspection reports in the correction center, but the officials said that there are no such documents.³³⁹ Documenting the inspection report is essential task in correction facilities because it can be used as an evidence to take improvement measures or recommendations. Prosecutors working as public officials and as primary duty bearers for correction facilities monitoring and inspection they are expected to document their report about what they observed in correction facility. In the absence of such documented evidences and based on the information obtained in the correction center, it is difficult to say that prosecutors are adequately observing the correction center condition. But on the other hand, the information provided by prosecutors under chapter three of this paper shows that public prosecutors have acknowledge about the gaps and problems on the treatment of prisoners and the condition of the correction center. In this respect, however it should be noted that, the information are not indicating that public prosecutors are totally unaware about the information of the correction center. Rather it shows that, through occasional visit they are not checking the strict observance of all rights of prisoners in the correction center.

4.2.2. Contact with prisoners and Receiving complaints

Prisoners are the main interview partners for external inspection mechanism. Through in-depth interviews with inmates inspectors may obtain accurate information and complaints about the way they are treated in the correction center. Recognizing this, the Nelson Mandela Rule provides the inspection authority to have a power to conduct private and fully confidential

³³⁶ Interview with Commander Dawit Timotewos Supra note 215 ,and Mr. Dawit Gebremedhen, Supra note 296

³³⁷ Ibid

³³⁸ Interview with Mr. Dawit Gebremedhen ,Supra note 296 and Interview with Mr. Gezachew Eyasu, Supra note 216

³³⁹ Ibid

interviews with prisoners.³⁴⁰ Accordingly the public prosecutor inspection to the correction center needs to consider interviewing inmates. And this requires directly contacting with prisoners. When it comes to the study area, most of the response given by prosecutors for questioners shows that, prosecutors have free and direct contact with prisoners and they are receiving complaints through interviews. Inspector Wondemu also informed the researcher that in some instances public prosecutors arranges group discussion with certain number of prisoners.³⁴¹

On the other hand, the prisoners responses show that, the prosecutors contact with prisoners is minimal and they are not receiving complaints adequately. According the table below, more than a half of respondents (64%) agreed that public prosecutors are not directly contacting with prisoners. And most of the respondents (96%) replied that public prosecutors are not receiving any complaints from prisoners during their visit.

Respondents	Total Sample Size		Measure	Responses	
				No	Yes
Inmates	327	Direct contact with prisoners	Frequency	209	118
			Percentage	64%	36%
		Receiving complaints	Frequency	315	12
			Percentage	96%	4%

Table 17: The prisoners’ response to the Public Prosecutors contact with prisoners and receiving complaints

Most of the respondents who agreed about the existence of direct contact between prosecutors and prisoners (34%) also replied that prosecutors are not receiving complaints about the treatment of prisoners. This shows that, although public prosecutors are in certain instances contacting with some prisoners their compliant receiving trend is very weak. One of the prisoners’ representatives also agreed with this. According to him, although prosecutors during their visit attempt to contact with few prisoners, they are not adequately asking them about their

³⁴⁰ The Nelson Mandela Rules, Supra note 6, Rule 84(1) (c).

³⁴¹ Interview with Inspector Wondemu Jemal, Supra note 311

treatments.³⁴² However, public prosecutors argued that although they repeatedly attempted to ask prisoners about their treatments they are not willing to tell the truth because they fear punishments or denial of probation time or/and pardon.³⁴³ But if prosecutors aware about this fact, they may arrange mechanisms through which prisoners could be confidentially interviewed. For instance the prosecutor may arrange closed interview with inmates in some specific area or room out of the sight of the correction center guards or managements. Thus, with all its shortcomings the prosecutors contact with prisoners is not adequately managed so as to give important insight for inspection of the correction center.

4.2.3. Contact with Prison Staffs and Reviewing Documents

As interviews are essential techniques of information-gathering employed during inspection visits, it is necessary to have conversation with prison managements and staffs.³⁴⁴ Interview with prison managements helps the inspectors to understand the root causes for the problem persisting in the correction center. It also helps to deal with the correction center managements about the problems what prosecutors have observed during their visit and seek solutions. Other actors, such as prison health-care professionals, social workers, psychologists, religious representatives and service providers will also be relevant interview partners for inspection.³⁴⁵ The inspecting authority also needs to review important documents about prisoners and their treatments in the correction. This source of information may include a detailed review of prisoner files, including records or registers regarding disciplinary proceedings, restrictive measures, body and cell searches, and the use of force and firearms.³⁴⁶ It also includes documents related to the legal, procedural and organizational framework applicable to the prison organization, for example, standard operating procedures, staffing plans, daily reports and training plans.³⁴⁷ In this respect, the Nelson Mandela Rule requires the inspecting authority to have access to all information relevant to the treatment of prisoners including their record and condition of detention. It also

³⁴²Interview with One of the prisoners representatives, Supra note 214

³⁴³ This information is obtained from public prosecutors response for an Open-Ended questioners

³⁴⁴ Assessing compliance with the nelson Mandela Rules, A checklist for internal inspection mechanisms, Supra note 11,p18

³⁴⁵ Ibid

³⁴⁶ Ibid

³⁴⁷ Ibid

provides the inspection authority power to conduct private and fully confidential interviews with prison staffs.³⁴⁸

