



**ADDIS ABABA UNIVERSITY**

**COLLEGE OF LAW AND GOVERNANCE STUDIES**

**SCHOOL OF LAW**

**PROVISIONING SOCIAL RIGHTS TO JUVENILE OFFENDERS:  
THE CASE OF ADDIS ABABA REMAND HOME**

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Approval Sheet by the Board of Examiners

**PROVISIONING SOCIAL RIGHTS TO JUVENILE  
OFFENDERS: THE CASE OF ADDIS ABABA REMAND HOME**

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## Declaration

I, the undersigned, hereby declare that this thesis is my original work, has not been presented for a degree in any other university or institution and that all sources of materials used for the thesis have been duly acknowledged.

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## Acknowledgment

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## List of Acronyms and Abbreviations

ACPF- African Child Policy Forum

ACPHR- African Charter on Peoples Human rights

ACRWC- African Charter on the Rights and Welfare of the Child

AP- Additional Protocol

CAOS- Charter of American Organization of States

CAT- Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

CRC- Convention on the Rights of the Child

CSOs- Civil Society Organizations

ECHR- European Convention on Human Rights and Freedoms

Edn- edition

FDRE- Federal Democratic Republic of Ethiopia

GC- General Comment

GOs- Governmental Organizations

HRC- Human Rights Counsel

IACHR- Inter American Charter on Human Rights

ICCPR- International Covenant on Civil and Political Rights

ICESCR- International Covenant on Economic, Social and Cultural Rights

JDLs- UN Rules for the Protection of Juveniles Deprived of their Liberty

IJRAR- International Journal of Research and Analytical Reviews

Ltd- Limited

Neg. Gaz.-NegaritGazzeta

NGOs- Non Governmental Organizations

NPPO- National Policy Principles and Objectives

No. – Number

SMR- Standard Minimum Rules for the Treatment of Prisoners

UN- United Nations

UNGA- United Nations General Assembly

WHO- World Health Organization

## Abstract

*Juvenile offenders are one of the vulnerable groups in the society and their rights protection is at stake. The rights of juvenile offenders are recognized under international, regional and national laws. However, the protection of those rights is questionable. To this end, the purpose of this research is to assess the provision of social rights for juvenile offenders in the case of remand home in Addis Ababa. The paper has tried to assess briefly the international, regional and domestic human right instruments relevant for the treatment of detained persons in general and juvenile offenders in particular. In this regard, human rights instruments such as UDHR, ICCPR, ICESCR, ECHR, ACHPR, ACHR and a series of standards and rules adopted both at international and regional systems were discussed in relation to social rights of juvenile offender. Likewise, the Ethiopian legal system has equivalent set of legislations for the treatment of juvenile offenders in the major legislation of the country such as the 1995 Constitution, the Criminal Justice Policy, the Child Policy, the New Criminal Code, Federal Prisons Commission Establishment Proclamation and Regulations on the Treatment of Federal Prisoners. The study added the experience of the Republic of Mauritius regarding the protection of social rights of juvenile offenders which is a lesson to Ethiopia to share. Interviews and personal observation were used as data gathering tools. The participants were juveniles who were sentenced for rehabilitation. A total of 9 juvenile offenders were selected using random sampling techniques. Four remand home officials were the key informants of the research through interview; they were selected using purposive sampling techniques. The paper presented a brief assessment on the provision of social rights in Addis Ababa remand home in practice. The responses of the interviewed were transcribed and analyzed. The study found that provision of social rights for juvenile offenders in Addis Ababa failed short of compliance to the laws as it found challenges such as insufficient food, dysfunctional sanitation facilities, high levels of overcrowding, poor system of health care, lack of separate treatment based on age and health, absence of full-fledged recreational materials. The thesis suggests ways how social rights of these vulnerable could be improved for the country to fulfill its national and international human rights obligations.*

*Keywords: social rights, children in conflict with the law, remand home*

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# Chapter One

## Introduction

### 1.1 Background

In most countries, constitutions with detailed provisions have been enacted for the protection of fundamental rights and freedoms of all people, including prison inmates.<sup>1</sup> Furthermore, legislation has also been passed which make specific provisions regarding the rights of inmates. International human rights instruments proclaim that persons who were detained or imprisoned did not cease to be human beings, no matter how serious the crime of which they have been accused or convicted. For instance, ICCPR under article 10 provides that- "All persons deprived of their liberty shall be treated at all times with humanity and with respect for the inherent dignity of the human person".<sup>2</sup> UNHRC stated in this regard that- "Persons deprived of their liberty enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment".<sup>3</sup> Prisoners' rights were not only protected under the ICCPR but also under UDHR, ICESCR, UNCRC, and UNSMR globally. While in regional human rights systems the rights of prisoners were also protected under ECHR, IACPR and ACPHR. All of these treaties were discussed in chapter two in relation to social rights of juvenile offenders. The social rights of juvenile offenders included but not limited to the right to adequate accommodation, the right to medical care and counselling, the right to food, the right to water and sanitation, and the right to leisure, play and recreation.

These rights were also protected under national laws and policies of the FDRE. The laws and policies included the FDRE constitution, the Revised Criminal Code, Proclamation to the

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<sup>1</sup>Bukurura SH., *Emerging trends in the protection of prisoners' rights in Southern Africa*. AHRLJ, Vol 2, Issue 1 2002, 93.

<sup>2</sup>ICCPR, article 10.

<sup>3</sup>UNHRC: GC 21, Article 10 (Humane treatment of persons deprived of their liberty) it replaces GC 9 (Forty-fourth session, 1992), U.N. Doc. HRI/GEN/1/Rev.1 at 33 (1994).

Establishment of Federal Prisons Administration, Council of Ministers Regulation on the Treatment of Federal Prisoners, the Criminal Justice Policy of FDRE, the National Child Policy of Ethiopia. While, for the purpose of lesson to learn the experience of the Republic of Mauritius regarding the protection of juvenile offenders was included.

In some instances children were found involved in conflict with the law. Children's who committed criminal offences were called juvenile offenders. Juvenile offenders were children who committed criminal offences between the age of nine and fifteen inclusive. These offenders are seen especially in different way from other offenders in the criminal justice system.

Ethiopia is state party to almost all of human rights instruments that have relevance to the protection of rights of prisoners and it has, by and large, domesticated such rights in its prison legislations under the umbrella of the Ethiopian Federal Constitution.

In Ethiopia, juvenile offenders were detained apart from adult detainees. The juvenile offenders sent to a remand home for juvenile offenders in Addis Ababa Lideta sub city woreda 2 around Federal First Instance Court. The remand home was established in 1940s.<sup>4</sup> The institute provided different types of services to juvenile offenders. Under this study the provision of social rights to juvenile offenders in the institution was assessed.

## **1.2 Statement of the Problem**

Article 21 of the FDRE constitution imposed a duty on custodial institution to respect the human dignity of prisoners. Most of the time intentionally or unintentionally the rights of prisoners violated by the administrators' of these custodial institutions. They ignored all the international, regional and national laws provisions that guaranteed the rights of prisoners. However, prisoners

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<sup>4</sup>Addis Ababa Juvenile Offenders Remand Home , 2017, General Manifesto of Juvenile Offenders Remand Home , unpublished.

have a bundle of rights in general and social rights in particular. Thus this thesis assessed the provisioning of social rights such as the right to adequate accommodation, the right to food, the right to medical care and counseling, the right to water and sanitation, the right to leisure, play and recreation for juvenile offenders in the Addis Ababa remand home.

The remand home was in duty bound to treat the juvenile offenders pursuant to the International Prisoners Rights Principles in general and the rights of children deprived of liberty in particular that provided in the FDRE constitution.

However, concerning the handling and the treatment of juvenile offenders in the remand home there were problems regarding the protection of their rights regarding the right to adequate accommodation, the right to medical care and counseling, the right to food, the right to water and sanitation, and the right to leisure, play and recreation.

Therefore, the identified problems concerning the handling and the treatments of juvenile offenders' social rights in the remand home would also be discussed in this study

In line with this, I experienced in one occasion that I participated a discussion session on juvenile offenders in contact with my career and I realized that juvenile offenders were not treated as properly by respecting their human dignity. Thus I decided to conduct a research on the rights of juvenile offenders. The other motivation was there were few studies on the social rights of children in general and juvenile offenders in the remand home in particular. The only thesis I found on the social rights of juvenile offenders was Tigabu Haregewoin's LL.M thesis on CHILDREN IN CONFLICT WITH THE LAW AND THEIR RIGHT TO EDUCATION IN ADDIS ABABA REHABILITATION CENTRE (with Special Emphasis on Primary

Education)<sup>5</sup>. So I asked myself“what about other social rights?”. So, with these two motivations I decided to do a research on the juvenile offenders social rights in particular and I assessed the protection of social rights of juvenile offenders in Addis Ababa remand home.

### **1.3 Objectives of the Study**

#### **1.3.1 General Objective**

The general objective of the study was to assess the provision of social rights in Addis Ababa remand home and rehabilitation center.

#### **1.3.2 Specific Objectives**

The specific objectives of the study are:-

- To discuss the social rights of juvenile offenders protected under international and regional human rights instruments
- To explore the Ethiopian national legal frame work governing the provisioning of social rights of the study groups
- To gauge the actual implementation of social rights of juvenile offenders in light of the Ethiopian state obligations under human rights laws
- To examine the good practices of other countries in the area of the study so that examples can be drawn to Ethiopia

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<sup>5</sup>TigabuHaregewoin, Children in Conflict with the Law and their Right to Education in Addis Ababa Rehabilitation Centre (with Special Emphasis on Primary Education), a thesis submitted in Partial Fulfillment of the Requirement of the Degree of Masters in Human Rights Law,2016, AAU.

## **1.4 Research Questions**

The central research question of the study is:-

- Are International, Regional human rights instruments and domestic laws of Ethiopia concerning regarding the social rights of juvenile offenders in the Addis Ababa remand home fulfilled?

The study answered the following subsidiary research questions:-

- Are there adequate international and regional human rights legal instruments to protect the social rights of juvenile offenders?
- Do the national legislation on provide adequate protection on social rights for juvenile offenders? If any, what types of obligations are imposed by these instruments?
- How much has the remand home in Addis Ababa adhered to these human rights obligations?
- What are the possible recommendations for the better protection of their rights?

## **1.5 Research Methodology**

### **1.5.1 Research Methods**

The study is a non-doctrinal qualitative research. Non-doctrinal research, also known as socio-legal research is a legal research that employs methods taken from other disciplines to generate empirical data to answer research questions. It can be a problem, policy or law reform based.<sup>6</sup>

The purpose of research is to discover answers to questions through the application of systematic procedures. Qualitative research properly seeks answers by examining various social settings and

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<sup>6</sup>Conville, M.Mc. and Chui, W.H, Research Methods for Law, Edinburgh University Press, 2007.

the groups or individuals who inhabit these settings <sup>7</sup> and has ‘traditionally’ been conducted by means of direct observation of a sample, case studies, personal experiences, introspection, an examination of relevant texts, interviews, focus groups, life stories, and the researcher’s own participation in the settings that she / he is researching.<sup>8</sup>

### **1.5.2 Sources of Data**

The study used both primary and secondary data. The primary data were data collected through interviews, questionnaires and self-observations. The secondary data were data collected from books, journals, other related publications and internet.

The participants in this research are young offenders aged 9-15 years, who were referred to the remand home for service delivery by court order. The key informants included administrators of the remand home; counselors(- social workers, psychologists, sociologists), nurses, cooks and care givers of the remand home.

In order to draw up a sample, the researcher used the purposive sampling method. For many exploratory studies and much qualitative research, purposive sampling, in any of a number of forms, is desirable. In purposive sampling, the researcher selects elements based on his or her judgment of what elements will facilitate an investigation.<sup>9</sup> A random selection of young offenders between 9 and 15 years and who reside in the remand home. The researcher interviewed 9 young offenders (7 boys and 2 girls), who are randomly chosen from each age limit; and counselors, nurses, care givers and administrator of the remand home purposely selected.

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<sup>7</sup>Lune, H. and Berg, L.B., *Qualitative Research Methods for the Social Sciences*, 9<sup>th</sup>edn, Pearson Education Ltd., 2017.

<sup>8</sup>Ibid.

<sup>9</sup>Adler, S.E. and Island, R., *An Invitation to Social Research How It’s Done*(4th ed.). Wadsworth, Cengage Learning, 2011.

The researcher employ in depth interview with young offenders and key informants; who were counselors, nurse, caregivers, cooks and administrator of the center.

### **1.5.3 Data Collection Tools**

#### **1.5.3.1 Interview**

The major data collecting tools used in the study were semi structured interviews and the questions that make up the schedule were usually open-ended to encourage the respondents to elaborate their views about the topic<sup>10</sup>that was conducted with young offenders, counselors, caregivers and administrator of the institution. Which in turn helped the researcher to raise appropriate follow up questions that given further understandings. Interview guide questions developed in accordance with the research questions that need to be explored and analyzed. The key informants of the study were counselors, caregivers, nurses and administrator of the institution and the semi structure interviews was administered.

#### **1.5.3.2 Observation**

Additionally, an Observation exercise was undertaken by the researcher during visitation of the remand home. Observation is “a systematic method of data collection that relies on a researcher’s ability to gather data through his or her senses”.<sup>11</sup>This method was chosen to explore what actually happens in the remand home. The aim of this was to find out the provisional services are addressed to the offenders or not. Therefore the researcher lookedout for the services of the remand home.

The observation exercise took place after gaining permission personally from manager of the remand home who was also be interviewed (Key informant 1). It was undertaken on three

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<sup>10</sup>Langdridge, D., Introduction to Research Methods and Data Analysis in Psychology., Pearson Education press, New Zealand, 2004.

<sup>11</sup>O’leary, Z., The essential guide to doing research. SAGE Publications Ltd, London,2014,230.

consecutive Tuesdays and Thursdays in March and April. This was because the researcher went to the remand home only on these days. Notes were taken throughout the observation process.

#### **1.5.4 Data Collection Procedure**

Before conducting the interview I had got a recommendation letter from the college of law and governance studies of Addis Ababa University, which was designed to get assistance from the remand home and other concerned bodies. I prepared an interview guide and commented by my advisor. Having the recommendation letter I went to the remand home and discussed about the purpose of the study with administrators of the remand home in order to collect the required data.

#### **1.5.5 Methods of Data Analysis**

Data analysis may well be the heart of qualitative research. It is one of the places that qualitative research is most different from quantitative research methods.<sup>12</sup> In the study interpretative data analysis procedure was used. The collected interview data transcribed and re-read carefully to comprehend the manuscript data which helped to ascertain the quality of data and the information were categorized to give meanings to the organized information. In order to describe some points as per the intention of the interviewee direct quotations from the transcribed datais presented. This was presented in the finding section of the paper. Finally the discussion and analysis of these findings were applied by going through the chapters of this paper and making associations with what has been presented in the literature review section.

#### **1.5.6 Ethical Considerations**

Ethical considerations place the research participants, rather than the researcher, at the center of the research design when deciding what is appropriate and acceptable conduct.<sup>13</sup> A major issue in analyzing the data is how to keep the anonymity and privacy of your research participants.

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<sup>12</sup>Pamela, 2005, 112.

<sup>13</sup>Henn,M.,Weinstein,M.& Foard,N. , a short introduction to Social Research., Sage Publications press, Thousand Oaks, CA., 2006, 68.

Field notes and transcripts should not include concrete information about real persons and sites, but should be anonymized right away.<sup>14</sup>

Research participants must be informed about the purposes, methods, and risks associated with the research, and they must voluntarily consent to participate in the research.<sup>15</sup> Therefore, I established confidentiality by keeping the names of the participants and the key informants from being disclosed and each participant and key informant has been informed as to the nature of the interview through informed verbal consent.

