

A PRISONER'S RIGHT?

The legal case for rehabilitation

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This article examines the rights of South African prisoners to rehabilitation in light of the entitlement to rehabilitation contained in the Correctional Services Act 111 of 1998 and the White Paper on Corrections, and thus enshrined in statute. The author contends that prison conditions play a significant role in the failure of the South African government to implement successful rehabilitative programmes. The article considers the potential recourse available to South African prisoners to judicially enforce the South African government's obligation with regard to effective rehabilitation programmes.

This article will argue that while there is no clear, identified right to rehabilitation for a prisoner contained in either the Bill of Rights or statute, the right does exist in some form and can be enforced by individual prisoners in a court.

In order to make this argument it is necessary to investigate what the meaning and nature of a 'right' is and what consequences accrue thereto. Thereafter, the article will seek to show that in light of the purpose of imprisonment in South Africa and the language used in the relevant legislation, there is a duty on the state to provide rehabilitation to prisoners, and hence, prisoners have a right to force the state to comply with such a duty.

The article will also argue that rehabilitation ought to be recognised as a right in order to give full and proper effect to other fundamental rights enshrined in the Constitution of South Africa, such as the right to freedom and security of the person and the right not to be treated or punished in a cruel, inhuman or degrading way.

The article concludes that in light of the purpose and importance of rehabilitation in the correctional system, as well as for furthering other rights, a right to rehabilitation for prisoners does exist in South Africa, and can be enforceable in a court of law.

THE MEANING OF A 'RIGHT'

A right can be defined as something that is due to a person by just claim, legal guarantee or moral principle; a power, privilege, or immunity secured to a person by law; or as a recognised and protected interest, the violation of which is wrong.¹

Rights can also be explained as correlative to duties. Thus, where there is no duty, there can be no right.² However, the converse is not true, as duties may exist without corresponding rights.³

When judging whether someone has an enforceable entitlement, the important question is *where* such entitlement originates. Denise Meyersen defines legal rights as 'those rights enforceable through the courts, which are granted to us by statute, common law and constitutional provisions'.⁴

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A vital characteristic of a right is therefore that it can be enforced through the courts. This is in keeping with the maxim *ubi ius ubi remedium* – where there is a right, there is a remedy. This maxim implies the existence of an authority with the power to grant a remedy if that rule is infringed.⁵

Considering the above discussion, it appears therefore that we can extract the essential characteristics of the nature of a right. It is an *entitlement* with a *corresponding duty* that finds its *authority in a source of law* and can be *judicially enforced*.

REHABILITATION⁶ IN A SOUTH AFRICAN CONTEXT

A primary purpose of the correctional system in South Africa, as articulated by the Correctional Services Act, is to promote *‘the social responsibility and human development of all prisoners and persons subject to community corrections’*.⁷ Further, the purpose of imprisonment itself declared by the Act is to enable the prisoner to lead a socially responsible and crime-free life in the future.⁸

However, while the Correctional Services Act claims that rehabilitation is one of its primary aims, it makes no attempt to define the concept. It has been astutely pointed out that the concept of rehabilitation is easier to describe than to define.⁹ For this reason this article focuses on the description provided by the Department of Correctional Services itself. In the 2005 White Paper on Corrections in South Africa,¹⁰ rehabilitation is described as the result of a process that combines the correction of offending behaviour with human development and the promotion of social responsibility and values.¹¹ Further, it states that rehabilitation should not only be viewed as a crime prevention strategy but as a holistic phenomenon¹² achieved through interventions to change attitudes, behaviour and social circumstances.¹³ Indeed, the mission statement of the department involves placing rehabilitation at the centre of all departmental activities.¹⁴

While the term ‘rehabilitation’ is used in South Africa and many other jurisdictions, Germany prefers the term ‘resocialisation,’ which acknowledges that the aim of rehabilitation is not to *cure* the offender, but to endeavour to restore an offender’s relationship with society so as to prevent future crimes being committed.¹⁵ The focus is therefore on the reintegration of the offender into society as a socially responsible citizen. Given the explanation of rehabilitation and the kinds of programmes identified by the White Paper, which focuses on education and the acquiring of skills,¹⁶ it appears as though South Africa’s conception of rehabilitation is similar to that of the German resocialisation ideal.¹⁷

