



COLLEGE OF LAW AND GOVERNANCE

SCHOOL OF LAW

**PRISONERS' RIGHT TO ADEQUATE STANDARD OF LIVING:
A CRITICAL ASSESSMENT IN YEM SPECIAL WOREDA SAJA
PRISON INSTITUTE, SNNPRS OF ETHIOPIA**

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

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Declaration

I hereby declare that, this paper prepared for the partial fulfillment of the requirements for LL.M Degree in Human Rights and Criminal Law entitled “Prisoners’ Right to Adequate Standard of Living: A Critical Assessment in Yem Special Woreda Saja Prison Institute, SNNPRS of Ethiopia” is my own work and has not been submitted before for any degree or examination in any other university or in any other institution before. I also declare that any source used in the paper has been duly acknowledged.

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List of Acronyms and Abbreviations

ACHPR	African Commission on Human and Peoples Rights
Art.	Article
AU	African Union
E.C	Ethiopian Calendar
FDRE	Federal Democratic Republic of Ethiopia
GC	General Comments
GDP	Gross Domestic Product
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IGOs	Inter-Governmental Organizations
NGOs	Non-Governmental Organizations
OAU	Organization African Union
SMR	United Nation Standard Minimum Rules for the Treatment of Prisoners
SRP	Special Rapporteur on Prisoners and Condition of Detention
SNNPRS	Southern Nation Nationalities and Peoples Regional States
UDHR	Universal Declaration of Humans Right
UN	United Nations
UNODC	United Nations Office on Drugs and Crimes

Abstract

The prisoners' rights to adequate standard of living is one of the prisoners' fundamental human rights recognized under international human rights law. The protection of this right is required and guaranteed by various international and regional legal instruments such as, UDHR, ICCPR, ICESCR, ACHPR, and other relevant instruments. In Ethiopia, both the FDRE and the SNNPRS constitution guaranteed the prisoners right to adequate standard of living. This right also gets important attention under specific legislations both at Federal and SNNPRS level.

Accordingly, the objective of this research is to assess the prisoners' rights to adequate standard of living, which include the prisoners' right to food and water, right to adequate health care services, the right to accommodation, the right to sanitation, the right to bedding and clothing in Yem Special Woreda Saja Prison Institute. The study, additionally, examines the performance of public prosecutors on the enforcement of the above-mentioned prisoners' rights. In order to achieve the research objectives, the researcher employed both questionnaire and interviews with different key informants. Accordingly, the finding of the study shows that, in the study area, the food provision in the prison institute is inadequate both in its quality and quantity. There is no provision of separate food items for detainee having health problems. Regarding accommodation, the dormitories are not well equipped with sleeping facilities. There is no adequate bedding service. There is no mattress and sheet service. There is no clothing service. The dormitories are overcrowded with insufficient entrance of natural light and fresh air. The sanitary facility of the prison institute is also not adequate. Further, prisoners are not getting adequate sanitary facilities to keep their person and cloth clean. And the performance of public prosecutors on the enforcement of the above prisoners' rights is very limited. The study, finally, makes recommendations that different measures to be considered by the SNNPR Government, Regional Prison Administration Commission and Yem Special Woreda Saja Prison Institute to enhance the effective implementation of prisoners' right to adequate standard of living in Saja Prison Institute.

Key words: Prisoner, Prisoners' rights to adequate standard of living, Yem Special Woreda Saja Prison Institute, Public prosecutors'

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Chapter one

1. Introduction

1.1. Background of the study

Human rights are a special sort of inalienable moral entitlement.¹ They attach to all persons equally, by virtue of their humanity, irrespective of race, nationality, or membership of any particular social group.² Human rights belong to an individual because of being human.³ It is significant to note that the idea of human rights is bound up with the idea of human dignity.⁴ Human rights of people in general have been protected by various international and national instruments including the 1995 FDRE constitution and the states constitutions.

Prisoners' right to adequate standard of living is part and parcel of a human right which should not be violated simply for their criminal status because human rights are thus conceived as universal and the same for everyone regardless of color, legal status, economic status, political attitude, racial, religion, language and personal status.⁵ The prisoners' right to adequate standard of living are guaranteed by various international instruments as well as national instruments.

At international level, the preamble of the UDHR provides that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.⁶ These rights are including the prisoners' rights to adequate standard of living which exist as natural rights and it also protected.⁷

Also, Article 11 of the ICESCR states that everyone has a right to an adequate standard of living, a right which is of a paramount importance to prisoners.⁸ This right contains various specific rights within itself and applied in the context of prisoners' it guarantees a right to adequate food, clothing,

¹ H. O. Agarwal, '*International Law and Human Rights 754*' (20th ed., Central Law Publications, Allahabad, 2014)

² Ibid

³ Donnelly J, 'Human Rights Democracy and Development' (Human Rights Quarterly 608, 1999) 213.

⁴ H. O. Agarwal, '*International Law and Human Rights 756*' (20th ed., Central Law Publications, Allahabad, 2014) 75.

⁵ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) art. 2

⁶ Ibid, Paragraph 1 of the preamble

⁷ See Ibid, art. 25

⁸ International Covenant on Economic, Social and Cultural Rights, (adopted 16 December 1966 UNGA Res 2200A (XXI) (ICESCR) art 11 read as "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

bed and bedding, accommodations and to the continuous improvement of prisoners' living conditions in the prison institutions.

Further, relevant UN Human Right Committee jurisprudence and general recommendation indicates that, States have an obligation to mandatorily undertake and observe the prisoners' rights to adequate standard of living. For instance, the UN Human Right Committee, in its General Comment no. 9, 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 Similarly 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.¹⁰ The Committee further noted that, the state mandatory observation of detainees' or prisoners' right shall be in accordance with Rules 10¹¹, 12¹², 17¹³, 19¹⁴ and 20¹⁵ of the U.N. Standard Minimum Rules for the Treatment of Prisoners¹⁶ 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.¹⁷ Moreover, the committee noted that these are minimum requirements which

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, 52.

¹⁰ *Albert Womah Mukong v. Cameroon*, Communication No. 458/1991, UN Human Rights Committee, CCPRIC/51/D/458/1991, Para. 9.3.

¹¹ Rule 10 stated that "All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation."

¹² Rule 12 stated that "The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner."

¹³ Rule 17 provided that "(1) 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 health. Such clothing shall in no manner be degrading or humiliating. (2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene. (3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing."

¹⁴ Rule 19 provided that "Every prisoner shall, in accordance with local or national standards, 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 cleanliness."

¹⁵ Rule 20 stated that "(1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served. (2) Drinking water shall be available to every prisoner whenever he needs it."

¹⁶ The 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.

¹⁷ *Albert Womah Mukong v. Cameroon*, (n 10) Para. 9.3

the committee considers should always be observed, even if economic or budgetary considerations may make compliance with these obligations difficult.¹⁸ These UN Human Right Committee jurisprudence and general recommendation serve interpretation purposes because there are diverse controversies regarding the meaning, content and implementation of the right to adequate standard of living.¹⁹

Cognizant of these duties under international human rights law different states have enshrined prisoners' right to adequate standard of living in their constitutions, to which Ethiopia is no exception. In Ethiopia prisoners right is recognized both by the 1995 FDRE Constitution and the states Constitutions. Ethiopia is party to all the above international human right instruments. Being a State party, Ethiopia is obliged to respect, protect and fulfill the right recognized under such ratified international instruments. It is also clear from the FDRE constitution that ratified international human right treaties are part and parcel of domestic laws of the country and interpretation of fundamental human rights should be done by observing the same.²⁰ Moreover, Article 21 of the FDRE Constitution states that, all persons held in custody and persons imprisoned up on conviction have the right to treatment respecting their human dignity.²¹ With the same manner, Article 21 of the SNNPRS Constitution also provides that a person in custody or imprisoned have the right to treatments in respecting his human dignity.²² Further, several subsidiary legislations such as: Treatment of Federal Prisoner's Regulation and Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation provided detailed rules for the protection of prisoners' right to adequate standard of living.²³

However, at the risk of stating the obvious, even if the standards of services that should be provided, facilities required in the prison centers and how prisoners should be handled are all set under different international and national laws, in practice the enjoyment of the right is tainted with a number of problems. The majority of the world's prison systems including Ethiopia do not

¹⁸ Ibid.

¹⁹ Iceland Human Rights Center, The Right to Adequate Standard of Living, available at info@humanrights.is.

²⁰ Constitution of the Federal Democratic Republic of Ethiopia, Negarit Gazeta, 1st year No.1, 21st August, 1995. art. 9 (4) and 13 (2).

²¹ Ibid.

²² Revised Constitution of the Southern Nation Nationalities and Peoples Regional State Proclamation No. 35/2001

²³ Treatment of Federal Prisoners Council of Ministers Regulations No. 138/2007 and Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005, Articles from 5-11 respectively

function at the level of these international standards and rules, and national laws in treating prisoners.²⁴ The US Department of States Reports revealed that in Ethiopia prison and pretrial detention center conditions remained harsh and in some cases life threatening.²⁵ According to the report gross overcrowding and inadequate food, water, sanitation, and medical care. The report added that the government budgeted approximately nine birr (\$0.32) per prisoner per day for food, water, and health care, although this amount varied across the country. According to the World Bank, the country's per capita GDP was \$1.50 per day. Many prisoners supplemented this support with daily food deliveries from family members or by purchasing food from local vendors. According to the report officials prevented some prisoners from receiving food from their families, and some families did not know of their relatives' locations. Medical care was unreliable in federal prisons and almost nonexistent in regional ones. Prisoners had only limited access to potable water. Water shortages caused unhygienic conditions, and most prisons lacked appropriate sanitary facilities. Many prisoners had serious health problems but received little or no treatment. There were reports prison officials denied some prisoners access to needed medical care.²⁶

Accordingly, prison facilities and services such as accommodation, food, sanitation, water and health services are inadequate which present major challenges to providing humane conditions of imprisonment and safeguarding compliance with applicable national and international laws, standards and guidelines.²⁷ Therefore, this thesis discuss the prisoners' rights to adequate standard of living, which include the prisoners' right to food and water, adequate health care services, the right to accommodation, the right to sanitation, the right to bed, bedding and clothing in Yem Special Woreda Saja Prison Institute.

Further, this thesis would examine the performance of public prosecutors on the enforcement of prisoners' rights to adequate standard of living in the context of Yem Special Woreda Saja Prison Institute.

²⁴ International Committee of the Red Cross '*Water, Sanitation, Hygiene and Habitat in Prisons*', (Genève, Switzerland 2013)

²⁵ United State Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices (2018)

²⁶ Ibid

²⁷ Ibid

1.2. Statement of the Problem

As indicated above, although prisoners' right to adequate standard of living is guaranteed both under international and national laws, various prison institutions are not practically implementing the rights of the person in custody according to the provisions of the law provided for prisoners. This problem, among other things, can be attributed to the fact that most prison and law enforcement authorities are ignorant of the provisions of the human rights instruments on the treatment of people deprived of their liberty and the material and financial resources available to them are in most cases inadequate.²⁸ Albeit the adequate living conditions in prison are an important prerequisite for achieving the objective of the penalty of imprisonment and lack of adequate standard of living conditions may have a negative impact on the rehabilitation and social reintegration of offenders.²⁹

The researcher's prior investigation in Yem Special Woreda Saja Prison Institute indicates that, even if Treatment of Federal Prisoner's Council of Minister's Regulations No. 138/2007 and Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005 provides, every prisoner shall be provided with balanced and sufficient diet in the prison.³⁰ But in Saja Prison Institute the prisoners' representatives revealed that the provision of food is some sort of inadequacy both in its quality and quantity. The law also guarantees prisoners right to get enough water and necessary materials for cleanliness' and with toilet facilities,³¹ as well as prisoners' right to free medical treatment and medical facility, adequate medical equipment, to the extent that circumstances allow.³² Besides, it provides prisoners' right to necessary bed and bedding.³³ Practically, however as the researcher's prior investigation shows, in the research area there are problems of water provisions in terms of both its quality and quantity as well. This water shortages may cause unhygienic conditions. And concerning medical treatment there is health service although its adequacy is questionable. Similarly, there are some problems

²⁸ Jeremy Sarkin, *'Human rights In African Prisons'*, (2018) /HRSC Press, Cape Town/ 4.

²⁹ Fikadu Kassa and Wakitole Dadi, *'Assessment of Living Conditions in Prison Centers in Oromia National Regional State'*, (2017) /Vol. 5 Issue 3/ The International Journal of Business & Management/ 193.

³⁰ Treatment of Prisoners Regulation, (n 23) Art. 10 and 9 respectively

³¹ Ibid, Art. 9 and art. 8 (3) respectively

³² Ibid, Art.11 and art. 10 respectively

³³ Ibid, Art. 8 and art. 8 (2) respectively

regarding bed and bedding services in that prison institute.³⁴ These all situation may adversely affects on the prisoners' right to adequate standard of living and rehabilitation of prisoners'.

Therefore, the thesis would attempt to discuss in detail the problems and causes concerning the prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute, such as: prisoners' right to food and water, adequate health care services, the right to accommodation, the right to sanitation, the right to bed, bedding and clothing.

Further, this thesis would examine the performance of public prosecutors on the enforcement of prisoners' rights to adequate standard of living in the context of Yem Special Woreda Saja Prison Institute. Prisoners' are at risk of human rights violations.³⁵ 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.³⁶ 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 vulnerabilities.³⁷ Therefore, human rights protections are critically important in these environments through monitoring of their conditions of imprisonments.³⁸ 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.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 requires

³⁴ Interview with prisoners' representatives and public prosecutors from Yem Special Woreda public prosecutor office, on October 2019

³⁵ Mary Rogan, Prison Inspection and Monitoring: The Need to Reform European Law and Policy, (European Journal on Criminal Policy and Research, 2019) 2.

³⁶ Ibid.

³⁷ Assessing Compliance with the Nelson Mandela Rules, A checklist for internal inspection mechanisms, (United Nations Office on Drugs and Crime, Geneva, 2017) 12.

³⁸ Ibid.

³⁹ Mary R., (n 35)

⁴⁰ Monitoring Places of Detention: A Practical Guide, International Association for Torture, Geneva, 2004, 70.

⁴¹ Assessing Compliance with the Nelson Mandela Rules, (n 37) 12.

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

In Ethiopia, even if both Federal Attorney General Establishment Proclamation and SNNPRS Attorney General Establishment Proclamation 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.⁴⁴ But the researcher prior investigation in Yem Special Woreda Saja Prison Institute shows that, practically public prosecutors' failure to exercise their responsibility in a manner to ensure the protections of prisoners' rights to adequate standard of living in Yem Special Woreda Saja Prison Institute.⁴⁵

Thus, this study seeks to address the situation of prisoners in relation to enjoying the right to adequate standard of living in the Yem Special Woreda Saja Prison Institute and the performance of public prosecutors on the enforcement above-mentioned prisoners right would be addressed.

1.3. Objectives of the Study

This thesis has two objectives: general and specific objectives.

1.3.1 General Objectives

The general objective of this study is to assess the prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute.

1.3.2 Specific objectives of the study

The specific objectives of the study include:

⁴² 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) Rule 83.

⁴³ Ibid.

⁴⁴ 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.177/2018, Article 6 (5) (i).

⁴⁵ Interview with prisoners' representatives and staff members of Yem Special Woreda Saja Prison Institute, on October 2019; the responses indicates that public prosecutors are not conducting regular and frequent visit to the prison institute and they didn't take appropriate corrective measures.

- To examine whether prisoners' in Yem Special Woreda Saja Prison Institute have access to basic material conditions of life and services such as adequate food, water, health care, personal hygiene, sanitation services, bed, bedding, clothing services and accommodation from the perspective of standards minimum rules for the treatment of prisoners.
- To critically explore the cause for violation of prisoner's right to adequate standard of living, if any, in Yem Special Woreda Saja Prison Institute.
- To assess the performance of public prosecutors on the enforcement of prisoners right to adequate standard of living in Saja Prison Institute.
- To assess measures (if any) taken by public prosecutor in relation the enforcement of prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute.

1.4. Research Questions

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

- Do prisoners' in Yem Special Woreda Saja Prison Institute have access to basic material conditions of life and services such as adequate food, water, health care, personal hygiene, sanitation services, bed, bedding, clothing services and accommodation in line with the minimum standards rules for the treatment of prisoners?
- What are the causes for violation of prisoner's right to adequate standard of living in Yem Special Woreda Saja Prison Institute, if any?
- Do public prosecutors' have any duty to ensure prisoners' right to adequate standard of living? If yes, to what extent are they discharging these duties in the context of Yem Special Woreda Saja Prison Institute?
- What specific measures should be taken to address the problems, if any, existing in Yem Special Woreda Saja Prison Institute concerning prisoners' right to adequate standard of living?

1.5. Significance of the Study

The study has the following significances: -

- It will use as a gap filling for the problems of prisoners' right to adequate standard of living in Ethiopia in general and in Yem Special Woreda Saja Prison Institute in particular.

- It helps to show the state responsibility in general and prison administration officers in particular to respect, protect and fulfillments of the prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute.
- It will provide to the special woreda as well as the regional governments with reliable information and indicate appropriate solution to determine the future adequate standard of living of prisoners' in Yem Special Woreda Saja Prison Institute.
- It gives relevant information for law making or decision-making bodies in the country as a whole and at regional level to take appropriate legal or policy measures in order to improve the adequate standard of living in prison institute.
- It will serve as a reliable source of data for relevant institutions, researchers, students, and non-government organizations interested in the areas under consideration.
- It will be used to enhance the knowledge of the prison officials and staff, prisoners and public prosecutors in order to realize the rights of the prisoners' right to adequate standard of living according to international human rights instruments.
- Furthermore, it will initiate researchers in the area for further study.

1.6. Scope of the Study

The study comprised both legal and practical analyses with regard to prisoners' right to adequate standard of living. The legal analyses covered legal protection made under both internationally and domestically. The practical analysis covers adequate standard of living in prison institute (accommodation, personal hygiene, clothing, bedding, food, water and medical services). Further it assesses the performance of public prosecutors on the enforcement of the above-mentioned prisoners right.

Moreover, in order to conduct effective and successful study in short period of time and with limited resource the researcher was consider the practical analysis of the study at Yem Special Woreda Saja Prison Institute. Yem Special Woreda is one of the SNNPR of Ethiopia. Because Yem is not part of any zone in the SNNPR, it is considered a special woreda, an administrative subdivision which is similar to an autonomous area. Its shared border in west and north with Oromia, East Gurage & Hadiya and in the south Hadiya and Oromia. The administrative center of Yem Special Woreda is Saja found 240 km on road from Addis Ababa to Jimma. Based on the 2007 census conducted by the central statistical agency of Ethiopia, this woreda has a total

population of 80,687, of whom 40,566 are men and 40,121 women; with an area of 647.90 square kilometers.⁴⁶

1.7. Methodology of the study

1.7.1. Research Method

In order to achieve the objectives of the study set forth herein above, the researcher opted to use both qualitative and quantitative research approaches (mixed approach). Accordingly, the study employs questionnaires as data collection tools 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 use in-depth interviews with prison management and staff, public prosecutors' and prisoners', personal observation, and also the study use different laws, textual, conventions, legislations, documentary analysis under qualitative research approach.