### **1.6 Scope of the Study**

The study comprised both legal and practical analyses with regard to juvenile offenders' social rights in Ethiopian legal frame work. Effort was made to assess the adequacy of legal protection made to juvenile offenders both internationally and domestically. The practical analysis covered condition of rehabilitation in the remand home. The practical analysis was made mainly in light of the minimum rules for the treatment of juvenile offenders: the right to adequate accommodation, the right to food, the right to medical care and counseling, the right to water and sanitation, and the right to leisure, play and recreation.

The study focuses only on the provision of social rights of juvenile offenders in Addis Ababa remand home and it couldn't talk about other rights of the juvenile offenders and juvenile offenders above the age fifteen.

Therefore, the study excludes juvenile offenders aged from 15 to 17 who were detained with adult offenders in prisons and it did not talk about other human rights of juvenile offenders.

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<sup>14</sup>Flick, U. ,Designing Qualitative Research., Sage Publications press, Thousand Oaks, CA,2007,75.

<sup>15</sup>Thyer, A. B. (Ed.), Hand Book of Social Work Research., Sage Publications press, Thousand Oaks, CA, 2001, 434.

## 1.7 Limitations of the Study

Nowadays internet was part of our life in gathering information to conduct any task in the world.

Document and materials relevant to research work is accessed in the internet. But this year, the internet service in Ethiopia particularly here in Addis Ababa, experiences on and off way. So, the absence of a full-fledged internet access was the first constraint that encountered this research.

The other constraint to the study was that the research is mainly based on data's collected via interviews and personal observation. Albeit personal observation was conducted, the researcher could not observed each and every details in the remand home because of the privacy of the juvenile offenders under study. This made the researcher unable to collect full information on the situation of the protection of treatment of juvenile offenders through personal observation.

It was expected to have both financial and time constraints in doing this research and difficulties in access to the remand home due to the COVID-19 pandemic was a major expected limitation of the research.

## 1.8 Review of Related Literature

A literature review is a systematic examination of the scholarly literature about one's topic. It critically analyzes, evaluates, and synthesizes research findings, theories, and practices by scholars and researchers that are related to an area of focus.<sup>16</sup> In line with this definition there were a few theses written on social rights and rights of offenders in Ethiopia but these theses heavily focused on children in general and few rights of offenders in particular. For instance, Abreham Behailu (2014) wrote his Mini-LLM thesis on **The Recognition and Implementation of Children's Socio-economic Rights in Ethiopian Law**.<sup>17</sup> He examined the current recognition

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<sup>16</sup>Efron, S.E. and Ravid, R: Writing the Literature Review A Practical Guide, The Guilford Press New York, 2019.

<sup>17</sup>Abreham Behailu (2014): The Recognition and Implementation of Children's Socio-economic Rights in Ethiopian Law, a mini-dissertation submitted in Partial Fulfillment of the Requirement of the Degree *Magister Legum* in comparative child law at the Potchefstroom Campus of North west University, South Africa.

and implementation of children's socio-economic rights in Ethiopian law. And he discovered that there was neither a translation nor publication of international child rights instruments and these facts obstruct their implementation. Non incorporation of children's socio-economic rights in the Constitution and not having a separate legislation on children's rights were the others. Ethiopia had not yet done anything meaningful towards the realisation of children's socio-economic rights.

YoditGirma (2015) wrote her MA thesis on **Ethiopian Criminal Justice Policy Analysis: focus of Juvenile Offenders**.<sup>18</sup>She analyzed that whether or not the policy was based on the international standards set on Juvenile justice and how Ethiopia had incorporated these standards in to its domestic legislations and practice. And she discovered that the policy had not been properly implemented and evaluated and there were no preventive mechanisms for juvenile offenders.

AddisuGulilat(2012) wrote his LLM thesis on **The Human Rights of Detained Persons In Ethiopia Case Study in Addis Ababa**.<sup>19</sup>Hefound that treatment of detained persons in Ethiopia failed short of compliance to minimum expectations as it found challenges such as high levels of overcrowding, disease, malnutrition, unhygienic condition, lack of separate treatment based on sex, age, illness and nature of criminal; lack of organized and continuing education and training and absence of viable compliant hearing mechanism.

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<sup>18</sup>YoditGirma (2015):Ethiopian Criminal Justice Policy Analysis: focus of Juvenile Offenders,a thesis submitted in Partial Fulfillment of the Requirement of the Degree of Masters in Social Work, AAU.

<sup>19</sup>AddisuGulilat(2012):Human Rights of Detained Persons in Ethiopia Case Study in Addis Ababa, a thesis submitted in Partial Fulfillment of the Requirement of the Degree of Masters in Human Rights Law, AAU.

MohammedberhanKahsay (2015) wrote his LLM thesis on **Juvenile Justice Administration: The Case of Tigray Regional State.**<sup>20</sup> He discovered that the situation relating to children in conflict with the law was very poor in Tigray regional state. Specifically; the professionals' clear lack of adequate knowledge with the words and sprits of the law, the system's lack of child friendly infrastructural facilities and non-existence of institutions to administer the educational measures prescribed by the criminal code, no diversionary programs (centers), and a problem of networking among the justice professionals and other NGOs and CSOs.

TigabuHaregewoin (2016) wrote his MA thesis on **Children in Conflict With the Law And Their Right to Education in Addis Ababa Rehabilitation Centre (with Special Emphasis on Primary Education).**<sup>21</sup>He examined that the practice of educational rights of children in the Centre and detected that their rights is not respected in accordance with the international human rights of obligations of the nation.

RebumaTefera (2014)wrote his MA thesis on**A Critical Assessment of Prisoners' Right in The Oromia National Regional State: The Case of Burayu Prison Administration.**<sup>22</sup> He assessed that there were poor handling and ill-treatments of prisoners in the Burayu Prison Administration. In addition, both Burayu Prison Administration and the Oromia Prison Commission were not in a position to effectively work concerning the treatments of prisoners. Further, the existing proclamation and regulation regarding to the treatments of prisoners could not properly protect the rights of prisoners as equal as provided under international human rights instruments.

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<sup>20</sup>MohammedberhanKahsay, *Juvenile Justice Administration: The Case of Tigray Regional State*, a thesis submitted in Partial Fulfillment of the Requirement of the Degree of Masters in Human Rights Law, 2015, AAU.

<sup>21</sup>Supra note 6.

<sup>22</sup>RebumaTefera. *A Critical assessment of Prisoners' Right in the Oromia National Regional State: The Case of Burayu Prison Administartion*, a thesis submitted in Partial Fulfillment of the Requirements for the Degree of Masters of Art [M.A.] in Federal Studies, 2014, AAU.

AntenehGeremew (2015) wrote his LLM thesis on **Status of Concluding Observations of The Committee on The Rights of The Child in Ethiopia.**<sup>23</sup>He analyzed reports of the Ethiopian Government, concluding observations of the Committee and reactions of the Government to the observations. He concluded that the domestic law making process and the law making organs were not permeable to concluding observations.

The only related thesis to the study in hand was TigabuHaregewoin's thesis. Therefore, this study escaped the right to education of juvenile offenders in the remand home because it was already researched. Therefore, this research focused on the provisioning of other social rights of juvenile offenders in Addis Ababa remand home.

### **1.9 Organization of the Thesis**

The study is organized into six chapters. The first chapter talked about the background, the objectives, the research questions, methodology, scope and limitations of the study. The second chapter examined the international and regional human rights protection systems regarding the social rights of juvenile offenders. The third chapter looks at a country experience to draw good lesson on provisioning of social rights to juvenile offenders in selected countries. The fourth chapter discusses the national mechanisms of protecting the social rights of juvenile offenders in Ethiopia. The fifth chapter discussed the data gathered for the study and analysis of the data. The sixth chapter concluded the whole thesis and provided possible recommendations on the findings.

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<sup>23</sup>AntenehGeremew (2015): Status of Concluding Observations of The Committee on the Rights of the Child in Ethiopia, a Thesis submitted in Partial Fulfillment of the Requirement of the Degree of Masters in Human Rights Law, AAU.

### **1.10 Referencing and Citation Style of the thesis**

The study uses the footnote approach for referencing style and the rules of citation of the Journal of Ethiopian Law.

## Chapter Two

### Juvenile offenders' Social Rights from International and Regional Perspective

#### 2.1 Introduction

Juvenile offenders have their own social rights as other individuals outside the prison bar. These rights are recognized under different international and regional treaties. The treaties mostly talk about the dignity of human person as an individual and it should be respected by states in general. The principle of equality and nondiscrimination applies to the provisioning of social right for juvenile offenders. Juvenile offenders are rights holders as like as children outside the institutional custody. The social rights of juvenile offenders include but not limited to the right to accommodation, the right to food, the right to health care, the right water and sanitation, and the right to leisure, play and recreation. The undersized fulfillment of these rights amounts to violation. States have an obligations to respect, to protect and to fulfill those rights. If they are failed to do so, they held liable for the undersized fulfillment of human rights.

#### 2.2 Juvenile Delinquency and the Minimum Age Limit

Etymologically, the term 'delinquency' has been derived from the Latin word *delinquer* which means 'to omit'. The Romans used the term to refer to the failure of a person to perform the assigned task or duty.<sup>24</sup> Today, the definition of delinquency is an act committed by an individual under the age of 18 that violates the penal code of the region in which the act is committed. However, even this legal definition is in flux. In some states, acts committed by those under 18 can be considered crimes and the individual treated as an adult if the state has defined

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<sup>24</sup>Sadaf and Bhagat K.P: Juvenile Delinquency: A Critical Analysis, IJRAR, Volume 6, Issue 1, March 2019, 257.

that behavior as too serious to treat the juvenile as a child.<sup>25</sup> For example, in Ethiopia, children above the age of 15 considered as adults and moved to the adult criminal justice system.

As stated in article 53 (1) of the criminal code of FDRE, juvenile delinquent is a child whose age is between 9 to 15 years convicted of perpetrating a criminal act. Similarly, a youngster between the ranges of age 9-15 years and violating the criminal law is treated pursuant to articles 157-178 that deal specifically on juvenile delinquents and treatment of the law against the criminal acts.

However, article 4 of the Beijing Rules states that the beginning of minimum age for criminal responsibility shall not be fixed at too low an age level bearing in mind the facts of emotional, mental and intellectual maturity. In line with this, the Committee of CRC recommended that state parties not to set a minimum age for criminal responsibility at a too level and to increase the existing law to an internationally accepted level. Therefore, the minimum age of criminal responsibility below the age of 12 years is internationally unaccepted and state parties are encouraged to adhere.<sup>26</sup> Though, the minimum age for criminal responsibility in Ethiopia, which is nine years, is incompatible with international recommendations.

### **2.3 Juvenile offenders' Social Rights from International and Regional Perspective**

International human rights law stipulates that every person, including juvenile inmates, has a right to be respected, protected and fulfilled by states in general and by others in particular. There are a number of social rights to juvenile inmates namely: the right to health, the right to adequate accommodation, the right to medical care and counseling, the right to food (nutrition), the right to water and sanitation, the right to leisure play and recreation. These rights were discussed briefly below. But, first the principle of equality and non-discrimination.

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<sup>25</sup>Bates, K.A and Swan, R.S: *Juvenile Delinquency in a Diverse Society*, 2<sup>nd</sup>edn,2018 , SAGE Publications Ltd, 39.

<sup>26</sup>UNCRC: GC No.10, *Children's rights in juvenile justice*, 2007, para.32.

### **2.3.1 Principle of Equality and Non-Discrimination**

Equality and non-discrimination is a base for human rights protection. Its concept is based on the belief that every human being is entitled to enjoy his/her rights without discrimination. In this regard, the Standard Minimum Rules for the Treatment of Prisoners (SMR) in article 6(1) takes equality and non-discrimination as a basic principle for the protection of the rights of prisoners. The SMR is the first modern (non-legally binding) international standards for the protection of the rights of detainees adopted in 1955 by the United Nations Congress on the Prevention of Crime and the Treatment of Offenders and approved by the Economic and Social Council in its resolutions of 31 July 1957 and 13 May 1977.<sup>27</sup> It states that all the provisions in the rule should apply impartially and no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The features listed within Article 6(1) are not exhaustive; instead the terminology 'other status' takes account of various other bases for discrimination. Therefore, social rights provision provided for juvenile inmates in the remand home should respect this fundamental principle. Because, as stated in GC No. 3 of the CESCR states have an immediate obligation regarding social rights which is an obligation to respect, protect, and fulfil human rights in a participatory, accountable and non-discriminatory way.<sup>28</sup>

### **2.3.2 Right to Health**

The right of all persons deprived of liberty to the highest attainable standard of health is guaranteed in a wide range of international instruments, including human rights treaties at the international and regional levels, United Nations resolutions and agreed model standards and guidelines for the treatment of prisoners adopted by the UN General Assembly.<sup>29</sup> In some cases,

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<sup>27</sup>UN SMR, U.N. Doc. A/CONF/61 1, annex 1 (Aug. 30, 1955).

<sup>28</sup>CESCR, GC No. 3 (E/1991/23), para 10.

<sup>29</sup>Rick, Lines, The right to health of prisoners in international human rights law, IJPH, volume 4(1), March 2008, 11.

these instruments articulate specific rights and standards, while others are more general and vague. The right to health is a fundamental human right of an individual. The UDHR mentions health as part of the right to an adequate standard of living.<sup>30</sup> In the same token, the ICESCR and CRC acknowledge this right under article 12 and article 24 respectively. Which reads as *everyone's right to enjoy the highest attainable standard of physical and mental health.*

With regard to the scope of treatment CESCR under its General Comment No. 14 stated that *"...the right to health must be understood as a right to the enjoyment of the various facilities, goods services and conditions necessary for the realization of the highest attainable standard of health."*<sup>31</sup> Accordingly, the Committee to define the scope of public health and healthcare facilities, goods and services have to meet the requirements of *availability, accessibility, acceptability and quality.*<sup>32</sup> In addition, the committee explicitly stated that the right to health includes *"right to be free from torture"*.<sup>33</sup>

However, the European Convention on Human Rights and Fundamental Freedoms (ECHR) and its additional protocols do not include social rights. Under the Council of Europe's human rights protection regime, social rights are protected in a separate treaty instead, namely, the European Social Charter.<sup>34</sup> Under article 11 of this charter everyone has the right to be prevented from causes of ill health, epidemic, endemic and other diseases and to get advisory and educational facilities in matters of health.

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<sup>30</sup>UDHR, article 25.

<sup>31</sup>CESCR GC No.14, the Right to the Highest Attainable Standard of Health, 22nd Session, 2000, U.N. Doc. E/C.12/2000/4, para.

<sup>32</sup>Supra note 18, para.

<sup>33</sup>Ibid,

<sup>34</sup>European Social Charter, Turin, 3 May 1961, entered into force 26 February 1965.

Similarly, the American Convention on Human Rights (ACHR) does not expressly provide for the right to health, but states that persons deprived of their liberty shall be treated with respect for the inherent dignity of the person.<sup>35</sup> In contrast to both (American and European) conventions, the African Human and Peoples' Rights Charter (the Banjul charter) recognizes explicitly the right to health of every person under its article 16. Furthermore, article 16(2) obligates state parties to take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick

The African Charter is currently the only regional human rights instrument that incorporates economic, social, and cultural rights as well as civil and political rights and subjects all of these rights to a complaint procedure.<sup>36</sup> Within the African system, the right to health of prisoners has also been engaged under the right to life and the prohibition of cruel, inhuman or degrading treatment.<sup>37</sup>

Unlike the above instruments, the ICCPR does not give anyone the right to health. Although there is no specific right to health provision within the Covenant, questions of health in detention could be raised under the right to life (Article 6) or the right to humane treatment (Article 10).<sup>38</sup>

However, it recognizes this right as a right indirectly under article 12(2) by expressing everyone has the right to freedom of thought, conscience and religion<sup>39</sup>, the right to freedom of

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<sup>35</sup> Article 5(2) of ACHR.

<sup>36</sup> Mzikeng D. Chirwa, "Toward Revitalizing Economic, Social, and Cultural Rights in Africa." Human Rights Brief 10, No.1, 2002, 14.