In a South African context, the socio-economic circumstances of offenders entering the prison system cannot be ignored, as some prisoners will not necessarily have had access to opportunities for skills development (whether social or educational).¹⁸ Hoffman proposes that divergent socio-political sentiments, originating from a pre-1994 context, underlie the high crime and recidivist rates in South Africa.¹⁹ One of the aims of rehabilitation is to reintegrate a prisoner back into society, with the hope that crime will be avoided in the future. But the kind of society into which a prisoner will be ‘reintegrated’ is often the environment from which crime takes life.²⁰

Rehabilitative programmes thus ought to equip offenders with hard skills, life skills and opportunities that they might never have been able to access on their own. Offenders ought to be able to return to their families and communities, not merely with new resolve to avoid crime, but also with the necessary tools and expertise to begin afresh.

The White Paper describes rehabilitation as the true essence of deterrence, as it is rehabilitation and not punishment that breaks the cycle of crime.²¹ Thus, as deterrence and rehabilitation are both stated aims of imprisonment, by rehabilitating offenders, the department would give effect to both these ideals. Indeed, it has also been argued that rehabilitation is the only justification of criminal sanctioning that obligates

the state to care for an offender's long-term welfare.²²

It can be argued that very few rehabilitative programmes can be shown to reduce re-offending. It is also acknowledged that only limited information about rehabilitation and its successes exists, particularly in an African context.²³ The White Paper itself acknowledges that there are no reliable data in South Africa on recidivism.²⁴ Until there are constructive and properly resourced programmes that are available to all prisoners, we cannot know the true value that rehabilitation can play in our prisons.

The article will now turn to whether prisoners are endowed with the *right* to be rehabilitated and to demand that the state discharge the duty to rehabilitate.

REHABILITATION AS A FREE-STANDING RIGHT

It is evident that rehabilitation is viewed as one of the principal aims and functions of the correctional system in South Africa, and as one of the aims of imprisonment. The right to rehabilitation is consistent with the drive towards the full restoration of the civil and political rights of citizenship after release.²⁵ In this regard, the Department of Correctional Services (DCS) has the responsibility to ensure that offenders gain market-related skills,²⁶ so as to enable offenders to take their place in society, to be gainfully employed and become economically successful citizens.

The literal meaning of the words used in the White Paper appears to entrench rehabilitative aims as an obligation of the Department of Correctional Services.²⁷ In the language of rights, such obligation creates a duty on the state to provide for rehabilitation of prisoners in its care. The department must make a systematic effort to ensure the rehabilitation of offenders,²⁸ and to provide programmes for offenders to address offending behaviour and to promote social responsibility, lifestyle choices and ensure the future employability of the offender.²⁹

It is the view of this author that the significance and importance placed on rehabilitation as an ideal would be undone if it were not considered that prisoners have a right to be rehabilitated. Not only would individual prisoners be left without recourse to rehabilitation if they had no opportunity to participate in an already established programme at their particular detention centre,³⁰ but one of the most appropriate ways of holding the state accountable to its obligation to rehabilitate offenders in its care, that is, by way of enforcement of a right, would not be possible.

The remaining question then, is whether this right is enforceable and justiciable in a court of law.

There are numerous rights that are considered non-justiciable across many jurisdictions, most particularly socio-economic rights. However, uniquely in South Africa, the Constitutional Court has held on more than one occasion that socio-economic rights are justiciable and has been willing to fashion creative remedies to force the state to comply with its obligation to provide adequate housing and health care.³¹ There is therefore no reason why a court in South Africa should be unwilling to allow a prisoner to claim that his or her right to rehabilitative programmes is not being upheld, and to grant an appropriate remedy, forcing the Department of Correctional Services to comply with its obligation.³²

Germany has recognised prisoners' rights to resocialisation,³³ which provides courts with a substantive basis upon which to explore the nature of the prison regime and the power to force the state to implement policies within prisons.³⁴ If, as argued in this article, there is a recognised right to rehabilitation in South Africa, then individual prisoners ought to be able to have this right enforced in court, as it is the most appropriate and successful means by which prisoners can demand that the right is upheld.

This article therefore argues that the essential characteristics of a right are fulfilled: there is a duty on the state to rehabilitate all prisoners,

which gives rise to an entitlement to be rehabilitated; this duty is enshrined in legislation and is the cornerstone of the Correctional Services framework; and the state can be held accountable to this duty in a court of law. Thus, it is argued that in South Africa prisoners enjoy a recognisable, free-standing, enforceable right to rehabilitation.