1.7.2. Methods of Data Collection

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

1.7.2.1. Questionnaire

Relevant questionnaire that reflects the objectives of the study has prepared for all respondent categories (prison management, prison staff, public prosecutors' and prisoners') participating in filling questionnaire. The questionnaire was composed of close- and open-ended questions. 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 questionnaires helps the researcher to deeply understand the prisoners' adequate standard of living in Yem Special Woreda Saja Prison Institute.

1.7.2.2. Interviews

Sampled officials and staff members of Yem Special Woreda Saja Prison Institute, public prosecutors' and prisoners were interviewed using structured interview questions. This intended to help the researcher to gather in-depth information among different informants about the prisoner's right to adequate standard of living and the performance of public prosecutors in the

⁴⁶ Population and Housing Census, Central Statistical Agency Addis Ababa, 2007.

enforcement of the above right. It enables the researcher to triangulate the source of information in order to get reliable and accurate data about the treatment of prisoners.

1.7.2.3. Personal Observation

Personal observation also conducted by the researcher in order to gather real information concerning the sanitation of the prisoners, clothing, the categorizations of prisoners, the overcrowdings of the prisoners. This personal observation exposes the existing realities and provides supportive information.

1.7.2.4. Document Review

This instrument used for gathering data from different international human rights instruments, constitutions of Ethiopia and of other countries for comparison, as necessary; and different general comments, recommendations, standards, guidelines, reports, domestic proclamations, and regulations, that have direct relations with prisoners' rights to adequate standard of living were discussed. And also, various books, reports and other similar sources relevant to the objectives of the study has referred.

1.7.3. Sampling Methods

1.7.3.1. Sampling Area

The study covers the prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute. The justification for the sampling area is because the fact that Yem is not part of any zone they lack attention from the regional state in terms of budget, periodic inspection, training and likes. Accordingly, the sampling area of this study covers Yem Special Woreda Saja Prison Institute.

1.7.3.2. Sampling Techniques and Sample Size

In order to collect a reliable data, the researcher employed a combination of different sampling techniques to identify resources of data.

Regarding interview, 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.⁴⁷ 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 an information.⁴⁸ Using this sampling technique, the researcher have selected key informants among the members of key prison administrators', staff members', public prosecutor and prisoners' representatives. The reason for the interview's members of prison administrators, staff and public prosecutors' is because of the fact that, they know well the problems regard to the treatments of the prisoners in the institution. The researcher uses these key administrators' and staff members as tools to gather reliable information regarding to the treatment and handling of the prisoners in the Yem Special Woreda Saja Prison Institute concerning prisoners right to adequate standard of living that provided in the international standards of minimum rules. Thus, the writer conducts interviews with 7 key administrators' and staff member of the prison institute and 6 public prosecutors' from Yem Special Woreda Public Prosecutor office. And the reason for the interview prisoner's representative is because they are the main components of the research. In doing so, the interviews conducted with selected prisoners in the institute regarding the handling and the protection of their human dignity and other rights that recognized under international human rights Principles that adopted by the FDRE constitutions and other domestic laws. As such, intentionally 8 (eight) prisoners who were at least stay more than 6 months in the institute has selected to conduct interviews. Because the assumption that they know well every good and bad things of prison life and also, they have more experiences concerning the rights and duties of prisoners during they have served their imprisonment. Among the 8 prisoners', 2 of them were sentenced of more than 10 years, 4 of them sentenced more than 3 years and the other 2 Persons who are awaiting trial and awaiting sentence in prisons for more than 6 months. And participants interviewed using structured and semi-structured interview questions.

The researcher also conducts 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.⁴⁹ This helps the researcher to address hidden population groups that cannot be easily accessible through other

⁴⁷ Ilker Etikan, Et Al., '*Comparison of convenience Sampling and Purposive Sampling*', (2016) /Vol.5, No.1, / American Journal of Theoretical and Applied Statistics. / 2.

⁴⁸ Ibid.

⁴⁹ Mahin N. Et Al., '*Snowball Sampling: A purposeful Methods of Sampling in Qualitative Research*', (2017) 2.

sampling techniques. Using this sampling techniques, the researcher conducts an interview with 2 prisoners through the prior information about these prisoners from the representatives of prisoners who has provide special information for the study.

Regarding questionnaires, the researcher employed stratified sampling techniques to select different categories of prisoners. Stratified sampling techniques is applied to obtain representative sample, when the population from which a sample is drown does not constitute a homogeneous group.⁵⁰ Under this sampling techniques the population is divided in to several sub-population that are individually more homogeneous than the total population.⁵¹ Using this sampling techniques, the researcher has divide the prisoners' in Yem Special Woreda Saja Prison Institute population in to four categories (men, women, young offenders and arrested persons). Accordingly, 36 prisoners (1/3 of total population) participate in filling questionnaire. Among the 36 prisoners', 18 of them were men, 4 of them women, 7 of them were young offenders and 7 of them are arrested persons.

As far as administrative and staff member of the prison and public prosecutors are concerned the researcher employed purposive sampling techniques. Accordingly, 8 administrative and staff member of the prison and 6 public prosecutors from prosecutor office of Yem Special Woreda participate in filling questionnaire.

Regarding observation, the researcher employed semi-structured check list. Using this sampling technique, the researcher observes accommodation of the prisoners, the place of food service preparation, place of toilet to examine sanitation of the prisoners, clothing and the overcrowdings of the prisoners.

1.8. Limitation of the Study

The study has the following limitations: -

- Time constrains. Since title is approved in Jan 31, 2020 and co-advisor assigned in June 24 and principal advisor assigned on August 20, 2020 the remained time is not enough to complete the study. The limitation of time is the main problem because the time is not enough.

⁵⁰ Hitesh M. 'Data Collection and Sampling', (2018) 28.

⁵¹ Ibid.

- Unfamiliarity of the researcher in undertaking research previously also affect to some extent the quality of this study.
- Outbreak of COVID – 19 and subsequent emergence decree made inaccessibility of some interviewee.
- The other limitation is relating to the non-existence of financial assistance for conducting the research. To determine the study of the handling and the treatments of prisoners' right in the SNNPRS particularly the prisoners' rights of Saja Prison Institute, it needs an adequate financial assistance to carry out better research. However, the non-existence of financial grant for the research is a limitation to complete a research. For this reason, the researcher limits his interviews only to Saja Prison Institute and prisoners of the Saja Prison Institute and public prosecutors of Yem Special Woreda Prosecutor Office.

1.9. Literature Review

In this section of the thesis, the researcher examines literatures written related to the topic at hand. Internationally many authors wrote in the sphere of human rights of prisoners in general and the protection of prisoners' rights to adequate standard of living in particular. But there is a scarcity of research on the areas of prisoners right to adequate standard of living in Ethiopia. Accordingly, the researcher has reviewed some literatures in relation to the prisoners right to adequate standard of living. Particular focus is given in examining researches done previously by different researches on the topic in Ethiopia. The researcher points out the gaps in these researches and shows what he wants to address in his research.

A study conducted by Rebuma Tefera, entitled 'A Critical Assessment of Prisoners Right in The Oromia National Regional State: The Case of Burayu Prison Administration'⁵² has revealed that there is a problem concerning the protection of prisoners' humans' rights. The study, additionally, examine the role of federal prison commission for the protections of prisoners in the country. Hence, the research discovered that, there are poor handling and ill-treatments of prisoners in the prison. And also, both the prison administration and the regional prison commission are not in a position to effectively work concerning the treatments of prisoners. Further, the existing proclamation and regulation regarding to the treatments of prisoners could not properly protect the

⁵² Rebuma Tefera Alemu, 'A Critical Assessment of Prisoners Right in The Oromia National Regional State: The Case of Burayu Prison Administration', (LL.M Thesis, Addis Ababa University: Center for Human Rights, 2014).

rights of prisoners because both the proclamation and regulation not clearly provide the rights of prisoners as provided in other international human rights that directly related with protection of prisoners. Based on the findings, the researcher proposed the amendments of the existing regulations for the protections of prisoners' rights and the need of a country-wide minimum standards and rules that govern every prison institution of the country. However, The study has not addressed the performance of public prosecutor in enforcing the right of prisoners in the prison, since both federal attorney general establishment proclamation and regional attorney general establishment proclamations 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. Moreover, regarding methodology, the researcher, they use only qualitative method of data collection. This hinders the respondents especially prisoners not to give reliable information independently and confidentially. So, it is difficult to deeply understand the prisoner's problems. And the study was generic and not deeply address the problem regarding prisoners' right to adequate standard of living. So, this researcher addresses these gaps of the study in this thesis.

A study conducted by Addisu Gulilat, entitled "The Human Rights of Detained Persons in Ethiopia Case study in Addis Ababa".⁵³ The study assessed the practice of treatment of detained persons in Ethiopia with emphasis in the capital city, Addis Ababa, in light of human rights instruments. In a nutshell, the treatment of detained persons is far below the human rights standards. Treatment of detained persons in prisons is poor in all its aspects while treatment in police detention centers is almost in non-existence. The study reveals that the detention conditions in prisons and police detention centers violate international standards to which Ethiopia is party. It specifically amounts torture, cruel, inhuman or degrading treatment or punishment violating article 5,7 and 5 of UDHR, ICCPR and ACHPR respectively.

Nevertheless, this researcher has found some weakness in the study. Firstly similar to the above reviewed study also this study has not addressed the performance of public prosecutor in enforcing the right of prisoners in the prison, since both federal attorney general establishment proclamation and regional attorney general establishment proclamations provided the power and responsibilities

⁵³ Addisu Gulilat Teshama, 'The Human Rights of Detained Persons in Ethiopia Case study in Addis Ababa' (LL.M Thesis, Addis Ababa university, 2012).

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. Secondly, the study is conducted only in a police detention center of Addis Ababa, since detention centers are temporary place where peoples awaiting charges and awaiting trials, in this regard does not reflect a problem in prison centers. And lastly. the study was generic and not deeply address the problem regarding prisoners right to adequate standard of living. So, this researcher addresses these gaps of the study in this thesis.

The last but not least, A study conducted by Tesfaye Tadesse Abebe, entitled ‘Freedom from Tortue, Inhuman or Degrading Treatment or Punishment: the Case of Some Selected Prisons of Oromia Nation Regional State’⁵⁴ The study assessed the protection of the above freedom in Woliso, Shashemene, Ambo, Ziway, and Adama- and one center of training for prisoners- Dippo Technical and Vocational Training Center in light of international human rights law. The study reveals that except for mild cases of Dippo center of training, the treatment of prisoners in all prisons covered under the study is poor. Further, the study reveals that there is grave violation against prisoners’ right to freedom from torture, inhuman or degrading treatment or punishment, except in Dippo center of training. Moreover, there is no well-organized training program on human rights and treatment of prisoners arranged for prison warders. Lastly the study reveals that there is no experience in which persons (prison warders or authorities) who violated this freedom had been prosecuted. However, the study conducted in light of right to freedom from torture, inhuman or degrading treatment or punishment. The study failed specifically discuss in light of prisoners right to adequate standard of living. Further, like the above reviewed studies also this study did not discuss the role and performance of public prosecutor in enforcing the right of prisoners in the prison. moreover, like the above reviewed studies also this study was generic and not deeply address the problem regarding prisoners right to adequate standard of living. So, this researcher addresses these gaps of the study in this thesis.

In general, even if the above three studies conducted in Ethiopia on related title, they raised strong points regarding the issue by the study. However, they failed to show deeply the current status of

⁵⁴ Tesfaye Tadesse Abebe, ‘Freedom from Tortue, Inhuman or Degrading Treatment or Punishment: The Case of Some Selected Prisons of Oromia Nation Regional State’, (LL.M Thesis, Addis Ababa University, 2011).

the prisoners right to adequate standard of living condition in the prison. And above three studies have not addressed the performance of public prosecutor in enforcing the right of prisoners in the prison. Also, they have generic and not explored in depth the right to adequate standard of living condition in the prison. Additionally, as to the researcher knowledge, there is no research conducted prisoners right to adequate standard of living condition in the SNNPRS in general and specifically in Yem Special Woreda Saja Prison Institute. So, this researcher would address these and related gaps on the issue in this thesis.

1.10. Ethical Considerations

Ethical consideration to all data 's was collected through the permission of individuals or authority; the researcher has been taken due care to get the permission and to properly preserve the collected data. The researcher has got a copy of letter from the School of Law of Jimma University to appealing all the concerned justice institution and individuals to cooperate the researcher in letting access to collections and willing to be interviewed in the course of this study. Beside letter, the researcher had given deep explanation about the intended research, significances, role of researchers and kind of treatment that respondents are subjected. Moreover, after secured permission of respondents, the researchers had begun to establish relationship with respondents for the successful accomplishment of the study and promised to not expose respondents to any harm. Further, in the interpretation of data, the researcher provides an accurate account of the information, and the researcher would not use language or words that are biased against persons or the institution. The public prosecutors', officials and staff members of the prison administration and prisoners' whom researcher interviewed have consented verbally for their name to be freely cited in the research, and none of them asked for anonymity unless not willing to record their voices. Consequently, the researcher has freely divulged the name of all the informants as they have permitted.

1.11. Organization of the study

This research paper contains five chapters. Accordingly, the first chapter cover the introductory part. This chapter illustrate the needs of the research and seeks the solutions. Chapter two discusses the international and regional legal frameworks relevant to the protection of the prisoners right to adequate standard of living. The third chapter devoted to the Ethiopian legal framework in relation to the right at hand where constitutions and other documents are discussed. Chapter four present

the law and practical assessment deals with prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute. Chapter five is the final for this paper. It composes conclusion and recommendations.

CHAPTER TWO

2. PRISONERS RIGHT TO ADEQUATE STANDARD OF LIVING UNDER INTERNATIONAL AND REGIONAL LEGAL INSTRUMENTS

2.1 Introduction

The prisoners' right to adequate standard of living are guaranteed by various international instruments as well as regional instruments. The international protection of these rights emanates from the principle that prisoners do not part with their rights when they enter the correctional centers.⁵⁵ This means that prisoners should not be subjected to physical, mental abuse and inhuman conditions in the prison institute.⁵⁶

Therefore, this chapter analyses the protection of prisoners right to adequate standard of living under international instruments such as UDHR, ICCPR, ICESCR, and UN Minimum Rules for the Treatment of Prisoners and Standard for Treatment of Prisoners and at regional level African system /African Union/

2.2 Prisoners Right to Adequate Standard of Living Under International and Regional Legal Instruments

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.⁵⁷ 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 be respected because of what they have done.⁵⁸ Therefore this section analyses the protection of prisoners right to adequate standard of living at international and regional instruments such as UDHR, ICCPR, ICESCR, UN Minimum Rules for the Treatment of Prisoners

⁵⁵ The Basic Principles for the Treatment of Prisoners (adopted and proclaimed by General Assembly Resolution 45/111 of 14 December 1990) principle 5. The Human Rights Committee on the rights of persons deprived of their liberty, General Comment 21, Article 10 (Forty-fourth session, (1992), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 (1994) para 3.

⁵⁶ Andrew Coyle, *A Human Rights Approach to Prison Management, Handbook for prison staff*, (International Centre for Prison Studies, 2002) 36.

⁵⁷ Reports on Workshop on Prisons and Human Rights, *Commonwealth Human Rights Initiative and Madhya Pradesh Human Rights Commission* (1998) 3.

⁵⁸ Andrew Coyle (n 56) 31.

and Standard for Treatment of Prisoners, African Charter on Human and Peoples' Rights, and other relevant instruments.

2.2.1 The UN Human Rights System

a) Under General Human Rights Instruments

a.a) The 1948 Universal Declaration of Human Rights (UDHR)

The General Assembly of the United Nations (UN) adopted the Universal Declaration of Human Rights (UDHR) on December 10, 1948 to promote the human rights in the world. The Universal Declaration on Human Rights is the founding instrument that came up with elaborated human rights to give effect to the human rights objective set under the United Nations Charter. Article 25 of the UDHR is direct relevant to the protection of prisoners' rights to adequate standard of living. It provides:

- 1. Everyone has the right to a standard of living adequate for [his] health and well-being ... including food, clothing, housing and medical care and necessary social services, and the right to security in the event of ... lack of livelihood in circumstances beyond his control.*

Article 2 of the UDHR provides that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It would be clear that the term "all human beings" used in article 25 and the term "everyone" used in article 2 also includes prisoners. Even if UDHR is a declaration which is no binding effect, it is the first human right instrument which ratified and incorporated by constitution of many states of the world. And it has been widely recognized as binding due to the obligations contained in the Charter of the UN and because parts of the declaration have become part of customary international law.⁵⁹ So that every governments will be bounded by it without regarding to their treaty obligations. Accordingly, the declaration is as its paramount importance in the protection of prisoner's right to adequate standard of living.

a.b) International Covenant on Civil and Political Rights (ICCPR)

Regarding prisoners right to adequate standard of living, provisions are made in the International Covenant on Civil and Political Rights (ICCPR) which has been adopted by the General Assembly

⁵⁹ Mubangizi John 'The protection of human rights in South Africa' (2004) Lansdowne: Juta and Company Ltd.

of the United Nations adopted on December 16, 1966 and came into force on March 23, 1976. Article 10 of the International Covenant on Civil and Political Rights provides:

1. *All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.*

In this respect, 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 deprivation of liberty; respect for the dignity of such persons must be regarded under the same conditions as that for free persons.⁶⁰ 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.⁶¹ 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.⁶² Ethiopia has ratified this instrument which obliges to take the necessary steps to adopt laws or other measures as may be necessary to give effect to these rights of prisoners.⁶³

a,c) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The convention against torture and other cruel, inhuman or degrading treatment or punishment was adopted and opened for signature, ratification and accession by General Assembly Resolution 39/46 of 10 December 1984 and entered into force on 26 June 1987. The convention obligated state parties to investigate and punish the act of inhuman treatment 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,

⁶⁰ General comment No. 21: Article 10 (Humane treatment of persons deprived of their liberty), UN Human Rights Committee, Forty-fourth session (1992) para.3.

⁶¹ Ibid.

⁶² Ibid, paragraph 4.

⁶³ 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/>>

wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.⁶⁴

a.d) The International Covenant on Economic, Social and Cultural Rights (ICESCR)

This international covenant was adopted when the UN intends to promulgate a list of enforceable human rights, both in the way these rights were set out, and in the mechanism adopted for their enforcement. This ICESCR, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976. Unlike other previous instruments which were either domestic or non-binding, this instrument was adopted in the international level with full binding authority.⁶⁵ Article 11 of the International Covenant on Economic, Social and Cultural Rights provides:

- 1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. ...*

Article 11, paragraph 2, of the Covenant also recognizes the fundamental right of everyone to be free from hunger.

