

# **The Constitutional Rights of Prisoners within the South African Criminal Justice System**

Mr. Lebogang R. Morodi  
Department of Criminology  
University of South Africa

## **1 Introduction**

When a person commits criminal acts before he / she could be formally arrested is informed of his/her rights to remain silent, and to legal representation. From the law enforcement, the court and the correctional services where such as person is sentenced accorded rights to be treated with human dignity as contained in the Bill of Rights Chapter two.

According to Pelsler (2000:14) about 236 prisons were established in South Africa to shelter 100 384 inmates. In the beginning of April the prison population was at 172 271, meaning that , prisons population were more populated by 71,6%. The most advanced ground being increasing number of unsentenced or awaiting trial prisoners. Within a specific period the total number convicted prisoners escalated or increased by 17% or 15 726 and those still on trial went up by 164% or 39 699. The above projected statistics serves as an indication on how important it is to look at the rights of offenders from a broader perspective.

The concept 'prisonersrights' was not often spoken of in the past as prisoners under the oppressive apartheid system were subjected to gross violations of human rights such as, hard labour for both common and political prisoners. The then perceptions about prisoners were based not on rehabilitation but on punishment to offenders who have wronged the society and deserve to be objects of ill treatment.

The Human Rights Reports (1999:2) states that there has been excessive violations of human rights by the South Africa criminal justice has been a serious problem which has resulted in a number of mortalities of prisoners in state custody.

The Constitution of the Republic of South Africa Act 108 of 1996 as adopted on the 8th May '96 and amended on the 11th October 1996, is founded on the values of human dignity, the realization of justice, the promotion and advancement of human rights. Recognized as the supreme law of the country; Any law or conduct practiced contrary to it considered invalid as it strives for the achievement of certain obligations which should be attained at all costs. It is a commendable document which made not only special provision in the protection of those harmed by the acts of those kept in prison. It overlaps by accommodating and giving constitutional recognition of prisoners' rights. It perceives prisoners' as people constitute part of society also entitled to certain fundamental rights as legal entities even though they are in prison this is according to the Bill of Rights. Thus, S.A.'s constitution is acknowledged as the most forward thinking and progressive apparatus in the world and central to it is the Bill of Rights. It is not a vague and altruistic wish list of ideals and aspirations. It is the

groundwork of every society and should be utilized as a template of every human thought, word and deed. It is a user friendly instrument for the protection and observance of human rights including offenders in state institutions.

The Bill of Rights accommodates the constitutional rights of those considered offenders incarcerated in the state penal institutions. The state is morally obliged to adhere to such principles as failure on its part to comply, watchdog organizations such as the Human Rights Watch, Human Rights Commission (HRC) Lawyers for Human Rights (LHR) and South African Prisoners Organization for Human Rights (SAPOHR) are watching for any violations of prisoners rights.

Towards the end of 1998 Parliament passed legislation to restructure the prison service with the purpose of bringing prison law in line with the constitution of the Republic of South Africa. Some of the Correctional Services Act went into effect in February (1998), but sections regarding treatment of prisoners had not been implemented then.

In every society people subscribe to different schools of thought in the preservation of what is perceived as explicit distinction amongst things seen to be morally, politically, religiously and socially right from those regarded as wrong. Prisoners as convicted persons by the court of law kept in the correctional facilities are viewed differently by members of society they have offended against. Some see them as people who deserve to be punished not to be accorded or entitled to natural rights since they have misuse such rights whilst still outside prison walls. On the other hand, there are advocates of human rights for prisoners perceiving prisoners as human deserving to be treated fairly and justly within the context of human dignity and respect.

In a number of outreach programs to several correctional institutions around South Africa, Pretoria Central prison (Gauteng province), Baviaanspoort (Mpumalanga), Pietersburg-Polokwane Medium prison (Northern province) and Odi prison (North West province) the conditions under which prisons are operating and the conditions under which prisoners are kept. From personal observation conditions of South African prisons remain overcrowded and unhygienic for human development of prisoners. While interacting with prisoners questions ranging from the nature of the crime committed, the feeling towards their victims, any remorse and life upon prison sentence completion to their rights as prisoners. Responses received were of grievances such as being subject to ill treatment not only by prison guards but by fellow inmates.

