

SEXUAL PRACTICES IN AND OUTSIDE SOUTH AFRICAN PRISONS.

1.1 Introduction

Generally speaking, the issue of sexual practices in prisons is something well known, but little talked about. Reasons for this deafening silence vary. There are, I believe, mainly three groups of people with different responses regarding sexual activities in prison. These groups are by no means exhaustive. The three groups I will briefly discuss are: the naïve, the helpless and the judgemental.

1.1.1 The naïve.

The naïve do not believe that such activities exist. They include the ignorant, who do not know. Also included among these are those who do not believe that such acts do exist, because of their one-sided knowledge of humanity, or naïve belief in the goodness of mankind. The other possible reason for the perpetuation of this naivety and ignorance, could be the non-disclosure by the victims. It is a well-known fact that those who are beaten into submission into homosexual acts and emasculated, are ashamed to let family members know for fear of no longer being respected. Sometimes these people come to believe that whatever is told of prison sex is meant to scare people from acting unsociably. These people believe that stories of men being indecently assaulted in prison is not factual but an urban legend that acts as a deterrent for those who otherwise may be prone to lawlessness. They do not believe that in prison men engage in homosexual sex acts. They do not believe that men do have other men as sexual partners especially heterosexuals who are married and have wives and children in the free society where they lived before being imprisoned.



1.1.2 The helpless

There are those who know that there are men who force other men into homosexual acts in prison, but feel helpless. Some might have resigned themselves to accepting it as an inevitable reality. Some, having heard of such acts taking place, react with anger, but feel they have no recourse or means to rectify the situation as it is too big for them to handle. In most cases these will be friends or relatives of the 'victim' in prison. Some, when they get to know of this sexual behaviour from others, react with disbelief and ultimately helplessness. They feel they cannot get in there to sort these people out. Even if they were able to get into the prison, they realise the whole situation is beyond their powers. Throwing their hands in the air despairingly they ask; 'What can one do?'

1.1.3 The judgemental

There are still those who hear or have the knowledge that these acts do take place, but somehow wish that a particular prisoner or prisoners should go through a horrible sexual experience in prison. Their reaction is one of satisfaction that the victim when 'raped', or gang 'raped', got what he deserved. These would be friends and/ or relatives of someone who may have been a victim of the one now imprisoned and 'raped'. Even if there was a way to stop these horrible acts, people with this attitude would not lift a finger as they feel that they have been vindicated, or that justice is now being carried out.

People with this attitude feel that additional punishment of whatever kind is befitting for the incarcerated. This view of such people is also corroborated by Zupan as quoted by Coetzee saying: 'There is also a subliminal belief that criminals should suffer from incarceration more than just a loss of liberty. Subjection to inhumane jail conditions is viewed by some citizens as a meaningful component of the criminal's punishment' (Coetzee 2003:64-65). Our situation is, as Coetzee puts it, similar to "...a term in one of

Papua New Guinea languages, namely “Mokita”, literally meaning a truth that we all know but agree not to talk about” (Coetzee 2003:63). I further agree with him that there is an urgent need to break this “Mokita” regarding these unethical sexual practices in South African prisons.

1.1.4 Incidences of sexual practices in prisons outside South Africa

The reality of prison sexual practices can be gleaned from the research literature. Researchers in different disciplines allude to this reality. Nesper and Pretorius, researching AIDS in prisons, say the following regarding prisons outside South Africa; “Thus, even though homosexual activities among male inmates is a significant behaviour pattern, it does not seem to be the major risk factor for the spread of AIDS in overseas prisons” (Nesper and Pretorius 1993: 25). They continue to say the following in the same article

Although homosexual activity is a reality in prison, very little is known about homosexual people in prison. The only data available is the number of people sentenced for homosexual offences...One report (Prison Reform Trust 1988:3), based on observations of prison staff and ex-prisoners in England and Wales, estimates that 20 to 30 percent of prisoners on long term sentences may be involved in sexual activities of this kind at some time.

(Nesper and Pretorius 1993:27)

Their first statement cannot be taken as conclusive as other researchers report the opposite. Some actually see prison homosexuality as a real contributing factor to the rampant spread of AIDS, thus supporting the advocacy for the distribution of free condoms in prison. These researchers, however, agree with them that homosexual acts do take place and that it is known that it happens. Their second statement quoting the estimates of homosexual incidence at between 20 and 30 percent is also important to note. Their estimated percentage should not be taken as static nor conclusive. In other researches, as will be seen later, the estimated incidence percentage is high. We do not,

however, make a bone of contention out of it. What is important is the fact that homosexual acts do take place and is acknowledged.

Moving from England to America, the situation is corroborated with higher figures, also regarding the element of 'rape' (indecent assault). A representative of the 'Stop Prison Rape Campaign' and 'Prison Fellowship', an organisation started by Mr. Chuck Colson, said the following:

Prison 'rape' has become a hidden epidemic. Some experts estimate that between 300,000 to 600,000 men and boys are victimized every year. Dr. Cindy Struckman-Johnson, who did a comprehensive study of the Nebraska prison system, found that 22 percent of male inmates acknowledged being pressured or forced into sex acts.

A horrifying 25 percent of this group say they endured gang rapes, leading many inmates to enter into a "consensual" relationship with another inmate, who then protects him from far-worse gang rapes. Sexual assault and forced prostitution thus become a second form of punishment, especially for young offenders. These gruesome statistics are all too personal for me. I've visited inmates in over 600 prisons and talked with many rape victims; I've seen fresh blood on cell floors where an attack had just occurred.

Facts about prison rape: (www.pfm.org/AM/Template.cfm).

The above statement reveals among others, three important facts. Firstly, it tells us that the extent of homosexuality in these prisons is probably higher than the England figures. Although this is not overtly mentioned, it can be deduced from the quoted figures of 'raped' inmates. That is, if 22% of inmates per annum were raped, it goes without saying that there is even a greater number of homosexual liaisons. The above statement does not quote all the homosexual incidences. Their main concern is the number of inmates who are 'raped'. They have already put pressure on their government who responded by passing legislation to stop prison rape. We will revisit this aspect later when we look at possible models of reform. Secondly, the statement reveals to us that there are many inmates who suffer degradation by being 'raped' and exposed to the danger of being infected with all sorts of sexual diseases, including the possible spread of HIV/AIDS. We

will return to the aspect of prison 'rape' later. Thirdly, and more relevant to this chapter, is the affirmation that homosexuality does take place in prisons and, to add salt to the wound, that some inmates are forced into these sexual acts. The above is not an isolated case.

The following example from another prison in the United States of America, in California to be specific, is proof thereof: "Once he arrived, Barry was double celled with a nineteen year old inmate who beat and anally 'raped' (indecently assaulted) him during his first night in the admission unit. Barry's cellmate continued to assault him sexually during the two weeks they were housed together" (Wayne and Parker 1982:1). Barry continued to be harassed at the different sections of the prison. In concluding Barry's case Wayne and Parker said: "Already an inmate named 'Ben' has approached Barry to 'hook up' or develop a steady sexual relationship with him in exchange for protection, as have several other prisoners. Barry, who has five years left to serve on his sentence, felt he had no choice and accepted Ben's offer" (Wayne and Parker 1982:2). The conclusions of the researchers also apply to our situation: "Barry's experience is not unique. Incarceration creates a high risk of sexual victimization for males. It is a fact of prison life, disquieting to inmates, staff, and administration alike. Such exploitation, although recognized, is generally unacknowledged, incompletely misunderstood, and inadequately addressed" (Wayne and Parker 1982:3).

From the above quote we see another confirmation that homosexual acts do take place in prisons outside South Africa. The added negative dimension to the above case is that this was not a case of consensuality, but homosexual sex forced upon an unsuspecting young man who ended up with another male as a sex partner. Barry's situation and other young men like him, may lead us to say that prisons are one type among others of a breeding ground for homosexuals.

In *Aids in Prison*, a book edited by Thomas and Moerings, there is an article by M. Moerings regarding prisons in Netherlands. He refers to the fact that on the subject of curbing the spread of HIV/AIDS, the supply of condoms always comes up. Some of the officials they interviewed did not see the necessity of supplying condoms to inmates, because sex in prison is forbidden. Nevertheless there were some who thought that the supply of condoms was necessary because despite the prohibition, homosexual sex was practised in prison. The whole matter was confusing. If, on the one hand, the officials supplied condoms, they would be promoting and/or encouraging homosexual sex among inmates. This would mean that they contradict themselves, because sex in prison was prohibited. On the other hand, if officials refused to supply condoms to inmates, the reality of inmates having homosexual sex would manifest itself through the spread of HIV/AIDS. In this scenario, the officials would then be said to be uncaring and negligent or insensitive to the reality of prison life, thus failing in their duties. Some prisoners also maintained that condoms were not needed, as there was no sex in prison. My summation of the prisoners who said there was no sex in prison is that they might be naïve. If not naïve, they might be inmates who were in a cell where no homosexual sex was practised. Lastly it could be that these were sexagenarians who again were housed in cells where homosexual sex was not practised. In his research findings Moerings, however, says the following:

Nonetheless, four of the 25 inmates interviewed in a remand prison maintained that sexual contacts between prisoners occur; they had heard this from other people or had witnessed it themselves. Eleven respondents considered it possible or stated that they did not know, while 10 other inmates said that such contact does not occur.

