

**AN APPRAISAL OF THE RIGHT TO DIGNITY OF PRISONERS AND DETAINEES WITH
DISABILITIES: A CASE STUDY OF GHANA AND NIGERIA.**

**A DISSERTATION SUBMITTED TO THE FACULTY OF LAW OF THE UNIVERSITY OF
PRETORIA, IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE OF
MASTERS OF LAW (LLM HUMAN RIGHTS AND DEMOCRATISATION IN AFRICA)**

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DECLARATION

I, **OYERO ROFIAH OLOLADE**, declare that this dissertation is an original work undertaken by me and it has never been presented in any other institution. I also declare that all sources of secondary information used have been duly acknowledged in this dissertation.

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DEDICATION

This dissertation is dedicated to my parents Chief and Mrs Oyero for your help and support throughout my pursuits in life. To my husband Abd Hakeem Sarumi for your love and support in all ways, and to my precious daughter Jameelah Momoyinoluwa Sarumi whom I deprived of motherly love right from birth in order to put in my best in this course. I promise to make it up to you. You all made it possible for me to add this feather to my cap and I will make you proud ISA.

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To the class of 2004, ouiii, it's been pleasant and I know it is not going to end here so keep the light burning. You are so precious to me.

To my housemates, we are one and we shall remain so, out of sight is not out of mind you know? You are loved.

To my aunties, uncles and everyone who made this possible in my life...Jazakalahu khyra

To all my friends I say Jazakalahu kyhran. You have all proved to me what friendship means and I promise to be there for you too.

To my brother and sisters... I will always love you. Thanks a lot for your love, care and support. You now I can go no where without you. Jazakalahu khyran.

To my parents ... I hope to pay you back some day... but for now I can only say may God bestow on you His blessings more than you love me. You are my jewels and I cherish you.

To save the best for the last: To my loves AA and JM I can only say "you are my life and treasure and I hope God repays you for your understanding and love.

LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and Peoples' Rights (African Charter)
BPPFDI	Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment
CAT	Convention against Torture and other Cruel, inhuman and Degrading Treatment or Punishment
CHRAJ	Commission on Human Rights and Administrative Justice
CPT	Committee on the Prevention of Torture
DRD	Declaration on the rights of Disabled Persons
ECOSOC	Economic and Social Council
ECPT	European Committee for the Prevention of Torture
GPS	Ghana Prison Service
HRC	UN Human Rights Committee
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights (ICESCR)
NHRC	National Human Rights Commissions
NGO	Non Governmental Organization
NPS	Nigerian Prison Service
PR	Prison Regulations of 1958 LN.412/58
SMR	Standard Minimum Rules for the Treatment of Prisoners
SR	Special Rapportuer on Prisons and conditions of detention in Africa
SREOPD	Standard Rules for the Equalization of Opportunities of Persons with Disabilities
UDHR	Universal Declaration of Human Rights
UN	United Nations
WHO	World Health Organization

Chapter One: Introduction

1.0 Background to the study:

The notion of the right to dignity is a very crucial element that applies to all human beings irrespective of their circumstances and status. The notion plays a central role in human rights discourse. According to the Universal Declaration of Human Rights (UDHR), recognition of the inherent dignity and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world¹. The International Covenants on Economic, Social and Cultural Rights (ICESCR) and on Civil and Political Rights (ICCPR) state that all human rights derive from the inherent dignity of the human person². Some modern constitutions include human dignity as a fundamental non-derogable right³. Others mention it as a right to be protected alongside other rights.⁴

This paper addresses the right to dignity of a group of people with two vulnerabilities i.e. being a disabled⁵ person and a prisoner. The concept of dignity applies to prisoners and detainees irrespective of their offences at any given time. This is a right that is ascribed to a person by virtue of one's humanity and not one's circumstances.

In Ghana and Nigeria, the rights of able and disabled prisoners are not given serious consideration⁶. This is probably due to the fact that these two countries are still involved in violations of human rights⁷ and they are yet to implement most of the provisions in international

¹ Provision of the first preambular paragraph.

² Provision of the second preambular paragraph of both the ICCPR and ICESCR.

³ For example the constitution of Republic of South Africa in article 7 provides that the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.

⁴ <http://www.amazon.co.uk/exec/obidos/ASIN/9041117830/wwwlink-software-21/026-6473662-9471643>. It can also be found on < <http://sim.law.uu.nl/SIM/Library/books.nsf/0/593bd164a384734741256c76005630d8?OpenDocument> > (accessed on 21 August 2004).

⁵ For the purpose of this paper the term disabled applies to both physically and mentally disabled persons.

⁶ Human Rights Watch: Prison conditions remain poor and sometimes life-threatening, despite government promises to release funds for improvements < <http://www.ecoi.net/doc/en/NG/content/4/941-963> > (accessed on 29 August 2004) and report of the *UN Integrated Regional Information Network* "Many die in prison" < <http://www.aegis.com/news/irin/2001/IR010911.html> > (accessed on 27 August 2004).

⁷ Nigeria: Country Reports on Human Rights Practices - 2000 Released by the Bureau of Democracy, Human Rights, and Labour. February 23, 2001 < <http://www.state.gov/g/drl/rls/hrrpt/2000/af/index.cfm?docid=700> > (accessed on 30 September 2004) and Ghana Country Reports on Human Rights Practices - 2003 Released by the Bureau of Democracy, Human Rights, and Labour February 25, 2004 < <http://www.state.gov/g/drl/rls/hrrpt/2003/27730.htm> > (accessed on 30 September 2004).

human rights instruments. The protection of the rights of disabled prisoners is a mirage in the two countries probably because they constitute a minority and their vulnerability relegates them to the lower rungs of the society.

However, international human rights instruments recognise that disabled persons have rights that should be respected. For instance, the Declaration on the Rights of Disabled Persons (DRD)⁸ provides that:

Disabled persons shall enjoy all the rights set forth in this Declaration. These rights shall be granted to all disabled persons without any exception whatsoever and without distinction or discrimination on the basis of race, colour, sex, language, religion, political or other opinions, national or social origin, state of wealth, birth or any other situation applying either to the disabled person himself or herself or to his or her family.

Equally, the Standard Minimum Rules for the Treatment of Prisoners (SMR), providing for the treatment of mentally disabled prisoners,⁹ states:

(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.

Despite these international standards, the treatment of disabled prisoners is still below the recommendation. This necessitates a study of the role which human rights law ought to play in the mitigation of the hardship of disabled prisoners, as their dignity is a central element to their existence.

⁸ G.A. res. 3447 (XXX), 30 U.N. GAOR Supp. (No. 34) at 88, U.N. Doc. A/10034 (1975).

⁹ Article 82.

2.0 Relevance of the topic:

The respect for the dignity of disabled prisoners is an issue that needs urgent and careful attention if the universality of human rights is to be meaningful. One of the central issues raised in this paper is whether disabled prisoners should enjoy the same rights as other human beings. Prisoners and detainees are most importantly human beings. Therefore, they are entitled to the protection of their right to dignity by the state.

It is noted that even at the global level the rights of prisoners with disability is not given as much attention as the rights of free people with disability. This is evident in the reports of the Special Rapporteur on disability, Mr Lindqvist, in his findings on the promotion and monitoring of the implementation of the Standard Rules for the Equalization of Opportunities of Persons with Disabilities (SREOPD).¹⁰ The fact that even the SREOPD do not make any specific reference to the phrase "prisoners with disability" is further testimony of the low regard society has for these prisoners.

The neglect in the protection of rights of prisoners generally in Ghana¹¹ and Nigeria¹² is particularly alarming. Although, the regulations on the treatment of prisoners are set out in legislations in both countries,¹³ there is very little on the protection of the rights of disabled prisoners and detainees. But beyond the protection in the letter, there is a need to find out how effective this protection is in practice for both able and disabled prisoners.

¹⁰ Activities of the Rapporteur Bengt Lindqvist, 1994-2002 on Disability of the Commission for Social Development on < <http://www.un.org/esa/socdev/enable/rapporteur95-02.htm> > (accessed on 20 august 2004)

¹¹ A report by IRIN news on< <http://www.aegis.com/news/irin/2001/IR010911.html> > (accessed on 17 August 2004) which states that "inadequate state funding had caused prison conditions to deteriorate in recent years leading to the death of about a total of 106 inmates in 2000 of various diseases in Ghana's prisons, the 2000 Annual Report of the Ghana Prisons Service, quoted by local media.

¹² Based on a report on < <http://hrw.org/prisons/africa.html> > (accessed on 17 August 2004) which states that the U.N. Commission on Human Rights, Resolution 1998/64, April 21, 1998 cites "life-threatening prison conditions," and calls on Nigeria to "ensure that the treatment of prisoners and their conditions of detention are in accordance with recognized international standards.

¹³ Prisons Act Cap 366, Laws of the federation of Nigeria 1990 and Ghana Prison Regulations of 1958, Prisons Service Decree 1972 (NRCD 46).

The reason for the neglect in the protection of the right to dignity of disabled prisoners and detainees needs to be critically examined since the constitutions of the two countries¹⁴ specifically provide for the respect of the right to dignity of all citizens. The African Charter on Human and Peoples Rights (ACHPR) which both countries have ratified is also one of the few international human rights instruments that specifically mention the rights of the disabled¹⁵ but both Ghana and Nigeria are not meeting their obligations.

To address this problem, this study seeks to make recommendations that will be useful in dealing with the right to dignity of disabled prisoners. This will help both countries to meet their obligations under national and international laws. This can also be useful to the African Commission on Human and Peoples' Rights (the Commission) with particular reference to the Special Rapporteur on prisons and conditions of detention in Africa, NGOs working in the area of prison reform, National Human Rights Commissions (NHRC) as well as other countries in Africa so as to develop government policies in favour of the rights of disabled prisoners.

3.0 The statement of the problem:

A visit paid to the Agodi prison in Oyo state of Nigeria years ago revealed the appalling nature of the depth of discrimination against some mentally disabled prisoners who were kept in the same prison with other prisoners. This is against the provision of article 82 (1) of the SMR.¹⁶ This experience concentrated my mind on the state's responsibility to promote, guarantee and respect the dignity of disabled prisoners as this is the essence of their humanity.

The way forward in addressing the issue of discrimination against disabled prisoners is to look at what the constitution, domestic legislations and other national and international laws provide and determine how best the rights of this vulnerable group may be safeguarded. However, beyond the letter of the law, we shall critically examine the available government policies and

¹⁴ Article 15 of the 1992 Ghanaian Constitution provides that:
(1)The dignity of all persons shall be inviolable
(2)No person shall, whether or not he is arrested or retained, be subjected to-
(a) torture or other cruel inhuman or degrading treatment or punishment
(b) any other condition that detracts or is likely to detract from his dignity and worth as a human being.

While article 34 (1) of the Nigerian Constitution also provides that
Every individual is entitled to respect of the dignity of his person, and accordingly
(a) No person shall be subjected to torture, inhuman or degrading treatment.

¹⁵ Article 18 (4).

¹⁶ Persons who are found to be insane shall not be detained in prison and arrangement shall be made to move them to mental institutions as soon as possible.

practices, if any, in both Ghana and Nigeria with regard to the rights of disabled prisoners and point out the weaknesses and shortcomings of such policies and practices. We shall thus be armed with ideas for change in policy or formulation of new ones as well as proposals for legislation.

4.0 Research Questions:

The central issues on which attention will be focused in the research are:

- I. How is the right to dignity of prisoners and detainees dealt with in Ghana and Nigeria? What government policies are in place and how do these address the rights of disabled prisoners?
- II. What international standards are in place for the protection of the rights of disabled prisoners and what is the level of conformity with these standards in Ghana and Nigeria?
- III. Are the prisons in these countries built in such a way as to accommodate this class of people and their disability?
- IV. What are the roles of the civil societies and the government of these countries in trying to ensure that they meet all the state obligations set out in the various instruments?

