

***DISPOSITION OF FEMALE PRISONERS IN
ETHIOPIA:
LAW AND PRACTICE***

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INTRODUCTION

Crime is a social problem, which usually is actualized due to various reasons attributed to economic, social, biological and psychological factors. Involvement in crime therefore must be the out come of these pressures no matter how weak response it is.

Women being part and parcel of the society participate in the crime perpetrated due to the problem they are in. But the sexes differ markedly in the frequency and seriousness of their offence and in the respective social consequences of being labeled as offender.

Nevertheless, While the nature and causes of male criminality have been subjects of extensive research and speculation for many years, women deviance has tended to be ignored until comparatively recently. Hence, there are no research on the conditions and criminality of women prisoners in Ethiopia. Though there are some research papers written in relation to prisoners, almost no reference is made as to the women prisoners. This among other reasons inspired the writer to undertake research on the topic and try to conform with or negate the hypothesis on which the paper is based:- "women prisoners face various problems due to their sex in addition to the general problems all prisoners are struggling with"

The main subjects of the study are, as the title indicates, women prisoners. The word 'prisoner', for the purpose of this paper encompasses both suspects and convicts who are being deprived of their liberty and found in prisons and excludes female young offenders. Therefore the paper will primarily ponders on the problem of women suspects and convicts.

Therefore, the study in short, tries to find out how the criminal justice system responds to women prisoners; how much the Ethiopian law with regard to the rights of women prisoners standardize itself with international Instruments, to what extent the law and practice regarding women prisoners coincide. However, as much as possible other side issues that could be raised in relation to women offenders are also taken in to account.

Hence, in order together the required information, primary data collection tools such as questionnaires and interviews are used. Questionnaires are distributed for about 80 women suspects and convicts who are found at the Addis Ababa Central Prison and 3 police stations

respectively. Interviews also are carried out with about 40 women suspects and convicts and some police officials of both the prison and police stations.

Secondary data collection tools like books, journals, and other printed materials in relation to this research are used as a background for the data collected using the primary sources.

The research, as it deals with a new area, will serve as a reference material and starting ground for further studies concerning the problem women face in prisons. In addition, it could serve for interested governmental Organization or NGO's as a primary reference to rectify the problem based on the recommendations suggested lastly.

It could contribute also as one ground for the amendment of prison regulation, enactment of procedures for the enforcement of constitutional and other internationally recognized women, children and prisoners' rights.

However, the research is not without any limitations. Due to constraints related to time and accessibility this research is limited to the assessment of only one central prison administration i.e. the Addis Ababa central prison administration and three other police stations. From this selected areas, only samples of suspects, convicts and officials of the prison are taken to help in assessing the problem women face in prison.

The research, therefore, has four chapters. Chapter one lays down the background for the paper. It deals with the possible measures in disposing on offender such as preventive, curative, rehabilitative method, the criminality of women, and the causes for the criminality. Here theoretical explanations and experiences of other countries are discussed.

In the second chapter attempt is made to elaborate the legal rights of prisoners generally and provisions that are more pertinent to women prisoners under International legislation. The international Human rights documents such as conventions, declarations, principles are discussed in order to use it as a parameter to asses the practical treatment prevalent in the Ethiopian prison. Besides, it also serves to evaluate whether the country is respecting the commitments she has entered to.

In chapter three the pertinent domestic legislation on women prisoners rights are also given significant treatment in that these rights are seen vis-a-vis the International human rights documents.

Chapter four being the core of the paper, is devoted to address the practical problems women prisoners face. In order to clearly show the different status of women suspects and offenders, the two groups are separately treated in different sections. Nevertheless, before going into these two sections, the problems of women prisoners in general irrespective of their status and criminality of women in Ethiopia are discussed.

Finally conclusion and recommendations are suggested.

CHAPTER ONE

The Criminality of Women and Disposition of Offenders

1.1 Preliminary notes

Within a broad spectrum of cultural and historical variations crime constitutes culpable omission or commission of an act usually deemed socially harmful or dangerous and it should specifically be defined, prohibited and punishable under the criminal law which for the time being is in force in the country.¹ Hence, crime is whatever conduct the laws of a particular jurisdiction designate as criminal. There are many differences from one country to another as to what behavior is prohibited.

The essence of crime is its anti-social character. An act is made a crime because the state considers it to be anti- social so that what is called the penal system is the sum total of all those measures of punishment taken by the state to protect the society against anti-social behavior. The criminal, thus, as someone who deviates from the normal norms of the society, being a threat to the society, should be rendered to punishment by the criminal justice system. The punishment of offenders is a peculiarly unsettling and dismaying aspect of social life. As a social policy, it is a continual disappointment seeming always to fail in its ambitions and to be undercut by crisis and contradictions of one sort or another.²

However, since it is a necessary evil, the punishment process always exists. There are different measures of punishment, which are actualized through the help of various institutions. Among these institutions one is prison. Prison is a place for the confinement of persons held while awaiting trial, persons sentenced after conviction, etc.³ .It could also be a place of confinement or involuntary restraint.

Hence, per these definitions, a prison is not only a center of punishment but also of detention. In other words, a prison could also be taken as a place where those who are apprehended by the police with reasonable ground to suspect that they are directly or indirectly involved in the commission of a certain crime. In short the term 'prisoner' includes detainees. Accordingly a prisoner is a person who is confined in prison or kept in custody. Thus, for the purpose of this paper, the writer adopts the above definition and discusses the disposition of both female suspects and offenders who are commonly referred to as "prisoners".

1.2 The Criminality of Women

Whilst the nature and causes of male criminality have been the subjects of extensive research and speculation for many years, female deviance has tended to be ignored by criminologists until comparatively recently.⁴ Most people impressed by criminal statistics, concluded that women are less criminal than men. Some believe in an inherent sex difference regarding ~~Criminality~~ Others refer to social conditions and particularly to the narrower sphere of activities open to women as the reason for difference in the degree of ~~criminality~~ Some using the latter interpretation, expect an increase in the criminality of women as concomitant to their success in achieving social equality with men. Those who reject this explanation are enormous. Hence, we can say that there is no one single explanation as to female criminality.

However, still females contribute to the officially recorded tariffs of all known offences. Some of the well-known offence types in which women participate are theft, infanticide, homicide, robbery, perjury, abortions etc. Even where there are legal requirements, as with rape, which women cannot fulfill, they may be charged as accomplices to a crime. Certain offences relate only to women, it is only mothers who can be charged with infanticide.

1.2.1 Specificity of Female Crime

There is always the question whether there are any specifically female crimes, i.e. crimes, which play a much greater role within female criminality than in male criminality, or crimes, which can be committed only by women. Investigations on the issue come to conclude that there is only a single offense, which can be categorized as a specific female crime: prostitution. Even this could be counted as female crime only in countries where prostitution is defined as crime. One example could be USA. Otherwise, there seems to exist specifically no women crime whatsoever.⁶

However, we can see differences in the characteristic of female criminality. The way women commit crimes, particularly the weapons which they employ and the victims whom they choose the opportunities of which they can avail themselves the persons with whom they cooperate and finally the part which they play in the actual perpetration of the crime in other words the cultural detriments make them different. The victims they choose in attacks against the person are mostly children particularly infants, husbands, and lovers. In buying and receiving stolen goods they are usually the receivers of objects stolen by a family member

and in property crimes with violence they play more frequently the role of the instigator or of the decoy and watcher rather than of the actual perpetrator.⁷ In short women commit all types of crimes but their procedure is different from that used by men in their criminal pursuits.

Like the different explanations given to the criminality of women, researchers also seem to have their differences as well as opposing views as to the causes of female criminality. In the next section we will deal with causes of crimes.

1.2.2. Causes for the Criminality

Crime is a social problem, which usually is actualized due to various reasons. The causes could be attributed to economic, social, biological and psychological factors. Involvement in crime, therefore, must be the outcome of these pressures no matter how weak response it is.

In explaining female crime in this section the prevalently raised causes are briefly discussed and at last attempt is made to substantiate the theoretical explanation with the practical view especially with the Ethiopian practice.

I) Biological Cause

The earliest theories of female criminality suggested that the causes of female crime were to be found in women's innate, biologically and genetically determined, nature. In other words, the explanation views female crime as stemming from biological causes.⁸ Most focus on sex specific biological differences as the explanations for particular kinds of activity.

These early theorists argued that the true, biologically determined nature of women was antithetical to crime. Such views were based upon stereotypical notions of women as being passive, non-aggressive creatures. Criminality was linked to 'maleness' and 'masculine' traits such as aggression and physicality. Therefore, the female offender who was seen as exhibiting male traits was considered doubly deviant both socially and biologically; she was an exception to the usual sex of the offender; and as a woman, she went against her biological nature and thus was not fully female.⁹

On the same line, Lombroso and Ferraro on the 1st major study of female criminality argued that, as women were biologically programmed not to commit crimes, if a woman was what

they termed a born criminal, then she must be biologically closer to the male. They considered most female criminals to be petty, occasional offenders drawn into crime by the encouragement of men, their inability to resist temptation and their lesser respect for property.¹⁰

Some other theorists discussed female criminality in terms of the physiological differences between the sexes. In this case, women conceal their offending behavior (and thus have lower rates of report and detention than males) and use their sexuality to attain (presumed) greater leniency by the police and the courts. They do this because their nature is inherently deceitful and manipulative. This in turn is linked to their physiological make up, in that women are capable of concealing their sexual arousal unlike men and thus in the most intimate human acts they have the opportunity and ability to manipulate those around them.¹¹

In some recent theories research on hormonal disturbance and social behavior has tried to establish a link between pre and post-menstrual activity and the propensity of women to engage in criminal activity. There has been also a recent revival in the willingness of writers and the courts to accept the premenstrual as an explanatory, exculpatory, exculpatory or mitigatory factor in female crime, largely as a result of the work and writings of Dalton, who has suggested that women are more predisposed to attempt suicide, commit crimes and abuse children during the period around menstruation. Dalton found that nearly 60% of a sample of imprisoned women committed their offence during menstruation.¹²

In a similar vein, it is sometimes argued that post-natal depression is responsible in some instances for infanticide. In other words, as the female body fluctuates in terms of hormonal activity, the women may engage in a wide variety of anti-social and criminal activity.¹³

II) Sociological Causes

Another common way to explain female crime is to point to differences in the ways in which men and women are socialized. Such explanations as generally stated in researches that are closely tied to specific notions of 'appropriate sex roles'.

Some theories see deviance or delinquency as a form of 'acting out'. It is stated that women have traditionally been socialized to be passive and needing affection. Therefore the society wants them to have one line which is predetermined. The line is not the choice of the women

at all. Rather it is one imposed on women. The repeatedly injected burden on women might make them think of their rights; try to tackle the problem; struggle more and take off the burden. Through this processes usually women happen to commit crimes i.e. they may do an act in violation of those duties which an individual owes to the community. Women who commit homicide, for instance, have very often been victims of violence themselves.¹⁴

In this regard, a Ugandan researcher called Lillian Tibatemwa Ekirikunznza in her research entitled 'Researching women in the criminal justice system' proved that mainly the victims of women's violence are husbands, co-wives, baby children (infants), and stepchildren. The researcher further states that women's violent crime in Uganda is a consequence of the powerlessness of women in a patriarchal society. The researcher has not only confirmed that women are victims of oppressive patriarchal ideologies but has also unveiled violent crime as a type of resistance by women against specific oppressive gender relations within the family.¹⁵

The same reason is forwarded in a research undertaken in Nigeria. The research reveals that *"embodied in women's violent crime is a protest against patriarchal society's oppressive regime; its values and restrictions against women. The victims are usually the persons who attempt to, or whom society "uses", to pin the women in enforced roles and the women's reaction is often a manifestation of a struggle for autonomy. Patriarchal values suppress a woman's personal identity and in the struggle against self-annihilating roles a women a may turn to violence."*¹⁶

Generally, whatever interpretation is given to their act of violence, it is evident that women are trapped in the customary roles fashioned by male dominated society, and it is due to the inescapability of the women's condition that they resort to violent crimes. The situation within which women commit violent crime in Uganda suggests that their culture which permits husbands to physically and psychologically abuse their wives create social situations in which women may be driven to violent behavior. In the social sphere proper, double standard of sex morality with its discrimination against women and the specific female occupation of domestic employment with its many irritations and frustrations, are factors which seem to be of specific crime promoting influence upon women.¹⁷

In the case of female occupation of domestic service, revenge desires are created. This occupation exposes many women to the frustration of daily experience of differences between their own standard of living and the living standards of their employer.¹⁸

Illiteracy could be another factor which might fall under the explanation of female criminality based on sociological factors. In the research undertaken in Ugandan female prison highest level of education attained by female inmates was senior secondary 4(11years of formal education) whereas the least educated of the women never attended formal school at all.¹⁹

III) Economic Causes

Among the different explanations given as reasons for the commission of a certain crime, one is poverty. Among the various types of crimes in which women are involved the most widely and repeatedly committed types are those crimes which are related to property like theft (it could be domestic one), robbery, shoplifting etc.²⁰ Most of the perpetrators of such crimes are those who are at low economic standard. They opt committing crimes as one means of tackling the problem they face. For example, a mother in order to feed her children, in order not to see them being beggars or street children, or otherwise see them dying opt to steal so that she could see them living with her or staying alive.

The economic explanations of women criminality has to do with the general societal structure of a given country. In developing countries, where women are to a great extent dependent on their husbands or if better on works which enables them earn for subsistence i.e. domestic works, women criminality is a result of poverty. The woman in order to maintain herself as well as her families life, due to the sole reason of poor economy opt to tolerate the violence she faces domestically. But if she reaches a stage where she couldn't tolerate, she will opt either to see her family broken hence her children be street children or beggars or opt to engage in some illegal means of earning money hence see her children getting at least their daily breads.

On this point Frances Heidenson in her book," women and crime," states that 'women who do commit crimes and are apprehended and stigmatized are often those on whom constraints or their inherent contradictions were - all too affective: such as women who steal since theft is more profitable than ill-paid domestic work, or who solicit for the same reason.'²¹ So, we can say that, crime-involving women is seen to be the result of social oppression and economic dependency upon men.

1.2.3. Trends of Women's Criminality

Crime is predominantly a male activity. Except for such crimes as prostitution, shoplifting and welfare fraud, male traditionally commit more crimes than female at all ages. In all criminal population, whether offenders passing through the courts or of those sentenced to institution, men outnumber women by a high proportion.²²

Different researchers reveal that women criminality began to tremendously increase during 1st World War. In the war years when male manpower become depleted and women assumed many roles formerly reserved to men, female crime rates raise. After the returning men resumed their position in civilian life and the previous division of labour between the sexes was restored, female crimes rate fell.²³

In most western societies the incidence of recorded crime by women, and the number of women passing through the penal systems, is on the increase. A research undertaken in Sweden and Denmark in 1930's reveals that crimes of violence paralleled the increase of female crimes against property. Especially since 1960, in USA, there have been some interesting development in regard to gender and crime rate. In 1960 female account for 11% of the total number of arrests across the country. They now account for 19%. And while the female arrest rate is still much lower than that of males, the rate of increase for women has risen faster than the rate of men.²⁴

In Britain in 1984, for instance, of 449,000 offenders found guilty of criminal offences, 397,400(867) were males. In the same year, the daily average population of the prisons consisted 841,822 men and 1473 women. The number of women in prison under sentence rose from 538 in 1974 to 941 in 1984, an increase of 75% in 10 years.²⁵

The several studies suggest that gender differences in crime may be narrowing. The indications of similar increasing trends in various countries in various periods of time become a point which calls for different views. A number of explanations have been offered for this trend. According to Rita Simon, women are becoming more involved in these crimes because they have more opportunities to commit them. Simon hypothesizes that since the propensity of men and women to commit crime is not different, as more women enter the labor forces, and work in much broader range of different jobs, their tendency to commit crimes against property will continue to go up.²⁶ It is also said that this increase in trend is due to the

changing social role of women, with more women leaving the home and taking employment, expecting and achieving financial independence, leads to greater opportunity for crime and the greater temptation.²⁷

Some criminologists have challenged the above view saying that female crimes have indeed increased but they attribute the increase to non-violent, petty property offences that continue to reject traditional female sex roles.²⁸ Therefore these criminologists do seem to agree that the crimes women commit are closely associated with their socio-economic position.

An alternative explanation is that the change in the apparent rate of female criminality merely reflects a change in the operation of the criminal justice system that crimes committed by women are less likely than was previously the case to be ignored by law enforcement agencies out of a sense of chivalry.²⁹

1.3. Measures in Disposing an Offender

Since criminals are a threat to a society and state, there are various responses towards them. The process of sentencing and the collection of procedures, measures, institutions and personnel which is often termed the penal system represents the states response to the problem of how to deal with criminal law breaking.³⁰ But there are also a number of private and non-state responses to the problem of crime.

The modern sentencing process does not simply involve only a decision as to an appropriate penal measure. There could also be corrective measures. This distinction may come up depending upon the nature and purpose of the measures adopted. Even so there may not always be a neat or clear distinction. The same measure may have both penal and corrective characteristics and may also serve other purposes such as public protection (preventive) which may not be easily subsumed under either of these headings. Likewise, there exist options for the sentencer which cannot properly be described as penal, such as hospital orders and even those which are commonly thought of as being measures of punishment may compromise elements which are corrective or preventive.³¹

Although punishment remains an important response to the problem of crime, presently there are diversities of sanctions (measures). These measures or sanctions are :-

- I. Penal measures
- II. Corrective measures
- III. preventive measures

Herein under each measure will be discussed in detail.

1.3.1. Penal Measures: -

The criminal justice system in disposing a criminal offender uses punishment, which is among the most ancient approach to crime control and which is still a force of major significance as one and perhaps the main means (instrument). Punishment involves the infliction of pain or forfeiture of the judicial visitation with penalty: chastisement: castigation. It is some sort of social censure and not necessarily the involving or infliction of physical pain.³² Dr. Walter Reckless in considering the meaning of punishment, says: "It is the redress that the Common Wealth takes against an offending member". Punishment also is narrowly defined as "suffering inflicted upon the offender in a definite way by, or in the name of, the society of which she/he is a permanent or temporary member."³³

There is little doubt that punishment of violators is an important purpose of the criminal justice process. However, the application of punishment to law violators in proportion to the seriousness of their offences is the cornerstone of criminal codes and sentencing structures. Beyond this, however, the punitive theme runs through all the determinations of the criminal process, coloring the perceptions of all participants, including suspects and defendants.³⁴

A person is said to be punished when some pain is inflicted on him. As a means of punishing there are different types of punishments having different purposes in order to make things clear, Let us now turn to the discussion of types and purposes of punishment.

A) Types of Punishment

It has been assumed that the principal way to accomplish the goals of the criminal law is to impose sanctions on convicted offenders. The types of sanctions or punishments could differ from country to country depending on the legal system they follow. for the purpose of this paper Imprisonment, parole and probation and fines are discussed.

I Imprisonment: -

According to Black's Law dictionary imprisonment is defined as "the act of putting or confining a person in prison"; or "an involuntary confinement in jails".³⁵

II. Parole (suspended sentence) and Probation:-

Parole and probation are forms of disposition whereby the prisoners serve their sentence by non- custodial manner i.e. the prisoner will serve the. Sentence living within the society though there could be certain conditionalities imposed upon him These two sentences, despite their similarities. Have their own differences. Hence, it will be better if we deal with the two separately..

a). Parole: -

The word parole in French means "word" and its use in connection with the release of prisoners was derived from the idea that they were released on their word of honour. To say it in another way the prisoner will be released on license before serving the sentence he has been given. The court or prison officers, depending on the laws of a given country, suspends the sentence for selected offenders and release them conditionally upon good behavior, subject to prescribed rules, and supervision by offices of the court or assigned offices.³⁶

An essential feature of parole is the supervision of the offender during the remaining part of the sentence after his release from prison. A prisoner who has been released on license is not free from all restrictions, he is normally required to observe various conditions, which may be quite restructure dealing with such matters as where he lives and works or require him to undergo medical or psychiatric treatment. Failure to comply with these conditions can lead to the revocation of the parole, which means that the offender is returned to prison to serve out the remainder of the sentence. This means the prison sentence will not be activated unless the offender commits another imprisonable offence within the period. Enforcement of the conditions, as well as the provision of help and counseling, is usually the responsibility of a parole officer to whom the paroled offender is required to report at stated intervals and who may have considerable power over the offender.³⁷

b). Probation

Probation evolved from Anglo-American judicial practices worked out to avoid automatic application of the harsh penalties prescribed in the statutes. These Practices originated in the early 1800's in response to humanitarian concern over, the effects of imprisonment on the young or first offender. An offender could be released on his/her acknowledgment of obligation until some later date set by the court for final action. She/he was often required to postpone or deposit bail to guarantee his/her reappearance.³⁸

In England probation was first introduced in the penal system, in the form that we understand it today, in 1907 by the Probation of Offenders Act. What characterized probation was the growing dissatisfaction with prison conditions and administration, together with changing ideas about the cause of crime and the purpose of punishment. There was a growing interest in the individual criminal and the need for positive steps to assist to reform. In an otherwise hostile penal system, the probation service was the sole agency devoted to assisting and advising offenders.³⁹

In addition to its several non-mandatory tasks, the probation service is now responsible for inter alia: suspension of offenders placed on probation, preparation of social inquiry reports, supervision of juveniles subject to supervision orders, suspended sentence supervision work, social work within penal institutions, parole selection duties, liaison work for the higher courts and rehabilitation schemes.⁴⁰ Thus, probation will have a number of advantages over incarceration for most offenders. First of all, probation allows an offender to remain in his/her community and avoid the often negative impact and stigma of prison life. Secondly, in theory at least, remaining in the community on probation offers an opportunity to receive needed services which are rarely available in prisons. In other words, probation promotes rehabilitation by keeping the convict in the community. Finally probation is also as much a cheaper disposition alternative than incarceration.⁴¹

However, this kind of disposition though selected by the majority of convicted offenders is given only to certain offenders who have committed some kind of offences. In USA for example, probation is precluded from being given to habitual offenders or persons guilty of serious crimes against the person. Nevertheless, seldom do the courts and prosecutors adhere to all of the principles that are considered essential to the proper administration of probation.⁴²

However as these rules/laws are theoretically set one, there is always the question "are these laws practical?" We will come back to these questions in the subsequent chapters.

III) Fines

The imposition of fines upon criminal offenders has long played a role in many societies. But as crimes came to be defined as public wrongs against the state rather than private wrongs done to a particular individual or family, fines tended to become a subsidiary form of punishment. In the modern era, fines remain as a penal sanctions for a large number of relatively minor offences but are seldom considered as the major element in a system of punishment except in the case of a limited number of white collar crime: and the money is only occasionally handed over to the person who has suffered an injury. Unless money payments are carefully regulated with regard to the ability to pay, they weigh unequally on persons from different socioeconomic levels, and may have become an informal method of licensing illicit activities.⁴³

B. Objectives of Punishment

The proper objectives of a system of punishment administered by the official organs of the state have been the subject of debate among philosophers, lawyers, and legislators for centuries. A great deal has been said and written by very many people but in essence there are four main theories of punishment. The preventive theory, the deterrent theory, the punitive or retributive theory, and reformation (rehabilitation) theory.