(Thomas and Moerings 1994)

In analysing the above findings by Thomas and Moerings, I have the following observation to make. Firstly, what the researcher does not explain is whether all 25 respondents were in the same communal cell or not. There is no way that three different responses can

come from people sharing one cell. My summation therefore is that the respondents were sourced from different cells. It would, for example, make sense to say that the first four were together in a cell where homosexual sex did take place and that the last ten were also in the same cell where no homosexual sex took place. Secondly, when one looks at the percentages of respondents, the ten inmates who said homosexual sex does not occur is more than the four who say it does occur. This seemingly waters down the significance of the incidence of homosexual sex. Nevertheless, the four respondents do corroborate the fact that homosexual sex does take place behind the closed doors of Netherlands prison(s).

In the same book, Ralph Jurgens, researching prisons in Canada, reports that Canada also forbids sexual activity in their prisons. He further looks at the argument of the whether sexual activity breaks order or disorder in prison. He then says: “Sexual activity continues to take place in prisons, despite being banned, and there is no loss of order or control” (Thomas and Moerings 1994:110). The sexual contact that Jurgens is referring to is homosexual sex and this is further proof that sex between men in prison does happen.

Researching the same topic in prisons in Norway, Scherdin also made his contribution in the same book Thomas and Moerings edited saying: “The consequence is that the single cell nocturnal system limits the time and space available for co-operation around drug usage as well as homosexual practices and sex between men. These limitations also affect involuntary sexual activity such as male rape” (Scherdin 1994:9). Although Scherdin was looking at the effects of single cells, he further reveals the other side of forced homosexual sex, an aspect mainly affecting heterosexual males thus further inflicting all sorts of trauma and pain unnecessarily. Feest and Stover discuss educational and preventative measures for the spread of HIV/AIDS in prisons in Germany. They quote a leaflet distributed in a jail in Berlin saying: “Stop injecting, get off drugs! Stop tattooing and

piercing your earlobe! Stop anal sexual intercourse!’ But the demand for abstinence to prevent infection is unrealistic given the widespread drug use and homosexual activity in prison” (Thomas and Moerings 1994:26). Among the activities thus identified as high-risk behaviours for the spread of HIV and AIDS, homosexual sex in prison is never absent. In England and Wales the story is not different. In Gunn’s research he found that ten percent of the 453 ex-prisoners interviewed admitted that sex in prison did happen and that some of them did participate. His emphasis is that overcrowding in prisons increases the need for sexual contact. To proof his case, he cites the following: “Narcus Hellewell, who spent three years in prison, stated that during his imprisonment 58 men shared his cell at different times. Seventeen had high risk sex with him and some of those were heterosexuals” (Thomas and Moerings 1994:48-49).

In concluding this subsection on the incidence of sexual practices in prisons outside the borders of South Africa, I agree with what Jurgens in Thomas and Moering’s said when researching the situation in Canada. Although he stated the following in respect of Canada and USA, I believe the situation is the same the world over. He says: “Homosexual activity among male prison inmates, including situational homosexuality, is a significant, widely-recognized behaviour pattern in prisons” (Thomas and Moerings 1994: 116).

1.1.5 Incidences of sexual practices in prisons in South Africa

Having looked at some cases of the incidence of sexual practices in prisons outside South Africa, we now look at the situation in our prisons. I would like to look at the current correctional services, the de-racialising of correctional services, (not housing convicted inmates separately according to race) and the different patterns of sexual activities in South African correctional services.

1.1.5.1 Current correctional services

I believe it is at this stage where the current Department of Correctional Services need to be applauded for the improvements in our prisons. Previously, the emphasis in our prisons was on punishment alone. We are now seeing a slight move and change from incarceration solely for punishment to incarceration with a view to rehabilitate. This I believe is a step in the right direction ethically speaking. It is applaudable in that the intention is not only to punish, but also to acknowledge that there is a degree of goodness in man which at the time of whatever crime that may have been committed, either lay dormant or was momentarily overpowered by a stronger emotion. Giving a person an opportunity to look back and see where he/she went wrong and to resolve to never do the same mistake again is ethically acceptable. This should not be mistaken for a carte blanche acceptance of the 'innate goodness of man' in a liberal way. My approach is in line with evangelical practice of giving man a 'second' chance to repent of one's sins. This may be expressed in the good old Anglican confessional phraseology "forgive us for the wrong we have done and the good we have left undone". It is in line with Christ giving men and women a 'second' chance in His sayings, His 'Go and sin no more' approach.

1.1.5.2 De-racialising correctional services

The other milestone thus far achieved is that of de-racializing the prisons from housing inmates separately based on one's skin pigmentation. As late as 1989 when Dirk Van Zyl Smit did his research on the state of prisons and concentrating on Helderstroom, a prison housing 'coloured' prisoners only, he quoted Section 23 (1) of the Prisons Act that stated:

- (b) as far as possible, white and non-white prisoners shall be detained in separate parts thereof and in such manner as to prevent white and non-white prisoners from being within view of each other; and
- (c) wherever practicable, non-white prisoners of different races shall be separated

(Whitefield 1991:74).

This aspect does not affect inmates only but officials as well. Black and White officials are now given equal treatment whereas in the past they were not. Getting rid of this clause and stopping to segregate prisoners on colour bases, does not by any means mean that they have arrived. There is a lot of work that needs to be done to get our correctional services to be on par with international standards. The attendance by Mr M. Khoza, deputy Commissioner Correctional Services, Mr. J. Kollapen, National Director for Lawyers for Human Rights and Ms. S. Solomon, branch Director of NICRO, of the Seminar on Prison Conditions in Africa held 19-21 September 1996 in Kampala (Prison Conditions in Africa: 1997:134), was a further feather in the cap for South Africa's representatives. This shows that the department of Correctional Services would like to keep abreast of affairs and hopefully improve. This must be seen in the light that prior to 1994, South Africa and the department of prisons then, was isolated and hardly participated in any of the common regional issues. Thus this step is to be appreciated and the department applauded.

1.1.5.3 Over-crowded prisons

As cited by Gunn above, one of the problems, if not the chief problem, that causes prisoners to behave 'homosexually' is that of over-crowding. Other so-called first world or developed countries also fall short of the required standards in this regard. In South Africa the problem of overcrowded prisons/correctional services is an undeniable reality. This is not a result of the new Democratic Dispensation as some may want to believe. This problem was in existence during the apartheid government, was inherited by the current democratically elected government and continues to be so, despite the improvements mentioned above. As Van Zyl Smit researched Helderstroom, he reported that: "The occupancy rate on 09 August could therefore not be regarded as abnormal. On that day the medium and maximum prisons were overcrowded by 72 and 86 per cent respectively"

(Whitefield 1991:74-75). Human beings are the same the world over, and our men in South Africa are not different to any race in the world. I believe that overcrowding also has a negative influence on the inmates in our prisons/correctional services. It is ethically unacceptable to house inmates and treat them like animals. All human beings need privacy, and communal living space. People need to work for self-expression, to be creative, as one chooses. These things inmates do not have the liberty to exercise even if there is no law against them. Not only are inmates denied their right to living space, but also limited freedoms in different ways (as will be seen later when dealing with factors contributing to unethical sexual practices in prison). I need to hastily add that the above should not be misunderstood as if I am saying that if there is no overcrowding, there will be no homosexual acts or activities in correctionals. Far from it, as it is a known fact that in some cases, we find men who are homosexually active even before incarceration. Achmat touches on this as seen in the background to homosexual behaviour in our prisons below.

1.1.6 Background to prison homosexual practices

Francis Schaeffer in the foreword of his book *Escape from Reason* discusses the importance of understanding the culture of the day so as to communicate the unchanging truths of Christianity. He points to the fact that in order to do this effectively, one needs to not only know and understand the present but also know the past. This is where I agree with him in that for us to understand the present culture of homosexual activity in our prisons, we need to know the history (past) thereof. For his part, Schaeffer starts with Aquinas and moves on. For my part I start with what Achmat says regarding the history of prison homosexual sex in South African prisons and how the 28s or Ninevites started operating in prisons.

Schaeffer articulates this truth as follows and I fully agree with him:

Some may be surprised that in analysing the trends in modern thought I should begin with Aquinas and work my way forward from there. But I am convinced that our study must be concerned at one and the same time with both history and philosophy. If we are to understand present-day trends in thought we must see how the situation has come about historically and also look in some detail at the development of philosophic thought-forms. Only when this has been done are we ready to go on to the practical aspects of how to communicate unchanging truth in a changing world.

(Schaeffer 1968:8)

The importance of knowing the beginnings and background of prison gangs was also highlighted by the Jali Commission report. The report expresses the need for highlighting the historical background which will help members to understand why the gangs operate the way they do and the type of crimes they get involved with. This in a sense echoes the same sentiments as Schaeffer as the report states:

The phenomenon of prison gangs is not unique to South Africa. What is unique are the differences in context and history of our prison gangs, and although their origins may be clouded in a combination of myth and reality, the current functioning of gangs is very real. Tracing the origins of the different gangs helps understand the type of crimes they are often associated with and their codes of conduct.

(Jali 2006: 16)

Zackie Achmat in his essay titled “Apostles of Civilised Vice: ‘Immoral Practices’ and ‘Unnatural Vice’ in South African Prisons and Compounds, 1890-1920”, deals with several issues. Among these issues we find him arguing that the issue of homosexuality has been defined by law, theology, psychiatry and criminology as an ‘unnatural vice’, ignoring desire and pleasure. He further argues and points to the fact that the idea postulated by Van Onselen that homosexuality originated in the Portuguese Territory is false, and that it is all about power, bodies and desires. He alleges that free men practiced homosexuality before the Portuguese came to South Africa. He then gives the background of prison homosexuality.