In addition to this, the Covenant deals with the right to health which is an important right regarding 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.⁶⁶ Further, the Committee on ICESCR in its General Comment No 12 adopted that the right to adequate food. This right is said to be realized when “every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or the means for its procurement.” Though the right to food imposes obligation of progressive nature, state parties have core obligation to take necessary actions to mitigate and alleviate hunger.⁶⁷ State parties are also expected or obliged to take necessary actions even in times of natural or other disasters. The right to food and the inherent

⁶⁴ 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

⁶⁵ Christopher Gane and Mark Mackerel (Ed.) ‘Human Rights and the Administration of Justice: International Instruments’, (1998) Kluwer Law International, Leiden. xxvii.

⁶⁶ General Comment 14 of the Committee on Economic, Social and Cultural Rights, Para. 36

⁶⁷ Nihal Jayawickrama, *The Judicial Application of Human rights, National, Regional and International Jurisprudence* (Cambridge University press, 2002) 872.

dignity of human person are inseparable and without food it is not possible to fulfill other rights.⁶⁸ The other related General Comment is GC No 15 on the right to water. Under this General Comment, the Committee has concluded that the right to water falls within the category of guarantees essential for securing an adequate standard of living.⁶⁹ The General Comments have firmly placed the rights to adequate food and drink water into a rights-based approach to development, where countries have obligations to fulfil, respect and protect human rights.⁷⁰

b) Under UN Minimum Rules for the Treatment of Prisoners and Standard for Treatment of Prisoners

In addition to the above general international 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 prisoners right to adequate standard of living in detailed manner.⁷¹ 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.⁷² This part of the discussion presented protections of prisoners right to adequate standard of living provided under different UN Standard Minimum Rules and Principles in different categories.

b.a) Prisoners right to adequate standard of living

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. According to 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

⁶⁸ The Committee on Economic, Social and Cultural Rights adopted General Comment No. 12 on the Right to Adequate Food, adopted in 1999, UN doc E/C.12/1999/5, para 1

⁶⁹ General Comment No. 15 on the Right to Water, adopted in 2002, UN doc. HRI/GEN/1/Rev.7 para 3.

⁷⁰ 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. P. 9 para 23

⁷¹ These rules are the United Nations Standard Minimum Rules for the Treatment of Prisoners (n 16), United Nations Basic Principles for the Treatment of Prisoners (n 56), 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; Nelson Mandela Rules (n 42), Code of Conduct for Law Enforcement Officials, the Bangkok Rules and United Nations Standard Minimum Rules for the Administration of Juvenile Justice.

⁷² Andrew Coyle, *A Human Rights Approach to Prison Management, Handbook for Prison Staff*, (Second Edition, International Centre for Prison Studies, 2009) 7.

cases.⁷³ Thus providing adequate standard of living condition and accommodation is essential step with regards to the protection of the prisoners right.

b.b) Prisoners right to adequate accommodation

Regarding the accommodation of prisoners, the United Nation Standard Minimum Rules for the Treatment of Prisoners (hereafter 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.⁷⁴ 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.⁷⁵ Additionally, the Nelson Mandela Rules⁷⁶ guaranteed, the right of prisoners to adequate accommodation in detailed manner in similar way with the SMR started from rule no. 12 – 17.

b.c) Prisoners 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.⁷⁷ Regarding prisoners right to adequate health care service, the SMR provided that, at every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry.⁷⁸ They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.⁷⁹ It is also required that the medical services should be organized in close relationship to the general health administration of the community or nation.⁸⁰ Moreover, the Nelson Mandela Rules provided that, every prison shall have in place a healthcare service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention

⁷³ Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers, Professional Training Series No. 9, 2003, 47.

⁷⁴ SMR (n 16) Rule 9.

⁷⁵ Ibid, Rule 10.

⁷⁶ The Nelson Mandela Rules (n 42).

⁷⁷ Andrew C. and Helen F., *A Human Rights Approach to Prison Management, Handbook for prison staff*, (Third Edition, Institute for Criminal Policy Research at Birkbeck, University of London, 2018) 51-52.

⁷⁸ SMR (n 16) Rule 25.

⁷⁹ Ibid.

⁸⁰ Ibid, Rule 25.

to prisoners with special health-care needs or with health issues that hamper their rehabilitation.⁸¹ Further, 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.⁸²

b.d) Prisoners right to adequate clothing and bedding

Regarding prisoners right to adequate clothing and bedding, the SMR provided that, 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 health. Such clothing shall in no manner be degrading or humiliating.⁸³ Every prisoner shall, in accordance with local or national standards, 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 cleanliness.⁸⁴ Additionally, the Nelson Mandela Rules guaranteed, the right of prisoners to adequate clothing and bedding in detailed manner in similar way with the SMR starting from rule 19-21

b.e) Prisoners right to adequate food and water

The right to food and water is a comprehensive right. It is not simply a right to a minimum ration of calories, proteins and other specific nutrients.⁸⁵ Regarding this basic element for survival, the law provided that every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.⁸⁶ Drinking water shall be available to every prisoner whenever he needs it.⁸⁷ Additionally, the Nelson Mandela Rules guaranteed, the right of prisoners to adequate food and water in rule No. 22.

b.f) Prisoners right to personal hygiene

Regarding the personal hygiene of prisoners, the SMR provided that, prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet

⁸¹ The Nelson Mandela Rules (n 42) Rule 25

⁸² United Nations Basic Principles for the Treatment of Prisoners (n 56) Principle 9, And United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (n 72) Principle 24

⁸³ SMR (n 16) Rule 17

⁸⁴ SMR (n 16) Rule 19

⁸⁵ The right to adequate food of prisoners; the United Nation of Human Rights of Office of the High Commissioner for Human Rights, Fact Sheet No.34, Geneva, Switzerland, 2012, 2.

⁸⁶ Ibid, Rule 20

⁸⁷ Ibid.

articles as are necessary for health and cleanliness.⁸⁸ In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.⁸⁹ Additionally, similar to the above instrument the Nelson Mandela Rules guaranteed the right of prisoners to personal hygiene in rule No. 19.

2.2.2 The African Human Rights System

In Africa, the Charter on Human and People's Rights of Africa followed the principles of the European and Inter-American Human right systems by creating a regional human rights system for African countries by the African Union (AU). the African Charter on Human and Peoples' Rights,⁹⁰ are a key instrument that promote human rights in the African region. Then after states parties to the African Charter have also established within the African human rights protection; African Human Rights Commission,⁹¹ and African Court on Human and Peoples' Rights.⁹² Consequently, the protection of human rights in general and prisoners' rights to adequate standard of living in particular recognized in different human right instruments of the region and also several Protocols to the African Charter on Human Rights and other key conventions relevant to persons deprived of their liberty have also been adopted.

a) African Charter on Human and Peoples Right

The African Charter on Human and Peoples' Rights was adopted by the then Organization of African Unity in 1981 and entered into force in October 1986. This charter does not expressly recognize the right to adequate standard of living. The right to adequate standard of living including adequate food, drinking water, clothing and housing are among missing rights in the system. Though such rights are not expressly recognized under the Charter, they are not outside the scope of the human rights Commission and would be well-covered by a combined reading of article 5 and 14-18 of ACHPR. Most of the decisions of the Commission show the implied existence of the missing rights.⁹³ *The Social and Economic Rights Action Center et al. V. Nigeria*,

⁸⁸ SMR (n 16) Rule 15

⁸⁹ Ibid, Rule 16

⁹⁰ AU Adopted in Nairobi, Kenya in June 1981, and entered into force in 1986

⁹¹ The African commission was established in 1987, three years after the African charter entered into force.

⁹² The African Court on Human and Peoples' Rights was adopted in Burkina Faso on 9 June 1998.

⁹³ Frans Viljoen, *International Human Rights Law in Africa*, Oxford University press, 2007, 237.

Communication 155/96 where it found the right to housing and food, neither of which are expressly recognized by the Charter. In an innovative interpretation, the Commission held that the right to shelter is implicitly entrenched in the totality of the right to enjoy the best attainable standard of mental and physical health, the right to property and the protection of the family. Likewise, the right to food was implied in the right to life, health and to economic, social and cultural development.

b) Ouagadougou's Declaration

Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform in Africa contain recommendations on reducing overcrowding, making prisons in Africa more self-sufficient, promoting rehabilitation and reintegration programs, making prison administrations more accountable for their actions, encouraging best practices, promoting the African Charter on Human and Peoples' Rights, and supporting the development of a Charter on the Basic Rights of Prisoners from the UN.⁹⁴

c) The Robben Island Guidelines

The Robben Island Guidelines, adopted by the Commission in 2002, it 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.⁹⁵ These Guidelines state in clear and concrete terms the measures that are recommended to African States and other actors in order to prevent ill-treatment.⁹⁶ Paragraphs 2 and 3 of the Guidelines encourage States to cooperate with the African Commission's Special Rapporteurs on prisons and conditions of detention in Africa; on arbitrary, summary and extrajudicial executions in Africa; and on the rights of women in Africa; as well as with the United Nations human rights treaty bodies and the thematic and country-specific special procedures of the Commission on Human Rights, in particular its Special Rapporteur on torture. It further requires

⁹⁴ Christian Tomuschat, International Covenant on Civil and Political Rights, United Nations Audiovisual Library of International Law, <http://legal.un.org>, last visited on 3/19/2020, 11:45 PM, 3-4.

⁹⁵ 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

⁹⁶ Human Rights and Prisons (n 70) para 91

states to take steps to improve conditions in places of detention which do not conform to international standards.⁹⁷

d) Kampala Declaration on Prison Conditions in Africa

The Kampala Declaration on Prison Conditions in Africa arose out of an international seminar on prison conditions in Africa held in September 1996 in Kampala.⁹⁸ The seminar was attended by members of the African Commission on Human and Peoples' Rights, Ministers of State, prison commissioners, judges, international, regional and national NGOs and Inter-Governmental Organizations (IGOs).⁹⁹ The Declaration was subsequently annexed to a resolution by the United Nations Economic and Social Council, which called for the cooperation of states, the United Nations and intergovernmental organizations in the improvement of prison conditions in Africa.¹⁰⁰ By doing so, the UN recognized and lent its weight to the efforts to improve penal conditions in Africa.¹⁰¹ 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.¹⁰²

e) African Commission on Human and Peoples Right

The African Commission on Human and Peoples Rights which has operated since 2002 under the sponsorship of the African Union, has played a significant role in improving prison conditions of

⁹⁷ The Robben Island Guidelines (n 95) Guideline 34

⁹⁸ Kampala 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>

⁹⁹ Waruguru Kaguongo, 'Prisoners' Rights: The Role of National Human Rights Institutions in Africa,' (A thesis Submitted to American University in Cairo, Political Science Department, in Partial Fulfillment of the Requirements of the Degree LLM, Cairo, Egypt 2003) 22.

¹⁰⁰ International Cooperation for the Improvement of Prison Conditions United Nations Resolution 1997/36 (adopted on 21 July 1997) at <www.un.org/documents/ecosoc/res/1997/eres1997-36.htm> accessed on 15 April 2020.

¹⁰¹ Prison Inspection and Monitoring (n 40) 2.

¹⁰² Kampala Declaration on Prison Conditions (n 98) Paras.1-2 & 4-5

Africa.¹⁰³ The commission made it clear that states assume responsibilities to look after the welfare of persons including prisoners in prison.¹⁰⁴

The Commission has the mandate to entertain both inter-state¹⁰⁵ and individual communications.¹⁰⁶ Like in the Inter-American and European systems of human rights, the inter-state procedure is rarely resorted to by African states notwithstanding the fact that some countries grossly violate the provisions of the African Charter.¹⁰⁷ Traditionally, African states have tended to emphasize the principle of non-interference, which originates in the charter of OAU¹⁰⁸ and was recently reintroduced by the Constitutive Act of the African Union.¹⁰⁹

The Commission has long considered the general conditions of detention as a potential source of violations of Article 5. In *Institute for Human Rights and Development in Africa (on behalf of Esmaila Connetah and 13 other) v Angola (communications/292.04)*, Mr. Esmaila Connetah and 13 other Gambian nationals were legally living and working in Angola. During an alleged illegal deportation campaign of the Angolan Government (*Operação Brilhante*), foreign nationals working in the diamond-mining regions of Angola were systematically deported. Among other thing those expelled were kept in detention centers under inhuman conditions and in particular poor sanitation. In one center only two buckets of water were provided to the detainees for bathroom facilities, and no separation between the bathroom and the sleeping and eating areas was arranged, and bathroom facilities consisted solely of two buckets [of water] for over 500 detainees, and these were located in the same one room where all detainees were compelled to eat and sleep'. The Commission found that the degrading and inhuman conditions at the detention centers, and notably at the Cafunfu detention center where over 500 detainees shared two water buckets as bathroom facilities with no separate space to eat or sleep, amounted to a violation of the right to dignity within the meaning of article 5 of the Charter.

¹⁰³ Jeremy Sarkin (ed.), *Human rights In African Prisons*, (2008), 4.

¹⁰⁴ R. Murry, "African commission's approach to prison" in Jeremy Sarkin (ed) *human rights in African prison* (2008), 204-205.

¹⁰⁵ African (Banjul) Charter on Human & Peoples' Rights (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered in to force 21 October 1986) Art. 47-54.

¹⁰⁶ *Ibid*, Art. 55-59.

¹⁰⁷ For example, Sudan in the case of Darfur. It is only in some cases that the Commission was seized with an interstate communication [*Communication 227/99, Democratic Republic of the Congo v. Burundi, Rwanda and Uganda*]

¹⁰⁸ The Charter of the OAU (adopted in Addis Ababa, Ethiopia, on 25 May 1963, entered into force on 13 September 1963, and replaced in 2001 by the Constitutive Act of the African Union) Article III (2)

¹⁰⁹ Accepted in Lomé, Togo, on 11 July 2000, and entered into force on 26 May 2001. CAB/LEG/23.15.

The Commission got violations of the right to respect and dignity and the right to freedom from inhuman or degrading treatment under Article 5 of the Charter'. In *Media Rights Agenda (on behalf of Niran Malaolu) v. Nigeria*, (Comm. No. 224/98) the victim allegedly suffered his legs and hands were chained to the floor day and night. From the day he was arrested and detained until he was sentenced by the tribunal, a total of 147 days, he was not allowed to take his bath. He was given food twice a day, and while in detention, both in Lagos and Jos before he faced the Special Investigation Panel that preceded the trial at the Special Military Tribunal, he was kept in solitary confinement in a cell meant for criminals. In this case, the Commission found this treatment to constitute 'a violation of the right to respect and dignity and the right to freedom from inhuman or degrading treatment under Article 5 of the Charter'.

f) Special Rapporteur on Prisoners and Conditions of Detention (SRP)

In 1997 the African Commission on Human and Peoples' Rights appointed a Special Rapporteur on Prisons and Conditions of Detention in Africa to assess prison conditions and point out the major problems.¹¹⁰ The Special Rapporteur visits prisons, police and gendarmerie cells, or any other place where people are imprisoned or detained in various African countries in order to obtain information. He then prepares a report on the visit and submits it to the Government concerned. The Government is invited to make comments and to describe the measures taken to deal with the recommendations of the Special Rapporteur. The reports of the Special Rapporteur and Governments' comments are published by the African Union.¹¹¹

g) African Court of Human and Peoples Rights

The Court was established under the Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and People's Rights, adopted in 1998.¹¹² The Court may entitle relevant nongovernmental organizations with observer status before the African Commission on Human and Peoples' Rights, and individuals, to introduce cases directly before it, in accordance with article 34, paragraph 6, of the Protocol.¹¹³ States parties must first have made

¹¹⁰ Human Rights and Prisons (n 70) p 26 para 89

¹¹¹ Ibid

¹¹² Ibid, para 88

¹¹³ Ibid, 26. para 90

a declaration, however, accepting the jurisdiction of the Court to receive individual cases concerning them.¹¹⁴ Furthermore, the Court will complement the mandate of the Commission.¹¹⁵

2.3 Conclusion

The discussion under the preceding chapter, presented under one major section, indicates international and regional legal frameworks on the prisoners right to adequate standard of living. The protection of prisoners' right to adequate standard of living is required and guaranteed by various international and regional 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 and regional legal instruments such as the UDHR, ICCPR, ICESCR, African Charter on Human and Peoples' Rights, and other relevant instruments are therefore equally important to the treatment of prisoners. Major guarantees provided under such international and regional instruments which are relevant to prisoners includes among others, the right to lead adequate standard of living condition and the right to health. 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 on the provides details on the treatment of prisoners. These rules and standards put various specific requirements on the treatment of prisoners.

¹¹⁴ Ibid

¹¹⁵ Ibid

CHAPTER THREE

3. PRISONERS' RIGHT TO ADEQUATE STANDARD OF LIVING WITHIN ETHIOPIA'S LEGAL SYSTEM

3.1 Introduction

The prisoners' right to adequate standard of living has also been guaranteed under the Ethiopia's domestic laws both at Federal and Regional state level. This chapter aims to examine the domestic legal framework of Ethiopia and the policies and institutional frameworks relevant to the protection of prisoners' right to adequate standard of living. The discussion particularly is made in light of the FDRE Constitution, the Federal Prisons Commission Establishment Proclamation, the Council of Ministers Regulations on the Treatment of Federal Prisoners, the FDRE Criminal Justice Policy (2003 E.C), Draft Criminal Procedure and Evidence Code (2012 E.C), the SNNPRS Revised Constitution, and the Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation. Further, this chapter assesses the legal framework on public prosecutor in the protection of prisoners' right to adequate standard of living and their roles.

3.2. The 1995 FDRE Constitution

The FDRE Constitution is the supreme law of the country. It has guaranteed to all persons under custody (detention) the rights to be treated with respect for their human dignity.¹¹⁶ Beside this the constitution under article 9(4) stipulates that "all international agreements ratified by Ethiopia are an integral part of the law of the land." Hence, the rights and freedoms enshrined under these international human rights instruments in general and those exclusively dedicated to detained persons' rights are also applicable to prisoners in Ethiopia so long as they are ratified by Ethiopia.¹¹⁷

Article 18 of the FDRE Constitution prohibits any cruel, inhuman, or degrading treatment or punishment. These rights are made inalienable under emergency conditions by art. 93 (40) (c) of the constitution. Article 21 of the Constitution specially provides that persons held in custody and imprisoned upon conviction and sentencing have the right to treatments respecting their human dignity. The same article provides that all persons shall have the opportunity to communicate with,

¹¹⁶ FDRE Constitution (n 20) Article 21

¹¹⁷ Addisu Gulilat, (n 53) 39.

and to be visited by, their spouses and partners, close relatives, friends, religious counselors, medical doctors and their legal counsel.