Pertaining to what knowledge they have regarding their rights as inmates mostly cited not being informed of their rights as prisoners at the detention and admission centres and detention centres except only a prisoner's Code of Conduct which has been read in a language difficult to be understood as most are illiterate. The only time they become partially aware of their rights when inside the prison, hearing from other 'informed' prisoners. It remains difficult to accept or contest such statements without any concrete evidence to support allegations levelled against prison authorities. The article focuses on specific and fundamental rights of prisoners as

accorded by law through the constitution of the Republic of South Africa, 1996, Act 108 of 1996. Key terms used are briefly defined.

## **2 Definitions of terms**

### **2.1 Prison**

This term refers to as an institution whereby all wrongdoers awaiting trial and those found guilty are kept and locked up against their will for a specific period from a month up to life imprisonment as determined by the court of law Hornby (1974:664).

### **2.2 Prisoner**

This refers to a person kept or incarcerated for crime committed who is awaiting trial or who has been tried in a court of law and found guilty, sentenced to a particular period or for life. It is a neutral term used referring to both genders (males and females, young and adult, all race groups) as South African citizens or foreign nationals, Sykes (1982:818).

### **2.3 Human Rights**

Human rights refer to those rights that all people are or should be entitled to regardless of race, gender for example, right to fair trial in a court of law, education and access to medical care and religion. According to McLaughlin and Muncie (2000: 144-145) the concept human rights is very problematic to define as it means different things to different people. Historically, different nation states made declarations that codified certain aspects regarded to be fundamental human rights. It usually include civil and natural rights such as the right to life, family life. In addition, if citizens are accused of a criminal offense, such persons are entitled to a fair trial, be presumed innocent and if found guilty humane forms of sentence be imposed. In a nutshell, human rights act as a protection against the deed and the misuse of power of the state upon individuals.

### **2.4 Constitutional Rights**

This concept refers to the rights accorded to country's citizens individually or collectively as embodied and entrenched in the constitution of the country.

### **2.5 Prison sentence / punishment**

This indicates a decision of the court of law , especially (declaration of) allotted to individuals convicted in

criminal trial.

## **2.6 Criminal Justice System**

It refers to a collective term which integrates the police, the court and the correctional services as inseparable state components in the administration of justice.

### **3 Treatment of prisoners within the correctional system**

According to Palmer ( 1991:825) treatment of convicted persons to imprisonment regardless of the sentence duration or length, imply that the type of treatment prisoners get in prison must be in such a way that it creates in such prisoners the will for conformity ( law -abiding) and self supporting lives after their release. If the treatment of convicts remains within human rights context as intended the outcomes should be twofold, namely; The establishment of prisoners' self respect and the development of the sense of accountability and responsibility towards the broader society they harmed.

The purpose and justification of a prison penalty upon offenders as a mechanism polarizing prisoners freedom is a measure taken by the state as part of its moral obligation in protecting society against crime. And this end can only be realized, if the period of imprisonment is used in ensuring, that upon their release they return to the society not only willing but able to benefit from the above mentioned outcomes (law abiding and self supporting). According to Naser (1993:296) the treatment or handling of prisoners in various countries including South Africa has to meet the international standard followed by other states worldwide referred to as SMR or The Standard Minimum Rules. Compliance with the set rules by member states imply the interests and rights of prisoners are seriously looked at without prejudices.

### **4 The handling of prisoners complaints and requests as a right**

Prisoners are also given the right to be heard, meaning as inmates individually are afforded every opportunity to make daily requests, grievances and complaints to the prison authority. The head of the prison as stipulated in terms of the prison regulations shall see every inmate and probe any complaint received from any inmate. The head of every prison is obliged to submit any written requests, grievances or complaints which he personally is unable to dispose of, to the commanding officer for his personal attention. For the full realization of prisoners rights, especially, the right to be heard pertaining to the general treatment of prisoners by the prison staff, in state's institutions the role of the prison head is very pivotal. It seems the rights of prisoners are more protected than those of law abiding citizens as it does make fundamental difference when it comes to the manner in which they are being handled and treated in prisons forgetting the purpose of their prison sentence, of settling the score regarding the crime committed.

## **5 The mentally insane prisoners**

In its endeavour to the observance of human rights the Bill of Rights pay attention not only the capable citizens but it also ensures that even the rights of those who cannot account for own deeds on the grounds of psychological disturbances are protected.