5.0 Hypotheses:

This dissertation proceeds on the following assumptions:

- I. Prisoners are human beings and their rights must be respected irrespective of their offences.
- II. The rights of prisoners and detainees are neglected in both Ghana and Nigeria.
- III. Disabled prisoners are in a vulnerable position and their right to dignity is not given any special consideration in both countries.
- IV. The governments of Ghana and Nigeria need to reform their policies and legislation with regard to the rights of prisoners and incorporate the rights of disabled prisoners as well.

6.0 Methodology:

With regard to the law, we shall rely on:

- Library sources
- Analyses of relevant statutes
- Internet sources

As regards the social dimension of the work, we shall resort to:

- Quantitative and qualitative methods including the use of questionnaires and interviews conducted at the prisons.

A visit shall be paid to selected prisons in both countries. Interviews will be conducted with and questionnaires will be administered to the prisoners and the prison officials to understand how they feel about the treatment and the available facilities in the prisons. This is because the topic is practical and needs to be seen and felt. Findings from interviews, questionnaires and field visits to the prisons, will help to correct inaccurate pieces of evidence given by the prisoners.

7.0 Literature review:

A number of articles¹⁷ have been written on the protection of rights of disabled prisoners. Most of these articles however focus on countries outside Africa. Hardly has any work been done on the “right to dignity of prisoner and detainees with disability in Africa”. Despouy¹⁸ focuses on the rights of disabled “free people” and not disabled prisoners. His work is comprehensive and relevant to this study as far as it helps to explain how the rights of disabled persons generally are to be respected by the state. It is useful in so far as it gives a broad insight into the way the international laws on rights of disabled people are implemented. It also helps to understand how policies are formulated and suggests reforms on the rights of disabled persons.

Morgan and Evans¹⁹ give a broad idea of how rights of prisoners are protected under the European system. They give an insight into the work of the European Committee for the Prevention of Torture (ECPT) arguing that the ECPT is more effective than the Committee on the Prevention of Torture (CPT) and the Human Rights Committee (HRC). They make extensive reference to United Nations (UN) standards and how these are applicable to the protection of prisoners’ rights. The work is relevant to this study in so far as it gives an insight into how recommendations can be made to governments and how policies are made and implemented.

¹⁷ Two of such articles are -Know Your Rights: Disabled Prisoners. *Legal rights of disabled prisoners* <<http://www.aclu.org/Prisons/Prisons.cfm?ID=14399&c=123> > (accessed on 29 August 2004). *Legal rights of disabled prisoners*. British Columbia Civil Liberties Organisation News Flash. Found on <<http://www.bccla.org/positions/prisoners/81prisoners.html#6> >(Accessed on 23 September 2004).

¹⁸ Despouy L, *Human Rights and Disabled Persons*. Human Rights Study Series 6. Journal of the Centre for Human Rights in Geneva.

¹⁹ Morgan R and Evans M *Protecting Prisoners: the Standards of the European Committee for the prevention of Torture in context*. (1999) 5.

Rodley²⁰ elaborates on the various international instruments that deal with the treatment of physically able prisoners and detainees. He makes no special reference to those with disabilities. He however elaborates on the various rights, which prisoners have such as freedom from torture and inhuman treatment. He also focuses mainly on the protection of prisoners' rights under the European system. Rodley's work, to the extent that it critically deals with the relevant instruments relating to the protection of rights of prisoners is relevant to our study. He also examines critically the rights of prisoners to be free from torture, inhuman and degrading treatment.

Chimedza and Peters²¹ focus is on disabled free persons and their quest for social justice in an African environment. They argue that disability is not a personal tragedy and enumerate the attitudes that have dehumanised and devalued disabled people. They also point out institutionalization and segregation as part of social problems confronting the disabled but they make no reference to institutionalisation as it concerns disabled prisoners. The review of the literature on this study helps to show the lack of research in the field of the rights of disabled prisoners. This study therefore contributes towards addressing the question of respect of the right to dignity of prisoners with disability in the African context.

8.0 Limitation to the study:

The dearth of research on the protection of the right to dignity of prisoners with disability in Africa affects the number of published books and journals that can be relied on.

The study is limited to Ghana and Nigeria prisons and the way they deal with the protection of the rights of prisoners. The scope of the study is restricted to prisoners with physical and mental disabilities and does not include other prisoners with particular vulnerabilities such as the elderly, depressed and persons with HIV.

The prison services in both countries are considered as part of the security institutions of the state and so the information received from the interviews and questionnaires administered to

²⁰ Rodley N *Treatment of prisoners under international law* (2000).

²¹ Chimedza and Peters "Disabled Peoples' quest for social justice in Zimbabwe" in Armstrong F and Bratton L (eds) *Disability, Human rights and Education: Cross cultural perspectives* Open University Press (1999)
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the prison officials are censored and given with caution. This shall however be controlled as much as possible by the onsite visits undertaken.

Due to time and financial constraints, only two prisons will be visited in each of the two countries under study and interviews will be conducted with senior prison officials to understand the practice in the countries.

9.0 Proposed structure:

The work is “introduced” in Chapter1 and this covers

- 1.0 Background.
- 2.0 Relevance of the topic
- 3.0 Statement of problem
- 4.0 Research question
- 5.0 Hypotheses
- 6.0 Methodology
- 7.0 Literature review
- 8.0 Limitation of the study

Chapter 2 deals with the “Explanation of concepts” and addresses the concepts below:

- 2.1 Introduction
- 2.2 Definition of terms: prisoner / imprisoned person, detainees Detained person, disability, impairment, handicap and disabled persons.
- 2.3 The philosophical, legal and African concept of dignity
- 2.4 Harmonisation of the human rights instruments on the protection of the rights of prisoners with instrument on rights of persons with disability.
- 2.5 Conclusion.

Chapter 3 deals with “Specific aspects of right to dignity affecting prisoners with disability” and here, attention is focused on:

- 3.1 Introduction
- 3.2.1 Freedom from torture, cruel and inhuman treatment or punishment:
- 3.2.2. Freedom from discrimination.
- 3.2.3 Living Condition
 - Accommodation
 - Medical facilities
- 3.3.1 The practice in the prisons (a report on the factual situation as revealed by the

questionnaires and the interviews).

3.4 Conclusion.

Chapter 4 deals with “Deficiencies in the prison systems and the expected practice” and here the attention is focused on:

- 4.1 Introduction
- 4.2 A comparison of the situation in Ghana and Nigeria.
- 4.3 The expected role of the government and NGOs working in the areas of prison reform. Suggestions to the Special Rapporteur on Prisons and conditions of detention in Africa, Medical Practitioners, Commissioners at Commission, State parties to the African Charter, and National Human Rights Commissions.

Chapter 5 concludes the paper and makes “Recommendations and Reforms” to government and all stake holders in the field of prisoners rights on policies on prisons with particular reference to the rights of disabled prisoners and detainees in Ghana and Nigeria.

The Questionnaires administered are attached to this work in an appendix.

Chapter Two: Explanation of concepts

2.1 Introduction

The aim of this chapter is three - fold. It attempts to define the various concepts used in this study so as to clear all misconceptions about some of the concepts and phrases used. It also considers some relevant international and regional instruments that have been enacted for the protection of the rights of disabled persons as well as the rights of prisoners. This is to show that there is already a legal base for the protection of the right to dignity of disabled prisoners. The third part of this chapter attempts to throw light on the concept of dignity under three headings. The legal, philosophical and the African notion of dignity are addressed here.

2.2 Definition of terms: prisoner / imprisoned person, detainees, detained person, disability, impairment, handicap and disabled persons.

2.2.1 Prisoner / imprisoned person:

The term "Prisoner" generally refers to a person deprived of liberty and kept under involuntary restraint, confinement, or custody.²² The word also refers to a person who is kept in prison as a punishment.²³

While an "Imprisoned person" means any person deprived of personal liberty as a result of conviction for an offence²⁴

2.2.2 Detainee / Detained person:

The term detainee refers to a person who has been officially ordered to stay in a prison or similar place, especially for political reasons.²⁵ It may also be used to refer to a person who is detained, *especially*, a person held in custody prior to trial or hearing.²⁶

²² Merriam – Webster online dictionary on < <http://www.m-w.com/cgi-bin/dictionary> > (accessed on 18 Aug 2004).

²³ Cambridge advance learner's dictionary on <<http://dictionary.cambridge.org/define.asp?key=62958&dict=CALD> > (accessed on 18 Aug 2004)

²⁴ Body of Principles for the Protection of all Persons Under any Form of Detention or Imprisonment G.A.res43/173, annex 43, U.N. G.A.O.R. Supp (No. 49) @298, U.N> Doc A/43/49 (1988).

²⁵ Cambridge advance learner's dictionary. See n 23 above.

²⁶ Merriam Webster dictionary of law, 1996 Merriam – Webster, Inc <<http://dictionary.reference.com/search?q=detainee> >_ (accessed on 18 August 2004).

Detained person" means any person deprived of personal liberty except as a result of conviction for an offence.²⁷

For the purpose of this paper, the term detainee refers to a criminal suspect who is held in custody pending the determination of the case.

2.2.3. Disability:

The word disability refers to a disadvantage or deficiency, especially a physical or mental impairment that interferes with or prevents normal achievement in a particular area.²⁸

According to the World Health Organization (WHO), the term refers to "any restriction or lack (resulting from an impairment) of ability to perform an activity in the manner or within the range considered normal for a human being".²⁹

However, in order to have a better understanding of the topic, it is necessary to show the relationship between these terms and other related terms like:

Impairment: [This refers to] any loss or abnormality of psychological, physiological or anatomical structure of function.

Handicap: [This refers to] a disadvantage for a given individual resulting from an impairment or disability that limits or prevents the fulfilment of a role that is normal, depending on age, sex, social and cultural factors, for that individual.³⁰

Thus handicap is the loss or limitation of opportunities to take part in the life of the community on an equal level with others, representing socialization of an impairment of disability.³¹

²⁷ See n 22 above.

²⁸ The American Heritage® Dictionary of the English Language, Fourth Edition Copyright © 2000 by Houghton Mifflin Company < <http://dictionary.reference.com/search?q=disability> > (accessed on 18 August 2004).

²⁹ Despouy L.(See n 18 above) Page 11, paragraph 89

³⁰ See n 28 above.

³¹ See n 18 above Paragraph 91.

Considering these definitions, it is necessary to point out that there is a close relationship and considerable overlap between elements in the impairment, disability and handicap definitions.³²

2.2.4. Disabled persons:

It follows therefore that a disabled person is one who suffers from any form of disability, impairment or handicap.

However, according to the DRD,³³ the phrase “Disabled persons” is used to refer to

“any person unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and/or social life, as a result of deficiency, either congenital or not, in his or her physical or mental capabilities”.

2.3. The legal, philosophical and African concept of dignity with regard to rights of disabled prisoners

2.3.1. The legal concept of dignity:

The concept of human dignity is one of the most important, innovative elements introduced into international law by the Charter of the United Nations (the Charter) and in a more elaborated manner, by the UDHR.³⁴

Preambular paragraphs 1 and 5 of the UDHR³⁵ adopted on 10 December 1948 set out the following:

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas the peoples of the UN have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

³² The views of the Special Rapporteur on disability quoted in Despouy L, (See n 18 above paragraph 95.

³³ See n 8 above.

³⁴ Kretzmer D and Klien E (eds), *The concept of dignity in Human right discourse* (2002) 111.

³⁵ It should be noted that the provisions of the UDHR are not binding on states, but the provisions are considered as customary international law because many states have articulated it in their local legislations therefore it remains binding on all states except on persistent objectors.