1. The Preventive Theory

This theory focuses on the prisoner and society. It holds that the main objective is to prevent the prisoner from offending again. For example, by imprisoning him/her, he/she is prevented from "sinning" and society is protected from his exploits whilst he/she is incarcerated.⁴⁴

Therefore, it is clear that in this theory the purpose of punishment is protection of the law-abiding public. In as far as punishment by the state isolates the criminal from the ranks of law-abiding, it has been argued the amount of crime in society is likely to be diminished. This argument assumes that the isolation of the offender is not out weighed by his becoming more criminal while in prison. It also assumes that the social and economic costs of isolating the criminal from the rest of society are less than those of the crimes he/she might have

committed if he/she had been left free. But both of these assumptions have been seriously questioned.⁴⁵

It is strongly contended that, if we look at the criminal as one who assails or endangers the proper life of the community, it is not only our right but our duty to defend if not ourselves at least our dependants. Primitive communities for instance effect this by getting rid of the unruly member through death or outlawing. In the course of time this is largely replaced by fine or imprisonment.⁴⁶ Societies however, never abandon the effort to minimize crime by punishing offenders. They do this by incapacitating the criminal either through death or detention, and by deterring him/her and others through the example of the painful consequences of crime to the criminal.

As an objective in itself, however, the theory has serious shortcomings. Realistically, it only works where a criminal is imprisoned for a considerable period, and protects society for a short period only.

II. The Deterrent Theory: -

According to the proponents of the theory of deterrence, punishment is meant to prevent other persons from committing similar offences. It must frighten off the would be criminal from lapsing or being tempted to lapse into crime. It must be unpleasant and painful.⁴⁷

Deterrence can be defined as the restraint which fear of criminal punishment imposes on those likely to commit crime.⁴⁸ The notion that the threat of punishment by the state will restrain the potential criminal is one of the most commonly accepted justifications for it. The use of punishment as a deterrent has been justified not only for the convicted criminal but also for the law-abiding man who totters on the edge of illegal behavior. Hence, theories of deterrence rely on two assumptions: First, that the potential offender will act rationally in his own best interest and seek to avoid pain, second that he will both remember past experience and anticipate the consequences of his intended future actions.⁴⁹

However, it is most arguable whether this theory or objective of punishment actually succeeds. As everyone knows, the debate about whether even capital punishment (i.e. death penalty), really acts as a deterrent rages on today just strongly as it has done for years gone

by. Even if we agree as to the deterrent effect of punishment, the amount of pain necessary to deter crime is impossible to measure.⁵⁰

III. The Punitive or Retributive Theory:-

This is the oldest of the theories, and is based on the belief that the criminal should suffer for what he has done, that he owes a debt to society that must be paid. In modern judicial systems the term retribution has acquired various shades of meaning. The key principle of all theories of retribution is that there should be relation between the gravity of the crime and the severity of the punishment.

One theory of retribution proposes that, punishment is not imposed in order to achieve a social objective (such as law-abiding behavior in the future by the offender or others who witness his example) but is rather an end in itself. Those who hold this view maintain that punishment doesn't require justification by intended results or effects.⁵¹ Retribution in the sense does not necessarily imply severity of punishment.

According to the second theory of retribution, punishment must be justifiable in relation to the gravity of the offense itself, even though there are other reasons (such as deterrence or treatment); that indicate a severer penalty than the gravity of the offense itself would warrant.⁵²

IV. Reformatory or Rehabilitative Theory

According to this theory, the major consideration of sentencing and imprisonment is how susceptible to "treatment" a patient is and what kinds of "therapy" will "cure" the "patient" (i.e. criminal) of his or her "disease" (i.e. criminality). The length of imprisonment depends upon how long will it takes to effect this cure.⁵³ On its face rehabilitation is the most humane of the justification for criminal punishment. Its proponents contend that it is much more civilized to treat the criminal than to punish the crime.⁵⁴

The theory of rehabilitation is based on two assumptions. First, it assumes that criminality is determined by external and internal forces which are largely beyond the offender's control at the time a crime is committed so medication will cure him. Second, the theory assumes that

human behavior can be modified so that no further crimes will be committed. This is a method, which empowers criminals not to commit crime. Thus, after treatment or rehabilitation, former criminals will control their own destinies, so they will no longer engage in criminal activity.

However, those who oppose the theory argue that it makes no sense to brand every one who violates the criminal law as sick and in need of treatment; it invites excess of punishment; since the causes of crime are so complex the policy can't be based on treatment.⁵⁵

1.3.2. Corrective (curative) Measures

Rehabilitation as has been discussed in the last section, is among the different theories of punishment. The purpose of punishment by rehabilitation could be met through different measures. One is through education, training or empowering the offenders so that they wouldn't go back to their past deeds. It helps the criminal drop his intention there and then by going against the cause of his being criminal. The second way of rehabilitation is curative. A certain penalty is imposed on an offender, such as mandatory drug treatment, to assist the offender in overcoming criminal propensities. Despite the existence of these two ways of rehabilitation, the most widely used way is the first one. It usually if not always is administered on offenders within a prison though the methods applied to attain the purpose differ from country to country.

1.3.3. Preventive Measures

The preventive theory is one of the different theories of punishment dealt before. The theory which puts forward the purpose of punishment as protection of the law abiding public takes locking up the criminal and making it impossible for her/ him to commit crimes at least while she/he is incarcerated as a better method of protecting the public from the ravages of a criminal.⁵⁶ The theory, therefore, places maximum emphasis on the protection of the public from dangerous criminals in insisting on his/her removal from society for an indefinite period without regard for rehabilitation.

Realistically preventive theory is incapacitative. The idea is simply that the offender should be dealt with in a manner that will make it impossible for him to repeat his offense - by execution or banishment in earlier times, in modern times by execution or lengthy periods of incarceration. This is the only objective of punishment for which there is certainty (although

an offender incarcerated for this reason may escape or commit crimes with in the prison).⁵⁷ In practice it is limited to offenders who have committed crimes repeatedly (multiple recidivists) what are known as habitual offenders or to offenders who are designated as dangerous, in that there is reason to suppose them likely to commit graver crimes of violence in the future unless restrained.

1.4 Imprisonment as a Punishment against Women Criminals

During the last hundred years a sentence of imprisonment has been the generally accepted method of dealing with persons convicted of serious crime but this has not always been so. Prior to the 2nd half of the 18th century though vagrants and certain religious offenders were committed to prison. Prison was mainly used not as a place of punishment but for the detention of those awaiting trial.⁵⁸

In these past days though things could differ from country to country. The penal system didn't differentiate much between male and female offenders. One example for such same treatment was England. There, women were whipped, hanged, transported and imprisoned. Gradually in early 19thc some notice was taken of the defendants' sex and all the punishments but imprisonment is officially outlawed. Female offenders remain offenders and responses to them which is imprisonment can't ignore considerations of punishment and deterrence.⁵⁹

The purposes of this section is to introduce the main type of punishment imposed against women offenders i.e. imprisonment. The reason why focus on imprisonment needed is because the aim of the research dictates to give much emphasis to female prisoners and females' imprisonment. And also the fact that imprisonment is the frequently used, if not, the only type of punishment female offenders are disposed to.

Since historically women are deemed not to be able to commit crimes most prisons are made and run by men primarily for men. So coping up with such prisons for female offenders is not an easy task. In addition women are generally more sensitive to their surrounding and less able to conform to institutional patterns of behavior Women's prisons in England, for example, are somewhat paradoxically described as notoriously difficult to run. They are characterized by tension, hysteria and assaults. In the 2nd half of 19thc, Mayhew and Binny,

recorded that female prisoners destroyed their clothes tore up their bedding and smashed their windows and frequently threatened the officers with violence. The possible explanation given is that women may be less able to cope with institutional life.⁶⁰

In almost all countries there was no separate prison for female offenders. In Britain for example until the 19th century women were imprisoned in the same institutions as men although they were housed in separate rooms. The policy towards both men and women was one of uniformity no particular account was taken of the prisoners sex (or age).⁶¹ In the USA too, the 1st women's prisons were also part of men's prisons and then they gradually grew separate. But still in so many countries including Ethiopia there is no such thing as women's prison since they are held in prisons within male prison, in small country jails. Women may be virtually confined to solitary as a result of rules that forbid mixing with the opposite sex. In jails where same facilities are available women are frequently denied their use in orders to prevent any contact with the more numerous male population.

Sykes described the pains of imprisonment for men as the deprivation of liberty, the deprivation of goods and services, the deprivation of heterosexual relationships, the deprivation of autonomy and the deprivation of security. All these deprivations apply equally to female prisoners and some may be more severe for women. Separation from one's family is an obvious example of this.⁶² Because the imprisoned woman could be a mother of many who are under her protection, her incarceration means a great loss for the children. In most cases even under the presence of the father they will be street children or beggars (vagabond). If the mother is pregnant or having small kids, she will have them in prison where it is too hard even for elders to lead life easily. These innocent children will share the sorrows and grievances of their mothers. Hence punishing a woman by imprisonment means punishing her whole family in one way or another.

CHAPTER TWO

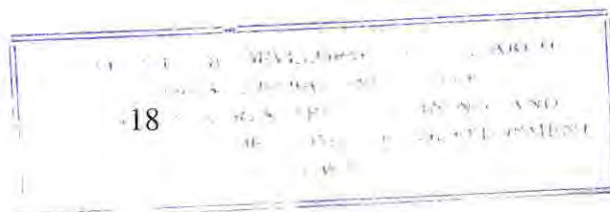
Legal Rights Accorded to Women Prisoners under International Legislation :-

2.1 General Concept of Prisoners Right

Generally, when we look into the international and domestic laws pertaining to human rights, we come across a phrase 'prisoners right'. Is there any justification for the discussion of prisoners right at all? Some researchers contended that the two words seem contradictory. They argue that if we say a certain person is a prisoner, talking of his/her rights is something unreasonable, untenable etc.

However, still there are other groups (human rights advocates) who strongly argue that, a prisoner, due to the mere fact of failure to abide by the laws of the society won't loose all his/her human rights. Both suspects and convicts as prisoners retain some group of rights¹. The writer supports the latter argument due to the fact that there are constitutional fundamental rights which can't be restricted, denied wherever and whenever. This is evident from the provisions of different laws in that the articles don't have any clause or phrase entitling anybody even the government to restrict these rights. They are given to all human beings due to the mere fact that he/she is a human being and nobody can take away these rights.

So, when we come to prisoners, even if they are under the custody of public authority for not conforming with the rules the society made for its governance, they are entitled to enjoy these rights in as far as there is no law provided to this effect. Rather, these rights levy obligations (both positive and negative) on the authority under the custody of which the prisoners live. For instance the right to protection against cruel, inhuman or degrading treatment or punishment is provided in almost all the international human rights documents. Thus, the public authority having the prisoners under its custody has the obligation (negative one) not to treat them inhumanly and in cruel manner. Hence, this being the concept of prisoners' right in general, in the coming two subsections, the justification for the retention of the rights will be discussed.



2.1.1 Suspects

These are a group of people who are under the detention of the police for the reason that they are alleged to have committed a certain kind of crime or they have certain relation with certain crime. In some countries the rights of these people receive very little recognition either in theory or in practice. These un- convicted prisoners can be kept in custody for long periods, may be cut off from all contact with the outside world, and denied access to family and friends, or legal advisors. They may be subjected to serious neglect and ill- treatment or forced by physical or psychological pressures to confess to offences of which they are innocent, or to provide information to incriminate others.²

In England, the police are required by their regulations to treat every arrested prisoner with courtesy and consideration.³ This is because, suspects usually are deemed to be innocent unless proven otherwise. To this effect there is a principle in criminal law called 'presumption of innocence'. This means that unless a guilt is proven, whosoever is under the custody of the police is presumed to be innocent. Hence the effect would be enjoying all rights every citizen enjoys unless for the purpose of public interest expressly taken away by law. So, every suspect must be permitted to exercise his/her rights , and must be informed of them. She/He must be told orally of the rights and facilities to which she/he is entitled, and his/her attention must be drawn to the notices about prisoners' rights that are prominently displayed in every police station.

One of the main rights of as suspect is the right to bail. The right to bail enables a suspect or a person under custody to regain his/her freedom as soon as possible. Bail is a recognizance or bond taken by a duly authorized person to ensure the appearance of the accused person at the appointed place and time to answer the charge made against him/her.⁴ It is an accepted principle that no one should be deprived of his freedom unnecessarily and that bail should be granted whenever possible. However, this right may be denied exceptionally when circumstances are prescribed by law for the purpose of the general good.

Therefore, given the above two principles in criminal law, suspects are treated as any other innocent citizen i.e. enjoying a number of constitutional rights such as the right to life, liberty, security of person, right to protection against cruel, inhuman or degrading treatment or punishment etc.

2.1.2 Offenders

The old retributive view of penology was to a large extent based upon the idea that a person convicted of a crime was an 'out law', without legally protected rights'.⁵ It was also believed that " ... the convicted felon, as a consequence of his crime, not only forfeit his liberty, but all his personal rights except those which the law in its humanity accords to him. He is for the time being the slave of the state."⁶ This quotation illustrates what was once a typical judicial attitude toward the right of prisoners. This is because, since this person fails to abide by the law the society made for its guidance, she/he should also be denied the rights made by the society for the society.

Gradually, however, as a result of 19th c. humanitarian influences, people began to go against the previous way of argument. Instead of retribution, corrective treatment, reform and rehabilitation came to be regarded as more desirable principles of penology. Imprisonment began to be taken only as a segregation of individuals who have been unable to conform to minimum social norms by committing them to penal institutions. To enforce the societies demand for secured custody of prisoners and to assure orderliness within the institutions, it has been necessary to subject prisoners' behaviour to a number of controls and regulations. This, nevertheless, doesn't amount to total denial of their rights. Lawful incarceration only results in the imposition or restrictions which are unnecessary outside a prison. This may not be exhibited from the practice. A writer called Trebach states this as "When the prison doors close behind a convicted man, they usually cut him off from all his constitutional rights".⁷ This is not dictated by legal theory but by the practical facts of the situation.

In general, the latter (aforementioned) line of argument can be supplemented as follows :-

*" a prisoner retains all the rights of an ordinary citizen except those expressly or by necessary implication, taken from him by laws"*⁸

This is also elaborated further in *coffin Vs Richard*, in which the court declared that:

*" a prisoner retains all the rights of an ordinary citizen except those expressly or by necessary implication, taken from his/her by law. While the law doesn't take his liberty and imposes a duty of servitude and observance of discipline for his regulation and that of other prisoners, it doesn't deny his right to personal security against unlawful invasion."*⁹

In contrast to the prisoners' right, the police are bound to take all practicable steps to see that people in their custody don't get a chance to escape. Subject, however, to the overriding need for security, the prisoner must be treated humanely and be allowed to exercise all the rights to which he is entitled.¹⁰

The rights and duties of all prisoners might not be similar i.e. suspects will have different rights and duties to that of convicted prisoners. This is because suspects have different status: a status, which makes them to be considered as innocent citizens. Hence, they enjoy a wider group of rights than convicted prisoners. So, in the next section we will try to see what specific rights prisoners i.e. suspects and convicts have.

2.2. Women Prisoners Right under International Legislation:

When we look into the international and domestic laws a number of possible concepts arise in relation to prisoners or especially female prisoners. For the purpose of this paper we will take one i.e. the rights women prisoners like all other prisoners retain when they enter captivity, and the special rights that accrue to them. Since one group of people within the women quarter of the prison are children who live with their mothers the writer found it necessary to at least pinpoint their rights embodied in such instruments. Hence, on this basis, the next sections are devoted to elaborate:-

- i) Rights of prisoners in general
- ii) Special rights provided to women prisoners
- iii) Rights of children

2.2.1 Convention and Declaration.

A. Universal Declaration of Human Rights (UDHR)

The UDHR was adopted by the general assembly of the UN on Dec. 10, 1948. Although not adopted as a legally binding instrument, the UDHR has come to be recognized by the international community as the basic catalogue of fundamental human rights which should be respected by all states.¹¹

Since, the declaration is meant to generally lay down human rights for all people, there are specific provisions dealing particularly with women prisoners' rights. However, Article 2 particularly states that all the rights and freedoms set forth in the declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other

opinion, national or social origin, property, birth or other status. Thus, all the rights included in this human rights document are equally applicable to female prisoners in as far as there is no legal restriction. This is a very important right female prisoners have, though the practicability of which seems questionable due to the cultural domination they face. The declaration also recognizes the special condition of women and children in that per Art 25(2), it gives mothers and children the right to get special care and assistance. So female prisoners with children are entitled to get care and assistance from the institution or prison they are found.

In addition to this, rights such as the right to have equal protection before the law (Art.7), the right to be presumed innocent until proved guilty (Art.), the right to freedom of thought , conscience and religion (Art 18), the right to freedom of opinion and free expression (Art 19), the right not to be subjected to arbitrary interference with his privacy (Art 12), the right to work, the right to education (Art 26) . . . etc. are embodied in the declaration. Therefore all these rights could be taken as female prisoners' rights.

B. International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights was adopted by the United Nations General Assembly on 16 December 1966 (Res. 2200A (XXI)), and entered into force on 23 March 1976. It is one of the basic human right documents comprising 53 articles which all deal with the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family. Ethiopia became state party to this basic legal document upon the ratification made by TGE, in 1992.¹²

Like that of the UDHR, this instrument is also general human rights document, and hence all the general provisions could be applicable to female prisoners. However, this instrument, also contains provisions, which are specifically relevant to this topic.

By virtue of article 10(1) the ICCPR provides that:

*" All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."*¹³

In continuation to this sub 2(a) of the same article states that "an accused person shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons."¹⁴

This is in perfect harmony with art 14(2) which presumes every one charged with a criminal offence as innocent in as far as it is not proved that there is guilt according to law.

Similarly, sub-article 3 of this article stipulates the main objective of the penitentiary system and it reads:

*" The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation"*¹⁵

Hence, by so providing the ICCPR considers prisoners as a special category of persons who need special treatment.

The ICCPR in addition to all these rights provide the rights of the child per Art. 24. sub (1) of the same article which reads as follows:

*" Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the state."*¹⁶

Since children who live in prisons with their mothers are innocent, and since the article clearly states that social origin can't materialize in order for children to get protection of the human right document under discussion, children who live in prisons with their mothers are under the protection of this human right document. These aforementioned provisions, as indicated above are, applicable generally to prisoners (including female prisoners) for the fact that , as a human person, they are entitled to retain those rights and there is no any indication to discriminate them in this regard.

2.2.2 International Rules for Treatment of Prisoners

More detailed rules governing the treatment of prisoners are adopted by the United Nations in 1955 is the United Nations Standard Minimum Rules for the Treatment of prisoners (SMR). These are generally applicable to all prisoners, and in particular some special provisions

relate to the special categories of prisoners such as: sentenced prisoners, Insane and mentally abnormal prisoners, prisoners under arrest or awaiting trial, and civil prisoners.

The SMR, adopted by the first UN congress on Prevention of Crime and the Treatment of Offenders in 1955, has been endorsed by the Economic and Social Council of the UN. Although the SMR have no binding legal status, they express ' what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institution'. And the UN General Assembly has recommended their implementation by, for example, incorporation into national legislation.¹⁷

Later on in 1957, the SMR for the treatment of prisoners were approved by the Economic and social Council of the United Nations. Additional article 95 was added in 1977 to ensure that persons arrested or imprisoned without charge should benefit from the provisions of the SMR.¹⁸

In this respect, the General Assembly, in resolution 2858(XXVI) of 20 December 1971, called the attention of member states to the Standard Minimum Rules and recommended that they should be effectively implemented in the administration of penal and Correctional institutions and that favourable consideration should be given to their incorporation in national legislation. The assembly took note with satisfaction of the establishment by the commission for special Development of a working group on SMR for the Treatment of prisoners to advise on methods of strengthening the implementation of the Rules and of improving the reporting procedures thereon.

To the effect that SMR for the Treatment of Prisoners is not binding, in the 1st paragraph of its preliminary observations, it is stated that: -

*" The following rules are not intended to describe in detail a model system of penal institution. They seek only, on the basis of the general consensus of the contemporary thought and the essential elements of the most adequate system of today, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions."*¹⁹

Furthermore, the second paragraph provides as follows:

" In view of the great variety of legal, social, economic, and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations."²⁰

Bearing in mind the above preliminary observations as to their applications when we see the contents, part I of the rules covers the general management of institution and if applicable to all categories of prisoners, criminal or civil, untired and convicted and part II, contains rulers applicable only to special categories dealt with in each section. Part I commences by laying down basic principle which states that the application of the rules should be impartial and non-discriminatory based on race, colour. Sex, Language, Religion political or other opinion, national or social origin property birth of other sates this based principle leads to discuss the rules embodied in the SMR for treatment of prisoners. Some of the rulers pertinent to the topic will be discussed as follow.

I. Personal hygiene and medical service: -

Personal hygiene is the main thing for the prevention of diseases especially epidemic diseases given the number of individuals in a single room, such type of disease in prisons means a great loss of a number of prisoners. This problem could have for more worst affect when it happens in female prisoners premises because, inhere, possibly there will be either pregnant women or women with children. Given their biological situation, both group of women including the babies vulnerable to diseases. The SMR considering the problem personal hygiene will cause in case of failure states that:-

Prisoner shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness."²¹

This rule not only require that prisoners keep their person clean but also levy positive obligation cleaning althorites to provide with the necessary cleaning materials. So this right

is far more important to female prisoner. The other pertinent rules are rules 22 and 23 dealing with medical services that should be available in prisons.

Rule 23 particularly provides for the rights of mother prisoners and their children. According to this rule in woman's institution there has to be special accommodation for all necessary pre-natal and postnatal care and treatment. Arrangement shall be made wherever practicable for children to be born in a hospital outside institution. This is to prevent possible psychological stigma that could be created on the child at the time when he discovered that he is born in prison. If doing so couldn't not be mentioned in the birth certificate.

ii) Discipline and Punishment

As is stated in the above enumeration of rules, Rule 27 pertains to discipline and given they live together in a certain premise, social life will develop among themselves. This interaction and interdependence, sometimes may lead to certain disagreements quarrelling etc. There may also be problem of theft. In such cases, the importance of certain regulations, and also an authority enforcing this regulation will be called for. Otherwise, it will be easy to abuse the right of the prisoners, especially of female prisoners, who in most cases are not in a position to resist the various abuse made against their right. Hence, to this effect rule 27 provides that discipline and order should be maintained firmly, but should not be done more than is necessary for safe custody and well ordered community life. In supplementing this rule 28 prohibits prisoners to be employed in any disciplinary capacity. However this does not impede the proper functioning of system based on self-government under which specified social, educational or sports activities or responsibilities are entrusted under supervision to prisoner who are formed into groups for the purposes of rehabilitation.

In this regard, with a view to prohibit abusive conditions, rule 29 lays down points which should always be determined by the law or by the regulation of the competent administrative authority

These are:-

- (a). Conduct constituting a disciplinary offence
- (b). The types and variation of punishment which may be inflicted.

(c). The authority competent to impose such punishments.

So, no prisoner shall be punished except in according with the terms of such law or regulation, and never twice for the same offence. And also no prisoner shall be punished unless he has been informed of the offence alleged against him given a proper opportunity of presenting his defence corporal punishment are completely prohibited as punishments for disciplinary offences.

III) Social relations and aftercare

Rules 79-81 provide social relations and aftercare. From the beginning of a prisoner's sentence, consideration shall be given to their future after release and they shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interest of their family and their own social rehabilitation.

The issue of after care has to do with the purpose of imprisonment. Rules 58 provide as to Law the purpose and justification of sentence of imprisonment i.e. protection of the society against crime can be achieved. It says that this end can only be achieved if the period of imprisonment is used to ensure so far as possible, that upon his return to society the offender is not only willing but able to lead a law abiding and self supporting life. So to attain this end the institution should utilize all the remedial, education, moral, spiritual, and other forces and forms of assistance that are appropriate and available and should seek to apply them according to the individual treatment need of the prisoners. The fulfilment of these principles requires individualization of treatment and for its purpose rule mandatory provides for the keeping in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. This enables the institution to do away with the root causes of their criminality. For instance, mainly the root causes of females criminality is their economic subordination. Hence, classifying such women in one group and educating them or giving them training in certain field in order to make them acquire certain skill that enable them to earn money makes the institution achieve goal.