Rubin (1973:585-86) states mental deficiency in prison has been experienced after conviction as most inmates are suffering definable mental disorder. Any illness if not properly treated gets worse if overlooked and in prison it is more likely to happen than outside. Psychoses are prevalent among prisoners than in the general population. In US correctional facilities for young adults, 2 to 4 per cent indicated an incipient or latent psychosis. Another 10 to 15 per cent are psychologically defective. The conclusion arrived at pertaining to the gathered statistics has been that from 15 per cent to 20 per cent of the prison population has a diagnosable emotional or mental problem such as personality disorder, neuroses and psychotic conditions to mention a few.

It has been the legal stance that not person can be condemned to prison if his/her mental capability remains questionable and such a person cannot stand trial, thus they are referred to as the state president's patients. But in situation where such an illness is identified while behind bars it is recommended that such prisoners be re referred for further psychiatric observation and assessment, as the correctional service cannot keep insane and psychologically disturbed or mentally unstable prisoners in the institution. Legally and constitutionally feasible arrangements to remove such persons to institutions where further treatment carried out. If insane and other mentally abnormal prisoners are detained and kept in prison without being removed to mental institutions, this in itself constitute a serious violation of prisoners rights as entitled by law. The removal or transfer of insane prisoners for further treatment heavily impacts on the correctional service budget which comes from the taxpayers money.

Convicted prisoners suffering from other psychological or mentally related problems are entitled to be referred to specialized institutions for psychiatric observation and further treatment under the supervision of medical management. It should also be noted that during the stay in a prison such prisoners are to be placed under the special supervision of a medical officer. In the penal institutions all prisoners in need of medical and psychiatric service are entitled to such services at the state's expense.

Any form of deprivation of such accorded rights to prisoners constitute gross violation of human rights and the department, especially, individuals can be criminally liable should it result in loss of human lives a charge of culpable homicide or negligence is likely to emerge. On the basis that if such mentally ill prisoners are not separated from other inmates renders an opportunity to be used by other inmates to further own interests at the expense of them such as perpetration of prison violence against the prison authorities.

The situation in which the mentally disturbed prisoners find themselves in is that of either being potential victims to fellow inmates or a menace to other inmates through acts of aggression.

The right to adequate medical care for prisoners is basic, the same as food and shelter are. The department of correctional service is morally obliged to carry out or fulfill prisoners rights to medical care. It assures that services such as physiological, psychological, and social well being as well as treatment for general illnesses are rendered of high quality being the same received by all people outside prison.

Some of the services ( medical care) as integral package of prisoners rights include the following;

- an immediate medical check-up by a state physician as soon a prisoner is committed to correctional institution
- emergency medical assistance and treatment available for 24 hours period.
- prisoners to have access to hospitals accredited, an issue which members of the conservative society are unhappy about as such hospitals are private and very costly. But for victims of such offenders their rights are not only ignored but disregarded.
- prison personnel are disallowed from inhibiting prisoners access to visit medical personnel or any interference with medical treatment. But to be part in helping them with any assistance to medical care. All medical records with full relevant information pertaining to prisoners medical examinations, results, and treatment are to be under the strict supervision of the medical officer or physician in charge, maintaining professional ethical code of conduct (Palmer 1991: 749).

## **6 Female prisoners rights**

The exist perception surrounding the term 'prisoner' is that it refers the male gender it is a general concept applicable to both genders convicted or awaiting trial. Prison also houses females who have committed crimes. It is an institution throughout history has accommodated females who have committed all forms of crimes ranging from petty acts (shop theft / lifting) to more serious crimes( murder/ robberies).

According to Oppler (1998:51) between the years 1996 and 1997 there has been a slight increase of females in South African prison. A number of such female offenders have their children with them and are being allowed to stay with their maternal figures up to the age of two years. It remains the responsibility of the correctional service to cater the needs of such children such as books, toys, food and clothing to mention just a few at the state's expense. It is cited that the environment is friendly and conducive for child development, but most of these young ones know nothing of life outside prison, this might have a negative impact in the long as children grow and develop. The right to family life to female prisoners is recognized and acknowledged by the Bill of Rights. While consideration is given to such prisoners rights , they are being realized at a costly exercised when taxpayers money has to be used.