THE RIGHT TO REHABILITATION AS A NECESSITY FOR OTHER RIGHTS

Whether the right to rehabilitation exists can also be argued for via the line of reasoning that it is necessary to recognise a right to rehabilitation in order to give full and proper effect to other entrenched, constitutional rights. There are various rights that are relevant in such an inquiry.³⁵ This article considers the rights to freedom and security of the person as provided for in section 12 of the South African Constitution, and the right to human conditions of detention provided for in section 35 of the Constitution.

The right to freedom and security of the person

Under section 12(1)(e) of the Constitution, all citizens have the right not to be treated or punished in a cruel, inhuman or degrading way.³⁶ Since incarceration involves state control over prisoners in its care, and rehabilitation relates to the conditions under which an offender is incarcerated rather than the actual sentence of a term of imprisonment, the discussion of a right to rehabilitation arises in the realm of the manner of the ‘treatment’.

The right to dignity is at the heart of the right not to be treated or punished in a cruel inhuman or degrading way.³⁷ Human dignity is a foundational value of the South African Constitution, and the right to dignity is also entrenched in section 10 as a recognised, free-standing right in the Bill of Rights.³⁸ Section 12(1)(e) recognises that certain forms of treatment can diminish the dignity or humanity of the person subjected to such treatment.³⁹

In *S v Dodo*,⁴⁰ the Constitutional Court held that in deciding whether treatment or punishment is cruel, inhuman or degrading, the impairment of human dignity must be involved in such determination.⁴¹ However, each of the terms *cruel*, *inhuman* or *degrading* means something very different, and only one of them need be fulfilled for section 12(1)(e) to be infringed. The concept that is best suited for the purposes of this discussion is *degrading* treatment.⁴² Treatment is considered degrading if it causes ‘feelings of fear, anguish and inferiority capable of humiliating and debasing [the victims] and possibly breaking their physical or moral resistance.’⁴³ A finding of degradation could turn on the manner and method of punishment, or its physical and mental effects.⁴⁴

A sentence of imprisonment necessarily involves various infringements of a prisoner’s dignity and freedom. The reality of prison life by nature entails constrained freedom of movement, communal same-sex living, strict time-frames, reduced ability to work and socialise and restricted opportunities to exercise, to mention a few. In a South African context, prison life also involves fear of gang violence and overcrowded cells.⁴⁵ A term of imprisonment without the opportunity for a prisoner to access rehabilitative programmes is likely to be a demoralising and dehumanising experience, which may result in treatment that is degrading.

The failure to give effect to the duty on the state to rehabilitate prisoners denies a prisoner the right to freedom from degrading treatment and therefore also the right to dignity.⁴⁶ It is, therefore, necessary to recognise a right to rehabilitation in order for section 12(1)(e) to be given full and proper effect.

The right to humane conditions of detention

In terms of section 35(2)(e) of the Constitution, every detained person is granted the constitutional right to conditions of detention that are consistent with human dignity.⁴⁷

Courts have rejected the argument by the state that it owed no higher duty to provide medical care to

prisoners than that available at state expense to the general public.⁴⁸ The Constitutional Court in *Van Biljon*⁴⁹ held that section 35(2)(e) provided more extensive positive rights for detainees than for the general population.⁵⁰ This is due to the higher duty of care that the state owes to persons in its custody because of the uniquely close relationship that prisoners share with the state,⁵¹ and, unlike free citizens, prisoners have no access to other resources to gain access to medical treatment.⁵²

In the case of *Rossouw v Sachs*,⁵³ the Appellate Division held that since the purpose of detention in that particular case was interrogation, by allowing the detainee reading material he would be less inclined to cooperate, as the tedium of imprisonment would be lessened. However, it has been argued that the reasons for detention should not be used to create discomfort on the part of detainees.⁵⁴ The argument is even stronger in the context at hand, since a major rationale for imprisonment is to rehabilitate prisoners. Reading and writing materials are important means of securing the successful rehabilitation of offenders. Thus, in acknowledging the recognition of a right to rehabilitation, prisoners would have access to reading and writing materials, which would go some way towards ensuring humane conditions of detention.⁵⁵