<sup>37</sup> ACHPR, article 5.

<sup>38</sup> Cabal and Pasini v. Australia (7 August 2003) UN Doc CCPR/C/78/D/1020/2002) para. 7.7.

<sup>39</sup> Article 18 of ECHR.

expression<sup>40</sup>, the right to peaceful assembly<sup>41</sup> and the right to freedom of association<sup>42</sup>. All of these rights may be limited for the protection of public health.

Apart from the binding international and regional treaties, there are non-binding international standards which protect the right to health, which include the Standard Minimum Rules for the Treatment of Prisoners (SMR);<sup>43</sup> the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;<sup>44</sup> the UN Rules for the protection of Juveniles Deprived of their Liberty (UN JDL Rules);<sup>45</sup> and the Declaration of the Rights of the Child.<sup>46</sup>

Rule 26.2 of the SMR states juveniles in institutions should receive care, protection and all necessary assistance-social, educational, vocational, psychological, medical and physical-that they may require because of their age, sex, and personality and in the interest of their wholesome development.

Rule 13.5 of the Beijing Rules states that while in custody, juveniles should receive care, protection and all necessary individual assistance-social, educational, vocational, psychological, medical and physical- that they may require in view of their age, sex and personality.

### **2.3.2.1 State's obligations towards the right to health**

The right to health under the ICESCR imposes core obligations on State parties. Core obligations signify the basic minimum level of rights enjoyment that States must attain to give meaning to

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<sup>40</sup> Article 19 of ECHR.

<sup>41</sup> Article 21 of ECHR.

<sup>42</sup> Article 22 of ECHR.

<sup>43</sup> The Standard Minimum Rules for the Treatment of Prisoners, adopted in 1955, and approved by the Economic and Social Council by its Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

<sup>44</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly Resolution 43/173, 76th plenary meeting, 9 December 1988.

<sup>45</sup> UN Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the United Nations General Assembly on 14 December 1990.

<sup>46</sup> The Declaration of the Rights of the Child, adopted by UN General Assembly Resolution 1386 (XIV) of 10 December 1959.

the right to health.<sup>47</sup> One core obligation under the right to health is to provide essential medicines, as defined by WHO, on a non-discriminatory basis and with attention for vulnerable groups. The right to health is legally binding on the 165 national governments that have ratified the ICESCR. Consequently these governments are legally obliged to protect and promote health rights in national law and policy.<sup>48</sup> In addition, cumulative reading of article 24(4) of the ICESCR and article 12(2) of the CRC ensures that there is a general as well as specific state's obligation on the right to health of the child.

More specifically, Article 2 (1) of the ICESCR underlines that States have the obligation to progressively achieve the full realization of the rights under the Covenant. This is an implicit recognition that States have resource constraints and that it necessarily takes time to implement the treaty provisions. Consequently, some components of the rights protected under the Covenant, including the right to health, are deemed subject to progressive realization.<sup>49</sup> The principle of progressive realization applies to the positive State obligations to fulfil and to protect human rights, in particular economic, social and cultural rights. The human right to health, for example, does not guarantee the right of everyone to be healthy. However, it does oblige States, in accordance with their respective economic capabilities, social and cultural traditions as well as international minimum standards, to establish and maintain a public health system that can in principle guarantee access to certain basic health services for all.<sup>50</sup>

### **2.3.3 Right to Adequate Accommodation**

The right to adequate accommodation is a recognized social right of juvenile inmates. This right includes but not limited to the right to get premises, the right to get clothing, and the right to get

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<sup>47</sup>S.J. K. Perehudoff, *The right to health as the basis for universal access to essential medicines: A normative framework and practical examples for national law and policy*, 2018, 13.

<sup>48</sup>*Ibid*, 14.

<sup>49</sup>UNHCR and WHO, Fact Sheet No. 31 The Right to Health, 23.

<sup>50</sup>Inter-Parliamentary Union and UNHCR, *Hand book for Parliamentarians* No.26, 2016, 34.

bedding. Article 10(1) of the ICCPR recognized this right implicitly as stated: *the right to be treated with humanity and with respect for inherent dignity.*

The right to accommodation of prisoners is protected under article 3 of ECHR, which guarantees the right of everyone not to be subjected to torture or to inhuman or degrading punishment.<sup>51</sup> This right is also protected under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment,<sup>52</sup> which prohibits torture and inhuman or degrading punishment. Similar to the ECHR, the ACHR and ACPHR protect the right to accommodation of prisoners under article 5 of both charters, which prohibits cruel and degrading treatment.<sup>53</sup>

Accordingly, the SMR sets a standard for newly admitted prisoners in every prison center to be first registered with full information of their personality. The standard rule gives great emphasis for their registration under article 7 that there should be kept a bound registration book with numbered pages, which shall be entered in respect of each prisoner received; information concerning his identity, the reasons for his commitment and the day and hour of his admission and release.

Within any prison system there will be prisoners from a variety of backgrounds and with differences, which may include differences of sex, age, language, nationality, term of imprisonments and others. So, prison centers should manage and treat their prisoners through categorization taking in to account the different requirements which prisoners may have on any or all of these grounds.<sup>54</sup> Regarding this, article 8 of the standard rule provides that based on their sex, age, criminal record, the legal reason for their detention and the necessities of their

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<sup>51</sup>European Convention of Human Rights and Fundamental Freedom, article 3.

<sup>52</sup>European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, article 3

<sup>53</sup>Article 5 of the ACHR and ACPHR.

<sup>54</sup> Andrew Coyle, A Human Rights Approach to Prison Management *Handbook for Prison Staff*, 2009, 117.

treatment prisoners should be kept in separate institutions or parts of institutions. In addition, it clarifies that male and female, untried and convicted, civil and criminal, young and adult prisoners should be kept separately.<sup>55</sup>

Prisoners have the right to an adequate standard of living and appropriate conditions of detention which includes accommodation. Therefore, prisoners have the right to proper accommodation and the deprivation of this right will result in ill-treatment of prisoners which may amount to torture.<sup>56</sup>

Furthermore, the standard rule provides the prisoners right to accommodation in detailed manner under article 9 to article 14. Specifically, under article 12 and 13 provides that there should be adequate, clean and decent sanitary installation, which have adequate bathing and shower installations, so that every prisoner may be enabled and required to have a bath or shower.<sup>57</sup> In addition, the accommodation should have adequate cubic content of air, floor space, lighting, heating and ventilation.<sup>58</sup> Prisoners who are required to share sleeping accommodation should be carefully selected and supervised at night.<sup>59</sup>

### **2.3.3.1 State's Obligations towards the Right to Accommodation**

States have an obligation on protection of the right to accommodation of inmates. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)<sup>60</sup> under its rule 12 to rule 14 states that the accommodation of prisoners should respect their

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<sup>55</sup>Supra note 30, Article 8(a-d).

<sup>56</sup> Supra note 24, 121.

<sup>57</sup>Supra note 25, article 13.

<sup>58</sup> Ibid, article 10.

<sup>59</sup> Ibid, article 9(2).

<sup>60</sup>SMR for the Treatment of Prisoners (the Nelson Mandela Rules), resolution adopted by the General Assembly on December 17 2015.

dignity. As much as possible, each inmate should be provided with his/her own private cell<sup>61</sup>, the beds of the inmates should fulfill all requirements of health, such as cubic content of air, minimum floor space, lighting, heating and ventilation<sup>62</sup>, and the windows they dwell should be large enough to enter fresh air to the cell and have artificial light for reading purposes, which is not hazardous to their eyesight<sup>63</sup>.

#### **2.3.4 Right to Food (Nutrition)**

The right to food is an essential human right of any human being. This right is crucial to human survival. Once it is missed the existence of an individual will be in danger. Juvenile inmate as an individual have the right to food (nutrition) internationally, regionally and nationally. The UDHR is the first international instrument to proclaim the right to food as a human right. It recognizes this right under article 25(1) and reads as: everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including *food*, clothing, housing and a continuous improvement of living conditions. The right to food is included within the right to an adequate standard of living under UDHR and thus it is within the frame work of social, economic and cultural rights.

The right to food is also gets an attention in the ICESCR under article 11(2) and obliges state parties to recognize and realize “the [human] right of everyone to an adequate standard of living for himself and his family, including [access to] *adequate food*, clothing, and housing.” under article 11(1). In contrast to the ICESCR, the African Human and Peoples’ Rights Charter does not explicitly recognize the human right to food but has provisions on fundamental human rights

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<sup>61</sup>Ibid, rule 12(1).

<sup>62</sup>Ibid, rule 13.

<sup>63</sup>Ibid, rule 14.

that embody and strongly interrelated with the human right to food.<sup>64</sup> In 2009, the Additional Protocol to ICESCR was adopted.<sup>65</sup> The Protocol enshrines complaint and inquiry procedures for filing violations of economic, social and cultural rights before the CESCR which facilitate the justiciability of the right to food at the international level. The CESCR under General Comment No.12 provides a thorough definition of the normative content of the right to food, the different elements that are at its core, and the scope of state obligations to respect, protect and fulfil this right.<sup>66</sup>

Children are in need of special protection when it comes to the right to adequate food. The CRC under article 24 urges states to take appropriate measures to “combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution”.

The ECHR does not recognize explicitly social and economic rights. However, implicit interpretation of article 3 of prohibition on inhuman and degrading treatment of the same convention protects the rights of prisoners. The prohibition of inhuman and degrading treatment includes the right to food.

Unlike the ECHR, the right to food (nutrition) of prisoners is protected under Article 26 of the ACHR, which obliges the state parties to adopt measures to progressively achieve the full realization of the rights implicit in the economic, social, educational, scientific and cultural standards.<sup>67</sup> This right is also protected under Article 34 of Charter of the Organization of

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<sup>64</sup> Article 14(1) of the ACPHR.

<sup>65</sup> OP ICESCR, resolution/adopted by the General Assembly, A/ RES/63/117.

<sup>66</sup> GC No. 12, the Right to food, 20<sup>th</sup> Session, 1999, U.N. E/C.12/1999/5, para.

<sup>67</sup> ACHR, article 26.

American States<sup>68</sup>, which obliges states to dedicate their efforts to achieve, among other things, proper nutrition and the availability of food. While Article 12 of the AP to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights, protects this right by providing that “everyone has the right to adequate nutrition which guarantees the possibility of enjoying the highest level of physical, emotional and intellectual development”.<sup>69</sup>

Just like the ECHR, the ACHPR does not recognize the right to food explicitly rather it recognizes other rights like the right to life, the right health, and the right to social, economic and cultural development. Therefore, the Charter recognizes the right to food in an implicit way. In juxtaposition with this, the African Commission on human rights provides an interpretation on the right to food in the case between the Social and Economic Rights Action Centre (SERAC) and the Centre for Economic and Social Rights (CESR) vs Nigeria. The Commission decided that the right to food of the Ogoeni community, encompasses the right to life, the right to health, and the right to social, economic and cultural development which are recognized under the charter vividly.<sup>70</sup> The right to food is also recognized under article 14 of in the African Charter on the Rights and Welfare of the Child (ACRWC) and obliges member states to be committed “to ensure the provision of adequate food and safe drinking water.”

Apart from these international and regional binding instruments, the SMR’s rule 6, rule 20 and rule 42 protect this right. Rules 6 and rule 42 oblige states to provide inmates with special diet that takes into account their religious belief. Rule 20 obliges states to provide inmates with drinking water and food of nutritional value adequate for their strength and health. In addition,

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<sup>68</sup>CAOS, signed at the Ninth International Conference of American States, held in Bogota, Colombia, on 30 April 1948, entered into force on 13 December 1951.

<sup>69</sup>AP to the ACHR in the Area of Economic, Social and Cultural Rights, adopted on 17 November 1988, entered into force 16 November 1999, Article 12 (1).

<sup>70</sup>African commission for human rights, Communication no. 155/9, a Case Between the Social and Economic Rights Action Centre (SERAC) and the Centre for Economic and Social Rights (CESR) Vs Nigeria.

this right is also protected by Principle 3 of the UN Basic Principles for the Treatment of Prisoners.<sup>71</sup>

#### **2.3.4.1 State's Obligations towards the Right to Food (Nutrition)**

The right to food is a human right and not a political option that governments can choose to implement or to ignore. Acknowledging this means obligations for governments.<sup>72</sup> One of the most basic obligations under the right to food is the duty on states not to starve those within their control, such as prisoners.<sup>73</sup> The right to food is a legal entitlement and as such creates legal obligations for the state and allows individuals to demand for state respect, protection, and fulfillment of this right. Its realization is multi-dimensional, and requires that adequacy and sustainability are ensured. Just like the right to health, there are general and specific obligations related to the right to food. The general obligations are explained under General Comment No. 3 of CESCR as: States must take *all appropriate steps*, including legislative measures, to progressively achieve the full realization of economic and social rights. The measures must be “deliberate, concrete and targeted.”<sup>74</sup> The Committee argued that the meaning of the phrase ‘to take steps’, especially considering its French and Spanish translation – ‘s’engage à agir’ (to act) and ‘a adoptar medidas’ (to adopt measures) – at least implies that ‘within a reasonably short time after the Covenant’s entry into force’ measures should be taken by the State to realise the full implementation that is ‘deliberate, concrete and targeted as clearly as possible towards meeting

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<sup>71</sup>UN Basic Principles for the Treatment of Prisoners, principle 3.

<sup>72</sup>Golay, C. & Özden, M., The right to food, Brochure part of a series of the Human Rights Programme of the Europe-Third World Centre (CETIM), 2005.

<sup>73</sup>Amnesty International, Human rights for human dignity *A primer on economic, social and cultural rights*, 2<sup>nd</sup> edn, 2014.

<sup>74</sup>Bart, F.W. Wernaart, The enforceability of the human right to adequate food *a comparative study*, GC No. 3: The Nature of States Parties’ Obligations (Art. 2, Para.1, of the Covenant) (UNCESCR, 1990). Wageningen Academic Publishers The Netherlands, 2013, 82.

the obligations recognised in the Covenant.’<sup>75</sup> In other words: doing nothing is a violation of the Covenant.

The Committee goes even further by stating that after careful consideration of the State reports of over a decade, ‘it is of the opinion that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State Party.’<sup>76</sup> Failing to achieve this would be a violation of the Covenant.

According to the Committee, a lack of available resources is no excuse to not guarantee these core obligations, unless the State has proven to have undertaken every effort, ‘as a matter of priority’ to guarantee these minima. Furthermore, the right to food is violated when there exists ‘discrimination in the access to food, as well as to means and entitlements for its procurement...with the purpose or effect of nullifying or impairing the equal enjoyment or exercise of economic, social and cultural rights.’<sup>77</sup>

### **2.3.5 The Right to Water and Sanitation**

#### **2.3.5.1 The Right to Water**

The right to water is not recognized explicitly in the UDHR as well as in the two comprehensive global human rights treaties (ICESCR and ICCPR). However, this right is implicitly recognized in other provisions of the instruments. The provisions most obviously relating to water may be found in the Social Covenant, including the right to an adequate standard of living and its components, as well as the right to health guaranteed in Articles 11 and 12 ICESCR.<sup>78</sup> The right to adequate standard of living under article 11(1) of the ICESCR contains a bundle of rights.

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<sup>75</sup>Ibid,E/1991/23, annex III at 86 (1991), 14 December 1990, CESCR, General Comment 3, The Nature of States Parties’ Obligations, Section 2, 82.

<sup>76</sup>Ibid, Section 10.

<sup>77</sup>Supra note 74,E/C.12/1999/5, 12 May 1999, CESCR, General Comment 12, Right to Adequate Food, Section 18, 82.

<sup>78</sup>Ibid, 38.