Moving to the practice, the information obtained from most of public prosecutors through questioners indicates that they have good relation with the correction center managements and staffs. They also informed that they have free conversation and discussion with the correction center managements and staffs about gaps on the treatments of prisoners in the correction center. However according to one of the public prosecutor interviewed by the researcher, unless there is compliant logged against the correction center, there is no practice of dealing with the managements and staffs by prosecutors own initiatives.³⁴⁹ On the other hand, according to Mr.Dawit, the correction center managements are not always cooperating with public prosecutors to improve the condition of the correction center.³⁵⁰ According to him the correction center managements and staffs are putting different bureaucracy to prevent the deep inspection of the correction center by public prosecutors. And they are not willing to provide important documents when it is required.³⁵¹On the other hand, Inspector Wondemu who is the director of the correction center police forces argued that although prosecutors are contacting with the correction center management and staffs, they are not giving adequate support to the institution officials and staff members.³⁵²In this respect as the prosecutors admitted, the correction center police staffs lacks sufficient knowledge about the humane treatment of prisoners and their protection under international and national legal instruments.³⁵³Besides they are not provided with adequate trainings and awareness creation programs about the treatment of prisoners.³⁵⁴Despite this, although in some instances there is awareness creation programs conducted by prosecutors in the correction center, it is limited to prisoners. In sum, the relationship between the correction center management and staff members needs improvements as there is lack of cooperation and supporting each other.

³⁴⁸ See the Nelson Mandela Rules, Supra note 1, Rule 84(1) (c).

³⁴⁹ Interview with One of Bench Sheko Zone Public Prosecutor, Supra note 313

³⁵⁰ Interview with Mr. Dawit Gebremedihen, Supra note 296.

³⁵¹ Ibid

³⁵² Interview with Inspector Wondemu Jemal ,Supra note 311

³⁵³ Interview with Dawit Gebremedihen, Supra note 296 and Mr. Gezachew Eyasu, Supra note 216

³⁵⁴ Ibid

4.3. Forwarding Recommendation and Taking Corrective Measures

As the main objective of visiting correction facilities is to ensure the human right compliance of the treatment of prisoners, after supervision the inspecting body needs to take measures which are relevant to overcome the existing problems. Formulation of recommendations and follow-up on the implementation of the recommendations is therefore one of the important final steps in prison oversight.³⁵⁵ It is also important after the initial inspection, to establish a corrective action plan to address any cited deficiencies in correction facilities.³⁵⁶ International and national legal instruments also provide the power of correction facilities inspecting body to take important corrective actions after conducting a visit.

Internationally, the Nelson Mandela rules require prison inspectors to have the authority of making recommendations to the prison administration and other competent authorities.³⁵⁷ The rule also requires, the prison administration or other competent authorities, as appropriate, shall indicate, within a reasonable time, whether they will implement the recommendations resulting from the external inspection.³⁵⁸ Also at domestic level, the SNNPRS Attorney General Establishment Proclamation under article 6(5) (i) generally provides the public prosecutors power to cause unlawful act to be corrected; to take measures or cause measures to be taken based on the law against people who are found to have transgressed the law. Although the proclamation is not explicit about what measures should be taken by prosecutors, the intended purpose of those measure are to correct unlawful acts and to take measures against those who are responsible for the violation of prisoners right. Based on this, the meaning of the proclamation seems to indicate that, the measures which should be taken by prosecutors' is on those staffs who violate the prisoners' right. However, the full reading of the above provision suggests that, the purpose of prosecutors visit to the correction center is to ensure the handling and reside of prisoners is carried out in accordance with the law. Thus, the corrective measures which can be taken by the prosecutors may include giving appropriate recommendation for correction center officials about the improvements on the treatments of the correction center in addition to taking legal measures on those who are responsible for abuses against prisoners.

³⁵⁵ See Monitoring Places of Detention : A Practical Guide , International Association for Torture, Supra note 28, pp.65

³⁵⁶ Mark D. (2007), Jail Standards and Inspection Programs, Resource and Implementation Guide, U.S. Department of Justice National Institute of Corrections, pp.30

³⁵⁷ The Nelson Mandela Rule, Supra note 1, Rule 84(1)(d)

³⁵⁸ Id, Rule 85 (2)

Coming to the practice, as the prosecutors’ inspection role on the condition of the correction center is inadequate (as indicated in the previous discussion), their power of giving recommendation and taking corrective measure is also very limited. Even though making recommendation or taking other corrective measures needs strong evidences that are obtained through effective prison visit and inspection, the prosecutors’ role is minimal in this respect. Because most of prisoner respondents are opined that public prosecutors are not receiving complaints and inspecting the condition of the correction center,³⁵⁹ they don’t agreed with that, prosecutors are giving effective remedies for the problems what they are facing. According to the table below, most of prisoner respondents (98%) agreed that public prosecutors are not providing effective remedies with in the reasonable time. And all respondents (100%) replied that prosecutors are not taking any legal actions on those correction center staffs that are responsible for the violation of prisoners’ right. Some prisoner respondents for an open ended questionnaires also indicates that although prosecutors are receiving complaints in some instances, however they are not giving effective and timely response to solve problems.

Respondents	Total Sample Size	Measure	Responses		
			No	Yes	
Prisoners	327	Providing Effective Remedies Within Reasonable Time for problems	Frequency	319	8%
			Percentage	98%	2%
		Taking legal action on those who violates the Prisoners right	Frequency	327	0
			Percentage	100%	-

Table 18: Prisoners response on the role of public prosecutors on taking effective measure or legal actions

According to prisoners’ responses to an open ended questionnaires, prosecutors are not effectively providing remedies for problems and taking legal action on violators of prisoners’ right, because they are not adequately visiting and inspecting the correction center.