3.3 The Federal Prison Proclamation

Federal Prison Proclamation is adopted by the house of people's representatives to give effect to the principles envisaged by the constitution regarding persons in custody.¹¹⁸ The proclamation has clearly provided the federal prison commission's goal which is to admit and ward prisoners, and provide them with reformatory and rehabilitative service in order to enable them make attitudinal and behavioral changes, and become law abiding, peaceful and productive citizens.¹¹⁹ The proclamation guaranteed the right of prisoners to be treated with due regard to their human dignity.¹²⁰ In addition to this, the proclamation among others provided the prison commission responsibilities to provide health care, free medical treatment, food and shelter¹²¹ Prison premises and compounds shall not be hazardous to health; and they shall have fresh air and sufficient lights.¹²² It allows variation among accommodations based on degree of willingness to reform and repentance.¹²³ There shall be provision of food free of charge which is sufficient and of nutritional value.¹²⁴

3.4 The Council of Ministers Regulations on the Treatment of Federal Prisoners

The Council of Ministers Regulations on the Treatment of Federal Prisoners¹²⁵ are 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 non-discrimination; respect to the prisoners' human dignity and ensuring the executions of penalties as educative and rehabilitative.¹²⁶ Further, similar to the UN Standard Minimum Rules for the Treatment of Prisoners the regulations provided detailed rules including, registration of a newly admitted prisoner.¹²⁷

¹¹⁸ Federal Prison Proclamation No 1174/2019, Neg. Gaz. Year 26th, No.14

¹¹⁹ Ibid, article 6

¹²⁰ Ibid, article 32(1)

¹²¹ Ibid, article 37, 36, 34 and 33 respectively

¹²² Ibid, Art. 34

¹²³ Ibid, Art. 33

¹²⁴ Ibid, Art. 36

¹²⁵ Treatment of Federal Prisoners Council of Ministers Regulations (n 23)

¹²⁶ Ibid, Art. 3

¹²⁷ Ibid, Art. 4

Moreover, Art 6 of the regulation requires that the premises should have windows large enough to allow adequate light and fresh air and shall be supported with artificial light which is not hazardous for night reading. The regulation also state that prisoners shall be provided with cloths and additional ones when recommended by medical doctor.¹²⁸ Further art 8 of regulation requires that prisoner shall be provided with the necessary bed and bedding and prisoner shall be provided with additional bed and bedding when recommended by a medical officer due to health conditions or when permitted by the administration. Prisoners shall be regularly provided with enough water and necessary materials for cleanliness' and with toilet facilities.¹²⁹ Every prisoner shall be provided with balanced and sufficient diet. Moreover, the law provides that prisoners with health problems shall be provided with special food at the recommendation of a medical officer. Sufficient and clean drinking water shall' be made available for every prisoner.¹³⁰

3.5 The FDRE Criminal Justice Policy (2003 E.C.)

The Criminal Policy of the Federal Democratic Republic of Ethiopia has been adopted on Feb. 25, 2003 E.C.¹³¹ This policy included some provision relevant in the context of the protection of prisoners right to adequate standard of living. Section 5.3 of the policy included some directions relevant in the context of the protection of prisoners right to adequate standard of living.

3.6 Draft Criminal Procedure and Evidence Code (2012 E.C.)

One of peculiar feature of the draft criminal procedure and evidence code is it has clearly provided the duty and power of prisons. Accordingly, Article 22 of draft code provide the duty and powers of prisons. It among other things obliges them to provide convicts or awaiting trials with food, medical care, accommodation and cloth free of charge. Moreover, the law provides that prisons must facilitate the rehabilitation and reintegration to society of prisoners by providing them with work, counseling and arrangements for conciliation of the prisoner and victim.

¹²⁸ Ibid, Art. 7

¹²⁹ Ibid, Art. 9

¹³⁰ Ibid, Art. 10

¹³¹ The Ministry of Justice, 2003

3.8 The SNNPRS Revised Constitution

The SNNPRS constitution¹³² 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.¹³³ 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 right to prohibition against inhuman treatment and right to honor and reputation.¹³⁴ Moreover the constitution guaranteed economic, social and cultural rights,¹³⁵ which includes health, housing, food etc... The recognition of these rights, even if it does not specifically target prisoners, have an important implication because prisoners as human being and citizens will be equally entitled to those rights.

3.9 Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation

In order to provide detailed regulations that helps to make prisoners 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.¹³⁶ The regulation provides the principle of imprisonment which includes the applicability of the rules of the regulation to all without discrimination.¹³⁷ 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.¹³⁸ Further it requires the execution of sentence of imprisonment to contribute for the rehabilitation and facilitation of the post-release reintegration of inmates.¹³⁹

¹³² Revised Constitution of the SNNPRS (n 22)

¹³³ Ibid, Art. 21

¹³⁴ Ibid, Art. 18 and 24

¹³⁵ Ibid, Art. 41

¹³⁶ SNNPRS Manner of Treatment of Inmates of Prisons Regulation (n 23), preamble

¹³⁷ Ibid, Article 4

¹³⁸ Ibid

¹³⁹ Ibid

Moreover, like 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 right to adequate accommodation standards, the right of prisoners to adequate standard of bedroom and sanitation; clothing, the right to medical service, the right to nutrition.¹⁴⁰

3.3 The Role of Public Prosecutors in the Enforcement of Prisoners' Right to Adequate Standard of Living

Beyond fulfilling necessary facilities in prison institute, States may provide independent supervisory organ in order to follow-up the effective enforcement of prisoners right to adequate standard of living in prison institute. This is because correction facilities are places where men and women are detained against their will and hence there are likely possibilities for abuse and improper treatment of prisoners and other detained persons thereof.¹⁴¹ 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.¹⁴² Public prosecutors have special responsibilities to take all possible measures to bring to justice those who are suspected for the violation of human rights.¹⁴³ Their performance is very essential with regards to remedying of the past human rights violation and to prevent the future violation.¹⁴⁴ In particular, as the prisoners stay in the correction facilities are prone to possibilities of human right abuses and improper treatments¹⁴⁵ prosecutors have the key role in preventing and remedying such violations of prisoners' right. 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.¹⁴⁶ It is made with a view to make recommendations to change conditions in order to prevent torture, and other cruel, inhuman and

¹⁴⁰ Ibid, articles 3, 6,2,7,8,9 and10 respectively.

¹⁴¹ Andrew Coyle (n 56),111.

¹⁴² Assessing compliance with the Nelson Mandela Rules (n 37), 12.

¹⁴³ Human Rights in the Administration of Justice (n 73) 368.

¹⁴⁴ Ibid

¹⁴⁵ Monitoring Places of Detention (n 40) 27.

¹⁴⁶ Human Rights in the Administration of Justice (n 73)

degrading treatment or punishment, and ensure humane treatment of prisoners.¹⁴⁷ International and national legislations require independent and qualified body to inspect and monitor correction facilities to ensure the implementation of prisoners' rights.

Internationally it is observed that, the principal objective of monitoring human right compliance is to reinforce State responsibility to protect human rights.¹⁴⁸ 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.¹⁴⁹ To fulfill this responsibility, State should adopt structure of independent prison accountability built around institution of monitoring and inspection.¹⁵⁰ As 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.¹⁵¹ Accordingly, 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.¹⁵² 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.¹⁵³ Moreover, 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."¹⁵⁴ 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

¹⁴⁷ Amnesty International (2001), *Amnesty International's Recommendations on Effective Protection and Promotion of Human Rights*, 19.

¹⁴⁸ *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, 100.

¹⁴⁹ Behan, C. and Kirkham, R., 'Monitoring, Inspection and Complaints Adjudication in Prison: The Limits of Prison Accountability Frameworks'. (2016) *The Howard Journal of Crime and Justice*, 1.

¹⁵⁰ *Ibid*

¹⁵¹ *Human Rights in the Administration of Justice* (n 74) 74.

¹⁵² *Ibid*, 117.

¹⁵³ *Ibid*

¹⁵⁴ *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

execution of court decisions and the exercise of other functions as representatives of the public interest.¹⁵⁵

Further, 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.¹⁵⁶ 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.¹⁵⁷ 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.¹⁵⁸ 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.¹⁵⁹

At regional level, 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.¹⁶⁰

¹⁵⁵ Ibid, Guideline 11

¹⁵⁶ SMR, (n 16) Rule 55

¹⁵⁷ UN Body of Principles, (n 71) Principle, 29 (1)

¹⁵⁸ Ibid

¹⁵⁹ The Nelson Mandela Rules, (n 42) Rule 83

¹⁶⁰ The Robben Island Guidelines (n 95) 200

In Ethiopia, even though as discussed in the above International and regional instruments clearly requires the monitoring of correction facilities by independent and qualified external oversight body, But when it comes to the Ethiopia, the power and responsibility on supervision of prisoners' treatment and the implementation of their right is expressly given to Public Prosecutor¹⁶¹ and Ethiopian Human Right Commission. Regarding the Ethiopian Human Right Commission, it undertakes prison visit activities under its general mandates of human right protection. 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.¹⁶² Further recently studies reveals that the human right commissions 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.¹⁶³ On the other hand, public prosecutors offices are established at State, Zonal and Woreda level of Ethiopia with the power and responsibility to supervise the treatments of prisoners in prison institutes.

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.¹⁶⁴ At regional state level, almost in the same terminologies with the Federal Attorney General Establishment Proclamation, the SNNPRS Attorney General Establishment 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

¹⁶¹ Federal Democratic Republic of Ethiopia Comprehensive Justice System Reform Program, Baseline Study Report, Ministry of Capacity Building Justice System Reform Program Office, 2005, 198.; And Federal Attorney General Establishment Proclamation (n 44), article 6(8) (c); See also, SNNPRS Attorney General Establishment Proclamation (n 53), Article 6(5) (i)

¹⁶² 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

¹⁶³ Zewdneshe Zegeye, '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, Ethiopia, 2016) p 88-90

¹⁶⁴ See Federal Attorney General Establishment Proclamation, (n 44) Article 6(8) (c)

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.¹⁶⁵ 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.¹⁶⁶ It also provides that, the SNNPRS prisons administration commission is accountable to the Attorney General.¹⁶⁷ 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 protection of prisoners right to adequate standard of living and its conformity with the law. Public prosecutors have a clear mandate 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.

3.4 Conclusion

This chapter discussed national legal frameworks on the prisoners right to adequate standard of living and the legal framework on public prosecutor in the protection of prisoners right to adequate standard of living and their roles. The protection of prisoners' rights to adequate standard of living is required and guaranteed national legal instruments. Both the FDRE and the SNNPRS constitution guaranteed the treatment of prisoners respecting their adequate standard of living. The prisoners' rights also get important attention under specific legislation both at federal and SNNPRS level. Among others these rules guaranteed, 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.

On the other hand, prisoners are vulnerable and particularly at risk of human rights violations. Therefore, human rights protections are critically important in these environments through monitoring of their conditions of imprisonments. As such international and national legislations requires independent monitoring of correction facilities to ensure the implementation of those rights. Accordingly, The UN Office of the High Commissioner for Human Rights, The UN

¹⁶⁵ SNNPRS Attorney General Establishment Proclamation, (n 44)

¹⁶⁶ Ibid, article 6 (12)

¹⁶⁷ Ibid, Article 18 (4)

Guidelines on the Role of Prosecutors, the SMR and the Nelson Mandela rules requires the appointment of independent and qualified bodies to inspect and monitor the correction facilities in regular basis. At domestic level, The FDRE and SNNPRS Attorney General Establishment Proclamations provided that public prosecutor's responsibility 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.

CHAPTER FOUR

THE PRACTICE OF PRISONERS' RIGHT TO ADEQUATE STANDARD OF LIVING IN YEM SPECIAL WOREDA SAJA PRISON INSTITUTE

4.1 Introduction

The practical assessment under this study, considers both the implementation of prisoners' right to adequate standard of living and the performance of public prosecutors on the enforcement of prisoners' rights to adequate standard of living in the context of Yem Special Woreda Saja Prison Institute.

The Prison Institute of Yem Special Woreda has many problems in implementing the prisoners' right to adequate standard of living incorporated under international and regional human right instruments, the FDRE Constitution and other national laws. Therefore, this chapter concerns the data collected through deepest observations, questionnaires, and interviews of the enforcement of the prisoners right to adequate standard of living in Yem Special Woreda Saja Prison Institute to prisoners' accommodation, personal hygiene, clothing and bedding, food, water and medical services. The gaps and limitation of the prison institute on the adequate standard of living of prisoners' is also indicated. Further, it assesses the performance of public prosecutors on the enforcing of the above prisoners right. The data utilized under this chapter are obtained from prisoners', prisoner's representatives, public prosecutors' and some management and staff members of the prison institute.

4.2 Daily Provisions of Adequate and Healthy Food and Drinking Water

Adequate and healthy food and drinking water is a basic requirement of human life. And one of the most basic obligations of care is that prison institutes should provide all prisoners with sufficient food and drink water to ensure that they do not suffer from hunger, or an illness associated with under-nourishment.¹⁶⁸ The right to food and drinking water is not detached from human right at any aspect. The right to food is not limited to take a minimum ration of calories, proteins and other specific nutrients rather it is a right to all nutritional elements that a person needs

¹⁶⁸ Andrew Coyle (n 72) 34.

to live a healthy and active life.¹⁶⁹ As well, right to water is indispensable for leading adequate standard of living in a life. It is a prerequisite for the realization of other human rights. The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. An adequate amount of safe water is necessary to prevent death from dehydration, to reduce the risk of water-related disease and to provide for consumption, cooking, personal and domestic hygienic requirements.¹⁷⁰

The prisoners' right to food and water is recognized under international and national instruments. Under international law, the right to food and water is recognized under article 25 of UDHR and under rule 20 of UN Standard Minimum Rules for the Treatment of Prisoners. Nationally, article 27 of Federal Prisons Proclamation No 1174/2019, article 10 of the Federal Detainees Treatment Regulation No. 138/2007 and article 9 of the Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005 provided prisoners' have the right to adequate and healthy food and drinking water.

Failing to comply with these legal instruments, the practical data observed from Yem Special Woreda indicates that, even if the prison institute is in better condition with regards to providing daily provisions of healthy drinking water, but one of the serious problems what the prisoners are facing is related with the provision of adequate and healthy food supply and provision of separate food items for detainee having health problems. The following data observed from prisoners' and public prosecutors indicates the gaps and insufficiencies on the prison institute fulfillment of prisoners' right to adequate and sufficient food supply and on provision of separate food items for detainee having health problems.

According to data collected by questionnaire shows, 36 prisoners', 8 prison institute administrators' and staff members and 6 public prosecutors were participated in the data collected to examine the provision of food and water in the prison institute. Accordingly, from the total 36 of prisoner's respondents, the prison institute quantity of food provision is rated as extremely poor 3 respondents or 8.33% and as very poor 6 respondents or 16.66% and as poor 12 respondents or 33.33%. Prison administrators and staff members also rated the quantity of food provision in the prison institute as good 2 respondents or 25% and as very good 5 or 62.5% and as excellent 1 respondent or 12.5%.

¹⁶⁹ UN Human rights OHCHR, the Right to Adequate Food, Fact Sheet No. 34, 2.

¹⁷⁰ General Comment No. 15 (n 69)

Public prosecutors' respondents also rated the quantity of food provision in the prison institute as good 1 respondent or 16.66% and as very good 5 respondents or 83.33. Likewise, the quality of food in the prison institute is rated by most of prisoner's respondents as poor and below, as extremely poor 6 respondents or 16.66% and as very poor 6 respondents or 16.66% and as poor 12 respondents or 33.33% and as good 12 or 33.33%. Prison administrators and staff members also rated the quality of food provision in the prison institute as good 3 respondents or 37.5% and as very good 3 or 37.5% and as excellent 2 respondents or 25.5%. Public prosecutors' respondents also rated the quality of food provision in the prison institute as good 3 respondent or 50% and as very good 3 respondents or 50%. In theses, although most of prison administrators and staff members and public prosecutors agreed that the quantity and quality of food in the prison institute is good and above this is not agreed by the majority of prisoners' respondents. Prisoners are not satisfied with the quantity and the quality of the food.

According to the interview with prisoners' representatives and prison administrators, prisoners in the prison institute are taking insufficient and lacked quality and balanced diet. According to the researcher interview with one of the prisoners' representatives in the prison institute, he said that every day prisoners are taking only one kind of food item, at breakfast locally called "Anbasha" and tea, at lunch and dinner they eat locally called "Shiro wet" and "Enjera" which itself is not sufficient and nutritionally unbalanced. According to him, the prisoners eat the food for only survival. Further, because the food is not sufficient most of the prisoners' supported by their relatives but those prisoners who have no relatives to be supported are usually live under hunger.¹⁷¹ As also collected in the data the problem is not only lack of sufficient food but also it lacked quality food. The prisoner representative Taha Zenab is also indicated that the food was nutritionally unbalanced and prepared under unclean conditions. In addition, the food was prepared without oil and not well cooked.¹⁷² As interviewed Commander Assefa, leader of the prison institute told to researcher that before few months, the total budget allocated for an individual prisoners including with the cost of water, electric power charge and other used for preparation of food per day is 13

¹⁷¹ Interview with Sisay Ashagire, prisoners' representatives in Yem Special Woreda Prison Institute (Saja Prison Institute, 3 August 2020)

¹⁷² Interview with Taha Zinab, prisoners' representatives in Yem Special Woreda Prison Institute (Saja Prison Institute, 3 August 2020)

Birr only, now it is extended to 20 Birr.¹⁷³ It is unbelievable fact that with this amount of money does not sufficient for the prisoners to breakfast, lunch, dinner, water, electric power charge and other used for preparation of food. Therefore, it is possible to conclude that prisoners in the prison institute does not get sufficient foods, and they are living with food brought by family or the generosity of other prisoners if they have no family or friends to bring them a food.

In case of provision of separate food items for prisoners having health problems, 36 respondents or 100% of the respondents of prisoners, 8 respondents or 100% of prison administrators and staff members of prison institute and 6 respondents or 100% of public prosecutors agreed that the prison institute doesn't provide separate food items for prisoners having health problems. Based on this response from all stakeholders in questionnaires confirms that the prison institute does not provide separate food items for prisoners having health problems. The data observed from prisoners' representatives and health officer of the prison institute also indicates that the prison institute is not providing separate food items for prisoners' having health problems.

According to the researcher interview with prisoners' representatives, they said that the supply of food for prisoners having health problem is similar with other prisoners. There is no special treatment given for prisoners having health problem. According to them, because there is no special food for having health problem always prisoner's family provide additional and special food to prisoners also prisoners themselves provides some additional and separate foods.¹⁷⁴ As interviewed the health officer of the prison institute told to researcher that, the prisoners having health problem like HIV, mental case, diabetic case needs special food. But due to budget constraint the prison institute does not provide special food.¹⁷⁵ Therefore, it is possible to conclude that the prison institute does not provide separate food items for prisoners having health problems with the violation of their right.