The preamble to the UDHR records that “disregard and contempt for human rights had resulted in barbarous acts which have outraged the conscience of mankind” that “the peoples of the UN have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and the worth of the human person and in the equal worth of men and women and have determined to promote social progress and better standards of life.” It records also the pledge made in the Charter to promote “universal respect for the observance of human rights and fundamental freedoms” and goes on to proclaim the UDHR “as a common standard for all persons and all nations” for the attainment of this goal.³⁶

In a broad and general sense, respect for dignity implies respect for the autonomy of each person, and the right of everyone not to be devalued as a human being or treated in a degrading or humiliating manner.³⁷ This implies that the dignity of disabled prisoners and detainees ought to be guaranteed by the state in the same manner that the right of every other citizen of the state is.

Respect for human dignity is implicit in the rights of personality and in the social and economic rights set forth in the UDHR and other human rights instruments. It is inherent in any legal order based on freedom and human rights. The “dignity and worth of the human person” is diligently coupled with, on the one hand, equal rights of men and women and, on the other, “social progress and better standards of life.”³⁸ The UDHR requires both respect for the dignity and freedom of everyone [whether a prisoner or a free man or an able or a disabled man] and continuous efforts at all levels to realize the universal enjoyment of human rights.³⁹

The notion of equal rights of men and women does not apply to only able bodied or free men in the society. It implies equal enjoyment of rights by everyone irrespective of his or her position or condition in life at any given time. It can therefore be interpreted to mean that disabled prisoners are entitled to treatment based on substantive equality.⁴⁰ Thus the dignity of disabled prisoners should be respected without distinction of any kind.

³⁶ Kretzmer D and Klien E (eds). (See n 34 above) 134.

³⁷ As above.

³⁸ Alfredson G and Eide A, *The Universal Declaration of Human Rights* (1998). 36.

³⁹ As above.

⁴⁰ Substantive equality implies that everyone is to be treated equally while taking into account the different needs of particular groups of people. Putting it simply, it means that in as much as we have to abide by the rule of equality, we should know that people are different and so the specific needs of each person.

Dignity is also given a fundamental role in the ICCPR whose preamble asserts that fundamental rights “derive from the inherent dignity of the human person.” Equally, in the preamble to the ICESCR there is a reference to the recognition given in the UDHR of the “inherent dignity and of the equal and inalienable rights of all members of the human family” and the assertion that these rights derive from the inherent dignity of the human person is respected. Treating dignity as a fundamental value of a human rights order may give it greater weight than if it was treated merely as an enumerated right.⁴¹

It should be noted that dignity and equality are interdependent. Inequality is established not simply through group-based differentiation, which perpetuates disadvantages and leads to the scarring of the sense of dignity and self worth. Conversely, an inversion of dignity is more easily established when there is an inequality of power and status between violator and victim. Discrimination is thus said to exist if there has been differentiation based on attributes and characteristics that have the potential to impair the fundamental dignity of persons as human beings and to affect them adversely in a comparably serious manner.⁴²

2.3.2. The philosophical concept of dignity.

The traditional African concept of the right to dignity, as illustrated below, dates from time immemorial and traditional societies in most parts of the world have dealt with the question of what dignity is before the 16th century. However, the modern written account on the issue of dignity is dated in the 16th century with Pico della Mirandola whose idea was quite revolutionary at the time. He believes that, human dignity doesn't have anything to do with some essential properties with which human beings are born; like in the traditional sense of dignity as the image of God for example, a sudden value which is inherent in human beings as such.

Pico della Mirandola, the Italian humanist of the early modern age, has suggested that human dignity arises out of the way human beings conceive and form themselves [this point also goes on to buttress the fact that the question of dignity relates back to the beginning of the existence of the human person]. That is from a certain idea which was later developed by

⁴¹ Kretzmer D and Klien E,(eds) (See n 32 above) 135.

⁴² Van Wyk D, et al (eds) Rights and Constitutionalism: The New South African legal order Kenwyn: JUTA. (1994), 242

Immanuel Kant on autonomy. Thus our self-respect is formed primarily by the way we conceive of our selves, by the way we construct our lives, rather than by any essential; be it genetically-based properties or not; but in any case, by the way we constitute ourselves rather than the way we are born.⁴³

"Human dignity is certainly a model humanistic term. However, one is immediately faced with a problem, as far as the difference between value and dignity is concerned. Dignity is, as said by Kant in the spirit of enlightenment, the absolute purpose, and you are all well aware of the influencing power of Kant's moral philosophy, which was founded on his famous categorical imperative and which always causes the layperson to experience a cold sense of uncertainty. Put in simple terms, the truth is that this imperative means that you may never use a person as a means only, but rather as the final purpose, which means the purpose itself must be respected. Viewed philosophically, this wording has taken on the ideal of enlightenment and perhaps even overtaken and expanded upon it."⁴⁴ This therefore shows that the dignity of all human beings must be respected irrespective of their situation, condition or purpose at anytime.

There are inherently universal values that all human beings share no matter what their traditions or surroundings. Besides the need for basic bodily requirements, everyone wants to be treated with dignity and respect. The notion of dignity itself is universal even though it manifests itself in varying forms. Genuine respect for human dignity provides a strong binding force to bring about improvements amidst varied circumstances of deprivation.⁴⁵

2.3.3. The African concept of dignity.

Dignity has a special significance for the African people. It is understood to be a mental state or a particular quality of the soul bestowed upon all human beings. This conception implies that as a person, one is automatically worthy and honourable, this honour being an innate right second only to the right of existence. No one has the right to "*pile diyite you moun*" (a Creole

⁴³ Heyd D, Interview (Memphis, Tennessee) April 1999. found on < <http://research.arc2.ucla.edu/pmts/Germline/Psycho-social%20Dangers/pdcdhvid1.htm> > (accessed on 21 August 2004).

⁴⁴ Natural law, enlightenment and human dignity. < http://www.dadalos.org/int/Menschenrechte/Grundkurs_MR2/Menschenwuerde/material.htm > (accessed on 21 August 2004).

⁴⁵ Syed M. Ali. *VIEW: Infusing development with dignity*. Found on < http://www.dailytimes.com.pk/default.asp?page=story_3-8-2004_pg3_4 > (accessed on 21 August 2004).

expression putting forward the right for an individual's dignity or sense of worthiness and honour not to be violated or encroached upon). This then compels the recognition of these rights, not only towards individuals, but also with respect to communities.⁴⁶

The second preambular paragraph of the ACHPR⁴⁷ underscoring the importance Africans attach to dignity states that:

the Charter of the African Union stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

Dignity is a highly respected value in traditional African societies and it is generally believed that the dignity of a person is the foundation of his or her humanity thus the dignity inherent in a person must be protected and respected at all times. According to the Yoruba,⁴⁸ it is a better option for a person to die than to live a life which is worthy of no human dignity. This is expressed in the saying "*iku ya ju esin lo*" (death is better than an undignified life) and this belief has led a lot of people to commit suicide. For instance a king is better dead than becoming a slave.

Most communities in Africa say that equality and non – discrimination are essential elements of respect for the dignity of man. According to the Twi,⁴⁹ it is believed that "*Obedew mu nni ankeafu*⁵⁰" (there is no distinction among baskets). This implies that all common people are of the same rank. There is also a similar expression among the Yoruba people which states thus "*aparo kan ko gaju ikan lo afi eyi toba gori ebe*" (no bush foul is taller than the other except the one that perches on a heap of earth). This means that all human beings are equal except those placed on special heights.

Although it is recognised in most African communities that some people like kings, chiefs and elders are higher in rank than others and therefore deserve more respect, it is also agreed that essentially all human beings are equal. In the latter respect, it can be deduced there is no distinction between able and disabled persons. With regards to disabled prisoners however, the respect that is due to a human being is due to everyone irrespective of their offences.

⁴⁶ The Concept of Human Dignity. < <http://www.vodou.org/human.htm> > (accessed on 21 August 2004).

⁴⁷ Adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force Oct. 21, 1986.

⁴⁸ The people of the south western part of the Federal Republic of Nigeria.

⁴⁹ The people of the Ashanti Region of Ghana.

⁵⁰ Akorfi C. A, *Twi MMeusem. Twi Proverbs.* (1962)13

2.4. Harmonisation of the human rights instruments on the protection of the rights of prisoners with instrument on rights of persons with disability.

2.4.1 Particular instruments on the protection of the rights of prisoners

Despite the fact that international standards are set to ensure that municipal laws do not fall below basic humanistic level, regulation of prison conditions is properly the province of domestic legislation. This is because familiarity with local customs, cultural traditions and standards of life will be an important factor in determining what conditions are acceptable to human society and what are not. There are some issues not susceptible to relevant interpretation, however, and it is against these excesses that the international community has set its face; in particular in the drawing up of the instruments below⁵¹:

A. Standard Minimum Rules for the Treatment of Prisoners. (SMR)

This instrument was adopted by the First UN Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council (ECOSOC) by its resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.⁵²

The SMR is not per se a legal instrument, since ECOSOC has no power to legislate. Even when the General Assembly urges the implementation of the SMR, it does not do so in such a way as to suggest that its pertinent resolutions are anything more than political or moral recommendations.⁵³ But the SMR are more than that, since some of their specific rules also reflect legal obligations.⁵⁴

Although, not every rule constitutes a legal obligation, it is reasonably clear that the SMR can provide guidance in interpreting the general rule against cruel, inhuman or degrading treatment or punishment. Thus serious non-compliance with the rules or widespread non-compliance with some others may well result in a level of ill-treatment sufficient to constitute violation of the general rule. The SMR can provide similar guidance in interpreting the general requirement of Covenant⁵⁵ article 10 (1) on humane treatment and respect for human dignity.⁵⁶

⁵¹ Rodley N. (See n 20 above). 14.

⁵² Website of the unhchr < http://www.unhchr.ch/html/menu3/b/h_comp34.htm > (accessed on 18 Aug 2004).

⁵³ Rodley N (See n 20 above). 280.

⁵⁴ As above.

⁵⁵ The ICCPR.

B. The ICCPR

This covenant entered into force on 23 March 1976 in accordance with Article 49 of the present Covenant. It spells out in more detail the civil and political rights enumerated earlier in the UDHR (see below) and is legally binding on those countries that have ratified it. Together, the ICCPR⁵⁷, ICESCR [and the Optional Protocols] and UDHR are known as the International Bill of Rights. The ICCPR includes among other rights, the right to life, to be free from torture and slavery, to liberty and security. The covenant prohibits all forms of discrimination in the enjoyment of these rights.⁵⁸ A preambular paragraph of this instrument provides that:

in accordance with the principles proclaimed in the Charter of the UN, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

The concerns of the preamble are underscored in article 7 which provides that:

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

This article forbids all forms of degrading and inhuman treatment or punishment while article 10 (1) of the Covenant provides that:

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

From the wording of this article it can be deduced that it applies to all prisoners; and the state parties to the covenant must take all the necessary steps to ensure that the treatment of prisoners takes into account their inherent dignity as human persons.

⁵⁶ See Rodley N (See n 20 above) 281.

⁵⁷ G.A. res 2200A (XXI), 21 U.N. GAOR Supp. (No 16) at 52 U.N. Doc A/631(1966), 999 U.N.T.S/171. This Covenant entered into force for Ghana on 7 December 2002, and for Nigeria on 29 October 1993.

⁵⁸ < <http://www.iwtc.org/ICCPR.html> > (accessed on 18 Aug 2004)

C. The Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)⁵⁹

The preamble to this Convention takes into account the recommendations and rights set out in the ICCPR, UDHR as well as the UN Charter. Article 1 of this Convention in defining “torture” provides that:

For the purposes of this Convention, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

From the above provision, it can be deduced that any act that serves to “punish” or “intimidate” or “for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity” amounts to torture.

In art 2 (2) of the Convention, it is stated that no exceptional circumstances whatsoever, not even war or a state of emergency or an order from a superior officer or a public authority, can be invoked as justification for torture.

These provisions are indicative of the peremptory, non-derogable nature of injunctions against torture which forms part not only of customary international human rights law but has probably also acquired a peremptory character of *jus cogens*⁶⁰.