On the other hand, according to the information observed from prosecutors’ office, prosecutors are giving important recommendation or necessary corrective measures to overcome the problems existing in the correction center. For instance, Commander Dawit informed the

³⁵⁹ See the discussion under section 4.2.2.

researcher that, after conducting visit to the correction center prosecutor presents its observation about the condition of the treatment of prisoners on a joint discussion session with the correction center managements, police and courts to deal on the gaps and providing necessary measures.³⁶⁰ According to him after the discussion the correction center get feedbacks to solve the problems discussed and accordingly improve the treatment of prisoners. The correction center managements interviewed by the researcher also confirmed this. But within this joint discussion session process there is no procedure requiring the correction center authority mandatorily to improve the condition of the correction center and the treatment of prisoners. Beside this the process of such discussion are not backed by formal documenting and reporting procedures. In this respect Mr. Dawit informed the researcher that such discussion is conducted primary on oral basis and no subsequent documents is about the direction given to the correction center.³⁶¹ Accordingly, simply discussing the problem and giving oral feedback to the correction managements does not guarantee its effective implementation. To effectively follow up the correction center observance of recommendation or feedback needs clearly documented procedures and reporting of the improvements. Regarding Woreda public prosecutors, the information shows that after visiting their respective Woreda prisoners, they conduct discussion with the correction center officials to solve the problems. However, their recommendation and feedback is mostly not observed by the correction center.³⁶²

On the other hand, the practice indicates that, prosecutors are not taking any legal action on those who violates the prisoners' right. According to Mr. Dawit yet there is no legal measure taken or any document showing such measures on the correction center officials or staff members because of the violation of prisoners' human dignity.³⁶³ According to some prosecutors' response for questionnaire , because they have not received any complaints about torture and other inhuman degrading treatments, yet there is no legal measure taken on prison staffs for the violation of prisoners' right on the ground of such offences. However as it is indicated under chapter three section 3.1.of this paper, there are some instances of torturing acts which are also confirmed by the public prosecutors themselves. To mention here again, in recent time (around

³⁶⁰ Interview with Commander Dawit Timotewos, Supra note 215

³⁶¹ Interview with Mr. Dawit Gebremedehin ,Supra note 296

³⁶² Interview with Mr. Gezachew Eyasu,Supra note 216

³⁶³ Interview with Mr. Dawit Gebremedehen,Supra note 296

the end of 2018) one of the prisoner in the correction center is severely beaten by the correction center police member and he is chained with ropes after he is suspected for escape. Due to the severity of chaining the prisoner hand was badly injured. Public prosecutors notice such facts when such prisoner is presented before the court for the crime of prison escape. However although prosecutors recognize the violation of the prisoners right, yet they have not taken any legal measure on the member of prison police force responsible for the offence.³⁶⁴In sum, the above information demonstrates that public prosecutors are not effective or they are not giving adequate legal measures or giving appropriate recommendation in order to ensure the enforcement of prisoners' right in the correction center.

4.4.Challenges on the Functional Efficiency of Public Prosecutor Correction Center Oversight in the Study Area

As the preceding discussion demonstrates, public prosecutors are not effectively conducting prison visit and inspection to ensure the observance of prisoners' right in Bench-Sheko zone correction center. Starting from the initial stage of conducting regular visit to inspecting the condition of the correction center and finally giving recommendation and corrective measures, the public prosecutors role is very limited. To these minimal impacts of the public prosecutors role different challenges are responsible. Among major challenges impeding public prosecutors effective functioning of its mandate and achieving it's over all objectives are related with, but not limited to, absence of detail rules and regulations, lack of co-operation from prisoners and prison staffs during visit, workload (time constraints) and lack of commitments among some prosecutors to go to correction center and supervise the treatment of prisoners.

4.4.1. Absence of Detail Regulations and Guidelines

To start with, the main constraint of public prosecutors oversight of the correction facility is related with legal lacunas. Although, the SNNPRS Attorney General Establishment Proclamation provides the power and responsibility of public prosecutors to visit the correction facilities in order to ensure the proper handling of inmates in the correction center, there is no other laws

³⁶⁴ According to the researcher interview with Commander Timotewos ,Supra note 215, yet there is no legal action on the prison police member, rather according to his information the correction center officials informed him about they are preparing to take administrative measures on the police member, however he has no information whether the correction center officials take measures on him. In addition to this, according to Mr. Gezachew Eyasu information on the same case, he stated that their office deals with the correction center officials to take administrative punishment on the police member.

regulation or directives governing the detail procedure of conducting a visit. Although, the current proclamation is very recently adopted, the power and responsibility of public prosecutors to supervise the inmates' right in the correction center is recognized before, in 1995 SNNPRS, under the Proclamation on the Definition of Powers and Duties of Executive Organ of the SNNPRS.³⁶⁵ Since then, however, no subsequent regulation or other subsidiary rules are adopted to provide detail procedures about the prosecutors' correction center oversight.

Besides, there are no manual or guiding documents developed by the previous justice bureau or the current attorney general of the region to be used as guidelines for prosecutors in their correction center visit.³⁶⁶ Due to this reason prosecutors correction center visit is not governed by the formal procedures and rules. It is not clear for prosecutors how often and when they should visit the correction center, how they contact with prisoners, what aspects of the correction center or the treatment should be followed, what are the status of their relation with prison staff and managements, how they provide reports and for whom they should submit, for whom they should forward recommendation about the treatment of inmates and how, how they bring legal action on transgressor of the law and how they enforce all necessary measures relevant to the improvements of the treatments of correction, all this matters are not given important legal or policy answer. According to some public prosecutor interviewed by the researcher, this legal constraints are undermining the motivation of some committed public prosecutors who are working their best in visiting the correction center.³⁶⁷

Also according to Mr. Dawit and Mr. Gezachew who are public prosecutors in Bech-Maji Zone and Mizan-Aman Town respectively, as the current proclamation is too general lacking detail rules and procedures, other laws containing all specific role and responsibilities of public prosecutor are required to enhance the effectiveness of prison inspecting process.³⁶⁸ One of the lawyers also shares their idea; he said that with the current proclamation prosecutors are not given a power to monitor the correction facilities in full sense.³⁶⁹ Further he stated that, since the