¹⁷³ Interview with Commander Assefa Gerdi, head of Yem Special Woreda Prison Institute (Saja Prison Institute, 6 August 2020)

¹⁷⁴ Interview with Shikuro G/Tsadik, Higawu Shafi, Petros Birhanu, prisoners' representatives in Yem Special Woreda Prison Institute (Saja Prison Institute, 5 August 2020)

¹⁷⁵ Interview with Mr. Shewaye W/Yessus, Health officer in Yem Special Woreda Prison Institute (Saja Prison Institute, 6 August 2020)

In case of food supply is as per the budget allocated for individuals, from the total prisoners' respondents, the prison institute food supply is as per the budget is rated as poor 6 respondents or 16.66% and as good 30 respondents or 83.33%. Prison administrators and staff members also rated the food supply is as per the budget allocated for individuals in the prison institute as good 1 respondent or 12.5%, as very good 2 or 25% and as excellent 5 respondents or 62.5%. Public prosecutors' respondents also rated the of food supply is as per the budget allocated for individuals in the prison institute as good 2 respondent or 33.33%, very good 2 respondents or 33.33% and as excellent 3 respondents or 33.33. Based on this response, most of the respondents agreed that, the prison institute is providing food supply is as per the budget allocated for individuals. The data observed from prisoners' representatives also indicate that the prison institute is providing food supply is as per the budget allocated for individuals. According to Mr. Mebrate Sori, prisoners are their own food committee, and the food budget is managed by the committee themselves and also audited by committee.¹⁷⁶ Therefore, it is possible to conclude that the prison institute is providing food supply is as per the budget allocated for individuals.

In case of daily provisions of healthy drinking water in the prison institute, from the total prisoners' respondents, the prison institution daily provisions of healthy drinking water are rated as good 3 respondents or 8.33%, as very good 18 respondents or 50% and as excellent 15 respondents or 41.66%. Prison administrators and staff members also rated the daily provisions of healthy drinking water in the prison institute as good 2 respondents or 25%, as very good 3 or 37.5%, as excellent 3 respondents or 37.5%. Public prosecutors' respondents also rated the daily provisions of healthy drinking water in the prison institute as good 1 respondent or 16.66%, as very good 2 respondents or 33.33% and as excellent 3 respondents or 33.33%. According to this response, most of the respondents agreed that, the prison institution is in a better condition with providing drinking water. Further, the interview conducted by the researcher with some prosecutors, prisoners' representatives and some staff members of the prison institute also shows that, the prison institute is in better condition with regards to providing daily provisions of healthy drinking water in the

¹⁷⁶ Interview with Mebratu Sori, prisoners' representative in Yem Special Woreda Prison Institute (Saja Prison Institute, 3 August 2020)

prison institute.¹⁷⁷ According to the information prisoners can use drinking water to every prisoner whenever s/he needs it.¹⁷⁸

In general, this condition of food without doubt violates article 25 of the UDHR, Rule 20 of UN Standard Minimum Rules for the Treatment of Prisoners, article 27 of Federal Prison Proclamation No 1174/2019, article 10 of the Federal Detainees Treatment Regulation No. 138/2007 and article 9 of the Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005. On the other hand, the prison institute is in better condition with regards to providing daily provisions of healthy drinking water in the prison institute which is in line with international and national legal instruments.

4.3. Room and Bedding Accommodation

Accommodation is a basic need of a human being, and a prisoner is also entitled to a minimum space of accommodation during incarceration. The ICESCR under article 11 provided right of everyone to an adequate standard of living for himself and his family which includes right to get housing. Moreover, the UN Standard Rules for Treatment of Prisoners points out under article 9 and rule 10, 11 and rule 19 of SMR 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.

In the protection of prisoner's accommodation different countries follow different minimum standards to regulate the accommodations problems of the prison's institutions. For example, the minimum standard space to per prisoners in Europe ranges from 4 m² specifically in Switzerland and Albania to 12 m². In South America region Chile 6 m² per prisoners includes a single bed, a shower, a washbasin, a desk, and a shelf. In Guatemala, with an average of 7.46 m² per prison is used. In the South Africa, the minimum space floor per prisoner is 3.344 square meters.¹⁷⁹

¹⁷⁷ Interview with Commander Daniel Tesfaye, The Prisoners Correction and Rehabilitation Directorate Director of Yem Special Woreda Saja Prison Institute (Saja Prison Institute, 6 August 2020), Interview with Mr. Fikadu Bekele, public prosecutor in Yem Special Woreda Prosecutor Office (Yem Special Woreda Prosecutor Office, 11 August 2020), Interview with one of prisoner's representative, (n 171)

¹⁷⁸ Ibid

¹⁷⁹ Report to the Polish government on the visit to Poland carried out by the European committee for the prevention of torture and inhuman or degrading treatment or punishment from 30 June to 12 July 1996, (Strasbourg, 24 September 1998.N0 70).

In Ethiopia, the state ratified the UN Standard Rules for Treatment of Prisoners and the state thereby bound by the obligations. In addition, there is a general provision in the Federal prison proclamation and its regulation providing that accommodation and facilities in federal prisons should not be hazardous to the health of prisoners and should have fresh air and sufficient lights.¹⁸⁰ Moreover, the SNNPRS Manner of Treatment 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.¹⁸¹ The regulation further provided that to the extent possible prisoners are entitled to place and garments necessary for sleeping.¹⁸² However, it does not provide the minimum standard rule concerning the living space of prisoners like that of other states.

Failing to comply with these legal instruments, the practical data observed from Yem Special Woreda indicates that, one of the serious problems what the prisoners are facing is related with the room and bedding accommodation of the prison institute. The following data support this point.

Accordingly, 36 prisoners', 8 prison administrators and staff members and 6 public prosecutors were participated in the data collected by questionnaire to examine room and bedding accommodation in the prison institute. Accordingly, 33.33 % of prisoner's respondents agreed that the bedding accommodation in the prison institute is not exist, 25% of prisoner's respondents agreed that the bedding accommodation in the prison institute is very poor, the remain 41.66% of prisoner's respondents agreed that the bedding accommodation in the prison institute is poor. 25% each of prison administrators and staff members of the institute respondents agreed that the bedding accommodation in the prison institute is very poor and poor respectively, while 50% of respondents agreed that the bedding accommodation in the prison institute is good, on the other hand 33.33% of public prosecutors agreed that it is poor, 33.33% of public prosecutors agreed that it is good, 16.66% of public prosecutors agreed that it is very good and the remain 16.16% of public prosecutors agreed that it is excellent. Based on the above data, most of the respondents agreed that the prison institute is not providing adequate bed. The data observed from prisoners'

¹⁸⁰ Federal Prison Proclamation (n 118) Article 34(3)

¹⁸¹ The SNNPR State Manner of Treatment of Inmates of Prisons Regulation, (n 23) Article 7

¹⁸² Ibid, Article 8(2)

representatives and prison administrators staff members of prison institute also reveals that, in the prison institute there is no adequate bed.

According to the researcher interview with Assistant Inspector Tafese Mecha, he said that there is no any budget for bed from regional state, the prison institute provide 80 beds from their own budget. But, according to him, now the number of prisoners is 108, because of this the remain 28 prisoners they sleep on bare floor for lack of bed which affect the health right of prisoners.¹⁸³ According to one of the prisoner's representative, even those bed provided by the prison institute is without scattered row woods, prisoners themselves prepare scattered row woods by them cost.¹⁸⁴ Therefore, it is possible to conclude that the prison institute does not provide adequate bed.

In case of adequate mattress and sheet supplied, 36 respondents or 100% of the respondents of prisoners, 8 respondents or 100% of prison administrators and staff members of prison institute and 6 respondents or 100% of public prosecutors agreed that the prison institute doesn't provide mattress and sheet for prisoners. Based on the respondents in questionnaires, all the respondents' agreed that the prison institute is not providing mattress and sheet supplied service for prisoners. The data observed from prisoners' representatives also reveals that, in the prison institute doesn't provide mattress and sheet. According to the information provided, the prison institute doesn't provide mattress and sheet and related material for the safety of prisoner's body to sleep. Prisoners themselves are required to provide mattress and sheet for their sleeping purpose. Most of prisoners' sleep on pallet and those prisoners how have no capacity to buy pallet they sleep on canvas which is difficult to the health. Most pallets in the prison institute are used from the establishment of the prison institute, which means starting from 1996 E.C. Newcomer prisoner buy from other prisoners who finished their imprisonment. Because the pallet used for long time it is full of pests.¹⁸⁵ According to the observation of the research, most prisoners have been using mattresses made of grass and plant remains which may attract some insects and parasites to the prisons which also challenge the health of the prisoners.

¹⁸³ Interview with Assistant Inspector Tafese Mecha, The inmate's basic needs fulfilment directorate director of Yem Special Woreda Prison Institute (Saja Prison Institute, 7 August 2020)

¹⁸⁴ Interview with Sisay Ashagire, (n 171)

¹⁸⁵ Interview with Mebrate Sori, (n 174), Interview with Sisay Ashagire (n 171), Interview with Shikuro G/Tsadik, (n 174)

Therefore, it is possible to conclude that the prison institute violates the prisoners' right to live in healthy and safe place of confinement as it is required by international and domestic instruments mentioned above.

Regarding spacing of room accommodation per individual is from 36 participants of prisoners 6 respondents or 16.66% of the respondents agreed that it is extremely poor, 15 respondents or 41.66% agreed very poor, 9 respondents or 25% agreed poor, while 6 respondents or 16.66 agreed good, on the other hand from 8 participants of prison administrators and staff members 4 respondents or 50% of the respondents agreed that it is poor, 1 respondent or 16.66% agreed good, 3 respondents or 37.5% agreed very good, while from 6 participants of public prosecutors 3 respondents or 50% agreed poor and the remain 3 respondents or 50% agreed good. Based on the respondents in questionnaires, most of them agreed that the prison institute spacing of room accommodation per individual is not adequate. The data observed from prisoners' representatives and administrative and staff members of prison institute also indicates the inadequacies of the prison institute spacing of room accommodation per individual.

According to the interview with one of prisoners' representatives, the size of the room is 6m x 9m in this room up to 40 prisoners sleep together. The actual capacity of the room is thought to be 18 persons. Prisoner's sleep over the floors and at the night they are crowded where prisoners who want to excrete must move over the inmates. The prison institution is totally only 3 rooms for 108 prisoners. There are also instances where the number of prisoners increases more than this with the limited number of rooms.¹⁸⁶ According to Deputy Inspector Meseret Teshale, those 3 rooms was built for capacity to only 35 prisoners. Now prisoners in the prison institution 108 this means the prison institute holding inmates more than three times their capacity. This make the room was overcrowded.¹⁸⁷ Therefore, it is possible to conclude that there is the existence of overcrowding of prisoners in the prison institute.

Regarding enough natural and artificial light in room from 36 participants on prisoners 9 respondents or 25% of the respondents agreed that it is poor, 15 respondents or 41.66% agreed good and 9 respondents or 25% agreed very good. On the other hand, from 8 participants of prison

¹⁸⁶ Interview with Sisay Ashagire, (n 171)

¹⁸⁷ Interview with Deputy Inspector Meseret Teshale, Security safety and inmate's administration directorate director of Yem Special Woreda Prison Institute (Saja Prison Institute, 7 August 2020)

administrators and staff members 5 respondents or 62.5% of the respondents agreed that it is good, 2 respondents or 25% agreed very good and 1 respondent or 12.5% agreed excellent. While from 6 participants of public prosecutors 5 respondents or 83.33% agreed good and the remain 1 respondent or 16.66% agreed very good. Likewise, the clear and adequate air in the room from 36 participants on prisoners 9 respondents or 25% of the respondents agreed that it is poor, 15 respondents or 41.66% agreed good and 9 respondents or 25% agreed very good. On the other hand, from 8 participants of prison administrators and staff members 5 respondents or 62.5% of the respondents agreed that it is good, 2 respondents or 25% agreed very good and 1 respondent or 12.5% agreed excellent, while from 6 participants of public prosecutors 5 respondents or 83.33% agreed good and the remain 1 respondent or 16.66% agreed very good. Even if most of respondents in questioner believe that the natural light and artificial light in the room and clear and adequate air in the room is good, but in the interview with prisoners' representative most of the respondent agreed that prisoners are not adequately provided with natural light, artificial light, clear and adequate air in the room suitable for their confinement in health environment. According to the informants the prison room has not enough window to get adequate fresh and a cubic content of air, has no ventilations and thus, prisoners are serious sweltering which goes the prisoners in to another disease, especially suffered transmission disease. The class is locked at nighttime, and it is opened in the morning especially at night because of the overcrowding of the room was very hot because of that condition most of prisoners do not wear their sleeping cloth. This itself create other health problem. At night the room light is not enough for the prisoners to read or to work. Even it is difficult to see each other. Those prisoners who wants to read is obliged to buy a candle.¹⁸⁸

In general sleeping accommodation of the prison institute is below the expectation under article 11 of the ICESCR, rule 9-11 and rule 19 of UN Standard Minimum Rules for the Treatment of Prisoners, article 26 of Federal Prison Proclamation No 1174/2019, and article 7 and 8 of the Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005.

¹⁸⁸ Interview with Shikuro G/Tsadik (n 174), Interview with Degayo Mekonnin, prisoners' representative in Yem Special Woreda Prison Institute (Saja prison institute, 4 August 2020), Interview with Abraham G/Mikael, prisoner in Yem Special Woreda Prison Institute (Saja Prison Institute, 4 August 2020)

4.4. Sanitation Facilities

Sanitation is one of the most basic human rights issues of the prisoners. The Standard Minimum Rules requires that the sanitary installations shall be adequate to enable every prisoner to comply with the calls of nature when necessary and in a clean and decent manner.¹⁸⁹ Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.¹⁹⁰ All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.¹⁹¹ Prisoners are required to keep their person clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.¹⁹² Additionally, similar to the above instrument the Nelson Mandela Rules guaranteed the right of prisoners to personal hygiene in rule No. 19. Nationally, the Federal detainees treatment regulation and SNNPRS Manner of Treatment of Prisoners of Prisons Regulation also stipulated the right of prisoners to be provided with sufficient water and utensils for bathing and the necessary sanitation as well as sufficient toilet.¹⁹³

The practice in the study area suggests that, even though it is not observed in its full sense, prisoners have a chance to get provision of sanitary facility. The following data observed from prisoners' and public prosecutors shows the inadequacy of the sanitation and toilet facility in the prison institute.

Accordingly, 36 prisoners', 8 prison administrators and staff members and 6 public prosecutors were participated in the data collected to examine the personal hygiene facilities in the prison institute. Accordingly, 30 respondents or 83.33% of prisoners believed that, the personal hygiene facilities in the prison institute is not provided, while 6 respondents or 16.66% of prisoners rated it as extremely poor. While most prison administrators and staff members of the prison institute rated the personal hygiene facility in the prison institute as good 3 respondents or 37.5% and very good 5 respondents or 62.5%. Also, public prosecutors rated the personal hygiene facility in the

¹⁸⁹ SMR, (n 16), Rule 12

¹⁹⁰ Ibid, Rule 13

¹⁹¹ Ibid, Rule 14

¹⁹² Ibid, Rule 15

¹⁹³ Federal Detainees Treatment Regulation (n 23) and The SNNPRS Manner of Treatment of Inmates of Prisons Regulation (n 23) article 9 and 8 (3) respectively

prison institute as poor 2 respondents or 33.33%, good 3 respondents or 50% and very good 1 respondent or 16.66%. In these, although most sampled prison administrators and staff members of the prison institute and public prosecutors agreed that personal hygiene facility in the prison institute is good this is not agreed by the majority of prisoners' respondents. Prisoners are not satisfied with the adequacy of personal hygiene facility in the prison institute. According to the prisoners' representatives, though the prison institute have no water problem, but they have no laundry tubs and use cement-built concrete for manual washing. The institution is not providing soap for washing their cloth and personal hygiene to maintain an acceptable level of hygiene though detainees should be provided with a sufficient supply of such equipment and to meet individual needs as though it is clearly provided under domestic and international prisoners' rights.¹⁹⁴

Regarding the room and surrounding hygiene, 6 respondents or 16.66% of prisoners rated it is very poor, 12 respondents or 33.33% of prisoners believed that the room and surrounding hygiene of the prison institute as poor and 15 respondents or 50% of prisoners rated as good, while 100% of prison administrators and staff members of the prison institute and public prosecutor respondents agreed that it is good and above level. Accordingly, most of the response in questionnaires suggest that the room and surrounding hygiene of the prison institute is in a good condition.

Regarding the provision of special sanitary facility for women's, prisoners in the prison institute is rated by 30 respondents or 83.33% of prisoners and 5 respondents or 62.5% of prison administrators and staff members of the prison institute and 5 respondents or 83.33% of public prosecutor respondents agreed that there is no provision of special sanitary facility for women's in the prison institute. While 6 respondents or 16.66% of prisoners and 3 respondents or 37.5% of prison administrators and staff members of the prison institute and 1 respondent or 16.66% of public prosecutor respondents agreed that it is poor and below level. Accordingly, most of respondents in the questionnaires agreed that there is no provision of special sanitary facility for women' in the prison institute. The data observed from prisoners', prisoner representatives and public prosecutors through interviews also suggests that, there is no provision of special sanitary

¹⁹⁴ Interview with Taha Zenab (n 172), Interview with Abraham G/Mikael (n 170) Interview with Tarikwa Gebeyo, prisoners' representative in Yem Special woreda Prison Institute (Saja Prison Institute, 4 August 2020)

facility.¹⁹⁵ Because of their biological and phycological needs, women need special sanitary facility.

In case of shower and toilet facility, 6 respondents or 16.66% of prisoners and 1 respondent or 16.66% of public prosecutor rated it as poor. While 30 respondents or 83.33% of prisoners and all respondents or 100% of prison administrators and staff members of the prison institute and 5 respondent or 83.33% of public prosecutor respondents agreed that the shower facility of the prison institute is good and above level. Regarding the toilet facility in the prison institute, 6 respondents or 16.66% of prisoners rated it as poor. While most of the respondent (30 respondents or 83.33% of prisoners, all respondents or 100% of prison administrators and staff members of the prison institute and public prosecutor) respondents agreed that it is good and above level. Accordingly, although the majority of participants to the questionnaire agreed that the shower and toilet facility in the prison institute is good. this is not agreed by the majority of prisoners and prisoners' representative. Prisoners are not satisfied with the adequacy of shower and toilet facility. According to the informants, prisons have rooms for bathing, with water brought in with jerrycans or buckets. The practice poses serious problems to the sick and the weak as they have to seek the support of other inmates to fetch them water for bathing. Also, since there is no provision of soap, prisoners are not interested to wash her body. The prison institute toilet is old and fills in the winter. It is difficult to enter in winter and it has smells and causes of the disease. Due to the institute lack toilet in dormitories that could be used during the night when nature demands thereby forcing the detainees to use buckets and plastic bags that could expose the prisoners for health problems.¹⁹⁶

Generally, 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.¹⁹⁷ 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.¹⁹⁸ There is also the

¹⁹⁵ Interview with Sajin Aselefech Desta, Personnel of prison institute officer of Yem Special Woreda Saja Prison Institute (Saja Prison Institute, 7 August 2020), Interview with Kasech Shuma, prisoner in Yem Special Woreda Prison Institute (Saja prison institute, 4 August 2020) Interview with Ms. Amenech Diko, Public prosecutor in Yem Special Woreda Prosecutor Office (Fofa Coordination Prosecutor Office, 12 August 2020)

¹⁹⁶ Interview with Sisay Ashagire (n 171), Interview with Mebratu Sori (n 176)

¹⁹⁷ Andrew Coyle (n 56), 43.