1.1.6.1 Prison Gangs

There are gangs in South African prisons. Achmat who himself is a self-confessed homosexual mentions one gang that operates in prisons namely The Ninevites or 28's. There are also the 26's and the Big 5's to mention a few. The 28's was started by a man called Nongoloza. Achmat says: "The name Nongoloza, leader of the Ninevites or 28's, evokes a striking image in the imagination of academics, lawyers and prison warders alike: the leader of a prison gang of marauding homosexual men" (Achmat 2002:97). As described above, the 28's are a gang of homosexual men whose business in prison is to have and sell sex. The 26's are those who deal with the drugs and all sorts of money-making ventures in prison while the Big5's specialise in 'informing'. "People who inform regularly enough are the Big 5's, members of the most hated gang in prison. To join the 27's you are most commonly asked to stab one of them" (informers) (Cilliers and McKenzie 2005: 98).

1.1.6.2 Nongoloza and the 28's

From Achmat's account, the Ninevites were formed by Nongoloza before he was arrested and the gang operated both in and out of prison. This goes back to 1912 where "Jan Notes' narrative forms part of the Director of Prisons Report of 1912" (Achmat 1993:97) One of the reasons given why the men chose to practice homosexuality was refuted by Achmat. The reason that was spread around was that these men chose to sleep with other men, especially younger men, so as to avoid the "poison", women who were said to have been the source of spreading venereal diseases. Achmat argues that this is not true, because how could they verify that men would not infect other men? Achmat says: "The Ninevites are the only prison gang in South Africa who consciously adopt homosexuality as a creed, and who have a set of laws governing their sexual relations. This is not

‘accidental’ behaviour, and it did not originate in the Portuguese Territory; in compounds; or in prison; it was practiced while Nongoloza and the Ninevites were free on the hills” (Achmat 1993:99). In summing up his arguments for the acceptance of homosexuality and showing that the historical background is positive, Achmat says the following:

A re-examination of the historical evidence must therefore locate the Ninevites sexual practices and criminal activities in the context of a disciplined society in South Africa by referring to the conquest and control of the bodies of African men and women. Its particular significance has to be located in the emergence of homosexuality as an object of discourse, since Ninevites rituals, the historical and contemporary practices of the gang and its heirs, determine a host of relationships inside and outside prison affecting tens and thousands of people.

(Achmat 1993:100)

Considering the above information, it becomes clearer that men having sex with other men in prison is entrenched in the prison culture. It is a phenomenon that cannot be easily overlooked. This is a culture that has apparently been accepted directly or indirectly by prison authorities. We therefore see that homosexual acts in prison have diverse faces and forms, something we need to address later when we discuss possible reform strategies. On account of what Achmat experienced himself as a homosexual and a prisoner at Pollsmoor, he (Achmat) concludes this section of the history of and background of homosexuality in South African prisons with the following statement:

Nongoloza’s vision of an alternative power is realised today in the existence of the 28’s, a gang with their own language, legal and ethical code that is derived from the books of Nongoloza; a gang that terrorises and inspires admiration in all who try to enter their domain. Their traditions are also part of the diverse practices of male homosexuals in South Africa, and this final point is consistently overlooked in contemporary accounts of same-sex desire in Southern Africa.

(Achmat 1993: 100)

In a sense the rapes of callow inmates and unsuspecting prisoners can be laid at the door of the 28’s. No inmate in any prison can force anyone to have homosexual sex with him

unless he is a member of the Ninevites. Thus when we hear of some of the gruesome and indecent sexual acts in prison, we now know the background thereto.

1.1.7 Patterns of sexual activities in prison

From the information gathered, I identified five patterns of sexual activities that take place in prison. This is a mix of information from literature read and interviews conducted mainly with ex-inmates. The first pattern is that of mutual consensual homosexual sex. Secondly there is coerced consensual homosexual sex. Thirdly there is the much talked about prison sex trade, fourthly there is masturbation and lastly indecent assault, 'male rape' in prison/correctional centres. While there may be some who will say masturbation and consensual sex is ethical, whether heterosexual or homosexual sex, from a Christian perspective, none of the above is ethically acceptable outside the confines of the God ordained heterosexual marriage.

1.1.7.1 Mutual consensual homosexual sex

There are two groups of males in prison who usually engage in consensual homosexual sex. The first group is mainly made up of those whose sexual orientation is homosexual. These may be known by or discovered by both warders and inmates. Some will have entered prison as homosexuals and others turned into homosexuals in prison, either voluntarily, or forced by those more powerful than them. Usually these tend to be serving long sentences. The second group is made up of those who practise situational homosexuality. The latter group consists mainly of heterosexual males who are sexually active and because of prison conditions either as heterosexuals together, or with homosexuals, engage in homosexual sex for the duration of their incarceration, a 'once

off' occasion or whenever the need arises. These heterosexuals upon being released, resume heterosexual relations with either spouses or partners.

We find an example of consensual homosexual sex in prison from Achmat's experience. From what he said, Achmat is a homosexual. After the warders told him to choose a 'husband' on arrival, he says: "Not one of the new prisoners awaiting trial could possibly be described as constituting an object of desire. I took my chances with the possibility of finding a desirable 'husband' in the cell" (Achmat 1993:93). He later explained what happened in the cell, after the gang rules were applied and the general of the 28's ruled that Cups was to have him as 'wife'.

We transgressed many of the taboos of the 28s that night. Cups did not ask me whether I was "a moffie," he discovered it in bed. We had sex for hours; he fucked me, kissed me, masturbated me. I wanked him and showed him what a sixty nine was. The passages of Pollsmoor resounded with the sound of guards' steps; by now almost all of the men in the cell were either engaged in solitary masturbation, or had found their partners.

(Achmat 1993:94)

From the above, a number of issues can be noted. Firstly, it is interesting to note that the warders knew what was happening in the cells. Instead of doing something about the then prohibited homosexual sex in prison, - it is still prohibited, - the officials were actually dealing with the reality of prison sex in a way that was encouraging it, rather than discouraging inmates to engage in it. The fact that they told Achmat to find himself a 'husband' is unacceptable. Secondly, it is once more interesting to note that in this cell where he was held, some inmates engaged in homosexual sex consensually, and that those who were not seen as objects of sexual desire were left to their own devices and not forced by the gang members.

Moving from the Cape to Pretoria, we learn further about these types of liaisons from Lewin in his book *Bandiet*. He explains in the chapter on sex in prison the types of men who engaged in homosexual sex. He says the following:

Central society was clearly divided into two categories: 'hawks' and hasies/rabbits. The hawks were the sexual predators: hasies were their partners, either willing victims of the hawks or bandiete who could not, like Dopey withstand the advances of the hawks. For someone without friends or resources, Central did not offer much protection from the hawks.

(Lewin 1974:159)

Lewin talked about one of these partnerships between a younger man Bobo and an older man called Krappies. Krappies worked in a shop bending metal sheets for the welders where Bobo joined him and they worked together. Within days of Bobo arriving, Krappies got him. Lewin does not explain how, but Bobo was surely not coerced because they ended up in 'married quarters' in A section. He says this about them: "Krappies now worked just as hard with Bobo straining besides him but he never complained. 'The love birds' remarked Mr. Lappies quietly, 'them's love birds'" (Lewin 1974:164). Here again we see an official in the person of Lappies who knew that these two had a homosexual affair in prison and did not do anything to stop it. From the above quote, it is clear that these two had homosexual sex consensually. It must further be noted that the above-mentioned two 'arranged' with the warders to be moved to 'married quarters'. The warders knowing what happens there, moved them there instead of curbing the practice. Lewin goes on to give an explanation about the 'married quarters' and says

Most cells are single cells in Central, about ten foot square, with room for your felt mat on the floor as bed, plus a small table and stool, a toilet pot and sometimes a small locker. The regulations do not allow two men to be locked up in a cell together - this they say might encourage sodomy - but Central is overcrowded so there are numbers of single cells with three men in them, with just enough room for three mats to be squeezed alongside each other, and three toilet pots, but little else. These three-men cells are known, both among the bandiete and the warders, as 'married quarters'. It is common knowledge at Central that you can, without much difficulty, make arrangements with the section warden to be moved into 'married quarters'.

(Lewin 1974:154)

Just over thirty years later, we find that matters have not changed or improved. McKenzie spent years at the Grootvlei prison in Bloemfontein and was the whistle blower in the wrong treatment of prisoners and the rampant corruption among warders. This step led the Jali Commission of Inquiry to request that they be allowed to extend their investigations to include Grootvlei. He says the following about this type of consensual sex in prison.

Most of the sex in prison is a deal of some sort. In prison there is a stock exchange of sex. It is almost unheard of that two men might simply do it for the fun of it, a notion as foreign to prisoners as asking a shopkeeper if he wouldn't like to give you a sweet for no reason other than the pleasure he might get from watching you eat it. Though it's something they would never dream of doing outside of prison's tight embrace, there is still a kind of love between these men. ...Men with wives will keep their afternoon bread and give it to their women later. Some of them may be in prison for actually beating up their real wives, but they wouldn't dream of being anything but perfect gentlemen to their prison laities because competition for them is fierce and a wife has to pick you. ...Though true love is rare, it happens. I come to know two men who've been lovers in prison for thirteen years. And they do truly love each other.