2.4.2. Particular instruments on the protection of the rights of disabled persons.

A. The Constitution of the Republic of Ghana recognising the rights of disabled persons in article 30 provides that:

- 1. A disabled person shall not be subjected to different treatment in respect of his residence other than that required by his condition or by the improvement which he may derive from the treatment.*
- 2. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions there shall be as close as possible to those of the normal life of a person of his age.*
- 3. Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.*
- 4. As far as practicable, every place to which the public have access shall have appropriate facilities for disabled persons.*

⁵⁹ General Assembly on 9 December 1975 (resolution 3452 (XXX)). Entered in to force for Nigeria on 28 July 2001 and for Ghana on 7 October 2000.

⁶⁰ Van Wyk D, et al (eds) (See n 42 above) 239.

Thus this constitution protects disabled persons from unfair discrimination and inhuman and degrading treatment and the protection extends to disabled prisoners and detainees.

B. The ACHPR⁶¹

This is a regional human rights instrument which all countries in Africa, with the exception of Morocco have ratified. It provides that:

*The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.*⁶²

As with the constitution just considered, disabled prisoners and detainees are also within the ambit of the protection guaranteed under the African charter.

C. In the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care,⁶³

It is stated in the application section of this instrument that:

These Principles shall be applied without discrimination of any kind such as on grounds of disability, race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, legal or social status, age, property or birth.

2. All persons with a mental illness, or who are being treated as such persons, shall be treated with humanity and respect for the inherent dignity of the human person.

3. All persons with a mental illness, or who are being treated as such persons, have the right to protection from economic, sexual and other forms of exploitation, physical or other abuse and degrading treatment.

4. There shall be no discrimination on the grounds of mental illness. "Discrimination" means any distinction, exclusion or preference that has the effect of nullifying or impairing equal enjoyment of rights. Special measures solely to protect the rights, or secure the advancement, of persons with mental illness shall not be deemed to be discriminatory. Discrimination does not include any distinction, exclusion or preference undertaken in accordance with the provisions of these Principles and necessary to protect the human rights of a person with a mental illness or of other individuals.

5. Every person with a mental illness shall have the right to exercise all civil, political, economic, social and cultural rights as recognized in the UDHR, the ICESCR, the ICCPR, and in other relevant instruments, such as the DRD and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (BPPFDI).

⁶¹ Adopted on 27 June, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 Oct., 1986. Both Ghana and Nigeria are parties to the Charter.

⁶² See n 15 above.

⁶³ Adopted by the General Assembly Resolution 46/119 of 17 December 1991.

The phrase “any other social status” in the application section of these principles, imply that prisoners are also included. Article 5 also expressly specifies the application of these rules to persons who are beneficiaries of the rights in the BPPFDI.

D. The DRD⁶⁴

This instrument provides in article 2 that:

Disabled persons shall enjoy all the rights set forth in this Declaration. These rights shall be granted to all disabled persons without any exception whatsoever and without distinction or discrimination on the basis of race, colour, sex, language, religion, political or other opinions, national or social origin, state of wealth, birth or any other situation applying either to the disabled person himself or herself or to his or her family.

From this article, it can be seen that the rights provided for in the DRD must apply to all disabled persons irrespective of “any other situation applying to the disabled person himself...”

Article 3 also provides that:

Disabled persons have the inherent right to respect for their human dignity. Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow-citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible.

This also implies that the dignity of disabled prisoners must also be protected. They have the same fundamental rights as other prisoners and should be able to enjoy a decent life as normal as possible (in the prison or which ever institution they find themselves).

Furthermore, article 10 provides that:

Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.

E. In resolution 34/169, of December 1979, the General Assembly adopted **the Code of Conduct for law enforcement officials (the code)** and transmitted it to the governments with the recommendation that favourable consideration should be given to its use within the framework of a national legislation or practice as a body of principles for observance by law enforcement officials. Article 5 of the Code reads as follows:⁶⁵

No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke

⁶⁴ G.A. res. 3447 (XXX), 30 U.N. GAOR Supp. (No. 34) at 88, U.N. Doc. A/10034 (1975)

⁶⁵ Despouy L, (See n 18 above). Page 9 Para 77.

superior orders or exceptional circumstances such as a state of war or a threat of war, a threat to national security, internal political instability or any other public emergency as a justification of torture or other cruel, inhuman or degrading treatment or punishment .

The phrase “law enforcement officials” must be interpreted to include prison officials. They should carry out their duties paying special attention to the fact that they should not, inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment to the prisons.

F. The first of the Principle of **The Principles of Medical Ethics⁶⁶ (the principles)**

Relevant to the role of health personnel particularly physicians in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment states that⁶⁷:

Health personnel, particularly physicians, charged with the medical care of prisoners and detainees, have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

While principle 2 provides that:

It is a gross contravention of medical ethics, as well as an offence under applicable international instruments, for health personnel, particularly physicians, to engage, actively or passively, in acts which constitute participation in, complicity in, incitement to or attempts to commit torture or other cruel, inhuman or degrading treatment or punishment.

The essence of this law is to regulate the manner in which medical practitioners are to treat prisoners protecting them against torture and other cruel, inhuman or degrading treatment or punishment. It should however be borne in mind that this law also applies to disabled prisoners and they should also be treated with the same standard applied to prisoners or detainees who are able.

⁶⁶ Adopted by General Assembly resolution 37/194 of 18 December 1982.

⁶⁷ Despouy L, (See n 18 above) Page 11 Para 78.

2.5. Conclusion

Since there is no instrument specifically enacted for the protection of the rights of disabled prisoners, this chapter seeks to form a legal base for the protection of the rights of disabled prisoners. It is noted that a number of instruments have been enacted on the protection of the rights of disabled persons as well as the rights of prisoners. Since disabled prisoners fall within both categories, these instruments should be used to protect the rights of disabled prisoners and detainees.

Chapter Three: Specific elements of right to dignity affecting prisoners with disability.

3.1 Introduction

As earlier noted, the concept of “dignity” cuts across a variety of elements which make a person worthy of respect as a human being. Thus this chapter aims at pointing out the various elements of right to dignity which mostly affect the disabled prisoners and detainees. However, constraints of space compel the consideration of only the important aspects of the right to dignity of disabled prisoners and detainees, and those are set out below.

In the second part of this chapter, the way Ghana and Nigeria are addressing the rights of disabled prisoners and detainees is also brought to the fore through an analyses of questionnaires.

3.2.1 Freedom from torture, cruel and inhuman treatment or punishment:

The above freedom is one of the important elements of the right to dignity, which mostly affect the dignity of prisoners and detainees with disability. This is because disabled prisoners are subjected to hardships, which other prison inmates are not subjected to and at times this result in torture thus reducing their dignity in the sight of other inmates or prison officials.⁶⁸

Article 10 of the ICCPR states that:

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

While article 5 of the UDHR also underscores the point that

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

An explanation of “torture or cruel, inhuman or degrading treatment punishment” is called for and attempted below.

The European Committee on Human Rights(the Committee) defined the “act of torture” as comprising inhuman and degrading treatment and inhuman treatment comprises degrading

⁶⁸ An example of such hardship a disabled prisoner is subjected to can be found in the way the prisons are built without facilities for disabled prisoner e.g. lame prisoners. This implies that a prisoner who is lame has to rely on the help of other inmates or officials of the prison. This therefore puts them at the mercy of such helpers for the length of time they spend there.

treatment ...[I]nhuman treatment covered at least such treatment as deliberately causes severe suffering, mental or physical, which in the particular situation is unjustifiable. The Committee then described treatment or punishment of an individual as degrading if it grossly humiliates him before others or drives him to act against his will or conscience... [S]o for torture to occur, a scale of criteria has to be climbed. Firstly, the behaviour must be degrading, secondly, it must be inhuman treatment and thirdly, it must be an aggravated form of inhuman treatment inflicted for certain purposes.⁶⁹

From this definition, one can infer that any treatment, which subjects a person to humiliation, may be degrading treatment. For example, a mentally disabled prisoner who is detained in the same prison with able prisoners will be subjected to a worse treatment than other inmates due to the fact that the officials do not know how to handle such prisoner when violent thus treating such prisoner in a degrading manner.

In a report on prison conditions in Ghana,⁷⁰ it was reported that during a visit to Navrongo prisons for instance “the mental health of some prisoners was not encouraging. It was observed that with the exception of only one prisoner who spoke clearly during an open forum, all the other prisoners could hardly express themselves logically and coherently.”⁷¹ It should be noted that keeping both normal and mentally ill prisoners in the same prison can be classified as the height of inhuman and degrading treatment. This offends against Rule 82(1) of SMR which provides that 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. This is humiliating both to the mentally disabled and the normal prisoners in the prison.

According to article 1 of the CAT:

“Torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person... for such purposes as intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

The difference between torture and cruel inhuman or degrading treatment seems to be a matter of degree determined with reference to the difference in the intensity of the suffering inflicted. There seems to be, then, a scale of aggravation in suffering which commences with

⁶⁹ Rodley, N, (See n 20 above) 77 – 78.

⁷⁰ 2001 Report on the Inspection of prisons in Ghana, by Commission on Human Rights and Administrative Justice (CHRAJ).

⁷¹ See n 70 above 5.

degradation, amounts to inhumanity and ultimately attains the level of torture thus cruel presumably is somewhere between inhuman conduct and torture.

Degrading treatment must be treatment – resulting from human action – and cannot emerge from, for example, adverse socio-economic conditions by themselves. In certain circumstances, such treatment may be an act or acts of unfair discrimination.⁷²

In 1992, the HRC explained that states have "a positive obligation toward persons who are particularly vulnerable⁷³ because of their status as persons deprived of liberty" and continued thus:

Not only may persons deprived of their liberty not be subjected to [torture or other cruel, inhuman or degrading treatment or punishment], including medical or scientific experimentation, but neither may they be subjected to any hardship or constraint other than that resulting from the deprivation of liberty.⁷⁴

From the statement above, it can be implied that disabled prisoners are not supposed to suffer more hardship than other inmates in the prison due to their physical and mental status. Therefore, the obligation on states to protect their citizens from torture applies to all prisoners able or disabled. According to the Declaration on the Protection of All Persons from Being Subjected to Torture and other Inhuman and Degrading Treatment or Punishment⁷⁵:

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 Charter of the UN and as a violation of the human rights and fundamental freedoms proclaimed in the UDHR.

Considering the fact that article 10 (1) of the ICCPR which both Ghana and Nigeria have ratified also provides that:

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

It shows that humane treatment and the respect of the dignity of all prisoners either able or disable is an important obligation which must be enforced so as to protect disabled prisoners and detainees right to dignity.

⁷² Van Wyk D, et al (eds) (See n 42 above) 239.

⁷³ It should be noted here that disabled prisoners have two kinds of vulnerabilities and this places them in a more difficult situation even among fellow prisoners.

⁷⁴ <<http://www.hrw.org.prisonstandards.html>> (accessed on 28 August 2004).

⁷⁵ Adopted by the GA resolution 3452 (XXX) of 9 December 1975.

3.2.2 Freedom from discrimination:

It has long been recognised that a fundamental principle of democratic societies is that all citizens are equal legally and politically and should be treated equally before the law. However, in a world where human beings differ because of physical, cultural, social and innumerable other factors, discrimination, including exclusion and subordination, has been the historical response to encounters with the “other”. Thus, in its pejorative sense, discrimination is basically the act of making prejudicial distinctions among individuals or groups by taking irrelevant matters into consideration resulting in unequal treatment.⁷⁶ It should be noted that “discrimination” can be described as a particular type of differentiation⁷⁷. Unlike mere differentiation, discrimination is differentiation on illegitimate ground.⁷⁸

All different treatment does not constitute discrimination; only the kind of different treatment is discriminative which is directed towards people who in some sense are in the same position and which has no acceptable purpose.⁷⁹ In the case of disabled prisoners however, the discrimination here is due to the fact that the type of treatment they are subjected to is different from the one other prisoners in the same position and who are able are subjected to. In fact, the hardship of a disabled person is more. Discrimination therefore, implies treatment of a person, which shows that the person is of a lesser value than others in the same category. This type of treatment tends to give a person a feeling of low worth and it leads to prejudice on the part of the person who is being discriminated against.