¹⁹⁸ Ibid

need to provide special sanitary service for women prisoners to fulfill the respect for their dignity.¹⁹⁹ However, in Yem Special Woreda Prison Institute there is no proper provision of shower, toilet and laundry installations. There is no provision of laundry detergent in the institute which makes the existence water nonsense. There is no provision of special sanitary facility for women's though their biological and phycological needs, as a rule require special sanitary facility. The reality, therefore, is far below the sanitation facility expectations under article 9 of the Federal Detainees Treatment Regulation No. 138/2007, article 8 (3) of SNNPRS Manner of Treatment of Inmates of Prisons Regulation and rule no 13-16 of UN Standard Minimum Rules for the Treatment of Prisoners.

4.5. Prisoners Right to Adequate Health Care Service

Prisoners right to health is a fundamental human right indispensable for the exercise of the other rights. Imprisoned persons retain their fundamental right to enjoy good health, both physical and mental, and they retain their entitlement to a standard of health care that is at least equivalent of that provided for the wider community.²⁰⁰ Prisoners' right to health care service is recognized under international and national instruments. Under international law, the right of health care services is recognized under article 12(1) of UDHR and article 12 of the International Covenant on Economic, Social and Cultural rights. Moreover, specific international instruments set out the healthcare provision to be made by prison administrations for prisoners. In this regard, rule 22, 25 and 28 of SMR and rule 22 and 25 of Nelson Mandela Rules provided that prisoners have the right to adequate health care service.

Nationally, Federal Prisons Establishment Proclamation²⁰¹ and its regulation²⁰² provides the right of prisoners to adequate health care. Moreover, the SNNPR State Manner of Prisoners Treatment Regulation provided the right of prisoners to medical service free of charge including the medication in healthcare center out of the prison.²⁰³

¹⁹⁹ Ibid

²⁰⁰ Stefan E., Et Al. *Prison and Health*, (World Health Organization, 2014), 6.

²⁰¹ Federal Prisons Proclamation (n 118), Art. 37

²⁰² Federal Detainees Treatment Regulation, (n 23), Art. 11

²⁰³ SNNPR State Manner of Inmates Treatment Regulation (n 23), Art. 10

Coming to the practice in Yem Special Woreda Prison Institute, as shown under the below data the prison institute health care service is in a good condition.

According to the below data, 36 prisoners', 8 prison administrators and staff members of the prison institute and 6 public prosecutors were participated in the data collected by questionnaire to examine prisoners the right to get health care service. Accordingly, all participant in data collection believed the existence of health care institute.

Regarding medication and medical equipment in the prison institute, most participant in questionnaires believe it is in a better condition, almost all of the respondent (all respondents or 100 % of prison administrators and staff members of the institute and prosecutors and 30 respondents or 83.33% of prisoner's respondents) replied that the medication service in the prison institute is good and the above, while 6 respondents or 16.66% of prisoners the medication service in the prison institute rated as poor. In the same way, Regarding medical equipment, most of the respondents 20 respondents or 55.55% of prisoners, 7 respondents or 87.5% of prison administrators and staff members of the institute and 4 respondents or 66.66% of public prosecutor respondents replied that the medical equipment in the prison institute is good and the above, while 16 respondents or 44.44% of prisoners, 1 respondents or 12.5% of prison administrators and staff members of the institute and 2 respondents or 33.33% of public prosecutors respondents replied that the medical equipment in the prison institute is poor and the below. Accordingly, most of the respondent agreed that medication and medical equipment is observed by prison institute.

Regarding laboratory service and the commitment and qualification of health professionals, 27 respondents or 75% of prisoners, 7 respondents or 87.5% of prison administrators and staff members of the institute and all respondents or 100% of prosecutor's respondents fills that the laboratory service in the prison institute as good and the above, while 9 respondents or 25% of prisoners and 1 respondents or 12.5% of prison administrators and staff members of the institute agreed that the qualified and committed health professionals in the prison institute as poor. Similarly, regarding qualified and committed health professionals, most of the respondent (27 respondents or 75% of prisoners, 7 respondents or 87.5% of prison administrators and staff members of the institute and all respondents or 100% of prosecutor's respondents) fills that the qualified and committed health professionals in the prison institute as good and the above, while 9 respondents or 25% of prisoners and 1 respondents or 12.5% of prison administrators and staff

members of the institute agreed that the qualified and committed health professionals in the prison institute as poor. Accordingly, most of the respondent agreed through questionnaires that, the existence of laboratory, qualified and committed health professionals in the prison institute.

In general, the information observed in the prison institute shows that, health care service in the prison institute is in a good condition. According to informants the prison institute is full of all requirements for sufficient medical care.²⁰⁴ There is well equipped clinic with three medical practitioners, there is sufficient amount and variety of medicine.²⁰⁵ There is also an immediate procedure to medical treatment to Saja primary hospital to Hosana general hospital, for those in need.²⁰⁶ The only thing which is not exist are qualified medical officer who have a knowledge of psychiatry because of that there is no a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.²⁰⁷ Do to this mentally abnormal prisoner are no special and separate treatments for them, though different international instruments and national laws give especial attention for them.

4.6. Prisoners Right to Clothing

Clothing is one of the basic needs of human being incorporated in the human right instruments. Thus, prisoners are human being and have the right to enjoy to every human right that adopted by the international and domestic human right instruments. the SMR provided that, 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 health. Such clothing shall in no manner be degrading or humiliating. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene. In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.²⁰⁸ If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.²⁰⁹ Additionally, the Nelson Mandela Rules

²⁰⁴ Interview with Mr. Shewaye W/Yesus (n 175) and Interview with Shikuro G/Tsadik (n 174)

²⁰⁵ Ibid

²⁰⁶ Ibid

²⁰⁷ Ibid

²⁰⁸ SMR (n 16) Rule 17

²⁰⁹ Ibid, Rule 18

guaranteed, the right of prisoners to adequate clothing in detailed manner in similar way with the SMR starting from rule 19-21. In Ethiopia, according to article 7 of federal prison regulation No.138/2007 and article 8 of SNNPRS Manner of Treatment of Prisoners of Prisons Regulation, prisoner shall wear clothes provided by the prison in addition to clothes when recommended by a medical officer due to health conditions or when the administration so permits.

However, in practice, as to data collected in whole through observation, questionnaires and interviews in the prison institute of Yem Special Woreda, there is over all absence of cloth presented by the prison institute. According to data collected that incorporated in the below shows, 36 prisoners', 8 prison administrators' and staff members' and 6 public prosecutors were participated in the questionnaires to examine the right to get clothing. Accordingly, all participant in questionnaires filled the non-existence clothing supply in Yem Special Woreda Saja Prison Institute. The data observed from prisoners' representatives, public prosecutors and prison administrators also indicates that the prison institute does not supply cloth to prisoners. According to informants, due to lack of cloth supply from prison institute most of the prisoners are wearing underclothes, they have no a day and a night clothes separately, some of them are covering their body by their bed sheet due to lack of normal clothes and or lack money to buy.²¹⁰

In general, this condition of cloth without doubt violates rule 17 and 18 of SMR, article 7 of the Federal Detainees Treatment Regulation No. 138/2007 and article 8 of the Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005.

4.7. Assessment on the Performance of Public Prosecutors in the Enforcement of Prisoners Right to Adequate Standard of Living in Yem Special Woreda Saja Prison Institute

External oversight over the prison facilities is one of the effective mechanisms to ensure the enforcement of prisoners right to adequate standard of living. And this can be realized through conducting prison monitoring and inspection of the prisoner's adequate standard of living and the condition of the prison institute in regular and frequent basis by independent body. Providing independent government oversight bodies are therefore one of the indispensable part of States

²¹⁰ Interview with Taha Zinab (n 171), Interview with Abraham G/Mikael (n 170) Interview with V/Sajin Kena Tsegaye, Personnel of prison institute officer of Yem special woreda Saja Prison Institute (Saja Prison Institute, 7 August 2020)

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 prisoners.²¹¹ International standard requires, all prison facilities to be subject to a system of inspection which is independent of the authority responsible for administering those prisons.²¹² At domestic level, the SNNPRS Attorney General Establishment Proclamation under article 6(5) (i), provides the power and responsibility of public prosecutors to visit prisoners in prison 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. The law clearly requires public prosecutor to conduct an independent visit, to inspect whether the treatment of prisoners' and the condition of the prison institute is conforming relevant laws; and to take appropriate corrective measures when there is violation of the law.

Therefore, this part examines whether public prosecutors', as an independent governmental oversight bodies, are performing their responsibility to monitor and inspects the prisoner's adequate standard of living in Yem Special Woreda Saja Prison Institute.

Further, as indicated under above part of this chapter, prisoners' in Yem Special Woreda Prison Institute are facing several problems related to the provision of services important to their adequate standard of living. In presence of those indicated gaps and prisoners' right violation in the prison institute, this part of the study examines whether public prosecutors are performing their part to understand the problems and take appropriate measures to improve the prisoner's adequate standard of living. Specifically, this part examines whether public prosecutors are conducting regular and regular visit to the prison institute; whether they deeply inspect the provision of services important to prisoners' adequate standard of living in the prison institute 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. Accordingly, the following data presentation and analysis shows the performance of public

²¹¹ Michele D., 'The Need for Independent Prison Oversight in a Post-PLRA World', (2012), Federal Sentencing Reporter, Vol. 24, No. 4. 243.

²¹² See for instance, Nelson Mandela Rules (n 42) rule 83; the UN Body of Principles on the treatment of prisoners, (n 71) 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.

prosecutors in the enforcement of prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute.

4.7.1. Public Prosecutors' Conducting Regular and Frequent Visit in the Prison Institute

To ensure the effective enforcement of prisoners' right to adequate standard of living, the external oversight body needs to have a mandate to conduct regular and frequent visit and inspections of the prison facilities.²¹³ Experience shows 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.²¹⁴ Further, sources shows that visits will be much more effective in terms of promoting sustained improvement, if it is conducted in regular basis.²¹⁵ It also needs to be conducted frequently to achieve its intended purpose of protecting the right of prisoners which in most time under the potential of abuse or maltreatment.²¹⁶ In any case, conducting regular and frequent visit is pivotal to bring consistent and progressive improvements on adequate standard of living of prisoners' in prison facilities.

International standard 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.²¹⁷ At domestic level, the SNNPRS Attorney General Establishment Proclamation under article 6 (5) (i) simply requires public prosecutors' to conduct visit in prison institute facility. The provision is not clear as to whether public prosecutors are required to conduct regular 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

²¹³ Michele D., 'Special Populations and the Importance of Prison Oversight', (2010), AM. J. CRIM. L., Vol. 37:3, 303.

²¹⁴ Monitoring Places of Detention, (n 40) 70.

²¹⁵ Ibid

²¹⁶ 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) 129.

²¹⁷ SMR, (n 16), Rule 55 and UN Body of Principles, (n 70) Principle 29

standards relevant to the treatment of prisoners including the standards mentioned above.²¹⁸ As such Ethiopia as state party to the ICCPR and recognizing the competency of the committee,²¹⁹ is expected to follow the above international standards. Hence the public prosecutors visit to the prison institute needs to be conducted in regular basis to conform international standards.

When we see experience at federal level, Ethiopian humans rights commission regularly visits police detention centers and prisons across the country to evaluate their compliance with international human rights standards.²²⁰ The Commission publishes an annual police station and prison reports. The findings are shared with the relevant authorities and measures are taken regularly to improve the conditions of detention with available resources.²²¹ Further, Offices of the Federal Attorney Generals conduct regular visits to police detention centers and prisons to ensure these facilities continually improve the conditions of detention.²²²

Failing to comply with the above legal instruments and experience at federal level, the practical data observed from Yem Special Woreda indicates that, public prosecutors' does not conduct regular and frequent visit the prison institute though public prosecutors expected to conducting regular visit two times in a single month as part of the office year work plan. The following data support this point.

According to the data collected that incorporated in the below shows, 36 prisoners', 8 prison administrators and staff members and 6 public prosecutors were participated in the data collection to examine the public prosecutors' conducting frequent and regular visit in Yem Special Woreda Saja Prison Institute. Accordingly, 15 respondent or 41.66% of prisoners replied that public prosecutors does not conduct frequent visit in the prison institute. And 12 respondent or 33% replied that public prosecutors' conduct visits one up to two times in a year. While 9 respondent or 25% of prisoners, 6 respondent or 75% of prison administrators and staff members of the

²¹⁸ See General Comment No. 21 (n 55) Para 5

²¹⁹ 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.

²²⁰ Committee against Torture, third periodic report submitted by Ethiopia under article 19 of the Convention, due in 2014, paragraph 52

²²¹ Ibid

²²² Ibid

institute and 2 respondent or 33.33% of public prosecutor replied that public prosecutors conduct visit three up to four times in a year. And 2 respondent or 25% of prison administrators and staff members of the institute and 3 respondent or 50% of public prosecutor replied that public prosecutors conduct visit three up to four times in a year. The remain 1 respondent or 16.66% of public prosecutors replied that public prosecutors conduct visit more than seven times in a year. Accordingly, most of the respondents agreed that public prosecutors do not conduct visits more than 4 times per a year. And regarding the public prosecutors conducting regular visit in the prison institute, 36 respondents or 100% of prisoners, 8 respondents or 100% of prison administrators and staff members of the institute and 5 respondents or 83.33% of public prosecutor respondents agreed that public prosecutors are not conducting regular visit in the prison institute, while 1 respondent or 16.66% of public prosecutor respondent agreed that public prosecutors conducting regular visit in the prison institute. The data observed from prisoners and other respondents through interviews also indicates that public prosecutors does not conduct frequent and regular visit the prison institute though public prosecutors expected to conducting regular visit two times in a single month as part of the office year work plan.

According to the prisoners' response to interview which is provided to check the frequency of public prosecutors visit in the prison institute, some prisoners replied that they have not noticed the visiting public prosecutor and some other told that prosecutors are visiting the prison institute only once a year or twice a year.²²³ Moreover, according to the researcher interview with Commander Daniel, although public prosecutors' are visiting the prison institute in some occasions, it is not conducted in the regular basis and frequently.²²⁴ Mr. Sebsibe confirmed this idea saying that, due to security reason and the absence of integrated prison institute visiting procedure, mostly prosecutors include himself are not supervising the prison institute in regular and frequent basis.²²⁵ According to him, even if the SNNPRS Attorney General Establishment Proclamation provides the power and responsibility of public prosecutors to visit the prison facilities in order to ensure the proper handling of prisoners in the prison institute however there is no subsequent regulation or other subsidiary rules are adopted to provide detail procedures about

²²³ Interview with Sisay Ashgre (n 171), Interview with Higawu Shafi (n 174) and Interview with Taha Zenab (n 172)

²²⁴ Interview with Commander Daniel Tafese (n 177)

²²⁵ Interview with Mr. Sebsibe Sharika, Public prosecutor coordinator in Yem Special Woreda Prosecutor Office (Saja public prosecutor office, 10 August 2020)

the prosecutors' prison institute oversight.²²⁶ Even there is no checklist and guiding documents developed by the attorney general of the region to be used as guidelines for prosecutors in their prison institute visit.²²⁷ Due to this reason prosecutors prison institute visit is not governed by the formal procedures and rules. It is not clear for prosecutors how often and when they should visit the prison institute, how they contact with prisoners, what aspects of the prison institute 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 prisoners and, 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 answer. According to them, due to the above reason prosecutors is not conducting in a regular and frequent basis.²²⁸

In general, all the information obtained in the prison institute indicates that, public prosecutors' efforts of visiting the prison institute are minimal as it is not conducted frequently in a regular and frequent basis. Through occasional and infrequent visit to the prison institute, 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 requires the prison institute to be visited by independent external oversight body in regular and frequent basis.

4.7.2 Public Prosecutors' Taking Observation on the Condition of the Prison Institute

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.²²⁹ 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

²²⁶ Ibid

²²⁷ Interview with Mr. Yimer Wolde, public prosecutor in Yem Special Woreda Prosecutor office (Saja prosecutor office, 11 August 2020) and Interview with Mr. Gebreyes Tiba, Head of Yem Special Woreda Prosecutor Office, (Saja Prosecutor Office, 10 August 2020)

²²⁸ Ibid

²²⁹ 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, 100.

with the respect due to their inherent dignity and value as human beings.²³⁰ Prison institute 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 and kitchen.²³¹ Their observations should also include witnessing key processes in prison. Thus, through deep observation about the condition of the correction facilities external oversight bodies can bring significant improvement of the condition of the facilities.

However, moving to the research area, the information obtained from prisoners' representatives and prison administrators and staff members of the institute indicates that public prosecutors are not conducting deep inspection to the condition of the prison institute.

According to data collected that incorporated in the below shows, 36 prisoners', 8 prison administrators and staff members and 6 public prosecutors were participated in the questionnaires to examine the public prosecutor taking observation on the condition of the prison institute. According, 27 respondents or 75% of prisoners, 6 respondents or 75% of prison administrators and staff members of the institute and 2 respondents or 33.33% of prosecutor's respondents agreed that public prosecutors are not taking observation on the condition of the prison institute, while 9 respondents or 25% of prisoners, 2 respondents or 25% of prison administrators and staff members of the institute and 4 respondents or 66.66% of prosecutor's respondents agreed that public prosecutors are taking observation on the condition of the prison institute. According to this response, most of the respondents agreed that, the public prosecutor is not taking observation on the condition of the prison institute. The data observed from interview of prisoners' representatives and prison administrators also indicates that public prosecutor is not taking deep observation on the condition of the prison institute, though public prosecutors doesn't agree.

According to informants, although public prosecutors in some instance enters the premise of the prisoner's confinement area, they are not inspecting all the physical conditions and the facilities of the institution. The provision of basic service of prisoners such as water and food services are not adequately followed. Likewise, the physical condition of the prison institute such as toilet and shower installations, the sanitation of the institutions, the dormitories and sleeping accommodation

²³⁰ See, *Monitoring Places of Detention: A Practical Guide*, (n 40) 63.

²³¹ *Assessing compliance with the Nelson Mandela Rules*, (n 37) 17.

are not under the effective inspection of prosecutors.²³² One of staff member of prison institute also informed the researcher that, though prosecutors have occasional visit to the prison institute they are not adequately inspecting and following the internal conditions of the prison institute.²³³ Further, public prosecutors' are not committed on documenting the inspection report about the condition of the prison institute and the treatment of prisoners. Documenting report is essential tasks of prison inspection, as this document could be used as evidence to forward recommendation or other corrective measures to improve the prisoners right to adequate standard of living. In this respect, one of the prisoner's representatives interviewed by the researcher stated that, even those prosecutors who occasionally contact with prisoners and receiving some complaints are not committed to take serious measures or recommendations.²³⁴

But the information obtained in Yem Special Woreda Prosecutor Office shows that public prosecutors are properly inspecting the treatments of prisoners' and the condition of the prison institute. According to informants', prosecutors are following weather the service provided by the prison institute and condition of the institute is conforming the law.²³⁵ But, according to the researcher personal observation, there is no document which shows the public prosecutor's observation of the prison institute facilities and the condition of treatment of prisoners.