(Cilliers and McKenzie 2006:115-116)

Although McKenzie does not divulge the sexual orientation of these particular men who have been lovers for thirteen years, one can safely deduce that they would be homosexuals. The reason of arriving at this conclusion is that I cannot see how a heterosexual can come to love another man the way that these two are described to have had this relationship. McKenzie himself as a heterosexual could not bear to see himself satisfying his sexual hunger with another man or even watching porn movies which were smuggled into prison but he instead resorted to masturbation as he says: "Sex is a basic need. A porno movie smuggled into prison is passed around until everyone's seen it, but I can't bear to watch. I am in the rare minority. I gain my inspiration from soap operas and masturbate daily in the shower" (Cilliers and McKenzie 2006:117). The other form of consensual homosexual sex in prisons is what was explained to me by some of the ex-inmates I interviewed. They said this type of sex is called 'thigh sex'. This I was told is

what most heterosexuals engage in to meet and satisfy their sexual hunger. This I was told is non-penetrative sex. It is performed by two men consensually, none of them being subservient but both interchangeably satisfying the other. McKenzie once more corroborates this type of sexual behaviour as he says: “Most commonly, during prison sex, nothing is penetrated. Sodomy occurs during rape and rarely elsewhere. Common practice simply involves keeping your thighs together while whomever needs it lives out the fantasy he nurtures” (Cilliers and McKenzie 2006:117).

The last form of prison consensual sex I would like to mention is part of what McKenzie includes in his ‘stock exchange of sex’. This is homosexual sex between prison prostitutes and inmates. He says: “Although boys with feminine qualities are the most highly prized, some of the ugliest can succeed as prison wives because the more physically attractive mostly aren’t wives at all, but prostitutes, selling their bodies for a box of dagga or tobacco. Drugs, food and cigarettes remain the main reasons for agreeing to sex and you will do whatever you can to have as much of it as you can” (Cilliers and McKenzie 2006:116). From this type of prison sexual behaviour, we move on to something that is related to this in that it appears to be consensual although coerced.

1.1.7.2 Coerced consensual homosexual sex

This may sound contradictory but it is not. Four ex-inmates I interviewed explained how it happens. They say that it starts with the older and experienced inmate helping the new inmate with whatever needs he may have. Protecting him, sharing his food with him, giving him cigarettes if he is a smoker and orientating him to the cell rules. This befriending with a purpose takes time. The experienced inmate is usually not in a hurry; he continues to lure the naïve inmate with gifts and favours and at the right time, asks him to engage in homosexual sex. The new callow inmate is made to feel both guilty and

fearful of repercussions should he refuse to return the favour. The coercion continues until he gives in and is initiated into the lifestyle of 'men' and their 'boys'. When an inmate has resources and gets visits from family members and friends, the other inmates somehow respect him and will not easily harass him.

Following on from the example given in the introduction of a case at Leeuwkop prison, Vusi said the following, which in a sense resonates the above pattern of coercion that becomes consensual: "Okay, what I hate most about prison is the corruption and the gangsterism. ...They rob and rape other prisoners, if that prisoner does not get a visit. The gangsters they give that prisoner food and cigarettes or dagga. If he smokes all that stuff they would ask him to sleep with one of them. If he refuses to do that, Oh! Oh! It is big trouble" (Tintinger 1999:34). The emphasis in Vusi's case is not 'rape', but the modus operandi of the experienced inmate disguising his wiles with the appearance of humanity, botho, ubuntu. When newly convicted prisoners arrive, the sex-starved inmates would intimidate them. They then find out who the first timers are, and depending on the callowness of the individual, the coercion into homosexual sex that becomes consensual happens sooner rather than later. I was told by those I interviewed that sometimes the experienced inmate would capitalise on the callow inmates' inexperience by using prison terminology in luring him to either invite or accept the invitation to 'share blankets'. This will then be taken as a yes to homosexual advances and there is no turning back for the newcomer. The other trick they use would be to use the experienced inmates to ill-treat and rough handle the callow inmate where the intended 'suitor' will intervene and save the victim from these rough guys. The roughed up inmate will have to repay the favour by agreeing to the sexual advances of the guy who helped him.

This approach is repeated in many other prisons. McKenzie gives his side of the story as he observed the behaviour of prisoners at Grootvlei. His conclusion is that even when one

tends to call this prison homosexual sex consensual, it is to be regarded as forced sex or rape. The interesting aspect from my perspective is the similar modus operandi of luring the callow inmate. This is what McKenzie says:

It's easy to see how they are coerced into giving themselves. Prison wives are assured of a warm bed, warm blankets, food and drugs, drugs and more. Any man who sells himself to the right guy will be protected, to some degree, from violence and rape, although the man protecting him is doing no less than rape. I am never convinced otherwise, regardless of how accepting a victim may become.

(Cilliers and McKenzie 2006:114)

1.1.7.3 Prison homosexual sex trade

We get further insights into Pretoria Central prison with regard to this pattern of homosexual sex. In the same chapter on sex, Lewin goes on to discuss the involvement of officials in this activity saying: "The prison authorities, as in most of their actions, professed one thing about the sex trade and practiced another ... It is common knowledge at Central that you can, without much difficulty, make arrangements with the section warden to be moved into 'married quarters' "(Lewin 1974:154). This arrangement to be moved to these cells was definitely not for free. The inmate had to pay something, in cash or kind. From the information I gathered from ex-inmates, nothing has changed. What is, is what was. They told me that favours by warders were done in exchange for favours. The favour could be anything, including information regarding other inmates. Lewin continues

Everybody at Central, bandiete and boere alike, discussed the sex trade openly: it was, after all, the most immediately available source of social interest and was one of the few areas of free gossip between warders and bandiete. Everybody knew the hawks and everybody watched with interest to see who would be the latest hasies or laities/young boys. The official practice, as opposed to pronouncement, was to encourage rather than discourage the sex trade.

(Lewin 1974:160)

This 'trade' was and is not a one-sided affair. Sometimes the inmate hawk would approach the warder and ask for a favour in the form of a younger callow inmate who may be in a different cell to be transferred to his cell where he knows he will be able to then either entice or force him to have homosexual sex with him. In exchange for the favour the hawk would give the warder whatever he has. It could be money, information or do something for the warder. This sex trade takes different forms. At times the agreement is a tripartite one, where the three parties are involved. This will be the official, the hawk and the 'hasie'. Sometimes it will be a two-way agreement where the 'intended 'hasie' to be made'/'would be 'hasie' would not be involved as he would know nothing about it. The warder and hawk would be the traders. At times the trade would be a four-way agreement. This would involve the hawk, his 'hasie' or 'laaitie', the warder and someone in a different cell who wanted to use the hawk's partner for his sexual gratification. This I was told would be a once off act and the official would gain a lot from this trade. In whatever form this trade happened, the hawks had to be on the right side of the warders. Failing to be, a trap could be easily laid for the hawk to be caught in the act and be further punished or transferred as in the case of the inmate store man called Alf, as related by Lewin. Alf was not much liked by the other inmates. When he was busted, there was, as Lewin puts it, a mixture of surprise and delight. Lewin says: "One afternoon, soon after lunch, four boere burst into Alf's store and caught him with his pants down, on top of a juvenile" (Lewin 1974:160). Surprise, because he must have paid a warder to make those arrangements. Surprise, because few ever thought Alf could slip that bad, and delight for those who hated him. The interesting thing is that on enquiring about these sexual activities that were against the rules and were happening with the knowledge and encouragement of the warders, the answer he got was that this helps to keep the 'peace'. As he puts it, "The official practice, as opposed to pronouncement, was to encourage rather than discourage the sex trade. 'It keeps the peace,' Mr. Lappies explained to me

one day. Mr. Lappies was a head-warder, in charge of welding in our shop” (Lewin 1974:160).

The above may sound or look to some as something of the past that we need not bother ourselves about any longer. It would be wrong to assume that. Those who might have come to such a conclusion must have had a rude awakening when recently the media was abuzz with prison scandals of corrupt warders. The Sunday Sun of 13 February 2005, carried a report of sex trade corruption allegations of warders at the Pretoria Correctional Services. This time the trade was not only internal or for homosexual sex. It is reported that warders took bribes from inmates and then escorted them under false pretence to their (warders’) houses where the inmates’ wives or girlfriends were waiting and were left there for hours to have sex. Morita Borobakala in his report says: “The wives and girlfriends of prisoners come to the prison posing as girlfriends of the warders and are escorted to warders’ rooms. Says one source. These women are then left with their jailed boyfriends for hours to have sex” (Sunday Sun, p 9). The corruption was not only limited to the above cases. As further reported:

A correctional officer who asked not to be named says: “Everybody is having sex here. Female warders are having intercourse with male inmates, female inmates have sex with male warders, female warders have lesbian relationships with inmates and some male warders have some gay relationships with male inmates. This place is just hell. And they all do it for money and other favours.

(M. Borobakala Sunday Sun 13 Feb. 2005, p 9)

The Jali Commission Report in their findings on this aspect of officials' role in sexual abuse, discovered and reported the following:

During its hearings in Bloemfontein and Pretoria, the Commission heard the testimony of a number of victims of sexual abuse at prisons situated in the abovementioned management areas. The evidence underlined that sex is a tradable commodity in prison and that vulnerable, young prisoners become sex slaves whilst incarcerated. Prison warders sell them to the highest bidder despite the fact that prisoners are dependent on these very same warders to ensure their safety whilst in prison.