The first expression of international law against discrimination is found in UDHR that “all humans are born free and equal in dignity and rights”. That principle is also reflected in the ICCPR which declares that “all persons are equal before the law and are entitled without any discrimination to the equal protection of the law” In both the UDHR and the ICCPR the prohibited distinctions are defined as including “race, colour, sex, language, religion, political or

⁷⁶ Report 92 (1999) - Review of the Anti-Discrimination Act 1977 (NSW): Concept of Discrimination <http://www.lawlink.nsw.gov.au/lrc.nsf/pages/r92chp3> (accessed on 1 September 2004)

⁷⁷ It should be noted that differentiation is necessary in the day to day running of the affairs of various groups of people. The process of differentiation involves classifying people into various categories depending on the group they fall into depending on the yardstick which is being used in the categorization. E.g. able and disable, males and females, Africans and Europeans or even adults and children.

⁷⁸ J. De Waal et al. *The bill of rights handbook* 4th Ed JUTA. 210

⁷⁹ The Prohibition of Discrimination < <http://www.ykliitto.fi/ourcomhr/25prohibdisc.html> > (accessed on 1 September 2004)

other opinion, national or social origin, property, birth or other status”.⁸⁰ It should be noted that the prohibition of discrimination in the ICCPR covers all the fields of life and is thus an independent human right.⁸¹

Discrimination can either be fair or unfair, what then makes discrimination fair or unfair? According to the Constitutional Court of South Africa, the determining factor is the impact of the discrimination on its victims. Unfair discrimination “principally means treating people differently in a way which impairs their fundamental dignity as human beings who are inherently equal in dignity”⁸². It impairs to a significant extent the fundamental dignity of the person involved.⁸³ Applying this to disabled prisoners, it can be said that a prison which does not take into account the rights of disabled prisoners in providing facilities such as toilets for the disabled is discriminatory in the treatment it gives to inmates with disability.

It is necessary to point out that discrimination can either be direct or indirect. “Direct discrimination” is a type of differential treatment that is obviously unfair in all its ramifications. For instance, making mentally disabled persons sleep on the bare floor in their cells is a form of direct discrimination. “Indirect discrimination” is treatment in most cases by way of a rule or requirement which appear equal in its wordings but which has a discriminating effect in practice. For example, a law which provides that only prisoners who go jogging every morning should be given beverages with their breakfast. This is a form of indirect discrimination because it is obvious that some disabled prisoners cannot go jogging. With regard to prisoners and detainees with disability, acts of unfair discrimination by the prison officials may result in torture or cruel inhuman or degrading treatment.

It is settled that for there to be proper administration among a group of people, there has to be some form of differentiation. A good example of where such differentiation is necessary is where it involves able and disabled prisoners and even among disabled prisoners, discrimination may be necessary. This is so because there are different needs for different groups of disabled prisoners. For instance, the mentally disabled have to be separated from normal prisoners, while physically disabled need special facilities and treatment which may require some form of differentiation. Basically, the principle of equality states that we should

⁸⁰ See n 76 above.

⁸¹ See n 79 above.

⁸² J. De Waal et al. (See n 78 above) 210.

⁸³ J. De Waal et al (See n 78 above) 213.

treat people equally in all relevant respects unless there is a justification for treating them differently.⁸⁴

In as much as differentiation is necessary for the day to day running of the affairs of prisoners, it is necessary to avoid acts of unfair discrimination which is widespread among prison officials with respect to disabled prisoners and detainees. In fact, it is in the sphere of mental disability that these legal barriers are mostly evidenced and there is a general agreement that persons with mental disabilities are among the groups most discriminated against.⁸⁵

It should, however, be noted that discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status is prohibited by the SMR and the rules are to be applied impartially. Therefore, this should be the guiding principle in determining the manner the affairs of all prisoners whether able or disabled should be run.

3.2.3 Living Condition:

The living condition of prisoners must take into account their right to dignity and humane treatment as stated in earlier cited laws.⁸⁶ It is trite that the living conditions of prisoners and detainees with disability require more attention and facilities than that of able prisoners. It should therefore be noted that apart from the generally poor conditions of many prisons in Ghana and Nigeria, the dilemma of prisoners and detainees with disability is more than that of other inmates because of the neglect they experience. The building structures and other facilities do not provide for their comfort and they are subjected to different forms of hardship trying to cope like other inmates. The dignity of these disabled prisoners and detainees are affected mostly in their:

⁸⁴ Equality ad discrimination.
<<http://www.ask.co.uk/ix.asp?q=equality+and+discrimination&ac=none&xx=0&qid=BD1E4489278F6749BEA47ACA71DA8CEA&p=0&&sp=ix&fn=t&b=0&fo=2&r=10&io=1&fp=6&fr=1&url=http%3A%2F%2Fwww%2Eccaurora%2Eedu%2Fphi112%2FEquality%2Ehtm&adurl=>> > (accessed on 1 September 2004).

⁸⁵ This is confirmed by the special report prepared by Mrs Erica - Irene Daes entitled Principles, guidelines and guarantees for the protection of persons detained on grounds of mental ill-health or suffering from mental disorder” found on < <http://www.un.org/esa/socdev/enable/dispaperdes3.htm> > (accessed on 1 September 2004).

⁸⁶ For example article 10 (1) of the ICCPR.

- **Accommodation:**

The Kampala Declaration on Prison Conditions in Africa⁸⁷ provides for the general prison conditions with regard to accommodation of prisoners. Some of the provisions, which are relevant to prisoners with disability, are:

- that conditions in which prisoners are held and the prison regulations should not aggravate the suffering already caused by the loss of liberty,
- that the detrimental effects of imprisonment should be minimised so that prisoners do not lose their self respect and sense of personal responsibility
- that special attention should be paid to vulnerable prisoners and that NGOs should be supported in their work with these prisoners,
- that all the norms of the UN and the ACHPR on the treatment of prisoners should be incorporated into national legislation in order to protect the human rights of prisoners,

The SMR also provides in Rule 9 that:

Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions...

From this rule it can be deduced that the type of accommodation necessary for prisoners should take into account the type of people who can associate with others in such accommodation. This goes further to show that the conditions both physical and mental of all inmates should be considered before placing prisoners and detainees in prison. The separation of inmates into different groups for proper administration of health and other necessities therefore remains an important duty for prison officials in Ghana and Nigeria.

For example, a report⁸⁸ shows that during a visit to Sunyani Central Prison, “there were more than eight mentally ill inmates, some of whom were very aggressive. They were not separated from the other inmates and it appeared nothing was done medically to help these inmates. The prison officers informed the team that, at times, these inmates attacked other inmates and the prison officers who were on duty. ”

⁸⁷ It should be noted that both Ghana and Nigeria supported the adoption of this Declaration.

⁸⁸ (See n 70 above) 14.

This goes to show that the state is negligent of its duty under international law when it fails to implement the laws as stated in international instruments.

Rule 10 also states that:

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

It should be noted that the phrase “shall meet all requirements of health” should be interpreted to include all requirements necessary for disabled prisoners to live a healthy life in the prisons. Some of the necessary facilities include wide doors for inmates on wheel chair, toilet facilities suitable for disabled prisoners, buildings which are welcoming to disabled prisoners as well as separate accommodation for the mentally disabled persons with well equipped medical facilities.

- **Medical and Health facilities:**

The right to good health and healthy living conditions should be as stated in rule 22 (1) of the SMR:

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

This is a very important provision especially for mentally disabled prisoners and detainees. This is because a study of the practices in Ghana and Nigeria reveals that the mental health of disabled prisoners is the most neglected. This is a dilemma for human rights NGOs working in the field of prisoner’s rights.

In most cases, prisoners are often exposed to hygienic conditions of the most basic kind and suffer from inadequate fresh air, space and opportunities for exercise. Many of the people who are incarcerated in prisons are already in poor health, and most will come into contact with other unhealthy prisoners in overcrowded conditions. As a result, prisoners are constantly at risk of stress to their mental health and to their physical well-being.⁸⁹

⁸⁹ In an article of the Penal Reform international, entitled *Health in prisons* < http://www.penalreform.org/download/ouaga/health_in_prisons_engl.pdf > (accessed on 2 September 2004).

This goes further to show that the right to health of prisoners with disability should follow the same standard as laid down in all international instruments for the protection of rights of disabled prisoners and detainees.

However these are a number of basic principles that should rule prison life with regard to the health of prisoners with disability:

- proper health care is a basic right of all persons. Prisoners have the right to the highest attainable standard of physical and mental health;
- decisions about a prisoner's health should be taken on medical grounds by medically qualified people;
- healthcare conditions in prisons affect public health;
- all prisoners shall be provided with facilities to meet the needs of nature in a clean and decent manner and to maintain adequately their own cleanliness and good appearance; and
- there should be a continuity of care between treatment provided within the prison and treatment provided in the community following release.⁹⁰

3.3 The practice in the prisons (a report on the factual situation as revealed by the questionnaires and the interviews).

a) The situation in Nigeria:

On 13 and 15 of September 2004, visits were paid to the Ikoyi prison in Lagos state and the Agodi prison in Oyo state of Nigeria respectively. During these visits, a total number of 20 questionnaires were administered and four carefully selected prisons officials⁹¹ were interviewed⁹² in both states in order to get accurate information. The average number of years spent by the officials chosen is between six months and twenty-four years.

⁹⁰ See n 89 above.

⁹¹ The interviewed officials were persons who deal directly with the prisoners.

⁹² The interviews were included to get round the censored and clarify some unclear information given in the questionnaires. It should also be noted that the questions asked during the interviews are not included in the questionnaires.

Analyses of the questionnaires reveal that presently, there are less than fifty disabled prisoners and detainees in each of the prisons⁹³. They are mostly adults and have spent between three months to twelve years in custody. In the Ikoyi prison, mentally disabled inmates are kept in separate or single cells which one of the officials referred to as “solitary cell”. According to one of the officials interviewed,⁹⁴ special cells are reserved for the mentally disabled where they are locked up when they are violent. It however appears that this is not in line with the provisions of the SMR⁹⁵ and is against the dignity of the mentally ill prisoners and detainees. Although all the questionnaires reveal that special attention is paid to the mentally disabled inmates, the sought of attention appears to be medical and nothing more.

According to Grace Obi⁹⁶, “my brother’s condition has gone worse since his admission to the prison”. She stated that, before his arrest, he last had a violent attack of insanity in 1996 but since his arrest in 2002, he has had violent attacks more than six times due to the trauma the incarceration inflicts on his mental health. Nevertheless, no proper attention is given to him in the prison and that the prison psychiatrist does not visit him regularly. His drugs, which if taken religiously can control the attacks, are not given to him regularly. She expressed the fear that the disease might worsen unless the drugs are administered to him properly and his condition of detention is improved.

The analyses revealed that there are less than ten physically disabled prisoners presently in the Ikoyi prison and that there are no provisions in place for them. It was generally agreed by all the prison officials that there is need for the government to take steps to improve the conditions of all disabled prisoners. The analyses also revealed that there is no government policy on disabled prisoners and that there is discrimination in the treatment of able and disabled prisoners in Nigeria.

A prison official at the Ikoyi prison⁹⁷ revealed that the physically disabled prisoners either cope on their own or depend on help from the other inmates. He explained that so far, there hasn’t

⁹³ At the Agodi Prison Yard, there are 14 male and 2 female mentally disabled persons and 3 physically disabled persons currently in custody.

⁹⁴ Mr. Akinpelu A.O, the personal assistance to the Assistant Controller of prisons of the Ikoyi prison.