However, it is striking that water is not explicitly mentioned as an element of an adequate standard of living alongside the rights to food, clothing and housing.<sup>79</sup> The issue of the right to water on the international political agenda was significantly boosted by the UNCESCR and its general comment No.15 in 2002. The general comment stated that the “human right to water is indispensable” and provided guidelines for the interpretation of the right to water under articles 11 and 12 of the covenant.<sup>80</sup> General Comment 15 is considered as a milestone in the evolution of the human right to water as it for the first time defined the right to water as entitling everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.<sup>81</sup> Later on, 2010 brought enormous developments for the human right to water: both the UNGA and the HRC adopted resolutions recognising the human right to water.<sup>82</sup> And explicitly affirmed that ‘the human right to safe drinking water and sanitation is derived from the right to an adequate standard of living’.<sup>83</sup>

In addition, article 27 of CRC, which guarantees an adequate standard of living, does not mention water explicitly, it may be inferred from the Concluding Observations of the Committee on the Rights of the Child that it considers water to be a part of that right.<sup>84</sup>

The 1950’s ECHR does not have an explicit provision on the right to water. Later in 2001 twenty one European nations ratified the protocol of London on water and health<sup>85</sup>, which under its article 5 states that equitable access to water, adequate in terms of both quantity and quality,

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<sup>79</sup> Ibid, 41.

<sup>80</sup>Kirschner, J. Adele, The human right to water and sanitation, Max Plank year book of United Nations Laws,vol.15,2011, 452.

<sup>81</sup> CESCR GC No. 15, The Right to Water, 29th Session, 2003, U.N. Doc. E/C.12/2002/11, 2003, para.2.

<sup>82</sup>Winkler, T. Inga, *The Human Right to Water Significance, Legal Status and Implications for Water Allocation*,Hart Publishing,2012, 37.

<sup>83</sup>Human Rights Council, *Human rights and access to safe drinking water and sanitation*, 6 October 2010, A/HRC/Res/15/9, para 3.

<sup>84</sup> Ibid, 44.

<sup>85</sup>European Charter on Water Resources, article 5, 2001.

should be provided for all members of the population, especially those who suffer a disadvantage or social exclusion.

The AP of the Charter of the Organization of American States, which is amended in Buenos Aires<sup>86</sup>, recognized a number of socio economic rights but it does not address explicitly the right to water.

Apart from these two regional human rights systems, the African Charter on the Rights and Welfare of the Child explicitly recognized the right to water of the child under article 14(2)(c). The African commission on human and peoples' rights guideline on the right to water under part 4 of vulnerable and marginalized groups with special needs under its article 20 also states that "States shall ensure that imprisoned and detained persons have access to sufficient, safe and acceptable water and sanitation facilities. Sufficient water shall be provided daily, together with sufficient soap and clothes detergent to ensure personal hygiene, clean bedding and clothes."<sup>87</sup>

### **2.3.5.2 The Right to Sanitation**

The UDHR does not recognize the right to sanitation explicitly, but it proclaimed under article 1 that all people are born "equal in dignity".<sup>88</sup> It also states under article 22 that "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family..."<sup>89</sup> The right to sanitation is necessary for the realization of these human rights.

The right to sanitation is implicitly required for the realization of the right to an adequate standard of living, right to housing, and right to water as stipulated in the ICESCR. In General

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<sup>86</sup>The additional protocol addresses the right to health, the right to food, the right to education and others.

<sup>87</sup>Guidelines on the Right to Water in Africa, Adopted during the 26th Extra-Ordinary Session of the AComHPR held from 16 to 30 July 2019, in Banjul, The Gambia.

<sup>88</sup> UDHR article 1, adopted and proclaimed by the UN General Assembly in resolution 217 A (III) of 10 December 1948 at Paris.

<sup>89</sup> Ibid, article 22.

Comment No. 4, the Committee on Economic, Social and Cultural Rights specifies that the right to housing includes access to the right to sanitation.<sup>90</sup> Furthermore, the realization of the right to sanitation requires the following components: availability, quality, physical accessibility, affordability, and acceptability.<sup>91</sup>

The UNGA and UNHRC recognized access to sanitation as a distinct human right. Sanitation is about human dignity and privacy, where dignity is an individual's sense of self-respect, value, self-worthiness and empowerment and it is “the basis of fundamental rights in international law”.<sup>92</sup> The World Health Organization explains sanitation as the provision of facilities and services for the safe disposal of human urine and feces.<sup>93</sup>

Sanitation is not only about proper health, education, gender equality, and housing, but also about human dignity and privacy. Fact sheets of sanitation 2015 reports that access to improved sanitation services has risen from 54% to 68% since 1990, but 2.4 billion people still lack access to toilets. Sanitation is essential for human development; it is not only limited to its sector but plays an important role to achieve various other objectives like eradication of poverty, improving education, gender equality, adequate nutrition, clean environment, good health, and dignity.<sup>94</sup>

### **2.3.5.3 State's Obligations towards the Right to Water and Sanitation**

States are under obligation to recognize the right to water and sanitation of individuals. The HRC special rapporteur on the human right to safe drinking water and sanitation under her 2009 report on Common violations of the human rights to water and sanitation stated that states need to include sanitation in national policies and budgets, reflecting the importance of Article 2 of the

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<sup>90</sup>CESCR GC No. 4: The Right to Adequate Housing, UN Doc E/1992/23 (1991), 3.

<sup>91</sup>Human Rights Council, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, Catarina de Albuquerque. UN Doc A/HRC/12/24 (2009), 20.

<sup>92</sup>UNGA and UNHRC.

<sup>93</sup>WHO, 2016.

<sup>94</sup>WHO, 2015.

ICESCR.<sup>95</sup> Article 2 requires that state parties take steps “...to the maximum of its available resources...” to realize its obligations to human rights.<sup>96</sup> This article obliges state parties to respect, protect, and fulfill human rights.<sup>97</sup> State parties must refrain from interfering with individuals’ access to sanitation, provide individuals with a path to remedy violations of the right to sanitation, and take positive action to fulfill the right to sanitation. The ICESCR requires legislators to consider how the state fulfills its human rights obligation when creating policy and issuing budget decisions.<sup>98</sup> Even if states have limited resources, states must integrate plans into state policies to progressively realize the rights stipulated in the ICESCR.<sup>99</sup>

Moreover, the three obligations of states to human rights to water and sanitation as clarified in GC No.15 from paragraph 22 to paragraph 29 are:- the obligation to respect which means that States may not prevent people from enjoying their human rights to water and sanitation, the obligation to protect which requires that States must prevent third parties from interfering in any way with people’s enjoyment of the human rights to water and sanitation, and the obligation to fulfil which requires States to ensure that the conditions are in place for everyone to enjoy the human rights to water and sanitation.

### **2.3.6 The Right to Leisure, Play and Recreation**

The SMR rule 21 (2) states that young prisoners shall receive physical and recreational training during the period of exercise. To this end space, installations and equipment should be provided.

In 1984, the ECOSOC adopted the Procedures for the effective implementation of the SMRT to

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<sup>95</sup>Supra note 68, para. 26.

<sup>96</sup>ICESCR, article 2.

<sup>97</sup>Supra note 68, para 6.

<sup>98</sup>Blyberg, A. and Hofbauer, H., “Article 2 and Governments’ Budgets.” International Budget Partnership,2014, 88.

<sup>99</sup>Supra note 68, para.6.

the attention of all States whose standards for the protection of all persons subjected to any form of detention or imprisonment fall short of the Standard Minimum Rules.

Article 31 of the UNCRC states the right of all children to have rest and leisure, to engage in play and recreational activities and to participate in cultural life and the arts. However, concerns that the obligations to uphold article 31 rights were not being addressed by governments. To this effect, the HRC published GC No.17 in 2013. The GC explains that Article 31 must be understood holistically, both in terms of its constituent parts and also in its relationship with the Convention in its entirety. Each element of article 31 is mutually linked and reinforcing, and when realized, serves to enrich the lives of children....Their realization is fundamental to the quality of childhood, to children's entitlement to optimum development, to the promotion of resilience and to the realization of other rights.... Play and recreation are essential to the health and well-being of children and promote the development of creativity, imagination, self-confidence, self-efficacy, as well as physical, social, cognitive and emotional strength and skills....Play and recreation facilitate children's capacities to negotiate, regain emotional balance, resolve conflicts and make decisions....Through engagement with their peers, children create and transmit their own language, games, secret worlds, fantasies and other cultural knowledge.<sup>100</sup>

Finally, rest and leisure are as important to children's development as the basics of nutrition, housing, health care and education. The GC 17 defined leisure as *space without obligations, entertainment or stimulus, which they can choose to fill as actively or inactively as they*

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<sup>100</sup>UNCRC GC No.17, 2013, on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, 2 para.4.

wish.<sup>101</sup> and defined play as *behaviour initiated, controlled and structured by children, as non-compulsory, driven by intrinsic motivation, not a means to an end and that it has key characteristics of fun, uncertainty, challenge, flexibility and non-productivity.*<sup>102</sup>

### **2.3.6.1 State's Obligations towards the Right to Leisure, Play and Recreation**

The two elements of article 31 the UNCRC highlight three separate but interrelated roles for States Parties: recognizing, respecting and promoting children's right to leisure, play and recreation. **Recognizing** the importance of play in children's lives is the building block for respecting and promoting it as a right. This requires a sound understanding of the nature and benefits of leisure, play and recreation; **Respecting** the right to leisure, play and recreation requires States Parties 'not to deny or limit access to the enjoyment of rights'; and **Promoting** children's right to leisure, play and recreation is necessary because its fundamental importance is often overlooked, being understood by adults as 'a luxury rather than a necessity of life'.<sup>103</sup>

The Limburg Principles on the Implementation of the ICESCR clearly states that it is the responsibility of the States 'to use all appropriate means, including legislative, administrative, judicial, economic, social and educational measures' in order to fulfil the obligations under the CESCR.<sup>104</sup>

Rule 19 of the Beijing Rules makes the appeal that if a juvenile must be institutionalized, the loss of liberty should be restricted to the least possible degree, with special institutional arrangements

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<sup>101</sup>Ibid,3 para.1.

<sup>102</sup>Ibid, 5-6.

<sup>103</sup>Hodgkin, R. and Newell, P., Implementation Handbook for the Convention on the Rights of the Child, 3rd edn. Geneva: UNICEF,2007.

<sup>104</sup>Rishmawi, M., "Article 4: The Nature of States Parties' Obligations", in: A. Alen, J. VandeLanotte, E. Verhellen, F. Ang, E. Berghmans, M. Verheyde (Eds.) *A Commentary on the United Nations Convention on the Rights of the Child* (MartinusNijhoff Publishers, Leiden, 2006, 5.

for confinement and bearing in mind the differences in kinds of offenders, offences and institutions. In fact, priority should be given to "open" over "closed" institutions. Furthermore, any facility should be of a correctional or educational rather than of a prison type.<sup>105</sup>

### **2.3.7 Summary**

Social rights of juvenile offenders are protected under different international and regional treaties. These rights are the right to adequate accommodation, the right to medical care and counseling, the right to food, the right to water and sanitation, the right to leisure, and play and recreation. In addition to these treaties there are standards, guidelines, and principles set to implement the treaties. States have an obligation to respect, protect and fulfill these rights of juvenile offenders which ever their economic development is according to the treaties based on the standards, guidelines and principles.

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<sup>105</sup>UNSMR for the Administration of Juvenile Justice (The Beijing rules), Adopted by General Assembly resolution 40/33 of 29 November 1985, Rule 26.2.

## Chapter Three

### Rehabilitation of Juvenile Offenders: Lessons from the Republic of Mauritius

#### 3.1 Introduction

In Mauritius the rights of children in general and juvenile offenders in particular are protected under the country's Constitution, The Criminal Code, The Child Protection Act, and The Juvenile Offenders Act. The minimum age of criminal responsibility in Mauritius juvenile justice system sets at 11 years. The juvenile offenders in Mauritius entertained a bundle of social rights such as; the right to adequate accommodation, the right to health, the right to food, the right to medical care and counseling, the right to water and sanitation, and the right to leisure, play and recreation. I choose the republic of Mauritius to Ethiopia to have a lesson is the country ranked first for three consecutive years(2016-2018) as a child friendly government by the ACPF report.

#### 3.2 The Republic of Mauritius

The Republic of Mauritius is Southern Africa country about 800 km (500 mi) east of Madagascar<sup>106</sup> and situated between longitudes 57<sup>0</sup>17' east and latitudes 19<sup>0</sup>50' and 20<sup>0</sup>32'an island of 2,100 sq.km in the south-west Indian Ocean.<sup>107</sup> Mauritius attained independence from the UK in 1968.<sup>108</sup> The current population of Mauritius in 2021 is 1,273,433.<sup>109</sup> The country's GDP for 2019 was \$14.05B.<sup>110</sup> Healthcare spending for 2018 was \$653, a 8.99% increase from 2017,<sup>111</sup> and poverty rate for 2017 was 12.70%, a 5.2% decline from 2012.<sup>112</sup> Mauritius ranked

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<sup>106</sup> <https://www.cia.gov/the-world-factbook/countries/mauritius/> accessed on March 04,2021.

<sup>107</sup> Selvon, S., Historical Dictionary of Mauritius, African Historical Dictionaries No.9,2<sup>nd</sup>edn, The scarecrow press Inc,1991, vii.

<sup>108</sup> Supra note 104.

<sup>109</sup> <https://www.macrotrends.net/countries/MUS/mauritius/population-growth-rate> accessed on 04 March,2021.

<sup>110</sup> Ibid,

<sup>111</sup> Ibid,

<sup>112</sup> Ibid,

first as “child friendly government” by the ACPF study of 2018.<sup>113</sup>

### **3.2. Application of International and National laws**

The Republic of Mauritius has ratified and implemented the Havana Rules.<sup>114</sup> Furthermore, according to chapter 2 article 7(1) of the Mauritius Constitution, Mauritian citizens have the right not to be subjected to torture or to inhuman or degrading punishment.<sup>115</sup> The Child Protection Act provides for the protection of children with respect to physical, psychological, emotional or moral injury.<sup>116</sup> The Juvenile Offenders Act was enacted in 1935 to deal particularly with cases of juveniles who are in conflict with the law.

The minimum age of criminal responsibility in Mauritius juvenile justice system sets at 11 years. There are special judicial arrangements regarding offences committed by children under the age of 14. The court proceedings take place in chambers and in the presence of a responsible party.<sup>117</sup>

### **3.3. Child Friendly Government**

A child-friendly government is one which is maximising efforts to meet its obligations to respect, protect and fulfil children’s rights and ensure their wellbeing. This includes (i) efforts made to adopt, implement and enforce laws and policies for the protection of children; (ii) public expenditure committed to children’s basic needs and how effectively it achieves concrete child wellbeing outcomes; and (iii) efforts made to include children in decisions that affect their wellbeing.<sup>118</sup> According to the ACPF’s 2018 study, Mauritius is the first most child friendly state

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<sup>113</sup> ACPF, The African Report on Child Wellbeing 2018 ‘*Progress in the child-friendliness of African governments*’, 2018.

<sup>114</sup> The republic of Mauritius ratified the Havana rules on 20 Dec 1988 in Havana, Cuba.

<sup>115</sup> Article 7(1) of the constitution of the Republic of Mauritius 1968.

<sup>116</sup> Child Protection Act No.30/1994 of the Republic of Mauritius.

<sup>117</sup> Article 45 of the criminal code of the republic of Mauritius 1938.