Indeed warders are themselves implicated in many of the sexual assaults.

(Jali 2006:29)

The above were only a few of many similar incidents in other prisons around South Africa. According to Borobakala, there were more than fifty dismissals of warders in one prison on such and other corruption charges. It was further reported that in total the number of correctional officials in the past eight months dismissed for corrupt behaviour, was up to four hundred and fifty. These correctional officials were stationed at different correctional services centres. It may be discovered that the magnitude of this problem is much bigger if all correctional services in the country were to be thoroughly investigated.

1.1.7.4 Masturbation

Masturbation is a noun that is formed from the verb masturbate. Masturbate according to the Oxford Advanced Dictionary of Current English is defined as follows: “procure or provide sexual excitement by manual or other stimulation of the genital organs” (Hornby 1980:524). This is another way of satisfying one’s sexual hunger. Masturbation in general and traditionally is known as a means of gratifying one’s sexual needs without involving any other person. Self - gratification. It is one of the sexual practices in prison. It involves one’s imagination as a stimulant. Some may see this practice as morally and ethically acceptable. It is seen as non - offensive and involves the one person only and is seen as a harmless act. From a Christian perspective there are those who see nothing wrong with this practise for the very reasons mentioned above. They say there is no scriptural basis for its prohibition.

From a conservative evangelical perspective it is not permissible. There are several reasons posited for regarding this practice morally unacceptable. Much as there is no

direct explicit Biblical text that forbids masturbation, it is seen as implicit in what Jesus said was a sin when addressing the question of adultery. In the discourse of the sermon on the mount according to Matthew, Jesus said: “You have heard that it was said, ‘Do not commit adultery’. But I tell you that anyone who looks at a woman lustfully has already committed adultery with her in his heart” (Mt 5:27-28). It is this aspect of imagination in masturbation that connects it to ‘...anyone who looks at a woman lustfully...’, which makes it a sexual sin. McKenzie’s prison sex life is a good example of this as he says the following concerning how he masturbated; “...I gain my inspiration from soap operas and masturbate daily in the shower. I’m not alone. It’s almost impossible to step into a prison shower without putting your foot in another man’s sperm” (Cilliers and McKenzie 2006:117). The second reason that makes masturbation a sin and ethically unacceptable from an evangelical perspective is that it is ‘selfish’. It involves one person who selfishly wants to satisfy himself and the act does not have the mutual benefit and enjoyment of spouses within the confines of marriage. Sometimes masturbation is regarded as evil as it is seen as wasting seed with the potential of offspring if the sexual intercourse was engaged in a marriage situation with one’s spouse. The evils of masturbation are sometimes equated to the sin of Onan, one of Judah’s son’s who was punished by God for practising what is today called ‘coitus interruptus’. Ejaculating the semen outside the vagina or spilling the semen to avoid pregnancy, something that is seen as a selfish act. “...But Onan knew that the offspring would not be his; so whenever he lay with his brother’s wife (now his wife), he spilled his semen on the ground to keep from producing offspring for his brother” (Gn 38:9). The sin of masturbation for me is the aspect of selfishness. In a prison situation the motive cannot be equated to that of Onan as there is no evil intent of avoiding pregnancy. It is the aspect of self-gratification that reduces the beauty of the sex act within marriage as God intended it to something that one person performs on himself to satisfy himself. This I see as ethically unacceptable. It is further

believed that whoever one fantasises having sex with, may lead one to take steps towards actualising and living out the dream. This is not healthy and is also ethically unacceptable.

1.1.7.5 Male 'rape' in prison

Although the emphasis was on HIV/AIDS in the research at Helderstroom prison, the incidence of homosexual sex and male rape was again mentioned; "Sodomy is a major problem for both the authorities and the prisoners at Helderstroom. Several of the prisoners in the single cells at Helderstroom asked to be put there for protection from homosexual assaults. Prisoners are warned against AIDS, but not issued with condoms" (Whitefield 1991:83). The fact that sodomy is known to be a problem to both inmates and officials is again proof that the officials are aware that homosexual sex was taking place at this prison despite its prohibition and that the perpetrators were not punished. The fact that inmates were listened to when they asked to be put in single cells for protection and that no mention is made of bribes or favours, however, is commendable. Lewin goes on to mention cases of male rape at Central. He says: "One night in April, there was a scream from downstairs, a scream similar to those we used to hear at night at Local: ... One of the hospital orderlies explained... 'Oh, it was nothing much really: the boy was raped in the married quarters at Sonderwater (*prison outside Pretoria*) and is still crying about it" (Lewin 1974:158).

At Pollsmoor prison where the 28's gang is known to be dominant, as it was then, it is presently not different. Having outlined the liaisons of homosexuals earlier, Achmat said the following concerning rape at this prison: "As I completed this essay, a newspaper reported the brutal murder and rape of a young man by the 28 gang" (Achmat 1994: 95).

From a sociological perspective, we are told that rape in general is not merely the need for sexual gratification. It is said that the dynamics behind the conduct of a rapist are complex. In prison where men are housed together in close proximity for long periods, the dynamics are even more complex. Besides the negative effects of overcrowding, it is said that rape goes hand in glove with the assertion of power. We get a glimpse of some of these dynamics from Rape Crisis. Rape Crisis is an organisation of women with the purpose of putting men behind bars as punishment for sex crimes (against women). This they do by providing emotional support and counselling for women who are rape survivors. They were asked to help this time with male survivors of rape at Pollsmoor prison. The workers went into the prison to help for totally different motives. We will revisit this aspect later when dealing with reform proposals. In dealing with the problem, they concluded as follows:

Our intervention at Pollsmoor prison evidenced the following:

- Rape and other forms of sexual violence are part of the prison culture in South Africa;
- Survivors of rape and other forms of sexual violence in prison require trauma counselling;
- Efforts must be made to break the culture of rape in prison;
- Rape in prison impacts directly on sexual violence outside the prison;
- The cycle of victim-perpetrator violence ensues from untreated rape of male prisoners.

(Harvey 2002:1-9)

The intervention by Rape Crisis at Pollsmoor revealed what is prevalent in our prisons around South Africa. As cited by Harvey, rape causes a lot of trauma and I believe in a prison situation it is even worse. The situation is worsened by the ever presence of the perpetrator in a confined prison cell. As Harvey says: "Any form of sexual violence results in much trauma and suffering on the part of the victim. Being a prisoner does not change the traumatic effects of sexual violence on a victim" (Harvey 2002:1-9). The essential trauma counselling that rape victims need is not provided by correctional services. This

was told me by some of the ex-inmates I interviewed. Although none of those I personally interviewed ever experienced 'rape' in prison, some witnessed other inmates being 'raped'. The experience left the passive victim also traumatised and no counselling was offered to either the direct/active victim (the 'raped' inmate) or the passive victim (the person(s) who witnessed the 'rape' taking place). I am making a distinction between the person being raped and the onlookers as active and passive. The common factor binding these two is the trauma. In the confined space of a prison cell, when an inmate is molested and others are present, they get affected in different ways. The passive victim is caught up between keeping quiet and reporting to authorities with no guarantee of protection. He is traumatised in that he is not sure whether he will be next on the list of the perpetrators or not. The reasons for this lack of trauma counselling are diverse. I will discuss these reasons a bit more later. The fact of this matter is that the victim without any counselling remains in a state of a victim and not a survivor. This tends to play in the hands of the perpetrator who then takes further advantage of his victim(s) and controls him for the duration of the sentence or until one of them is moved out of the cell. The trauma on the side of the passive victim as explained by my interviewees is that one is always in fear. The person would wonder whether he would be next. For those who do not have friends or are not members of a group or gang, it becomes worse. They fear being 'raped' at any given opportunity the suspected perpetrator may deem opportune. Night time is the worst when lights are off. The one living in fear hardly sleeps. He would lie awake ready to defend himself. The worst part of this hideous practice is when an inmate is gang 'raped'. From the information I got from ex-inmates, gang 'rapes' are not frequent. Rape Crisis also discovered this awful act in their work at Pollsmoor. This is what they say about this terrible act:

Rape in prison takes many different forms. The most brutal is gang rape where one man is raped by more than two perpetrators. (According to some prisoners we interviewed at Pollsmoor Prison, up to nine to twelve perpetrators could be involved in a gang rape). Gang rape is perpetrated for various reasons, especially among the 28s prison gang. A gang

member may choose rape over death as the penultimate punishment for disobeying gang codes. Another reason may be initiation or “sport” where rape is considered a form of fun. Initiation rapes also serve a social purpose of sorts, creating a class of men in prison who are “turned out” and made available for sex.

(Harvey 2002: 1-9)

The officials I interviewed all confirmed that ‘rape’ does take place in prison. These are warders/members and one official who works as a nurse at the prison hospital. The official who works as a nurse told me that they handle on average three to four cases of rape victims per week. The warders, on the other hand, told me that each time there is an intake of new inmates there is bound to be victims of sexual violence. Because of overcrowding and inadequate staff, it becomes difficult for the warders to curb these crimes committed in prison. This scenario of overcrowding and inadequate staffing, can to a certain extent be accepted as a reason for lack of intervention by officials. What is bothering one is that there are warders who know what is required of them as custodians of prisoners, who at the time when some offences happen can intervene, but choose not to. Worse still, as seen in the cases of the sex trade above, rapacious warders actually promote and facilitate the sex trade in prison. It was and is not only unethical, but unacceptable for one at work to choose to do what is contrary to work expectations. The consequences thereof impact negatively on those who expect to be protected (the inmates) thus violating their rights and stripping them of whatever human dignity they have behind bars. These consequences further reverberates into the corridors of society and causes untold hurts in a chain reaction, which if unharnessed, will breed a society with questionable moral standards. These actions by correctional officials are nothing less than purposeful neglect of duties.