In the case of *Strydom v Minister of Correctional Services*,⁵⁶ the High Court (Witwatersrand Local Division), in deliberating whether the right to access to electricity was required in order for the conditions of detention to be humane and consistent with human dignity, held that the denial of access to electricity could materially affect prisoners' prospects of rehabilitation and result in prisoners being 'treated and punished in a cruel or degrading manner'.⁵⁷

This argument leads into the murky area of general conditions of imprisonment that are not consistent with human dignity,⁵⁸ and not conducive to rehabilitation. It has been shown that overcrowding and hygiene conditions in South African prisons are far below the international standards, and prisons are under-

staffed and lack the capacity of officials such as social workers and educational specialists, who can effectively implement rehabilitative programmes.⁵⁹ Rehabilitation cannot take place in such a context without first providing prisoners with conditions that are consistent with human dignity.⁶⁰ This argument recognises the link between the right to humane conditions of imprisonment, which is a constitutionally enshrined right, and rehabilitation, which, it is argued, is elevated to a *right* status. Thus the right to rehabilitation cannot be denied because general conditions of detention leave much to be desired. In fact, a right to rehabilitation ought to be recognised because it is a means of creating and ensuring the conditions of detention that can be called 'humane'. The corollary is also true: that in order for rehabilitative programmes to be effected successfully, prisons need to provide an enabling environment for rehabilitative interventions.⁶¹

The right to conditions consistent with human dignity must therefore be interpreted generously in light of the special duty of care owed by the state to prisoners. Furthermore, as argued earlier in this article, the state has created the particular duty on itself to provide rehabilitative programmes for prisoners in its custody. By recognising a right to rehabilitation, many other conditions of detention will be catered for, such as access to reading and writing materials, access to education and access to electricity. It could also be argued that when courts have emphasised the importance of these benefits in light of their role in rehabilitation, the right to rehabilitation is implicitly recognised as essential to ensure humane conditions of detention.

It is likely that the main criticism that would be levelled at recognising rehabilitation as a right is related, but not restricted, to a separation of powers issue. The primary critic would in all probability be the state, and the core issue raised would be that the state does not have the resources or the capacity to be able to treat rehabilitation as a right that can be enforced by individual prisoners.

In the case of *B v Minister of Correctional Services*,⁶² the Constitutional Court held that although the resources of the state were important

to consider, the state could not use a defence of non-affordability to deny the applicant's assertion of the 'right to adequate medical treatment' once the content of that right had been established.⁶³ Similarly, I would argue, it is up to the state to raise a lack of resource argument before a court, but the possibility of a lack of resources in a particular case cannot outweigh the necessity of affording prisoners the general opportunity to demand that the state discharge its self-appointed duty to rehabilitate.

CONCLUSION

This article has shown that access to rehabilitation, through educational and skills development programmes, is necessary to improve a prisoner's chances of a successful future out of prison. It is clear that rehabilitation is acknowledged as a vital aim for the correctional system and a stated obligation on the state. The Correctional Services Act and the White Paper place a heavy duty on the Department of Correctional Services, because they regard rehabilitation as a right of prisoners and not as a luxury dependent on resources.⁶⁴ An unenforceable duty is no real duty at all. Without recognising that prisoners must be given the opportunity to hold the state accountable to its duty, prisoners are not afforded right of recourse.⁶⁵ It has been said that imprisonment without the opportunity of rehabilitation is inhumane and retrograde.⁶⁶ Prisoners should thus not be denied the right to demand rehabilitation.



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NOTES

1. Bryan A Garner et al., *Black's Law Dictionary*, 9th ed., USA: West Publishing Co., Thomson Business, 2004, 1436.
2. John Chipman Gray, *The Nature and Sources of the Law*, 2nd ed., Columbia University Press, 1921, 8.
3. Ibid.
4. Denise Meyersen, *Essential Jurisprudence*, New York: Routledge, Cavendish, 2006, 117.
5. Iain Currie and Johan de Waal, *The Bill of Rights Handbook*, 5th ed., Juta & Co Ltd, 2005, 23.
6. Amanda Dissel, Rehabilitation and reintegration in African prisons, <http://www.hsrcpress.ac.za> (accessed 15 August 2011), 156. Rehabilitation is a term broadly

accepted to refer to a planned intervention that aims to bring about change in the offender's attitude, personality and cognitive processes. Sandy Hoffman, Rehabilitation of Prisoners in a Transforming South Africa, Consolidating Transformation Conference 7-8 February 2005, <http://www.csvr.org.za/wits/confpaps/hoffman.htm> (accessed 15 August 2011), 7. A broad description of the kind of interventions envisioned include social relations, education and vocational skills and employment. Effective rehabilitation is a lifelong process that relies on individual commitment and socio-political and institutional recognition and support.