<sup>118</sup> Supra note 109.

in Africa.<sup>119</sup> The country's first rank reflects its consistent efforts to realise the rights and wellbeing of children by (a) adopting and implementing comprehensive laws and policies to provide adequate protection, and (b) allocating relatively higher shares of its available resources to child-related sectors.<sup>120</sup> For instance, Mauritius has a Law Reform Commission- a statutory body which systematically reviews the laws of the country and makes recommendations for reform if they are inconsistent with international standards.<sup>121</sup> Mauritius has also an increased access to sanitation and safely managed drinking water and the country's minimum age for criminal responsibility is in line with international guidelines.<sup>122</sup> In addition, Mauritius has ratified almost all relevant international and regional child rights treaties and has incorporated them into domestic laws and policies.<sup>123</sup> However, national income is not necessarily the primary factor in determining a government's child friendliness.<sup>124</sup>

### **3.4. Accommodation**

The Juvenile Offender Act (JOA) of Mauritius<sup>125</sup> recognizes the need for the Government to establish places of remand and detention of juveniles. According to this, four institutions were established: the Probation Hostel for Boys (PHB); Probation Homes for Girls (PHG); the Rehabilitation Youth Centre and the Correction Youth Centre. The prison authority runs these institutions. A young offender is likely to be sent to these institutions as decided by the magistrate.<sup>126</sup>

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<sup>119</sup>Ibid.

<sup>120</sup>Ibid

<sup>121</sup>Ibid

<sup>122</sup> Ibid

<sup>123</sup>Ibid

<sup>124</sup>Ibid

<sup>125</sup>The Juvenile Offender Act of the Republic of Mauritius 1935, Sections 19, 20 & 25.

<sup>126</sup>Muscroft, S. (ed.), *Children's Rights: Reality or Rhetoric? The UN Convention on the Rights of the Child: The First Ten Years, save the children (UK)*, 1999, 210.

Young persons aged 11 and over who have committed offences for which the punishment is imprisonment are sent to the Correctional Youth Centre. The Rehabilitation Youth Centre is for juvenile offenders ordered by the court for a longer period of detention, in view of the nature of offence, for rehabilitation purposes.<sup>127</sup>

### **3.5. Food**

Food is prepared by an employed cook in the central kitchen and is provided for free. Breakfast, lunch and dinner are served. At 3 p.m. there is also a tea break time. Wardens are to examine the quality of the food and the cleanliness of the kitchen daily.<sup>128</sup>

### **3.6. Health Care**

Concerning health, juvenile offenders are medically screened when they enter the institutions for both physical and mental health problems. The screening procedure takes place periodically.<sup>129</sup>

When need arises, juvenile offenders are sent to a local public hospital because of the lack of a health care unit inside the institutions. For less serious incidents there is a medical staff of general practitioners and nurses. In cases of need of psychological help, counseling takes place by the psychologist of the institutions.<sup>130</sup>

### **3.7. Leisure, Play and Recreation**

Everyday juveniles receive physical training in the open air. Often they are playing sports, watching TV or they are taking part in educational tours like; visiting historical sites that are organised by the institutions and outdoor activities like; football, swimming, and badminton.

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<sup>127</sup>Ibid.

<sup>128</sup>Boodhun, H.D.K. and Boojharut, P. ,A Critical Analysis of the Treatment of Juvenile Offenders in the Mauritian Criminal Justice System,2014, [www.globalbizresearch.org](http://www.globalbizresearch.org) accessed on 04 march ,2021.

<sup>129</sup>Ibid.

<sup>130</sup>Ibid.

They are allowed to listen to the radio, to read books, magazines and newspapers, and to visit the library.<sup>131</sup>

### **3.8 Sanitation**

There is water supply in the institutions that works efficiently and there is also warm water. The juveniles are allowed to take a bath every day.<sup>132</sup> Soap and toilet paper are distributed free upon request.

### **3.9. Spending on Children Health**

In 2016, the UN Committee on the Rights of the Child (CRC) reaffirmed that governments have an obligation to fund interventions for implementing children's rights and to ensure that budget decisions lead to the best possible outcomes for the largest number of children-especially the most vulnerable. Budget commitments are one of the key measurements of a state's child-friendliness.<sup>133</sup> The African Charter on the Rights and Welfare of the Child (ACRWC) entitles every child to the best possible physical, mental and spiritual health, while the CRC obliges governments to ensure children enjoy the highest standard of healthcare. Fulfilling these obligations requires significant public spending.<sup>134</sup> It costs about USD 86 per person per year to provide a basic universal health service- more than double the current average spending in low-income countries including those in Africa.<sup>135</sup> According to WHO's 2016 report, Mauritius spent 9.9% of her government expenditure for child health from domestic sources.<sup>136</sup>

### **3.10 Summary**

As discussed above, the government of Mauritius ranked first for the years 2016 to 2018. The government called child friendly government by the ACPF because of its an increase in budget

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<sup>131</sup> Ibid.

<sup>132</sup> Ibid.

<sup>133</sup> Supra note 113.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

<sup>136</sup> Ibid.

expenditure for children out of the total budget of the country. The state proclaim different laws in order to protect the rights of children in general and the rights juvenile offenders in particular. Mauritius established four institution in order to response its obligation for juvenile offenders. These are the Probation Hostel for Boys (PHB); Probation Homes for Girls (PHG); the Rehabilitation Youth Centre and the Correction Youth Centre. Juvenile offenders in the country enjoyed their right to adequate accommodation, right to medical care and counseling, right to food, right to water and sanitation, and right to leisure, play and recreation. They are allowed to taking part in educational tours like; visiting historical sites that are organised by the institutions which is a good lesson for Ethiopia.

## Chapter Four

### The Protection and Enforcement of Juvenile Offenders' Social Rights in Ethiopia

#### 4.1 Introduction

Correspondingly to international instruments the protection and enforcement of juvenile offenders' social rights in Ethiopia is protected under national laws. The national laws are the constitution, the revised criminal code, the treatment on federal prisoners, the criminal justice policy, and the national child policy. The constitution declares that prisoners should be treated in respecting their human dignity. Of these laws, especially in the proclamation on Federal Prisons Commission Establishment proclamation No.253/2006 and the regulation on the treatment of federal prisoners regulation No.138/2007 the social rights of juvenile offenders such as; the right to accommodation, the right to medical care and counseling, the right to food, the right to water (sanitation), the right to leisure, play and recreation are clearly presented in black and white.

Ethiopia ratified the UDHR<sup>137</sup> and other international human rights instruments, such as the ICCPR<sup>138</sup>, ICESCR<sup>139</sup>, CRC<sup>140</sup>, CEDAW<sup>141</sup>, CAT<sup>142</sup>. The constitution provides that international instruments ratified by Ethiopia form 'part and parcel' of Ethiopian laws.<sup>143</sup> However, there is a controversy between scholars on their status, whether or not they are above, under, or equal to the constitution and the subordinate proclamations of Ethiopia. Under all those international instruments Ethiopia has an obligation to respect, to protect, and to fulfill human rights of individuals in her jurisdiction. However, it must be noted that ratification of international and

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<sup>137</sup>UDHR, 1948.

<sup>138</sup>ICCPR, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. *N6316* (1966), 11 June 1993(a).

<sup>139</sup>ICESCR, 11 June 1993(a).

<sup>140</sup>CRC, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. *N44/49* (1989), 14 May 1991(a).

<sup>141</sup>CEDAW, 08 July 1980.

<sup>142</sup>CAT, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. *N39/51 (1984)*, 14 March 1994(a).

<sup>143</sup>FDRE constitution, article 9(4).

regional instruments is important, but it does not automatically prove commitment. Unless accompanied by political will and actions by governments, it will not translate into reality.<sup>144</sup>

In earlier times, juvenile inmates' are treated in the same way as adult inmates before the enactment of law on the treatment of juvenile inmates. After this law is come into force the treatment of juvenile inmates take one step forward for the special protection of their rights as an individual and as an inmate. Therefore, the social rights of juvenile inmates in Ethiopia will be discussed here in under.

#### **4.2 The FDRE Constitution**

The FDRE Constitution under article 21 on The Rights of Persons Held in Custody and Convicted Prisoners states that detained persons are entitled to the rights guaranteed by the constitution. It reads as: all persons held in custody and persons imprisoned upon conviction and sentencing have the rights to treatments respecting their human dignity.<sup>145</sup> 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.<sup>146</sup> The same Constitution under article 36(3) also states that children in conflict with the law admitted to corrective or rehabilitative institutions and juveniles who become wards of the state or who are placed in public or private orphanages shall be kept separately from adults.<sup>147</sup> Juveniles have the right to exercise the ESC rights incorporated in both chapter three and chapter ten of the constitution.

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<sup>144</sup>Supra note 17.

<sup>145</sup>FDRE constitution, article 21, Proclamation No. 1/1995, Neg. Gaz. year 1, No 1.1995.

<sup>146</sup> Ibid, article 21(2).

<sup>147</sup> Ibid, article 36(3).

However, there is a question of justiciability on ESC rights provisions under NPPO<sup>148</sup> of the FDRE constitution. The constitution provides ESC rights both as justiciable fundamental rights and NPPO devoid of any ouster provision. It is also devoid of any explicit declaration to avoid courts from adjudicating ESC rights. Thus, it is better to take ESC rights provisions under NPPO of the constitution as justiciable.

### **4.3 The Status and Domestication of International Instruments in Ethiopia**

According to article 55(12) of the FDRE Constitution international agreements are ratified by the House of Peoples Representatives (HPR). And Article 9(1) of the FDRE constitution states that the constitution is the supreme law of the land. Any law, customary practice or a decision of an organ of state or a public official which contravenes this Constitution shall be of no effect.

However, the status of international instruments; in the hierarchy of laws, which determines which law prevails in cases where international instruments contradict the Constitution or domestic statutes<sup>149</sup>, in general and human rights instruments in particular in the Constitution is not clear, but has been the subject of substantial scholarly disagreement.<sup>150</sup> Some scholars like S. Yeshanew, I. Idris, G. Gebregiorgis and C Mgbako et al (6 scholars) as cited in Adem Kassie's LLD dissertation, argued that pursuant to article 9(1) and (4) of the FDRE constitution international instruments are subordinate to the Constitution<sup>151</sup>, and other scholars like T. Bultoclaimed that pursuant to article 13(2) of the same constitution international instruments adopted by Ethiopia have a status higher than, or at least equal to, Chapter 3 of the Constitution

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<sup>148</sup>Chapter Ten of the FDRE constitution NPPO includes external relations and national defence principles and political, economical, social, cultural and environmental objectives enumerated under article 86 to article 92.

<sup>149</sup>Adem K. Abebe, THE POTENTIAL ROLE OF CONSTITUTIONAL REVIEW IN THE REALISATION OF HUMAN RIGHTS IN ETHIOPIA, Submitted in fulfilment of the requirements for the degree Doctor Legum (LLD) In the Faculty of Law, University of Pretoria, 2012, 161.

<sup>150</sup>Ibid, 167.

<sup>151</sup>Ibid.

itself.<sup>152</sup> However, Adem defies Bulto's view as Bulto wrongly mingles the relationship between domestic law and international law at the international level, which is defined by international law, and at the national level, which is defined by national law. Nevertheless, even if international law is subordinate to constitutional law at the national level, the state will still be responsible at the international level. Domestic law cannot provide justification to violations of international law – Vienna Convention on the Law of Treaties (1969), article 27.<sup>153</sup> It should be noted that article 9(4) is incorporation article and article 13(2) is the interpretation article of international human rights instruments.<sup>154</sup> It is submitted that the interpretation provision (article 13(2)) should be understood purposively to oblige guidance and conformity in interpreting all provisions that have direct or indirect bearing on fundamental rights and freedoms enshrined in the constitution.<sup>155</sup> Note, however, that the Ethiopian Constitution does not incorporate a general interpretation clause whose application cuts across all the provisions.<sup>156</sup>

There is also controversy between scholars view on whether or not publication on the law gazette is a precondition before to apply international instruments can be directly applied by Ethiopian courts. Idris concluded that publication is the basic requirement that excludes courts from considering unpublished international instruments. In contrast, Yeshanew argues that the duty to publish all federal laws in the Negarit Gazette should not apply to international instruments as the Constitution and several other laws consider international instrument as distinct from other federal laws.<sup>157</sup> Adem boosts Yeshanew's argument by tallying that *Publication adds no validity*

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<sup>152</sup>Ibid, 168.

<sup>153</sup>Ibid.

<sup>154</sup>Ibid, 165.

<sup>155</sup>Ibid.

<sup>156</sup>Ibid, 162.

<sup>157</sup>Ibid, 165.

*to international conventions which are already valid through ratification,*<sup>158</sup> by defying Idris's conclusion on publication.

On the other hand, one of the ways by which states discharge their international human rights commitments is by incorporating international and regional treaties into their Constitutions. The standards and principles of human rights instruments acquire constitutional protection when they are included in the texts of national Constitutions.<sup>159</sup>

The relationship between international law and municipal law has been the subject of much doctrinal dispute between what is known as the "dualist" school of thought, on the one hand, and the "monist" school of thought on the other hand.<sup>160</sup> The dualism theory stresses that the rules of the systems of international law and municipal law exist separately and cannot purport to have an effect on, or overrule, the other.<sup>161</sup> While, the monism theory holds that international law and domestic law form part of a single universal legal system.<sup>162</sup>

The cumulative reading of article 55(12) of the FDRE constitution and article 2(2) and (3)<sup>163</sup> of proclamation number 3/1995 leads us to categorize Ethiopia as a follower of a dualistic approach, whereby treaties, including those dealing with human rights, cannot be applied domestically unless they have been incorporated through domestic legislation. However, there is neither a ratification proclamation that enshrines the content of ratified human rights conventions, nor a translation of these conventions into language accessible for the courts.<sup>164</sup>

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<sup>158</sup> Ibid.

<sup>159</sup> Malcom N. Shaw, *International law*, 5th edn, Cambridge, 2008, 64.

<sup>160</sup> Malcom N. Shaw, *International law*, 8th edn, Cambridge, 2017, 97.

<sup>161</sup> Ibid.

<sup>162</sup> Madelaine Chaim, *Monism and Dualism in International Law*, oxford, 2018, 1.

<sup>163</sup> Article 2(2) and (3) of the Federal Negarit Gazette Establishment Proclamation requires publication of all federal laws in the official law gazette.

<sup>164</sup> Supra note 17, 31.

Conversely, if someone looks at the hierarchy of laws in Ethiopia, s/he will assert that Ethiopia adopts a monistic approach. The cumulative reading of Article 9(4) and article 13(2) of the FDRE Constitution specifies that ratified human rights conventions have higher, or at least equal, status to the bill of rights enshrined in the Constitution.<sup>165</sup> International human rights instruments adopted by Ethiopia are guidelines for the interpretation of the bill of rights of the FDRE Constitution. Therefore it can be concluded that Ethiopia does not adhere to one specific approach of domestication until differing arguments can be settled by the legislature or courts.<sup>166</sup>

#### **4.4 The FDRE Criminal Justice Policy (2010)**

The FDRE criminal justice policy is endorsed on February 2010. The policy enumerates four fundamental principles<sup>167</sup> regarding juvenile and young offenders as: Under any circumstances, all decisions, legislations, directives, programs and other systems of the same and their enforcement taken by government

- Should not be discriminatory and abusive based on his/her and his/her family's race, color, sex, language, religion, political or other ideology, nation, clan or social status, disability, birth, occupation or other conditions.
- Should take into consideration the best interest of the child.
- Should confirm the right to life, maximum survival and development and
- Participation of the juvenile and young offender.

Regarding their treatment, the policy states *the treatment of juvenile offenders should follow a system of enabling them to leave out from offending track, to nurture positive thinking, and to be nonviolent and law abiding citizens. And the basic aim of the criminal justice system should*

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<sup>165</sup>Ibid, p.32.

<sup>166</sup>Ibid.

<sup>167</sup>Rule 6.3 of the FDRE criminal justice policy, 2010, translation is mine.

