UNIVERSITY OF GONDAR

SCHOOL OF LAW

A THESIS ON:

THE HUMAN RIGHTS PROTECTION OF PRISONERS IN NORTH GONDAR ZONE PRISON CENTER

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DECLARATION

We the writers of this research, hereby declare that this dissertation is original and has never been presented in any other academic institution.

Where other people‘s works have been used and or refer acknowledgments have been duly made.

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ACRONYMS

ACHPR- African Charter on Human and Peoples Rights
ACMHPR -African Commission on Human and Peoples Rights
CAT- Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or punishment
CPT -European committee for the prevention of torture
ECHR- European Convention on Human Rights
ECTHR- European Court on Human Rights
EHRC -Ethiopian Human Rights Commission
HRW -Human Rights Watch
ICCPR- International Covenant on Civil and Political Rights

OHCHR- Office of High Commissioner for Human Rights

OPCAT- Optional Protocol to CAT

PRI- Prison Reform International

SR- Special Rapporteur

UDHR -Universal Declaration on Human Rights

UN- United Nations

UNHRC -United Nations Human Rights Committee

ABSTRACT

The ICCPR under article 10 expressly provides the prisoners should be treated with respect to their dignity. Moreover, the respective supervisory organs of the international and regional human rights instruments make it clear through their jurisprudence that deplorable prison conditions constitute violation of torture, cruel, inhuman or degrading treatment or punishment. This approach broadens the horizon of protection of human rights abuses in Prison centers as torture with all its forms is prohibited in many of human rights instruments such as, UDHR, ICCPR, ACHPR, ECHR and ACHR. For this end, a series of minimum standards for treatment of prisoners are adopted both internationally and regional which are serving as thresholds to find violation of human dignity.

Likewise, the Ethiopian legal system has equivalent set of legislations for the treatment of prisoners. The 1995 constitution guarantees that prisoners shall be treated with due respect to their dignity. Federal Prisons Commission Establishment Proclamation, 365/2003 points out the mandate, structure and objective of prisons where it expressly provides that prisons have to endeavor to ensure the rehabilitation of prisoners. More importantly the minimum standards for treating Prisoners is promulgated by Federal Prisoners Treatment Regulation No 138/2007 and the Amhara National Regional State Prisoners Handling and Care Determination Council of Regional Government Regulation No 26/2005 which provides for Accommodation, bedding, food and water, medical services ,separation of accommodation and security. With respect to the practice, however, the study found that treatment of Prisoners in Ethiopia failed short of

compliance to minimum expectations as it found challenges such as high levels of overcrowding, disease, malnutrition, unhygienic condition, and lack of separate treatment based on sex, age, illness and nature of criminal. The study, finally, makes recommendations that could rectify the existing challenges.

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CHAPTER ONE: GENERAL INTRODUCTION

1.1 Background of the study

Many people, including high ranking political leaders, sometimes argue that prisoners don't have or should not be allowed to enjoy their human rights[1]. Such arguments are wrong and have no basis under the law.

Different international human right instruments such as UDHR under its preamble and Art.1 [*ipso facto,* including prisoners] and article 10 of ICCPR states that all human beings are born free and equal in dignity and rights.

Ethiopian legal system also has legislations for the treatment of prisoners. The 1995 constitution under article 21 guarantees that prisoners shall be treated with due respect and dignity. In addition to this, proclamation no 365/2003 and regulation no 138/2007 guarantee prisoners' rights.

The Amhara National Regional State Prisoners Handling and Care Determination Regulation No.26/2005 is another domestic legal instrument which guarantees prisoners' rights. Though human rights of prisoners is recognized and legally protected in the above mentioned international and domestic legal frameworks, International human rights monitoring bodies have in a number of occasions expressed their concern on the status of prisoner's right in Ethiopia. Sufficient evidence has not also been presented

[1] *Namunjepo and Others v Commanding Officer*, Windhoek Prison and Another (SA 3/98) [1999] NASC 3; 2000 (6) BCLR 671 (NmS) (9 July 1999)

to show its accomplishments to realize human rights of prisoners in prison centers either.

The UN Human Rights Committee, for example, has expressed its concern about prison conditions in Ethiopia. According to the committee, the prison conditions remain alarming, in particular for women and children, and not compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners.[2] Many rights of prisoners are not duly protected in accordance with the law. Among others, there is poor provision of foods in terms of quality and quantity[3]. There is also a big challenge to get adequate medical care services and means of personal hygiene.[4]

Gondar prison Center, it is not an exception to the general condition of prisons and prisoners treatment in Ethiopia. There are certain events indicating the existence of problems associated with the treatment of prisoners in Gondar Prison Center. This research work focuses to study the status and treatment of prisoners in Gondar Prison Center.

1.2 Statement of the problem

The existing international human rights instruments stipulate that prisoners should be treated with due respect of their inherent human rights other than those rights forfeited as a result of their criminal fault. Accordingly, imprisonment is a means to restrict, among many rights, right to liberty some other rights of prisoners remain protected while they go to jail.

Despite the existence of the above mentioned standards of treatment for prisoners, ensuring their practical implementation in prison centers remains to be a challenging task. The Special Rapporteur on Prisons to Ethiopia (2004) also asserted that in many of the prisons of Ethiopia there is overcrowding, forcing the cells to hold inmates more than twice than their

[2] *Ibid* , p,3
[3] *Human Rights watch Report* 2013 p,37
[4] *Country Reports on Human Rights Practices for 2015 United States Department of State • Bureau of Democracy, Human Rights and Labor*

actual capacity[5].Prior reports shows that, prisoners` treatments in Ethiopia is at stake in which it's far below the minimum standard set forth by United Nation[6].

Other evidences show, the government of Ethiopia provides approximately nine birr per prison per day for food, water and health care,[7] Thus, it's hard to think that nine birr per day can bring a nutritional food and water as well as health care to the prisoners in today`s economic condition. Moreover, number of international human rights instruments including our constitution; stipulate that prisoners shall have the opportunity to communicate with their partner, spouses, close relative, friends, religious counsel, medical doctor, and legal counsels.[8] However, evidence shows that, prisoners' accesses to communicate with such people are restricted. According to the human rights watch report, lawyers are permitted to visit only one client per day, and only on Wednesday and Friday[9].

The above mentioned problems are also true in the specific case of Gondar Prison Center, we have witnessed that a number of prisoners were dead due to the outbreak of fire inside the prison center a year ago /Dec.1, 2015 GC/.This shows problem related to treatment of Prisoner's[10].There is also a problem with regarding to personal hygiene and medical service, torture and inhuman treatment.

Hence, close examination of the prison center is, indeed, important first, to realize how the exact status of prisoner's treatment and their right protection looks like in Gondar Prison Center. Closer study of the prison center is also important to identify the possible problems that hinder the prison center from treating prisoners in accordance with the national and

[5]*Id* p,4
[6] *Id* p,5
[7] , *Human Rights watch, Country Reports on Human Rights Practices for 2015*, United States Department of State • Bureau of Democracy, Human Rights and Labor, 2015 Ethiopia Human Right report,p.4, www.state.gov
[8]FDRE (Constitution), art. 21(2),
[9]*Supra note* 3,pp.33
[10] The writers were eye witness of the event.

international standards, and to forward corrective measures to be adapted to improve the prison condition and mode of treatment.

1.3 Research questions

This research aim to answer the following question;

- How the existing international, national legal instruments recognize the prisoner's right to, adequate food and water, medication, personal hygiene, adequate shelter, security and the opportunity to communicate with, and to be visited by, their families, medical doctors and their legal counsel, and humane treatment.
- Do the existing international, national rules provide adequate protection for human rights protection of prisoners?
- How the status of human rights of prisoners looks like in Gondar Prison Center?
- What possible problems does the prison administration faces on the process of treating prisoners
- What measures should be taken to improve the human right protection of prisoners in Gondar Prison Center?

1.4 Objectives of Research

1.4.1 General objective

The general objective of our research is exploring human right treatment of prisoners in North Gondar prison center administration.

1.4.2 Specific objectives

The research aims to achieve the following specific objectives:

- To examine the international and national legal frameworks and their sufficiency in providing adequate protection for prisoners of Gondar Prison Center.
- To examine how the prisoners right to get legal advice from their lawyers looks like in Gondar Prison Center.
- To examine how the right of prisoners to get adequate medical care looks like.
- To explore the fulfillment of the right to adequate standard of living and conditions, in particular, the right accommodation, adequate food and drinking water, to prisoners in Gondar Prison Center.
- To analyze whether the treatment of prisoners right in North Gondar prison center is in line with international, regional and national or not,
- To explore the practical challenge against the implementation of human rights within Gondar Prison Center.
- To provide recommendations for possible corrective measures that must be taken to improve the status of human right of prisoners in Gondar Prison Center.

1.5 Significance of the Study

This research has the following significances;

- It will be helpful to assess how the practical implementation of rights of prisoners looks like in Gondar Prison Center.
- It will identify problems and draw recommendations to minimize/avoid the violation of prisoners basic rights such as, food, medication, personal hygiene, security, and the right to be visited, in Gondar prison center,

- It will help the prison officials to get aware an international standard of minimum treatment of prisoners and to handle prisoners accordingly,
- It will enable prisoners in jail to get aware of and claim their rights their legally recognized rights.
- It will serve as reference to further researchers such as NGOs, particularly human rights activists and other academicians.

1.6 Scope of the study

Concerning the geographical scope, this research will focus on studying the human right conditions of prisoner in North Gondar prison Center. Moreover, though there are number of recognized rights to prisoners, the research will only be focusing only on the study of condition of prisoners right to freedom from torture and inhumane treatment, adequate food and water, medication, personal hygiene, adequate shelter, security and the opportunity to communicate with, and to be visited by, their families, medical doctors and their legal counsel, In light of the International and national legal instruments and minimum rule for the treatment of the prisoners.

1.7 Research Methodology

Both quantitative and qualitative methods will be adopted to conduct this research work .And the study uses both primary and secondary data. Thus, relevant human rights instruments on prisoner's right are examined. Books, journals, and other relevant publications written on the area of research are also consulted. The study is also supported by interviews, and questionnaires as well as observation of the prison center and assessing its status based on international checklists is also conducted by researchers.

1.7 Limitations of the study

Lack of budget allocation, transportation, shortage of time, procedural ties with administrative staff, difficult of getting skilled prisoners, and lack of

Directive in prison administrative staff were the problems that the research team have faced in the preparation of this research.