³⁶⁵Definition of Powers and Duties of the Executive organs of the SNNP Regional State Proclamation No.3/1995,Article 8(9)

³⁶⁶ Interview with Mr.Dawit Gebremedehen, Supra note 296 and Interview with Mr. Gezachew Eyasu, Supra note 216

³⁶⁷ Interview with One of Bench-Sheko Zone Public prosecutor, Supra note 313

³⁶⁸ Interview with Mr.Dawit Gebremedehen, Supra note 296 and Interview with Mr. Gezachew Eyasu, Supra note 216

³⁶⁹ Interview with one of the lawyer,Supra note 298

law lacks procedures and specificity other subsidiary laws are necessary to increase the effectiveness of prosecutors' role in prison oversight.³⁷⁰ One of the woreda public prosecutor in his response to questioners also indicates that prison inspection in the correction center is mostly conducted to check whether prisoners suffer bodily abuse is made against prisoners. According to the response, this is due to the current proclamation lack of clarity as to whether the prison inspection should include all the condition of the correction center or only considers the humane treatment of prisoners. In sum, lack of detail rules is the main obstacle affecting the prosecutors' prison visiting role in the correction center. With the absence of clear and detail rules as well as no guidelines provided, prosecutor may not always visit the correction center in regular basis and effectively inspect the correction center and forward solutions.

4.4.2. Workload and Lack of Commitment among some Public Prosecutors

Another challenge on the public prosecutors effective correction center follow-up is related with the workload and time constraints. Other than correction center follow up prosecutors have mandated with various responsibilities representing the public interest in criminal justice system.³⁷¹ Throughout the week they are busy with the tasks related with criminal proceeding preliminary screening of cases on files submitted by police, the crimes charging, leading the court proceeding and other related tasks. As a result, they may not get adequate time and arrangements to supervise the correction facilities. Because of the workload the prison visit planned to be conducted in certain day may be postponed to another day and continued until the correction center is not visited for long time. In this respect one of the public prosecutors who served three years in Bench-Sheko Zone informed the researcher that, due to the work load and absence of clear procedures for correction center supervision he has not yet visited the correction center.³⁷²

Lack of commitment in supervising the correction center is also another challenge undermining the prosecutors' role. As the information from Bench-Sheko Zone public prosecutor's office indicates, the office has a yearly work plan in which prosecutors are conducting a prison visit twice or once in a single month. And according to the information mentioned above, the practice

³⁷⁰ Ibid

³⁷¹ See the SNNPRS Attorney General Establishment Proclamation, Supra note 24, Article 6 which provides list of the Regional Attorney General power and duties

³⁷² Interview with One of Bench-Sheko Zone Public Prosecutor, Supra note 313

at woreda level is conducting a visit in every three months (i.e. four times in a year). However, most of the information provided by the correction center staffs and prisoners strongly suggests that, public prosecutors are rarely visiting the correction center in most cases once or twice a year. This shows that there is commitment problem to enforce or observe regular prison visit and inspection plan as provided by the office. Beside this, those occasional visits to the correction center are not fruitful at least to understand the difficulties what prisoners' are facing in the correction center, due to the weakness of inspecting activities. Further, public prosecutors are not committed on documenting the inspection report about the condition of the correction center and the treatment of prisoners. Documenting report is essential tasks of prison inspection, as this document could be used as an evidence to forward recommendation or other corrective measures to improve the treatments of inmates. In this respect, one of the lawyer interviewed by the researcher stated that, one of the problem that is affecting the prosecutors' correction center supervision is lack of commitment and looking the correction center visit not as their primary mandate.³⁷³ One of the prisoners representatives share this idea, according to him even those prosecutors who occasionally contact with prisoners and receiving some complaints are not committed to take serious measures or recommendations on the correction center officials.³⁷⁴

4.4.3. Lack of Cooperation from Prisoners and the Correction Center Staffs

Due to the complexity of correction center oversight task, the cooperation of different parties, specially prisoners and correction center officials is important. Without sound relationship with prisoners and prison staffs, the public prosecutors visit and inspection may not bring its intended objectives. When it comes to Bench-Sheko zone correction center, prisoners and prison staffs are not fully cooperating with public prosecutors. According to the information provided by prosecutors, the correction center managements and staffs lacks adequate awareness about the correction center supervision conducted by prosecutors. Public prosecutor response for questioners demonstrates that most of the time the correction center officials are not willing to improve the correction center condition and the treatment of inmates' based on the recommendations. Mr. Dawit share this, informing the researcher that, in most cases the

³⁷³ Interview with one of the lawyer in Mizan-Aman Town, Supra note 213

³⁷⁴ Interview with one of the Prisoners Representative in Bench-Sheko Zone correction Center, Supra note 44

correction center staffs and managements are not willing to cooperate with prosecutors to inspect the correction center deeply and to take serious measures of improvements.³⁷⁵

Regarding prisoners they are not willing or fear to tell about their treatment in the correction center. In this respect, most of public prosecutors response for questioners indicates that, prisoners are not always willing to tell about their treatment fearing punishments or denial of probation time and pardon. One of the prisoners' representatives also confirmed this, according to him, because prisoners fear abuses, intimidation and denial of probation time or pardon they have no confidence to bring complaints for anybody including public prosecutors.³⁷⁶ Some prisoners interviewed by the researcher also stated similar reason for their failure not to complain about their treatment against the correction center.³⁷⁷

There are also awareness gaps from prisoners about public prosecutors and their follow-up activities in the correction center. As the researcher observed from the response provided by prisoners for questioners, most of prisoners have no positive attitude towards public prosecutors and their role in prison supervision. For instance, some prisoners in their response stated that, those prosecutors who charged them (according to them wrongly charged) and responsible for their sentence may not be trusted and enforce their rights. This is an indication that, prisoners are not trusting public prosecutors as the body concerned about the enforcement of their right. According to some other prisoners' response, public prosecutors are visiting the correction center only for their report purpose and to get government funds for such visit, not because they are concerned with prisoners' right. The response given by public prosecutors for questioners also indicates that, because prisoners are preoccupied with the erroneous thinking that prosecutors are responsible for their confinement, they are not willing to cooperate. With all these attitudes, prisoners may not feel free to deal with prosecutors about their treatments and to trust them as their right guarantor as external inspecting body. So this problem needs to be corrected through continuous awareness creation programs for prisoners.