In general, the information observed in the prison institute shows that, public prosecutors are not conducting deep inspection to the condition of the prison institute. Though conducting deep observation about the condition of the correction facilities can bring significant improvement of the condition of the facilities.

4.7.3 Public Prosecutors' Private and Fully Confidential Interviews with Prisoners' and Receiving Complaints

Since prisoners are the main interview partners for external inspection mechanism, private and fully confidential interviews with them and receiving complaints is needed. Recognizing this, the Nelson Mandela Rule provides the inspection authority to have a power to conduct private and

²³² Interview with Shikuro G/Tsadik (n 174) and Interview with Tarikwa Gebeyo (n 170)

²³³ Interview with Assistant Inspector Tafese Mecha (n 183)

²³⁴ Interview with Shikuro G/Tsadik (n 174)

²³⁵ Interview with Mr. Birhanu Tilahun, Public prosecutor in Yem Special Woreda Prosecutor Office (Fofa coordination prosecutor office, 12 August 2020)

fully confidential interviews with prisoners.²³⁶ Hence the public prosecutors visit to the prison institute needs to be conducted in private and fully confidential interviews with prisoners and receiving complaints to conform international standard.

Failing to comply with this legal instrument, the practical data observed from Yem Special Woreda indicates that, private and fully confidential interviews and receiving complaints is not observed. The following data support this point.

According to data collected that incorporated in the below shows, 36 prisoners, 8 prison administrators and staff members and 6 public prosecutors were participated in the questionnaires to examine the public prosecutor private and fully confidential interviews with prisoners and receiving complaints from prisoners. Accordingly, 24 respondents or 64% of prisoners, 2 respondents or 25% of prison administrators and staff members of the institute and 2 respondents or 33.33% of prosecutor's respondents agreed that public prosecutors are not privately and fully confidential interviews with prisoners, while 12 respondents or 33.33% of prisoners, 6 respondents or 75% of prison administrators and staff members of the institute and 5 respondents or 66.66% of prosecutor's respondents agreed that public prosecutors are privately and fully confidential interviews with prisoners. And regarding the public prosecutors receiving complaints from prisoners in the prison institute, 27 respondents or 75% of prisoners and 3 respondents or 37.5% of prison administrators and staff members of the institute respondents agreed that public prosecutors are not receiving complaint from prisoners, while 9 respondents or 15% of prisoners, 5 respondents or 62.5% of prison administrators and staff members of the institute and all respondents or 100% of prosecutor's respondents agreed that they receive complaints from prisoners. Accordingly, most of the response given by prison administrators and staff members of the institute and public prosecutors for questioners suggest that, public prosecutors have private and fully confidential interviews with prisoners and receive complaints through interviews. On the other hand, the prisoner's responses show that, the prosecutors private and fully confidential interviews with prisoners is minimal and they are not receiving complaints adequately. This shows that, although public prosecutors are in certain instances private and fully confidential interviews with some prisoners, their compliant receiving trend is very weak. Most of participant in the interview also agreed with this. According to one of the prisoner's representatives, although some

²³⁶ The Nelson Mandela Rules, (n 42), Rule 84 (1) (c).

prosecutors during their visit attempt to contact with few prisoners, they are not adequately asking them about their adequate standard of living. According to him, most of public prosecutors did not interview privately, fully confidential and cannot receive complaints. According to him, public prosecutors came to prisoners with guarded by the administrative and staff members of the institute, which is difficult to prisoners to give private and fully confidential interview. And cannot want to receiving complaints, they assume like enemy, and they are not adequately asking them about their adequate standard of living.²³⁷ This dissatisfaction was agreed by the public prosecutors. According to Mr. Sebsibe, most of public prosecutors including himself are guarded by police members of the prison institute because of fearing may prisoner's infliction on public prosecutors at time of contacting with them.²³⁸ Moreover, in order to effective the prison institute inspection, the positive relationship with prisoners is important. Without positive relationship with prisoners, the public prosecutors visit, and inspection may not bring its intended objectives. When it comes to research area, as the researcher observed from the response provided by prisoners for questioners and interviews, 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.²³⁹ 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 prison institute only for their report purpose and to get government funds for such visit, not because they are concerned with prisoners' right.²⁴⁰ 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.²⁴¹ 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.

In general, all the information obtained in the prison institute indicates that, public prosecutors private and fully confidential interviews with prisoners and receiving complaints is not adequately

²³⁷ Interview with Sisay Ashagre (n 171)

²³⁸ Interview with Mr. Sebsibe Sharka (n 225)

²³⁹ Interview with Shikuro G/Tsadik (n 174)

²⁴⁰ Interview with Higawu Shafi (n 174)

²⁴¹ Interview with Mr. Sebsibe Sharka (n 225)

managed so as to give important insight for inspection of the prison institute. They are not conforming international instruments which requires the inspection authority to conduct private and fully confidential interviews with prisoners and receive complaints.

4.7.4 Public Prosecutors' Forwarding Recommendation and Taking Corrective Measures

The ultimate aim of monitoring places of detention 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.²⁴² It is also important after the initial inspection, to establish a corrective action plan to address any cited deficiencies in prison facilities.²⁴³

International standard requires, prison inspectors to have the authority of making recommendations to the prison administration and other competent authorities.²⁴⁴ The standard 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.²⁴⁵ Also at domestic level, the SNNPRS Attorney General Establishment Proclamation under article 6 (5) (i) 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.

When we see the experience at federal level, Ethiopian humans rights commission and office of federal attorney general regularly visits prison facilities and submits its findings and recommendations to the Government.²⁴⁶ The latter gives due attention to implement recommendations of the Commission and office of federal attorney general.²⁴⁷

²⁴² See Monitoring Places of Detention: A Practical Guide, International Association for Torture, (n 40) 65.

²⁴³ Mark D. 'Jail Standards and Inspection Programs, Resource and Implementation Guide' (2007), U.S. Department of Justice National Institute of Corrections, 30.

²⁴⁴ The Nelson Mandela Rule, (n 42), Rule 84 (1) (d)

²⁴⁵ Ibid, Rule 85 (2)

²⁴⁶ Committee against Torture, third periodic report submitted by Ethiopia under article 19 of the Convention, due in 2014, paragraph 56

²⁴⁷ Ibid

Moving to the practice, the empirical data observed in the study area reveals that, public prosecutor forwarding recommendations, taking measures to correct the violation, and providing effective remedies with reasonable time for problems is not observed.

According to data collected that incorporated in the below shows, 36 prisoners', 8 prison administrators and staff members and 6 public prosecutors were participated in the questionnaires to examine the public prosecutor forwarding recommendations, taking measures to correct the violation and providing effective remedies with reasonable time for problems. Accordingly, Accordingly, most of respondents (33 respondent or 91.66% of prisoners, 4 respondent or 50% of prison administrator's and staff and 2 respondent or 33.33% of public prosecutors agreed that public prosecutors are not forwarding a recommendation. While 3 respondent or 8.33% of prisoners, 4 respondent or 50% of prison administrator's and staff and 4 respondent or 66.66% of public prosecutors agreed that public prosecutors are forwarding recommendation. Regarding public prosecutors taking measures to correct the violation, 36 respondent or 100% of prisoners, 6 respondent or 75% of prison administrator's and staff and 3 respondent or 50% of public prosecutors agreed that public prosecutors are not taking any measures to correct the violation. While 2 respondent or 25% of prison administrator's and staff and 3 respondent or 50% of public prosecutors agreed that public prosecutors are taking a measure to correct the violation. Regarding public prosecutors providing effective remedy with reasonable time for problems, 33 respondent or 91.66% of prisoners, 6 respondent or 75% of prison administrator's and staff and 2 respondent or 33.33% of public prosecutors agreed that public prosecutors are not providing effective remedies within reasonable time for problems. While 3 respondent or 8.33% of prisoner's, 2 respondent or 25% of prison administrator's and staff and 4 respondent or 66.66% of public prosecutors agreed that public prosecutors are providing effective remedies within reasonable time for problems.

The data observed from prisoners and prisoner representatives through interviews also suggests that, although prosecutors are receiving complaints in some instances, however they are not forwarding recommendation and providing effective and timely response to solve problems. According to prisoners' responses, prosecutors are not effectively providing remedies for problems

and forwarding recommendations, because they are not adequately visiting and inspecting the prison institute.²⁴⁸

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 prison institute. Mr. Birhanu Tilahun informed the researcher that, after conducting visit to the prison institute they present its observation about the condition of the treatment of prisoners on a joint discussion session with the prison institute managements, police and courts to deal on the gaps and providing necessary measures.²⁴⁹ According to him after the discussion the Prison Institute get feedback to solve the problems discussed and accordingly improve the treatment of prisoners.²⁵⁰ The prison administration managements interviewed by the researcher also confirmed this. But within this joint discussion session process there is no procedure requiring the prison institute authority mandatorily to improve the condition of the prison institute 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. Yimer informed the researcher that such discussion is conducted primary on oral basis and no subsequent documents is about the direction given to the prison institute.²⁵¹ Accordingly, simply discussing the problem and giving oral feedback to the prison institute managements does not guarantees its effective implementation. To effectively follow up the prison institute observance of recommendation or feedback needs clearly documented procedures and reporting of the improvements.

In general, all the information obtained in the prison institute indicates that, public prosecutors are not effective in forwarding recommendations, taking measures to correct the violation and providing effective remedies with reasonable time for problems in order to ensure the implementation of prisoners right to adequate standard of living in the prison institute as it is required by the SNNPRS Attorney General Establishment Proclamation. They are also not conforming international instruments which requires the prison inspectors forwarding recommendations, taking measures to correct the violation and providing effective remedies with reasonable time for problems.

²⁴⁸ Interview with Shikuro G/Tsadik (n 174) and Interview with Tarikwa Gebeyo (n 170)

²⁴⁹ Interview with Mr. Birhanu Tilahun (n 235)

²⁵⁰ Ibid

²⁵¹ Interview with Mr. Yimer Wolde, (n 227)

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

The prisoners' rights to adequate standard of living is a one part of prisoners' right under vulnerable groups of persons in the broad concept of international human right law. Hence, they have inherently entitled the general human right protection by the mere fact of human being regardless of color, legal status, economic status, political attitude, racial, religion, language and personal status in addition to specific protection given for prisoners. 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 prison facilities takes the primary responsibility to respect the human right of the prisoners and to provide them adequate facilities necessary to lead adequate standard of living.

The protection of prisoners' rights to adequate standard of living is required and guaranteed by various international and regional legal instruments. Accordingly, various human right stipulations that are enshrined under major international and regional legal instruments such as the UDHR, ICCPR, ICESCR, African Charter on Human and Peoples' Rights, and other relevant instruments are therefore equally important to the adequate standard of living of prisoners. Major guarantees provided under such international and regional instruments which are relevant to protection of prisoners' right to lead adequate standard of living. 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 on the provides details on the adequate standard of living of prisoners. These rules and standards put various specific requirements on the adequate standard of living of prisoners.

The protection of prisoners' rights to adequate standard of living is also required and guaranteed under national legal instruments. Both the FDRE and the SNNPRS constitution guaranteed the prisoner' right to adequate standard of living. The prisoners' rights adequate standard of living also get important attention under specific legislation both at Federal and SNNPRS level. Among

others these rules guaranteed, 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.

Accordingly, prisoners right adequate standard of living has recognized under international, regional, and national human right instruments are broad, however, rights which was considered and recognized commonly in all instruments under the study contains right to medical services, right to get food and water, right to accommodation, right to get bedding, clothing and right to sanitation.

On the other hand, the treatment of prisoners in Yem Special Woreda Prison Institute is not carried out in accordance with the law respecting the prisoners' right adequate standard of living. The food provision in the prison institute is inadequate both in its quality and quantity. There is no provision of separate food items for detainee having health problems. Regarding accommodation, the dormitories are not well equipped with sleeping facilities. There is no adequate bedding service. There is no mattress and sheet service. There is no clothing service. The dormitories are overcrowded. The sanitary facility of the prison institute is also not adequate. Further prisoners are not getting adequate sanitary facilities to keep their person and cloth clean. Finally, one of the good practices the study found in the prison institute is that, the prisoners health care service in the prison institute is in a good condition.

On the other hand, the study finds out that, the performance of public prosecutors on the enforcement of prisoners' right to adequate standard of living in Yem Special Woreda Prison Institute is very limited. As indicated above, prisoners' in Yem Special Woreda Saja Prison Institute are facing a number of problems related to the provision of services important to their adequate living standards and the physical condition of the prison institute. Beside this, as prison facilities are closed institution, there is the potential of abuse on prisoners. External independent government oversight over prison facilities is there for crucial to follow up and ensure the implementation of prisoners' rights. As such international and national legislations requires independent monitoring of prison facilities to ensure the implementation of those rights. Accordingly, different international instruments such as the Nelson Mandela Rules provides the government responsibility to have an external supervisory body on the prison facilities. When this comes to domestic level, the public prosecutors are given primary responsibly and power to

supervise the prison facilities and to take important measures in order to ensure the treatment of prisoners is carried out in accordance with law respecting their adequate standard of living.

Accordingly, the performance of public prosecutors on the enforcement of prisoners' right to adequate standard of living is very limited and there is no coherent and strong practice of visiting and inspecting the prison institute. And the prosecutors' role to give effective measure is very limited and insignificant. Prosecutors are not conducting regular and frequent visit in Yem Special Woreda Prison Institute. Most of the data shows that prosecutors are conducting visit to the prison institute three times or four times in a given year. Further, through this occasional visit to the prison institute, they are not effectively inspecting the condition of the prison and the treatment of prisoners. During their occasional visit to the prison institute, they are not adequately contacting and receiving complaints from prisoners. They are also not observing the facilities and the condition of the prison institute. Further, due to their minimal role on visiting and inspecting the prison institute added with lack of documentation of their observation, they are not in strong position in taking corrective measures. There is no a binding recommendation to improve the treatment of prisoners' and the condition of the prison institute.

5.2 Recommendation

The following are forwarded recommendations based up on the findings of the study on the implementation of the prisoners' right to adequate standard of living in Yem Special Woreda Saja Prison Institute.

- The Southern Nations Nationalities and Peoples Regional State Manner of Treatment of Inmates of Prisons Regulation No. 45/2005 must be amended in manner to provide the minimum standard rule conserving the living space of prisoners.
- The SNNPR Government and Regional Prison Administration Commission should allocate additional financial resources to secure sufficient and balanced diet food for prisoners. The Prison Institute should provide separate food items for prisoners having health problems.
- The SNNPR Government and Regional Prison Administration Commission must allocate financial resources for the purchase of bed and bedding facilities for Yem Special Woreda Prison Institute. The Prison Institute them self must also use their best effort to minimize the problem of bed, bedding facilities and other necessary materials for maintenance for

prisoners in consultation with universities where around the prison institute situated and with different NGOs.

- The sleeping accommodation should meet minimum standards of health requirements such as securing sufficient natural and artificial lighting and air, availing adequate ventilation, providing with adequate sanitary installations with sufficient water supply.
- The SNNPR Government and Regional Prison Administration Commission should allocate a budget for construction of additional room to reduce overcrowding. The Prison Institute must also use their own effort to minimize the over crowd of prisoners in consultation with the people of the special woreda where the prison situated and with different NGOs.
- The SNNPR Government and Regional Prison Administration Commission should allocate budget for the provision sanitary facilities. The Prison Institute them self also use their effort to provide modes, soap, and other necessary materials for prisoners by consultation with different NGOs and other sponsors.
- The prison institute should be provided psychologist and psychiatrist in order to protect prisoners from psychological and psychiatric problem.
- The SNNPR Government and Regional Prison Administration Commission should provide uniform clothing for prisoners. The Prison Institute must also use their own effort to prepare uniform clothing for prisoners in consultation with the people of the Special Woreda were the prison situated and with different NGOs.
- The South Nations, Nationalities and Peoples' Region State Attorney General Establishment Proclamation No.177 /2018 must be amended in manner to provide more detail and more clear laws providing specific powers and responsibilities regarding the power of public prosecutors in inspecting prison institute facilities and taking appropriate measures. The amended law must be specific with regards to what prosecutor shall perform during their visit and inspection to the prison institute and its outcome. The law must indicate how prosecutor may interact with prisoners 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.

- The SNNPRS Attorney General also needs to adopt comprehensive working manuals to increase the public prosecutors' effectiveness in conducting regular and frequent prison institute visit and inspection.
- The prosecutor office of Yem Special Woreda must provide regular and frequent visit programs to the prison institute and follow and enforce such programs.
- The public prosecutors' of Yem Special Woreda need to private and fully confidential interviews with prisoners and must receive complaints from them. Also, must conduct deep inspection to the facilities and the condition of the Prison Institute.
- The prosecutor office of Yem Special Woreda must take binding recommendation and appropriate legal measures within reasonable time for problems to improve the adequate standard of living of prisoners in the Prison Institute.
- The public prosecutors' of Yem Special Woreda needs to conduct awareness creation programs for prisoners about the purpose of prison institute oversight.

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Appendix Documents

I. Key Informants Questionnaires

A. Questionnaires for Prisoners' in Yem Special Woreda Saja Prison Institute

JIMMA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE

SCHOOL OF LAW

QUESTIONNAIRES FOR PRISONERS' IN YEM SPECIAL WOREDA SAJA PRISON
INSTITUTE

Objectives of the Study

This questionnaire is provided to collect data for post graduate research paper in Jimma University college of law and governance school of law post graduate program, department of human right and criminal law, in order to assess the prisoners' right to adequate standard of living, which include the situation of the accommodation, personal hygiene, food and water, medical services, bed, bedding and clothing and to examine the performance of public prosecutors' on the enforcement of the above right in Yem Special Woreda Saja Prison Institute. 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. You do not have to write your name. To this end, as your cooperation is very essential for the reliability of this research, I kindly request your cooperation to answer the following questions, thanking you in advance.

Date _____

Age _____

Sex _____

1. How long you have been in this prison institute? _____

2. Below in the table, the situation of the following treatment standards in the prison institute are provided in different categories. Please mark "X" only on one standard you think correct to describe the treatment standards in the prison institute.