1.9 **Organization of the Study**

This study contains four chapters. The first chapter deals with background of the study, research question, statement of the problem, objective of the study, significant of the study and limitation of the study. The second chapter deals with legal frameworks for protection of prisoners at international and regional level with a specific focus on bill of rights instruments, UN minimum standard rule of treatment of prisoners and European and African human right instruments.

The third chapter deals with Ethiopian legal framework on prisoners' rights**.** In this chapter, Proclamation No. 45/1944, Relating to Prisons, the 1995 FDRE Constitution, Federal Prisons Commission Establishment Proclamation No.365/2003, Council Of Ministers Regulations on the Treatment of Federal Prisoners 138/2007, The Revised Criminal Code (2004) and the Amhara National Regional State Prisoners Handling and Care Determination, Council of Regional Government Regulation 26/2005 were discussed.

Chapter four deals with the practice of treatment of prisoners in North Gondar prison center what look like, regarding accommodation, medical service, food and water, personal hygiene, security and education and training. The last chapter deals with conclusion of the writers finding and recommendation.

CHAPTER TWO:

INTERNATIONALLEGAL FRAMEWORK FOR THE PROTECTION OF PRISONERS

2.1 Introduction

Since the discovery of the human rights violations committed against prisoners of World War II, treatment of prisoners has been an issue of international concern. The international community's concern toward the treatment of prisoners has finally culminated into a formal recognition of basic prisoners' rights. These rights are embodied in a series of resolutions, several conventions and elaborate model instruments setting out minimum standards and prohibitions applicable to prisoners and prison conditions.

However, in spite of the development of this international body of law, prisoners remain a vulnerable population, and as such, are easy targets for continued human rights abuses. Routine cruelty of imprisonment is tolerated even in countries that are generally "respectful of human rights, because prisons, by their nature, are out of sight; and because prisoners, by definition are outcasts.[11]"

[11] *HUMAN RIGHTS WATCH, THE HUMAN RIGHTS WATCH GLOBAL REPORT ON PRISONS* xV (1993).

One of the principles of the UN Charter[12]is protection of human dignity. Article 55 of the U.N. Charter promotes, inter alia, "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." The preamble of the Charter provides the determination of its member states to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small[13].

Series of instruments with detailed rights are endorsed by states to achieve the mentioned objective of the United Nations. The trend toward international protection of prisoners began with the "codification of the laws of war" in the Geneva Conventions of 1949.[14] In particular, though, the scope of this Convention is limited to prisoners of war, The Geneva Convention was the first instrument to specifically list protections that must be extended to all prisoners of war and provides that prisoners of war, "must at all times be humanely treated."[15]

Nevertheless, Geneva Convention III provides basic definitions and relevant standards that clearly show beginning norms of customary international law for all prisoners. It would be irrational to argue that prisoners taken amidst the chaos of armed conflict or civil disturbance are entitled to better treatment than prisoners taken as a result of criminal or administrative processes in time of peace.'[16]

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[12] UN CHARTER, art. 55(c).
[13] *Id*. Preamble
[14] Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3115, 75 U.N.T.S. 31 (entered into force Oct. 21, 1950; for the United States, Feb. 2, 1956) ; Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3219, 75 U.N.T.S. 85 (entered into force Oct. 21, 1950; for the United States, Feb. 2, 1956) ; Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3317, 75 U.N.T.S. 135 (entered into force Oct. 21, 1950; for the United States, Feb. 12, 1956) ; Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3517, 75 U.N.T.S. 287 (entered into force Oct. 21, 1950; for the United States, Feb. 12, 1956)
[15] Geneva Convention III, art. 13
[16] Bernard, note on *Geneva Convention III*,

The UDHR, ICCPR, ICESCR and Convention against Torture (CAT), are singled out for this effect

2.2 UN Legal Frameworks on the Protection of Prisoners Rights

2.2.1. The Universal Declaration on Human Rights

The Universal Declaration on Human Rights is the founding instrument that have come up with elaborated human rights to give effect to the human rights objective of the UN Charter. It prohibits torture, cruel, inhuman or degrading treatment or punishment[17].

Though it is a declaration which has no binding effect, it is the first human rights instrument ratified by almost all states of the world. It is also incorporated by constitutions of many of the states.

2.2.2 The International Covenant on Civil and Political Rights

ICCPR, which is a binding instrument on member states play significant contribution on the Protection of the rights of prisoners. It reaffirms article 5 of the UDHR under its states "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"[18]. As human being; therefore, prisoners are protected from torture or cruel, degrading or inhuman treatment or punishment by reason of their status.

In addition, unlike the UDHR, the ICCPR has addressed the rights of prisoners specifically under article 10. It states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person"[19].Although there are different theories on the objective of punishment, the ICCPR has expressly adopted that the objective of punishment is reformation and social rehabilitation[20].

[17] UDHR, art. 5
[18] ICCPR, art.7
[19] Id art. 10
[20] L. Zaibert, *Punishment and Retribution* (2006), p.177

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

The rights of prisoners are mainly addressed through Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The CAT imposes duty on state parties to maintains that methods, practices and arrangements as well as treatment of people in custody should be held under observation, with the express purpose of preventing acts of torture[21].

2.3 UN Standards and Principles Pertinent To Rights of Prisoners

The Standard Minimum Rules set forth the minimum acceptable conditions for "all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to 'security measures' or corrective measures ordered by the judge.[22]

Article 8 of The Standard Minimum Rules for the Treatment of Prisoners envisages the creation of segregation of prisoners based on sex, age, criminal record, and the necessities of their treatment.

With regard to accommodation the Standard Minimum Rules for the Treatment of Prisoners under article 9 points out that accommodation could be in the form of cells or dormitories. When prisons are using cells, two prisoners shall not be held together, unless, for temporary overcrowding reasons. For prisons which use dormitories, the prison administration is required to make careful selection of inmates that suits to one another and this must also be quality and quantity.

[21] CAT,art.11
[22] UN Standard Minimum Rules, rule 4(1)

The standard proclaims that Prisoners must be provided with water and toilet article to keep their person clean[23]. Furthermore, the standard minimum rule entitled prisoners right to contact with their families and reputable friends at regular intervals.[24] In addition to these, the standard minimum rule prohibited any form of inhumane or degrading treatment or punishment of prisoners under custody.[25]

2.4 Regional legal instruments on prisoners' rights

2.4.1 Europe Legal Instruments on Prisoners' Rights

2.4.1.1 European Convention on Human Rights

The main human right instrument in Europe is the European Convention on Human Rights.

Though none of its articles specifically mention prisoners' rights, article 3 provides that "no one shall be subjected to torture or to inhuman or degrading treatment or punishment".[26]Additionally, Article 15 allows no derogation on those rights stipulated in Article 3 even in time of war or other public emergency threatening the life of the nation[27] though not defined in the Convention itself, the meaning of this language has been construed by the European Court of Human Rights and the European Human Rights Commission[28].

> *The concepts of inhuman and degrading treatment have been elucidated in the following ways by both the Commission and the European Court of Human Rights. The notion of inhuman treatment covers at least such treatment as deliberately cause's severe*

[23]Id rule 15
[24]Id rule 37
[25] Id rule 31
[26] European Convention for the protection of human rights and fundamental freedoms,1953 art 3
[27] ECHR,art.15
[28]*See, e.g., Soering v. United Kingdom,* 11 Eur. H.R. Rep. 439, 489, paras.104-05 (1989); Ireland v. United Kingdom, 2 Eur. H.R. Rep. 25, 79, paras. 162-63 (1978); *Tyrer v. United Kingdom,* 2 Eur. H.R. Rep. **1,** 10, para. 29-30 (1978); *McFeeley v. United Kingdom,* 3 Eur. H.R. Rep. 161, 194-95, paras. 40-41 (1980); the Greek Case, 12 Y.B. Eur. Conv. On Human Rights. 1 (1972). For discussion of the interpretation of the European Convention.

suffering, mental or physical. Further, treatment of an individual may be said to be degrading if it grossly humiliates him before others or drives him to act against his own will or conscience[29].

Therefore, we can deduce from the above broad interpretation that its implication on the right of prisoners is more protective. Because, the interpretation is all inclusive of physical, psychological and moral inhuman treatments.

2.4.1.2 The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment

The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment [30]is adopted to make the meaning of the former article clear and easier to apply to prison conditions. This act constituted the Committee for the Prevention of Torture, as a response to the limits of CAT[31]. The CPT has the mandate to make regular and ad hoc visits to all detention institutions and file reports regarding the state of prisons.

2.4.1.3 The European Prison Rule

In addition to the aforementioned instruments, the European Prison Rules are the main reference for the correct management of deprivation of personal liberty in the European Union. They require all persons deprived of their liberty to be treated with humanity and with respect for human

[29]*Soering v. United Kingdom,* 11 Eur. H.R. Rep. 439, 489, para. 104 (1989) (citing Ireland v. United Kingdom, Commission Report, 2 Eur. H.R. Rep 25, **79,** para. 162).

[30] European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe, 26 Nov 1987.

[31]R.Schmuck, *The European Committee for the Prevention of Torture and Inhuman or Degrading treatment or Punishment(CPT)Fundamentals,Structure,Objectives,Potentialities,Limits*(2002) (www.ucmo.Edu/ cjinst/ journal 0102. pdf) last visited on 16 December 2016.

dignity. The rule provides the basic principles of treatments of prisoners in its articles 1-6[32].

These basic principles of the European Prison Rules are followed by a long list of requirements regarding the very conditions of imprisonment: allocation and accommodation, hygiene, nutrition, legal advice, contact with the outside world, education. Particular sections are reserved to certain vulnerable groups (women, juvenile children). With similar concern are seen the conditions relating to the prisoners' safeguard of health (health care, medical personnel) and those relating to the maintenance of good order (security, searching and controls, discipline and punishment).

2.5. African Legal Instruments on prisoners' Rights

2.5.1 African Charter on Human and Peoples' Rights

All forms of inhuman treatment are also prohibited under Article 5 of the African Charter on Human and Peoples Rights which provides:

> *"Every individual shall have the rights to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited"*

This article also equally applicable to prisoners. The African human right commission in its interpretation in a number of cases states that, the violation of human dignity implies violation of physical and psychological integrity of prisoners. The commission got Violations of article 5 in a number of cases due to overcrowding, unhygienic conditions, insufficient or

[32] EPR, Adopted by Committee of Ministers on 11 January 2006, at the 952nd Meetings of the Ministers Deputies

poor quality food, and lack of access to medical care[33]. Furthermore, in a series of case against Rwanda[34],the commission found that the conditions of detention in which children, women and the aged are held violates their physical and psychological integrity and, therefore, violates art 5 of the ACHPR.