The current Correctional Services Act categorically states:

(b) detaining all prisoners in safe custody whilst ensuring their human dignity”(Corr. Serv. Act No. 111 of 1998:319). It must further be noted that the department also needs to ensure that the officials are properly equipped to carry out their duties in terms of clause five subsection (d)

which reads: “The department is under the control of the Commissioner, who must, without derogating from the generality of subsection (2)(d) establish and maintain training institutions or centres for the training of students or correctional officials.

(Corr. Serv. Act 111 1998:321).

1.1.8 Handling ‘Rape’ cases in prison by officials

From the above, one assumes that all correctional service officials would be well trained to handle all eventualities. This will include the handling of homosexual offences in prison. If we assume then that the officials are well trained to handle all eventualities, we will have to look into the reasons why they behave in a manner different to what their call of duty expects of them. We will also have to look at the factors contributing to these sexual practices among inmates in prison. We will start with the latter and then look at the reasons why officials behave in an unbecoming and unethical way regarding their work and the treatment of other human beings under the subheading of ‘Christian ethical evaluation’.

Before looking at the contributing factors to these behaviours in prison, we need to look at the incident reported by McKenzie on prison rape. This incident again highlights the officials lack of response to urgent issues. It is interesting that the turning point in Gayton’s life was brought about by the young white man Wimpie who was raped by the 28’s gang. He explains how he carried the limp body of the young man to the ‘warders’ and asked them to help the boy and they did nothing. “This boy has been raped by twenty men’ ... the wardens take a moment to assess the situation and then smile. Can this really be Gayton trying to help a white boy?” (Cilliers and McKenzie 2006:168). For me the most atrocious of all the prison ‘rapes’ is this incident reported by Gayton McKenzie saying:.

Just when I think what happened to Wimpie is the worst rape yet, I hear of a fifteen year old boy called Kenneth Busakwe who is raped by four prisoners shortly after being put in the admission cell. He has barely been in prison half an hour. As soon as this rape is over, he goes to the head of the section, Mr Sam Mohano, to tell him about it. Sam Mohano invites the boy into his office, closes the door and then rapes him too. The boy tries to complain, and Mr. Setlai sends him to solitary confinement. He chooses another warden, Mr Kapopo, to supervise this. Kapopo, however, sells this boy to another prisoner Jerry Jasta Moheng, who wastes little time in raping Kenneth too. This has all happened in the space of two hours.

After being in prison for five days, Kenneth's bail is finally set at R500.00. Kenneth can't afford it. Sam Mohano pays his bail. 'I want to talk to you,' Mohano tells him. The boy should know better, of course, but freedom is more tempting than sense, and so he accepts Mohano's offer and leaves prison. Mohano rapes him again. Kenneth is brought back to prison 'for his safety'. The rigged payment of bail is revoked when Sam Mohano demands to have his money back.

(Cilliers and McKenzie 2006: 196)

I still cannot understand how a 'warder', a prison official could behave in the manner described above and still nothing was done about this. A protector who turns around and 'rapes' the very person he is supposed to protect, not once but twice, beats me. While the above incident confirms that rape does happen in prison, what is astounding is to read of a warder also raping a prisoner. This is a disheartening thing. The department of correctional services needs to take action in cases such as these and need to inform the public what steps were taken against the said perpetrator. The rest of the officials also need to know what steps were taken against their colleague, so that this can act as a deterrent and even prove that there is transparency.

1.2 Factors contributing to the sexual practices in prison

The following factors appear to be contributing towards the above-mentioned sexual practices in prison. Overcrowding, physiological needs, boredom, lack of support, prison gangs and corruption (on the part of greedy officials). These have been gleaned from the findings cited above and responses from ex-inmates. Some of the cases mentioned in places like Pollsmoor, Pretoria Central, Leeuwkop and Grootvlei prisons also alluded to these as factors causing men to behave in this way.

1.2.1 Overcrowding

Researches cited above do show in their findings that overcrowding is a factor in contributing to men seeking sexual gratification with other men. Reports also show that in overcrowded cells, homosexuals take advantage of others and either coerce them or force them to have homosexual sex with them. Rubbing shoulders with unknown people one never chose to stay with for days on end in a confined space does affect people in a negative way. Thus overcrowding is one factor among others, causing men to behave unethically. This unethical behaviour can be seen in a number of ways. This includes unacceptable social behaviours where some inmates bully and ill-treat other inmates. This is often seen in unacceptable sexual behaviour where some inmates force other inmates to perform homosexual sex acts against their will. This problem of overcrowding has for some reason been understated. The shocking results of the Jali Commission report puts this problem glaringly and ought to be attended to. This in part is what the report says:

Overcrowding, especially gross overcrowding exacerbates but does not cause the problem of corruption and maladministration in our prisons. It also stretches the Department's resources to the limit, and it affects the rehabilitation of the prisoners, the health system and the education system within prisons. Overcrowding also encourages the sexual abuse of inmates.

Conditions are sometimes unsanitary and unbearable in that one toilet is shared by up to sixty (60) prisoners. Prisoners also have to share beds, sometimes two (2) to a bed, whilst others sleep on the concrete floor and

sometimes with one blanket to share. In some prisons, like Bizana, prisoners were sleeping in shifts.

(Jali 2006: 43-44)

More pertinent to the issue of this aspect of overcrowding being a contributing factor to men behaving unacceptably in prison, the Commission quotes Mr. Johnson, the Western Cape Correctional Services spokesperson as saying the following: "While prison authorities were aware that sexual abuse was taking place in jails, the biggest problem they faced was overcrowding. Our first priority is to reduce prisons numbers so that we can deal effectively with other challenges" (Jali 2006: 43).

This phenomenon of overcrowding has definitely not improved as seen from recent reports in the Media. In the City Press of 19 March 2006 in an article dealing with re-channelled funds, Mpumelelo Mkhabela said the following; "The total prison population is 156 175, while prisons were built to cater for 114 495, meaning that there are 45 000 more people in prisons than they are supposed to accommodate" (City Press page 1). In the same publication on page 28, there are pictures showing overcrowding in Pollsmoor Maximum Security Cell 33. The pictures were taken by photographer Mikhael Subotzky. He first exhibited the same photos inside Pollsmoor prison and later showcased his work outside prison for the first time at Constitutional Hill and the Goodman Gallery in Johannesburg. The significance of displaying these photos first inside the prison I believe is to authenticate the reality. If later people come up and may dispute the fact of this type of over-crowding, their claims will hold no water as the people who were photographed had no objection and would have pointed out any exaggerations or untruths at the time of these being publicly displayed. Our department of correctional services also did not at the time dispute the fact that our prisons are overcrowded. So, it stands, I believe, as an indictment for our Correctional Services to do something in order to alleviate and rid our

prisons of overcrowding. This will help in bringing down incidences of homosexual sex in prisons.

To further verify the state of this phenomenon of overcrowded prisons, the South African Human Rights Commission cited shortcomings in their second economic and social rights report in prisons. In their findings, the department of correctional services did not furnish proof that they adhered to the minimum standard rules regarding accommodation for inmates. The rules state as follows: “ In defining the prisoner’s right to decent living environment, the standards used by the DOCS is the minimum floor space of 3,344m² and 8,5m² for cubic air space” (SAHR 2000:254). On commenting on their findings they said the following: “The report submitted by the DOCS was not satisfactory in terms of monitoring the prisoner’s right to decent living conditions. A detailed analysis illustrating the decent living environment was not provided” (SAHR 2000:254).

In their subsequent report, the South African Human Rights Commission mentioned that the department of correctional services had applied the above requirements of floor space, cubic content of air and so on. But this did not alleviate the problem of overcrowding as they say the following under outcomes:

By December 1999, prisoner population had increased by 11.18 percent. Out of a total of 162 638 prisoners, 58 231 were unsentenced. ... By December 1999, available cell accommodation capacity had been exceeded by 62.9 percent” (SAHRC 2001:369). It is also interesting to note that the effects of overcrowding among others was identified as contributing to prison sexual behaviours that are socially unbecoming and unacceptable by saying; “... The careful selection of prisoners accommodated in the same cells is crucial to protect vulnerable prisoners from gang and sexual abuse

(SAHR 2001: 367).



1.2.2 Physiological needs

Sexually active men are expected to suddenly be celibate during their period of incarceration. It is not an easy issue especially in cases where men are put together in cells indiscriminately with homosexuals. The urge for sexual release gets heightened when the inmates sharing a cell with homosexuals witness them engaging in homosexual sex. This leads some men to seek release in whatever way. The natural need to have sex is not easily suppressed at an age when men are supposed to be sexually active. Thus this physiological need, plus the fact that very little time for exercising is allowed for inmates to work out and reduce the urge, combine and lead men to seek sexual outlet. Some men will masturbate and others will mutually masturbate each other. This is not to be confused with homosexuality. Those who engage in this type of sexual release would not be happy to be categorised as homosexual. The explanation I was given by some ex-inmates is that 'thigh sex' is different to homosexual sex in that there is no anal penetration as mentioned above. It is explained as consensual and performed only to meet sexual needs. It is done to meet physiological needs and not homosexual sexual acts. It is said to be temporal and those who engage in thigh sex perform it with respect for each other and there is no coercion and no power struggle and no denigration of anyone.