No	Criteria used for rating	Measurement Standards								
		Not Provided	Extremely poor	Very Poor	Poor	Good	Very good	Excellent		
1	Provisions of adequate and healthy food	Quantity								
		Quality								
		Provision of separate food items for detainee having health problems								
		Food supply is as per the budget allocated for individuals								
2	Daily provisions of healthy drinking water									
3	Room and bedding accommodation	Adequate bed facility								
		Adequate mattress supplied								
		Adequate sheet supplied								
		Adequacy of floor space per individual								
		Enough natural and artificial light in room								
		Clean and adequate air								
4	Personal hygiene facility									

	Sanitary and toilet service	Room and surrounding hygiene							
		Special sanitary supplied for women's							
		Toilet facility							
5	Adequate health care service	Health service station							
		Medication							
		Medical equipment							
		Laboratories							
		Qualified and committed health professionals							
6	Clothing facility								

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

3. Do you noticed or contacted visiting public prosecutors in this prison institute regularly?

Yes No

If your answer is yes how often they are visiting the prison institute within a month or a week?

Please Explain _____

If your answer is no how often they are visiting and what do you think is the reason? Please

explain _____

4. If your answer for question 3 is yes do the public prosecutors have private and fully confidential interviews with prisoners? Yes No

5. Do they take observation on the condition of the prison institute, such as infrastructure and material conditions in cells and common areas, the prison clinic, the kitchen and other facilities?

Yes No

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

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

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

B. Questionnaires for Public Prosecutors' in Yem Special Woreda Saja Prison Institute.

JIMMA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE

SCHOOL OF LAW

QUESTIONNAIRES FOR PUBLIC PROSECUTOR IN YEM SPECIAL WOREDA
PROSECUTOR OFFICE

Objectives of the Study

This questionnaire is provided to collect data for post graduate research paper in Jimma University college of law and governance, school of law post graduate program, department of human right and criminal law, in order to assess the prisoners right to adequate standard of living, which include the situation of the accommodation, personal hygiene, food and water, medical services, bed, bedding and clothing, and to examine the performance of public prosecutors on the enforcement of the above right in Yem Special Woreda Saja Prison Institute. 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. You do not have to write your name. To this end, as

your cooperation is very essential for the reliability of this research, I kindly request your cooperation to answer the following questions, thanking you in advance.

Date _____

Sex _____

1. How long you have served as public prosecutor in Yem Special Woreda?

2. Do you have any experience on prison visit and inspection in Yem Special Woreda Saja Prison Institute? Yes No

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

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

3. Below in the table, the situation of the following treatment standards in the prison institute are provided in different categories. Please answer the following questions only if your answer for question 2 is “Yes and mark “X” only on one standard you think correct to describe the treatment standards in the prison institute.

No	Criteria used for rating	Measurement Standards								
		Not Provided	Extremely poor	Very Poor	Poor	Good	Very good	Excellent		
1	Provisions of adequate and healthy food	Quantity								
		Quality								
		Provision of separate food items for detainee having health problems								

		Food supply is as per the budget allocated for individuals							
2	Daily provisions of healthy drinking water								
3	Room and Bedding accommodation	Adequate bed facility							
		Adequate mattress facility							
		Adequate sheet facility							
		Adequacy of floor space per individual							
		Enough natural and artificial light in room							
		Clean and adequate air							
4	Sanitary and toilet service	Personal hygiene facility							
		Room and surrounding hygiene							
		Special sanitary facility for Women's							
		Toilet facility							
5	Adequate health care service	Health service station							
		Medication							
		Medical equipment							
		Laboratories							

		Qualified and committed health professionals							
6	Clothing facility								

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

4. Do you visit the prison institute regularly? Yes No

If your answer is yes how often you are visit the prison institute within a month or a week? Please Explain _____

If your answer is no, how often you are visiting and what do you think is the reason? Please explain _____

5. If your answer for question 4 is yes, do you have private and fully confidential interviews with prisoners? Yes No

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

6. Do you take observation on the condition of the prison institute, such as infrastructure and material conditions in cells and common areas, the prison clinic, the kitchen and other facilities? Yes No

7. Is there any circumstance in which you have received any complaints from prisoners 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 complaints _____

8. In case you noticed any human right violation of prisoners are you taking an immediate intervention measure 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_____

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

10. Finally if you have anything to add please explain_____

C. Questionnaires for Leader/Personnel/Health Officer and Other Officers of Yem Special Woreda Saja Prison Institute.

JIMMA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE
SCHOOL OF LAW

QUESTIONNAIRES FOR LEADERS/ PERSONNEL /HEALTH OFFICER AND OTHER
OFFICERS OF SAJA PRISON INSTITUTE

Objectives of the Study

This questionnaire is provided to collect data for post graduate research paper in Jimma University college of law and governance school of law post graduate program, department of human right and criminal law, in order to assess the prisoners’ right to adequate standard of living, which include the situation of the accommodation, personal hygiene, food and water, medical services, bed, bedding and clothing and to examine the performance of public prosecutors on the

enforcement of the above right in Yem Special Woreda Saja Prison Institute. 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. You do not have to write your name. To this end, as your cooperation is very essential for the reliability of this research, I kindly request your cooperation to answer the following questions, thanking you in advance.

Date_____

Sex_____

Official capacity_____

1. How long you have served in Yem special woreda Saja prison institute? Please explain

2. Below in the table, the situation of the following treatment standards in the prison institute are provided in different categories. Please mark “X” only on one standard you think correct to describe the treatment standards in the prison institute.

No	Criteria used for rating		Measurement Standards							
			Not Provided	Extremely poor	Very Poor	Poor	Good	Very good	Excellent	
1	Provisions of adequate and healthy food	Quantity								
		Quality								
		Provision of separate food items for detainee having health problems								
		Transparency in the procurement of food items								

		Food supply is as per the budget allocated for individuals							
2	Daily provisions of healthy drinking water								
3	Room and Bedding accommodation	Adequate bed facility							
		Adequate mattress facility							
		Adequate sheet facility							
		Adequacy of floor space per individual							
		Enough natural and artificial light in room							
		Clean and adequate air							
4	Sanitary and toilet service	Personal hygiene facility							
		Room and surrounding hygiene							
		Special sanitary facility for Women's							
		Toilet facility							
5	Adequate health care service	Health service station							
		Medication							
		Medical equipment							
		Laboratories							

		Qualified and committed health professionals							
6	Clothing facility								

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

3. Do you noticed or contacted visiting public prosecutors in this prison institute regularly?

Yes No

If your answer is yes how often they are visiting the prison institute within a month or a week?

Please Explain _____

If your answer is no how often they are visiting and what do you think is the reason? Please

explain _____

4. If your answer for question 3 is yes do the public prosecutors have private and fully confidential interviews with prisoners? Yes No

6. Do they take observation on the condition of the prison institute, such as infrastructure and material conditions in cells and common areas, the prison clinic, the kitchen and other facilities?

Yes No

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

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

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

II. INTERVIEW QUESTIONS GUIDELINES

A. INTERVIEW QUESTIONNAIRES FOR LEADERS/ PERSONNEL /HEALTH
OFFICER AND OTHER OFFICERS OF SAJA PRISON INSTITUTE

This questionnaire is provided to collect data for post graduate research paper in Jimma University College of law and governance school of law post graduate program, department of human right and criminal law, in order to assess the prisoners right to adequate standard of living, which include the situation of the accommodation, personal hygiene, food and water, medical services, bed, bedding and clothing, and to examine the performance of public prosecutors on the enforcement of the above right in Yem Special Woreda Saja Prison Institute. 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 your cooperation to answer the following questions, thanking you in advance.

Name of the respondent _____

Age_____ Sex_____ Profession_____ Education status_____ Job (your current work) _____ Status or position_____

1.1 FOOD AND WATER

Does the prison institute provide a nutritional value and adequate for their health and strength and with quantity and quality provided with conformity with prison regulations? To what extent are the requirements met?

Does the prison institute provide separate food items for detainee having health problems?

Does the regional government fund adequate budget?

How much money has been set aside in the prison budget for each prisoner? Has there been any increase or decrease in recent years?

Does the food supply is as per the budget allocated for individuals?

Does prisoner are allowed to receive food from outside prison? Are there any restrictions?

Is there transparency in the procurement of food items?

Where is food prepared? Where is food stored? Are there cold storage facilities?

Do/does children/child with their mothers count independently and have got their own share?

Do drinking water available to every prisoner whenever he/she needs it? Is the tap water drinkable?

1.2 ACCOMMODATION

Does the prison institute provide for every prisoner a separate bed, mattress and sheet facilities?

Do rooms or dormitories provide in personal or in group?

If it is given in group, do the number of prisoners and the dorm given for them balance each other?

What is the size of each dorm? How much individual space are prisoners entitled to by law and how much space do they have in practice? Are some dormitories less crowded than others? Do they belong to privileged prisoners?

Are all accommodations provided for the use of prisoners and in particular all sleeping accommodation meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilations?

Are there members of prison staff responsible for supervising dormitories at regular intervals at night? Do they go into the dormitories regularly to check on the wellbeing of the occupants?

1.3 PERSONAL HYGIENE AND SANITATION

Are there purified water arrangements have been made to supply prisoners in prison? If not, why?

Are there adequate bathing and shower installations so that every prisoner enables to have a bath or shower according to this local climate condition? If not, How many times per weeks or months?

Do prisoners keep their persons clean, and to this end they provided with water and such toilet articles as are necessary for their health and cleanliness?

Do toilets and washing space exist in or close to every dormitory/cell? What is the ratio of prisoners in prison to toilets, hand-washing facilities?

1.4 HEALTH CARE

Does prison institute provide health service for the prisoners? To what extent it provides?

Are medical examinations undertaken confidentially – i.e. out of hearing and out of sight of prison staff, unless the doctor concerned expressly requests otherwise in a particular case? If not, who is normally present during a medical examination?

To what extent is clinics/health facilities are equipped for consultation and treatment? Do medical officers feel that they have sufficient equipment? What else do they need?

Do medical officers in prisons visited feel that their supplies are adequate?

What are the rules relating to the treatment of prisoners who are seriously ill? Are they transferred to hospitals? Who decides? How long does the procedure take?

How many medical staff are there in the prison institute and what are their qualifications?

For prisoners who knew his types of disease, are an adequate pharmaceutical freely provided for those prisoners?

When prisoners sick become chronic, by whom cost the refer is issued?

1.5 CLOTHING

Do prisoners wear their own clothes or is it provided by the prison institute as provided by the law? If provided, Is the clothing provided suitable for the climate? Is it dignified?

Do prisoners' clothes kept its clean in a proper way and is it supervised?

Via supervision underclothing cloth changed or washed as often as necessary for the maintenance of prisoners' health?

Are arrangements made to ensure that the conditions of prisoners' clothes shall be clean and fit?

1.6 PERFORMANCE OF PUBLIC PROSECUTORS'

Do public prosecutors regularly and frequently visit your prison institute? Do they private and fully confidential interviews with prisoners? If not, what do you think is the reason?

Do they deeply examine the treatments of prisoners and prison condition in your prison institute?

Is there any solution or improvements did their monitoring activities brings to prisoners and the condition of your prison institute?

Are there any circumstance public prosecutors forwarded any recommendation or corrective measure to be taken in order to improve the prisoner's adequate standard of livings or the prison condition?

How do you measure the public prosecutors visiting and inspecting activities in guaranteeing the prisoners adequate standard of living in your prison institute?

What do you think is the major gaps and obstacles in the public prosecutor's prison institute visiting activities? What measures should be taken as a solution?

Finally, if you have anything to add please explain

B. INTERVIEW QUESTIONS FOR PRISONERS OF SAJA PRISON INSTITUTE

This questionnaire is provided to collect data for post graduate research paper in Jimma University College of law and governance, school of law post graduate program, department of human right and criminal law, in order to assess the prisoners right to adequate standard of living, which include the situation of the accommodation, personal hygiene, food and water, medical services, bed, bedding and clothing, and to examine the performance of public prosecutors on the enforcement of the above right in Yem Special Woreda Saja Prison Institute. 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 your cooperation to answer the following questions, thanking you in advance.

Name of the respondent _____

Age_____ Sex_____ Marital status_____ Education status_____ Cause of imprisonment_____

1.1 FOOD AND WATER

Does the prison institute provide nutritional value and adequate for their health and strength and with quantity and quality for prisoners?

Does the prison institute provide with conformity with prison regulations? To what extent are the requirements met?

Does the prison institute provide separate food items for detainee having health problems?

Does prisoner are allowed to receive food from outside prison? Are there any restrictions?

Do/does children/child with their mothers count independently and have got their own share?

Do drinking water available to every prisoner whenever he/she needs it? Is the tap water drinkable?

1.2 ACCOMMODATION

Does the prison institute provide for every prisoner a separate bed, mattress and sheet facilities?

Do rooms or dormitories provide in personal or in group?

If it is given in group, do the number of prisoners and the dorm given for them balance each other?

Are all accommodations provided for the use of prisoners and in particular all sleeping accommodation meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilations?

Are there members of prison staff responsible for supervising dormitories at regular intervals at night? Do they go into the dormitories regularly to check on the wellbeing of the occupants?

1.3 PERSONAL HYGIENE AND SANITATION

Are there purified water arrangements have been made to supply prisoners in prison? If not, why?

Are there adequate bathing and shower installations so that every prisoner enables to have a bath or shower according to this local climate condition?

Do prisoners keep their persons clean, and to this end they provided with water and such toilet articles as are necessary for their health and cleanliness?

Do toilets and washing space exist in or close to every dormitory/cell? What is the ratio of prisoners in prison to toilets, hand-washing facilities?

1.4 HEALTH CARE

Does prison institute provide health service for the prisoners? To what extent it provides?

Are medical examinations undertaken confidentially – i.e. out of hearing and out of sight of prison staff, unless the doctor concerned expressly requests otherwise in a particular case? If not, who is normally present during a medical examination?

For prisoners who knew his types of disease, are an adequate pharmaceutical freely provided for those prisoners?

When prisoners sick become chronic, by whom cost the refer is issued?

1.5 CLOTHING

Do prisoners wear their own clothes or is it provided by the prison institute?

Do prisoners' clothes kept its clean in a proper way and is it supervised?

Via supervision underclothing cloth changed or washed as often as necessary for the maintenance of prisoners' health?

Are arrangements made to ensure that the conditions of prisoners' clothes shall be clean and fit?

1.6 PERFORMANCE OF PUBLIC PROSECUTORS'

Do public prosecutors regularly and frequently visit the prison institute? Do they private and fully confidential interviews with prisoners? If not, what do you think is the reason?

Do they deeply examine the treatments of prisoners and prison condition in the prison institute?

Is there any solution or improvements did their monitoring activities brings to prisoners and the condition of the prison institute?

How do you measure the public prosecutors visiting and inspecting activities in guaranteeing prisoners adequate standard of living in your prison institute?

Finally, if you have anything to add please explain

C. INTERVIEW QUESTIONNAIRES FOR PUBLIC PROSECUTORS' at YEM
SPECIAL WOREDA PROSECUTOR OFFICE

This questionnaire is provided to collect data for post graduate research paper in Jimma University college of law and governance school of law post graduate program, department of human right and criminal law, in order to assess the prisoners right to adequate standard of living, which include the situation of the accommodation, personal hygiene, food and water, medical services, bed, bedding and clothing, and to examine the performance of public prosecutors on the enforcement of the above right in Yem Special Woreda Saja Prison Institute. 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 your cooperation to answer the following questions, thanking you in advance.

Name of the respondent _____

Age _____ Sex _____ Profession _____ Education status _____ Job (your current work) _____ Status or position _____

1.1 FOOD AND WATER

Does the prison institute provide a nutritional value and adequate for their health and strength and with quantity and quality provided with conformity with prison regulations? To what extent are the requirements met?

Does the prison institute provide separate food items for detainee having health problems?

How much money has been set aside in the prison budget for each prisoner? Has there been any increase or decrease in recent years?

Does the food supply is as per the budget allocated for individuals?

Does prisoner are allowed to receive food from outside prison? Are there any restrictions?

Is there transparency in the procurement of food items?

Where is food prepared? Where is food stored? Are there cold storage facilities?

Do/does children/child with their mothers count independently and have got their own share?

Do drinking water available to every prisoner whenever he/she needs it? Is the tap water drinkable?

1.2 ACCOMMODATION

Does prison institute infrastructure in need of reformation and rehabilitation?

Does the prison institute provide for every prisoner a separate bed, mattress and sheet facilities?

Do rooms or dormitories provide in personal or in group?

If it is given in group, do the number of prisoners and the dorm given for them balance each other?

What is the size of each dorm? How much individual space are prisoners entitled to by law and how much space do they have in practice? Are some dormitories less crowded than others? Do they belong to privileged prisoners?

Are all accommodations provided for the use of prisoners and in particular all sleeping accommodation meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilations?

Are there members of prison staff responsible for supervising dormitories at regular intervals at night? Do they go into the dormitories regularly to check on the wellbeing of the occupants?

1.3 PERSONAL HYGIENE AND SANITATION

Are there purified water arrangements have been made to supply prisoners in prison? If not, why?

Are there adequate bathing and shower installations so that every prisoner enables to have a bath or shower according to this local climate condition? If not, How many times per weeks or months?

Do prisoners keep their persons clean, and to this end they provided with water and such toilet articles as are necessary for their health and cleanliness?

Do toilets and washing space exist in or close to every dormitory/cell? What is the ratio of prisoners in prison to toilets, hand-washing facilities?

1.4 HEALTH CARE

Does prison institute provide health service for the prisoners? To what extent it provides?

Are medical examinations undertaken confidentially – i.e. out of hearing and out of sight of prison staff, unless the doctor concerned expressly requests otherwise in a particular case? If not, who is normally present during a medical examination?

To what extent is clinics/health facilities are equipped for consultation and treatment? Do medical officers feel that they have sufficient equipment? What else do they need?

How many medical staff are there in the prison institute and what are their qualifications?

For prisoners who knew his types of disease, are an adequate pharmaceutical freely provided for those prisoners?

1.5 CLOTHING

Do prisoners wear their own clothes or is it provided by the prison institute as provided by the law? If provided, Is the clothing provided suitable for the climate? Is it dignified?

Do prisoners' clothes kept its clean in a proper way and is it supervised?

Via supervision underclothing cloth changed or washed as often as necessary for the maintenance of prisoners' health?

Are arrangements made to ensure that the conditions of prisoners' clothes shall be clean and fit?

1.6 PERFORMANCE OF PUBLIC PROSECUTORS'

Do regularly and frequently visit the Yem special woreda Saja prison institute? If yes, how often they are conducting a visit?

Do deeply examine the treatments of prisoners and prison condition? Do private and fully confidential interviews with prisoners? If not, what do you think is the reason?

Do you think public prosecutors are effective in their prison visit and inspection activities to guarantee adequate correction and rehabilitation of prisoners?

How do you measure the effectiveness of public prosecutors' role in the enforcement of the prisoner's adequate standard of living in Yem special woreda Saja prison institute?

Are there any legal or other corrective measures taken by your office to improve prisoner's adequate standard of living in Yem special woreda Saja prison institute?

What are the major gaps and constraints that affect the effectiveness of public prosecutors' role in the enforcement of the prisoner's adequate standard of living? What measures should be taken as a solution?

Finally, if you have anything to add please explain?