2.5.2 Ouagadougou Declaration and Plan of Action on Accelerating Prison and Penal Reform

The African Commission on Human and Peoples' Rights, which since 2002 has operated under the auspices of the African Union, has played a significant role in improving prison conditions throughout Africa[35].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.[36]

[33] *Achutan (on behalf of Banda) and Amnesty International (on behalf of Orton and Vera Chirwa) v Malawi* (1995);

[34] Communication 49/91, the communication states that over 1000 people including women, children and the aged are held in deplorable conditions. A large number of villages have been destroyed and villagers, mostly Tutsis, have been massacred. The commission crudely ruled that conditions of detention in which children, women and the aged are held in the instant case violate their physical and psychological integrity and therefore constitutes of violation of Article 5.

[35] F.Vilion, *The Special Rapporteur on Prisons and Conditions of Detention in Africa: Achievements and Possibilities, Human Rights Quarterly*, Volume 27, Number 1, (February 2005) p.125-171; Association for the Prevention of Torture (APT).

[36] There are several methods by which African nations can meet the standards set forth in the Commission's resolutions. For example, alternative sentencing, restorative and traditional justice, and connections between the customary and formal criminal justice systems would help solve the problem of overcrowding in African prisons. Overcrowding can also be alleviated by decriminalizing some minor offenses, making attempts to

2.5.3 The Robben Island Guidelines

The Robben Island Guidelines, adopted by the Commission in 2002, encourages African nations to treat prisoners in conformity with international standards, mainly UN Standard Minimum Rules for treatment of Prisoners, on prison conditions and give detailed instructions on how to achieve them. The guide lines, in its preamble, take note of art 55 of the United Nations Charter, art 5 of UDHR, art 7 of ICCPR and art 2(1) and 16(1) of UNCAT. The guidelines urge states to support the work of the Special Rapporteur on Prisons Condition in Africa. It also recommends states to take steps to ensure that the treatment of all persons deprived of their liberty is in conformity with international standards. The guidelines also include specific recommendations for combating many of the challenges outlined in this article, including physical conditions of prisons, the use of alternative sentencing to mitigate overcrowding, the role of NGOs, increasing awareness and training of staff, and the separation of such vulnerable groups as women and children. Finally, the Guidelines established an important follow-up committee to distribute information about the Guidelines within Africa.

Although resolutions are non-binding, resolution on prison in Africa[37]comply the member states of AU, which also a member of UN, to adopt and utilize some other binding international legal instruments, particularly UN standard minimum rule for the protection prisoners and convention against torture and other cruel, inhuman or degrading treatment or punishment. It mean, the resolution has cross refer the

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accelerate trials, making cost orders against lawyers to punish for delays, and restricting time in police custody to 48 hours. Prisons could become more self-sufficient if, as the Plan of Action suggests, staff were better trained

[37]Resolution on Prisons in Africa, *The African Commission on Human and Peoples' Rights* meeting at its 17th Ordinary Session held from 13 to 22 March 1995, Lomé, Togo:

international legal instruments instead of reaffirming the rights in a detail manner. Thus, our legal bases for the human rights protection of prisoners` rights such as, food, clean water, shelter, accommodation prisoners right to be consulted with their lawyer and the like in the African forum are Resolution, Art. 5 of ACHPR, UDHR, ICCPR, and basically, UN standard minimum rule for the protection prisoners.

CHAPTER THREE:
ETHIOPIAN LEGAL FRAMEWORK ON PRISONERS RIGHTS

3.1 Introduction

States parties to the International Human Rights Instruments are obliged to take steps to realize enforcement of the rights that they undertake to protect. This can be by making legislative, administrative and other measures. The common methods are entrenchment of the rights under the

constitution, criminalizing the act by criminal laws and preparing policies and programs for enforcement sake. The writer, accordingly, investigates the Ethiopia‘s legislations including the constitutions vis-à-vis adequacy of the available legislations to protect prisoners.

Accordingly, this section addresses: Proclamation No. 45/1944, Relating to Prisons, the 1995 FDRE Constitution, Federal Prisons Commission Establishment Proclamation No.365/2003, Council Of Ministers Regulations on the Treatment of Federal Prisoners 138/2007, The Revised Criminal Code (2004) and the Amhara National Regional State Prisoners Handling and Care Determination, Council of Regional Government Regulation 26/2005.

3.2 Proclamation No. 45/1944, Relating To Prisons

Though history of prisons in Ethiopia can be traced back long, even, before 20th century, draft law on the administration of prisons had begun very late by the promulgation of proclamation No. 45 of 1944 titled a “Proclamation Relating to Prisons”. This proclamation had been used as bases for correctional administration up to 1990s in Ethiopia. The proclamation doesn’t stipulate with prisoner’s right in detail like the standard minimum rule and other instruments. However, Article 6 of the proclamation envisaged the segregation of prisoners based on sex and medical reasons. With exception of the aforementioned article, the proclamation is silent about others basic rights of the prisoners.

3.3 The 1995 FDRE Constitution

Chapter three of the FDRE constitution[38] is exclusively dedicated to Human rights, titled Fundamental Rights and Freedoms. The chapter is divided into two parts as: Human Rights'[39] and Democratic Rights[40].

Everyone is entitled to the rights entrenched in the constitution. Prisoners as human beings, therefore, are also entitled for these constitutional rights, except those limited explicitly as natural consequence of deprivation of liberty. For instance, the rights to life can be limited as a punishment for a serious criminal Offence determined by law[41]: No person may be deprived of his life except as a punishment for a serious criminal offence determined by law.

Art 14 grants the rights to liberty and this right is taken by law obviously as punishment for crime. The said article at the same time, however, prohibits arbitrary arrest without charge or conviction. Article 18 has word by word adopted art 5 of the UDHR and article 7 of the ICCPR stating "everyone has the rights to protection against cruel, inhuman or degrading treatment or punishment"[42]. The constitution reaffirmed that prisoners are entitled to the rights guaranteed by the constitution, all persons held in custody and persons imprisoned upon conviction and sentencing have the rights to treatments respecting their human dignity.[43]

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[38] Supra note 8,article 13-28

[39] Id ,Rights to life (art 15), the Security of Person(art 16) and Liberty(art 17), Prohibition against Inhuman Treatment (art18), Rights of Persons Arrested (art19), Rights of Persons Accused (art 20), The Rights of Persons Held in Custody and Convicted Prisoners (art21), Non-retroactivity of Criminal Law (22), Prohibition of Double Jeopardy (23), Rights to Honour and Reputation(art 24), Rights to Equality(25), Rights to Privacy(26), Freedom of Religion, Belief and Opinion(art 27), Crimes Against Humanity(art 28).

[40] Id, Rights of Thought, Opinion and Expression (art 29), The Rights of Assembly, Demonstration and Petition (art 30), Freedom of Association (31), Freedom of Movement (art32), Rights of Nationality (art 33).

[41] Id art.15

[42] Id ,art 18(1)

[43] The constitution envisages the treatment of prisoners with due regard to their inherent dignity. Dignity is a general concept and for the purpose of treatment of prisoners, law enforcing organs have to rely, among others, on the UN Minimum Standards for the treatment of Prisoners. Ethiopia has adopted these standards through Council of Ministers RegulationsNo.138/2007 on the Treatment of Federal Prisoners.' It requires regard to , inter alia, registration of Prisoners(article 4),Separate Accommodations of Prisoners(article 5), Conditions of Premises(article 6), Clothing(article 7), Bedding(article 8),

The provision continues: All persons shall have the opportunity to communicate with, and to be visited by, their spouses or partners, close relatives, friends, religious councilors, medical doctors and their legal counsel.

The FDRE constitution has adopted the monist approach on incorporation of international law.[44] Art 9(4) of the constitution stipulates that "All international agreements ratified by Ethiopia are an integral part of the law of the land".

> *Hence, International instruments that are ratified by Ethiopia are subject to enforcement before domestic courts without the need for further act for domestication.*

3.4 Federal Prisons Commission Establishment Proclamation

Federal Prisons Commission Establishment Proclamation[45], adopted by the house of people's representatives to give effect to the principles envisaged by the constitution regarding persons in custody is the other important instrument which deals with prisoners' rights.

Art 6 of the same proclamation on Powers and Duties of the Commission‖ provides that the commission shall maintain prisoners' health care; and provide prisoners with free medical treatment, food and shelter. The proclamation provides that prisoners shall be treated with due regard to their human dignity.[46] Prison premises and compounds shall not be hazardous to health; and they shall have fresh air and sufficient lights.[47]

Sanitation(article 9), Food(article 10), Medical Services(article 11), Pregnant and Female Prisoners with Children(article 12).

[44] *Sisay Alemahu Yeshanew, Researcher and Doctoral Candidate, Institute for Human Rights*, ÅboAkademi University, Finland, The justiciability of human rights in the Federal Democratic Republic of
Ethiopia

[45] Federal Prisons Commission Establishment Proclamation, 9th September, 2003, proc No 365,Neg. Gaz. Year 9,No.90

[46] Id art 22

[47] Id art 26

3.5 Council of Ministers Regulations on the Treatment of Federal Prisoners

Council Of Ministers Regulations on The Treatment of Federal Prisoners[48] has issued to implement Federal Prison Commission Establishment Proclamation No. 365/2003 as envisaged by art 39(1) of the same proclamation. The regulation starts by setting its principles, the treatment of prisoners shall be based on the basic principles of:[49]

1/ no 'discrimination on grounds of gender, language, religion, political opinion, nation, nationality, social status or citizenship;

2/ respect to their human dignity unless restricted by the penalties imposed on them;

3/ ensuring that the executions of penalties are educative and rehabilitative,

Following the above principles, it elaborates the manner of Admission and Registration of prisoners, Separate Accommodations of Prisoners, Conditions of Premises, Clothing, Bedding, Sanitation, food, Medical Services. It requires the prison authorities to make registration of a newly admitted prisoner which is prerequisite to enforce the rights of a prisoner.[50] Upon registration, there shall also be entry of the health condition of the new prisoner which suggests the line of responsibility for the state‘s failure for caring the health of the prisoner. This regulation imposes duties on the prison administration to ascertain relevant information, register and keep in personal file, medical examination and inform the prisoners’ rights and duties. The law imposes this obligation on the prison administration, to avoid arbitrary and discretionary treatments of prisoners’ rights. Prisoners with health problems shall be provided with special food at the

[48] Council of Ministers Regulations on the Treatment of Federal Prisoners,1st December 2007,Reg. no 138,Neg. Gaz., Year 13,No.
[49] Id art 3
[50] Id art 4

recommendation of a medical officer. Sufficient and clean drinking water shall' be made available for every prisoner.[51]

3.6 The Revised Criminal Code (2004)

Article 1 of the criminal code on object and purpose of the criminal law of Ethiopia stipulates that the purpose of the criminal code is ensuring order, peace and security. To this end, the aim of the law is mainly prevention of crime by giving due notice on the types of prohibited acts and the amount and nature of punishment that the violation of them entails. The purpose of punishments passed against those who failed to adhere to the law is not retribution. It is to deter others not to involve with the same act and at the same time it endeavors to make reformation of the criminals through different measures. The reformation and rehabilitation objective of the law is best provided, specifically regarding prisoners, under its preface. The preface upholds article 1of the code;

> *The fact that wrongdoers, 'instead of being made to suffer while in prison, take vocational training and participate in academic education, which would benefit them upon their release, reaffirms the great concern envisaged by the Criminal Code about the reform of criminals*[52]*.*

Finally, the criminal has criminalized acts of torture directed against persons who are under custody. [53]

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[51] Id, art 10

[52] Id, preface para.8

[53] Article 424(1): Any public servant charged with the arrest, custody, supervision, escort or interrogation of a person who is under suspicion, under arrest, summoned to appear before a Court of justice, detained or serving a sentence, who, in the performance of his duties, improperly induces or gives a promise, threatens or treats the person concerned in in improper or brutal manner, or in a manner incompatible with human dignity or his office, especially by the use of blows, cruelty or physical or mental torture, be it to obtain a statement or a confession, or to any other similar end, or to make him give a testimony in a favourable manner is punishable with simple imprisonment or fine, or, in serious cases, with rigorous imprisonment not exceeding ten years and fine .