1.2.3 Boredom

Man by nature is a creative and hardworking being. We are above all other species and mammals in that we have the ability to think and love among other qualities/characteristics. Apart from some who prefer to be lazy and do nothing, man has it within him to want to be kept busy or keep himself busy doing constructive things. I take it that this is in keeping with the creation story of Genesis chapter one and two. As recorded: "Then God said, 'Let us make man in our image, in our likeness, and let them

rule over the fish of the sea and the birds of the air, over the livestock, over all the earth, and over all the creatures that move along the ground" (Gen.1:26). The notion of ruling over all other living things to me means work, it means being active and not just sitting down and doing nothing. Thus the point that from the beginning man was meant to be doing something, ruling over other created things. There are some who think that work or rather hard work or hard labour was as a result of the fall. Some take it that hard work came as punishment for man having disobeyed God. It must be put clear that in chapter two of Genesis, God gives man work to do before the fall. "The Lord God took the man and put him in the Garden of Eden to work it and take care of it." (Gen.2:15) It is therefore interesting to see that man was commanded by God to work the garden and take care of it before the fall/disobeying God. Thus I posit that man has an innate nature to work in obedience to God. This does not in any case negate the fact that there are lazy people who do not want to work. This aspect of human behaviour can also be attributed to the consequences of the fall.

When a man is in prison, there is very little that he does in the form of work and therefore gets bored. It is not an easy thing for a person to sit in a confined space hours on end day after day, week in and week out for years with nothing constructive to do, to then be expected to behave normal. Boredom sets in and in keeping with his nature, man finds other things to do including bullying others (in the place of ruling things), being involved with gangs and lastly engaging in unacceptable sexual acts. I therefore posit the fact that boredom is another contributing factor for men to find themselves behaving in such unbecoming and socially unacceptable way in prison. McKenzie explains the state of affairs at Grootvlei in this regard and says:

Work details offer distraction and relief from the prison tedium and if you abuse the privilege it's unlikely to be offered again. And you probably will be caught after your escape. There are two thousand men at Grootvlei and only around two hundred of them have their daily work details. They even receive a tiny stipend for their efforts, about R7 a month. ... Those

who don't have work, are let into the control yard between 11am and 12noon, or 1 and 2pm, depending on the warden's whim.

(Cilliers and McKenzie 2006:113-114)

It is this lack of both work for creativity and working the muscles, and the lack of exercise that brings in boredom. Prisoners are given one hour per day to exercise and do their business such as phone calls and tuck-shop. They are then locked up for twenty three hours except for mealtimes. This I believe contributes to men behaving unacceptably and unethically. As the phrase goes, 'the devil will always find work for idle hands' or 'an idle mind is the devil's workshop'.

1.2.4 Lack of support

Another factor that contributes to this unacceptable behaviour of men in prison is lack of support. This aspect was explained to me by most of the ex-inmates I interviewed. They told me that this lies with family members who do not render support to the inmate. Any inmate who does not receive visitors is seen as a loner and thus targeted by the gangs or stronger inmates in different ways. This lack of visits also means the inmate does not get the needed necessities not provided by prison but allowed to be given to prisoners. These would be bread, sugar and cigarettes to mention a few. Added to this would be lack of funds. If those outside do not send him money, he then is not able to buy these commodities. These are basic human needs and may be supplied to him by those inmates who have them, with the intention of receiving in return homosexual sex favours. As already mentioned, the callow inmate may accept these favours without knowing that he will be expected to return the favour later and thus forced into a homosexual relationship in prison. I would like to posit the fact that in some cases this factor is not solely the family's fault. The State is also to blame in cases where the inmate is sent to a prison far from his residence thus making it difficult if not impossible for poor families to

pay the inmate the necessary visit to show support. The other aspect of the State is that there is no counselling given to family members to empower them with the knowledge that support for the sentenced member is crucial to help him cope with the harsh life of prison life. The family is not advised that they can render this support by visiting him in prison regularly and taking basic commodities to him and if they are unable to visit, to send him money to enable him to buy these in order to survive. Support is crucial. McKenzie says: “Men become so lonely that I’ve seen those that make enough money from prison activities trying to buy visits from people they know. “Come and see me’ they’ll say on the phone. ‘I’ll give you fifty rand”” (Cilliers and McKenzie 2006:143). If prisoners do not get support, they become easy targets for those with a lot of prison experience and end up not coping in prison.

1.2.5 Corruption and Prison Officials

In life we get the good people and we get the bad ones. In all walks of life these two are soul mates like the two sides of a coin or the inside or outside of the hand. It is therefore not surprising that in correctional services we get bad officials and good ones. Our media has of late been reporting how our prison officials have been found to be corrupt and neglecting their duties. This can be seen by the number of prison escapes by inmates holding officials hostage using guns; callow inmates 'sold' to long term prisoners for sex; drugs being sold in prison. The question is how these are smuggled into prison if not through officials and/ or their compliance. These will be dealt with in a bit more in depth in chapter three when the Jali commission report is discussed. Suffice it to say here that in their findings right at the outset the following was reported:

The Commission observed that corruption and mal-administration were so rife in most of the Management Areas investigated as to warrant describing this as part of the institutional culture. There was a large group of employees (*warders/officials*) who featured in almost all the incidents of corruption and mal-administration and who are predominantly driven

by greed and the need to make easy money. This became apparent in the nature of the corruption that is endemic within the Department. Despite the aforesaid, some of the instances of corruption were systematic and not mere isolated incidents of corruption...

(Jali 2006:5).

It is unfortunate when on the one hand the justice department is fighting for the safety of all citizens by imprisoning the criminals, while those entrusted with this responsibility of ensuring that this happens, namely prison officials, on the other hand neglect their duties for whatever reason and find themselves acting criminally and unprofessionally. Perhaps some came into the job as a last resort and do not have a passion for justice and no love for their job but greed. Besides the fact that some are just outright corrupt, there are nevertheless a few good men. The new head of the prison was one of the few officials whose intention was to get rid of corruption in prison. At Grootvlei it appears as if there were more corrupt officials than there were good ones. There were those who would perhaps not have turned out to be corrupt if they were not threatened, but it is not easy to know. McKenzie explained how some were lured into the corruption circle.

Often, of course, wardens are played. They spend most of their time close to society's most conscienceless members and the prisoners know which ones to pick. There are numerous ways of corrupting a warden and very few are invulnerable. We can tell a warden that we know everything about him and his family and that when a delivery of cannabis and Mandrax is made to his house he would be advised to bring it with him to work. Of course, he has the choice of reporting the matter, but he knows we are not men to make idle threats. We give him a fee or a cut of the profits and the warden continues happily, thinking he has had little choice anyway.

(Cilliers and McKenzie 2006:123)

Some may be perceived as such whereas they may be genuinely compassionate. Perhaps others hide behind the guise of compassion as discussed below.

1.2.6 Compassionate officials?

There are a few officials who may hide behind the fact that they feel compassion for the inmates who stay behind bars for so long without any sexual activity. These officials may cite the moral issue of compassion by turning a blind eye to the sexual behaviour of inmates. Some of the officials said that they at times turned a blind eye to consensual homosexual sex in cases where no violence is involved citing compassion. Others talk of allowing homosexual sex to take place in prison so as to keep the peace and calm in prison. There are, however, the majority who are downright rapacious. While on the one hand it must be admitted that officials' remuneration is a pittance, on the other hand it must be stated that there are correct channels to address this discrepancy, instead of exacerbating the situation by soliciting for and taking bribes from inmates or their friends or family members. Channels to earn more money legitimately will be dealt with later under reform proposals. This unethical behaviour of officials taking bribes has other repercussions. One wrong leads to another wrong. For example, the greed of officials that leads them to taking money from inmates for favours weakens the punishment intended for the inmates. It further encourages inmates to import into the prison illegal items such as drugs and weapons and the difference between prison and free society is thus blurred. Drugs being smuggled and sold in prison is no hopeful situation.

This undesirable situation where there is very little difference between free society and prison life was highlighted by the results of investigative journalism done by the Sowetan reporter Brett Chatz. He reported on matters showing areas where correctional members were possibly involved in corruption through the items that were smuggled into an Eastern Cape prison. Chatz looked at the idea of how the general public is lulled into a false assumption that the criminals are locked away, away from the freedoms normally enjoyed by free and law-abiding citizens. He says the following:

Our fallibility, as decent citizens of South Africa, lies in entrusting such wretched souls into the custody of equally corrupt warders. Imagine the outrage if it were known that prisoners prospered more within their cells than many hardworking people do on the outside. When inmates of Sada Prison in the Eastern Cape were caught watching porn, it wasn't a pretty sight.

Convicts were so captivated by their debauchery that the venue could have been mistaken for an elite private party. It wasn't only the fornication on their plasma-screen televisions that had officials up in arms - it was the expensive music systems, DVDs, dagga, official uniforms and more.