*be correcting the juvenile offenders and enabling them to create reintegration with their family and the society in harmonious way.*<sup>168</sup>

#### **4.5 National Child Policy of Ethiopia (Draft, 2017)**

The national child policy of Ethiopia endorsed in 2017. The policy enumerates its three fundamental pillars<sup>169</sup> as:

- Children's development and growth
- Prevention and protection of children from social, economic and political hardships
- Providing rehabilitation, care and support for children in difficult circumstances

Of these fundamental pillars the one which is related with the issue at hand is "Providing rehabilitation, care and support for children in difficult circumstances". Under this fundamental pillar the policy stipulates that: "...Even though the Government's efforts in alleviating the aforementioned problems on the administrative, educational and social fronts are commendable, success hasn't been achieved at the desired pace and children have yet to fully reap the benefits of its efforts..."<sup>170</sup>

The policy's primary aim is to ensure juvenile offenders have got due attention in the criminal justice system<sup>171</sup> and to protect children from involvement in criminal activities where as they are involved in criminal activities the law provides rehabilitation and integration services.<sup>172</sup>

In relation to the health of children's the policy stipulates that: "...Although considerable results have been registered in improving access to health services, much remains to be done in making

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<sup>168</sup>Ibid, Rule 6.4.1, translation is mine.

<sup>169</sup>NCPE, 1-2.

<sup>170</sup>Ibid, NCPE, 9.

<sup>171</sup>Ibid, NCPE, 3.6.(k).

<sup>172</sup>Ibid, NCPE, 3.6.(L).

*these basic health services available and accessible for children.*”<sup>173</sup> And it adds their education stipulated that: “...*Although significant strides have been made on the general education, technical and vocational trainings,...participation of children has not attained the expected level.*”<sup>174</sup> Moreover, the policy affirmed that children in difficult circumstances (juvenile offenders) have limited access to economic and social services.<sup>175</sup>

Upon the implementation of the policy every government organ has a duty and responsibility while the duty and responsibility of monitoring, coordinating, collecting, organizing and reporting data is given to the Ministry of Women and Children Affairs.<sup>176</sup> The private sector<sup>177</sup>, the community<sup>178</sup>, family<sup>179</sup>, religious institutions<sup>180</sup>, Indigenous Charities and Societies<sup>181</sup>, Regional and International Development Partners<sup>182</sup> and children’s<sup>183</sup> have also share a duty and responsibility of implementing the policy.

#### **4.6 The Revised Criminal Code of FDRE (2004)**

The FDRE Revised Criminal Code, came into force in 2004, is the updated version of the 1957 Penal Code and it addresses a bundle of protective measures for juvenile offenders as opposed to their adult counterparts. As it is indicated in the preface of the code the objective of the law regarding prisoners is reformation and rehabilitation than retribution.<sup>184</sup> It reads as: The fact that

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<sup>173</sup>Ibid, NCPE, 4.

<sup>174</sup>Ibid, NCPE, 5.

<sup>175</sup>Ibid, NCPE, 8.

<sup>176</sup> Ibid, NCPE, 5.1.9(A)(B),28.

<sup>177</sup>Ibid, NCPE, 5.2, 28-29.

<sup>178</sup>Ibid, NCPE, 5.3, 29-30.

<sup>179</sup>Ibid, NCPE, 5.4, 30.

<sup>180</sup>Ibid, NCPE, 5.5, 30.

<sup>181</sup>Ibid, NCPE, 5.6, 30-31.

<sup>182</sup>Ibid, NCPE, 5.7, 31.

<sup>183</sup>Ibid, NCPE, 5.8, 31.

<sup>184</sup>Reformation is the act of bringing back a criminal to such a sense of justice, so that he may live in society without any detriment to it, Rehabilitation is to treat each of the major contributing factors in order to give offenders the ability to live a crime-free life after they are released from prison, and Retribution is the severity of the punishment is proportionate to the seriousness of the crime.

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.

Article 1 of the code on 'object and purpose' of the criminal law 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. In addition, article 87(2) of the Criminal law emphasizes that the dignity of prisoners up on their custody should respected.

Under the Criminal law young offenders are treated differently from their adult counterparts. Article 106 of the law entails the court that to punish young offenders between the age of 9 and 15, to order curative, educational or corrective measures for the rehabilitation and reformation of young offenders. Imprisonment will be employed as a last resort when a young offender has committed a serious crime which is normally punishable with a term of rigorous imprisonment of ten years or more or with death and if the young offender is incorrigible and is likely to be a cause of trouble, insecurity or corruption to others. When detention is ordered, accordingly, the treatment of the child shall take place under the regime of simple imprisonment. With regard to their stay in prison the law favors their separation from adults.

There are two types of measures stipulated under article 55 of the criminal code to be applied on juvenile offenders. These measures are institutional and non-institutional. The institutional measures are those administered in a closed environment like the remand home; and non-institutional measures are those measures taking place in a free environment.

#### **4.7 Proclamation on Federal Prisons Commission Establishment**

Article 10 of the proclamation on Federal Prisons Commission Establishment<sup>185</sup> provides that the commissioners shall cause studies to be conducted as regards improvement of the custody and treatment of prisoners; and towards facilitating the operational similarity and standardization of prison warden service. Article 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. It will undertake and encourage tasks, services and activities necessary for the physical and mental well-being of prisoners. To this end, the proclamation stipulates enactment of regulation and directives by relevant authorities.<sup>186</sup> The duty of the commission also includes, inter alia, providing prisoners with academic education, vocational training, and social work services and counseling services to facilitate their post-release rehabilitation.<sup>187</sup>

The proclamation provides that prisoners shall be treated with due regard to their human dignity.<sup>188</sup> It also suggests that remand and civil prisoners shall be presumed innocent and treated differently from convicted prisoners.<sup>189</sup> It prohibits adverse discrimination on grounds of gender, religion, political opinion, nation, nationality, of social origin.<sup>190</sup> Prison premises and compounds shall not be hazardous to health; and they shall have fresh air and sufficient lights.<sup>191</sup> It allows

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<sup>185</sup> FDRE Proclamation No. 253/2006, Neg. Gaz. Year 9, No. 90.

<sup>186</sup> Ibid, article 6(3).

<sup>187</sup> Ibid, article 6(4).

<sup>188</sup> Ibid, article 22.

<sup>189</sup> Ibid, article 22(3).

<sup>190</sup> Ibid, article 24.

<sup>191</sup> Ibid, article 26(1).

variation among accommodations based on degree of willingness to reform and repentance.<sup>192</sup>

There shall be provision of food free of charge which is sufficient and of nutritional value.<sup>193</sup>

#### **4.8 Council of Ministers Regulation on the Treatment of Federal Prisoners**

Council of Ministers Regulation on the Treatment of Federal Prisoners<sup>194</sup> is issued to implement Federal Prison Commission Establishment Proclamation No. 365/2003 as envisaged by article 39(1) of the same proclamation. The Regulation enumerates different kinds of social rights of juvenile offenders, namely: the right to health, the right to food (nutrition), the right to water (sanitation), the right to leisure, play and recreation, and the right to adequate accommodation (classification, premises, clothing and bedding). These rights are discussed here under in brief.

#### **4.9 The Right to Health (Medical Care)**

The right to health is a fundamental human right of individuals who are under custody. Juvenile offenders in a remand home should get an adequate medical services upon their incarceration. The right to health is protected under article 41(4) of the FDRE constitution and reads as: The State has the obligation to allocate ever increasing resources to provide to the public health, education and other social services. The right to health is also included under article 90 of the FDRE constitution in chapter ten of National Policy Principles and Objectives (NPPO). Article 18(1) of the constitution states that everyone has the right to protection against cruel, inhuman or degrading treatment or punishment. Cruel, inhumane or degrading treatment encompasses not accessing both psychological and medical care services appropriately. Therefore, inmates have the right to get appropriate psychological and medical services in guidance with clinical professionals such as; doctors or nurses, psychologists, and social workers.

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<sup>192</sup> Ibid, article 26(2).

<sup>193</sup> Ibid, article 27.

<sup>194</sup> FDRE Regulation No. 138/2007, Neg. Gaz., Year 13, No. 47.

The above regulation under its article 26 states that Prison premises and compounds should not be hazardous to health; and they should have fresh air and sufficient lights.<sup>195</sup>

#### **4.10 The Right to Food (Nutrition)**

The right to food is also an essential right of persons who are under custody. This right has an equal importance as the right health because it is tied with the total existence of prisoners. The right to food(nutrition) is a protected right under article 43(1) of the FDRE constitution implicitly and reads as:the peoples of Ethiopia as a whole, and each Nation, Nationality, and People, in particular, have the right to *improved livingstandards* and to sustainable development.

The right to food is a fundamental constitutive part of the right to improved living standards and to sustainable development as stipulated under article 25(1) and article 11(1) of the UDHR and ICECSR respectively. Thus, the right to food is a protected right under the constitution. This right is also included in article 90 of the constitution in NPPO as like as the right to health.

The regulation under article 5 states that every prisoner shall be provided with balanced and sufficient diet. Prisoners with health problems shall be provided with special food at the recommendation of a medical officer.

#### **4.11 The Right to Water (Sanitation)**

It is true that ‘water is life’ as the medical academia quoted it precisely. Once it is lost the life of an individual will be in danger. Therefore, it is vital for individuals to get access to in sufficient quantity and safe drinking water and sanitation. The right to water(sanitation) is also protected under article 43(1)of the FDRE constitution implicitly as like as the interpretation given above for the right to food and it is included in NPPO in the same manner as the above two rights.With regard to this, the regulation under article 9 states that Sufficient and clean drinking water shall

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<sup>195</sup>Supra note 40, article 26.

be made available for every prisoner.<sup>196</sup> In addition, there must be access to adequate water and necessary materials for cleanness and toilet materials.<sup>197</sup>

#### **4.12 The Right to Adequate Accommodation**

The right to adequate accommodation of inmates gets an implicit recognition under article 21(1) of the FDRE constitution and reads as: All persons held in custody and persons imprisoned upon conviction and sentencing have the right to treatments respecting their human dignity. Human dignity includes the right to adequate accommodation. The right to adequate accommodation of prisoners encompasses the right to classification<sup>198</sup>, the right to get premises<sup>199</sup>, the right to get clothing<sup>200</sup>, and the right to get bedding.<sup>201</sup> The regulation under its article 4 states that it requires the prison authorities to make registration of a newly admitted prisoner which is prerequisite to enforce the rights of a prisoner.<sup>202</sup> There shall be separate premises for male and female prisoners.<sup>203</sup> The regulation also states that there must be separate accommodation for juvenile prisoners.<sup>204</sup> To the extent that circumstances allow, prisoners detained upon judicial remand shall have separate accommodations from convicted prisoners,<sup>205</sup> prisoners with communicable disease and mental cases shall have separate accommodations from other prisoners,<sup>206</sup> premises shall have windows large enough to allow adequate light and fresh air and shall be supported with artificial light which is not hazardous for night reading. Prisoners shall be provided with

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<sup>196</sup>Ibid, article 9.

<sup>197</sup>Ibid, article 6.

<sup>198</sup>Ibid, article 6

<sup>199</sup> Ibid, article 6.

<sup>200</sup> Ibid, article 7.

<sup>201</sup> Ibid, article 8.

<sup>202</sup>Ibid, article 4(2).

<sup>203</sup>Ibid, article 5(1).

<sup>204</sup> Ibid, article 5(3)(a).

<sup>205</sup>Ibid, article 5(3)(b).

<sup>206</sup>Ibid, article 5(3)(d).

cloths and additional ones when recommended by medical doctor. There shall be bed and bedding.

#### **4.13 The Right to Leisure, Play and Recreation**

Juvenile offenders have the rights to play and recreation as like as children's who are outside the bar. The right to play and recreation includes indoor and outdoor games and recreational activities. Recreational activities include sports, performing and creative arts, etc. The regulation under its article 24(1) and (2) states that prisoners are entitled to sports and physical exercises and it requires all detention centers to create conditions for detainees to engage in various recreational activities. This right is also incorporated under rule 21 and rule 28 of the SMR.<sup>207</sup>

#### **4.14 Summary**

In Ethiopia, the social rights of juvenile offenders are protected under a bundle of laws such as the constitution, the revised criminal law, proclamation and regulation on treatment of prisoners, national child policy and criminal justice policy. These laws and policies are the safeguards to the protection of the rights of juvenile offenders in general and their social rights in particular. Socio economic rights are justiciable rights that can be enforceable in the court of law. The juvenile offenders can claim the protection of their social rights via legal counselors. However, the trend to entertain the socio economic rights in Ethiopian courts is minimal.

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<sup>207</sup>SMR, rule 21 and rule 28.

## **Chapter Five**

### **Provision of Social Rights for Juvenile Inmates in Addis Ababa Remand Home**

#### **5.1 Introduction**

The Addis Ababa Juvenile Offenders Remand Home is the only institution in the country to provide rehabilitation services to the juvenile offenders who came from different parts of the country. Its establishment goes back to 1940s. It is located in AddisAbaba city administration lideta sub-city woreda 2. The remand home admits the juvenile offenders by court order. The juvenile offenders are at the age of 9 to 15 inclusive. The remand home is under the auspices of the AddisAbaba city government bureau of women,youth and children. It provides different services for juvenile offenders such as; accommodation, feeding, medical care, psycho social counseling, sanitation, clothing, education, transportation, and recreation services. The remand home underway a new building of G+1 on 21,999.99 sq.m land near to its old compound.

#### **5.2 The Remand Home for Juvenile Offenders in Addis Ababa**

The remand home for juvenile offenders is located in AddisAbaba City Administration Lideta Sub-city Woreda 2. Its establishment goes back to 1940s by a European scholar under the administration of the imperial regime. Due to the prolonged war with the Italians, a large number of families were disrupted and there were a large number of orphaned and abandoned children on the streets of Addis Ababa and other cities.<sup>208</sup> Some documents in the Prison Administration reveal that, around 1941/42, there were a large number of unattached and destitute children on the streets of Addis Ababa.

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<sup>208</sup>AndargachewTesfaye, Crime and Delinquency and its Correction.(2nd ed.), AAU-Ethiopia,1998.

In fact, the then superintendent, a Reformatory School was established as part of the Addis Ababa Prison (later renamed as The Training Center and Remand Home).<sup>209</sup> At the beginning, the objective of the remand home was to give shelter to street children in Addis Ababa. After a while, this objective expanded and changed into providing provisions for juvenile offenders who came from every parts of the country until 1995, by the name lideta juvenile offenders remand home.<sup>210</sup>

The remand home gets its recent name after 1990s and re-innovated under the auspices of the Addis Ababa City Administration Bureau of Women, Youth and Children. At the time of the study, the number of juvenile offenders is 58. Out of this 56 of them are boys and 2 of them are girls. The remand home provides a number of provisions for juvenile offenders such as: accommodation, food, medical and psychological care, schooling, and sanitation. The remand home is run by a manager and a number of co-workers. The co-workers include 25 teachers of which 2 are principals, 4 psychologists, 2 social workers, 2 sociologists, 3 health officers, 17 cooks and 26 caregivers.

There is a primary school in its compound with 6 classes and a library, which the juvenile offenders get educational services. There are two dormitories, of the same size standing parallel to each other about 50 meters space between them, which were built with stones and corrugated iron sheets in 1940s. The area of each dormitory is about 6 by 20 sq.m. and each dormitory accommodates 28 juveniles at the time of the study. There is a television set in both dormitories for the juveniles to enjoy themselves with movies. Next to the dormitory at the left, there is a room of 4 by 10 sq.m used for feeding purposes composed of 5 old wooden chairs and 5 tables of

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<sup>209</sup>Ibid.

<sup>210</sup>Interview from key informant 1.

size two meters each. The walls are decorated well. In between the two parallel dormitories, there is a no-grass playground of about 20 by 50 sq.m., which the offenders used it for recreational purposes.

The girls' dormitory is, outside the boy's dormitory separated with corrugated iron sheets fence, of 2 rooms each accommodates five juvenile girls simultaneously. The juvenile offenders get also sanitation services in the compound.

The counselors' office has 4 by 5 sq.m space and composed of 8 professionals, which the professionals provide psychosocial treatments for juvenile offenders. There is a clinic in the institution of 2 rooms for juvenile offenders which provides first aid services for emergencies.