7. Section 2(c) of the Correctional Services Act 111 of 1998.
8. Section 36 of the Correctional Services Act 111 of 1998.
9. JD Mujuzi, The Prospect of Rehabilitation as a "Substantial and Compelling" Circumstance to Avoiding Life Imprisonment in South Africa: a Comment on *S v Nkomo*, *South African Journal of Criminal Justice* 21(1) (2008), 12.
10. Department of Correctional Services White Paper on Corrections in South Africa, 2005.
11. Ibid., paragraph 4.2.1.
12. Ibid, paragraph 4.2.2.
13. Ibid., paragraph 4.2.3.
14. Ibid., paragraph 4.3.2.
15. Liora Lazarus, *Contrasting Prisoners' Rights: A Comparative Examination of England and Germany*, Oxford University Press, 2004, 61.
16. White Paper on Corrections in South Africa 2005, paragraph 4.4.8.
17. Lazarus, *Contrasting Prisoners' Rights*, 193. The German 'constitutional resocialisation principle' determines the nature and purpose of the prison system and permissible limitations on a prisoner's negative rights.
18. Sandy Hoffman, Rehabilitation of Prisoners in a Transforming South Africa, 5. It is inconceivable that centuries of alienation expressed through the politico-legal devaluation of human life would be confined to political struggle without an impact on social violence.
19. Hoffman, Rehabilitation of Prisoners, 1.
20. Lukas Muntingh, Offender rehabilitation and reintegration: taking the White Paper on Corrections forward, *Civil Society Prison Reform Initiative Research Paper No. 10*, 2005, 26. It is essential to understand the type of community from which a prisoner is imprisoned and what the impact of their return might be, both on the prisoner and the community.
21. White Paper on Corrections in South Africa, 2005, paragraph 4.4.2.
22. Francis T Cullen and Karen E Gilbert, *Reaffirming Rehabilitation*, Anderson Publishing Co., 1982, 247.
23. Dissel, Rehabilitation and re-integration in African prisons, 155.
24. Muntingh, Offender rehabilitation and reintegration, 28.
25. Edgardo Rotman, Do Criminal Offenders have a right to Rehabilitation? *Journal of Criminal Law and Criminology* 77(4), 1986, 1027.