According to Sowetan (10th August 2001:4) recently reported on a case involving two Heidelberg prison warders alleged to have illicit nights of passion with female prisoners. The probe into nocturnal acts had been completed as a full report as well as investigation's recommendations are to be submitted to Gauteng Correctional Service's Area Commissioner. They were caught red handed with awaiting trial women prisoners in the prison's administration offices, they were suspended on 25th July 2001. The article went on to state that should the prison warders in question found guilty the recommendations may comprise of different types of disciplinary mechanisms, which may range from further suspension, a warning or dismissal from work. The rights of awaiting trial prisoners in this instance have not only been contravened by the suspended prison warders, knowingly transgressed their professional ethic code of conduct. On the basis or the nature of prisoners predicament not knowing their constitutional rights perhaps a promise might have been made of freeing them from holdings as it is a common thing happening within the criminal justice components executing sexual favours in exchange for anything resulting in their release. It should be noted that irrespective of whatever forms of justification, taking full advantage of the helpless female prisoners with or without their consent within the correctional facility is a serious violation of human rights constitutionally and otherwise. If the case might have been brought to the attention of the correctional authority by women prisoners the charge qualifies sexual harassment and rape.

## **7 HIV/AIDS and other illnesses**

The prison population throughout the world has been exposed to dreadful diseases of incurable nature such as HIV/AIDS and other related illnesses like tuberculosis commonly known as TB for a number of reasons such as deprivation of conjugal rights and as a result because of overcrowding in prison cells predominately male. The prison conditions renders an opportunity for prisoners to practice sodomy towards their fellow inmates who have resumed the roles of 'wives' in return for protection against other inmates posing a serious threat to them.

According to Oppler (1998:51) sexual and racial discrimination within the correctional institution remain a known occurrence . It is indeed true that homosexuality among prisoners do take place in prisons as a means to explain reasons inmates' exercising control over other inmates 'like women'. By turning some men into sexual object that is 'women' these inmates use sexuality to degrade and dehumanize fellow prisoners. Homosexuality and the abuse of drugs are phenomena and have contributed or resulted in the escalation of HIV infection in prisons throughout the world.

The following are official statistics pertaining to prison HIV/AIDS in the world including South Africa;

\* In May 1996 in England and Wales prisons 8 inmates were identified to be HIV positive or to suffer from AIDS.

\* In US in 1995, 2,3 per cent of the entire prison population , infected or had AIDS, a total of approximately 24 200 individuals. In the very same year (1995), more than 1 000 inmates died of AIDS in the US state correctional facilities.

\* As far as South African prison population is concerned, there are nearly 400 inmates with HIV status and it is estimated the number is near 10 000. The response from the correctional authorities regarding the status of inmates known to be HIV positive be segregated/ separated, and to place such identified inmates in one prison. The action in itself constitute discrimination in terms health status, which the constitution strongly condemns as it is a serious violation of fundamental human rights in the eyes of the law.

The Minister of Correctional Services and prison authorities refused to make condoms available in prisons and the departmental health policy was then reviewed in 1996 which led to changes as contribution of condoms in prisons was given a go-ahead with the of preventing and controlling the spread of sexually transmitted diseases among inmates. In an attempt to minimize the escalating rate of HIV infection in prison, the South African government proposed mandatory blood test for prisoners and in the first two months of 1998 27 cases were reported. If such tests are to be an on-going process in order to implement such a policy it will cost the government approximately R7,5 million rand, implying that, taxpayers has to be used. It has been noted that most of those inmates who have contracted HIV in prison if not serving long term but short sentences will go back to their communities, as part of community reintegration, thus it was deem absolutely necessary that male prisoners should have free access to condoms while in prison as it was announced by New South Wales (Australia) minister of correctional services. Not all countries adhered to such a recommendation of condom distribution in prison such as the US, which have rejected to take this approach, have converted their prisons into breeding places of HIV and not only released prisoners are sentenced to death but their families members such as mothers and children run the risk of also being condemned as the become potential victims of contracting the incurable and dreadful diseases from their male partners resuming heterosexual roles. Prisoners within the ambit of the constitution have the right to free medical care and treatment at the expense of the state, failure to render such services constitute violation of human rights. It is very ironic to see prisoners want their constitutional rights to be recognized, whereas they do not respect the rights of fellow inmates for example treatment towards other prisoners as their 'wives', which at the end through acts of sodomy become infected with illnesses such as HIV/AIDS. There are other contravention of prisoners rights by fellow inmates, thus in order for prisoners rights to be respected and observed, prisoners themselves must respect the rights of other inmates.