³⁷⁵ Interview with Mr. Dawit Gebremedhen, Supra note 296

³⁷⁶ Interview with One of Prisoners representatives, Supra note 235

³⁷⁷ Interview with three prisoners in Benc-Sheko Zone correction center, Supra note 220

Conclusion

Generally, as the preceding data presentation and analysis demonstrates, the public prosecutors role as external correction facility supervising body is very limited. Prosecutors are not conducting regular and frequent visit in Bench-Sheko Zone correction Center. Most of the data shows that prosecutors are conducting visit to the correction center once or twice in a given year. Further, through this occasional visit to the correction center, they are not effectively inspecting the condition of the correction and the treatment of prisoners. During their occasional visit to the correction center they are not adequately contacting and receiving complaints from prisoners. They are also not observing the facilities and the condition of the correction center. Further, due to their minimal role on visiting and inspecting the correction center added with lack of documentation of their observation, they are not in strong position in taking corrective measures. They are not giving binding recommendation to improve the treatment of prisoners' and the condition of the correction center. Also they are not taking any legal action on those the correction center staff members who violate the prisoners' right to freedom of physical and mental integrity. On the other hand, there are different challenges affecting the prosecutors' functional efficiency on their supervisory role in the correction center. These are related with legal lacunas, lack of cooperation from prisoners and staffs of correction center and lack of commitments among some prosecutors and workloads. These functional challenges contribute to all the above mentioned gaps on the public prosecutors role of supervising the correction center and ensuring the proper treatment of the correction center. In sum, with all the gaps and inadequacies indicated above, public prosecutors are not in cogent position to enforce the prisoners' right effectively as an independent oversight body.

CHAPTER FIVE

Conclusion and Recommendation

5.1. Conclusion

Throughout the criminal justice process, one of the main aim of imprisonment is to rehabilitate offenders in order to correct their violent behavior and to make them law abiding subjects. To achieve this, prisoners before their reintegration with the community, they needs effective rehabilitative and corrective treatments in correction facilities. On the other hand, as member of human being, prisoners have the right to enjoy the same rights as person at liberty, subject to those restrictions pronounced by the court as a punishment for the crime they found guilty or that are an avoidable consequence of the confinement . As such, the prisoners' human rights and other socio-economic rights which are necessary for adequate standard living condition needs to be respected. Thus, the government as a responsible body to confine prisoners in the correction facilities takes the primary responsibility to respect the human right of the prisoners and to provide them adequate facilities necessary to lead dignified and safe life. The state obligation towards the sound treatment of prisoners is enshrined in various human right instruments and specific rules and standards on prisoners' treatments both at international and national level. Major guarantees provided under international and national instruments and specific standards are among others, the right to life; the right to be free from torture or other ill-treatments; the right to respected human dignity; the right to lead adequate standard of living condition, the right to health; the right to freedom of religion and cultural practice and the right to respect for family life and the right to self-development.

However, providing legal guarantees for prisoners is not final step to ensure the proper treatments of prisoners in correction facilities. Beside this, as correction facilities are closed institution, there is the potential of abuse on prisoners. External independent government oversight over correction facilities is there for crucial to follow up and ensure the implementation of prisoners' rights. Different international instruments such as the United Nation Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules) Provides the government responsibility to have an external supervisory body on the correction facilities. When this comes to domestic level, the public prosecutors are given primary responsibly and

power to supervise the correction facilities and to take important measures in order to ensure the treatment of prisoners is carried out in accordance with law respecting their human dignity.

Accordingly, this research paper was conducted to find out whether public prosecutors are supervising the correction facilities and taking important measures to ensure the observance of prisoners' right in the context of Bench- Sheko Zone Correction Center. Based on the foregoing discussions, the study found that there is no coherent and strong practice of visiting and inspecting the correction center by public prosecutors. And the prosecutors' role to give effective measure is very limited and insignificant. As the information observed demonstrates public prosecutors are not regularly and frequently visiting the correction center. Eventhough prosecutors are visiting the corrections center twice or once in a given year, they are not conducting deep inspection about the treatment of inmates and the physical condition of the correction center. Beside this, they have no adequate contact with prisoners and the correction center staff member to get important information about the treatment of prisoners. Although it is very critical to conduct interview with prisoners to get reliable information about their treatment, the prosecutor effort in this regard is insignificant. Beyond this the relationship between prosecutors and the correction center staff members is not based on mutual understanding and cooperation. With all this shortcomings, the public prosecutor role in visiting and inspecting the correction center is minimal.

Thus, the above factors added with absence of the practice of documenting supervision reports, undermines the public prosecutors efficiency in forwarding and enforcing measures which are necessary to ensure the observance of prisoners' right in the correction center. According to the findings of the study, prosecutors are not in a position to give and enforce compelling recommendation on the correction center regarding the treatment of prisoners and the condition of the correction center. Although, the proclamation allows public prosecutors to take any corrective measures including legal action, they are not effectively exercising this power. There are no evidences or practices showing that public prosecutors are taking any legal action on the prison staff members who violates the prisoners' right to physical and mental integrity.