26. White Paper on Corrections in South Africa 2005, paragraph 4.4.8.
27. Section 2(c) of the Correctional Services Act 111 of 1998.
28. White Paper on Corrections in South Africa 2005, paragraph 4.2.5.
29. *Ibid.*, paragraph 4.4.6.
30. This paper does not assume that every prisoner who undergoes rehabilitative programmes will be rehabilitated. The decision not to re-offend lies solely with each individual prisoner. However, that fact does not detract from the entitlement of prisoners to at least have access to programmes geared towards rehabilitation.
31. *The Government of the Republic of South Africa and Others v Grootboom and Others* 2001 (1) SA 46 (CC); and *Minister of Health v Treatment Action Campaign* 2002 (5) SA 721 (CC).
32. I would argue further that the nature of a socio-economic right is somewhat different to the right to rehabilitation that I am proposing. The main criticism levelled at the justiciability of socio-economic rights is that it is an infringement of the Separation of Powers doctrine for a court to dictate to the state how its budget ought to be spent. In South Africa, it is accepted that there is no clear separation of powers, rather, the doctrine is aimed at providing a framework of checks and balances between the different branches of state. Further, since the duty on the state to rehabilitate is already contained in legislation and is said to be the cornerstone of the Correctional Service, it is clear that rehabilitation ought already to have a budgetary allocation by the department. Furthermore, in both the *Grootboom* and *TAC* case, the court did not allow the argument by the state that socio-economic rights ought not to be adjudicated upon by courts because of the impact it would have on policy and budget issues. The courts held that there are numerous other contexts which also have an impact on policy and budget but which are generally considered justiciable. Forcing the state to act in accordance with an obligation it has set out for itself in legislation and policy, is not an infringement of separation of powers, but is the safeguard that checks whether the duty is being properly discharged. If a court were to adjudicate on an issue pertaining to the right to rehabilitation, it would not bring into question a separation of powers problem, because the court will not be creating policy, only interpreting policy that has already been created by the executive. Adjudication in this regard does not exceed the role of the judiciary.
33. Lazarus, *Contrasting Prisoners' Rights*, 193. Prisoners are said to hold an economic and social right to have state resources aimed at the realisation of their resocialisation.
34. *Ibid.*
35. The right to dignity (section 10); the right to freedom and security of the person (section 12); the right to education (section 29); the right to humane conditions of detention (section 35).
36. S Woolman, T Roux, J Klaaren, A Stein, M Chaskalson & M. Bishop (eds), *Constitutional Law of South Africa*, 2nd ed., Juta & Co Ltd, 2009, Chapter 51, 64-65. While punishment refers to the form of treatment by an authority because of the transgression of some rule, treatment refers to the conditions associated with the implementation of a sentence. There must be some active state process involving an exercise of state control over the individual to constitute 'treatment'.
37. *S v Makwanyane* 1995 (3) SA 391 (CC) paragraph 111.
38. Currie and de Waal, *The Bill of Rights Handbook*, 275. This double entrenchment of dignity in the Constitution means that human dignity is not only an enforceable and justiciable right in South Africa, but it also informs the interpretation of other fundamental rights.
39. Woolman et al, *Constitutional Law of South Africa*, Chapter 51, 67.
40. *S v Dodo* 2001 (3) SA 382 (CC).
41. *Ibid.*, paragraph 35.
42. Woolman et al, *Constitutional Law of South Africa*, Chapter 51, 68. Cruel treatment refers to intentional conduct on the part of the perpetrator with disregard for the suffering of the victim. Inhuman treatment refers to treatment of others as if they were not human.
43. *Ireland v The United Kingdom* (1978) 2 EHRR 25 at paragraph 167.
44. Woolman et al, *Constitutional Law of South Africa*, Chapter 51, 69.
45. Department of Correctional Services Annual Report for the 2009/2010 Financial Year, 93-95.
46. Woolman et al, *Constitutional Law of South Africa*, Chapter 51, 67. It is a violation of a specific right that indicates a violation of dignity, and not the other way around.
47. Section 35(2)(e) of the Constitution of the Republic of South Africa, 1996.
48. *B v Minister of Correctional Services* 1997 (6) BCLR 789 (C); and *Van Biljon & Others v Minister of Correctional Services and Others* 1997 (4) SA 441 (C).
49. *Van Biljon & Others v Minister of Correctional Services and Others* 1997 (4) SA 441 (C).
50. *B v Minister of Correctional Services* 1997 (6) BCLR 789 (C), para 65.
51. *Ibid.*, paragraph 53.
52. *Ibid.*, paragraph 53 and *Van Biljon & Others v Minister of Correctional Services and Others* 1997 (4) SA 441 (C), paragraph 65.
53. *Rossouw v Sachs* 1964 (2) SA 551 (A).
54. Woolman et al, *Constitutional Law of South Africa*, Chapter 40, 50.
55. There is an overlap between this argument put forth for the right to humane conditions of detention and the right to education. Under section 29 of the Constitution, the state is obliged to provide basic education, and to provide access to further education where reasonably practicable. Many of the rehabilitative programmes outlined by the White Paper envisage educational programmes aimed at skills gain, further education and life skills. If these rehabilitative aims are not given proper effect, and are not considered a recognised and enforceable right, then the full and proper effect of section 29 will not be fulfilled.
56. *Strydom v Minister of Correctional Services* 1999 (3) BCLR 342 (W).
57. *Ibid.*, paragraph 141H-142A.

58. This is a controversial area because it involves issues of state resources and its failure to create humane conditions of incarceration.
59. C Cilliers and J Smit, Offender Rehabilitation in the South African Correctional System: Myth or Reality? *Acta Criminologica* (20), 2007, 84.
60. *Ibid.*, 86.
61. N Fine, Transforming Institutional Thinking: Through the Walls, Community Law Centre (UWC) Bellville, 1996, 6.
62. *B v Minister of Correctional Services* 1997 (6) BCLR 789 (C).
63. *Ibid.*, paragraph 49.
64. Muntingh, Offender rehabilitation and reintegration, 5.
65. Besides relying on internal prison mechanisms, the media and civil society are to hold the state accountable.
66. Lazarus, *Contrasting Prisoners' Rights*, 61.