There is also a new dormitory and administrative rooms under construction of three G+1 blocks and standing alone here and there on 21,999.99 sq.m land, which has an estimated capacity of accommodating 500 juveniles at the same time, its construction started in 2017 and not finished yet. But its architecture is not conducive to viewers.

By definition, as Coyle discussed that "prison is a coercive environment in which persons are held against their will. This means that issues of security and good order need to be given a high priority in operational terms." However, there needs to be an effective balance which ensures that considerations of security and order do not become unduly oppressive nor are misused to justify inhuman behaviour and treatment.<sup>211</sup> In addition, article 17(1) of the African Children's Charter imposes legal obligations on state parties to ensure that a child who has infringed penal law should, as a matter of right, be given special treatment in a manner consistent with the

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<sup>211</sup> Andrew Coyle, *Humanity in Prison Questions of definition and audit*, ICPS, 2003, 11.

child's sense of dignity and worth. In line with this, the provision of social rights for juvenile offenders in the remand home will be discussed here under.

### **5.3 Findings of the Study**

The researcher interviewed 9 participants (juvenile offenders) selected randomly and 5 key informants selected purposively. I interviewed the key informants first because they are the service providers and then the participants in order to cross check the provisions are served properly or not. The responses of the key informants and participants presented consecutively here under.

**Key informant 1** disclosed that he is the administrator of the institution since 2017. The institution is established in 1936 E.C. by a European scholar by the order of the imperial majesty. The institution provide services to juvenile offenders by court order. The institution is under the auspices of the Addis Ababa city administration women, youth and children bureau. It got the budget from the bureau. Now the juvenile offenders are 58, of which 56 are boys and 2 are girls from all the regions of the country. The duration of their stay in the institution is ranging from a month to ten years. When their age got 18 they are transferred to the maximum prison in Addis Ababa. The institution have 30 care givers, 8 counselors, 24 teachers, 17 cooks. The institution provide accommodation, medical care, psycho-social counseling, feeding, sanitation, education, recreation, clothing, and transportation services to court for juvenile offenders. The institution have three dormitories, of which two for boys and one for girls. The dormitories got clean in daily basis. There is no classification for juvenile offenders based on their age and crime types. We accommodate them collectively with no difference. They are expected to clean them and kept neat. The food delivered to juvenile offenders is based on a scheduled pro rata principle and it is nutritious. Based on the prescription by a medical doctor, ill-juveniles provided

extra amount of food. We are not in a position to deliver a special treatment for those ill-juvenile offenders because of the shortage of budget. We treat them as the same as other juveniles. The juvenile offenders may complain about the food but we allocate the given budget proportionally and we have a shortage of budget. The institution provide clothes and shoe to the juvenile offenders within 6 months periodically. Clothes like T-shirts, trousers, sweater and shoe. Sanitary materials like Soap, Tissue paper, Vaseline, Hair oil. Sanitizers, and local largo . There is a clinic for juvenile offenders and it provides first aid services. If the sickness is beyond the capacity of the clinic, we sent them to the nearby by health center with a payment or credit schemes. The clinic is not registered as clinic because it didn't fulfill the minimum requirement to be a clinic. The clinic has to have 13 rooms and 8 nurses to the minimum in order to be registered as a clinic. But now the institution only have 3 nurses and 2 rooms. There is no medical doctor in the institution who observes and advices the medical service. We communicate with other NGOs namely; Bosko, Meselal, Serve global, Love and care and GOs namely; chase federation, athletics federation and tennis federation we signed a MOU.

**Key informant 2** disclosed that he is the counselor of the institution since June 2020. We the counselors provide psycho-social counseling for juvenile offenders in weekly bases at individual and group level. We give orientation for new juvenile offenders about the institution, their rights and duties, and their relationship with others. We take assessment about the juvenile offenders of individual situation. We fill reports. We provide life skill trainings and following up their education. The office we are working with is too small to hold 8 counselors at a time. We provide psycho-social counseling service for each juvenile offender for 30 to 45 minutes session twice a week and it may continue to a month. We assess the change on behvaiour and their education. We got trainings from other NGO's on case management, and we communicate with

an NGO named Bosko for 5 days about their job. The NGO provide the institution with trainings, aid and accommodation services for those juvenile offenders who have no shelter after their release, mostly street children's. He commented that the compound of the institution is not suitable for rehabilitation of juvenile offenders, the office is too small, the computers are not functional, and there is no LCD's to facilitate the counseling visually.

**Key informant 3** disclosed that she is the nurse of the institution since 2017. The nurse explained we provide first aid medical services for juvenile offenders with two offices. We stop bleedings, we give Panadol for headache, and we give tablets for colic (stomach ache). We transferred the juvenile offenders to the nearby health centers and hospital, if the situation is beyond our capacity. For patients Epilepsy and HIV AIDS juvenile offenders we delivered tablets periodically with the help of the care givers. We purchase medicines for juvenile offenders with the prescription of medical doctors. We communicate with NGOs and Ethiopian Red Cross Association and they provide us the necessary facilities.

**Key informant 4** disclosed that he is the caregiver of the institution since 2010. We are taking care of the juvenile offenders. We follow up their neatness regularly both their clothes and their bed. Those juvenile offenders who are incapable of washing their clothes are helped. The dormitories sprayed with pesticide. He commented that there are juvenile offenders whose age is above 15 years old. That is why the dormitories of juvenile boys looks crowded. There is a 10k liters water tanker but it is not enough for all the services provided in the institution.

**Key informant 5** disclosed that she is the cooker of the institution since 2017. We cook the stew with a scheduled program of the institution in daily bases. We cooked injeraferfer, kinichie, for

breakfast, macaroni, pasta, rice, injera with stew of meat, vegetables and cereals for lunch and dinner. We delivered them banana, marmalade, and biscuits.

**Participant 1** disclosed that he is 15 years old and he came to the institution since 4 months. He adds the provision of services in the remand home is good. When I entered in to the remand home I got a blanket and a bed linen. I took shower twice a week and I washed my clothes every week. The institution provided me a bars of soap and a tissue paper within two weeks intervals. I have got a bed of my own. I watched films on satellite dish television. I played football, tennis table and chase. There is also a table tennis but only the older one's played with it. There is no playing staffs other than these. I ate breakfast, lunch and dinner regularly on time. The institution provided me injera with stew of meat, different vegetables and cereals, marmalade, macaroni, pasta, local bread, banana, kinchie. However, the delivery of the feeding service is not good. I went to the institution clinic for a headache and I got a Panadol. If the sickness is beyond the capacity of the clinic, our caregivers took us to the nearby health center. I didn't get services from counselors' both at individual and group level. I received clothes like trouser, sweater, t-shirts and a shoe. I don't have a cabinet to collect my stuffs. I lost my bars of soap and cloth. We didn't get any opportunity to recreate outside the remand home.

**Participant 2** disclosed that he is 10 years old and he came to the institution since 4 months. He adds the provision of services in the remand home is good. He complains about the feeding service and explained sometimes I got hairs in the stew and writings on the injera, the banana was spoiled, and the amount of stew and local bread is too small and there is no additions. The pasta is not stewed well. Macaroni with a slice of injera is not enough a young child like me. I don't have a spare cloth to wear. We didn't get any opportunity to recreate outside the remand home.

**Participant 3** disclosed that he is 14 years old and he came to the institution since 2 months. He adds the provision of services in the remand home is good. He adds when our caregivers talked to me I felt relaxed and thought that I am not in remand home. I got group counseling service from the counselors. I got a new bed linen. I don't have a cabinet to collect my stuffs. We didn't get any opportunity to recreate outside the remand home.

**Participant 4** disclosed that he is 13 years old and he came to the institution since 1 month. He adds the provision of services in the remand home is good. He complain about sometime the stew is not tasty. The cabbage is not stewed well. And he adds we need sport center to recreate with sports like circus and acrobats. I got group counseling of seven juveniles twice from the counselors.

**Participant 5** disclosed that he is 13 years old and he came to the institution since 2 months. He adds the provision of services in the remand home is good. He complains the food is not good and prepared properly. The cabbage is watery. The trouser is too tight for me and I keep it for a change. I got a breakage in my hands and got services from the nearby health center. I have got a medicine for 'chiret'. I am tired of the institution but the counselors told me to not to be in anxiety. We got change of clothes within a year and I have got trice. The football exploded and the tennis ball broken but we didn't get a new one.

**Participant 6** disclosed that she is 13 years old and she came to the institution since 4 months. She adds the provision of services in the remand home is good. She adds I got a bleeding on my foot and I got a treatment from the nearby health center. The caregivers are like our mothers they care about us. I thought the remand home as a prison. I had an anxiety and a depression because

of this I got counseling services many times. We don't have any playing games to recreate. We didn't get any opportunity to recreate outside the remand home.

**Participant 7** disclosed that she is 14 years old and she came to the institution since 6 months. She adds the provision of services in the remand home is good. She adds I did not go to the clinic because I was not sick. The care takers and the counselors are good for us.

**Participant 8** disclosed that he is 14 years old and he came to the institution since 2 months. He adds the provision of services in the remand home is good. He adds I was sick with in my lungs and I got a treatment from the nearby health center. I have got a counseling service twice at individual and group level. And he complains about sometimes the local bread being dough(batter), the stew is not tasty and gets watery and lose salt, the rice got dough(batter) , the tea is short of sugar, we do not have a cabinet to collect our stuffs. We forward our complaints to the institution's administrators but we did not get a solution.

**Participant 9** disclosed that he is 15 years old and he came to the institution since 1 year and 10 months. He adds the provision of services in the remand home is good. I only got clothes once. I got a bed linen twice. I got sick with typhoid typhus and got treatment from the nearby health center. I got counseling services twice individually. And he complains about the rice and the lentil is not tasty. The cabbage is watery. We forward our complaints to the institution's administrators but we did not get a solution. We didn't get any opportunity to recreate outside the remand home.

## **5.4 Analysis of the Findings**

The analysis of data gathered from the field is done through interpretation of the data and individual observation of the researcher.

### **5.4.1 The Right to Accommodation**

The remand home admits the young offenders by open order from the courts. The elements of the court order for the admission of a child to the institution may vary depending on whether the child is on remand, awaiting trial or on trial, and sentenced. When the young offenders entered to the remand home, they were delivered with bed linen, blanket and mattress. Every morning they were expected to make their bed clean before they left the accommodation unit. However, there are out of order and scanty numbers of cabinets for the young offenders to withhold their staffs.

There is also a series controlling mechanism for the prevention of alcohol, psychoactive substances or drugs; prepared either in a liquid or tablet form and other similar items starting from the gate.

The researcher observed that the Remand home has three accommodation units, two for boys and one for girls. There is no age classification for those 56 juvenile offenders in the two accommodation units. In addition, there is no isolation of juvenile offenders who are serving sentence from those on trial or awaiting trial. Moreover, there was no isolated room inside the accommodation unit for juveniles who had transmittable diseases in order to exclude the other juveniles who did not have a transmittable disease.

Based on Standard Minimum Rules for the Treatment of Prisoners; adopted by United Nations Congress, held at Geneva in 1955, rule 67 and Regulation No.138/2007 on the Treatment of Federal Prisoner article 5 state classification based on age, criminal record, health and sex.

Key informant 1 revealed that: *It is hard to classify juvenile offenders based on their age group and the type of crime they committed and their health conditions because we do not have enough spaces to accommodate them separately.*

The institution has a limitation of space and children aren't separated according to their case status and age. The only separation mechanism employed is different compounds for living rooms of juvenile boys and girls. However, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") requires the placement of children in conflict with the law taking into full account of their special requirement according to their age, personality, sex and type of offence to ensure their protection from harmful influence and risk situations (UN, 1985).

But in the remand home classification based on the stated criteria is very poor. The institution did not implement the rule of classification.

Regarding the clothing of juvenile offenders in custody, the Mandela rules on the treatment of prisoners under rule 19(1) states that *every prisoner who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.*

Key informant 1 disclosed that: *we delivered clothes and shoe to the juvenile offenders within 6 months periodically. Clothes like T-shirts, trousers, and sweater. Shoe, Soap, Tissue paper, Vaseline, Hair oil.Sanitizers, and local largo.*

However, most of participants of the study stated that: *The clothes are not changed with the new one periodically ranging from 6 months to a year. Sometimes the trousers are too tight to wear and no chance of getting another.*

The Mandela rules on the treatment of prisoners under rule 13 states that *there should be a cabinet to collect their stuffs for juvenile offenders.*

However, most of participants of the study stated that: *The cabinets are not functional to hold our private stuffs because of this we lost our stuffs always.*

One of the participants disclosed that: *The trousers given to me is too tight for me. So I put it off. I asked for the change but I could not get another one.*

Meanwhile, the Mandela rules on the treatment of prisoners under rule 19(1) states *the clothing shall in no manner be degrading and humiliating.*

However, the researcher observed that the accommodation in the remand home is devoid of air conditioning, minimum floor space, and light entering windows; the cabinets are not functional; the toilets are scanty in compared to the number of juveniles and most of the pipelines are not functional; clothes given to some juveniles are tight and have no chance of getting a change.

Therefore, the accommodation in the remand home is not compatible with UN Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules") rule 67; rule 13 and rule 19(1) of Standard Minimum Rules for treatment of prisoners ("The Mandela rules"); and article 6 & article 8 of regulation No. 138/2007 on treatment of federal prisoners.

#### **5.4.2 The Right to Food (Nutrition)**

The other service the institution rendered for juvenile offenders is feeding. There are three sets of duration to handover the meal that are breakfast, lunch and dinner time. At breakfast the juvenile offenders delivered a local bread and tea, biscuits, marmalade, 'kiniche' (made from wheat or barley) and they delivered also "injera with stew" of cabbage, potato, meat, 'shiro' (stew made of

pea powder), grounded pea, grounded bean, pasta, rice, macaroni, and 'injeraferfer' (the injerateared into small pieces) both at lunch and dinner time according to the scheduled menu.

The Mandela rules on the treatment of prisoners under rule 22(1) states that *every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.*

The key informant 1 and 4 disclosed that: the food delivered to juvenile offenders is based on a scheduledpro rata principle and it is nutritious. Based on the prescription by a medical doctor, ill-juveniles provided extra amount of food. We are not in a position to deliver a special treatment for those ill-juvenile offenders because of the shortage of budget. We treat them as the same as other juveniles. In the remand home, the budget allocated for each juvenile per day is not enough.

However, most of participants of the study stated that: *The amount of food delivered to us is too small in amount, not prepared well and not delivered properly. If the 'stew' is not enough, we could not get additional 'stew'. Sometimes the 'stew' is watery and not tasty. The cabbage is not well stewed. The bananas are spoiled.*

On the other hand, the two girls have no complaints about the quality of food that they are given by the remand home. They are satisfied.

Generally, from the above responses we can recognize that there is no adequate food (nutrition) provided for juvenile boysin the remand home as stated by international and national human rights instruments. The way of handling juveniles may expose them for disease caused by inadequacy of food.The researcher also observed that the feeding tables are too old and they are not comfortable.

Regarding provision of food there are juvenile offenders, who need a special treatment in the cause of their illness namely Epilepsy and HIV. However, those juveniles treated in similar manner as others, except for the increase in amount of their dosage of the same food.

Therefore, the protection of the right to food for well and ill-juvenile offenders in the remand home is not compatible with rule 22(1) of the Mandela rules and article 10(1) & (2) of the Regulation No. 138/2007 on the Treatment of Federal Prisoners.

#### **5.4.3 The Right to Medical Care and Psycho-Social Counseling**

The institution has a clinic which gives only first aid emergency services to the young offenders.

Medical and mental health records were kept separate from incarceration records. When the young offenders enter in to the center there is no medical and mental health screenings for admission purposes. There are three nurses working in the Center and the health assessments were done by these nurses.

When the need arises the nurses give medical services for young offenders but if the case needs specialized doctor assistance they refer them to Lideta Health Center with payment beginning from 2009 E.C. The young offenders got medical services from hospitals free of charge. As the key informant 1 disclosed that the center's clinic lacks acknowledgment from the Ministry of Health because it did not fulfill the minimum requirement for to be registered as a 'clinic.'