On the other hand, the study find out that, the treatment of prisoners in Bench-Sheko Zone correction center have gaps and inadequacies. Prisoners in the correction center are facing a number of problems starting from violation of their bodily and mental integrity to absence of

necessary facilities and service to lead dignified and safe life. The study shows that in some occasions prisoners are facing severe beating and chaining. Young offender has no separate accommodations. The dormitories are not equipped with adequate sleeping accommodations and its sanitation is in bad condition. The food and water provision in the correction center is below the standard, both unhealthy and insufficient. The sanitation of the correction center is also deteriorating which poses potential danger on prisoners' health. Other facilities such as educational and training programs and recreational facilities are not adequately provided. With all this problems the correction center is not safe place for prisoners to be rehabilitated and corrected properly. And this suggest the need of intervening measures by external oversight body to force the correction center and other responsible body to comply with the prisoners' rights. However, despite the existence of persistent and deeply rooted problems on the treatment of prisoners, the prosecutor supervisory role as external oversight body is very poor.

Among the causes for the above mentioned drawbacks and shortcomings of the public prosecutor role in enforcing the prisoners right, absence of detailed regulation ,directives or guidelines on correction facilities visit and inspection; lack of cooperation among prisoners and the correction center managements and staffs; workload and lack of commitments among some prosecutors are the major ones. The current proclamation is too general lacking specific provision regarding the process of supervising the correction center. Beside this there is no guidelines which can be used by public prosecutors during their visit. On the other hand due to fear for punishment or denial of rights prisoners are in most case not willing to tell about the gaps in their treatments for prosecutors. The correction center officials are also not ready to help and cooperate with prosecutors. Further, as public prosecutors are tasked with other duties in criminal justice process, they have shortage of time to conduct frequent and regular visit to the correction center. There is also some sort of lack of commitment among public prosecutors to supervise the correction center. With all these functional obstacles, currently the public prosecutor role in the enforcement of the right of prisoners is not in strong position. There for, in order to increase the effectiveness of public prosecutors correction center scrutiny, the gaps and shortcomings on their activities needs to be rectified. Based on this the following recommendations are forwarded.

5.2. Recommendation

1. In order to enhance the power of public prosecutors in inspecting correction facilities and taking appropriate measures, the SNNPRS government needs to adopt more detail and more clear laws providing specific powers and responsibilities. The new law must be specific with regards to what prosecutor shall perform during their visit and inspection to the correction center and its outcome. The law must indicate how prosecutor may interact with prisoners and the correction facilities staff members and how they take observation. The law also must be clear with regards to the types of measures which must be taken by public prosecutors to solve the problems and gaps on the treatment of prisoners.
2. The SNNPRS attorney general also needs to adopt comprehensive working manuals to increase the public prosecutors' effectiveness in conducting regular and consistent correction center visit and inspection.
3. The public prosecutors' office in Bech-Sheko Zone must provide regular and frequent visit programs to the correction center and follow and enforce such programs.
4. The prosecutors' office must provide documentation of the correction center supervisory reports and accordingly must take binding recommendation and appropriate legal measures to improve the treatments of prisoners in the correction center.
5. The officials of Bench-Sheko Zone correction center need to take immediate corrective measures to improve the condition of the treatment of prisoners in the correction center.
6. The officials of Bench-Sheko Zone correction center must cooperate with public prosecutors and must take recommendations given by public prosecutors and accordingly must respond to the recommendations through immediate actions of improvements.
7. The public prosecutor needs to conduct awareness creation programs for prisoners and the correction center staffs about the right of prisoners and the purpose of correction center oversight.

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APPENDICES

A. Key Informants Questionnaires

I. Questionnaire for Inmates in Bench Sheko- Zone Correction Center

JIMMA UNIVERSITY

COLLAGE OF LAW AND GOVERNANCE

SCHOOL OF LAW

Questionnaire for Inmates in Bench Sheko- Zone Correction Center

This questionnaire is provided to collect data for post graduate research paper in Jimaa University College of law and governance school of law post graduate program, in order to assess the role of public prosecutors in the enforcement of the right of prisoners in the case of Bench-Sheko Zone correction center. The researcher would like to assure the informants that, the information provided would be used for research purposes only and all responses will be treated in confidentiality. To this end, as your cooperation is very essential for the reliability of this research, I kindly request you to answer the following questions, thanking you in advance.

Date _____

Name of the Respondent (Optional) _____

Age _____

Sex _____

1. How long you have been in this correction center? _____
2. Below in the table, the standards to measure the prison condition, the treatments of inmates and the status of inmates' rights are provided in different categories. Please mark "X" only on one standards you thinks correct to describe the prison condition ,your treatments or other inmates and the status of yours or other inmates rights in the correction center.

No	The treatment of inmates, the condition of the correction center and the status of inmates rights index		Measurement Standards						
			Not Exist	Extremely poor	Very Poor	Poor	Good	Very Good	Excellent
1	Separate Accommodation	For young offenders							
		For Women							
		For Inmates with disability							
		For inmates with communicable disease							
2	Room and Beading accommodation	Adequate bedding facility							
		Enough Space per inmates in room							
		Enough natural and artificial light in room							
		Clean and adequate air							
3	Daily Provisions of adequate and healthy food								
4	Daily Provisions of healthy drinking water								
5	Free and adequate health care service								
6	Sanitary and toilet Service	Personal hygiene facilities							
		Room and Surrounding hygiene							
		Special Sanitary facility for Women's							
		Toilet facility							
7	Education and training programs								
8	Freedom of Cultural activities								

9	Freedom of religion							
10	Sport and recreational facilities							
11	Right to work and adequate remuneration							
12	The implementation of forced labour							
13	Special treatment for women's, children's, juveniles, elders and inmates with disability							
14	Free contact with families and other outsiders							
15	Adequate compliant procedure							
16	Effective and timely response for complaints							