3.7 The Amhara National Regional State Prisoners Handling and Care Determination, Council of Regional Government Regulation No. 26/2005

The regulation starts by setting its fundamental principles, the treatment of prisoners shall be based on the basic principles of:[54]

1/ No 'discrimination on grounds of gender, language religion, political opinion, nation, nationality, social status or citizenship;

2/ All prisoners human rights shall equally be respected in an inalienable and inviolable +manner in line with the international prisoners handling and care standards.

This regulation not only stipulates its fundamental principles but also stipulate other rights of prisoners, such as room's access, clothing, hygiene of prisoners, food, medical service, access to family and lawyers of their choice, medical doctors and psychiatric, the right to security and the regulation incorporate other basic rights of the prisoners.[55]

According to article 52 of the regulation, the prison administration is empowered to enact directive to implement the regulation. However, the administration of North Gondar Prison Center is failed to enact the directive. The nonexistence of the directive has a negative impact on the right of the prisoners.

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As per article 11(1) of the regulation the parameters used to allow or disallow visitation by close relatives are to maintain proper discipline and preventing commission of the crime.

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[54]The Amhara National Regional State Prisoners Handling and Care Determination, Council of Regional Government 21st January 2005, reg No 26, Art 3

[55] Id, art as room's access(art 6), clothing(art 7), hygiene of prisoners(art 7), food(art 8), medical service(art 8), access to family and lawyers of their choice(art 11), medical doctors and psychiatric(art 9) and the right to security(art 5)

Even if there is no directive which regulate the regular basis of visitation of prisoners, in practice the prisoners are visited by their relatives six days per week except Friday in the morning from 3:00 -6:00 and in the afternoon from 8:00-11:00 at local time.

CHAPTER FOUR:

THE PRACTICE OF TREATMENT OF PRISONERS IN NORTH GONDAR PRISON CENTER

4.1 Background of the Prison

The beginning of prison service in north Gondar is traced back to prior 1920 at a place called “wehne Amba”, which is located In North Gondar Zone

Belesa Wereda.[56] During such era, it was not institutionalized and modern form of prison administration. Offenders were confined in the aforementioned confinement place for many years, until 1920.[57]

As the head of the prison[58] told us, in 1920, an efforts had been made to have institutionalized and well organized prisoners handling institution (jail) at a place called " Bahta Sefer."

Through the passage of time the name "jail" was changed to "prison" due to a reason that the institution has served more service than a one expected from the former by which jail is simply served, traditionally, as a place where criminal offenders were confined without a proper handling. But, its common sense that, the institution is not for sole purpose of punishing criminals for their misdeeds, rather it has multi purposes including incapacitation, rehabilitation and reformation, in which such purposes are expected from modern criminal justice system. Thus, it got the status of prison due to the reason mentioned hereinabove.

In so far as looking at the past history of the prison, it should not been forgotten the tragedy event of fire accident, that cause the death of 15 prisoners[59] one years ago. Thus, such event became the immediate, but not the main, cause for the transfer of the prison from Bahta to a place commonly known as Angereb, which is found near to Angereb river in 21 Nov. 2008 EC.[60]

There are two main reasons for the transfer of the prison from Bahta to Angereb[61]. The first one is due to the smaller in size and overcrowdings of the former one, and the other reason which necessitates the transfer, as the authority states, is lack of effective and moderate operation in the former

[56] Interview with Inspector Worku Kebede, The administrative staff member on Nov.12 and 15,2016
[57] id
[58] Id
[59] Id
[60] Id
[61] Id

prison. Thus, the current prison center, Angereb, is relatively wider in size and well structured.

When we see internal structure of the prison, apart from different offices and kitchens, there are four blocks, and 22 classes (dorm), in each class about 50 up to 60 inmates are live.

There are 112 total numbers of warders in the prison, from which, 10 of them are females. Among these, half of the warders are serve in the night shift and the remaining half in the day.

When we come to the current total numbers of inmates who are under the custody of the prison, there are 2406 total numbers of prisoners and detainees in the prison. These prisoners and detainees are under three categories. The first category is prisoners who are sentenced (1219 males and 23 females), the second category is detainees whose case are adjourned in a regular base (977 males and 5 females). The last category is temporary detainees who are accused by the command post by suspecting them in the participation of current political instability (169 males, 5 females, and 8 minors who went to prison together with their mothers)[62]

4.2 Treatment of Prisoners in North Gondar Prison Center

This section is specifically devoted to look into the practice of treatment of prisoners in North Gondar prison center. The study is addressed through dissemination of closed ended and open ended questionnaire to prisoners, personal observation and interviews with prison center authorities. At the time of undertaking of the distribution of questionnaires for prisoners there were 1982 prisoners accordingly, the questionnaires are disseminated and filled with 100 prisoners in the prison center.

[62] Id

The criteria that the writers used to select the respondents to distribute questionnaires was non random sampling, specifically quota sampling. The writers classified the respondents by age, sex and criminal records.

4.3.1 Accommodation

Article 8 on UN Standard Minimum Rules for Treatment of Prisoners, Article 25 of the Federal Prisons Establishment Proclamation No. 365/2003, article 5 of the Federal Prisoners Treatment Regulation No. 138/2007and article 5 of the Amhara National Regional State Prisoners Handling and Care Determination Regulation No.26/2005 provides for separate accommodation of prisoners on the ground of their sex, age, criminal record, the legal reason for their prison and the necessities of their treatment. Accordingly, men and women shall so far as possible be prison in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate; Untried prisoners shall be kept separate from convicted prisoners; Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence; Young prisoners shall be kept separate from adults.[63]

While the interview conducted and the writer's observation shows that there is no separation of prisoners based on age, criminal record, prisoners with communicable disease and severe overcrowding was common, especially in prison sleeping quarters, there are 50-60 prisoners per cells. However, in the Center female prisoners are kept in separate cells. The center contain four blocks and twenty two sleeping quarters, for each block there is four shower and four toilet rooms. The writers in person observed that there are juveniles in North Gondar Prison Centers who share rooms with adults. As indicated in the following table, 42% of respondents responded that there are extremely poor separate rooms for juveniles.

[63] **Supra note 4**

Likewise, 40% respondents replied that there is extremely poor separate accommodation for inmates with communicable diseases.

Scale	Bedding %	Women and male %	Prisoners with communicable disease %	juveniles %
No	0	0	0	0
Extremely poor	43	4	40	42
Very Poor	20	4	36	30
Poor	20	4	16	13
Good	10	25	8	11
Very good	7	30	0	4
Excellent	0	33	0	0

Table 1 prisoner's response on the condition of separation of categories in North Gondar Prison Center.

From the aforementioned table we can conclude that there is no separate accommodation for juveniles and Prisoners with communicable disease which is the violation of the minimum standards enshrined under the international and national human rights instruments. This protection is reinforced by human rights jurisprudence as the UNHRC found violation of article 10 of the ICCPR by state party's failure to separate. With regard to the need for separate treatment of juvenile prisoners in addition to the UN standard minimum rules 1957 article 8, ICCPR under article 10(3) expressly provided for their separate treatment. In the UNHRC found violation of article 10 of the ICCPR for the mere fact that a juvenile is held with adult prisoners.

4.3.2 Food and Drinking Water

Article 11 of ICESCR, Article 20 of UN Standard Minimum Rules for the Treatment of Prisoners, Article 27 of the Federal Prisons Establishment Proclamation No 365/2003, and Article 10 of the Federal Prisoners Treatment Regulation No. 138/2007 and article 8 of Regulation No.26/2005 proclaim that Prison centers have the duty to provide Prisoners with sufficient and healthy food. Drinking water shall be available to every prisoner whenever he needs it.

Coming to Gondar prison center, there is no directive which regulates the detail implementation of the right of prisoners and duties of the administration body. Hence, the quality and quantity of the daily food provides for prisoners fixed by the discretionary power of the administration by taking into consideration their budget allocation. The practice in North Gondar prison center with regarding to providing sufficient and healthy food and water is at stake. The interview with the prison administration that government provided fourteen birr per prisoner per day which still not enough to satisfy prisoners by providing privileged quality as well as sufficient quantity food and water due to increase of cost of living. [64]

The writers observed using UN prisoner's treatment check lists which show insufficient quantity and poor quality of food providing for prisoners in the Center. According to group observation and Interviews made at study site, in North Gondar Prison Center studied that Prisoners are fed three times a day: the local bread and tea for breakfast, four hundred gram Injera and stew (locally known as *shiro*') and beans for lunch and dinner. There is also meat only once in two weeks and vegetables once in a week. The food supplier is private contractor from Bahir Dar. The contractor employ

[64] Interview with Inspector Worku Kebede, The administrative staff member on Nov.12 and 15,2016

independent supervisor, who control the quality and quantity of the food supply. Prisoners in Gondar Prison Center complain that the meal is far below the local standard and even the food was not well cooked. Similar condition is found from the respondents of the questionnaire as indicated in the table below. The majority respondents of the questionnaires in Gondar Prison Center have responded that the status of the implementation of quality of food is poor.