Key informant 1 disclosed that: *The clinic is not registered as clinic because it didn't fulfill the minimum requirement to be a clinic. The clinic has to have 13 rooms and 8 nurses to the minimum in order to be registered as a clinic. But now the institution only have 3 nurses and 2 rooms.*

The medical treatment is given by two nurses, which is only of first aid services such as: giving panadol for headaches, halting bleed, gauging blood pressure, and regulating the medication of epilepsy and HIV patients.

Key informant 3 disclosed that: *we only give first aid services to the juvenile offenders. If something happens beyond our capacity we refer them to Lideta health center and they get services there. We regulate the medication of epilepsy and HIV patients.*

It could be argued that, medical care in the remand home for juvenile offenders is both poor and inadequate. This was the result of the lack of medical doctors, insufficient numbers of nurses and staffs to the specific medical needs of the juveniles.

Counseling is an important aspect of the rehabilitation process to promote the psychological well-being and social development of the juveniles. It also facilitates juvenile inmates' adjustment to the institution and their long-term adjustment to a normal/pro social life on the outside world. In addition, counseling interventions are not just about reforming offenders, but also about creating opportunities for offenders to experience personal and social transformation.<sup>212</sup> The psycho-social counseling is the most common service provided programs for all juvenile delinquents in the remand home.

Psychosocial counseling is done through both at individual and group sessions level. Individual and group counseling services deal with a wide variety of issues. They address family problems, behavior management, and surviving abuse, among others. Individual counseling carried out by those 8 counselors of the institution to an individual juvenile in weekly bases which is mostly for new comers and resistant juvenile delinquents.

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<sup>212</sup>Wozniak et al., as cited in Van V., Patricia and S., Emily J., (2016): Correctional counseling and rehabilitation, 9<sup>th</sup> edn, Routledge, 2008, 17.

When the juveniles enter into the institution they oriented about the whole situations, their relations with others, and their rights and duties in their stay. The group counseling is when the juveniles are grouped based on age, sex or behavior.

Most importantly, these services ensure that offenders are rehabilitated for them to reintegrate successfully into society. To provide these services the availability of a separate and well organized counseling room is highly obligatory. However, the space of the office is too small to handle each juvenile case privately.

Key informant 2 disclosed that: *There are 8 experts in 4 by 4sq.m office which is too hard to provide the counseling services for each juvenile freely and there are no projectors and LCDs to enhance the counseling service due to shortage of budget. The available computers are also dysfunctional.*

In the process of psychosocial treatment, the privacy of each juvenile offender is threatened intentionally or unintentionally by the experts because of shortage of office space. However, the privacy of a detained juvenile offender should be respected by experts of the institution.

The psychosocial counseling program is stick to the traditional way of providing counseling. The services rendered to juvenile offenders is traditional and insufficient. In addition, the medical services provided to juvenile offenders is poor in number of medical professionals, available medical equipment, and rooms.

Therefore, the treatment of the right to medical care and psychosocial counseling is not in compatible with rule 24 of the Mandela rules and the article 11 and article 25 of the Regulation No. 138/2007 on the Treatment of Federal Prisoners.

#### 5.4.4 The Right to Water and Sanitation

In the remand home; structurally there are 10 toilet rooms for latrine and 10 showering rooms for bathing for boys, which is about 1 by 1sq.m space. There are also 3 toilet rooms and 3 showering rooms for bathing for girls. But the rooms are inadequate compared to the numbers of juvenile boys in the institution. They provided with 2 bars of soap (for their body wash and their clothes) and a tissue paper within 15 days interval. Even if there is bathing and showering, due to water shortage, technical and installation problems most of the showering pipelines are not functional.<sup>213</sup> And their neatness is not encouraging.<sup>214</sup>

*Key informant 4: Even though there is a 10k liter of water tanker in the compound, it is not enough for the compound and the showering pipelines are not working because of technical problems. Their renovation is beyond the capacity of the remand home because of shortage of budget.*

Prisoners should be regularly provided with enough water and necessary materials for cleanliness and with toilet facilities. Any prison should cause the fulfillment sufficient water, sanitary facilities as well as enough toilets for its prisoners to take bath and to care for their personal hygiene.<sup>215</sup>

However, the institution is defied by sanitation of the toilet rooms. It has no enough toilet facilities and only few sections of latrine in use which are not at any aspect balance with the juvenile offenders in the institution. The offenders are only using toilets at day time because the toilet rooms are closed the whole night. But there is two sinks for excretion purposes outside the

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<sup>213</sup>Researcher's field observation

<sup>214</sup>Ibid

<sup>215</sup>Supra note 206, Rule 26.2.

toilet room.<sup>216</sup>The researcher also observed that the proximity of the toilets to the sleeping area and the inadequate toilet and bathroom facilities contributed to the unhygienic conditions of the room. The unhygienic and unsanitary conditions of the rooms may compromise the health status of these juveniles whose health was probably compromised before their rehabilitation.

Persons deprived of liberty shall have access to clean and sufficient sanitary installations that insure their privacy and dignity. They shall also have access to basic personal hygiene products and water for bathing or shower, according to the climate conditions. Women and girls deprived of their liberty shall regularly be provided with those articles that are indispensable to the specific sanitary needs of their sex.<sup>217</sup>

However, the availability of the toilet rooms and the bathing rooms is inadequate compared to the number of juvenile offenders in the institution. Therefore, the protection of the right to water and sanitation of the young offenders in the remand home is incompatible with rule 18 of the Mandela rules and article 9 of Regulation No.138/2007 on the Treatment of Federal Prisoners.

#### **5.4.5 The Right to Leisure, Play and Recreation**

The juvenile offenders have the right to leisure, play and recreation under international, regional and national laws. The Mandela rules on the treatment of prisoners under rule 23(2) states that *young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.*

Key informant 1 disclosed that: *There are a number of play and recreations for the juvenile offenders. These are football, chase, tennis table, 'gebeta', and 'dama'.*

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<sup>216</sup>Supra note 193.

<sup>217</sup>Supra note Rule 13.5.

In line with this, all of participants of the study disclosed that: *There is a field to play football for boys but the ball is blown-up, table tennis but the ball is broken, chase, 'gebeta', and no recreational tools for girls except 'gebeta' and 'dama' . And one participant added that: we need circus and gymnastics halls for acrobats and football playing shoe.*

The researcher observed that the playing ground for football is devoid of grass and it is too hard for juvenile offenders to play. In addition, no playing ground for girls except 'gebeta' and 'dama'.The girls were not provided with variety of outdoor recreational activities. The participants of study claimed the lack of opportunities for recreation in the remand home. This, in turn, resulted in considerable idleness and seeing the remand home as a prison among the juveniles.

As indicated by the respective interview responses from juvenile offenders sport and recreational activities are underdeveloped and in non-existence for juvenile offenders.The remand home has no football grounds, basketball courts, race tracks and gymnasium. The play and recreational conditions in the remand home blocked the juvenile offenders to entertain and refresh themselves which is not incompatible with Rule 23(2) of the Mandela rules and article 24(2) of the regulationNo. 138/2007 on the Treatment of Federal Prisoners.

## **5.5 Summary**

The existence of the juvenile offenders' remand home in Addis Ababa sparks a light on the need to have the same institution all over the country. Juvenile offenders' social rights should be protected based on the standards, guidelines, and principles set by the international community in conjunction with national laws and policies of the country. The remand home administrators, experts and coworkers have little idea about the protection of the social rights of juvenile offenders. The accommodation service to the juvenile offenders is overcrowding due to the existence of offenders above the age of 15, the clinic is not full filled

the requirement to registered as a clinic, the food services is shortage of quality and quantity,the sanitation service is not in proportion to the number of juvenile boys, the juvenile offenders are totally devoid of the recreational activities that are necessary to their physical, emotional, and psychological development.

## **Chapter Six**

### **Conclusion and Recommendations**

#### **6.1 Conclusion**

Juvenile offenders should be treated humanely by respecting their human dignity. States have responsibility to respect, protect and fulfill juvenile offenders' rights. There are a number of rights enumerated under international, regional and national laws. Of those rights social rights are the one, which includes but not limited to the right to separation, the right to accommodation, the right to medical care and counseling, the right to adequate food, the right to water and sanitation, and the right to play, leisure and recreation.

Article 21 of the FDRE constitution specifically provides for the right of detained persons in custody. International human right instruments ratified by Ethiopia are plainly considered and applied as domestic laws of the country. Likewise the constitution, the New Criminal Code, Proclamation No.365/2003 and Regulation No. 138/2007 are relevant laws that provide the rights of juvenile offenders.

The research found out that in the remand home most of the rights of juvenile offenders are not fulfilled. There is no separation of juvenile offenders based on their age and health, there is overcrowding problem is rampant, the medical care and counseling service are unsatisfactory, poor sanitation, the food provided to juvenile boys is inadequate and lacks quality, and there is almost no recreational facilities for juvenile offenders. The claim towards not fulfilling these rights is shortage of budget. States have no right to defend their responsibility based on monetary issues.

Generally, the treatment of juvenile offenders in the remand home in terms of separate accommodation based on age and health, overcrowding, medical care and counseling service,

food, water and sanitation, recreational facilities are found to be not in compliance with the laws of detained persons in general and juvenile offenders in particular.

In conclusion, although there is a construction of G+1 buildings in the compound to alleviate the overcrowding of the juvenile offenders, other social rights provisions should be considered seriously.

## **6.2 Recommendations**

Based on the research findings, the following issues are recommended for the effective implementation of rights of juvenile offenders in the practice of their treatment in the remand home.

1. All provisions provided for juvenile offenders in the remand home are prevailed due to budget constraints. Juvenile offenders were delivered with inadequate standard of living. Therefore, in order to alleviate the problems identified in the remand home the Addis Ababa city administration should give more attention to the protection of the rights of juvenile offenders and should allocate the necessary budget. The state should not plead resources constraints as a justification for its failure to provide juvenile offenders with a provision of social rights.
2. Awareness creation trainings on juvenile offenders' rights is crucial for both the administration personnel and professionals.
3. Overcrowding is rampant in the remand home. It amounts to the undersized fulfillment of juvenile offenders' rights including their right to adequate accommodation. Therefore, the remand home should consider this and try to alleviate the problem.
4. The food preparation process in the kitchen was not safe and the food prepared was not inspected by professionals. This will results health problem against juvenile offenders.

Therefore, the administration of the remand home including health professionals must conduct supervision on the preparation and provision of food. Also the feeding tables are too old and they are not comfortable as the researcher observed. So they should need a change.

5. The sanitation facilities are not safe besides not functional. There should be a total change of the sanitation facilities.
6. The Clinic available in the remand home is undersized of medical personnel and short of necessary materials. It is only giving first aid services. The counseling service also need an improvement. Therefore, the number of medical personnel's should be increased and the counseling service should altered in to scientific way of treatment.
7. The role of civil societies and others is vital for the improvement of service delivery of the remand home both on financial and material aid. The institution should promote its activities to the public via both broadcasting and print media in order to gain extra financial aid and facilitate the reintegration of juvenile offenders to the society.

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## Annexes

### **Annex I: Interview Guide for Juvenile Offenders**

Research Title: provision of social rights for juvenile offenders: AddisAbaba remand home

Researcher:-DejenWoldearegayMekonnen(LL.M in Human Rights Law)

Advisor:- Dr. Solomon TekleAbegaz(Assoct.Prof.)

The findings for this research will be used by the researcher to fulfill the requirements of Addis Ababa University to obtain his LL.M Degree in Human Rights Law. The information you give may be used for research purposes. Your name or identity will not be revealed to other parties without your consent.

1. What is your name?
2. How old are you?
3. When do you enter to the institution?
4. What are the services you get from the institution?
5. Do you have any complaints regarding the services?
6. How is your communication with the counselors and care givers?

## **AnnexII : Interview Guide for Administrator of the Remand Home**

Research Title: provision of social rights for juvenile offenders: Addis Ababa Remand Home

Researcher:-DejenWoldearegay (LL.M Student in Human Rights Law )

Advisor :- Dr. Solomon TekleAbegaz(Assoct.Prof.)

The findings for this research will be used by the researcher to fulfill the requirements of AddisAbaba University to obtain his LL.M Degree in Human Rights Law. The information you give may be used for research purposes. Your name or identity will not be revealed to other parties without your consent.

1. What is the aim of the institution?
2. Is there any classification mechanism for juvenile offenders in the remand home?
3. Do dormitories provided for an individual or in group?
4. Do dormitories balance with the number of juveniles?
5. Is the accommodations provided meet all the requirements? airconditioning,minimum floor space,lighting.
6. Do dormitories have been cleaned in regular time?
7. Do juveniles served food in regular time?
8. Does the food contain nutritional value and adequate for health?
9. Do juveniles use their own clothes or provided by the remand home?
10. Is there any arrangement made by the institute to ensure the conditions clothes to be clean?
11. Do their beds are cleaned and kept in a good order and changed often?

12. Do drinking water available for juveniles whenever one needs?
13. Is there adequate bathing and showering installations?
14. Is there a toilet for their sanitary activities?
15. Is there a clinic for juveniles if they got sick for treatment?
16. Is there appropriate and adequate pharmaceutical provision?

### **AnnexIII: Interview Guide for Counselors of Juvenile Offenders**

Research Title: Provision of Social rights for Juvenile Offenders: Addis Ababa Remand Home

Researcher :-Dejen Woldearegay Mekonnen (Master Student in Human Rights Law )

Advisor :-Dr. Solomon Tekle Abegaz (Assoct. Prof.)

The findings for this research will be used by the researcher to fulfill the requirements of Addis Ababa University to obtain his LL.M Degree in Human Rights Law. The information you give may be used for research purposes. Your name or identity will not be revealed to other parties without your consent.

1. Do you get any trainings related to your job to enhance your services?
2. How do you assess your counseling results?
3. In what interval you give the counseling services for each juvenile offender?
4. Do you have any communication with other NGOs?
5. Do new juvenile offenders are given an explanation of the remand home procedures within 24 hours of arrival?
6. Do juvenile offenders have access to showers?
7. Do they have reasonable privacy for the toilet and shower?
8. Does the way in which meals are served to juvenile offenders is respectful?
9. Do juvenile offenders are able to get professional help when needed (e.g. counselors)?
10. Do they treated well by the counselors?
11. Do you listen and take notice of juvenile offenders' suggestions/ complaints?

#### **Annex IV: Interview Guide for Care givers of Juvenile Offenders**

Research Title: Provision of Social rights for Juvenile Offenders: Addis Ababa Remand Home

Researcher:-Dejen Woldearegay Mekonnen (LL.M Student in Human Rights Law)

Advisor:-Dr. Solomon Tekle Abegaz (Assoct. Prof.)

The findings for this research will be used by the researcher to fulfill the requirements of Addis Ababa University to obtain his LL.M Degree in Human Rights Law. The information you give may be used for research purposes. Your name or identity will not be revealed to other parties without your consent.

1. What are the services you render in the remand home?
2. Do the services render enough to the juvenile offenders?
3. Is there any laundry machine to clean the clothes of the juvenile offenders?
4. Is there any complaint regarding your services from juvenile offenders?

## **Annex V: Interview Guide for Cookers of the Remand Home**

Research Title: Provisioning of Social Rights for Juvenile Offenders: The case of Addis Ababa Remand Home

Researcher:-Dejen Woldearegay Mekonnen (LL.M Student in Human Rights Law)

Advisor:- Dr. Solomon TekleAbegaz (Assoct. Prof.)

The findings for this research will be used by the researcher to fulfill the requirements of Addis Ababa University to obtain his LL.M Degree in Human Rights Law. The information you give may be used for research purposes only. Your name or identity will not be revealed to other parties without your consent.

1. What are the services you render in the remand home?
2. Are the services rendered enough to the juvenile offenders?
3. Is there any complaint regarding your services from juvenile offenders?