⁹⁵ See n 9 above.

⁹⁶ A relation of a mentally disabled detainee who was met and interviewed on the premises of the Ikoyi prison in Lagos on 13 September 2004.

⁹⁷ He gave his post as the Assistant Superintendent of Prisons but withheld his name.

been any case of any crippled prisoner on wheel chair but that if such a situation arises there is nothing the prison service can do to help such prisoner. He also mentioned that the entrances as well as the vehicle for the movement of prisoners are not suitable for some categories of disabled prisoners.

At the Agodi prison, the situation is similar to that in the Ikoyi prison except that here, there is a facility known as the prison asylum where the mentally ill prisoners are supposed to be kept. However most times, they are kept in the prison custody with normal prisoners. When asked why the mentally disabled prisoners are not detained at the prison asylum, the Welfare Officer at the Oyo state prison headquarters said that there is only one prison asylum serving the whole of the western region, and there are inadequate facilities there for the treatment of all the prisoners. He also revealed that inadequate funding from the government makes it difficult to get the prisoners down to the asylum. He however stated that “if the prisoners are not violent, they do not see any reason why they cannot live with normal prisoners in the prisons.”

It should be noted that in as much as the above statement appears equitable, the effect on the prisoners is discriminating. According to Johnson,⁹⁸ he feels very degraded when a prisoner has to be locked up in a single cell whenever he has a bout of insanity. Mentally disabled prisoners in this prison are exposed to more hardship than able prisoners because they have to live in the solitary cells for as long as they are insane and this affects not just the sense of dignity of the particular patient but that of the other mentally disabled prisoners who have been through such treatment.

b) The situation in Ghana:

On 23 September 2004, a visit was paid to the Medium Security Prison (male) in Nsawam (Nsawam prison) and the James Fort Male prison in Greater Accra region was visited on 24 September 2004. During the visits, a total number of 20 questionnaires were administered in the two prisons and interviews were conducted with three prisons officials carefully selected.⁹⁹ The average number of years spent by the officials is between eight months and nine years.

Analyses showed that there were less than fifty disabled prisoners and detainees in each of the prisons¹⁰⁰, and the age categorization of the prisoners in James Fort prison is between 18

⁹⁸ A mentally disabled prisoner at the Agodi prison.

⁹⁹ See n 91 above.

¹⁰⁰ In James Town Male prison, there are 22 disabled inmates currently in custody.

to 60 years, while that of the Nsawam prison is between 20 to 50 years. It was revealed that at the Nsawam prison the mentally disabled prisoners are kept in a separate block in the same prison yard while at the James fort, the mentally disabled are kept in the same prison yard but in different cells. It should however be noted that in as much as this form of separation seems reasonable on the part of the officials who claim inadequate funding and facilities from the government, it does not amount to the treatment necessary for them to live in dignity among their fellow prison inmates.

A senior official of the James Fort prison¹⁰¹ revealed that the practice in the prison is that when a mentally disabled prisoner is too violent or unable to live in the prison yard he is sent to the psychiatric hospital. Such prisoner is then sent back to the prison only after he or she feels well enough to live a normal life in the prison otherwise such a prisoner spends the remainder of his prison term in the hospital.

The Deputy Prison Director stated that at the James Fort and the Nsawam prison, physically disabled prisoners and detainees are expected to live in the prison like other able inmates with no special facilities for them. They are usually at the mercy of the prison officials and fellow able prisoners who are either willing to help or not. This subjects them to more hardship than normal prisoners because they sometimes have to wait and beg for help before they can attend to important matters; this affects their sense of independence and can lead to frustration and an impairment of their dignity.

Richard Mensah,¹⁰² a detainee at the James Fort prison who is a “dwarf man” with a bad leg tries to survive on his own at the already overpopulated prison. He does all the daily activities himself, but he has to rely on the assistance given to him by the fellow inmates when the facilities available are not suitable for him. For example, the shower taps are too high for him to reach so whenever he needs to use the tap, he has to rely on help from fellow inmates. His case is so pathetic because he has to sit on the floor all the time as he is too short to reach the chair. He finds it difficult to reach the door of the vehicle when he is being conveyed to the court. He also does not use the toilet seat because of his height and since there are no appropriate facilities for him he uses an improvised and undignified manner of relieving himself. He stated that when the taps do not flow, he finds it difficult to carry a bucket of water

¹⁰¹ Name withheld but gave is post as the 2nd in Charge at the prison.

¹⁰² Excerpt from the interview on 22 September 2004 with Richard Mensah who is awaiting trial for the fraud.

and when he has to rush for anything with the other inmates he losses out because of his bad leg.

An officer in charge of the prison added that Mensah is not the only one subjected to the undignified living. He stated that every disabled detainee goes through the same humiliating treatment due to lack of facilities. He cited the example of a crippled detainee who was on remand at the prison on an earlier occasion. The detainee could only drag himself on the floor and his stay at the prison was with great difficulty. He stated that prisoners have to queue to collect their food and the process is so rowdy as a result physically disabled persons could be trampled upon at any time.

Most of the officials of the prisons claim that there is inadequate funding from the government. They also believe that the state is neglecting its duties in providing the necessary training and facilities to the prison service to cater for the welfare of the disabled prisoners. It is clear that in order to help the mentally disabled prisoners cope with prison conditions, government should provide adequate funding and training of personnel who can give appropriate care and attention to the disabled in prisons.

It is therefore suggested that it is better for the government to have a functioning prison asylum or a separate prison in some states / regions with well-trained officials who can deal with the problems of mentally disabled prisoners and detainees. For the physically disabled, there is need for appropriate facilities for them to live like human beings in the prisons. There is also need for suitable entrances for easy movement, rest room facilities appropriate for disabled persons, medical assistance including psychiatrist and physiotherapist, teaching of vocational skills and adequate funding for the prison service. Facilities such as recreation equipments which can be used by the disabled alone are also essential so that they will not have to struggle for the inadequate ones already in place with the able prisoners

3.4 Conclusion

A person whose sense of dignity has been seriously impaired while in prison would find it very difficult to fit into the society as a normal person after his or her release. Therefore the prisons should be structured in such a way as to make it easy for disabled prisoners to be reintegrated

into the society. The Prison Services in both countries should therefore bear in mind that rule 5 of the Basic Principles for the Treatment of Prisoners¹⁰³ provides 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, and, where the State concerned is a party, the ICESCR and the ICCPR and the Optional Protocol thereto, as well as such other rights as are set out in other UN covenants.

The state should not claim the lack of funds or resources to violate the rights of people. The HRC has also stressed that the obligation to treat persons deprived of their liberty with dignity and humanity is a fundamental and universally applicable rule, not dependent on the material resources available to the state party.¹⁰⁴ Therefore, the international obligations of the states are binding on them once they are ratified. Despite the fact that the SMR are not a treaty, they constitute an authoritative guide for states to provide good conditions and treatment of prisoners. The CAT also prohibits torture and cruel, inhuman, or degrading treatment or punishment, without exception or derogation while article 10 of the ICCPR, in addition, mandates all state parties to respect the right to dignity of all persons deprived of their liberty. It also requires that "the reform and social re-adaptation of prisoners" be an "essential aim" of imprisonment.¹⁰⁵

¹⁰³ Adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990

¹⁰⁴ Prisons: International Human Rights Standards Governing the Treatment of Prisoners < <http://www.hrw.org/prisons/standards.html> > (accessed on 30 December 2004).

¹⁰⁵ See n 104 above.

Chapter Four: Deficiencies in the prison systems and the expected practice.

4.1 Introduction

The previous chapter dealt with the manner in which the rights of disabled prisoners and detainees are addressed in the various prisons visited. In the report of the analyses of the questionnaires and interviews, it is obvious that the conditions of prisoners are below that specified in the international instruments. This chapter is therefore a continuation of the practical aspect of the study. It deals with the deficiencies in the prison systems in Ghana and Nigeria comparing the practices and regulations in place and how these regulations affect disabled prisoners.

The first part of this chapter compares the situations in the two countries. It focuses on aspects like the available government policies on disabled prisoners, the process of training, the attitude of the prison officials and the monitoring mechanisms available to the prison services in the two countries. While the second part deals with the role of the government, NGOs and other stakeholders in the areas of prison reform.

4.2 A comparison of the situations in Ghana and Nigeria.

4.2.1 Nigeria:

- **Structure of the Nigerian Prison Service (NPS)**

The NPS is headed by the Controller-General stationed at the prison headquarters in Abuja with eight zonal headquarters in some selected states. There are in addition 36 states prisons headquarters and training institutions. There are six Deputy Controller-Generals responsible for the six directorates in charge of the administration of the NPS and the most relevant of these directorates to this study is the medical and inmates welfare directorate which is in charge of the welfare and health of the inmates as well as the staff of the NPS. It formulates and implements health-care and treatment programmes such as primary health-care, identification of causes of antisocial behaviour and re-socialization methods, which include education, recreation and visits to ensure adequate care for the inmates.¹⁰⁶

¹⁰⁶ *The structure and function of the NPS. Training manual for the new prison official supplied at the NPS in Oyo state.*

The NPS has 143 prisons with an average inmate population of about 40,000¹⁰⁷ and of this lot; there are about 2000 physically and mentally disabled prisoners and detainees nationwide.¹⁰⁸ This is about 5% of the population of prisoners. It should be noted that although they might constitute a minority, the violation of the rights to dignity of 2000 people remains a violation of human rights which the state has undertaken to protect by acceding to the treaties relating to the rights of prisoners and therefore, their dignity no matter how small their number is worthy of protection by the state.

- **Training materials for prison officials**

The training of officials is carried out in the Prison Staff College, Kaduna and 3 other training institutions located in 3 states of the federation. In addition to this training, each state organises seminars and workshops for its officials. In one of the zonal headquarters¹⁰⁹ visited during this study, the training materials perused show little mention of the SMR or any other international instrument on the treatment of prisoners. During an interview with one of the senior officials, it was gathered that although the SMR is also used in the training of officials, it is not incorporated into any material. The questionnaires reveal that most of the prison officials do not have adequate knowledge of the SMR. Despite the fact that the senior prison officials have copies of the SMR which they refer to only when the situation arises, the junior officials who are at the main prison yards taking care of the prisoners and detainees do not know much about the provisions of the SMR.

- **Regulations on the rights of the disabled prisoners**

There is no provision on the rights of able or disabled prisoners in the Nigeria Constitution thus the only laws applicable to the rights of disabled prisoners are the international instruments which Nigeria has acceded to.

The NPS is created by the Prison Act Cap 366, Laws of the Federation of Nigeria (Prisons Act) 1990 and it contains the relevant laws for the administration of the NPS. The Prisons Act provides for the manner in which mentally disabled (insane) prisoners¹¹⁰ shall be handled but makes no specific reference to the physically disabled prisoners. The same Act also provides

¹⁰⁷ See n 106 above

¹⁰⁸ This is a rough estimate given by the Welfare Officer at the Oyo State Prison Headquarters, Ibadan. He gives this estimate based on records he had while working at the Prison Headquarters Abuja.

¹⁰⁹ Oyo state prison headquarters in Ibadan.

¹¹⁰ In article 7.

for prison medical officers and their functions within the prison service¹¹¹. It should be noted however that apart from this document and the SMR, there appears to be no other document guiding prison officials and treatment of disabled prisoners.

- **Monitoring mechanisms available to the prison services**

In Nigeria, the work of the NPS is monitored by the Prison Service itself as provided for in the Prisons Act:

there shall be in the civil service of the federation, a Controller-general who shall have the general charge and superintendence of the Prison system in Nigeria to be known as the NPS.

Therefore the Controller-general has the general charge and superintendence of the prison system. It oversees the functions of all zonal and state Prison Services in Nigeria through its directorates.