As it has been provided under the table 40% of respondents feedback shows food of poor quality. On other hand, majority of the respondents of the questionnaire 28% rated the quantity of food as extremely poor.
With regards to drinking water, Prisoners had only limited access to potable water which is one litter per day, even the visitors bring highland water to the prisoner's still it is not enough. As it has been provided under the table below 34% respond poor and 28 % respond very poor.

Scale	Food		Drinking water %
	Quality %	Quantity %	
No	0	8	6
Extremely poor	28	28	18
Very poor	40	25	28
Poor	16	16	34
Good	8	8	10
Very good	4	11	4
Excellent	4	4	0

Table 2 prisoner's response on the condition of food and drinking water in North Gondar Prison Center

Generally, the condition of food and drinking water in North Gondar prisons is poor both in terms of quality and quantity. UNHRC under general comment 21 recommends" persons deprived of liberty may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons." The committee maintained treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule. Consequently, the application of this rule, as a minimum, cannot be dependent on the material resources available in the State party. Accordingly, this condition of food and drinking water without doubt violates article 10 of the ICCPR, Article 11 of ICESCR, Article 20 Of UN Standard Minimum Rules for the Treatment of Prisoners, Article 27 of the Federal Prisons Establishment Proclamation No 365/2003, Article 10 of the Federal prisoners Treatment Regulation No. 138/2007, the Amhara National Regional State Prisoners Handling and Care Determination Regulation No.26/2005 article 8 and article 21 of the FDRE constitution.

4.3.3 Medical care

Article 22-26 Of UN Standard Minimum Rules for the Treatment of Prisoners, Article 27 of the Federal Prisons Establishment Proclamation No 365/2003, and Article 11 of the Federal Detainees Treatment Regulation No. 138/2007 provides the right of prisoners to adequate health care and article 9 of the Amhara National Regional State Prisoners Handling and Care Determination Regulation No.26/2005. There is no directive which regulate the treatment of prisoners and medicine, so the applicable law is regulation No 26/2005. According to the researchers team interview with Inspector Worku Kebede and observation shows that, North Gondar Prison Center has a small clinic that can provide first aid medical services. Serious ailments are referred to the nearby government clinic and when there is

more serious health problem they are referred to Addis Ababa. Prison's main clinic run by three nurses, one laboratory expert and one pharmacists which is imbalance with the number of the prisoners. So, the right to be visited by medical doctors in the center is not realized. Within North Gondar Prison Center clinic thirty five and above prisoners treated per day and in the clinic center there is no service at night time.[65] Furthermore, the inmates said that they have no personal doctors at all. In the prison there are no competent medical doctors to check up their health status. Treatment in the center is not satisfactory. Moreover, the prisoners claimed that there is occurrence of death due to lack of sufficient treatment in the center. However, the medical staff denied occurrence of death and added that there is sufficient medicine in the center. But, there is no specific budget allocation for health facilities. Hence, this implies the medical care is not well regulated, it open door for corruption and causes for abuse of rights of prisoners.

Similarly, the participants of the study responded from the interview that medical service is provided by the nearby government clinic. Accordingly, the prisoners said that application for medical treatment may be delayed to the minimum of 15 days. The prison administration officials attributed this problem to lack of enough number of wardens and ambulance.[66]

42 % of the respondents of the questionnaire in the prison Center responded that medical treatment is extreme poor. Majority (52%) of the respondents from the same prison also replied that there is no provision of medicine for free i.e. extremely poor services. The officers of this center argue that medical services are delivered for free by government clinics. The prisoners, however, say that they have to even pay transportation and other allowance to the wardens to take them to medical institutions. They

[65] *Supra note* 57
[66] Id.

added that the clinics always say there is no medicine and they have to resort to finding money to buy from private Pharmacies.

Scale	North Gondar Prison Center	
	Free Medicine %	Free treatment %
No	8	8
Extremely poor	52	42
Very poor	24	22
Poor	8	8
Good	4	8
Very good	4	8
Excellent	0	4

Table 3 prisoner's response on the condition of health care in North Gondar Prison center

To sum up, medical care is bad in North Gondar Prison Center at least there is clinic but the clinics have no better professionals and laboratory equipment. As well as the clinic is not well organized as it is found that there is no separate accommodation for patients like those who undergo operation, mental patients and Tuberculosis patients after treatment and the unavailability of prescribed medicine in prison center premise.

These findings shows that the government is not giving due regard to prison health care. According to the sources there are no permanently recruited staffs; clinics are not well staffed with medicine. UN Standard minimum Rules on Treatment of prisoners require that the medical services should be organized in close relationship to the general health administration of the

community or nation.‖ In fact this important provision is not available in the Federal Prisoners Treatment Regulation No. 138/2007 which creates gap on how to run prison healthcare. Even though there was disparity in practices, the Amhara Regional State Prisoners Handling and Care Determination Regulation No 26/2005 article 9 give some protection for medical care.
The condition of health care therefore is below the standards provided under Article 22-26 Of UN Standard Minimum Rules for the Treatment of Prisoners, Article 27 of the Federal Prisons Establishment Proclamation No 365/2003, Article 11 of the Federal Prisoners Treatment Regulation No. 138/2007 and article 9 of Regulation No.26/2005. Violation of the health standards can amount to violation of dignity of the prisoner as found by UNHRC .The Committee notes that States parties are under an obligation to observe certain minimum standards of Prison, which include provision of medical care and treatment for sick prisoners, in accordance with rule 22 of the Standard Minimum Rules for the Treatment of Prisoners.

4.3.4 **Personal hygiene**

Maintenance of personal hygiene, besides helping prisoners to become citizens conscious of their health, also prevents the possibility of the outbreak of diseases given the congested and suffocated conditions in the prison centers. In view of that, article 13-16 of UN minimum standard Rules for the Treatment of Prisoners, the International Detention Coalition Monitoring Check List, the FDRE Constitution, article 27 of Federal Prisoners Commission Establishment proclamation No. 365/2007, Article 9 of the Federal Detainees Treatment Regulation No. 138/2007 and article 7(7) of the Amhara regional State Regulation of prisoners handling, provide that prisoners must have sufficient water and sanitary materials as well as toilets that are necessary for the maintenance of their personal hygiene.

Accordingly, as we observed personally in the prison there are so many problems concerned with the facilities which are important to keep personal

hygiene. There is shortage of water, lack of appropriate sanitary facilities and the numbers of shower rooms are not proportion with the number of prisoners and they are not all functional. In the center a shower room is shared by 124 prisoners.

In addition we observe that there is no laundry installation at all and the place of wash is not suitable to wash. We also found that there is no sufficient provision of laundry detergent to wash clothes. As per the respondents', there exists a critical problem on personal hygiene in general. The inmates said that they wash their clothes in installation made for hand wash and it is not clean and hard to do so.

Accordingly, the table below clearly shows the existing realities of conditions of personal hygiene in prison center as per respondent response.

Scale	Place to wash cloth (%)	Soap (%)	Shower (%)	Water (%)
No	8	50	5	4
Extremely poor	48	20	44	56
Very poor	19	10	32	20
Poor	10	8	12	12
Good	8	6	3	6
Very good	4	4	4	2
Extremely good	3	2	0	0

Table 4 prisoner's response on the condition of personal hygiene in North Gondar prison center.

As we can infer the above table, majority of inmates replied as the insufficiency of place to wash cloths in the prison center. That means 48% and 19% of respondent rated extremely poor and very poor respectively. Respondents in the open ended question also display the same, there is less

number of installation made for hand wash, inspector, Worku kebede, of the prison also confirmed the existence of such problems. From the table above, the provision of soap is no by majority of the respondents (50%) in the prison center. Furthermore, with regarding to shower 44% and 32% of the respondents replied extremely poor and very poor respectively. With regarding to water Majority of the respondents (56%) says the availability of water is extremely poor. That means there is imbalance between shower rooms and number of the prisoners and there is a tendency of overcrowding, lack of soap and the irregular availability of water is make difficulty to take shower.

Generally in North Gondar Prison Center, there is no proper provision of shower and laundry installations. Furthermore, there is no provision of laundry detergents in a center which makes the attempt of shower and laundry installations non sense. The reality, therefore, is far below the hygienic expectations under Article 9 of the Federal Prisoners Treatment Regulation No. 138/2007 and article13-16 of UN Standard Minimum Rules for the Treatment of Prisoners, article 27 of the Federal Prisoner Commission Establishment proclamation No. 365/2007 and article 7(7) of the Amhara Regional State Prisoner Handling and Care Determination Regulation No. 26/2003.

4.3.5 **Communication of prisoners with outsiders**

Article 37-39 of the UN minimum standard rules for the treatment of prisoners, clearly provide that prisoners in the prison center have the right to visit by their relatives as well as by their lawyers. In addition to this, under the provision, the prisoners shall have the right to access to newspaper, periodical and they have the right to get information through different media channel.

Coming to the Ethiopian legislations, article 21(2) of the FDRE Constitution, article 29 of Federal Prisons Commission Establishment

proclamation No.365/2003, article 13 of Council Of Ministers Regulation on Treatment of Federal Prisoners No. 138/2007 guaranteed the rights of prisoners to communicate with, and visited by their spouses, close relatives, friends, religious councilors, medical doctors and legal counsel[67].

Similarly Regional States also provide such rights. Under article 11 of the Amhara Regional State Prisoners Handling and Care Determination Regulation No.26/2005 the right is given in unequivocal manner.

Even though, the aforementioned instruments grant the right to visit and communicate with outsiders in explicit manner, but the writers observed that practical application of exercising such right is under question. The inmates said that they are not visited by lawyers and even they are not aware the existence of such right. They also responded that the tendency of communicating with their family member is rare. Moreover, the condition of the prison is not suitable for the visitors because there is no microphone to call their relatives and there is no person who shows the exact dwelling of the prisoners in the prison center. Due to this, they are unable to communicate with the prisoners. The time allocation by itself is other barrier to the visitors. The time is not enough for the visitors, which means the time, is insufficient for them and the communication is limited by time. Moreover, such scenario is very difficult for those who come from the rural part. As a result, the right of the prisoners to be visited by their families and relatives is subject to abused.

Accordingly, from the table below where the chance of the inmates to communicate with outsiders is no by majority of the respondents (44%) in the prison center.

Scale	Contact with outside world (%)
No	44
Extremely poor	16
Very poor	12

[67] *Supra notes* 5

Poor	12
Good	8
Very good	8
Extremely good	0

Table 5 prisoners response on the condition of prisoners contact with outsiders in North Gondar prison center.