Hence the classification and individualization are so important to facilitate the treatment of prisoners with a view to their social rehabilitation. This being one purpose, the other purpose

is to separate from others those prisoners who by reason of their criminal records or bad characters are likely to exercise a bad influence on others.²²

The treatment given for convicted prisoners shall be such as will encourage their self-respect and develop their sense of responsibility. To these ends, all appropriate means shall be used, including religious care, education, vocational training... etc in countries where this is possible. In accordance with the individual needs of each prisoner, taking account of his/her social and criminal history, physical and mental capabilities and aptitudes, personal temperament, the length of sentence and his/her prospects after release.²³

Though educated or trained if after care programme are not available when the prisoners are released they might not have money for transportation r might not have relative to go to. Regarding this, rule 45 sub(3) imposes duty on the prison administration to pay the transport expense of the prisoner. This rule is very crucial to female prisoners who due to lack of transportation fee may engage in unlawful or immoral means of earning money like prostitution or commit crime.

IV. SPECIAL CATEGORIES OF PRISONERS

Insane and mentally abnormal prisoners are the second special category of persons which are discussed in section B of part II. In here there are two rules i.e. rule 81 and 82. per rule 81(1) persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible. However, if there are prisoners who suffer from other mental disease or abnormalities shall be observed and treated in specialized institutions under medical management. During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer. The medical or psychiatric services of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment. It is also desirable that steps should be taken, by arrangement with the appropriate agencies to ensure if necessary the continuation of psychiatric treatment after release and the provision of social psychiatric after care.

The other category of prisoners is those under arrest or awaiting trial. These group of people per Rule 84(1) are called untried prisoners. These untried, hence unconvicted prisoners are presumed to be innocent and shall be treated as such. Thus, they shall be kept separate from convicted prisoners; allowed to wear their own clothing if it is clean and suitable (This rule is applicable only in countries where prisons provide clothing to the prisoners); shall be allowed

to procure at their own expense or at the expense of 3rd party such books, newspaper, writing materials etc. allowed to inform immediately reasonable facilities for communicating with their family and friends and for receiving visits from them, subject only to such restrictions and supervision as are necessary in the interests of the administration of justice and of the security and good order of the institution, allowed to be visited and treated by their own doctor or dentist if there is reasonable ground for this application and he/she is able to pay any expenses incurred.

For the purpose of defense, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his/her legal advisor with a view to his/her defense and to prepare and hand to him/her confidential instructions. For these purposes, she/he shall be supplied with writing materials if she/he so desires. Generally suspects since they are considered innocent all the obligations the sentenced prisoners in section A won't apply on them. For example, they are not required to work, to get rehabilitated, etc.

Section D and E state about civil prisoners and persons arrested or detained without charge respectively. For both group of prisoners, the rule applicable would be that stated in section. C. But in exception to these rules, civil prisoners could be required to work. Otherwise the treatment of both groups shall be not less favorable than that of untried prisoners. In addition to part I., which is applicable to all group of prisoners, section A of part is where its application is conducive, would apply to these two categories of prisoners.

2.2.3 Body of Principles for the Protection of all Persons under any form of Detention or Imprisonments.

This is the most recent and, in some respects, far reaching addition to the standards governing the practice of detention and imprisonment. It is adopted by UN General Assembly, on Dec. 19, 1988. The impetus for the elaboration of this instrument was the UN's consideration in the mid- 1970's of the standard setting measures to combat torture. And hence, the text finally adopted in 1988 introduces some important additional safeguards and in certain other respects clarifies and develops existing protective measures to guard against abuse of those in custody.²⁴

While not a document of binding legal force, like that of SMR for Treatment of Prisoners, the text of Body of Principle for the Protection of all persons under any form of detention or imprisonment comprises of 39 principles, which was adopted by consensus, is undoubtedly an important contribution to the international instruments concerning the protection of person deprived of their liberty.

This text or body of principle apply to female prisoners in that firstly, the title of the instrument indicates that the principles embodied and applicable to all persons under any form of detention or imprisonment. Secondly, Principle 5(1) states that: ' These principles shall be applied to all persons within the territory of any given state, without distinction of any kind, such as race, colour, sex, language, or other status. This means that the principle applies to all persons irrespective of sex. Similarly, sub (2) of the same article states its application to female prisoners in that it provides:

*" Measures applied under the law and designed solely to protect the rights and special status of women, especially pregnant women and nursing mothers . . . shall not be deemed to be discriminatory "*²⁵

This body of principle applies both to convicted and unconvicted persons. However, there is no distinguished section or category specifically applying to either convicted or unconvicted persons. Nevertheless, for the purpose of this paper we will see principles which are applicable to detained persons only and principles which are applicable to both detained and imprisoned persons in different paragraphs. Since most of the provisions have much similarity with other International human rights documents such as SMR, we will try to deal with only those provisions which are not properly treated in the said human right instruments.

The body of principle like SMR for treatment of prisoners recognizes the different status of unconvicted prisoners; hence to this effect a number of articles are provided such as Article 36 on presumption of innocence, Article 21 on.

There are also a number of rights both detained and imprisoned persons enjoy. Per principle 6, no person under any form of detention or imprisonment shall be subjected to torture or to cruel or inhuman or degrading treatment or punishment. This prohibition of torture or cruel or inhuman on degrading treatment applies to unconvicted prisoners. Besides the principle makes the right absolute so that under no circumstances any justification for torture or another cruel or inhuman or degrading treatment or punishment will be accountable. In

addition to this main common right, per principle 19, both detained imprisoned persons are given the right to be visited by and to correspond with in particular members of his family and shall be given adequate opportunity to communicate with the outside world. However, this right is subject to reasonable conditions and restrictions specified by law or lawful regulations. About discipline and punishment within prisons, principle 30 states that in cases when disciplinary offence ensued the detained or imprisoned person has the right to be heard before disciplinary action is taken. If there is problem as to treatment, he/she has the right to make request or complaint regarding his/her treatment, in particular in case of torture or other cruel, inhuman or degrading treatment, to the authorities responsible for the administration of the place of detention and to higher authorities and, when necessary, to appropriate authorities vested with reviewing or remedial powers.²⁶

Therefore, this body of principle provides rights to both convicted and unconvicted prisoners. In addition to this, for the purpose of strict observance of relevant laws and regulations, per principle 29, it provides that places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment. In such cases a detained or imprisoned person has given the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment subject to reasonable conditions to ensure security and good orders in such places.²⁷

2.2.4 Basic Principles for the Treatment of Prisoners :-

Basic principles for the treatment of prisoners is also another and recent human right instrument for the protection and treatment of prisoners. This document embodying 11 principles was adopted by the United Nations General Assembly, in 1990. Though the document doesn't define what a prisoner mean, by looking at some of the provisions, the writer takes the liberty to construe it as only applicable to convicted prisoners.

Unlike all previously discussed human rights documents, Principle 5 conclusively and clearly states the rights of prisoners in that: ' Except for those limitations that are demonstrably necessitated by the fact of incarceration, all prisoners shall retain the human rights and fundamental freedoms set out in the UDHR, where the state concerned is a party, the ICCPR, ICESCR, and the optional protocol there to, as well as such other rights as are set out in other United Nations Covenants.' This principle's importance is not only providing rights to

prisoners, but also in magnifying the importance of the rights embodied in previously discussed human right documents to prisoners. The prisoners, above all are given the right to take part in cultural activities and education aimed at the full development of the human personality, the right to have access to the health services available in the country without discrimination on the grounds of their legal situation.²⁸

This document, in addition to giving rights to prisoners, also consists of principles the terms of which should be respected for the sake of both the prisoners and the society at large. One of this is Principle 8. It provides for the creation of conditions enabling prisoners to undertake meaningful remunerated employment, which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families. Principle 10 requires the creation of favourable conditions for the reintegration of the ex-prisoners into the society with the participation and help of the community and social institutions. Hence, if the terms of this principle are respected, the society's benefit from the incarceration of the prisoner will have double face i.e. firstly; the society will be protected from the possible similar criminal acts of the individual. Secondly and most importantly, due to the incarceration and the training available to prisoners there, the society will get productive and resourceful individual. This in a way makes the prison discharge the purpose of punishment i.e protecting the society from crimes.

CHAPTER THREE

Women Prisoners Rights under Domestic Legislation

3.1 General

There are different legal approaches that can be employed to recognize and ensure individual rights and freedoms in a given domestic legal system. The most common method is to include a bill of rights in the national constitution. The concept of constitutional protection of individual rights and freedoms is based on the need to impose certain barriers and limits on legislative, administrative and judicial authorities.

To this effect, to improve the conditions of imprisonment and the treatment of detainees, encourage the full application of principles and norms universally accepted for the protection of prisoners' rights and promote the implementation of the preventive measures so as to fight against the possible violations of these rights, safeguards should be provided in the national constitution.

Bearing in mind the above mentioned conditions, let us try to look into the provisions which the constitution of FDRE stipulated towards the substantive rights of all citizens and in particular to the prisoners' right as a whole.

3.1.1 The Constitution of 1994: -

The constitution provides under Chapter III, 'Fundamental Rights and Freedoms', and part I deals with 'Human Rights'. Per Art. 14 'every one has the inviolable and inalienable rights to life, liberty and the security of the person'. Further Art. 15 stipulated that 'no person shall be deprived of his or her life except for grave crimes defined by law'. Likewise, a number of human rights provisions such as the right to protection from bodily harm (Article 16), the right not to be subjected to arbitrary arrest (Article 17), the right to human treatment (Article 18) etc. is included.

The writer believes that the above mentioned basic provisions on human rights particularly the right to life, liberty and the security of the person are applicable to everyone including the sentenced prisoners both female and male (as the constitution per Article 35 gives both men

and women equal position), in so far as there is no any indication by law which denies them to enjoy these fundamental rights in the constitution.

Besides, the constitution provides explicitly under the title- "The right of persons detained", considering them a special categories of persons who need more constitutional protection, and to this effect Article 21(1) reads that " all persons in custody, including sentenced prisoners, have the right to conditions which respect to human dignity." It is also provided under sub-Article 2, that all prisoners shall have the opportunity to communicate with, and to be visited by, their spouse or partner, relatives and friends, religious counsellors, lawyers and medical practitioners.

The rights of persons arrested and accused also have given special treatment. Persons arrested have given a number of rights like the right to be informed promptly, in a language they understand, of the reasons for their arrest and of any charge against them (Art. 19(1)), the right to remain silent (Art. 19(2)), the right to be brought before a court within 48 hours of their arrest (Art. 19(3)), etc. With regard to rights of the accused, almost all of the rights embodied in the international human right documents are included also in the constitution. Some of these rights are like the right to public trial by an ordinary court of law, right to be informed with sufficient particulars of the charge brought against them, the right to full access to any evidence against them, the right to be presumed innocent, etc.

Furthermore, as it is stipulated in Article 23, "no person shall be tried or punished twice for an offence in which he has been finally convicted or accused in accordance with criminal law and procedure." Similarly, as per Article 24(3) "everyone has the right every where to the recognition of his status as a person."

Lastly, every prisoner has also a right to property as every Ethiopian citizen according to article 40(1). The right shall include the right to acquire, to use and to dispose of such property by means of sale or bequest or by other means of transfer subject to limitations prescribed by law in the public interest and in a manner compatible with rights of other citizens.

The constitution affirmed that human rights and freedoms are inviolable and inalienable. And they are inherent in the dignity of human beings. Moreover, it is provided in Art.14 that human and democratic rights of Ethiopian citizen shall be respected.² The constitution as "a

supreme law of the land", is applicable to everyone including the sentenced prisoners, except for those deprivations of liberty which emanates from the procedures of the law.

Finally, those provisions stipulated under this constitution concerning the means of enforcement of these rights and remedies for violation of human rights are discussed in the subsequent chapters.

3.2 The Penal System and Female Prisoners Rights Under The Primary Legislation

This section is devoted to assess certain stipulated rights with regard to prisoners apart from the previously mentioned constitutional rights. Hence, some of the legislation like the penal code, criminal procedure code, the prison proclamation that have relevance to the issue at hand will be discussed in briefly herein under. Some legislation such as the civil code, the civil procedure code etc. have no express provision that deals with prisoners rights in particular except that they can be treated equally with others.

3.2.1 The Penal Code of 1957:-

The Ethiopian penal code contains no definition of 'punishment' as such. It only provides for the punishments that are to be imposed on criminal offenders. The principal ones are: - i) Pecuniary penalties such as fine, confiscation, sequestration, and other pecuniary effects;³ ii) penalties entailing restriction are: loss of liberty- such as pecuniary penalties combined with restriction of liberty, penalties entailing loss of liberty, simple imprisonment and rigorous imprisonment;⁴ iii) punishment by virtue of Article 120 i.e. corporal punishment, caution, reprimand, admonishment and apology, deprivation of rights such as depriving of the offender his civil rights, etc.

There is also no specific article dealing with purpose or objective of punishment. However, Article 1 in stating the object and purpose of penal system provides. " The purpose of criminal law is to ensure order, peace and the security of the state and its inhabitants for the public good." It aims at the prevention of offences by giving due notice of the offences and penalties prescribed by law and should this be ineffective by providing for the punishment and reform of offenders and measures to prevent the commission of further offences.

The penal code seems to embody all the theories of punishment discussed above either implicitly or explicitly.

But it introduces the concept of rehabilitation of offenders apart from other aims stipulated there in. Under the preface, therefore, it is provided as follows:-

*New concepts, not only judicial, but also those contributed by the sciences of sociology, psychology and, indeed penology, have been developed and must be taken into consideration in the elaboration of any criminal code which would be inspired by the principle of justice and liberty and by concern for the prevention and suppression of crime, for the welfare and indeed, the rehabilitation of the individual accused of crime.*⁵

To implement this concept of rehabilitation, several articles have been laid down in the code. The Ethiopian penal code in its very first article specifies the philosophy or the objective and purpose behind the penal law. And as already discussed one of the purposes of the Ethiopian criminal justice system is to rehabilitate the criminal and hence protect the society from crime. It seems this is one reason as to why the Ethiopian penal code incorporates imprisonment as one type of punishment.

Moreover, equality before the criminal law without discrimination as regards persons, social conditions, race or religion and equality of offenders in their treatment with the exception of few immunities such as those sanctioned by public international and constitutional law, or relate to the gravity of the offence, or to the degree of guilt, the age of the offender are guaranteed by Article 4 of the said code. Hence, from this we can clearly gather a message which testifies the absence of discrimination between persons which could be based on sex, age etc. This in other words means that the provisions of the penal law apply to both female and male indiscriminately. However, the code does not specifically deal with the situation of female prisoners and children in prison.

Article 108 of the code stipulates that prisons should have their own internal regulations where with questions of admission to prison, segregation of prisoners, internal discipline, outside visitors, education and spiritual welfare of prisoners shall be elaborated. The code further goes on and makes under Art. 109 that prisoners of different sexes shall be segregated

and shall not be allowed to mix. And also prisoners who are danger to others or are of a bad character and recidivists shall be kept separate from prisoners who are serving a sentence of simple imprisonment for the first time and prisoners on remand or person detained for civil debts shall be kept separate from prisoners serving sentences. Art. 110 of the penal code also provides that sentenced prisoners shall be made to work with their health conditions. Prisoners that are made to work shall receive remuneration for every day's work and the amount and mode of remuneration should be stipulated in the prison regulation.

Furthermore, solitary confinement of prisoners at the beginning or in the course of the execution of the sentence shall in no case exceed, as per Art. 111 (1), three months at a time, and before imposing any period of containment the director shall consult a doctor and where it appears necessary a psychiatrist. Pursuant to sub 3 of the said article good conduct prisoners may be given more favorable treatment as regards food, access to visitors, nature of work and leisure and treatment may be further improved with improved conduct of the prisoner and with the approach of the prisoner's release: provided that only improved treatment may be withdrawn or suspended for a definite or indefinite period of time in the case of abuse or persistent misconduct of the prisoner. However this provision of the penal code especially sub (1) seems to go against the principle included in the basic principles for the treatment of prisoners. Principle 7 requires States to undertake efforts to abolish solitary confinement as a punishment, while the above article states as to how solitary punishment could be administered. Here, though this human right document is not binding Ethiopia being part of the International community should take measure to avoid the application of such articles.

As to sick prisoners, the code provides that with the transfer of prisoners to hospital in case of sickness or insanity, if while serving sentence a prisoner has to be transferred to hospital for treatment, the period spent in hospital shall be reckoned as part of the sentence and if the transfer to hospital is due to an illness or to any cause existing before the prisoner started to serve his sentence, the whole or part of any period in hospital may be reckoned as a part of the sentence.⁶ If while serving sentence, a prisoner is found to be suffering from some mental disorder, the sentence shall be suspended and the offender shall be transferred to a proper institution for care or treatment. If the mental disorder is of a permanent nature the remaining period of the sentence shall not be carried into effect. (Article 115(2)).

It is also provided explicitly unless a prisoner is deprived of his rights by the court as per Art. 122 or unless he is sentenced to death or to a rigorous imprisonment (Art. 123(2)), he will not lose his civil rights; that means ... 'his family right, particularly those conferring the rights of parental authority of guardianship; or her/his rights to exercise profession, art, trade, or to carry on any industry or commerce for which a license or authority is required. (Art. 122).

Similarly, our penal code allots a section for suspension of penalty. The section has three paragraphs dealing with conditional suspension, conditional release and suspension by charitable organizations respectively.

Conditional suspension is what we have referred to as probation before. It is of two types. The 1st one is that when the offender has no previous conviction and does not appear dangerous and where his offence is punishable with fine compulsory labour or simple imprisonment for less than three years, the court, after having convicted the offender, may suspend sentence and place the offender on probation. Here no conviction shall be entered when an offender is placed on probation and doesn't break the conditions of his probation.

The 2nd type is a case where when no court considers that the offender, whether previously sentenced or not, shall receive a warning, shall enter a conviction and pass sentence but may order that the enforcement of the sentence be suspended for a specified period of probation. If the probation is successfully undergone the sentence shall be remitted but the conviction entered in his police record shall remain with all its other consequences. The paragraph further incorporates different articles specifying conditionalities which enables one to get conditional suspension or otherwise lose the probation like rule of conduct, control and supervision, revocation of probation.

The 2nd paragraph deals with conditional release. This is equivalent to parole though the Ethiopian penal code puts it as probation. It seems the code intermingled the two (parole and probation) due to the similarly effect they have. Here also conditions or circumstances for conditional release are set clearly. The last paragraph which talks of supervision by a charitable organization is a bit different from what we have tried to discuss earlier. This is an essential feature of the system aiming at obtaining good results from the enforcement of penalties and measures and the various methods whereby such enforcement is carried out. The placing under the supervision of a charitable organization is compulsory in all cases where the law so provides. In all other cases the offender either conditionally or finally

released may at all times voluntarily have recourse to the help of assistance of such an organization.

Articles 242 and the following focus on a convicted person who has undergone his penalty or whose penalty is barred or has been remitted by pardon. This person may at his request obtain his reinstatement and the cancellation of his conviction by a judicial decision, if fulfils certain conditions, though reinstatement must be deserved and shall never be granted as of right.

To conclude, since the code is enacted more than 50 years back, most of the provisions relating to prisons and the treatment of prisoners don't seem to consider human rights principle. This doesn't however mean that they are totally outdated hence, of no use. Taking into account the time when it is enacted, the provisions are moderately progressive. In contrast, however, to the aspiration of the new constitution towards the treatment of prisoners; and the special concern given to women and children, the code is still defective in that there is no where that provides for the special treatment of female prisoners or children in prison except in Art. 118 where execution of the sentence shall not be carried out in case of a women with child. At this juncture it is worth to state the fact that there is lack of implementing legislation for those constitutional provisions which are inconsistent with the penal code. This means, though the penal code is one of the implementing legislation, if it is in contradiction to the constitutional articles, obviously it will not help to implement these particular constitutional articles. Hence, there is this gap (i.e. absence of implementing legislations for those provisions of the constitution with which the penal code is contradicting) created due to the inconsistency.

3.2.2 The Criminal procedure code of 1961

Criminal procedure code serves as a screening process. It is designed to hold only probable offenders and let others pass out again into freedom. The filtration process becomes progressive or more rigorous, requiring finer and finer points as one moves closely to the end of the process - conviction or acquittal and their consequences.

In all the stages of the screening process the individual is guaranteed certain rights. Here we need to examine only the major provisions.

Among the rights provided in the criminal procedure code the right of the person detained to consult his advocate is the most crucial one. The code adds that if the prisoner requires writing material, he must be provided by the institution.

Furthermore, under Art. 187(3) a convicted person has the right to appeal against the conviction and sentence. Where the appellant is in custody the prison administrator must forward the memorandum of appeal without delay to the court against whose decision an appeal is made. Where the prisoner is appealing the sentence of flogging will not be carried out until the decision is known. However, since no flogging sentences are being administered at the time being, This right of them is not applicable now.

3.2.3 The Prison Proclamation of 1944, No 45

This proclamation is the 1st proclamation which is proclaimed or meant to establish the prison and try to provide some implementing legislation. To this effect, the prison regulation is enacted pursuant to Art. 13 of this proclamation which gives the Ministry of Interior power to enact rules concerning the prison administration. However, this proclamation is impliedly amended by the 1957- penal code through the principle that latter laws override former laws when they are contradictory. Despite this very fact, the proclamation is still applicable as the regulation which bases this proclamation is still applicable.

This proclamation contains only fifteen articles and gives few rights to prisoners. The 1st part which contains general provisions have three articles and the 2nd part stating about discipline contains four articles. Article 7, the 1st part of the general provision of this proclamation provides that no one shall be imprisoned unless accompanied by a court warrant. Exception is made to female prisoners child who is less than 18 months old and at the breast of his mother. Though it does not seem right, article 8 states about prison labour. It reads: " every prisoner under sentence of imprisonment may be kept to labour with or without the precincts of any prison, and in any employment that may be prescribed." No wages are provided for the prisoners' labour at least in this proclamation. But part 1, article 15 of the Addis Ababa central prison internal regulation of 1956 provides that prisoners are entitled to 10% of their wages.

This proclamation also gives prisoners the right to earn a remission of the third of the remaining period of his sentence if accompanied by good conduct ⁸.

The articles dealing with discipline starts with Art. 10 stating about the power of the superintendent (i.e. administrator) and the type of punishment she or he could administer. Hence, pursuant to this article, the prisoner found guilty by the superintendent of any prison offence would be punished by ordering to lose remission of sentence not exceeding 14 days, by solitary confinement with or without penal diet not exceeding seventy two hours or by a combination of these punishments. For aggravated or more serious or repeated offence the punishment would be:-

- a. Solitary confinement with or without penal diet for a period not exceeding seven days
- b. Loss of remission not exceeding 28 days
- c. Corporal punishment not exceeding twenty-four strokes with an instrument approved by the Director general of public security and in the case of a person under the age of 16 years not exceeding twelve strokes with light care. However, the proclamation prohibits the administering of corporal punishment (like inflicting bodily harm) on women or on men over 15 years of age.

The type of punishments as well as the power of the superintendent considering it in light of the present constitution as well as the international Human rights documents are very out dated and also amount to inhuman treatment. In spite of this fact, since there is no other proclamation pertaining to prisons and prisoners, the provision of the proclamation which are not contradictory to the penal code still applies. However, as we have tried to see before, the penal code also has a number of provisions, which are inconsistent with the constitution. So, here in the presence of this complexities, the writer wonders as to how this proclamation could be applicable still today.