## **7 Educational rights**

According to the Prison Administration (1969:44) the educational system prisoners undertake is the one integrated with that of the entire country with the purpose that upon their release they may go on to further their education without hardships. For the benefit of the psychological as well as physiological health of

prisoners cultural and recreational activities are being provided in prisons.

Prisoners throughout the world are accorded with an opportunity to further their education while serving their sentences as part of the department of correctional services in ensuring rehabilitation of offenders become achievable so as they fit well in their societies. Most prisoners emerge from designated background with little or no knowledge at all and undergo vocational training in various fields such as carpentry, bricklaying, candle manufacturing. It should be noted that not all prisoners fall under the above mentioned category, there are when or before their arrest belong to various fields of specialization or professions such teaching, lawyers, accountants, police officers, business people or respected leaders. Nelson Mandela qualified as a lawyer while in Robben Island prison through constitutional rights entitled to. Education as an essential tool in prison helps to prepare prisoners for life after prison for self supporting purposes and not to go back to crime.

## **8 Religious rights**

According to Oppler (1998:41) the increase in South Africa's prison population is a matter of enormous concern and an indication that it is a problem of continuous nature as prisons are overcrowded with offenders representing South Africa's demographic characteristics as well as other foreign nationals belonging to various religious background such as Zion Christian Church, African traditional churches, Islam, Buddhism, Hindu , Christianity and other creeds known to mankind. It is a well documented fact that even religious leaders find themselves behind bars for a variety of illicit acts committed, Boesak's recent imprisonment becomes a relevant example of a leader who served prison term for theft and embezzlement of money while heading the Foundation for Justice and Peace. As an inmate at Malmesbury became involved in various prison projects as a right to participate in the growth and development of other prisoners ( Waghied Misbach & Sapa, 24 May 2001:1).

Irrespective of race or political affiliation prisoners come from religious liberty remains cardinal aspect in terms of individual freedom and expression as contained in the constitution of the country. Convicted prisoners are entitled to exercise their religion freely without any prejudice or special attention being given to particular religion or on the basis of preferential treatment to specific creed, in other words all religions are to be seen as equal as no one is superior than others.

As it has been emphasized the nature of prison population composed of all people of diverse background and subscribing to different beliefs are entitled to religious rights such as to practice, wear religious medals, to correspond with religious leaders, to have free access to ministers, to hold religious services and the right to access religious literature; Christians using The Holy Bible whereas Muslims their teachings are contained in the holy Quran. In South African prisons holy bibles were the only available items than the Quran, since the inception and implementation of the Constitution equal religious recognition has been given to other religion such as Islam to be practised in prisons for Muslim and other prisoners.

As another form of rehabilitation most prisoners come out of prisons changed, converted to religion of their choice. The use of religion by the criminal justice plays and continue to play a fundamental role in the maintenance of prison discipline and order as inmates become more submissive to the authorities.

## **9 Torture and other cruel, inhuman, or degrading treatment or punishment**

According to Peters (1985:273) articles 5 of the Universal Declaration of Human Rights and article 7 of the International Convention on Civil and political rights, both categorically state that no person shall be subject to degrading forms of human ill treatment or punishment such as torture or any inhuman punishment. Prisoners are also humans to be treated in a manner that inflicting physical pain through beatings in state institutions shall be seen as a violation of fundamental rights.

The imposition of draconian, inhuman or degrading punishment which involve housing of inmates in a dark prison cell(s) as a mechanism for discipline or internal offenses committed constitute serious illicit act (crime) against humanity. Dark cells are non-existence today as resulted in most inmates kept in such cells suffered various forms of blindness.

The Bill of Rights prohibits torture and draconian, inhuman, or degrading forms of treatment and provides the right to be free from all forms of violence form either public or private sources; however, some members of the criminal justice system it is alleged to physically torturing, beatings and subjecting prisoners to all forms of prison ill treatment which in certain instances have led to the death of inmates , those awaiting trials or detainees and more importantly be refused medical attention or access to legal representatives. A number of reports state types of degrading forms of treatment prisoners were subjected to, female prisoners become vulnerable to degrading acts such as beatings, sexual harassment and rape inside the prison. Some of the happenings to be mentioned according to Isaacs et al (2000:71) the death of Steve Bantu Biko, who was killed in custody, which revealed the maltreatment of prisoners and triggered the emergence of human rights committees being the voice of people behind bars.