As we deduce from the above table the condition of the prisoners to contact with outside world is no by majority of the prisoners. Almost 44% of the inmates claimed that the condition to communicate with their families, lawyers and medical doctors is not as such exciting. Even they confirmed to us in personal interview, they are no more conscious to the existence of such rights. The researchers personally observe that there is possibility of visitation by their families every day except Friday morning, but there are still challenges to communicate with their visitor as they want because of different barriers as we already mentioned earlier. So, it is hardly possible to realize the rights of prisoners without fulfilling those aforementioned rights.

Generally in North Gondar Prison Center, the rights of the prisoners to communicate and to be visited by their lawyers and medical doctors are not pleased. Furthermore, one of the basic rights of the prisoners to be visited by their families also threatened. The reality is far below the expectation of article 37-39 of UN minimum standard Rules for the protection of prisoners' right, article 21(2) of the FDRE Constitution, article 29 of the Federal Prisons Establishment Proclamation No. 365/2003. What is more, it is also far with the Federal Prisoners Treatment Regulation No. 138/2007 of article 13. As well, the existing rights of the prisoners in the center regarding to contact with outside world is faraway with the Amhara Regional State Prisoners Handling and Care Determination Regulation No.26/ 2005 of article.

4.3.6 **Security**

Security of person is the basic and fundamental rights entitled to human beings in several International, Regional and National legislations of the world states. Different international documents such as ICCPR, (Art. 9 and 10), Article 3 of UDHR, and ACHPR article 6, Article 27 of UN standard of minimum rule guaranteed the security rights of human beings.

In line with these international legislations, article 21 of the 1995 Ethiopian constitution, the federal prisons commission establishing proclamation 365/2003 article 22(1) ipso facto it includes security of prisoners, the general sprits of the Federal prisoner handling and care regulation no. 138/2007 and the Amhara National Regional State regulation 26/2005 guarantees the security rights. Despite, those international and domestic protections, Prison center conditions in Ethiopia remained harsh and in some cases life threatening[68]

When we come to the practice in Gondar prison center, we found that the condition of prisoners` security is at a problematic level. This fact is manifested in different occasions. In a recent time (one year ago), it's evident that fifteen prisoners lost their life due to fire accident on the former prison center. The causes of the fire are still under investigation.[69]

Now, let see the current condition of security in the prison based on the information we obtained from the questionnaire, interview, as well from our observation. It's wise to put first the data obtained from the questionnaire in a tabular form.

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[68] *Country Reports on Human Rights Practices* for 2012 United States Department of State • Bureau of Democracy, Human Rights and Labor

[69] *Supra note* 57

Degree of security	No. of respondents (%)
No	20
Extremely poor	52
Very poor	12
Poor	8
Good	4
Very good	4
Excellent	0

Table 6 prisoner's response on the condition of security in North Gondar zone prison center

As we can understand from the above table, majority respondents (52%) replied that the security condition of the prison is extremely poor. For worst, 20 % of respondents believe that there is no guaranteed security at all. Only few respondents (almost 8%) states that security condition is at satisfactory level.

In addition, most of our respondents explain that many inter personal conflicts have been occurred. Several respondents also mention that there are some warders who mistreat the prisoners such as assault, insult and intimidation on a ridiculous ground. What is more, according to some respondents, due to weak investigation and search, some prisoners are there who have dangers articles such as knife, nails and rope. Those who caused harm on others prisoners are not prosecuted rather they transferred to another prison center. However, there is no directive which regulates such kind of disciplinary measures.

However, the prison authorities` points of view about the security condition are almost contrary to the responses of prisoners. According to the speech of inspector Worku Kebede[70], now a day, prisoners security is at a good

[70] The provisional administrator of the prison

condition than before by which after the replacement of the old prison by the new one they tries to re adjust and update the way of keeping the prisoners in a safe and secured manner. He added, they also take appropriate disciplinary measures on unethical and misbehave prisoners who threatened the life and physical integrity of innocent prisoners.

After all, it’s logical to favor the balance of reliability of information obtained from the prisoners than that of the administrator in case of inconsistence. Because, the administrator may not disclose all the reality so as to hide their administrative gaps and some other strategic and technical reasons. But, most of the respondent replied that there is serious problem in the prison with regard to security. For example, the writers observed a prisoner whose hand was paralyzed due to maltreatment by wardens. Moreover, no one could know the situation in which a particular person found beyond such person who has actual being there.

Generally, it`s safe to conclude that, based on the information we gathered from the questionnaire, interview, as well by our site observation, although it’s in the way of improvement after the tragedy of fire accident, the condition of security in North Gondar prison center couldn`t meet the minimum standard set forth by UN and the Amhara Regional State Prisoners Handling And Care Determination Regulation No.26/05.

CHAPTER FIVE:

CONCLUSION AND RECOMMENDATION

5.1 Conclusion

The developments of UN charter after Second World War pave for the protection of human rights of prisoners. These facts stated at the preamble of the charter stated, “We the peoples of the United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person.” The UN adopted UDHR on as a common standard achievement for all peoples and all nations towards the promotion of human dignity. The concern for human dignity got more emphasis when the

standards under the UDHR turned into binding obligations upon states through the adoption of ICCPR and ICESCR in1966. UN adopted Standard Minimum Rules for the Treatment of Prisoners early in 1951, forthwith the conception of human rights per se. Accordingly, states have to maintain the dignity of prisoners with the provision of inter alia, accommodation, food, and health care.

Furthermore, ICCPR which is bind instrument under its article 10 specifically recognized that persons deprived their liberty shall be treated with due regard to their dignity. State parties undertake both negative and positives obligations under the ICCPR. Article 10 of the ICCPR obliges state parties to treat persons deprived their liberty in respect to their human dignity. Article 7 on the other hand prohibits torture, cruel, inhuman or degrading treatment. The UNHRC noted that the former obligation imposes positive obligations on state parties to treat prisoners by providing them with ,among others, food , health care, clean accommodation in line with UN Standard Minimum Rules for the Treatment of Prisoners. As regards the latter, the UNHRC endorsed that state parties owe to prisoners an obligation to abstain from ill-treatment. According to UNHRC, the assessment of minimum threshold of severity for violation of article 10(1) of the ICCPR depends on all the circumstances of the case, such as the nature and context of the treatment, its duration, and its physical or mental effects and, in some instances, the sex, age, state of health or other status of the victim.

At the region level, the European and African Rights System have developed their own regime of laws pertaining to treatment of prisoners. In these instruments, Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is prohibited which is relevant when it comes to treating prisoners humanly. Accordingly, state parties must abstain from inflicting any harm that violates the dignity and integrity of prisoners. In addition,

state parties have to also provide with basic needs to maintain the dignity of prisoners.

Ethiopia is a state party to; inter alia, UDHR, ICCPR and ACHPR. It therefore, has to treat prisoners accordingly. In addition, the 1995 constitution of FDRE clearly provided that prisoners shall be treated humanely. The constitution also stipulates that international human rights instruments that Ethiopia ratified are part of the law of the land. Ethiopia also domesticated standards for the treatment of prisoners: Federal Prisons Commission Establishment Proclamation, Regulations on the Treatment of Federal Prisoners, Federal Prison Wardens Administration Regulation and the Amhara National Regional State prisoners Handling and Care Regulations are interestingly as binding instruments by relevant law making organs.

Treatment of prisoners in the North Gondar prison center is prone to worst in all its aspects. Due to the overcrowded rooms and inconvenience premises there is no separate accommodation for patients like those who undergo operation, mental patients and TB patients and the rooms are unsanitary and bath rooms, toilets also unsanitary due to lack of water. There is no separation of juveniles from adults. North Gondar Prison Center is singled out for its inadequate budget for health care services including provision of medicine, lack of nurse and doctor, food and water low in quantity and quality. The recent EHRC Report (2015) stated that Ethiopian prison allocates 9 birr for each prisoner per day and practical interview show 14 birr in North Gondar Prison Center. This budget includes the expenses for cooking, and water. Prisoners are fed three times a day. This budget is not enough due to increase of cost of living. There is no education and training provide for prisoners at all. The life of the prisoners in the prison center is not secured due to internal and external fear. The prisoners are cannot contact with outside world, such as with their families and lawyers free. Generally, the study assessed the practice of treatment of

prisoners in North Gondar Prison Center in light of human rights instruments. In a nutshell, the treatment of prisoners is far below the human rights standards.

5.2 Recommendation

There is a general expression of good political will in Gondar Prison administration, to improve the conditions of persons deprived of their liberty through government policies and arrangement of donors in promoting the welfare of prisoners.

The writers would like to encourage the administration to continue on this footing and in particular, to:

- Increase the budget allocation to prisons and generate incomes from prison farms and other income generating activities to improve the welfare of prisoners ;
- The current food budget in prisons is far below the ever increasing cost of living. The government has to update the budget periodically to this end. The study found that there is no regular organ assigned to inspect the quality of food provided by private contractors from the side of administrative staff. The writers observed that only prison wardens apparently observe the food without actually tasting it. The prison and police commissions, hence, have to establish a system to check the quality of food. In addition, this service shall be provided by different institutions to create sense of competition.

- Open the door for inspection by government officials and independent bodies such as NGOs and National Human Rights Institutions or Ombudsmen;
- Provide a proper training for the Prisoners. This training should include about their rights and duties of prisoners;
- Efforts should also be made to separate in terms of age, health and criminal records;
- The center should enact directive in line international, regional and domestic laws for the sake of proper protection of prisoners' rights;
- In fact, some steps are being taken to control overcrowding through further constructions In Gondar prison center, however, still it is hard to handle the existing overcrowding. The center, therefore, must make arrangements to reduce overcrowding in prison center;

- With regarding to health care service the writes observed that there are several problems in the center, such as absence of qualified health professionals, insufficient number of nurses, equipment's and medicine. Thus in order to curb these problems the center should have to qualified and proportional number of professionals with the numbers of prisoners. There should also be ambulance for emergency time and sufficient access of drug;
- The center should ensure security of prisoners from external fear or internal harms. Searching must be strict to prevent entrance of dangerous articles into the center;

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- ✓ *Interview with Ato Werkneh Tsegazab* loyal prisoner on 15 November 2016
- ✓ Example of prison monitoring questionnaires prepared by UN for Sudan State s

ANNEXES

A. English version of the questionnaire

University of Gondar
School of Law

We, 5th year law students in Gondar University, prepare this questionnaire for the purpose of collecting data for research which has been conducted for the partial fulfillment of our LLB program**.**

This questionnaire is prepared to assess the situation of the accommodation, personal hygiene, food and water, health care as well as security and communication with outside world in North Gondar Prison Center. To this end, we kindly request your cooperation to answer the following questions; ensuring you that the information obtained accordingly serves only as academic research purpose and will be held confidentially. You do not have to write your name. we are thankful in advance.