In addition to this are the NGOs working in the field of prison reform. The role of NGOs in the aid of prisoners is recognised in prisons in Nigeria¹¹². These NGOs perform tasks like training of prison officials and other relevant groups on the prevention of torture and encouraging good practices within the prison service, provision of funds, litigation services, welfare support, and in some cases free medical facilities to prisoners. They also monitor the activities of the NPS by conducting visits to and research into the practices in the prisons. They have cooperated with the Commission, as most of these NGOs have observer status with the Commission and they submit shadow reports on prison conditions in Nigeria. However, NGOs have not paid much attention to the rights of disabled prisoners and detainees and this is regrettable because they are the main voice of these people.

- **Attitude of the prison officials towards disabled prisoners**

The attitude of the prison officials (in both countries) with regard to the treatment of disabled prisoners is very similar. In the views of most of the Nigerian officials, the conditions of disabled prisoners and detainees do not necessitate special consideration. The officials are not very sympathetic with the disabled prisoners and many of them do not see that there is unfair discrimination in their treatment.¹¹³ This is most likely due to the general attitude people have towards prisoners.

¹¹¹ See article 12.

¹¹² As revealed by the questionnaires.

¹¹³ As revealed by most of the questionnaires and interviews.

Most of the officials interviewed are of the view that the prison is not a place for enjoyment and that since there is inadequate funding for the prison service, setting aside some facilities for the comfort of the disabled prisoners is not necessary. Most of the Ghanaian officials are however more considerate. To them, there is unfair discrimination but the remedy lies in the hands of the government and they believe they can only work with the resources which the government has made available. However, unavailability of resources is no excuse for violating the rights which the constitution expressly guarantees.

Although a prison is not supposed to be a holiday resort, it is also not meant to be a torture camp. It is a place for reform and not inhuman and degrading treatment and punishment. A prison ought to be a place where prisoners can be transformed into better persons who are fit to be reintegrated into the society and live like the other people. If however the sense of dignity of a person has been impaired while in custody then reintegration into the society becomes difficult for such a person.

4.2.2 The situation in Ghana

- **The Structure of the Ghana Prison Service (GPS)**

The Prisons Service is provided for by the Constitution.¹¹⁴ The Prison Service Board consists of a Public Services Commission member as chairman, the prison services director, a medical officer of the Ghana Medical Association, a representative of the attorney general, the principal secretary of the Ministry of Employment and Social Welfare, and three other appointed members. The board formulates prison policy and regulations.¹¹⁵

The prison system consists of about forty-five institutions including borstal homes with staff strength of 4009 and the prison population of about 8000 inmates¹¹⁶. As in the case of Nigeria, the disabled inmates constitute only a minority of the total number of prisoners, this fact however does not permit the neglect of their right to dignity guaranteed by the Constitution.

¹¹⁴ See article 205 (1) of the 1992 constitution.

¹¹⁵ Ghana: *the Prison system* < <http://www.country-data.com/cgi-bin/query/r-5352.html> > (accessed on 4 September 2004)

¹¹⁶ The 2003 report of the GPS. Published under the authority of the DG of the GPS.

- **Training materials for prison officials**

The training of prison officials in Ghana is carried out by the Prison Officers Training School which is the basic and only training institution in Ghana for the training of the various categories of prison officers. Courses run at the school include recruit, cadet, career, refresher and other related courses.¹¹⁷ In the School, respect for human rights of prisoners is taught to the prison officials. This shows the extent to which the GPS is committed to the rights of prisoners. As against the case in Nigeria, the training materials for prison officials include a *Manual for training of prison officials-Trainers on the UN SMR*.¹¹⁸ This is a well structured manual which incorporates most of the necessary rules in the SMR. Although still in the draft form, the manual provides standards for the respect of the rights of the disabled prisoners and detainees as set out in the SMR. This is a bold step in the GPS which is absent in Nigeria.

- **Regulations on the rights of the disabled prisoners**

In comparison with the situation in Nigeria, the GPS is created by the constitution and this constitution regulates the functioning of the body.¹¹⁹ In order to ensure the welfare and the proper treatment of prisoners, the constitution requires the Prisons Service Board to make regulations for the review of prison conditions at intervals of not less than two years. Reports of unjustified treatment of prisoners and recommendations for reform measures are also required of the board.¹²⁰

The Prison Regulations of 1958 LN.412/58 (PR) also provide regulations for the treatment of the mentally disabled prisoners but contain nothing on the treatment of the physically disabled. However in comparison with the situation in Nigeria, the PR provides more comprehensive laws on the treatment of mentally disabled prisoners¹²¹. It deals with all the necessary aspects of detention of mentally ill prisoners. However in practice, there is little difference in the conditions of the mentally disabled prisoners in both countries because they are left in the prisons and are treated in an inhuman and degrading manner.

¹¹⁷ ICY policy Guideline-Ghana Prison Service < <http://www.ict.gov.gh/pdf/ICT%20GUIDELINE--prisons%20service.pdf>> (accessed on 5 September 2004).

¹¹⁸ This is a manual compiled by the GPS in conjunction with PRAWA, an NGO working in the field of prison reform in Ghana.

¹¹⁹ See Chapter 16 article of the constitution.

¹²⁰ GPS report See n 116 above.

¹²¹ See Clauses 138 and 139 of the PR.

In addition to this is the Prison Service Decree 1972 (NRCD) 46 which provides in section 1 that:

the service function is to ensure the general welfare and custody of prisoners and whenever practicable to undertake the reformation and rehabilitation of prisoners.

Furthermore, section 2 states that:

The prison service should ensure in the performance of its duty that:

- a) *no person is subjected to torture, inhuman or degrading punishment or any other condition that detracts or is likely to detract from his dignity and worth as a human being;*
- b) *a person who has been convicted of a criminal offence if kept or confined in a prison shall not be treated as a convicted person and shall be kept away from convicted persons.*

- **Monitoring mechanisms available to the prison services**

Perhaps the most striking difference between the Ghanaian and the Nigerian prison service is the monitoring mechanisms available in the two countries. In Ghana, the role of NGOs in the monitoring of the prison system is as widespread as it is in Nigeria; although in addition to the NGOs is the Commission on Human Rights and Administrative Justice (CHRAJ). This body is created by the constitution of Ghana¹²² and has carried out prison inspections since 1995¹²³, in pursuance of its role as protector and defender of the human rights of every citizen in Ghana. The inspection reviews the general living conditions of the inmates, the structure or facilities, their feeding, health and sanitation, agricultural/vocational and recreational activities.

Furthermore, CHRAJ makes reports and recommendations to the relevant bodies and it performs advocacy functions to prisoners with claims on the violations of their rights. CHRAJ has also served as a check on the activities of the GPS to the extent that they have made public their actions and this has greatly cautioned them.

¹²² Chapter 18 article 216 of the Constitution.

¹²³ The mandate to carry out prison inspection is drawn from their mandate to protect the rights of all citizens.

4.3 The expected role of the government, NGOs working in the areas of prison reform, Suggestion to the Special Rapportuer on Prisons and conditions of detention in Africa (SR), Commissioners at the Commission, State Reports of African countries, and NHRC in the protection of rights of prisoners with disability:

The right to dignity of disabled prisoners and detainees in both Ghana and Nigeria is given little or no recognition by the state. This fact calls for urgent redress by the stakeholders involved because the conditions in which these people live in the prisons breed more crimes and hatred in their minds. This is because they have been embittered by the society due to the undignified lives they have been forced to live as prisoners. The expected roles of the stakeholders in the field of prison reform are therefore highlighted below:

- **Government**

The main role of protection of fundamental rights of citizens is vested in the government, which must therefore take all the necessary steps for the attainment of this goal. Governments must take steps to protect the rights of all the persons in their countries without distinction or discrimination of any kind. The relevant international human rights treaties should be ratified and implemented by all governments, without unnecessary reservations. State Reports must be regular and must cover the disabled prisoners in the countries. The governments must cooperate with Civil Societies and other relevant bodies in implementing the recommendations given by the NHRCs or other relevant bodies in the countries. They must show commitment to their constitutional obligations by making the necessary efforts to protect the rights of all persons including disabled prisoners without distinction of any kind. The government of Nigeria especially must empower the NHRCs to get involved in the monitoring of the prisons. The reports of the NHRCs should be made public for all the citizens to comment on, and the violations should be criticized.

- **NGOs**

For several years in Ghana and Nigeria, NGOs have been the voice of the people to the government and the Commission and in most cases they have performed greatly in the field of prison reform. In fact the creation of the position of the SR is a good example of the positive influence of NGOs on the Commission. They have been in the front line fighting for the rights and freedoms of prisoners. They have thus achieved great success in this regard although in the case of disabled prisoners, the voice of the NGOs seen to be low. They have neglected this group of people and have concentrated mostly on rights of able-bodied prisoners

generally. However, the NGOs need to include the rights of disabled prisoners as well in their agenda to achieve a defensible and genuine penal reform. They should go further in creating dialogue with the governments of the two countries and try to persuade them to pay particular attention to the right to dignity of disabled prisoners.

Furthermore, NGOs should get involved in the drafting and lobbying for an instrument on the protection of the rights of disabled prisoners at the Commission and the UN levels

- **The SR, Commissioners at the Commission and State Reports of African countries.**

In accordance with its mandate of protection and promotion of human rights on the continent under article 45 of the ACHPR, the SR is empowered to examine the situation of persons deprived of their liberty within the territories of state parties to the ACHPR.¹²⁴

As part of the mission of the SR to assess prison conditions in Africa and to point out the major problems on the basis of these observations,¹²⁵ the SR should consider the plights of the disabled prisoners and make appropriate recommendations to the governments involved in order to improve the conditions of detention of disabled prisoners in Africa.

In order to achieve this aim, the SR must examine the state of the prisons and conditions of detention in Africa and make recommendations with a view to improving them; advocate adherence to the ACHPR and international human rights norms and standards concerning the rights and conditions of persons deprived of their liberty, examine the relevant national law and regulations in the respective state parties as well as their implementation and make appropriate recommendations on their conformity with the ACHPR and with international law and standards.¹²⁶

It however seems that over the years, the SRs have performed these duties without paying much attention to the disabled prisoners. It should therefore be noted that the aim of creating the post of a SR will not be fully achieved if the rights of disabled prisoners are neglected.

¹²⁴ Terms of reference for the special Rapporteur on prisons and conditions of detention in Africa < http://www.chr.up.ac.za/hr_docs/african/docs/achpr/achpr77.doc > (accessed on 5 September 2004).

¹²⁵ < http://www.penalreform.org/english/theme_rs.htm > (accessed on the 5 Sept).

¹²⁶ See n 117 above.

The Commission is obliged by virtue of article 45 of the ACHPR to take appropriate measures to ensure that the rights of every person in Africa is respected and protected. This can be done by proposing the adoption and ratification of an instrument on the protection of disabled prisoners in Africa. The cooperation of the NGOs will ensure the achievement of this objective.

The Commission should also take the state reporting procedure more seriously. It should sanction states which have refused to submit their state reports over a period of time. Such sanction may include prohibiting such a state from nominating commissioners, judges or even taking part in the vital deliberations at the Commission. Disabled prisoners should also be assisted to bring communications against states parties which violate their rights; and state parties should be required to include their reports on the treatment of disabled prisoners.

4.4 Conclusion

The right to dignity of disabled prisoners and detainees has been neglected not only by the governments of Ghana and Nigeria but by the stakeholders in the field of penal reform. The absence of an instrument on the protection of their rights in Africa is further testimony that a lot still needs to be done by all parties interested in this field. Therefore, in order to address this issue, there is the need for reforms in both countries. Ghana and Nigeria should acknowledge their shortcomings and take steps to ensure that the dignity of disabled prisoners and detainees in particular and their rights in general as set out in recommendation 8 of the Kampala Declaration on the Prison Conditions in Africa¹²⁷ are respected.

The NGOs, the Commission, and all interested parties in the field of penal reform in the two countries should work together with the governments for total reform and to lobby for an African instrument for the protection of the right to dignity of disabled prisoners.