(B. Chatz Sowetan January 9 2007: 10)

The area where correctional officials are seen to be corrupt are the items that found their way into the inmates' cells. How possible is it for a plasma screen television set and official's uniforms to get into cells without member complicity? This may also be seen by some people as an innocent act where members may have allowed these items into prison so as to keep the inmates busy and occupied instead of engaging in other more serious offences. The fact is, these items would not be allowed in to start with, but also the fact that those who brought these items surely paid someone money to turn a blind eye. To imagine members doing their rounds in cells seeing these items, couldn't one of them have spotted them and reported or confiscated them? This in a sense shows that most of our members act corruptly either by choice or omission, something that is not good enough for a correctional services department that is trying to move away from an old punitive system to one that is more concerned with rehabilitation.

1.2 7 Officials and rape in prison.

There are some who say that rape and other forms of sexual violence is part of the prison culture. Much as this is the truth, this is an anomaly that should not be left alone. The authorities should see to it that this culture is done away with. The statement by Harvey in

the journal Track Two on Rape In Prison concerning rape in prison and gang rape where officials failed to intervene, is an indictment on the part of warders/officials:

Rape in prison takes many different forms. The most brutal form is gang rape where one man is raped by more than two perpetrators. (According to some prisoners we interviewed at Pollsmoor Prison, up to nine to twelve perpetrators could be involved in a gang rape). Gang rape is perpetrated for various reasons, especially among the 28s prison gang. A gang member may choose rape over death as the penultimate punishment for disobeying gang codes. ...Initiation rapes also serve a social purpose of sorts, creating a class of men in prison who are “turned out” and made available for sex...Another major factor compounding the issue of trauma associated with rape in prison is that pleas for help are often ignored by prison staff. Medical attention is often cursory and opportunities for therapeutic intervention is limited ... Hence most rape victims in prison remain unaided and do not make the journey of recovery and healing from victim to survivor. What this means is that often these men resort to aggression to deal with unprocessed rage and they themselves enter the cycle of violence, both inside prison and outside when released.

(Harvey 2002:3-5)

How disheartening this is. When human beings treat one another worse than animals, it sure calls for urgent measures. It is unacceptable to learn that there was no intervention of whatever sort by officials. Where is the human dignity that is supposed to be upheld by officials of our correctional services to one another and to the inmates? The aspect of the inmates who are serving long terms and are repeat offenders who take advantage of callow inmates, raping them with the aim of ‘turning them out’ so as to make them available for sex, is inhuman. When this happens with the help of officials as cited above or with their knowledge but without intervening, it is unethical, whichever way one looks at it. One can only conclude that after the ordeal and time served in prison, on being released any man who was ‘turned out’ will find it difficult to have normal heterosexual relations. My educated guess and the odd cases I have witnessed of boys who grew up in a boarding school where they engaged in homosexual sex, tells me that anyone spending years in prison and forced to perform homosexual acts subserviently, will cause the person to automatically continue that lifestyle. This will be a living proof that prison is a

breeding ground for homosexuality. These are definitely not some of the outcomes our correctional services expect. I hope. The behaviour of both inmates and officials is unacceptable. Prison is meant to be a place of serving one's sentence in a secure place and one is to be treated humanely. Above all, the current approach by the Department is that these places are to be correctional places where inmates are rehabilitated and not treated inhumanely.

1.2.7 Officials taking advantage of prisoners

In summing up the behaviour of some of the officials, one may cite the fact that these officials prey on the needs of the prisoners. They wait for an opportune time and then take advantage of the vulnerable prisoners. Some reported cases are those of male warders raping awaiting trial female prisoners. Some officials use the same method used by gangs inside prison by supplying a prisoner with anything the prisoner needs in exchange for favours. This is an unethical way of either getting information from the inmates by officials or any favours for inmates from officials by supplying them with the information. One may see this as taking cruel advantage of prisoners by warders while others may cite compassion. Whichever way one looks at it, at the heart of it is the selfishness of the official involved who is only interested in getting whatever he or she needs irrespective of whether it is lawful, ethical or not.

Norman Masungwini reported in the Sunday World of 15 January 2006 how a female warder took advantage of a male prisoner. The whole matter may have appeared as a warder who had compassion for a prisoner by having sex with him, knowing that he needed sexual gratification. On the other hand some may say it was a case of two people naturally falling in love. Whichever way one looks at this particular case, there are a number of ethical issues involved in it. As Norman reports; "The 20-year old's raunchy

relationship with Sonia Graaff came to an abrupt end recently” (Sunday World p3). The issues as I see them are as follows. Firstly, it is the question of the age gap; “... getting down with a prison warder old enough to be his mother,...” (Sunday World p3). As a free young man I doubt if this inmate would choose to have sex with a woman old enough to be his mother. My summation is that the warder took advantage of the state of this young man and managed to get what she wanted. As she is quoted in one of the love letters she is alleged to have written to her lover Aubrey, “...I have been waiting for this for a life time, a love so real, so pure and so true, that’s what I’ve found in you.” (Sunday World p3). This may be what she has been waiting for, but not what the younger man may have been waiting for. Secondly and more seriously, how can she call this pure and true? An illicit and outside marriage sexual relationship cannot be pure. In her position as an official and he as a prisoner, knowing full-well that he has no choice in prison but to accept whatever sexual approaches he may get from any female, she knew he would not say no. The article does not reveal whether the warder is unmarried, divorced or married. The article does not mention her exact age but only mentions that she is old enough to be his mother. I am no advocate of same age relationships in love, but in this case where the incarcerated man had no choice, I believe it is unethical and morally unacceptable to take advantage of a person under these circumstances. There is that possibility of the inmate having yielded to the warder’s sexual advances for fear of being victimised by other warders or even being charged with attempted rape if he had refused her. This is possible when one remembers what happened to Joseph in the Bible when he refused Potiphar’s wife’s sexual advances (Gen. 39:7-20a). It sure echoes with the saying that ‘hell hath no fury than a woman scorned’. Taking into consideration the fact that this is a case of the under-dog and the powerful, the possibilities that the inmate was probably approached by the warder are highly probable. One cannot imagine a young man of twenty making a pass at a woman his mother’s age, a warder for that matter and a white woman for that matter, not that I have anything against love across the colour and culture barriers. I am

all for love, be it within one culture or race or across, as long as it is ethical and does not involve pre-marital sex, from an evangelical perspective, a test which the above case did not pass. The last point I need to mention is that the above case needs to be looked at from a point of view that an official of the correctional services committed the offence.

One of the very first things inmates are told on arrival at prison is that no sex is allowed in prison. This is the official stance, although in most cases, as seen in Achmat's case, he was told (by corrupt officials?) to choose a 'husband' for protection if he was to avoid being 'raped' in the cell. The very official who tells inmates of the do's and don'ts of prison life in the reported case is the one who caused an inmate to commit an offence. Or should we say, the prison official is the one who transgressed? It is not acceptable, not ethical.

1.2 8 Evaluation of corrupt officials

It is disturbing that we have so many corrupt officials in our correctional services. In a place where people are sent to be corrected (rehabilitated) from doing wrong, it is sad to find some officials doing wrong. Instead of helping inmates to reform by emulating exemplary officials, it is the officials who seem to be emulating the bad deeds of incarcerated inmates. Talking about corrupt warders McKenzie says:

Masunte is one of the more sadistic wardens. He likes to call prisoners 'bitches'. It hardly bears imagining. You have been raped by a steam locomotive and you're questioning whether your very atoms and molecules can bear keeping the show going. Is it really worth the effort for all this, and then a warden appears and says, 'Hey, you bitch, I hear you got raped yesterday. Was it nice? I hear they worked you good.

(Cilliers 2006:131-132.)

Warders are assigned to look after inmates under conditions of ensuring that their rights are protected and upheld. It is unacceptable for warders to behave in this way. They are

supposed to uphold the objectives of correctional services and its work ethic. The behaviour of some of these warders does little to prove that this is the case.

It is difficult I believe for the ordinary warder to keep up the expected standard when his seniors openly defy the system. A case in point is the much publicised escape from C-Max of Ananias Mathe. He was reported to have escaped through a small window by applying Vaseline on his body. How he managed to get onto the roof and past all the other guards right up to the road is an inexplicable case. The rumour was that his gang outside organised and paid some corrupt warders eighty thousand rand, a rumour which was not followed up by those who were investigating this escape from our maximum security prison. When the minister of correctional services Mr Balfour gave his report in parliament, the words he used were that the warders were 'grossly negligent', that is why Mathe escaped. At his next appearance in court after being recaptured, Mathe requested that his lawyer and other officials should go and inspect his cell and his alleged route of escape, namely the window, so that they too can see for themselves that it was impossible for him to have reached, let alone to have managed to squeeze himself through such a small window.

The point here is that it would have sufficed for the minister to have conceded that there is just no way that Mathe could have escaped without the help of some of the corrupt warders. It probably was difficult for the minister to have admitted that there are corrupt officials as if this would have reflected back on him. This unfortunately helps the continual cycle of non-transparency giving corrupt officials a thicker smokescreen to hide behind. If our top officials were as strict as those of yesteryear Roman officials, we would have less corrupt prison warders. One is reminded of the case when Paul and Silas were in prison and the angel of the Lord caused a tremour and the prisoners' chains were loose and the prison doors were opened. When the warder woke up and saw the prison doors opened,

he thought the prisoners had escaped and knew that he would pay with his life. He then took out his sword and was about to kill himself when Paul saw him and shouted to him and assured him that all the prisoners were still in prison (Acts 16:25-28). How we long to have incorruptible warders, men who would treat prisoners in a humane way. Because of both corrupt inmates and warders, it is no wonder many people see our correctional services as universities for corruption and violence.