3.2.4 The 1956 Prison Regulation:-

The 1956 prison regulation is enacted by the then council of ministers pursuant to article 13 of proclamation 45/1944. As it is meant to enforce the 1944 proclamation on prisons the rules and regulations embodied are too detailed and particularly applicable to govern both the prisoners and prison administrators. Since, the regulation is enacted even before the revision of the 1st Ethiopian constitution i.e. the 1931 constitution, there are a number of rules and

regulation which are completely inconsistent not only with the present constitution but even with the revised constitution (1955). However, despite this inconsistency, the only prison regulation which is applicable even today is the same regulation. The regulation typically is the reflection of those days social and political situations. From this, one can easily guess or speculate that the regulation could not have any provision concerning female prisoners. Because it is many years later that women's rights are taken as human rights and hence given attention. So, though the constitution as well as the enforcing legislation seriously took both women and children's rights, the regulation hardly incorporates this.

The regulation has rules instructing the prison official to administer flogging (corporal punishment), solitary confinement, imprisonment in dark cell, punishment by close confinement, reduction of diet etc. As we have tried to see the Ethiopian constitution as well as the human rights documents which Ethiopia adopts or acknowledges, all the above types of punishments are strictly outlawed or condemned ones. So, the application of this regulation is in a way evidencing the fact that Ethiopia is violating the terms of the human rights document which the country adopted or ratified. Besides, and more importantly, the prisoners lose their constitutional rights like not to be treated inhumanly, not be subjected to torture and degrading treatment, not to lose their human dignity etc. Though they are human beings, due to the fact that they deviate from the social norm and taken as criminal and hence imprisoned, they are deprived of their right, to enjoy those rights given to all human beings without any exception.

Thus, to minimise this problem, the prison administration selects some of the rules embodied in the regulation which they think are consistent with the supreme law of the land i.e. the constitution, and compiled them in 1994 for the internal use. However, as to the writer still some of the rules which are selected by the administration are inconsistent with the terms of the Ethiopian constitution and the human right documents. For instance, the rule pertaining to punishments like solitary confinement, reduction of diet, prevention of contact with visitors, etc. are still incorporated in the selected rules which are said to be in harmony with the constitution. However, as we have discussed it before, the constitution, without any reservation, prohibits cruel, inhuman and degrading treatment indiscriminately. And also per Art. 21, prisoners are given the right to have the opportunity to communicate with and to be visited by their spouses or partners, close relatives, friends, religious councillors, medical doctors and their legal councillors.

Therefore, still we can say there is problem to determine whether Ethiopian prisoners have rights of whatever kind. Though the constitution which is the supreme law of the land and also some proclamations embody prisoners rights, the enforcing legislation i.e. the regulation, though not all the rules but most of them, are in direct conflict with those rights.

Though the regulation has a number of rules, which are problematic, there are also some which are progressive in that they could be applicable even to day. For instance the regulation demands the classification of prisoners based on nature of offence (minor or serious) age, sex, recidivism, type of offence (Civil or criminal or political), status (suspect or convicted), nationality etc.¹³ This provision is too progressive in that it is in line with all the human rights documents which Ethiopia adopted as well as the internationally accepted principles.

Generally, it could be said that the prison regulation which is in force now is outdated, since it has only few recent human right principles etc.

Therefore, generally in this section we have examined some of the most important rights available to prisoners both under Ethiopian law and international law. The question that remains to be seen is whether all these rights are in fact available for the prisoner in reality? The next chapter attempts to provide answer to this and similar questions.

CHAPTER FOUR

The Practical Realities Of Women Prisoners In Ethiopia

4.1 Research Findings On The Criminality Of Women In Ethiopia: -

The center in which the study was conducted is Addis Ababa Central Prison. In the Addis Ababa Central Prison about 18,000 inmates (both male and female) circulate each year. Among these inmates the number of women prisoners who circulate annually doesn't exceed 400. So, the study is made on around 140 female inmates.

The necessary data is collected from questionnaire and unstructured interview. From the total of 60 questionnaires distributed to the women inmates of the Addis Ababa central prison, only 51 questionnaires returned while 9 of distributed questionnaires were not returned back. The collected data has been analysed in a data matrix so as to easier further analysis. Therefore, the sub sections present the analysis and findings.

4.1.1 Causes For The Criminality Of The Sampled Women Prisoners In The Addis -Ababa Central Prison

As discussed in the first chapter, there are various factors that contribute to the criminality of female. These are classified as economic, social, biological causes. A number of questions relating to these were asked in the questionnaire and these shall be presented in the following table.

Table One (1) Causes For The Criminality Of Women In Ethiopia

Item No.	Items		No	%
1	Age	14 - 20	20	39.2%
		21 - 30	24	47.0%
		31 - 40	6	11.76%
		More than 40	1	1.96%
		Total	51	100%
2	Marital and Family Status	Married and have child (children)	14	27.4%
		Married and have no child (children)	6	11.76%
		Unmarried and have no child (Children)	7	13.7%
		Unmarried and have child (Children)	20	39.2%
		Divorced	4	7.8%
		Total	51	100%
3	Types of	Homicide	5	9.8%

	offence	Theft	24	47.0%
		Infanticide	6	11.76%
		Other petty property offences	6	11.76%
		Abortion	10	19.6%
	Total		51	100%
4	Reasons for the commission of the crime	Economic	22	43.1%
		Revenge	8	15.6%
		Mistake	9	17.6%
		Others	2	3.92%
		No response	10	19.6%
	Total		51	100%
5	Level of Education	Illiterate	13	25.4%
		Basic education	20	39.2%
		Primary education	6	11.76%
		Secondary education	7	13.7%
		Secondary completed	3	5.8%
		Higher education	2	3.92%
	Total		51	100%
6	Type of work engaged in before	House wife	2	3.92%
		Domestic servant	16	31.3%
		Minor retail trade	14	27.4%
		Unskilled civil servant	1	1.96%
		Skilled civil servant	2	3.92%
		Student	3	5.8%
		No work	13	25.4%
	Total		51	100%

Regarding economic causes, as table 1, Item four depicts about 43.1% of the responsive inmates alleged to have committed their respective crimes due to economic reasons. This seems the reason why the majority of the interviewed inmate i.e. 47% is apprehended due to crime of theft.

Even still we can relate the above factors i.e. the types of crime and reasons for committing the crime with the status the offender. As presented in the table 3.92% of the interviewee inmates were housewives, 39.2% were unmarried and with children and the rest 7.8% divorced.

When we further see the percentile of women offenders who have formal employment, which make them earn money for their livelihood, they are only 5.8%. Whereas, the percentile of those who have no jobs at all, who are domestic workers and who have minor works are about 58.8%. Moreover, the commission of infanticide also has much relation to economic problem. Hence, in this regard 11.76% of women commit infanticide. In comparison to other types of crime which women commit, it is the third most frequently committed crime.

old and we became friends. I know that she is a good drug consumer as well as dealer and we started to consume as well as deal. ¹This explains that this girls latter criminality is the result of her exposure in the prison to various techniques of crime. The judges and the police also claim there is problem on their side. A certain police states that "since the number of young criminals and the availability of check-ups mechanism for the ascertainment of the exact age is not comparable, we usually tend to guess the ages of the criminals before us².

4.2 Women And Prison Life:-

In the last section, attempt is made to state the causes and various attributes to female criminality in Ethiopia. In this section attempt will be made to discuss various issues related to women's life in prison such as the exercise of parental right, incarcerated mother and children in prison, pregnancy and prison life, and also about the sexual life of women prisoners. To appreciate the practical situations on these issues, interviews are conducted with inmates, police officials, prison administrators. Whenever possible the responses of the interviewees are presented in summary through tables.

4.2.1 Exercising Parental Right

There is an issue that usually is raised when a parent get imprisoned: should a women lose her parental right when sent to prison? At this juncture before discussing the issue, it is worth defining what parental right mean.

Parental right, according to the Black's law dictionary, is "the sum total of the rights of the parents in and to the child as well as the rights of the child in and to the parents". ³Some of the 'parental rights' includes: physical possession of child, which, in case of custodial parents includes day to day care and companionship of child; right to discipline child, which includes the right to inculcate in child-parent's normal and ethical standards; right to control and manage minor child's earnings, and property; right to be supported by adult child; right to have child's bear parents' name, and right to prevent adopting of child without parent's consent⁴.

In the Ethiopian case, as it is shown in the table 42% of the sampled female inmates have children. There are no routine statistics on the number of children cut off from their parents especially their mother on account of the latter serving a prison sentence. Nevertheless, the

female inmates who have children have great sorrow as they miss their children too much. In this regard, there are two possible reasons suggested by the inmates for their sorrow.

First of all the prison regulation allows visitors including children to visit only on Saturdays and Sundays, only. However, the interviewed female inmates complain that they couldn't talk much with their children, can't have them for long, can't express their feelings in the way they like etc. This is because the police guard is there to control and, also there is a long bar demarcating between the visitors and the inmates.⁵ This fact is not denied by the officials of the prison administration. A certain official, in the Addis Ababa Central Prison, admitted the complaints of the inmates and states the reason saying that: "We used to permit children to come close to their mothers, hug them etc. However, the visitors began to leave children of the inmates there and escape. And the prison couldn't give the necessary materials for these children. In order to prevent this problem the police guards are instructed not to permit close contacts"⁶.

The other reason is attributed to economic problem of the families of the female prisoners. Since they are from the disadvantaged groups, the children couldn't get transportation fair to come and visit their mothers. Even if they can get money, they might not get someone to take them to. When a man goes to prison, the mother of his children often keeps the family intact, bringing the children to visit him in a regular basis and continuing to work hard for the children. When a women is incarcerated the picture is markedly different. In most cases the father of the children is usually not involved in the care taking of the children while she is incarcerated and doesn't fill the same role of maintaining the family structure.

When a mother is incarcerated, her children are punished as well by the separation, by the ensuring lack of contact. Although some psychologists take the position that the children of incarcerated mothers are better off if they are removed permanently from their mother's care, there is growing body of psychological and sociological data which supports parent - child-relationship. In fact, many experts in this area have concluded that contact between children and those incarcerated mothers is beneficial and severance of parental rights may have long term detrimental effects on the children⁷.

In many countries, this right is a constitutional right protected to varying degrees. Neglect and abandonment are common reasons for the termination of parental rights and in some American states imprisonment per se has been used as a reason for such termination⁸. The

3	What do you think of the treatment provided by the Addis Ababa central prison administration to incarcerated mothers and the children?				
	a) Good	4	44.4	5	55.5
	b) Very good	2	22.2	7	77.7
	c) Excellent	-	-	-	-
	d) Not bad	2	22.2	7	77.7
	e) Bad	1	11.1	8	88.8
	f) Worse.	-	-	-	-

As the table illustrates 17.6 % of the inmates have children in prison. About 55.5 % of them states the absence of especial treatment for their child whereas 44.4 % testified the presence of the especial treatment. Almost all of the respondents agree that the treatment provided to their children is through allotting budget till they reach the age of 18 months. Generally, concerning the treatment provided by the Addis Ababa central prison to the incarcerated mothers and the children, a great majority of the respondent i.e. 44.4% perceive it as good. There are only some (11.1) who accept the treatment as bad.

When we see the Ethiopian laws, there is no single article in one of the domestic legislation concerning incarcerated mothers, and their children. The mother, being prisoner, would be taken like any other prisoner. Contrary to this, the international human right documents specifically address women prisoners needs..

The problem in Ethiopia seems complicated. Though the constitution assures equality of men and women, the protection of women and children in certain respects, the implementing legislation don't have any article to exercise these rights practically.

Regarding the problem of children and women in prison, Lieutenant Shewakena head of the Legal Department of the prison stated that: " Even if we understand the problem they face, we have done nothing so far. This is not because we are negligent but because of the general structural problem existing in the prison. Since the prison is established by directive, we have no power to demand additional budget from the parliament. Had the prison been established by proclamation, we would have solved the problem till now."

Likewise, children in prisons also face certain problems. A critical question to be raised is whether prison is a good environment for a baby. Children by their nature are sensitive to everything. They are ready to learn from their environment. So if we think of children in

prison, it is not difficult to imagine of their situation. They would learn much techniques of crime from the inmates, or if less, they would take commission of crime as a solution to various problems created in their lives. This in a way means that the prison in the one hand claims to rehabilitate the criminals and on the other hand produces the would be criminal. This could be taken as a failure of the criminal justice system.

The argument is related to the rights of the child provided in the constitution and convention on the rights of the child. Art. 36(2) of the constitution reads: ' In all actions concerning children undertaken by public and private welfare institutions, courts of law, administrative authorities or legislative bodies, the primary consideration shall be the "best interests of the child." Here the phrase under quotation is subject to interpretation. Concerning children in prison, the writer argues that, keeping them in prison, depriving them of their liberty, giving them the opportunity to learn about crime etc. is going against their best interests. It is obvious that children need care, protection, parental feeling etc. To fulfill their best interest and prepare them to be a productive citizen, prison has no good atmosphere at all. So, keeping children in prison is going against the supreme law of the land.

Incarcerating children with their mothers also goes against the provisions of convention on the rights of the child. Since this convention is ratified by Ethiopia per proc. 10/1992, it, more than contradicting an international human right document is, contradicting the law of the land. Hence, to create perfect harmony with the constitution as well as other related laws, children above certain age should not be kept in prison.

In practice, however, this law doesn't seem to be applied in the Addis Ababa central prison as well as in the police stations where suspects are detained. There are children whose age is up to 6 years. These children live with their mothers in prisons that are designed to detain criminals or wrong doers .If we try to see it in light of the best interest of the children Detaining or imprisoning children with their mothers in prison means in a way punishing the innocent, which is too inhuman. This practical problem doesn't seem to exist due to the absence of law, but due to the problem of enforcing. In this regard, Ato Tesfaye said that'. . In order to enforce these laws first there has to be pre-conditions that should be fulfilled. There is no prepared organization to accept the children or there is no public institution organized to this effect. In the absence of this, we can't take away a child from his mother at the age of 18 months like what the law says, and throw him/her outside the prison. This, more than becoming inhuman, is committing crime hence creating self contradiction."¹⁷

One could accept the official's suggestion. But, still this problem seems to be aggravated due to the failure in the side of the prison administration of making attempts to communicate with NGO's which are concerned with children's rights or those engaged in rendering humanitarian service. This is because; as all knows Ethiopia is a country with high economic problems. The government is entrusted with so many tasks in alleviating this grave economic problem. So it is obvious that it cannot do away with all these problems alone. So, taking this fact in to account unless the prison administration i.e. the executive strives for the implementation of rights of prisoners as well as children embodied in the laws of the state through the measures available other than the budgetary allocation of the government, the mere existence of laws would be meaningless. The laws will not be more than dead letters. Hence, to give them effect, active role of the prison administration is demanding.

4.2.3 Pregnancy and Prison Life: -

No regular statistics on this are kept, but staff asserts that pregnancy on arrival is not a common phenomenon. There is thus no special unit provided for pregnant women in the Ethiopian prisons. In the Addis Ababa Central Prison, there are rooms allocated for pregnant women and mothers with children. However, these women are deprived of adequate diets and nutrition. Since the problems concerning pregnancy and prison life is different in police stations from the Addis Ababa central prison, they will be treated in separate paragraphs. The following table illustrates the problem of suspects and offenders in time of pregnancy.

		Suspects		Offenders	
		No	%	No	%
1	How do you see the medical care available to pregnant? a) Poor b) Good c) Not bad d) Very good e) Excellent	16 1 3 - -	80 5 15 - -	- 40 4 5 2	- 78.4 7.8 9.8 3.9
2	Is there any place available for pregnant women in separation to the rest prisoners? a) Yes b) No	- 20	- 100	51 -	100 -
3	Is there any bedding materials provided for the pregnant other than the rest? a) Yes b) No	- 20	- 100	51 -	100 -

4	Are pregnant women provided with separate provisions like food either in kind, frequency, a mount etc? a) Yes b) No	- 20	- 100	- 51	- 100
5	Do you think the medical service available is adequate? a) Yes b) No	3 17	15 85	41 10	80.3 19.6
6	What do you think is the reason for referral problem in prisons? a) Due to the police officers non-cooperativeness b) Due to the problem at the referral hospitals c) Due to the free of charge treatment we are provided with, we are discriminated d) Due to the health officers leniency, referral is not properly done	2 16 19 11	10 80 95 55	- 48 50 2	- 94.1 98 3.92
7	Is there any medical care available for mentally insane prisoners? a) Yes b) No	- 20	- 100	5 46	9.8 90.1

Poor medical care, as 80% of the women prisoners witnessed is one of the most critical problems facing prisoners who are found in police stations. i.e. suspects. This problem becomes substantially more compelling and potentially consequential, when applied to pregnant women prisoners. As the table above shows, in police stations there is no different room for pregnant women as well as mother with children; no preferred or separate treatment for female prisoners who are pregnant; and also, there is no bedding instruments provided by the police station. There are other problems like getting food. Concerning the pregnant prisoners' problem one inmate states that: " I have children and I remember how difficult pregnancy is. Even a spongy bed wouldn't give you comfort; but here they sleep on bare floor even without mattress. The freezing of the class made the rest of us patients. So one can easily imagine what this means for pregnant who are much sensitive. As to the food normally a pregnant women needs good nutrition, needs nutrition, here they might not get something to eat. For instance last night we have had only two "Injeras" for 17 adults females and 4 children whose ages range from 6 months up to 5 years" These food and accommodation problem in addition to the psychological tension which many pregnant women encounter

would totally depress the prisoners. Therefore, given the needs and anxiety, which pregnant women may have one can say that, such prison condition is not at all suitable for them.

As to the practical condition of pregnant women in the Addis Ababa central prison, as the table shows, it is far better than the police stations. With regard to medical care, for instance, 78.4% of the respondents viewed it as very well. Unlike the police stations case where 80% described it as poor.

Though difficult to take it as adequate, there are, prenatal and postnatal medical cares available in the prison compound. There are also nurses particularly allocated to check the pregnant and mothers with babies. This is a condition that should be encouraged comparing it to the situations prevalent in police stations. They are also provided with beds and separate classrooms. Though not of a type that pregnant women should get, they are also provided with meals three times in a day.

However, this does not mean that, in Addis Ababa central prison pregnant women have no problems. Their conditions are only relatively good compared to the prisoners found in police stations. They face almost all the problems the rest women prisoners face. For example they have the problem with regard to referral, enforcement of constitutional human and domestic rights, rehabilitation and reintegration, declassification etc. that are to be discussed in the last section of this chapter.

4.2.4 Medical Care:-

A state which deprives an individual of his/her freedom must assume an obligation to provide those necessities consistent with decency and humanity¹⁸ Providing adequate medical facilities and competent physicians is one of such obligations. Failure to provide adequate medical care has been held to constitute a cruel and inhuman punishment. What is adequate medical care within the prison seems to be the provision of opportunities and facilities similar to those available on the outside. The medical care available in prison is perceived differently by different groups like the prison officials and the prisoners themselves.

The Addis Ababa central prison has its own medical center. The clinic gives medical services only for minor health problems. For those health problems that need specialist treatment, the clinic will refer the patients to higher medical institutions i.e. civil hospitals. With regard to minor health problems almost none of the respondents have any complaint. However, there

are much problems concerning those patients who are referred to civil hospitals. This is because, since the prisoners get medication free of charge, priority is given to those civil patients who are to get medication upon payment. Besides, even if there are extra beds for patients who are not required the pay, due to the great number of patients; they are required to stay long after the referral is made.

Almost all the sampled prisoners at the Addis Ababa central prison described the condition of referral treatment in same way. 95% of the respondents stated that the problem is due to the fact that there is discrimination as they get medication free of charge. There are also about 80% who relate referral problem to the referred hospitals problem.

In the females' quarter of the Addis Ababa central prison there are also mentally abnormal or insane prisoners. In the first place these group of prisoners don't have any separate place for confinement. They live together with the rest prisoners. This has created much problem on the sane prisoners than it does for the insane prisoners themselves. These prisoners would be kept handcuffed and if they are very sick, they would also be leg cuffed. Concerning the absence of accommodation one prisoners state that: . . . these inmates problem is grave than of all problems in the prison compound. Since they have no separate place, they are accommodated with us. This is very much unbearable for us. Though they are handcuffed, or leg cuffed, as their mouth is not shut, we can't get sleep at nighttime. They scream the whole night and also whenever they couldn't sleep. Earlier on, our problem was not getting sleep. Rather, since they are not leg cuffed, they always try to harass and beat us whenever they can " 19

These prisoners' problem, more than anything, pertains also to getting medical treatment. All of the mentally abnormal female prisoners are not yet taken to the appropriate hospital i.e. Emmanuel Hospital. The officials allege that the clinic has tried and also is still trying its best to control the problem of the patients through giving them pill, which could serve as sleeping pill or painkiller²⁰. This medicine, of course, cools them down for the time being but with a number of adverse effects on the patients. Even the worst thing to note here is the fact that almost all the mentally abnormal female prisoners have come from regional prisons in order to get medical treatment; however, none of them get treatment in their last 2-6 years duration at the Addis Ababa central prison.

As we have noted in the last chapter, these prisoners have the right to get medical care, which is provided, in both the domestic legislation's as well as the International human rights documents. However, the prison upon denying them the proper mental medical care has deprived them of their rights. The prison officials though don't contest this fact, have tried to give some reasons for not providing mentally abnormal prisoners the necessary medical care. Ato Adane Hagos, Head of Zonal Administration, told the writer that the problem of mentally abnormal prisoners is not one created by this prison. It is the problem of the referral Hospital. (Emmanuel Hospital). Whenever we refer such prisoners they reject the referral due to the abundance of patients and also those sent by courts to adjudicate cases alleging insanity plea. But here, the main point worth questioning is, could we set aside one's right to get medical care due to administrative problems? What about the obligation of the government towards persons who are under its custody?

The right to get medical care has much relation with the right to life. If a person is denied to get medication, the ultimate result would be death. So, we can say depriving a prisoner of his/her right to medical treatment would ultimately lead to violation of rights of this person like the right to life. And also, this act would constitute inhuman and degrading treatment. Because, these prisoners are made to be confined without care in spite of their problems. As to those who came from the regions for treatment, one could say they are forgotten since they are simply confined in a place where they haven't yet get treatment, when their court case couldn't be proceeded, where they have no one to visit them etc. . .

The suspects also share same medical problems regarding referral cases. However, they, unlike the cases of those who are in the Addis Ababa central prison, have problem to get medication even for minor health problem. For instance in woreda 3 police stations, there are two rooms where female prisoners live in. At the time when the writer went to make interviews, there were about 24 persons in each room. In case when there is more than one patient, only one could get treatment. Even if there were patient who is seriously sick but who didn't manifest his problem wouldn't get medication for long. So, it is evident that this is a clear violation of the prisoners' right to get medication.

Mental abnormality, though not a prevalent one, is also a pressing problem existing in police stations. Here, there is no even minor medical treatment, however, contrary to the current practice, the law entitles every prisoner the right to get medical treatment. It is also the obligation of the institution to render proper medical treatment to such patients. Especially

mentally abnormal prisoners need serious attention. That is why SMR for treatment of prisoners states the rights of mentally abnormal prisoners in a separate section.

A medical service should be free to all prisoners. It shouldn't be provided upon the degree of illness (patency). The fact that this woman seems to be abnormal should be a sufficient ground for her to get treatment. It should be only after the testimony of the medical officer that the police officer need to take their measures which still shouldn't go against other rights.

Generally, in all respects, the prisoners at Addis Ababa central prison prefer their treatment much more better than those found at police stations. A certain police officer concerning this issue stated that. . . "As the police station is more detention centers, there are no adequate facilities. We shouldn't be blamed for this. The police station is still properly discharging its main objective i.e. investigating cases and detaining those who need to be detained. Since giving them different provisions is something secondary, we shouldn't be condemned for that . . ." ²¹ of course to be realistic in discussing all these issues, one should note the economic capability of the country. One should try to approach the problem taking into account the ability of the country to discharge all these obligations among other things.