For the questions below please mark "X" inside the box following your choice

3. Do you noticed or contacted visiting public prosecutors in this correction center?
 Yes No

If your answer is yes how often they are visiting the correction center within a month or a week?
 Please Explain _____

If your answer is no what do you think is the reason? Please explain _____

4. If your answer for question 4 is yes do the public prosecutors have direct contact with the inmates? Yes No

5. Do they properly receive any complaints from prisoners and make observation on the prison condition? Yes No

6. If yes do you think they are providing effective remedies for inmates and prison condition based on the compliant they have received or the observation they have conducted within reasonable time Yes No

7. Have you ever experienced any act of torture or improper treatments or have you noticed such acts on other inmates' in the correction center? Yes No

If your answer is yes please explain _____

8. If your answer for question 7 is yes have you communicated such situation for public prosecutors? Yes No If your answer is No what is the reason _____

9. If your answer for question 8 is yes do public prosecutor takes legal or any other corrective measures against the violators within reasonable time? Yes No

10. Generally how do you measure the adequacy of public prosecutors role in prison supervision and the improvement of inmates living condition in this correction center?

V. Poor Poor Good V. Good

11. Finally if you have anything to add please explain _____

II. Questionnaire for Public Prosecutors in Bench-Sheko Zone

JIMMA UNIVERSITY

COLLAGE OF LAW AND GOVERNANCE

SCHOOL OF LAW

*Questionnaire Presented for Public Prosecutors in
Bench-Sheko Zone*

This questionnaire is provided to collect data for post graduate research paper in Jimaa University College of law and governance school of law post graduate program, in order to assess the role of public prosecutors in the Enforcement of the right of prisoners in the case of Bench-Sheko Zone Correction Center. The researcher would like to assure the informants that the information provided would be used for research purposes only and all responses will be treated in confidentiality. To this end, as your cooperation is very essential for the reliability of this research, I kindly request you to answer the following questions, thanking you in advance.

Please mark “X” inside the box following your choice

1. How long you have served as public prosecutor in Bench-Sheko Zone? Please

Explain _____

2. Do you have any experience on prison visit and inspection in Bench-Sheko Zone Correction Center? Yes No

If your answer is yes how often you are visiting the correction center within a month or a week?

If your answer is “No” please explain your reason _____

Note: Please answer the following questions only if your answer for question 2 is “Yes”

3. Do you have direct and free contact with Inmates? Yes No

If your answer is “No” what do you think is the reason? Please Explain _____

4. Below in the table, the standards to measure the prison condition, the treatments of inmates and the status of inmates' rights are provided in different categories. Please mark "X" only on one standards you thinks correct to describe the prison condition ,the treatments of inmates and the status of inmates rights in Bench-Sheko Zone correction center.

No	The treatment of inmates, the condition of the correction center and the status of inmates rights index		Measurement Standards						
			Not exist	Extremely poor	Very Poor	Poor	Good	Very Good	Excellent
1	Separate Accommodation	For young offenders							
		For Women							
		For Inmates with disability							
		For inmates with communicable disease							
2	Room and Beading accommodation	Adequate bedding facility							
		Enough Space per inmates in room							
		Enough natural and artificial light in room							
		Clean and adequate air							
3	Daily Provisions of adequate and healthy food								
4	Daily Provisions of healthy drinking water								
5	Free and adequate health care service								
6	Sanitary and toilet Service	Personal hygiene facilities							
		Room and Surrounding hygiene							
		Special Sanitary facility for Women's							
		Toilet facility							
7	Education and training programs								
8	Freedom of Cultural activities								
9	Freedom of religion								
10	Sport and recreational facilities								
11	Right to work and adequate remuneration								
12	The implementation of forced labour								
13	Special treatment for women's, children's, juveniles, elders and inmates with disability								

	Free contact with families and other outsiders							
14	Adequate compliant procedure							
15	Effective and timely response for complaints							

5. Is there any circumstance in which you have received any complaints from Inmates about their treatment and the prison condition? Yes No

If your answer is “No” what do you think is the reason? Please Explain _____

If your answer is “Yes” Please can you list some of such compliants _____

6. How do you explain your contact with prison administrators and staffs in case related with supervising the treatment of inmates and the prison condition?

Poor V. Poor Good V. Good

If your answer is “Poor” or “V.poor” what do you think is the reason? Please Explain _____

7. In case you noticed any human right violation of inmates are you taking an immediate intervention measures to solve the problem? Yes No

If your answer is “Yes” please explain what measures you are taking to solve the problem _____

If your answer is “No” what do you think is the reason? Please explain _____

8. Do you think you are providing effective remedies for inmates’ complaints and prison condition problems within reasonable time? Yes No

9. If your answer for question 8 is “No” what do you think is the reason? Please explain_____

10. If your answer for question 9 is “yes” do you think the remedies provided by you or your office improves the treatment of inmates or their living condition in the correction center?

Yes No

If your answer is “No” what do you think is the reason? Please explain_____

11. After noticing the fact of inhuman or improper treatments of inmates, is there any circumstances or mechanism you have proceed to make legal action or any other corrective measures against the prison administrators’ or staffs? Yes No

If your answer is “No” what do you think is the reason? Please explain_____

12. Generally how do you explain the treatment of inmates based on the law inBench-sheko Correction center? Poor V. Poor Good V. Good

If your answer is “Poor” or “V.poor” what do you think is the reason? Please Explain_____

13. Finally if you have anything to say on public prosecutors role in the enforcement of the right of inmates in correction facilities and its challenges you can explain_____

B. Interview Questions Guidelines

I. Interview Questions for Heads of Public Prosecutors

This interview is provided to collect data for post graduate research paper in Jimaa University College of law and governance school of law post graduate program, in order to assess the role of public prosecutors in the Enforcement of the right of prisoners in the case of Bench-Sheko Zone Correction Center. The researcher would like to assure you that the information provided would be used for research purposes only and all responses will be treated in confidentiality. To this end, as your cooperation is very essential for the reliability of this research, I kindly request you to answer the following questions, thanking you in advance.