## **10 Other rights**

It should be stressed that the term prisoners rights has created more challenges and proved to be problematic to the criminal justice system in explicitly defining the concept in a more comprehensive manner. The rights accorded to prisoners are so many thus it can be cited that they are equivalent to the same enjoyed by law abiding citizens. Apart from the above mentioned rights prisoners entitled to there are other fundamental rights which also need to be highlighted.

Other prisoners' rights include the following;

### **10.1 Notification of illnesses or death**

Prisoners have rights to be informed about the death or illness of their family member while in prison. Even family of the prisoners have constitutional rights to be notified of the well being ( illness or death ) of their family members who are serving prison sentence.

### **10.2 Removal and transfer**

If a prisoner is to be removed or transferred to other institution has to be informed and notified and their families also should be informed. The removal of prisoners from one section to another such as for example, from juvenile section to medium or maximum sections perhaps on the basis of age qualification and the severity of the crime committed.

### **10.3 Legal representation and contact with the outside world**

From the time a person is accused of a specific crime he /she is informed of a right to legal representation if cannot afford any, the state will provide at its own expense. The same rights are still observed for prisoners at the taxpayers expense. According to Palmer (1991:104) an offender charged with an illicit act has a right to counsel and more importantly the right to be represented by a legal representative of his own. It is a right which cannot be denied constitutionally or otherwise by prison officials or whoever. They are also entitled to maintain contact with the outside environment such as non governmental organizations (Human Rights Commission and SAPOHR) pertaining to prison treatment and their rights as prisoners. The right to communicate with inmates in other institutions, with News Media.

### **10.4 Information to and grievances by inmates**

According to Prison Administration in S.A. (1969 :37) upon admission inmates are to be provided with written information regarding rules and regulations governing their treatment in a specific category, the legalized procedures of seeking information and making grievances, and all matters appropriate enabling inmates to comprehend both his/her rights as well as his/ her obligations so as to adapt to the life of the correctional institution. Provisions have been made for illiterate inmates who are in no position of understanding other languages, information is disseminated or conveyed in vernacular or mother tongue as the prison demographic constitute not only of South African citizens but also foreign nationals from countries such as Peru, Poland and Brasilia.

## **11 Summary**

The article looked at the Constitution of South Africa central to that has been the Bill of Rights as contained

in the supreme law of the country.

The work pays attention to central terms, the purpose of prison treatment. The constitutional rights of prisoners discussed as follows; as mentally insane, female inmates rights and the reported Heidelberg case, prisoners who are HIV/AIDS and related illnesses sufferers in South Africa as well as around the world, their educational , religious rights. Torture and other draconian types of treatment and punishment as condemned by the Bill of Rights. Also given attention has been other constitutional rights accorded to prisoners such as the rights of notification of death, removal and transfer, right to legal counsel and that of maintaining contact with the outside world, such as the human rights organizations concerned with treatment and well being of prisoners.

## **12 Conclusion**

The Constitution of R.S.A., Act 103 of 1996 has laid a firm foundation for the first time in the history of South Africa to project all citizens being equal before the law, offenders being entitled to the same rights as free citizens.

The South African criminal justice system, in particular, the correctional services, lost credibility and trust of its citizens while still under the oppressive system of government. The ill treatment of inmates which resulted in the death, disappearances and unaccounted atrocities inflicted in custody on political prisoners in S.A. prisons are one of the few reasons which contributed to the general public to lack trust in the criminal justice system, as a human rights remained highly ignored, disregarded and violated.

Respect for constitutional rights especially of prisoners remains a key factor towards treatment of inmates within the context human dignity. It should be stated that order for the rights of prisoners to be observed, it is upon prisoners to respect the rights of fellow inmates. Facilities in which inmates are housed should meet the international minimum standard as prescribed regarding to the treatment of offenders.

Correctional administrators are responsible for the welfare of the offenders committed to their charge and has a critical role to play in implementing the rights of offenders because in committing inmates to correctional institutions, the courts have assigned them the accountability for their care and welfare.

Corrections has moved its stance from a punitive system to one which recognizes that most sentenced to prison will return to the society, thus their treatment should be in such a way that it does not hamper personal growth and development for community reintegration and render an opportunity for further criminality. In terms of the Prisons Act, any member of the correctional services found guilty of inflicting any assault on prisoners may be charged or be discharged from the services of the department, this imply, there are rules guiding prison personnel regarding treatment of inmates assigned to them.

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