4.3 Practical Problems Pertaining To Female Suspects:-

Suspects in Ethiopia usually are found at police stations. There are about 28 woreda police stations in Addis Ababa. Most of the prisoners in the police stations are those who are not yet tried, or those whose case is not settled to be prosecuted or not, those whose alleged offence is non bailable, those whose right to be released on bail is granted by court but can't get a bailee etc. Hence, since there are many police stations, there are no much rooms in single police stations for prisoner's accommodation purpose. Their sizes, situations, settings, the facilities provided are not even of a standard with Addis Ababa Central Prison.

Suspects are also found at the Addis Ababa Central Prison. These are in most cases whose crimes are unbailable. Nevertheless, there are also some who are alleged to have committed minor offences. But due to lack of facilities in police stations are made to live in Addis Ababa central prisons. Generally the monetary bail system, which discriminates against the poor and other minorities such as women who usually are housewives with no job, the lengthy delays in the administration of criminal justice, and the lack of adequate defender services, all combine to swell the population of pre-trial detention facilities.

4.3.1 Enforcement Of Basic Human Rights And Constitutional Rights

In chapter two, attempt is made to see what constitutional rights and basic human rights suspects have. So in this section we will try to see whether these rights are implemented or not.

The following table illustrates as to how the investigation process proceeds.

Table:- 3

		NO	%
1	How did the investigating police officer interrogate you ?		
	a) After telling me my right to remain silent	-	-
	b) Through torture, flogging etc	15	78.9
	c) Through harassing me	18	94.7
	d) Without telling me my right but without also harming me	4	21
2	Are you made to incriminate yourself?		
	a) Yes	16	84.2
	b) No	3	15.7

It is evident that in developing countries like Ethiopia, there is great problem as to the investigation process. Normally investigation is the process through which an investigator can find out the truth as to the commission of the alleged crime and so that the prosecutor could prepare a case against the suspect. Usually this process is very complicated and frustrating one. Because the investigators may not get any way out to proceed the investigation. In such cases investigating polices usually resort to the techniques of investigation. So in fear of this problem, the constitutional Article 19 (5) made any evidence obtained under coercion as not admissible.

As shown on the table 84.2% of the suspects right not to self incriminate is violated; 78.9% of them are tortured and 94.7% are harassed and blackmailed while the investigation is being undertaken. Only 21% are interrogated without being told their right but also without being harassed or tortured. However there are none who are interrogated after being told their constitutional right to remain silent etc. In doing all these the police, in addition to violating the constitutional rights of the suspects are violating the rights of the suspects not to be treated in cruel, inhuman and degrading way.

Generally we can say all the communications in the Constitution, ICCPR, Criminal Procedure Code as to how confession should be taken and the rights of the arrested person like the right to remain silent, the right to be brought before court within 48 hrs, the right against self incrimination, the right to be released on bail etc are proved to be only dead letters. Among the sampled suspects 95% of them don't know of these rights. In as far as they are under control, they think that the police has every power on them and, to the contrary they have no right even to respond to the police's wrong allegations about them.

In most cases, the fact that suspects are detained, for great number of people including polices means, that they are criminal. The possibility that they could be innocent has no place in police stations. That is why it has become practice to beat, flog and harass suspects. This however is in direct violation of the right of suspects to be presumed innocent. Besides it contradicts a number of rights like the right to security of person, the right to be treated with humanity and respect etc.

4.3.2. Problems Ensued Due To The Setting Of The Prisons.

Since there are a number of prisons for suspects (police stations) in Addis Ababa, it is difficult to talk about all police stations generally. However, though not representative, the writer will try to describe the conditions of the police stations, which are taken as sample.

As stated above police stations were not generally meant to serve as detention centers or prison in a proper sense. Hence, there would only be a single room for females and another one or more rooms for males. Usually these rooms are separated by wall. This is exhibited in some of the sampled police stations. As the police stations are only transitional detention centers, they don't seem to have the tendency to additionally build other rooms even in case of overcrowding. Whenever additional suspects are added, since the room is only one, overcrowding would be their problem. However, this is not that much a problem in three of the prisons out of the four sampled prisons. In the 4th prison, nevertheless, the problem is worst. This is mainly due to the fact that this police station i.e. 3rd Police Station is a place where all suspects who have committed serious offences are kept to be interrogated.

The rooms of female and male prisoners in all the four police stations are very cloth to each. In the 3rd other police station for example, the male's room is immediately next to the female's room. For the male suspects to enter into their rooms, they should necessarily pass

by the females (room) in which instance a number of problems might be created. It is very difficult to certainly state the problems as there are no much suspects who stay in the police station for long so that they can explain the problems.

The women are forced to cross the men's quarter in order to get the toilet and other cleaning materials. Hence, to avoid possible contact, the females are permitted to use toilet only twice a day at 6: AM in the morning and at 8PM at night. If there is no female police available on that day, they would be made to go to the toilet once a day. And as to the cleaning service, they are permitted to wash their clothes only when there are available polices to watch them. Otherwise they can do so once in a week or 15 days²².

However, all this is in clear violation of their rights. It specifically is inhuman treatment against women suspects, which is contrary to the constitution provision of prohibition of inhuman or degrading treatment. This is because; they are treated in a way, which normally a human being should not be treated. They are forced to control their natural calls. Besides they are forced to be unclean - as access to cleaning services are controlled. This is a clear violation of their humanness. The measures, which have been taken by the police officers, seem unwisely. Instead of locking them up, it is better to take other measures to that effect.

The closeness of the room could also potentially lead to other problems. Though there are no clear evidence, yet, in woreda 21 police station attempt was made by the male inmates to bring in a suspect woman whose room is next to the males room in to their cell at the day time when the polices assigned to look over them were chatting. This is least could make us foresee the potential danger.

The other major problem prevalent in police stations is lack of facilities. A mother of 8 who is in the 3rd police station for the last 5 months states the problem as : " This is not a prison where persons like me who are not yet convicted live; but is a place where there is real punishment both "physically" and "psychologically". Physically because we could not get enough food. We will be provided with food only once in a day. This usually is not enough /sufficient for the reason that firstly, they don't consider the number of prisoners and the food. Even if the number of prisoners has increased as new prisoners come, the amount of food that is to be provided for wouldn't increase. We should share what we are giving irrespective of the fact that it is not sufficient. The problem is worst for mothers who have children. They should share from what they get to their children. In this week for example we are 21

including 3 children and each day we would be provided with 10 Ingera once in a day. This is for the breakfast, lunch, as well as dinner. Since I have a child and he demands food at least twice in a day, usually, I will be forced to give my share to him. More than all this physical harms, I am also obsessed in thinking as to what would be the fate of my 6 children who are living alone. Everything here is awful. I am asthmatic and the coolness of the cement floor is aggravating my health's condition. In the whole five months period, my asthma was giving me a hard time . . . "23

Hence, as the words of the interviewee clearly explains, the police stations' status could not be differentiated from the prisons proper. People in police stations, we can say, are being punished for the offence, which they are not convicted for. The police stations instead of trying to differentiate their status from the prisons proper, are trying to equalize or even worsen their conditions. This is going against the very concept of punishment. Punishment as already seen in chapter one, is a measure taken by the government on those citizen who don't abide the rules and regulations set out by the government to the society. Punishment has its own purpose. However, in case of the police stations, the suspects are punished through the deprivation of food, cleaning services etc. As suspects, their punishment is unlawful. And even if we pass this, as international human right documents discussed above clearly show one can't be deprived of his right to get food. So, again depriving them food is also unlawful.

Sleeping on bare floor is the other problem one can take note while visiting the sampled police stations. This is also stated in the interview quoted before. The cool floor will create health problems, and worsen the problems of those who have sensitive health problems. This however does not matter in the police stations. The maximum they can do is if you are seriously sick you will be taken to public hospitals and you will be accommodated there with some assigned polices²⁴. This, of course, is not a proper and safe response. Nevertheless, the countries economic limitations would restrict one from total blame on the prison administration. However still the police administration could do some works concerning the issue. Instead of waiting the government till address the problem, they can pave the ways to some NGOs and religious organizations that are willing to give solutions for the problems.

All these problems of suspects are aggravated by other problem. This is the fact that female suspects are looked over by male police officials²⁵. As seen in the last chapter, the international human right documents like SMR, body of principles demands states to assign

female police to female prisoners. The practice in Ethiopian police stations, nevertheless, is contrary to the provisions of the instruments. In the Addis Ababa central prison, however the provision of these instruments are applied. Even the prison regulation incorporates a provision to this effect. It is obvious that there are a number of dangers behind assigning male police to female prisoners. That is why these laws provide articles to this effect.

Earlier, before the International Human Rights documents containing provision prohibiting male police guards from looking over female prisoners are promulgated in European, American etc. prisons, male polices were assigned to look over female prisoners. This, however, leads to the commission of a number of offences against women by the law enforcing authorities themselves. Such offences are like rape, sexual harassment, bribery etc. It seems the International Human Rights documents properly consider their problems.

In the police stations of Ethiopia where suspects are found, there is no clear evidence as to the presence of rape. The interviewees can't frankly talk on the point as they did while dealing on other issues. But a prisoner from the 3rd police station stated that though she haven't seen or heard of rape cases, there are consensual sexual relationships with policemen who are found at the station. The reason the females make love with the polices is to be free as much as possible. Free in the sense that they can get whatever they want from the outside through the police like cigarettes etc.²⁶ Here, can we say such a sex is consensual and hence no problem with it?

Though it is not a proper rape case envisaged under article 589 of the penal code, it is also very difficult to take it as consensual sex. This is because the woman in the police stations does such an act in order to get the facilities, which they couldn't get from the police stations. For example, as it is stated earlier, a prisoner can talk to a family, friend, child etc. Once in a week on Saturdays and Sundays for a maximum of five minutes. However, if they have this special contact, the police would permit her to talk for many hours. He could also help her to communicate with her family through other meanses like letters, telephone which are prohibited ones²⁷. So it is very difficult to take it both as forced sex (since she gives her consent) and consensual type (since she is coerced psychologically). It is rather one done by the police taking advantage of her problem as well as the weakness of the police station for assigning male polices to female prisoners. Even if what the police has done is contrary to his duty and, the possibility that it will be publicized is very much minimal. The only person who

could publicize the case is the female suspect. But as she might have a number of problems to overcome with the help of the police, she would always be secretful. On the other hand, even if she tries to publicize the case, her case will not go far possibly among other things due to lack of evidence.

In addition to this the female prisoners have also other reservations with the assignment of male polices to look over them. A suspect who has counted a year and half in the police station stated her consideration in this regard as " . . . It is very difficult to tell all your problems to a male police so that he could help you. There are so many things, which he can't understand me as a female police could do. For example, I might be in my menstruation period when I need much cleaning service. If in that time, they don't come to take us to the place where we would get such services, the maximum I can do is to beg the police. But if it were a female police, I am sure that I would tell her and she would help me because she can feel as to what I am telling her . . . " ²⁸ Generally, therefore, we can say the problem has much diverse effects both physically and psychologically.

In order to solve this problem, much effort is expected of the police station. They should, in as much as possible, try to assign female polices for female suspects. This of course will have its own adverse effect due to the fact that the males quarter is much closer to females quarter. In case if the male suspects manage to pass their police (obviously male one), they wouldn't have much problem to pass the female police and do whatever they want against the female suspects. This is because, they wouldn't have much problem to pass the female polices as they are physically much able. Therefore, to get effective remedy for the problems of female suspects, assigning female police only is not sufficient by itself. But other measures like making quarters of the males and females far away, providing them with their compound, providing them with sufficient food and medication, etc. will be of much importance.

These prisoners also have a problem with regard to communication with the outside world. This is no such a problem in the Addis Ababa central prison where there are convicts. There, prisoners can meet visitors every Saturdays and Sundays for at least twenty minutes. However, practically since there are no many visitors for the females, they can talk with a certain person even for an hour. But this is completely absent in police stations, though as suspect they should be treated differently and in a better way than the convicted one. They are permitted to talk to a certain visitor only for five minutes every Saturday and Sunday.

Body contact is not permitted. Whatever they talk can be over heard by the police as well as everybody over there.

In this regard, the officers of the police station also claim to have their own reason for the prohibition of body contact as well as to stay much with visitors. Lt. Temam, Head of the Investigation Bureau of Addis Ababa Police Commission States that: " the main reason for prohibiting prisoners not to have much stay with visitors and not to have body contact is for the purpose of security. The more they stay with visitors, the more chance they would get to escape evidences. Since they are suspects whose case is under investigation, they can use such opportunities to avoid conviction. The body contact is also dangerous in that they can exchange some prohibited items like dangerous utensils, letters containing information which would have negative impact on the investigation process. All in all the prohibitions are made for the sake of public interest. In the Addis Ababa central prison this is not the case. Because since they are convicted one, much control will not make any difference . . . "29

However, this would raise a number of problems. Is this the only way through which the public interest would be protected? Would seeing each other for five minutes amount to exercising one's visitation right? Wouldn't this amount to restricting their right to be visited? Before discussing the issues, we should note that the visitation right is too broad. So that it could encompass a very wide group of rights. In many other countries, visitors have rooms assigned for their visitation purpose and they can talk to the inmates for long. They have no problem of body contact as they assign enough security forces. More than this, married prisoners have rooms for conjugal visit. Children visitors are permitted to visit their inmate parent every day. This could show us to what extent the visitation right could go. Though it is difficult to say that all such provisions should be made to the prisoners in Ethiopia due to the economic limitation, their right should be given due attention.

As seen before, visitation right is a constitutional right. It is an absolute right in that the constitution does not give or mention any instances for its restriction. Hence, the right holders have every right to exercise this constitutional right without any restriction. And if there is any restriction, it would be going against the constitution itself.

Given these two points, when we see the issues raised before, allowing visitors to see for only five minutes doesn't seem to amount to the exercise of their visitation right. Their right, we can say is undoubtedly restricted. In the absence of any qualification on the right, the practice

qualified it in that for security reason the inmates couldn't exercise their visitation right. Of course, the security purpose has its own to serve. But this obligation of the prison shouldn't be discharged at the expense of the constitutional right of prisoners. Therefore to serve the public interest and also to discharge their obligation properly, they need to take measures to change the existing situation on the number of visitors.

4.3.3 Problems Due To The Law Enforcing Authorities: -

It is evident from the practice prevailing in the Ethiopian police stations that, most of the law enforcing authorities with regard to suspects like the polices who look over them, investigators, prosecutors etc. are males. The fact that these Officials sex being male doesn't matter. What matters is the generally attributed gender role of these authorities. Starting from the police who is assigned to look over female suspects, all are pre-meditated by the role of female in the society and what is naturally attributed to her. This has led many of them to have a certain position against female prisoners. For example, every corrupt law enforcing authority do accept that it is easy to bribe woman than men. They give two reasons for this:- firstly, female prisoners would bring the amount or kind of bribe they are asked due to the fear they have towards all what is going against them. They always prefer to pay whatever sacrifice instead of loosing their family. And secondly, since they have much interest to protect, it is unlikely for them to publicize it.³⁰

The types of bribe the women could be asked unlike that of men are two i.e. physical:-sexual favours and material:- to give money. It is not unusual that female prisoners, especially those who are young or attractive are asked to bribe in terms of giving themselves to these authorities.³¹ In this regard, interview is conducted with a 22 years old young lady who has a child aged one and half year at Addis Ababa central prison. She said ' This child of mine is a son of a police officer (investigator) at the police station I was first detained. I have a mother and since she is old, I began to earn livelihood for both of us by working as a domestic servant while I was working there, I get pregnant from my boss. But unfortunately miscarriage happened. It is then that the police caught me and sued me for infanticide. The investigator of the police station where I was detained, seeming to understand my problem, told me to do him a favour and in return he will let me free. The favour he wanted from me was to have sex with him . . . I did it. Unfortunately, I get pregnant . . . but he didn't do what he claimed to do. Now I am the mother of that person's baby. I tried to get in touch with this officer. But I was told that he is fired due to misbehaviors . . . '³²

Bribes, in terms of monetary value, are also widespread with regard to female prisoners. A certain 55 years old woman complained that . . . " . . . now I come to conclude that I am here as I am not able to pay a bribe to the investigating police officer. Every time when he comes, he blackmails me saying that ' unless you do what you should do, you would rot in this police station'. When I ask my colleagues as to the meaning of what he said they told me that, he is asking me to bribe him . . . " ³³

The police officers at the police stations, nevertheless, are very much confident of themselves. They all agree that there might exist very small number of corrupted officials. Though the writer agrees to some extent with the efficiency of this system still there are many such problems existing in females' quarter.

AS it is discussed before, there are various illegal meanses employed by investigators to find out a certain truth with regard to a certain case. One of which is flogging. Though this is an illegal means, most police stations administer this method. Since it is not an accepted mechanism, there is no uniform way of flogging (beating). It could be using electric wire. Though these methods of interrogation is widely applicable on male prisoners, it also is applied on female prisoners which entails much difficult effects.

Every women though the degree caries have experienced enter physical or psychological tortures. And particularly all those who requested to admit the allegations, experienced the physical torture in addition to the psychological torture. This is a clear case of cruel, inhuman and degrading treatment. This right however is only a dead letter. The police officers, themselves don't totally deny the existence of such a treatment for instance a certain police officer state that ' I couldn't say there is no flogging (beating) in police stations at the time of investigation. There are some cases. But, I didn't see or know a case a where the female prisoners are being tortured or beaten." ³⁴ Though this officer doesn't admit the application of such treatment on women, he testifies the existence of it. So, from this we can understand a point that if this constitutionally outlawed treatment is practiced on male prisoners, what possible justification would be there for the non application on female prisoners who in most cases could easily admit allegations in fear of the measures of the police officers.

In this regard a female suspect from the Addis Ababa Central Prison and 3rd Police Station are happy with what is going on these detention centers. One of them state that " Even if you are called for investigation, the maximum they will do to you is harass you, black mail you

which is much better than being beaten and sustain much physical damages'.³⁵ Hence, though the manner of blackmailing is still illegal, the measures taken at Addis Ababa central prison and at the 3rd police station is encouraging because at least they are trying to do away with the practically prevailing experience.. Given this, if strict measure is taken as to evidences obtained in coercion, then, the police officers won't blackmail or use force to get information from the suspect themselves. The very key point is in strictly rejecting such evidences.

Another problem prevalent with regard to female with all the problems, which are discussed immediately before. This problem, as to the investigating police officers is related to lack of investigating police officers vis-a-vis the number of suspects available. Even if the investigating police have only a small number of cases to investigate, the completing of the case and attempts to obstruct evidences matter most. However art of the criminal procedure code states that the investigating police would be given only a 14 days time for further inquiry. Of course the law seems to have certain gap in here, it doesn't answer the how many times question. Though the law seems to have certain problem, this gap should be filled through the interpretation of the law. It is known that one instance where interpretation is needed is when the law is vague. Here one can say that the law is vague as it leads different persons to have different understanding. We should note that in criminal law always doubts should benefit the defendant. This is due to the beyond reasonable doubt principle. But, the interest of the society should also be given certain weight. Given the interest of the two sides, the article shouldn't be interpreted in such a way that no restriction be made on the investigator totally or shouldn't either prohibit the investigator to get additional time at all.

There are, more than this, cases where the suspects don't know their actual situation. A woman in the 3rd police station has stayed there for 8 months. For the 1st 4 months she used to be taken to the court. But starting from 4 months before, she is not taken to the court. She doesn't know the reason and hasn't asked anybody.³⁶ There are others too who have similar cases i.e. they neither know their status nor now the reason as to why they are not taken to the court. The police officers, concerning these suspects, give their reason " since the investigation process is completed and the court authorizes the prosecution of the case, we have carried out our obligations. Nevertheless, due to the backlog in the prosecutor's office, they can't institute a case. So, we have these suspects just not to throw them out." ³⁷

The Criminal Procedure Code in relation to this point provides that the prosecutor should accuse a suspect whose file is closed upon the compilation of investigation only within 15 days.³⁸

4.4 Practical Problems Pertaining To Female Offenders.

4.4.1 Non-Enforcement Of Constitutional Human And Democratic Rights.

As discussed in chapter 2, convicted women prisoners have a number of rights incorporated both in domestic legislation's and International human rights documents. These rights pertain to welfare rights, human rights democratic rights etc. In this section attempt would be made to relate these rights to the practical situation prevailing in female prisoners' quarter.

There is no guarantee that the individuals sent to prison would behave as a normal and decent individual. She/he can misbehave and commit disciplinary offences in prison. The reason attributed for offences in prison though not identical with the reason for the commission of crime, outside the prison are to some extent similar like for example stealing due to economical problem etc. The female prisoners are not provided by the prison with some cleaning materials like soaps in adequate manner. Hence, stealing would be practicable and easy way out to solve the problem.⁶³ In this case we can say the woman did commit the offence due to economical problem.

Apart from this the crowd created due to lack of adequate rooms may give rise to conflicts. Because, the crowd may justifiably lead one to intrude her privacy or to do something unacceptable by the other. This might lead to undesirable exchange of words and hence beatings etc.³⁹ This is quite normal specially in female quarter.

Absence of classification also has major factor Presence of conflict amongst prisoners. As it is known that the needs and desires of youngsters are too different from those who are elders. Situations that makes fun among youngsters could annoy the elders and hence creating problems. Therefore there are many reasons, which could give rise to disciplinary problems.

In order to cope with this aspect of behaviour, disciplinary measures were provided in the law. The penal code under Art. 108 has delegated the manner of execution of internal discipline in the prison to prison's Internal regulations. Pursuant to this provision the regulation has laid down nearly thirty offences that will subject the violator to disciplinary

measures. Some of these offences are criticizing openly the government officials and the prison administration, trying to conspire in the prison, attempting to commit suicide, possession of writing material etc.⁴⁰

Before punishment is decided on the offender by the prison administration, first the case would be submitted to this committee. This group has a power to punish the party with various measures like cleaning their room, cleaning toilets, their surrounding etc. Besides the committee gives advise the mistaken party. However if the disciplinary offence is a bit serious one or if the person is habitual offender in the prison, then the case would be taken to the female officers who are head of the female prisoners zone. They could also, to the maximum order punishment which exhaust the offenders physically like sports, to dig a certain plot of land etc. and in cases of aggravated offences the zone officers would take measures like solitary confinement, confinement in a dark cell etc. Such punishments can only be administered by prison administrators.⁴¹

Pursuant to the regulations, before measures are passed (taken) upon the offender the prison administrator should first hear and decide a charge against the prisoner. After the charge is established the punishment usually given is prescribed under the Prison Proclamation which entails either a loss of remission of sentence not excluding fourteen days (14) of solitary confinement with or penal diet not exceeding seventy two hours.⁴²

However interviews with inmates and Officials show, this part of the regulation is not applicable. The prison has set up a new prisoners' administration, which is completely out of the spirit of the regulation. At present, prisoners have their own self-administration. There are a number of committees set up for different purpose one of which is dispute settlement.

The new procedure of disposing a case arising within the prison seems reasonable as it allows the participation of prisoners themselves. Nevertheless there is one thing important to note that is the status of prison administrators. These are simple police officers who, as a lay police man are not presumed to have knowledge of laws, what rights an offender has, and what measures would make Ethiopia in line with the IMS as well as International instrument the country adopted. Besides, these individuals have their own respective professional duties to carry out. This is only additional one which consequently came with the post they have. So, here can we be confident as to how the persons appreciate the case and take measures equivalent to the offence committed? What would the purpose of this measures be? shouldn't

serious offences committed within prison be left to the jurisdiction of Judicial institutions like the court or equivalent settings? etc.