Name of the Respondent _____

Official capacity _____

1. Please explain the role of public prosecutors in prison visit and inspecting the treatments of inmates in correction center?
2. Do public prosecutors under your office regularly visit the Bench –Sheko Zone correction center? If yes, how often they are conducting a visit?
3. Do you think public prosecutors are effective in their prison visit and inspection activities to guarantee adequate correction and rehabilitation of inmates?
4. How do you measure the effectiveness of public prosecutor’s role in the enforcement of the right of inmates and improving the prison condition in Bench-Sheko Zone correction center?
5. What activities have your office done to support and enhance the public prosecutors activities of prison visit and inspections?
6. Is there any legal or other corrective measures taken by your office to improve the prisoners’ treatment and rehabilitation activities Bench-Sheko Zone correction center?
7. What are your office collaborating activities with Bench-Sheko Zone correction center and other stake-holders to enhance effective treatment and rehabilitation of inmates?
8. What are the major gaps and constraints that affect the effectiveness of public prosecutors role in the enforcement of the rights of inmates?
9. In your opinion, what must be done to foster the competence of public prosecutor in the enforcement of the rights of inmates effectively for the future promote and protect

human rights effectively for the future?

II. Interview Questions for Prison Administrators and Staffs

This interview is provided to collect data for post graduate research paper in Jimaa University College of law and governance school of law post graduate program, in order to assess the role of public prosecutors in the Enforcement of the right of prisoners in the case of Bench-Sheko Zone Correction Center. The researcher would like to assure you that the information provided would be used for research purposes only and all responses will be treated in confidentiality. To this end, as your cooperation is very essential for the reliability of this research, I kindly request you to answer the following questions, thanking you in advance.

Name of the Respondent _____

Official capacity _____

1. Do you know the fact that public prosecutors have a role in visiting correction facility to follow up the humane treatment of inmates and their proper rehabilitation?
2. Do public prosecutors regularly and frequently visit your correction center? Do they directly communicate with inmates? If not what do you think is the reason?
3. Do they deeply examine the treatments of inmates and prison condition in your correction center?
4. How do you describe your working relationship with Bench- Sheko Zone Public Prosecutors with regard to the human rights protection of the rights of inmates in your correction center?
5. Is there any mechanism through which the correction facility administrators' or staff members and public prosecutors jointly works for the improvements of inmates life in the correction center?
6. Is there any solution or improvements did their monitoring activities brings to inmates and the condition of your correction center?
7. Is there any circumstance public prosecutors forwarded any recommendation or corrective measure to be taken in order to improve the inmates' treatments or the prison condition?
8. How do you measure the public prosecutors visiting and inspecting activities in

guaranteeing the proper rehabilitation and correction of inmates in your correction center?

9. What do you think is the major gaps and obstacles in the public prosecutors correction center visiting activities? What measures should be taken as a solution?

III. Interview Questions for Courts

This interview is provided to collect data for post graduate research paper in Jimaa University College of law and governance school of law post graduate program, in order to assess the role of public prosecutors in the Enforcement of the right of prisoners in the case of Bench-Sheko Zone Correction Center. The researcher would like to assure you that the information provided would be used for research purposes only and all responses will be treated in confidentiality. To this end, as your cooperation is very essential for the reliability of this research, I kindly request you to answer the following questions, thanking you in advance.

Name of the Respondent _____

1. Do you entertain any cases related with the violation of rights of inmates in Bench – Sheko Zone correction center?
2. If yes do public prosecutors have any role in representing the inmates before your court?
3. Do they properly present and addressed the claims of inmates?
4. Do public prosecutors arrange any mechanisms to inmates to be heard before the court about their mistreatment or violation of their rights?
5. Do you think their effort to present the cases of inmates before the court is adequate to get remedies for the improper treatment of inmates?
6. What challenges and gaps do you observed in public prosecutor effort to present the cases related with the violation of rights of inmates and to get effective remedies before the court?
7. What measures should be taken by the responsible bodies to overcome the problems?

IV. Interview Questions for Defense Attorneys

This interview is provided to collect data for post graduate research paper in Jimaa University College of law and governance school of law post graduate program, in order to assess the role

of public prosecutors in the Enforcement of the right of prisoners in the case of Bench-Sheko Zone Correction Center. The researcher would like to assure you that the information provided would be used for research purposes only and all responses will be treated in confidentiality. To this end, as your cooperation is very essential for the reliability of this research, I kindly request you to answer the following questions, thanking you in advance.

Name of the Respondent _____

1. Do you ever represented inmates on cases related with the violation of rights inmates or their improper treatments in Bench- Sheko Zone correction center?
2. Which rights of the inmates are mostly violated in in Bench- Sheko Zone correction center?
3. Do you know the role and responsibilities of public prosecutors to visit the correction center and to follow the treatment of inmates?
4. Have you made any efforts to work in collaboration with public prosecutor or have you ever get any assistance from them to present case related with the violation of rights inmates or their improper treatments before the court? If not what do you think is the reason?
5. What are the challenges you are facing in dealing with cases related with the violation of rights inmates or their improper treatments?
6. Do you think public prosecutors are effective in their prison visit activities and enforcing the right of inmates? If no what do you think is the reason?
7. What challenges and gaps do you observe from the role of public prosecutor in enforcing the rights of inmates?
8. What measures do you suggest to enhance the public prosecutors effectiveness in the enforcement of the rights of inmates?