Name of prison center_____

Age _____

Sex _____

How long have you been in the center _____

Criminal record_____

Please show the situation of the following treatment standards in the prison center by providing the mark (X) under the measurements adopted (no, extremely poor, very poor, poor, good, very good, excellent).

.

No	Standards		no	Extremely poor	Very poor	Poor	Good	Very good	Excellent
1	Food provision								
	Drinking water								
2	Accommodation	Bedding services							
		For women							
		For children below 18 age							
		For prisoners with communicable disease and disability							
		Separation of prisoners							

		based on life span							
3	Health care	Free treatment							
		Free medicine							
4	Personal hygiene	Installation							
		Soap							
		Shower							
		Water							
5	Access to family, lawyers and medical doctors								
6	Security and safety								

7, do you know prisoners` rights of minimum treatment standard which the prisoners shall enjoy?

Yes _____ No_____

8. If your answer in above question no 7 is yes, how?

A, though training B, by personal efforts

Question which needs further explanation

9. Please explain the condition of accommodation, food and water, health care in the prison

center_____

_____

_____

10, do you think that the access to communicate with family, legal adviser, religious father, and clause relative are adequate enough? If it is not enough, please mention those problem?

_____

_____

_____

11are there prisoners or wards in the prison that causes bodily injuries or threaten the physical integrity, such as strike against innocent prisoners? If there, what measure have been taken to avertsuchproblem?

_____

_____

_____

_____

ጎንደር ዩኒቨርሲቲ

ሕግ ትምህርት ቤት

መጠይቅ

<u>ይህ የጽሁፍ መጠይቅ ያዘጋጀነው በጎንደር ዩኒቨርሲቲ 5ኛ አመት የህግ ተማሪዎች ስንሆን አላማውም ለምናዘጋጀው የመመረቂያ ጥናታዊ ጹሁፍ ግብአት ይሆነን ዘንድ ነው፡ ፡</u>

የጥናቱ ዋና አላማ በጎንደር ከተማ በሚገኘው በሰሜን ጎንደር ዞን ማረሚያ ቤት አስተዳደር ውስጥ ለሚገገኙ የህግ ታራሚዎች የሚሰጥን አጠቃሊይ የምግብ፣ የንጽህና፣ የንጹህ መጠጥ ውሃ ፣ የመጠለያ ፣ የሽንት ቤት እና የህክምና አገልግሎቶች እንዲሁም የደህንነትና የመንብገኘት መብት አጠባበቅ ካለም አቀፍ እንዲሁም ከክልሉ ስለህግ ታራሚዎች መብት አጠባበቅ መስፈርቶች ከሚደነግገው ደንብ ጋር ያለው ተመሳሳይነትና ልዩነት ለመዳሰስ የተዘጋጀ መጠየቅ ነው፣ ፣ ውድ የጥናቱ ተሳታፊዎች የሚሰበስበው መረጃ ለትምህርታዊ ጥናት አገልግሎት ብቻ የሚውል እና በሚስጥር የሚያዝ ይሆናል፣ ፣ የእርስዎ መልካም ትብብር እና ፈቃደኝነት ለጥናታዊ ጽሁፉ አስተማማኝነት ወሳኝነ ት አለው፣ ፣ ጥያቄዎችን አንድ በአንድ በመመለስ እንዲሳተፉ በአክብሮት እንጠይቃለን፣ ፣ ለሚያደርጉት ትብብር በቅድሚያ እናመሰግናለን፣ ፣ ማሳሰቢያ፣ በመጠይቁ ላይ ስም አይጻፍም፣ ፣

የማረሚያቤቱ ስም----------

ዕድሜ ----------ጾታ ----------

ለምንያህል ጊዜ በማረሚያ ቤቱ ውስጥ ቆዩ ?----------

የተወሰነበዎት ውሳኔ----------

ከዚህ በታች የቀረቡት መስፈርቶች ምንያህል የእርሰወን ሃሳብ እንደሚገልፁ ከቀረቡት አማማራጮች **(X)** ምልክት በማድረግ እንዲመልሱ በአክብሮት እንጠይቃለን፣

ተ.ቁ	መመዘኛዎች		የለም	እጅግ በጣም መጥፎ	በጣም መጥፎ	መጥፎ	ጥሩ	በጣም ጥሩ	እጅግ በጣም
1	የምግብ አገልግሎት	መጠኑ							
		ጥራቱ							
	የንጹህ መጠጥ ዉሃ አገልግሎት								
2	መኝታ		የአልጋ አገልግሎት						
			ሴትና ወንድ መለየት						
			ከ 18 አመት በታች ህጻናትን ለይቶ						

		ስለመያዝ						
		ተላላፊ በሽታ ያለባቸዉን እና የአእምሮ ህመምተኖችን መለየት						
3	የህክምና ኣገልግሎት	ነጻ ህክምና						
		ነጻ መድህኒት						
4	የንጽህና አገልግሎት	የልብስ ማጠቢያ ቦታ						
		የሳሙና አቅርቦት						
		የሻዎር አገልግሎት						
		የዉሃ አቅርቦት						
5	ከቤተሰብ፣ከጠበቃ፣ከጎክምና ባለሙያ የመገናገኘት እድል							
6	ደህንነት							

7 አንድ የህግ ታራሚ በማረሚያ ቤት ውስጥ ሊከበሩለት የሚገቡ መብቶች ታውቃለህ/ለሽ?

አዎ ☐ አይ ☐

8. በተራ ቁጥር 7 ላይ መልሶ አዎ ከሆነ እንዴት ሊያውቁ ቻሉ?

በግል ጥረት ☐ የ ቤት ☐

<u>የሚብራሩ ጥያቄዎች</u>

9. የማ/ቤቱ የምግብ፣ የንጽህና፣ የንጹህ መጠጥ ውሃ፣ የመጠለያ፣ የሽንት ቤት ፣ የህክምና አገልግሎት አሰጣጥን ያብራሩ?

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10. ከቤተሰብ፣ ከህግ አማካሪ፣ ከሀይማኖት አባት እና ከዘመድ የመገናገኘት እድል አጥጋቢ ነው ብለህ/ሽ ታስባለህ/ሽ? አጥጋቢ ካልሆነ ያሉ ችግሮችን ይጥቀ

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11. የደህንነት ዋስትና, ማለትም ያካል ጉዳት የሚያደርስ ወይም ክብረ-ነክ የሆነ ድርጊት የሚፈጽም ለምሳሌ እንደ ድብድብ የመሳሰሉ ድርጊቶች የሚፈጽም ታራሚ አለ ? ካለስ በነዚህ ታራሚዎች የሚወሰደው እርምጃ ምን ያህል አጥጋቢ ነ

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ይህ ቃለ-መጠይቅ ያዘጋጀነው በጎንደር ዩኒቨርሲቲ የ **5** ኛ አመት የህግ ተማሪዎች ስንሆን አላማውም ለምናዘጋጀው የመመረቂያ ጥናታዊ ጹሁፍ ግብአት ይሆነን ዘንድ ነው፣ ፣

የጥናቱ ዋና አላማ በጎንደር ከተማ በሚገኘው በሰሜን ጎንደር ዞን ማረሚያ ቤት አስተዳደር ውስጥ ለሚገገኙ የህግ ታራሚዎች የሚሰጥን አጠቃሊይ የምግብ፣ የንጽህና፣ የንጹህ መጠጥ ውሃ ፣ የመጠለያ ፣ የሽንት ቤት እና የህክምና አገልግሎቶች እንዲሁም የደህንነትና የመጎብኘኝት መብት አጠባበቅ ካለም አቀፍ እንዲሁም ከክልሉ ስለህግ ታራሚዎች መብት አጠባበቅ መስፈርቶች ከሚደነግገው ደንብ ጋር ያለው ተመሳሳይነትና ልዩነት ለመዳሰስ የተዘጋጀ ቃለ-መጠየቅ ነው፣ ፣ ውድ የጥናቱ ተሳታፊዎች የሚሰበስበው መረጃ ለትምህርታዊ ጥናት አገልግሎት ብቻ የሚውል እና በሚስጥር የሚያዝ ይሆናል፣ ፣ የእርስዎ መልካም ትብብር እና ፈቃደኝነት ለጥናታዊ ጽሁፉ አስተማማኝነት ወሳኝነ ት አለው፣ ፣ ጥያቄዎችን አንድ በአንድ በመመለስ እንዲሳተፉ በአክብሮት እንጠይቃለን፣ ፣ ለሚያደርጉት ትብብር በቅድሚያ እናመሰግናለን፣ ፣

1. ለታራሚዎች የሚሰጠው የምግብ፣ የንጽህና፣ የንጹህ መጠጥ ውሃ፣ የመጠለያ፣ የሽንት ቤት ፣ የህክምና አገልግሎት አሰጣጥን ያብራሩ?

2. የታራሚዎች ከቤተሰብ፣ ከህግ አማካሪ፣ ከህፃማኖት አባት እና ከዘመድ የመገናገኘት እድል አጥጋቢ ነው ብለህ/ሽ ታስባለህ/ሽ? አጥጋቢ ካልሆነ ያሉ ችግሮችን ምንድናቸው?

3. የደህንነት ዋስትና, ማለትም ያካል ጉዳት የሚያደርስ ወይም ከብረ-ነክ የሆነ ድርጊት የሚፈጽም ለምሳሌ እንደ ድብድብ የመሳሰሉ ድርጊቶች የሚፈጽም ታራሚ ወይም የጥበቃ አካል አለ ? ካለስ በነዚህ አካላት የሚወሰደው እርምጃ ምን ይመስላል?

4. የህግ ታራሚዎች መብትና ግዴታቸው እንዲያውቁ የግንዛቤ ማስጨበጫ ስልጠና የሚሰጥበት አሰራር አለ ወይ?

እናመሰግናለን

Observation check lists

UNITED NATIONS EXAMPLE OF PRISON MONITORING QUESTIONNAIRES

United Nations Mission in Ethiopia (UNMIE)

Human Rights Section

Prison assessment questionnaire/ Group Observation

1. GENERAL DATA

2. Name of Prison: North Gondar Prison Center

3. Location: Amhara Regional State, N.Gondar

4. State: Ethiopia

5. Date of visit: Oct. 20 to Nov.15

1. LIVING CONDITIONS AND ACCOMMODATION

1.1	Are sentenced prisoners separated from prisoners awaiting trial?	Yes…… No…….
1.2	Are some dormitories or cells overcrowded?	Yes ……. No……
1.3	Are prisoners provided with mats, bucks, or beds?	Yes …….. No…….
1.4	Are sheets and blankets provided?	Yes ……. No……
1.5	Do the sheets and blankets look clean?	Yes ……. No……
1.6	Are there members of the prison staff responsible for supervising dormitories or prison cells at regular intervals at night?	Yes …… No…..
1.7	Do they go into the dormitories regularly to check on the wellbeing of the occupants?	Yes ……. No……..
1.8	Are the supervisors stationed to close enough to	Yes …….

	hear anything that may happen inside the dormitories or prison cell?	No……..