The involvement of courts in the prison administration was once a controversial issue in many countries. Different authorities are in conflict as to the degree courts should interfere in prison administration. Some say the basis for the wide administrative discretion was the belief that courts were without power to supervise prison administration or interfere with the ordinary rules. To this effect, a certain writer contends that courts, especially federal courts in the USA, shouldn't interfere in state prison administration unless the constitutional rights of the prisoners are violated.⁴³ After sometime, nevertheless, courts began to realize the fact that the prisoners right must be given due attention.

However, there are still some courts, which follow the so-called "hands off" doctrine. This doctrine has at its heart the view that courts are without power to supervise prison administration or to interfere with the ordinary prison rules or regulations. In applying the "hands off" doctrine, the court determines only that the defendant is a legally convicted prisoner. Constitutional right violations seem to be totally ignored under this doctrine.⁴⁴

It is also said that courts assert judicial review of such administrative decisions will subvert the authority of prison officials, the discipline of the prisons and the efforts of prison administrators to accomplish the objectives of the system, which is entrusted to their care and management. Still some judges say that since prisons are not meant for comfort, prisoners should suffer and it is not the function of the courts to administer prisons.⁴⁵

When we come to the Ethiopian case, courts in Ethiopia, are manly concerned with the protection of the rights of person's accused of a crime rather than with defining the rights of already convicted ones. The determination of prisoners' rights was generally left to the administrative discretion of prison officials. It appears that Ethiopian courts don't involve themselves in adjudicating case which arise with in the prison. Only the prison officials see cases and dispose it based on the prison regulations no matter the rules are not in harmony with other prevailing laws. Here the importance of the court in adjudicating the case is the fact that it more than anything is preserved to be a neutral body. And also it is presumed to have the knowledge as well as the cognizance of every law hence couldn't unfairly treat the prisoner or punish her/him in a way contrary to what is started under the prevailing laws of the country.

In cases where prisoners receive ill-treatment in prison as to the provisions of facilities, it has also been shown that practically no remedies are available either in the prison itself or in the courts. For example, in cases where the prisoners complain about the medical care or about some other ill treatments, since there is self-administration system the prisoners warn one another not to make it public. If in case it is made public, what the person complained about would be taken as faulty and hence would be counted as a bad behaviour. It would end up in the prohibition of getting training, probation. However the prisoners have the right to complain and get decision from the prison administration if they claim that they are ill-treated by the prison officials. This is something to be encouraged. According to Ato Nigussie Tesfaye, the prisoner also has the right to petition court about the problem through the prison administration. However, the writer has some reservations. Because, it is unlikely for the prison administration to send the application which is written to sue them. The same prison official in a way admits this saying: "Usually we try to negotiate and settle the cases here". Generally, the Ethiopian courts must not adhere to the hands off doctrine. The courts must interfere in prison administration (except in minor cases) and protect the rights of prisoners.

The other relevant point worth to discuss is the measures administered against a prisoner committing a disciplinary offence. As it is stated before the measures range from simple order to work like cleaning rooms up to segregation and incarceration in dark cells. Some of the measures seem good as they only have the effect of teaching the offender as to why he is subject to the measures. For example ordering a certain prisoner to clean the room she lives in always (leaving the others roommates not to clean) will make her think as to why she always clean the room and hence at least deter her not to commit similar offences. And it has no other negative effect, which can possibly hurt the offender herself. On the other hand, some other punishments administered by the prison such as confinement in dark cell, solitary confinement etc. have a number of negative consequences although it could serve as a good deterrence mechanism.

As interviews with inmates who have undergone such a punishment state it as a horrible measure. They think it is the worst part of life they passed in the prison. So we can say that this measure administered by the prison has much negative effect than a constructive effect. It makes the inmates think that they are under a great threat. They take the prison as a dangerous place instead of a rehabilitative center. This in effect would have much impact on

the rehabilitation process. Because since they are in fear of such measures they try to avoid every instances, which create possibilities of confrontation with other inmates. It must be due to all these negative sides that this measure is mandatorily forbidden by the International Human rights instruments. For example, the SMR in this regard state that corporal punishments, punishments by placing in a dark cell all cruel, inhuman or degrading punishments are completely prohibited for disciplinary offences. However, despite the prohibition, practice as well as the prison regulations show us that, these punishments are being applied as disciplinary measures.

In addition to this, the measures amount to cruel, inhuman and degrading treatment. Because after all the purpose of punishment is not solely vengeance or deterrence. Rather it is also set up to rehabilitate those prisoners who did commit crimes or become out of the societal norms. So, punishing prisoners for offences committed with in the prison compound where they are kept upon the deprivation of so many rights could amount to inhuman treatment. It is also degrading as all of them know that there is no such a punishment for those persons outside a prison even if they commit similar offences. So, the punishment creates sense of inferiority on them, which is contrary to the purpose of punishment especially with in the prison compound.

The disciplinary offences could also per section 42, of the prison regulation result in the deprivation of one's right to be visited by his/her relatives. This still is practicable. However, the constitution per Article 21, clearly gives prisoners the right to be visited. This right is not a qualified one hence could make us say that this right cannot be denied by laws of inferior status. This means that the visited by relatives. Besides the Prison Regulations as discussed in the last chapter was enacted under a completely different constitutional rules and principles. As the constitution is the law of the land and as it prevails over all laws and customs which are contrary to it, consequently, it could be said that the constitutional provision which grants the prisoner the right to be visited prevail over the provisions of the regulation and also the practice based on the regulation which deprives prisoners of their right to be visited in case where the prisoner commits an offence.

In direct contradiction to the situation existing in police stations, in Addis Ababa central prison female inmates don't complain of the inadequacy of food. They are served with food three times a day. In this regard we can say the Prison Regulations section 46 which provides that a prisoner whether sentenced or not should be served with the normal prison food in the

normal period of time is properly enforced. This, however, does not mean that female prisoners don't have any problem with the prison food. Though they, seeing in comparison to the conditions they have passed through in police stations, don't complain about the timing and quantity of food, there are many who outrageously complain about the quality of food they are provided with. Hence many of the female prisoners don't eat the food they are provided with immediately. They consume it only after processing it further. They all agree that consuming it also one type of punishment.

It is obvious for some prisoners - prisons are good homes. We know so many people who don't have their own homes and have to stay all nights around churches, mosques and on the streets. For these people who are usually unemployed and don't have means for subsistence life in prisons could be more preferable than the outside starvation. It is these people who are mostly used to committing offences against property. It could not be exaggeration to say that for ex-prisoners who have not food to eat, house to shelter in and cloth to dress the only possible chance they remain with is to commit crime, get apprehended and sent back to prison.

The poor penniless destitute who had nothing to eat, to dress and to get shelter outside, find life in prison different and better to that which they were used to. In the prison there is at least some food, blankets and important of all shelter. To the poor the preferable standard of life in the prison seems one factor to the growth of recidivist inmates.

So, to this effect, there are also other groups within the female quarter who are more than satisfied with the welfare provisions such as food service and health service. These groups usually are those who used to live in the street. Earlier they had nothing to eat or had no money to get medical service when they are sick. So every thing in the prison is more of luxury for them. They give no place for the restriction of liberty. A certain inmate regarding this stated that: " I like the prison more than every place I used to live. I was a domestic servant where things were not good. I was really enslaved and my expression for the hardship was taken as crime. Then I get the chance to see good life where there is no challenge at least for me as I have passed through many challenges in life. Then I finished sentence but I had no where to go. Then I began to lead life outside home there on the street. But things were worst there with all my problems on the street, I get pregnant. My friends who usually pass their time in prison told me to commit crime like theft in a way could be seen or caught by the police. I did it. Now, I lead life in a good way. My baby is fortunate enough to drink milk

which the prison provides. Had it not been here, he would have died by now because from where could I get money to feed the baby? Therefore, prison is the best luxurious place for me" ⁴⁶

So, this can't make us confidently talk as to the situation of prison with regard to the fulfillment of the prisoners right to get food and medical service. However we can at least say that there is no much problem in comparison to the situation prevalent in police stations, and the situation of the country in general. Nevertheless, since the country is aspiring for the special protection (attention) of female and children, at least the situation of mother prisoners and children in prison should be given special attention. There need to be an endeavour on the part of the legislature so that the especial protection given for other mothers and children would also encompass those who live with in the prison too. The prison regulation should be designed so as to specifically address such problems of mother inmates and their children.

With regard to religion, the majority of the female prisoners have no complaint. They are happy with the arrangements made both to Muslims as well as orthodox Christians. They are free to follow the religion they like; there is no restriction to follow or not to follow a certain religion or otherwise no prohibition as to totally not believe in any religion. However, there seems to exist restriction as to the free exercise of the right to freedom of religion. One way which one could exercise the right to religion is through meeting with the followers of the religion and preaching each other. The right to freedom of religion is endowed by the constitution without making any qualification. This means that, the prisoners have the right to associate and promote their religion. Restricting this right to religion has a number of consequences. One of which more than anything backfire against one purpose of the prison i.e. rehabilitation.

Religion is one and the main tools which many countries use to make the rehabilitation process effective. A person with a religion has at least something to believe in, fear and also have much hope in him/her. So teaching such a person, or trying to train him/her or dealing with such a person will not be too much difficult. He/she could accept the status quo than those who have no religion. Therefore allowing prisoners to associate within prison so that they can teach each other have a good support to the rehabilitation process. In this regard Ato Adane Hagos Head of Zone Administration stated that the very reason for to the restriction of the right to association is the purpose of security. There is a fear that the prisoners might

associate for purposes other than religion under the guise of exercising their right to free exercise of religion.⁴⁷ However, could restricting one's constitutional right without any tangible thing, but simply out of fear, be justified? If this were the case, the very status of the constitution would be questionable.

The Addis Ababa central prison has no policy with regard to religion. Every zone has its own position as to the religion. In some zones pamphlets, some written materials on the religion could freely enter. In others it is forbidden. The females' zone is among those zones which prohibit the entrance of journals, pamphlets on a certain religion into their compound. Nevertheless, in all the zones there are Bibles and every prisoner can individually read the Bible. In the prison there is an Orthodox Church and a Mosque for the Muslims. However, the followers of the two religions are not allowed to go to church or mosque. Neither can they gather and preach each other. Nevertheless they can individually believe and read bibles or Kurans. Other believers whose religion needs their coming together are not allowed to do so. Therefore we can say that the free exercise of religion in the prison is restricted except for the fact that they can individually believe in what ever and can worship individually.

So, the prison need to have a regulation which clearly puts or acknowledges the prisoners' right to exercise their freedom of religion.

4.4.2 Declassification

The main purpose of imprisonment is to protect the society from the threat of criminals. And also to the criminal, to rehabilitate her/him and hence generate a productive and healthy citizen. To attain this goal many countries adopt classification within their prison.

The concept of classification rests on the premise that differences between prisoners are sufficiently critical and vital to demand differential ways of working with them.⁴⁸ The hand book on classification in correctional institutions described classification as " a method that will assure co-ordination in diagnosis, training and treatment throughout the correctional process ". Thus, the main purpose of classification is basically two. First, to separate those prisoners who by virtue of their criminal record are likely to exercise a bad influence on the rest of other prisoners and Secondly, to divide prisoners into classes in order to facilitate their treatment through social rehabilitation.⁴⁹

In order to achieve this purpose, the various laws in Ethiopia as well as the international human rights documents discussed in the last chapter dealt with the concept of classification in depth. The penal code for instance, provides that female prisoners must be separated from male prisoners, prisoners who are dangerous to others and are of bad character and who are sentenced to imprisonment or internment should be kept separate from prisoners under the age of 18 years from those serving simple imprisonment or from those who are detained for civil debts.⁵⁰ Pursuant to the above provision of the penal code, the prison internal regulations has laid down an elaborate procedure for classification.

However, the practice in many countries shows that there is no classification in women's quarter. In America for example because women are required to be housed separately from men in every state, women cell blocks often become jail's within a jail. Again because of their relatively small numbers and the failure to construct a variety of facilities for them, young women and old women, where crimes may range from disorderly conduct to murder, are incarcerated together in the same institutions.⁵¹ The same is the case in the Addis Ababa central prison too. There is no attempt to classify the female prisoners. Absence of classification is exhibited in the prison from the very beginning when the female offender is convicted and sent to the prison to serve her sentence. As to section of the regulation, before the prisoner mingles with the others she must be separately accommodated from those who came earlier on. In this separate room they will be taught the rules and regulations of the prison, they will undertake medical examination to make sure that they have no contaminating or epidemic diseases. However there is no such a practice. In the room assigned to new comers, there are prisoners who live there, as there is no other room. If once they are mixed with the earlier one the purpose of classifying and treating them separately would be defeated. Hence at present there does not exist such a classification practically.

It is clear that there is a significant difference among persons in prison, as there is among every other persons outside the prison. Prison contains a few dangerous people and a great many irresponsible, but otherwise relatively innocuous ones. In the presence of this fact, and the various laws regarding classifications the female quarter of the Addis Ababa central prison made no attempt to classify the inmates. Old women aged up to 60 live with young girls whose age is 16, those whose sentences are death sentences or life imprisonment or with very long imprisonment live with those whose imprisonment duration is only in months.

More than all, those who are not yet convicted would be accommodated with those who are already convicted.

Absence of classification or declassification has a number of effects both on the individual, on the society, on the prison administration and also on the criminal justice system as a whole. Due to the absence of proper classification, all types of prisoners irrespective of their age or offence are accommodated together. In social life, usually people tend to share ideas, talk of their experience etc. Through this social interaction, the young girls would get the opportunity to learn different crimes, which they don't know before. They are made to take crime as an alternative in cases when they encounter failure.

This in a way is a big loss to the society. The society instead of having a productive citizen would finally receive a dangerous and further threat from the prison. Though the prison is meant to protect the citizen by detaining criminals for the sake of the safety of the society, at last the society would receive a more dangerous criminal who is full of tactics not only as to how to escape the police etc. hence, all the attempt would back fire against the society since the criminal would eventually be part of the society.

The prison administration also sustains certain problems due to the absence of classification. Since the rehabilitation process is the reason for which the prison is designated to, criminals there need properly and effectively be rehabilitated. And this would be better achieved through the classification process. Unless all the situations of the inmates is clear enough, the rehabilitation aim would be obliterated. Hence, due to the absence of classification, in getting the prisoners rehabilitated even to the extent it has attempted. This means, despite the attempt made on the part of the prison to rehabilitate the prisoners, almost no achievement is exhibited. Rather, the prisoners have become dangerous criminals. But had there been proper classification, since all the prisoners have their own mind it would have been possible and easy to deal with.

All these could be exhibited from the life of a certain inmate in Addis Ababa central prison who came in the same prison for the 3rd time. She, by now, is 18 years old. She has other 2 cases for which She isn't yet convicted. She describes her situation when she 1st came to the Addis Ababa central prison as follows: " By then I was only 14. Together with my friends we stole gold and we were caught. We did this just to get money and do whatever we want. Though I was only 14 the police wrote on my file 17 years. I complained, but he told me that

all these hardships, the beatings do not exist in Addis Ababa central prison. Then I agreed. After I came here, I met many friends whose charges range from theft up to homicide. Then, when I went out after a 1 and 6 months time all of us met outside the prison then we began leading life together on the street by stealing from those who are dead drunk at night time and by acting as prostitute and then stealing such persons. However, I didn't work much when the police caught me for the next time . . . i.e. when I was 15 and half. All my friends were not caught because they have the experience and know how to bribe the police. So, the next time when I entered in to the Addis Ababa central prison, again I have got other friends. In both cases due to my behaviour in the prison. I was incarcerated in the dark cell handcuffed, I was made to dig a very vast and hard piece of land etc. As my friends I met in the prison were good drug dealers when I get out of the prison I began both to use and vendor drug. So, now I am here of the drug offence. Now it is almost two years and half since I was caught. Still I am not yet convicted"⁵². This story of the prison girl could tell us the effect of declassification. First of all had there been effective classification based on age, offence type etc., the girl would not have met with those prison girls who were already recidivists. Of course the girl's story could make one question as to how young offenders should be disposed and how whether a certain individual is ascertained to be a young offender or not. In order not to generate a destructive citizen instead of a rehabilitated, good mannered citizen, the law enforcing authorities need to act in a certain uniform and reasonable manner. For this, the legislature need enact laws which strive towards this direction.

4.4.3. Abuse of Labour:-

One method of rehabilitating a prisoner is to make him/her use both his/her mental and physical resources. The can be affected by creating a variety of work in the prison. The penal code to this effect provides: "A prisoner serving a sentence with deprivation of personal liberty shall be under obligation to work and such obligation is an essential element in the sentence. Such work shall be suitable to the prisoner & ability and shall be of such nature as to reform and educate the prisoner and to be conducive to his rehabilitation".⁵³ It is therefore clear that a person sentenced into imprisonment must be provided with something to do. The work provided should be of such a nature that it will be useful for the future life of prisoner after his release.

A prisoner, like anybody else, is not to be exploited freely, he is entitled to get compensation. Normally a person is provided with salary for the labour she or he exerted on the work or for the work done. The personality or identity of the person should not matter. If we follow this, as long as a prisoner performs the work to be done, she or he should be compensated for that in a way other free person's would be compensated had he worked. The amount or daily compensation, that the prisoner is entitled in the Ethiopian case is fixed by the Prison Proclamation - that is 1/10 of the income. The income should be registered under the prisoner's name and placed on the department. It should only be given to him/her when he or she is released from the prison.⁵⁴ However, the practice is a bit different. The prisoner is entitled to share equally with the prison the net profit and besides there is no obligation to save money. If one wants to save; money, he can otherwise he or she would be given the money. In most cases prisoners need their money for their day to day life as there are some inadequate provisions made by the prison administration.

In addition to the penal code, the SMR also in article 71 provides that prisoners should be remunerated for their work.

Hence there are two points to look into. Firstly is there work which the penal code described i.e. works which could reform and educate the prisoner and are conducive to rehabilitation? And secondly are the prisoners really compensated for the work they perform?

In the Addis Ababa central prison, prisoners are provided with works such as gardening, doing some kitchen works in the food processing centers, cotton processing, teaching those prisoners who have no school lessons, trading some food items etc. At this juncture it is good to know that there are differences between works, which are available in prison for the sake of making money, and those provided by the prison for rehabilitation purpose but in a way could result in making money. The former ones are not purposely established for the rehabilitation purpose. They are just taken work places where the prisoners could spend their time. The prison does not provide some of these work opportunities like gardening, teaching, trading in the females' quarter. A certain humanitarian female prisoner provides these. This is done to help the majority female prisoners who spend all their time within their room sitting idle. This has many advantages like they can earn money so that they to some extent alleviate their problems due to money, they can get something to think of hence being relieved of

tension, and also the possibility that the prisoners would create conflict would decrease as they don't get in touch much.

In addition to this, there are also some other work places or training centers, which are set up with the purpose of rehabilitating the prisoners. These are hairdressing rooms and knitting rooms. In these places, though the main purpose is to train the prisoners, they will be paid if they do some work which earns money. In these two training centers, since the raw materials are from the prisons, they would be paid the labour. So, it is the net profit, which would be divided between the prison and the prisoner, and they do get relatively good sum of money. However, in the rest sectors, compared to payment for similar works outside the prison, it could be said the prisoners are not paid at all. For instance, a woman who works in all working days of the week in the mill center would be paid 15-30 Birr. This is almost below half of the wage one could get outside the prison. The prison official who is interviewed on the same issue state that: "I think the payment is enough. Because these women (prisoners) are provided with food, medical care, shelter etc. by the prison. They don't have many things to spend money on. Therefore no need to pay them on equal basis with a person who works similar job outside the prison. After all working in the prison means becoming wealthier ".⁵⁵

However, should we see the case in the same way the official saw it? Is it justifiable? First of all a wage is money paid for a certain work done commensurate to the labour or some other source it made one spend. The payment should be given in light of the work done than in light of the status or personality of the person. The fact that a person is a criminal couldn't be a ground to give a smaller wage than it could be given to some other person. Since the work done by the woman prisoner in the mill center is something to be necessarily done, had this woman been not there, the prison would have spent a larger sum of money. So, it could be possible to say this is a clear case of abuse of labour. A certain women offender who works at the mill center states that she works there only because she has no alternative source of money. She doesn't think the wage is a just compensation to the laborious nature of the work.⁵⁶

4.4.4 Diminished Rehabilitation And Reintegration And The Problem Of After Care.

The intention of all penal systems is more or less the rehabilitation of the wrong doer through various meanses. As pointed out one purpose of imprisonment is to protect the society through the prevention of crime through the rehabilitation of offenders. The treatment of

offenders is today based increasingly on the recognition that the community has a responsibility not merely to punish or reject the offender but to rehabilitate him and guard him from a relapse into crime.⁵⁷

As used in modern penology rehabilitation may be said as compound of ideas developed to meet three related contingencies. The purpose of the 1st idea is to keep the convicted offender from the undesirable effect of a custodial period, to give the type of education; occupational and moral training that will enable him upon release to make a satisfactory adjustment to the outside community. And the 2nd purpose is to grant the convicted offender the grace of a conditional release under the supervision and with the assistance of an authorized official.⁵⁸ These purposes are more or less envisaged under the various legislation which deal with prisons in Ethiopia.

According to the prison rules of England, the purpose of rehabilitation that is the training and treatment of convicted prisoners is to encourage and assist them to lead a good and useful life. Some purpose seems to exist behind the legislation of Ethiopia, which particularly deal with the rehabilitation of prisoners. In order to achieve these purposes obviously there has to be both vocational training centers, and educational centers, which would make the prisoners, fit citizens. Ideally work is said to be an essential element in the vocational training of a fit prisoner. It should fill the greater part of every week day, teach him a trade if necessary and possible, and accustom him to the idea of working hard, consistently and efficiently for approximately the same number of hours and under the same kind of conditions as she/he will be expected to work where she/he leaves prison.⁵⁹

At this juncture, when we see the Ethiopian case, one important factor that should be remembered with respect to work is that, everybody in the prison is not permitted to work. Prisoners who are less dangerous and co-operative with the administration are allowed to work. Under Art. 110(1) of the Penal Code, as we have seen in earlier chapter, only prisoners who are serving a sentence with deprivation of personal liberty are allowed to work. It follows that all those who are on remand those, who await execution are exempted from working. Even for those who are permitted to work there are not very many things to be done in the prison. The only work that is given due attention by the administration is the industrial section. In the industrial section there are a number of sectors like wood work, electricity, designing, carpentry etc.

A prisoner who doesn't get the chance of working in the industrial section is assigned to work in Offices, kitchen, hair dressing centers, knitting centers, cotton processing centers, gardens, etc. It is this part which accommodates the bulk of the prisoners.

Though these are the places where the prisoners work, there is no training in the proper sense in all these sectors. 'Training's' are given only to these who are found in the woodwork, electricity, hairdressing and knitting rooms.⁶⁰

When we see the participation of women in the sectors, surprisingly enough there are no women trainees or workers in the industrial section of the vocational training. They are only accommodated in the sectors where the majority of the prisoners are participants. The majority of these sectors as we have noted above are ones, which need unskillful labour and are typically provided for women, at least theoretically are the hairdressing and the knitting training. However, the capacities of these centers are too small that they could accommodate up to 12-13 female prisoners in a year. In the hairdressing center there are no male prisoners as they are not interested. But in the knitting center there are equal number of female and male prisoners.⁶¹ So, we can say that a considerable proportion of women prisoners have rare opportunities for vocational training and productive employment are necessarily more restricted than it is for the men prisoners.