¹²⁷ Which invites states to pay special attention to vulnerable prisoners and that NGOs should be supported in their work with these prisoners.

Chapter Five: Conclusion, Recommendations, and reforms.

5.1 Conclusion

Conclusions have been made at the end of every chapter but the final conclusions are stated here. The protection of the right to dignity of all citizens irrespective of their circumstances remains a crucial task for the governments. The rights of vulnerable citizens in particular require special attention because of their peculiar situation. The disabled prisoners are persons with two vulnerabilities and the conditions of their detention may aggravate their hardship thereby subjecting them to more hardship than the other inmates. Invariably this leads to discrimination and in some cases torture leading to the loss of their dignity.

The governments of Ghana and Nigeria in particular and in Africa generally must take steps to protect the rights of these people. Governments should make the prison institutions a place where prisoners are reformed and reintegrated into the society as better citizens. In order to achieve this aim, the following recommendations and reforms are suggested:

5.2 General recommendations

The issue of inadequate funding is a problem, which affects disabled prisoners' and detainees' living conditions in both countries. Consequently, the governments of Ghana and Nigeria must provide sufficient funding to the Prison Service in order to provide facilities for the disabled. The prison institutions should be looked at positively, not just as a place where criminals are locked up but where reformation of criminals can result for the good of the nation.

The Judiciary should invent non-custodial sentencing for minor and non dangerous offenders who are disabled in order to reduce the number of disabled in the prisons. The police should also stop the practice of detaining suspects especially disabled persons for more than forty-eight hours or the time specified in the constitution or the relevant statute. This will ensure that disabled suspects are charged before the courts as soon as possible and tried within reasonable time. To achieve this, governments can follow the example of the CPT on how they have dealt with the duration of detention in police custody. It was stated that the detention for a long period of time should be considered as an infringement of the right to liberty under article 9 (3) of the ICCPR¹²⁸ which provides that:

¹²⁸ Morgan R and Evans M (See n above)152

anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power.

Equally, the government should ensure that the speedy trials of suspects are facilitated to avoid long detention of remand prisoners who are disabled in the prisons. This will help to reduce the prison population so that the available facilities will be used for a lower number of people and congestion avoided.

5.3 Proposals for reforms

5.3.1 Legislative reforms

The two governments must bring their national legislations in conformity with the international norms and standards set out in the relevant treaties on the treatment of prisoners and disabled persons. Old regulations such as the PR of 1958 which were enacted at the time when respect for human rights was a subject of international consideration must be amended to incorporate the provisions of international treaties.

Before the implementation of new legislations, the governments of Ghana and Nigeria should adopt administrative practices that fully implement the government responsibilities under the various human rights treaties on the rights of disabled persons and rights of prisoners. Such practices will help to protect prisoners and detainees with disabilities from discrimination, torture and all other acts that affect their dignity in the prisons.

NGOs and Civil organisations working in the field of prison reform may also be involved in drafting the bill on the protection of the rights of disabled prisoners and detainees and lobbying for its adoption by the parliament. The Prison Services in both countries should also be monitored strictly to ensure that the legislations are enforced.

5.3.2 Specific reforms

The training curriculum of prison officials should include human rights. This will encourage the officials to appreciate the necessity for the respect of the rights of prisoners especially the disabled ones and this will have a far-reaching effect on the attitude of the officials towards the prisoners.

The governments of the countries should invent a procedure whereby periodic reports of the Prison Service would be scrutinized and violations of rights criticized. The procedure may follow the state reporting procedure at the Commission and the parliament or the NHRCs may act like the Commission. This type of scrutiny will serve two purposes, firstly, it will serve as a check on the actions of the Prison Service with regard to violations of rights, especially of the disabled prisoners and detainees and secondly it will help to check corrupt practices in prisons generally.

The NHRCs should also be given express mandate to protect the rights of prisoners particularly the disabled and to conduct investigations into violations of rights by the Prison Services. This mandate will ensure that special attention is focused on disabled prisoners and detainees so that their right to dignity is respected.

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H. Interviews

i) The following officials of the Nigerian Prison Service, were interviewed

- The Deputy Controller of prisons the Oyo state prison headquarters was interviewed on 15 September 2004.
- Mr. Akinpelu A.O: the personal assistance to the Assistant Controller of prisons of the Ikoyi prison interviewed on 13 September 2004.
- The Assistant Superintendent of Prisons at the Ikoyi Prison. Was interviewed on 13 September 2004
- Welfare Officer at the Oyo State Prison Headquarters in Nigeria was interviewed on 15 September 2004.

ii) The following officials of the Ghana Prison Service, were interviewed

- Name withheld but gave is post as the 2nd in Charge at the prison at the Nsawam Prison. He was interviewed on 23 September 2004.
- The Assistant Superintendent of Prisons at the Nsawam Prison was interviewed on 20 October 2004.
- The Deputy Prison Director stated that at the James Fort who was interviewed on 24 September 2004.

iii) The following prisoners/ prisoner relation were interviewed

- Grace Obi: a relation of a mentally disabled detainee who was met and interviewed on the premises of the Ikoyi prison in Lagos on 13 September 2004.
- Johnson: a mentally disabled prisoner at the Agodi prison who was interviewed on 15 September 2004.
- Richard Mensah: remand prisoner awaiting trial for the fraud interview on 22 September 2004.

Appendix

1.0 Report on Questionnaires administered

1.1 Methodology:

A letter of permission was issued to me by the Ghana Prison Service headquarters in Accra on 12 September 2004. This letter allowed me to conduct interviews with prisoners and prison officials in the Medium Security Prison (male) in Nsawam prison and the James Fort Male prison both in Greater Accra region. In Nigeria an oral permission was given by the Deputy Controller General of Prisons at the Oyo state prison Headquarters to enable me administer questionnaires to and conduct interviews with the prison officials.

On 13 September 2004, a visit was paid by me to the Ikoyi prison in Lagos state and the Agodi prison in Oyo state of Nigeria on 15 September 2004. I also visited the Medium Security Prison (male) in Nsawam in Ghana on 23 September 2004, while the James Fort Male prison in Greater Accra region was visited on 24 September 2004.

During these visits, a total number of 40 questionnaires were administered to prison officials working at the prisons and the analyses are below.

1.2 Analyses of questionnaires administered to prison officials in Nigeria and Ghana.

*Disability involves both mental and physical disability

Questions	Result
1. Name and situation of the prison?	The names of the prisons are: Ikoyi prison in Lagos state } Nigeria Agodi prison in Oyo state} Medium Security Prison (male) Nsawam} Ghana James Fort Male prison}
2. Post of the prison Official?	Their posts varied from Deputy Superintendent of Prisons to Sergeant.
3. Number of years spent in present posting?	The have all spent between 6 months and 24 years.
4. How many disabled prisoners have you	36 out of 40 officials have dealt with less than

dealt with in the past two years?	fifty while 4 have dealt with none at all.
5. What is the age categorization of the disabled prisoners?	All disabled prisoners are adults between 20 and 60 years old
6. Is there any method of separation of mentally disabled prisoners from the able ones?	All the questionnaires answered in the affirmative
7. If yes what method of separation is used?	25 said they are kept in solitary cells, or separate cells while 15 said no method of separation is used.
8. Is there any special attention given to the mentally disabled prisoners?	35 of the officials answered in the affirmative while 5 answered negative.
9. If yes, what sort of attention is given?	All answered some sort of medical attention while
10. Is there any provision in place for the physically disabled prisoners?	29 revealed no specific provisions are in place While 11 revealed that there are provisions in place.
11. If yes, what provisions are in place?	All 11 answered medical provisions. This also revealed that the supposed provisions are the care given to them by the prison officials such as provision of drugs, food, clothes and not giving them difficult manual labour.
12. Presently, how many mentally disabled prisoners are in the prisons?	In the Ikoyi prison, there are less than10, Agodi prison there are less than10, Nsawam Prison there are below 50 but more than 20, James fort prison there are less than10
13. Do you agree that the government should take steps in improving the conditions of detention of the disabled prisoners?	All answered in the affirmative
14. Do you agree that there is discrimination among the able and disabled prisoners?	18 answered in the affirmative while 22 believe that there is no discrimination
15. Does the prison service have any policy on the treatment of disabled prisoners?	12 answered in the affirmative and out of the 28 that answered negative, 15 are Ghana prison officials while 13 are Nigerian Prison

	officials
16. Do you agree that the treatment of disabled prisoners does not respect their dignity?	32 answered in the affirmative while 12 gave negative answers.
17. Do you agree that this prison has the necessary facilities to sustain disabled prisoners?	36 answered in the affirmative while 4 gave negative answers.
18. Would you like to receive any news letter or information about this research?	8 gave negative answers while 32 answered in the affirmative.
19. What facilities should be made available in the prisons to enable disabled prisoners cope with prison conditions?	Various facilities such as: Personal and medical facilities Structural and infrastructural amendments Special prisons with well trained staff to take care of the mentally ill Adequate drugs Regular visits by the medical practitioners Recreation equipments e.t.c.
20. What changes do you propose in the prisons bearing in mind the disabled prisoners?	28 mentioned adequate funding from the government training of officials to be able to deal with the disabled prisoners Separate prisons for the disabled e.t.c.

2.0 Report on interviews conducted

2.1 Methodology:

Oral interviews were conducted randomly with the prison officials during the visits. The senior officials were the main target but this was not achieved due to their tight schedule so in all about three prison officials two senior and one junior were eventually interviewed in each of the prisons. Most of them withheld their names but supplied adequate information on disabled prisoners' welfare.

Unlike the Ghana Prison Service, no express permission was granted to me to interview the prisoners in Nigeria and it was a difficult task to accomplish. The Nigerian prison officials were especially secretive and they claimed this is because the prison service is a security institution. Disabled prisoners were also randomly interviewed. There were very few physically disabled prisoners at the prisons and the mentally disabled were the most readily available. Due to the difficulty encountered in interviewing the disabled prisoners in Lagos, a relation of the prisoner who was on a visit at the prison was interviewed.

Below is the list of questions asked during the interviews:

2.2 Interviews conducted with prisoners

- I. What form of disability do you have?
- II. What facilities are in place for the welfare of disabled prisoners in this prison?
- III. Is there discrimination against you?
- IV. What factors are in place for the comfort of the disabled
- V. How do you feel as a disabled person in this prison?
- VI. Do you feel equal to the other prisoners in dignity?
- VII. Why do you think that your dignity is affected in this prison? Is it because you are a prisoner or because you are disabled?
- VIII. What is the attitude of the prison officials towards you as a disabled person?
- IX. What is the attitude of the other prisoners towards you disabled prisoners? Are they willing to help you?

2.3 Interviews conducted with prison officials

- I. Are you aware of the provisions of the SMR or any other human rights instrument on the treatment of prisoners?
- II. What do you think the government can do to alleviate the sufferings of the disabled prisoners?
- III. Do you think that the policies and local legislation for the treatment of disabled prisoners are adequate in dealing with their problems?
- IV. Is there any training material used in the training of Prison officials into which the SMR has been incorporated?
- V. What are the prison officials doing to reduce the discrimination among the able and disabled prisoners?

- VI. What help do the prison officials render to the disabled prisoners when the facilities are inappropriate?
- VII. What factors do you suggest to be taken into consideration when policies are being formulated with regard to disabled prisoners?

2.4 Interviews conducted with relations of prisoners

- I. Can you tell me who your relation is?
- II. What form of disability does your relation have?
- III. Does your relation feel equal to the other prisoners in dignity?
- IV. Why do you think that your relation's dignity is affected in this prison? Is it because he or she is a prisoner or because you are disabled?
- V. Do you think there is discrimination against your relation in the prison?
- VI. What are hardships do you think your relation is going through as a disabled person in the prison?
- VII. What do you think can be done to help prisoners live with dignity even in the prison?