2.Hygiene

2. 1	Is there regular running water at the prison?	Yes……. No……
2. 2	If not, is there an alternative means to provide prisoners with water?	Yes…….. No…..
2. 3	Have precautions been taken to ensure that the water is clean?	Yes ……. No…..
2. 4	Do toilets and washing space exist in or close to every dormitory/cell?	Yes……. No…..
2. 5	If the toilet is in the dormitory, is there any partition for privacy?	Yes…….. No……
2. 6	If toilets are outside the cell, do prisoners have to obtain permission to use?	Yes…… No……
2. 7	If bathing facilities exist outside the dormitory; do prisoners easily have access to them?	Yes……. No……

3. Food

3.1	Do prisoners have access to clean drinking water?	**Yes……** **No……**
3.2	Is drinking water provided by the prison administration on request?	**Yes……** **No….**
3.3	Are prisoners provided with enough water per day?	**Yes…..** **No….**
3.4	Is the required nutritional value of prisoners' diet determined by national law reflected in prison regulations, standing order etc?	**Yes…..** **No…..**
3.5	Do these requirements reflect the needs of different	**Yes…..**

	groups of prisoners?	**No….**
3.6	Are these requirements met?	**Yes…..** **No…..**
3.7	Have enough funds been set aside from the prison budget for daily nutrition of the prisoners?	**Yes…..** **No…..**
3.8	Do prisoners have vegetable or fruit garden inside that subsidizes their food source?	**Yes……** **No…..**
3.9	Has there been an increase in recent years?	**Yes…….** **No……**
3.2 .1	Has there been a decrease in recent years?	**Yes…….** **No…….**
3.2 .2	Has the decrease affected the quality of food?	**Yes…….** **No,,,,,,,,**
3.2 .3	Do prisoners' receive food daily?	**Yes……** **No…….**
3.2 .4	Do prisoners have any external source of food?	**Yes…….** **No……**
3.2 .5	How many meals are provided each day to prisoners?	**Yes……..** **No…….**

4. Access to Health Care

4.1	Is the health policy in prison integrated into, and compatible with national health policy?	**Yes……. No…..**
4.2	Does the Ministry of Health and health care services have any Responsibility for the health care of prisoners?	**Yes…… No…..**
4.3	In practice, do civil health care services provide healthcare to prisons?	**Yes…….. No…**
4.4	Are prisoners medically examined prior to	**Yes…….**

	admission into prison?	**No....**
4.5	Is the examination applied on individual basis?	**Yes.....** **No.....**
4.6	Are medical examination undertaken confidentially?	**Yes.....** **No.....**
4.7	Does the medical examination include screening for TB?	**Yes.....** **No.....**
4.8	Are prisoners given in written form or verbally prison rules relating to medical care?	**Yes... ....** **No.....**
4.9	Are medical reports kept in the file of each and every prisoner?	**Yes.....** **No.....**
4.2 .1	Do prisoners receive information on transmissible diseases prevention methods on entry in prison?	**Yes.....** **No.....**
4.2 .2	Is there separation of TB cases as per medical categorization	**Yes.....** **No.....**
4.2 .3	Are TB patients treated in hospital?	**Yes.....** **No....**
4.2 .4	Are detainees voluntarily tested for HIV?	**Yes.....** **No.....**
4.2 .5	If an inmate is found to be HIV positive, is he/she isolated?	**Yes.....** **No.....**
4.2 .6	Do prisoners have access to medical treatment in practice?	**Yes.....** **No...**
4.2 .7	Do prisoners have to request access to a medical officer?	**Yes.....** **No.....**
4.2 .8	Does a doctor visit cells/dormitories on a regular basis?	**Yes.....** **No.....**
4.2 .9	Is the prison facility equipped with a clinic and health facility for consultation	**Yes.....** **No.....**
4.3 .1	Do medical officers in the prison facility have sufficient equipment to render health care services	**Yes.....** **No.....**

	to the prisoners?	

5. Access to justice

5.1	Are all the prisoners duly charged for allegedly committing an offence?	Yes…… No…..
5.2	Is sentenced prisoners' right to have access to legal counsel and legal aid, if necessary, provided in legislation?	Yes…….. No….
5.3	Are prisoners provided with contact points to access legal advice and assistance?	Yes…….. No…..
5.4	Do prisoner that cannot afford a lawyer provided with a lawyer by the state?	Yes…….. No…..
5.5	Do prisoners have access to alternative legal aid services and if so is such access available in practice?	Yes…….. No….

6.Discipline and punishment

6.1	Are there standing orders for dealing with disruptive or difficult prisoners?	Yes…… No…..
6.2	Are disruptive or difficult prisoners handled humanely?	Yes…… No…..
6.3	Are prison rules and regulations allowed when a person is charged with a disciplinary proceeding, i.e. is the prisoner told in advance the nature of the charge and provided with time to prepare a defense?	Yes…… No…..
6.4	Is the hearing heard before a 'competent	Yes……

	authority”?	No…..
6.5	Is the prisoner present at the hearing?	Yes…… No…..
6.6	Is the prisoner able to question the staff member and present his or her side of the case?	Yes…… No…..
6.7	What procedures are in place to examine the case before a punishment is applied? SMR, 30(2)	Yes…… No…..
6.8	Can prisoners complain against a disciplinary punishment to an independent authority?	Yes…… No…..
6.9	Are prisoners ever punished by being placed in dark cells?	Yes…… No…..
6.2.1	Is corporal punishment a routine form of discipline of prisoners?	Yes…… No…..
6.2.2	Is corporal punishment ever applied? SMR, 31	Yes…… No…..
6.2.3	Are segregation units/punishment cells used?	Yes…… No…..
6.2.4	Are conditions in segregation units/punishment cells?	Yes…… No…..
6.2.5	Do prisoners have access to natural and artificial light in segregation and punishment cells?	Yes…… No…..
6.2.6	Do the segregation and punishment cells contain a bed (or beds)?	Yes…… No…..
6.2.7	Are prisoners given a mattress and other bedding at night in a segregation/punishment cell?	Yes…… No…..
6.2.8	Are there sanitary facilities in the segregation/ punishment cells?	Yes…… No…..
6.2.9	Are prisoners who have been placed in segregation units allowed an hour of exercise each day? SMR, 21(1).	Yes…… No…..

7. Special category

Juveniles

7.1	Are there special prison facilities for juveniles?	Yes…… No…..
7.2	Are juveniles housed in separate institutions to those of adult prisoners?	Yes…… No…..
7.3	Are juveniles also separated according to age group?	Yes…… No…..
7.4	Are prison rules for juveniles less strict?	Yes…… No…..
7.5	Are juveniles provided with any form of special care in prison?	Yes…… No…..
7.6	Are there any psychologists and social workers for the juveniles?	Yes…… No…..
7.7	Are there therapy or counseling programmes catering for the special needs of the age group?	Yes…… No…..
7.8	Are educational needs of juveniles met?	Yes…… No…..
7.9	Are Juveniles given access to the education curriculum available for their age group outside of prison/detention?	Yes…… No…..
7.2.1	Are juveniles assisted by teachers in their education?	Yes…… No…..
7.2.2	Are juveniles given vocational training?	Yes…… No…..
7.2.3	Are the visitation rules for juveniles any different from those applied to adult prisoners?	Yes…… No…..

Women

7.2.4	Are women separated from men? SMR 8(a).	Yes…… No…..
7.2.5	Are women prisoners supervised exclusively by female staff?	Yes…… No…..
7.2.6	Do they have the same access as male detainees to all available activities?	Yes…… No…..
7.2.7	Are the visiting rules, especially by their children flexible?	Yes…… No…..
7.2.8 +	Are their particular medical needs catered for?	Yes…… No…..
7.2.9	Do pregnant women receive medical care?	Yes…… No…..
7.3.1	Are pregnant women transferred to hospital to give birth? SMR, 23.1	Yes…… No…..
7.3.2	Are women's special hygienic needs met?	Yes…… No…..
7.3.3	Do they have access to sanitary towels?	Yes…… No…..
7.3.4	Are women allowed to keep their babies/infants with them in prison?	Yes…… No…..
7.3.5	Are special facilities provided for the infants?	Yes…… No…..
7.3.6	Are there provisions in legislation to provide special diets for pregnant and breastfeeding women, as well as infants in prison?	Yes…… No…..

8. Life sentenced and long term prisoners

8.1	Do life-sentence prisoners spend any of their sentences in solitary confinement?	Yes…… No…..
8.2	Are life sentenced and long term prisoners treated	Yes……

	unfairly from others?	No.....
8.3	Are they given the same access as other prisoners to activities in prison?	Yes..... No.....
8.4	Do they enjoy the same rights as others to contact their families and relatives?	Yes..... No.....
8.5	Are regular reviews of sentences undertaken for both categories?	Yes..... No.....
8.6	Do long-term and life-sentence prisoners have access to psychologists and psychiatrists?	Yes..... No.....
8.7	Do life sentence prisoners have to wear shackles?	Yes..... No.....

9. Prisoners under death sentence

9.1	Are prisoners under death sentenced segregated from others?	Yes..... No.....
9.2	Are they held in solitary confinement?	Yes..... No.....
9.3	Is a risk assessment undertaken to determine the conditions to which they will be allocated or are they routinely segregated?	Yes..... No.....
9.4	Do they have sufficient access to lawyers?	Yes..... No.....
9.5	Are they given the facilities necessary to prepare an appeal against sentence, as well as for petitions of clemency?	Yes..... No.....
9.6	If they cannot afford a lawyer, is legal aid provided?	Yes..... No.....
9.7	Are they given sufficient assistance to obtain legal aid?	Yes..... No.....
9.8	Do they receive the same treatment as other	Yes.....

	prisoners, including the same standard of living conditions, access to healthcare, food, exercise, association with other prisoners?	No…..
9.9	Is there an arrangement to notify the prisoner's family of the date and time of execution and for final contact with their families?	Yes…… No…..
9.2.1	Are staff members entrusted with the supervision of prisoners sentenced to death specially selected and trained?	Yes…… No…..