The prison administrators, when asked the reason why female prisoners are not available in the industrial section, responded that "in majority cases the women are not themselves willing to engage themselves in wood work, electricity etc. Besides, since the works in these sectors are done manually it needs much labour and more importantly, the prison regulation strictly forbids the mixing up of female prisoners with the opposite sex. So since the said training are provided in only one place, and since the majority of the prisoners are males, we resort to giving the training to men prisoners only. So they are denied in order to prevent any contact with the more numerous male populations. And, therefore, considering this we don't usually give them opportunity to participate."⁶²

So, as seen here in above, the vocational training programmes that are established for female offenders are limited to training women as domestics or other women's occupations such as hairdressing, and sewing. Men may receive training in such higher paying occupations such as auto repair, electronics, carpentry etc. So, no wonder if the women offenders who are poor,

ill trained and unskilled turn to prostitution or theft upon their release and are prone to recidivism.

The meanses used to try to achieve these purposes (the vocational training) depend on a number of factors. The most important are: ⁶³

- a) The length of sentence.
- b) The character, the criminal exhibited with in prison compound and the tendency of sociability.
- c) The fact that she/he has managed to resist the problems in the prison like psychological tension.
- d) If she is not recidivist. Because these females are proved to be typical offenders since no use to train them. Instead it is better to try change the life of other criminal.
- e) The availability of accommodation.

When we see the educational part of the rehabilitation, there is a school with in the prison compound which has both primary adult education, elementary and secondary education. In the elementary and secondary classes these are about 460 students among which only 3% are female prisoners. And the numbers of female prisoners who are registered in the primary education classes are 13 out of the 224 total students. ⁶⁴ So, we can say relatively many female students are beginners.

The school is a formal one, which is administered under zone two. It has its own library where there are different types of books including texts. However, the problem is with regard to teachers. Usually the teachers are prisoners. There are also some assigned teachers of the ministry of education; with regard to these teachers the prison administration has certain complaints. According to Ato Nigussie Tesfaye, Head of Prison Security and Administration, the teachers are not competent enough. Usually, they have their own problems like they are drunkard or with out proper teacher's manner. The prisons are taken as a place where something defective or unwanted is thrown. These teachers by themselves obliterate the rehabilitation process. They came to teach well drunk. This would remind every prisoner his past deeds. ⁶⁵

As to this educational program, the prison Internal Regulation provides the provision to all prisoners in discriminatory. However, as seen before the women prisoner doesn't seem to be

the users of this opportunity. Of course, there is no practice which prohibit women from attending classes but circumstances are prohibiting them. Since the classrooms are few in number, female and male prisoners are made to attend classes together. To prevent any possible contact police forces would either attend classes together or wait them out-door till the class is over. Using this time, a male prisoner may send a letter to another female prisoner. If this letter is happen to be found by the police then both of them would be penalized for that. This together with other things may serve the prison administrator as a screening ground to give parole or not. Besides, this woman would be prohibited to attend classes. Therefore, the situation deters many female prisoners in order not to attend classes. On this issue a certain prisoner at the Addis Ababa central prison told to the writer "many female prisoners don't attend classes not because they are unwilling or not aware of its use. But, they fear to face the consequences i.e. to add some other years imprisonment life which could possibly be reduced, had they not gone to school. Such a record also has the effect of making one lose the possibility of vocational training. Therefore they prefer to remain in their zone than go out to school."⁶⁶

Another prisoner interviewed on the same issue stated that in addition to the aforementioned reasons, the fact the women are in need of money hinders them from attending classes. Since there are many facilities, which are not adequately provided or not provided at all, for their fulfillment, the prisoners need to have source from which they can earn money. Therefore, instead of learning, they prefer doing minor works in the prison compound, which are not meant, for rehabilitation so, we can say there is unwillingness from their part too.⁶⁷

Some other interviewees give the way how the school is running i.e. the qualities of teachers, as a reason for the small participation of female prisoners in education. So all these reasons cumulatively contribute for the insignificant number of student female prisoners. But still in the prison, education is the best rehabilitation center.

The small number of participants in rehabilitation programmes i.e. both vocational training and educational training is not the only problem regarding rehabilitation. There is also the question are these small groups really in rehabilitation or are being rehabilitated?

As said at the beginning, rehabilitation is meant to make prisoners fit citizens through making them have some skills, know how to earn money, develop work desires etc. Since imprisonment has primarily the aim of protecting the society by detaining these offenders and

try to make them good citizens, prison has the obligation to rehabilitate those offenders and make them good citizens. All prisoners also have the right to be rehabilitated irrespective of age, sex, offence type etc. But, when we see the practical situation prevailing in the Addis Ababa central prison, most of the prisoners especially the women offenders are not participatory of the rehabilitation program. To be educated or not is at the prisoners own decision. If she want, she could, if she doesn't nobody forces her. However, should this be the case given the obligation of the prison, the purpose of imprisonment and the good that may come out of being learnt?

The SMR as seen in chapter two provides education as one type of rehabilitation program that needs to compulsorily be given to the prisoners. The prison, by leaving the whole right to decide to prisoners, is shying away from discharging its obligation. The prisoners though should be given certain right to decide of their own fate, it shouldn't totally be left to them. For instance, they might be given the right to choose one from the different rehabilitation programs like to train in the hairdressing center than the knitting etc. But they also should be told that no one is permitted not to be rehabilitated.

The rehabilitation process supports the prisoners in many ways. It can make their minds busy and hence they won't get time to psychologically stress their minds. And besides, they would come to gain some knowledge in the field they are trained. This, therefore, will help them to economically build their capacity at the time of release. In practice, however, there is problem with regard to the rehabilitation. The prisoners are not properly rehabilitated even in the training sectors. Simple instructions would be given to them as to how to handle the type of training. Then, the training would be conducted through learning by working. The end results of the works would be sold and they would get their part of remuneration though very small. There is no test or other controlling mechanisms as to their efficiency. This often creates problem when they are out ⁶⁸. In the 1st place they are not confident of themselves and secondly, the type of training they have followed has no much vacancy in the outside world. For instance, there are no much institutions, which hires sewers. Though there are some government owned textile and cloth factories, due to the present days privatization and due to technological advancements, many of such workers are floating: so no demand. Usually people do such businesses at their own by buying the machine. Therefore, even if these prisoners are trained, they won't get job. And they will possibly return to their previous deeds -just to live.

The same is true to the hairdressing training. Since in many cases it could be learnt through working, many employers employ those who don't know- of course to reduce the amount of the salary. And besides, such workers usually are not hired through vacancy announcement. So, still there is problem of getting job in this field too.

To handle such problems, many countries in the world have designed after care service program. This is because on return to the community there is a noticeable need for the ex-inmate to redevelop emotional roots, to achieve a reduction in hostility to the heightened frustrations of prison life to secure acceptance by others, and to achieve a tolerance making possible the acceptance of others. Ex-inmates present themselves in a variety of ways sometimes there hostility is barely held in check and their initial demanding attitude has to be worked through before the real issues can be reached and help rendered. Again they may evidence confusion and inability to mobilize energy into action even in matters like securing shelter or looking for work. In such instances there is need for a somewhat directive approach until the personality begins to reintegrate. Frequently the ex-inmate is quite dependent and prepared to turn his problems and programs of re establishment over to some one else. In this case a certain amount of anxiety has to be raised in him and the burden of problem solving and decision continually thrown back on his shoulders.⁶⁹

The immediate problem of most ex-inmates is survival. Naturally the most direct avenue to self maintenance is employment and most men are anxious to secure employment in the belief that a job is the only thing they need to guarantee success. When they fail to get one due to various reasons, they would be frustrated and then began to think like what they did at least once before entering into the prison. This means all the prisons attempt to rehabilitate the criminal would be without any effect. Therefore, to make this effective and for the prison to persistently protect the society from danger, the priers need to be cared even after their prison life. It is with this view many countries adopt the after care program.

However, when we come to Ethiopia, there is no such thing as after care service program. Once they are out, they are expected to lead their lives peacefully using their skill they acquire in the prison if they get one. Otherwise neither any protection nor any preparation has been forwarded (provided) to the prisoners. The prison's care for the prisoners would quit on the day the prisoner finishes her/his term of prison. The prisoners problem starts from this day especially if she/he has no family or relative to go to near in Addis Ababa. In other

countries, since prisoners are paid normal wages in prison and a certain sum of money is deposited for them in prison awaiting their release, they will face no problem. Hence, they can go out and start the type of life they want to. But in our case, it has been pointed out that no wages are paid to prisoners in the Addis Ababa central prison in the proper sense. Therefore, when a prisoner leaves the prison, unless she has a relative or family to wait for her, she has nothing. The prison doesn't even give her bus fare. However, if structural changes are introduced to the prison, it might not be very hard to make it practical.

Conclusions and Recommendations

The criminality of women, though existed earlier before, is taken as a serious matter only few years ago. There has been sheer neglect of women in criminological thought and inquiry. They generally appear to commit fewer crimes and the crimes they do commit appear to be less serious than those committed by men; they are less violent. Hence, women don't appear to be a problem as men.

As a consequence of such observations in many countries prisons, women prisoners seem to have given less attentions, However, in the Addis Ababa central prison in many respects women prisoners seem to be treated equally to male prisoners. They share many problems as the prison administration has similar policies on both of them. Nevertheless the rehabilitative programmes available to women prisoners are inferior in number and quality to those offered to men. This is because women constitute such a small percentage of all inmates; their facilities are much more limited than those available to the larger male prison population. In this regard the main themes of the paper lie on two propositions "The various problems of prisoners in general which women are also part, need to be given attention and hence resolved" and "The unique problems of women prisoners need to be appreciated and hence should be considered seriously"

Though there is no much problem with regard to the law- International and domestic- as it equally treats both sexes, practically all prisoners including women prisoners face a number of problems. The problems could be directed from the law enforcing authorities, to the general structure of the prison, the economic limitations of the prison etc. In addition to those problems, women particularly face a number of some other problems due to their biological nature (sex). For instance, a women like any other persons could face medical care problem for logical creation. But a pregnant women faces much more problem as she needs specific medical care. The same applies to other problems of facilities.

The other women's problem is the problem of motherhood. These women may have children in prison with them and treating their children in prison with them and treating them well, bringing them up in such situation is very difficult. So, the women prisoners duty or family responsibility would follow them even in their prison life.

In addition to this, the fact that women are minority in the prison also contributed a lot for their peculiar problem since there is a policy that women and men prisoners should not have any contact, and since male are majority, almost all of the rehabilitation programmes are run for the male prisoners.

Hence we can say that, women prisoners' problem has double face. On the one hand they share the general problem prevalent in prison for all prisoners; and on the other hand they face a problem due to the mere fact of their sex. The latter of course is not negative violation of women's right. Rather it is problem due to failure in the part of the government to discharge its positive obligations like giving due attention to the situation of women prisoners and children in prisoners as the constitution clearly aspires this to women irrespective of their status.

Therefore to give solutions for all the problems raised, some points are pointed out. The following recommendations, in the writer's judgment, should be given due attention.

I. Legislative actions

- The parliament as an organ with primary responsibility for protecting rights, need to formulate prison law as a national guideline at federal level.
- Besides, it needs to enact implementing legislation for those constitutional provisions which are in clear contradiction with the implementing legislations and hence are not being implemented now.
- Concerning the right of prisoners to present their cases to courts as to the ill-treatment they are facing or some other problems the legislature need to lawfully set up an institution or committee which is under the judiciary to hear or receive their petitions otherwise the present trend is like giving the right in one hand and denying it on the other hand. Because if the prison administration i.e. the would be defendant is the one to whom the petition is to be submitted, obviously it won't pass it to the neutral body or court. Hence, the setting up of such institution would enable the prisoner to properly use its right. Otherwise providing a right with out paving the way as to how it could be implemented is worth nothing they can wire lawyers?

II. Executive actions:-

As the prison administration is under the accountability of the Ministry of Justice, the Ministry should work out specific norms and rules. This means, to administer prisons strictly in line with the law, the Ministry of Justice, should adopt the following measures in the near future.

Formulating prison International regulation which consists of:-

- A detailed rules for implementation of the domestic law especially the constitutional provisions and other International human rights documents to which the country is acceded to. The various constitutional rights of prisoners like visitation rights, especially of parents with children, parental rights, rights for medical care etc, need to be given much attention.
 - The regulation need to strictly and clearly show the organizational setup and methods to administer and educate prisoners. It is also of great importance if a code of conduct of prison officers in provided.
 - It more than all should address the unique problems of women prisoners and their children who are found in prisons.
 - It should necessarily proved for the classification of prisoners using certain parameters like age or offence type or seriousness of offence etc.
 - It should aspire for the equal provision of rehabilitative facilities like education, vocational centers etc for both sexes.
-
- ⇒ Establishing various internal supervision mechanisms to fight against corruption, like legal monitoring and self-evaluation etc.
 - ⇒ Related system should be established to investigate and strictly deal with violation of laws, especially bribery, abuse of official duties in pursuit of personal gain, willfully beating, cursing, physically punishing and ill-treating prisoners.
 - ⇒ Raising the qualifications of prison staff. Trainings should be offered to prison guards in stages with a view to aquatint them with various principles of human rights.
 - ⇒ Much more female police guards and investigators need to be to at least lesson the problem at police stations, of abusing the female psychological and physical conditions. It will also totally eliminate the problem of bribery interms of giving themselves to the sexual

gratification of these a solution for the problem of compromising women suspects rights due to the absence of female police guards.

- ⇒ Restructure the prison administration system entirely. This is because, it enables the Ministry to have a more constructive prison administration, efficiently use its budgetary in the short run without waiting years due to finance problems.
- ⇒ Maintaining probation system is the main measure in the restructuring programme. Probating as well stated before, is a process of treatment, prescribed by the court for persons convicted of offences against the law, during which the individual on probating lives in the community and regulates his own life under conditions imposed by the court and is subject to supervision by probation officer.
- ⇒ Similarly, the government should draw attention to the need to undertake concrete steps to provide for a reasonable level of financing to meet the basic requirements of prisoners.

III. The role of NGO's and press

- ⇒ Besides to the responsibility of the government it is needed a complementary role of encouraging improvements of the conditions of imprisonment and foster the dissemination and furnishing of enough human rights instruments and assist in reforming the prisoners and giving legal aid to those in penitentiary.
- ⇒ In addition, since prisons are run on behalf of the society, members of society have the right to know what goes on inside when. More than that, there is an obligation to the aware that human rights are not being abused prisons are chased institutions and there have to be some restrictions on access. But with in reason the public should be aware of what goes on behind these high walls. And hence, the press and other publications of human rights groups and academic institutions should exert their efforts in this regard. Moreover, public and private funds should be geared towards helping inmates in legal service.

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Questionnaire 1

This questionnaire is conducted to assess the conditions of female prisoners (both suspects and convicts.) It is essentially designed to see whether the internationally and domestically declared ^{human} rights are respected. Therefore you are requested to fill the questionnaire and contribute the research undertaking.

Thank you for your CO - operation

1. Age _____
2. Educational Status _____
3. Marital Status _____
4. Do you have a child or a children ? _____
5. What is the offence type you are charged with ? _____
6. What was your work before being apprehended by the police ? _____
7. When was you entered into the prison ? _____
8. Have you admitted the charge ? _____
9. If yes, why do you think you committed the offence ?
 - a) Economical problem
 - b) revenge
 - c) some other reason
10. Are you convicted ? a)Yes, b)No
11. Have you ever get imprisoned in Addis Ababa central prison before ?
 - a)Yes b) No
12. If yes, for how many times did you enter into the prison ?
13. What was the offence type you were charged with ?
14. Did you get rehabilitation services in the days you were in prison ?
15. How was the female prisoners spent their time ?
16. Would you please mention the rehabilitation social service available to female prisoners ?

17. How many times per day do you get food ?
a) once b) twice c) trice d) more than trice
18. How many people live in you room ?
a) up to 10 b) 10 -20 c) 20 - 30 d) more than 30
19. Do you have child (children) with you ?
a) Yes b) No
20. If yes, do the child (children) get special treatment ?
a) yes b) No
21. If Yes, what is the special treatment ?
a) She/ he is housed separately
b) She/ he has different and better food service
c) She/he be given to foster parents
d) She/he has will a budget till certain age.
22. If you spent your pregnancy period in the prison, how is the medical as well as nutrition provided to pregnant ?
a) There is good medical treatment but no different provision of food
b) Good medical treatment and food provision
c) There is problem with regular to medical treatment
d) Both are not good
23. Being female how do you see the treatment as well as social services available to pregnant and nursing mothers ?
24. If you have child (children) at home, in what frequency do you meet ?
a) Once in a week
b) Once in two weeks time
c) Once in not less than a month
d) every day
25. While you were in police station have you faced any problem ?
a) yes b) No

26. If Yes, what you think is the cause for the problem (s) ?
- a) The police (security guards)
 - b) The Investigating police officers
 - c) The situation of the female quarter at the prison
 - d) The medical treatment and food provision
 - e) Other
27. For how long did you stay at the police station ?
28. In the police station you stayed who were assigned to look over you ?
- a) Male police b) Female polices c) both
29. How do you see the medical treatment available in the police station ?
- a) good b) very good c) worse d) well
30. How did the investigating police officer interrogate you ?
- a) After telling me the right to remain silent
 - b) Through torture, flogging etc
 - c) Through harassing me
 - d) Without telling me right but who also having me .
31. In what frequency can you meet visitors (relatives or children) ?
- a) Once in a week
 - b) Once in 2 weeks time
 - c) Every day
 - d) Other
32. How many times per day do you get food ?
- a) Once b) twice c) trice d) more than tree
33. How many people lived in your room ?
- a) up to 10 b) 10 - 20 c) 20 - 30 d) more than 30
34. Was there any place for women who are pregnant or nursing mothers ?
- a) yes b) no

35. With what utensils the police station provide new female detainees (Suspects)?
36. Comparing the social services, medical treatment, protection of rights etc. provided in police stations and Addis Ababa central prison, which one is better ?
- a) Police station
 - b) Addis Ababa central prison

For Suspects Only

37. Are there convicts in your room ?
- a) yes b) no
38. Is there separation of rooms based on age groups ?
- a) yes b) no
39. What do you feel living with convicts since you are not yet convicted ?
40. As a suspect what do you think is the reason for your detention in Addis Ababa central prison ?
- a) For punishment
 - b) for Security purpose
 - c) other
41. What benefit have you get in Addis Ababa central prison though you are suspect ?
- a) social and rehabilitation services
 - b) I lived in a better way than those suspects who live in police stations
 - c) I have got no benefit
 - d) other

Questionnaire 2

This questionnaire is conducted to assess the conditions of female prisoners (both suspects and convicts.) It is essentially designed to see whether the internationally and domestically declared ^{human} rights are respected. Therefore, you are requested to fill the questionnaire and contribute to the research undertaking.

Thank you for your co - operation !

1. Age _____
2. Educational Status _____
3. Marital Status _____
4. Do you have a child or a children ? _____
5. What is the offence type you are suspected in _____
6. What was your work before being apprehended by the police ? _____
7. When was you entered into the prison ? _____
8. Have you faced any problem in the police station due to your gender ?
a) yes b) no
9. If Yes, what you think is the cause for the problem (s) ?
a) The police (security guards)
b) The Investigating police officers
c) The situation of the female quarter at the prison
d) The medical treatment and food provision
e) Other
10. In this police station who are assigned to look over you ?
a) female polices b) male polices c) both
11. How do you see the medical treatment available in the police station ?
a) good b) very good c) worse d) well

12. How did the investigating police officer interrogate you ?
 - a) After telling me the right to remain silent
 - b) Through torture, flogging etc
 - c) Through harrasing me
 - d) Without telling me right but who also having me .
13. In what frequency can you meet visitors (relatives or children) ?
 - a) Once in a week
 - b) Once in 2 weeks time
 - c) Every day
 - d) Other
14. How many times per day do you get food ?
 - a) Once b) twice c) trice d) more than tree
15. How many people live in you room ?
 - a) up to 10 b) 10 -20 c) 20 - 30 d) more than 30
16. Is there any place for pregnant and nursing mothers ?
 - a) yes b) no
17. With what utensils the police station provide new female detainees (Suspects)?
18. Are you presented before the court after being apprehended ?
 - a) yes b) no
19. Why are you in the police station now ?
 - a) Because I have court adjournment
 - b) Because I have not get a bailee
 - c) Because my right to get released on bail is not respected
 - d) Other
20. due you think the female prisoners at the police station need special treatment ?
 - a) yes b) no
21. What problems do you think female prisoners face due to their gender ?

መጠይቅ

ይህ 'የናት የሴት የህግ እስረኞችን (ተጠርጣሪዎችንና ታራሚዎችን) የእስር ሁኔታ ዋና ዋና ገፅታዎችን ለማጥናት የሚካሄድ ነው። በተለይም በአገር አቀፍና አለምአቀፍ ደረጃ የተደነገጉ ህጎች ላይ የሰፈሩት መብቶቻቸው ምን ያህል እየተጠበቁ እንዳለ ለመገንዘንና ከዚህም በመነሳት የመፍትሄ ሀሳቦችን ለመጠቀም ይረዳል ስለሆነም እርሶም ይህን መጠይቅ በአግባቡ በመመላት ለጥናቱ የበኩሎን አስተዋፅኦ እንዲያደርጉ ይጠየቃል። ስም አይፃፍም።

1. እድሜ _____
2. የትምህርት ደረጃ _____
3. የትዳር ሁኔታ
 ሀ) ባለትዳር ለ) ያላገባ መ) ፈት (የትዳር ህይወት ያቆመ)
 ረ) ከቤተሰብ ጋር የሚኖር ሰ) ሌላ ካለ ይዳፍ _____
4. ልጅ (ልጆች) አለዎት?
 ሀ) አዎ ለ) የለንም መ) ካሎት ቁጥራቸውን ቢገልጻልን _____
5. የተከሰሱበት የወንጀል አይነት ቢገልፁልን _____
6. በወንጀል ተጠርጥረው ከመያዞ በፊት የተሰማሩበት የስራ መስክ ምን ነበር?

7. እስር ቤት (የተያዙበት ፖሊስ ጣቢያ ሊሆን ይችላል) የገቡበትን ጊዜ ቢገልፁልን _____
8. የተከሰሱበት (የተያዙበትን) ወንጀል መፈፀሞን ያምናሉ?
 ሀ) አዎ ለ) አላምንም _____
9. መልስዎ አዎ ከሆነ ለምን ፈፀምኩት ብለው ያስባሉ
 ሀ) በአኮኖሚ ችግር (በገንዘብ ማዛት) ለ) በስህተት
 መ) በቁመኝነት ረ) ሌላ ምክንያት ከሆነ ይፃፉት _____
10. ፍርድኛ ነዎት?
 ሀ) አዎ ለ) አይደለሁም _____
11. ከዚህ በፊት በማረሚያ ቤት ታስረው ያውቃሉ? (መልሶ ታስራ አላውቅም ከሆነ ወደ 'የያፍ 17 ይሂዱ አዎ ከሆነ 'የያፍ 12 ይመልከቱ);
 ሀ) አዎ ለ) ታስራ አላውቅም _____
12. ከዚህ በፊት በማረሚያ ቤት ለምን ያህል ጊዜ ተመላልሰው ታስረዋል?
 ሀ) አንድ ጊዜ ለ) ሁለት ጊዜ መ) ሶስት ጊዜ ረ) አራት ጊዜ
 ሰ) ሌላ ከሆነ ይፃፉት _____
13. የፈፀሙት (የፈፀማቸው) ወንጀል (ሎች) ምን ነበር (ሩ)?

14. በማረሚያ ቤት በቆዩት ጊዜያት ምን አይነት ማህበራዊ አገልግሎት እግኝተው ነበር?

15. በነበሩበት ማረሚያ ቤት ሴት እስረኞች ግዜያቸውን እንዴት ያሳልፉ ነበር?
 ሀ) በእስር ቤት ውስጥ አነስተኛ ስራዎችን (ለገንዘብ ማግኘት) በመስራት
 ለ'የመያ ትምህርት በመማር መ) በልግነት ስራ በመሳተፍ
 ረ) ግዜ ውስጥ ያለስራ በማሳለፍ ሰ) ሌላ ካለ _____
16. (ፍርድኛ ብቻ) በአሁኑ በእስር ቤት ውስጥ የሚገኙትን ማህበራዊ አገልግሎት ቢገልፁ _____
17. በማረሚያ ቤት በኩል በተገኘ ለምን ያህል ጊዜ ምግብ ይቀርብላችሁል?
 ሀ) አንድ ጊዜ ለ) ሁለት ጊዜ መ) ሶስት ጊዜ
 ረ) መልስዎ ሌላከሆነ ይፃፉ _____

18. በማረሚያ ቤት ውስጥ እርሶ ባሉበት ክፍል ስንት ሰዎች ይኖሩበታል?
ሀ) እስከ 10 ለ) ከ10 እስከ 20 መ) ከ20 እስከ 30 ረ) ከዚያ በላይ
19. እርሶ ቤት ውስጥ ከርስዎ ጋር የሚኖር ህፃን ልጅ (ልጆች) አለዎት?
ሀ) አዎ ለ) የለንም
20. ልጅ ካለዎት ልጁ ከማረሚያ ቤቱ የተለየ እንክብካቤ ይደረግለታል?
ሀ) አዎ ለ) አይደረግም
21. እንክብካቤ የሚደረግ ከሆነ በምን መልኩና በምን መስፈርት ነው?
ሀ) ልጁን የተለየ ቦታ በማስቀመጥ ለ) ለልጅ የተለየ ምግብ በመፍቀድ
መ) ልጁ በአእምሮው ውስጥ መጥፎ ነገር እንዳይቀረፅ በማድረግ ልጅነት በመስጠት
ረ) ለልጁ እስከተወሰነ እድሜው ድረስ ገንዘብ በመስጠት
ሰ) ሌላ ካለ ይፃፉ
22. የእርግዘና ጊዜዎችን እስር ቤት ያሳለፉ እንደሆነ በህክምናም ሆነ በምግብ ረገድ ያለው እንክብካቤ እንዴት ነው?
ሀ) ህክምና ጥሩ ነው ሌላ እንክብካቤ ግን የለም ለ) ህክምና ችግር አለበት
መ) ህክምናውም ሆነ ሌሎች እንክብካቤዎች ጥሩ ናቸው ረ) ሁሉም ጥሩ አይደሉም
23. እርስዎ በሴትነትዎ እስር ቤት ውስጥ ለወላጅና ለነፍሰጡር ሴቶች የሚደረገውን አገልግሎት እንዴት ይመለከቱታል ? የርስዎን አስተያየት ቢፅፉ

24. እርስዎ ውጪ ልጅ ካለዎት በምን ያህል ፍጥነት ትገናኛላችሁ?
ሀ) በሰዎች አንዱ መ) ከወር ባላነሰ ጊዜ
ለ) በሁለት ሳምንት አንዱ ረ) በየቀኑ
25. እርስዎ ተጠርጣሪ ሆነው ፖሊስ ጣቢያ በነበሩበት ጊዜ ያጋጠመዎት ችግር አለ?
ሀ) አለ ለ) የለም
26. አለ የሚሉ ከሆነ የችግሩ መንስኤ ምን ይመስልዎታል?
ሀ) ከጠባቂ ፖሊሶች ለ) ከመርማሪ ፖሊሶች
መ) ከሲቶች የእስር ቤት ሁኔታ የተነሳ
ረ) ከምግብና ከህክምና ሰ) ሌላ ካለ ይጥቀሱ
27. ተደዘው በነበሩበት ፖሊስ ጣቢያ ለምን ያህል ጊዜ ቆዩ?

28. በነበሩበት ፖሊስ ጣቢያ እርስዎና አብረው የነበሩትን ሴት ተጠርጣሪዎች የሚጠብቃችሁ ፖሊሶች ያታ ምን ነበር ?
ፎቅ ሴት ለ) ወንድ መ) ሴትም ወንድም ሊጠብቁን ይችላል
29. በፖሊስ ጣቢያ ህክምና የማግኘት ሁኔታ እንዴት ነው?
ሀ) በጣም ጥሩ ነው ለ) ችግር አለ መ) ጥሩ ነው ረ) በጣም አስቸጋሪ ነው
30. በፖሊስ ጣቢያ ፖሊሶች ቃልዎችን ሲቀበሉ በምን አይነት መንገድ ነበር ?
ሀ) በማስፈራራት ለ) በድብደባ መ) በትህትና (በልመና)
ረ) ሀገ መንግስታዊ የሆነውን ያለመናገር መብት ከነገረን በሀላ
ሰ) ሌላ ካለ ይፃፉ
31. በፖሊስ ጣቢያ ከጠያቂ ዘመዶች (ልጆች ሊሆኑ ይችላሉ) በምን ያህል ጊዜ መገናኘት ይቻላል?
ሀ) በሳምንት አንድ ጊዜ ለ) በ15 ቀን መ) በየቀኑ
ረ) ሌላ ካለ ይፃፉ
32. ምግብ በቀን ስንት ጊዜ ይሰጣችሁ?
ሀ) አንድ ጊዜ ለ) ሁለት ጊዜ መ) ሶስት ጊዜ ረ) ከዚያ በላይ
33. በአንድ ክፍል ውስጥ ስንት ዎናችሁ ትኖራላችሁ?
ሀ) እስከ 10 ለ) ከ10 እስከ 20 መ) ከ20 እስከ 30 ረ) ከዚያ በላይ
34. ህፃናትን ለይዞ ተጠርጣሪ እስረኞች መኖራቸው ነፍሰጡሮች የተለየ የማረፊያ ቦታ ሆነ እንክብካቤ አለ?
ሀ) አለ ለ) የለም መ) ሌላ ካለ ይፃፉ

35. ፖሊስ ጣቢያው አዲስ ለገቡ ሴት እስረኛ የሚያቀርበውን የማረፊያ ቤት እቃዎች ብትዘረዝሩ።

36. ማንኛውም አገልግሎት ማለትም ምግብ፣ መጠለያ፣ መብት መከበር ወዘተ በተመለከተ ከማረጋገጥ በትና ከፖሊስ የትናው የሚሻል ይመስልዎታል?

ሀ) ፖሊስ ጣቢያ ለ) ማርሚያ ቤት
ለተጠርጣሪዎች (ፍርድና ላልዋኑ) ብቻ

37. እርስዎ በሚኖሩበት ክፍል ውስጥ ፍርድሾችና ተጠርጣሪዎች ተቀላቅለው ይኖራሉ?

ii) λ^{μ} iii) $\lambda \epsilon_1^0 \epsilon_2^0$

38. ከእርስዎ ተሞክሮ በመነሳት የመኖሪያ ክፍል በሚሰጥበት ጊዜ በእድሜ የመከፋፈል ሁኔታ ያለ ይመስልዎታል?

b) ኢሊ ለ) የለም

39. አርስዎ በማረሚያ ቤት ክፍርደኞች ጋር በመታሰርዎ የሚሰማዎት ስሜት ቢገልፁ

40. በተጠራጣሪነትዎ በማረማያ ቤት ውስጥ መኖርዎ ለምንድነው ብለው ያስባሉ?

ሀ. ለፋብሪካ ለ) እንዲጠበቁ

መ) ሌላ የሚያስቡት ካለ ይፃፉ

41. ተጠርጣሪ ሆነው ፖሊስ ጣቢያ ላይሆን ማረሚያ ቤት በመግባትዎ ያገኙት ጥቅም ምን ድነው ብለው ያስባሉ?

ሀ) ከፍርድኛች ጋር የአገልግሎት ተጠቃሚ ሆናለሁ-

ለ) ፖሊስ ጣቢያ ካሉት የተለያዩ ችግሮች እድናለሁ

መ) ከፖሊስ ጣቢያ በተሻለ ሁኔታ መኖር ችያለሁ

ረ) ምንም ያገኘሁት 'የቅም' የለም

መጠየቅ 2

ይህ ቅጽ የሲታ የህግ አከራካሪነት (ተጠርጣሪዎችንና ሥራዊቶችን) የአከራካሪ ሁኔታዎችን ያሳያል። በተለይም በአከራካሪ አቀናቃ ቦታዎች ላይ የሚከሰቱ ሁኔታዎችን ያሳያል። በአከራካሪ ቦታዎች ላይ የሚከሰቱ ሁኔታዎችን ያሳያል። በአከራካሪ ቦታዎች ላይ የሚከሰቱ ሁኔታዎችን ያሳያል።

1. አይደለም
2. ተጠርጣሪዎች
3. ተጠርጣሪዎች
4. አይደለም (አይደለም)
5. ተጠርጣሪዎች
6. ተጠርጣሪዎች
7. ተጠርጣሪዎች
8. ተጠርጣሪዎች
9. ተጠርጣሪዎች
10. ተጠርጣሪዎች
11. ተጠርጣሪዎች
12. ተጠርጣሪዎች
13. ተጠርጣሪዎች
14. ተጠርጣሪዎች
15. ተጠርጣሪዎች
16. ተጠርጣሪዎች
17. ተጠርጣሪዎች
18. ተጠርጣሪዎች
19. ተጠርጣሪዎች
20. ተጠርጣሪዎች
21. ተጠርጣሪዎች

G. PROTECTION OF PERSONS SUBJECTED TO DETENTION OR IMPRISONMENT

29. Standard Minimum Rules for the Treatment of Prisoners

Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 1633 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

PRELIMINARY OBSERVATIONS

1. The following rules are not intended to describe in detail a model system of penal institutions. They seek only, on the basis of the general consensus of contemporary thought and the essential elements of the most adequate systems of today, to set out what is generally accepted as being good principle and practice in the treatment of prisoners and the management of institutions.

2. In view of the great variety of legal, social, economic and geographical conditions of the world, it is evident that not all of the rules are capable of application in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in the way of their application, in the knowledge that they represent, as a whole, the minimum conditions which are accepted as suitable by the United Nations.

3. On the other hand, the rules cover a field in which thought is constantly developing. They are not intended to preclude experiment and practices, provided these are in harmony with the principles and seek to further the purposes which derive from the text of the rules as a whole. They will always be justifiable for the central prison administration to authorize departures from the rules in this spirit.

4. (1) Part I of the rules covers the general management of institutions, and is applicable to all categories of prisoners, criminal or civil, untried or convicted, including prisoners subject to "security measures" or corrective measures ordered by the judge.

(2) Part II contains rules applicable only to the special categories dealt with in each section. Nevertheless, the rules under section A, applicable to prisoners under sentence, shall be equally applicable to categories of prisoners dealt with in sections B, C and D, provided they do not conflict with the rules governing those categories and are for their benefit.

5. (1) The rules do not seek to regulate the management of institutions set aside for young persons such as Borstal institutions or correctional schools, but in general part I should be equally applicable in such institutions.

(2) The category of young prisoners should include at least all young persons who come within the jurisdiction of juvenile courts. As a rule, such young persons should not be sentenced to imprisonment.

PART I

RULES OF GENERAL APPLICATION

Basic principle

6. (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2) On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

Register

7. (1) In every place where persons are imprisoned there shall be kept a bound registration book with numbered pages in which shall be entered in respect of each prisoner received:

(a) Information concerning his identity;

(b) The reasons for his commitment and the authority therefor;

(c) The day and hour of his admission and release.

(2) No person shall be received in an institution without a valid commitment order of which the details shall have been previously entered in the register.

Separation of categories

8. The different categories of prisoners shall be kept in separate institutions or parts of institutions taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment. Thus,

(a) Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women the whole of the premises allocated to women shall be entirely separate;

(b) Untried prisoners shall be kept separate from convicted prisoners;

(c) Persons imprisoned for debt and other civil prisoners shall be kept separate from persons imprisoned by reason of a criminal offence;

(d) Young prisoners shall be kept separate from adults.

Accommodation

9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

(2) Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the institution.

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

11. In all places where prisoners are required to live or work,

(a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

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

13. Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

14. All parts of an institution regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

Personal hygiene

15. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

16. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

Clothing and bedding

17. (1) Every prisoner who is not allowed to wear his own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

(2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

(3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purpose, he shall be allowed to wear his own clothing or other inconspicuous clothing.

18. If prisoners are allowed to wear their own clothing, arrangements shall be made on their admission to the institution to ensure that it shall be clean and fit for use.

19. Every prisoner shall, in accordance with local or national standards, be provided with a separate bed, and

with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food

20. (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value, adequate for health and strength, of wholesome quality and well prepared and served.

(2) Drinking water shall be available to every prisoner whenever he needs it.

Exercise and sport

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

(2) 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.

Medical services

22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.

(3) The services of a qualified dental officer shall be available to every prisoner.

23. (1) In women's institutions there shall be special accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

24. The medical officer shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregation of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

25. (1) The medical officer shall have the care of the physical and mental health of the prisoners and should

daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed.

(2) The medical officer shall report to the director whenever he considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

26. (1) The medical officer shall regularly inspect and advise the director upon:

(a) The quantity, quality, preparation and service of food;

(b) The hygiene and cleanliness of the institution and the prisoners;

(c) The sanitation, heating, lighting and ventilation of the institution;

(d) The suitability and cleanliness of the prisoners' clothing and bedding;

(e) The observance of the rules concerning physical education and sports, in cases where there is no technical personnel in charge of these activities.

(2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to higher authority.

Discipline and punishment

27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.

28. (1) No prisoner shall be employed, in the service of the institution, in any disciplinary capacity.

(2) This rule shall not, however, impede the proper functioning of systems based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.

29. The following shall always be determined by the law or by the regulation of the competent administrative authority:

(a) Conduct constituting a disciplinary offence;

(b) The types and duration of punishment which may be inflicted;

(c) The authority competent to impose such punishment.

30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offence.

(2) No prisoner shall be punished unless he has been informed of the offence alleged against him and given a proper opportunity of presenting his defence. The competent authority shall conduct a thorough examination of the case.

(3) Where necessary and practicable the prisoner shall be allowed to make his defence through an interpreter.

31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offences.

(32) (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.

(3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Instruments of restraint

33. Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

(a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;

(b) On medical grounds by direction of the medical officer;

(c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

34. The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

Information to and complaints by prisoners

35. (1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

36. (1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.

(2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or other members of the staff being present.

(3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.

(4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

Contact with the outside world

37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.

38. (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

(2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

Books

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encouraged to make full use of it.

Religion

41. (1) If the institution contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.

(2) A qualified representative appointed or approved under paragraph (1) shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his religion at proper times.

(3) Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his attitude shall be fully respected.

42. So far as practicable, every prisoner shall be allowed to satisfy the needs of his religious life by attending the services provided in the institution and having in his possession the books of religious observance and instruction of his denomination.

Retention of prisoners' property

43. (1) All money, valuables, clothing and other effects belonging to a prisoner which under the regulations

of the institution he is not allowed to retain shall on his admission to the institution be placed in safe custody. An inventory thereof shall be signed by the prisoner. Steps shall be taken to keep them in good condition.

(2) On the release of the prisoner all such articles and money shall be returned to him except in so far as he has been authorized to spend money or send any such property out of the institution, or it has been found necessary on hygienic grounds to destroy any article of clothing. The prisoner shall sign a receipt for the articles and money returned to him.

(3) Any money or effects received for a prisoner from outside shall be treated in the same way.

(4) If a prisoner brings in any drugs or medicine, the medical officer shall decide what use shall be made of them.

Notification of death, illness, transfer, etc.

44. (1) Upon the death or serious illness of, or serious injury to a prisoner, or his removal to an institution for the treatment of mental affections, the director shall at once inform the spouse, if the prisoner is married, or the nearest relative and shall in any event inform any other person previously designated by the prisoner.

(3) A prisoner shall be informed at once of the death or serious illness of any near relative. In case of the critical illness of a near relative, the prisoner should be authorized, whenever circumstances allow, to go to his bedside either under escort or alone.

(3) Every prisoner shall have the right to inform at once his family of his imprisonment or his transfer to another institution.

Removal of prisoners

45. (1) When prisoners are being removed to or from an institution, they shall be exposed to public view as little as possible, and proper safeguards shall be adopted to protect them from insult, curiosity and publicity in any form.

(2) The transport of prisoners in conveyances with inadequate ventilation or light, or in any way which would subject them to unnecessary physical hardship, shall be prohibited.

(3) The transport of prisoners shall be carried out at the expense of the administration and equal conditions shall obtain for all of them.

Institutional personnel

46. (1) The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of the institutions depends.

(2) The prison administration shall constantly seek to awaken and maintain in the minds both of the personnel and of the public the conviction that this work is a social service of great importance, and to this end all appropriate means of informing the public should be used.

(3) To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison officers and have civil service status with security of

tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

47. (1) The personnel shall possess an adequate standard of education and intelligence.

(2) Before entering on duty, the personnel shall be given a course of training in their general and specific duties and be required to pass theoretical and practical tests.

(3) After entering on duty and during their career, the personnel shall maintain and improve their knowledge and professional capacity by attending courses of in-service training to be organized at suitable intervals.

48. All members of the personnel shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

49. (1) So far as possible, the personnel shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.

(2) The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

50. (1) The director of an institution should be adequately qualified for his task by character, administrative ability, suitable training and experience.

(2) He shall devote his entire time to his official duties and shall not be appointed on a part-time basis.

(3) He shall reside on the premises of the institution or in its immediate vicinity.

(4) When two or more institutions are under the authority of one director, he shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these institutions.

51. (1) The director, his deputy, and the majority of the other personnel of the institution shall be able to speak the language of the greatest number of prisoners, or a language understood by the greatest number of them.

(2) Whenever necessary, the services of an interpreter shall be used.

52. (1) In institutions which are large enough to require the services of one or more full-time medical officers, at least one of them shall reside on the premises of the institution or in its immediate vicinity.

(2) In other institutions the medical officer shall visit daily and shall reside near enough to be able to attend without delay in cases of urgency.

53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.

(2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.

(3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.

54. (1) Officers of the institutions shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Officers who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the director of the institution.

(2) Prison officers shall be given special physical training to enable them to restrain aggressive prisoners.

(3) Except in special circumstances, staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, staff should in no circumstances be provided with arms unless they have been trained in their use.

Inspection

55. There shall be a regular inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

PART II

RULES APPLICABLE TO SPECIAL CATEGORIES

A. PRISONERS UNDER SENTENCE

Guiding principles

56. The guiding principles hereafter are intended to show the spirit in which penal institutions should be administered and the purposes at which they should aim, in accordance with the declaration made under Preliminary Observation 1 of the present text.

57. Imprisonment and other measures which result in cutting off an offender from the outside world are afflictive by the very fact of taking from the person the right of self-determination by depriving him of his liberty. Therefore the prison system shall not, except as incidental to justifiable segregation or the maintenance of discipline, aggravate the suffering inherent in such a situation.

58. The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.

59. To this end, the institution should utilize all the remedial, educational, moral, spiritual and other forces and forms of assistance which are appropriate and available, and should seek to apply them according to the individual treatment needs of the prisoners.

60. (1) The régime of the institution should seek to minimize any differences between prison life and life at liberty which tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings.

(2) Before the completion of the sentence, it is desirable that the necessary steps be taken to ensure for the prisoner a gradual return to life in society. This aim may be achieved, depending on the case, by a pre-release régime organized in the same institution or in another appropriate institution, or by release on trial under some kind of supervision which must not be entrusted to the police but should be combined with effective social aid.

61. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the staff of the institution in the task of social rehabilitation of the prisoners. There should be in connexion with every institution social workers charged with the duty of maintaining and improving all desirable relations of a prisoner with his family and with valuable social agencies. Steps should be taken to safeguard, to the maximum extent compatible with the law and the sentence, the rights relating to civil interests, social security rights and other social benefits of prisoners.

62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

63. (1) The fulfilment of these principles requires individualization of treatment and for this purpose a flexible system of classifying prisoners in groups; it is therefore desirable that such groups should be distributed in separate institutions suitable for the treatment of each group.

(2) These institutions need not provide the same degree of security for every group. It is desirable to provide varying degrees of security according to the needs of different groups. Open institutions, by the very fact that they provide no physical security against escape but rely on the self-discipline of the inmates, provide the conditions most favourable to rehabilitation for carefully selected prisoners.

(3) It is desirable that the number of prisoners in closed institutions should not be so large that the individualization of treatment is hindered. In some countries it is considered that the population of such institutions should not exceed five hundred. In open institutions the population should be as small as possible.

(4) On the other hand, it is undesirable to maintain prisons which are so small that proper facilities cannot be provided.

64. The duty of society does not end with a prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient after-care directed towards the lessening of prejudice against him and towards his social rehabilitation.

Treatment

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far

as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

66. (1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.

(2) For every prisoner with a sentence of suitable length, the director shall receive, as soon as possible after his admission, full reports on all the matters referred to in the foregoing paragraph. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

(3) The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

Classification and individualization

67. The purposes of classification shall be:

(a) To separate from others those prisoners who, by reason of their criminal records or bad characters, are likely to exercise a bad influence;

(b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.

68. So far as possible separate institutions or separate sections of an institution shall be used for the treatment of the different classes of prisoners.

69. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

Privileges

70. Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conduct, develop a sense of responsibility and secure the interest and co-operation of the prisoners in their treatment.

Work

71. (1) Prison labour must not be of an afflictive nature.

(2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.

(3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

(4) So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.

(5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.

(6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.

72. (1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.

(2) The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the institution.

73. (1) Preferably institutional industries and farms should be operated directly by the administration and not by private contractors.

(2) Where prisoners are employed in work not controlled by the administration, they shall always be under the supervision of the institution's personnel. Unless the work is for other departments of the government the full normal wages for such work shall be paid to the administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.

74. (1) The precautions laid down to protect the safety and health of free workmen shall be equally observed in institutions.

(2) Provision shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workmen.

75. (1) The maximum daily and weekly working hours of the prisoners shall be fixed by law or by administrative regulation, taking into account local rules or custom in regard to the employment of free workmen.

(2) The hours so fixed shall leave one rest day a week and sufficient time for education and other activities required as part of the treatment and rehabilitation of the prisoners.

76. (1) There shall be a system of equitable remuneration of the work of prisoners.

(2) Under the system prisoners shall be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.

(3) The system should also provide that a part of the earnings should be set aside by the administration so as to constitute a savings fund to be handed over to the prisoner on his release.

Education and recreation

77. (1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

78. Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

Social relations and after-care

79. Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both.

80. From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.

81. (1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(2) The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.

(3) It is desirable that the activities of such agencies shall be centralized or co-ordinated as far as possible in order to secure the best use of their efforts.

B. INSANE AND MENTALLY ABNORMAL PRISONERS

82. (1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.

(2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.

(3) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

(4) The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

83. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

C. PRISONERS UNDER ARREST OR AWAITING TRIAL

84. (1) Persons arrested or imprisoned by reason of a criminal charge against them, who are detained either in police custody or in prison custody (jail) but have not yet

instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.

2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

Article 2

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

Article 3

No state may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 4

Each State shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised within its jurisdiction.

Article 5

The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons.

Article 6

Each State shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment.

Article 7

Each State shall ensure that all acts of torture as defined in article 1 are offences under its criminal law. The same shall apply in regard to acts which constitute participation in, complicity in, incitement to or an attempt to commit torture.

Article 8

Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned.

Article 9

Wherever there is reasonable ground to believe that an act of torture as defined in article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.

Article 10

If an investigation under article 8 or article 9 establishes that an act of torture as defined in article 1 appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings.

Article 11

Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

Article 12

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

31. Code of Conduct for Law Enforcement Officials

Adopted by the General Assembly of the United Nations on 17 December 1979 (resolution 34/169)

The General Assembly,

Considering that the purposes proclaimed in the Charter of the United Nations include the achievement of international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.

Recalling, in particular, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Recalling also the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975,