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**“Rehabilitation within prison:
A comparative study under the scope of prison reform and
proposals of prison reform in Belgium and in Portugal”**

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Abstract

Throughout this working paper, under the scope of Prison Reform and Proposals of Prison Reform in Belgium and in Portuguese Prison System, between the periods of 2004 up to 2006, one is driven by the inseparability of Rehabilitative philosophy with Harm Reduction strategies.

Whether Belgium, whether Portugal strongly tend to believe that the rehabilitative rationale is a must once speaking of a custodial sentence. Alike, in both countries, it is up to the State to ensure Rehabilitation as an inexorable part of execution of sentences. Overall, both States dismiss of a paternalist approach towards the inmates, namely through the Individual Detention Plan. Nevertheless, in Belgium, Rehabilitation within doors of the offender seems to go hand in hand with the need of doing Reparation towards the victim.

Albeit the different political organization as far as execution of sentences is concerned, both Prison System of Belgium and Portugal seems to be constrained with similar defaults such as the lack of proper methodologies and of “follow up” measures. Yet, the recent developments in both countries do not seem to give concrete added value towards those points. Furthermore, the author of this working paper tries to answer to some of the following questions: Rehabilitation - Is it or is it not a consensual concept? Which other concepts may be intrinsically related to rehabilitative intervention when one is speaking about rehabilitation within prison environment? Which factors may play a role, as likely to facilitate or hamper rehabilitative languages, within the prison context?

Beyond that, some possible missing items of the reforming documents are also appointed.

KEY WORDS:

Rehabilitation – Prison Reform – Harm Reduction – Individual Detention Plan - Reparation

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Terminology used in this dissertation:

Internal Prison Officers

Are considered all those, whose professional tasks are up to be done in a prison setting and who are dependant of the Prison Administration.

External Prison Officers

Are considered all those whose professional tasks are up to be done in a prison setting and who are not dependant of the Prison Administration.

Uniformed staff

Uniformed staff¹ is hereby meant to specify only the prison guards². Beyond a strong component of security and discipline in their tasks, they also have an important pedagogical role.

Non-uniformed staff

Hereby are included all those who do not do surveillance functions and whose competences concern the prison management [Governors, Directors³, *inter alia*], guidance and assessment of inmate's behaviour [Psycho-social team as in Belgium and Re-educative team as in Portugal], coordination of inmates' social-cultural activities⁴ [Socio-cultural team as in Belgium and Re-educative team⁵ as in Portugal] and administrative tasks [administrative staff].

¹ Albeit, in some European prisons, all those who work within a prison are uniformed, that is not the case nor in Belgium nor in Portugal.

² Liebling has dedicated a full book to the Prison Officer, yet, Prison Officer, in her academic analysis, is to talk about prison guards. (Liebling and Price, 2001) As a reader, master student and professional who work in a prison, it was quite surprising to encounter this narrow extension. Prison Officer, in a strict sense, should be the one who performs his job in a prison. The fact that prison guards are those who are the most of the time with the inmates, and whose performance is extremely important in the every day life of a prison, that does not make them *the* prison officer. However, the designation by Prison Officer just linked with prison guard may has to do with Anglo-Saxon culture such as Portugal has "re-education" intervention linked with the French heritage: "re-éducation."

³ Hereby understood the Governor as the one who has the major responsibility in the prison setting and the Directors as those who are officially designated to support him according to specific areas of intervention.

⁴ Ultimately, one may summarize that the social-cultural activities which are promoted within prison context, may lead to:

- a) Moments for reducing the harmful effects of the prison environment *per se*;
- b) Opportunities to enhance one's skills even as tools for a future reintegration;
- c) Useful ways of passing the time;
- d) Ways of promoting better level of self-esteem;
- e) Widen the "here and now" perspective to investments in learning with a certain extension on time;
- f) Concrete actions of *individual normalization*;
- g) Ways of being on a group level without being only concentrated with "prison concerns". It is very common to the inmates to speak about their own juridical situation amongst one another or to criticize the system while they are in group, as far as my Professional experience enables me to say.
or with self-victimization speeches, *inter alia*.

⁵ In Portugal, the re-educative team [the so called *Técnicos Superiores de Reeducação*] are given the competences of inmate guidance, behaviour assessment and the coordination of social-cultural activities. It may has the disadvantage of higher stress

I. CONTEXTUALIZATION

In comparison when inmates were compelled to use hoods and hardly speak with their companions as in Portugal in the XIX century (Moutinho Santos, 1999), one is seeing today, at least, on a European level, prisons with a higher degree of humanism than ever before, in which the prison setting is not the “punitive island” in the middle of nowhere. (Santos, 2003; Gonçalves, 1989)

Punishment may be neutral to the prevention of crime rates (Tonry, 2005) and to the prevention of crime recidivism (Von Hirsh and Ashworth, 1998). Nevertheless, some authors advocate that imprisonment is not neutral to the sentenced ones, whether due to its harmful effects (Dunkel and Snacken, 1999); whether, on the contrary, to the improvement of one’s competences through a process of metamorphosis of the inmates’ behaviour, from now on called *rehabilitation*.

Albeit the compelling academic interest on speaking about all types of punishment sentences, namely the so called intermediate or alternative sanctions, these are not going to be in the core of this dissertation.

As Liebling mentioned in the article “Whose side are we on?” (2001), once one is doing Prison Research, one normally tends to take a position, namely to overstress the inmates’ perspective. Also there is a kind of bashfulness on investigating the Prison Administrations scope of vision. (Liebling, 2001) Hence, a wider perspective towards prison staffs and prison population, in a complex organizational setting, such as the prison one, is going to be present in the core of this dissertation.⁶

Those who are imprisoned are just a subsystem in a complexity of subsystems inside and outside the prison setting. All subsystems interact with one another.

However, it would be an historical mistake to say that just on the recent decades, prison and outside society are mutually involved. Once there was a time when prison belonged to the social life and architecture of a village and where the inmates’ officinal places contributed as an economic service to the surrounding community (Xavier da Silva, 1923). Yet, nowadays, more and more, there is a political understanding that prison and community should embrace each other in a process of mutual flow.

in dealing with a combination of functions (which may be dispersive), nonetheless, the vision upon the inmate, is, from my line of reasoning, more complete for purposes of guidance and assessment behaviour.

⁶ It should be borne in mind that to speak about rehabilitation is a two-way road. One can not expect a change of inmates’ profile or commitment, collectively or individually, without an equal change in prison staffs’ profile and commitment, collectively and individually. It is not by coincidence that the prison staffs’ role, training and legitimacy are top priority topics in the New European Prison Rules (CoE, 2006).

Meanwhile, Rehabilitation philosophy and Harm Reduction strategies within doors seem to be of so outstanding importance that, on the fist of the legislator or by Council of Ministers approval, the State announces, as in Belgium and in Portugal, to bind itself to enhance a sense of co-responsibility with the offender / inmate. Likewise, the State {as in Belgium and in Portugal} also demands that, even respecting inmates' freedom of choice, the latter have to commit themselves in their processes of re-adaptation to the outside world. On doing this legal compass, the State invites outside key players to co-participate in the possibilities that may be offered to the inmates in terms of individual and social rehabilitation.

It seems important to be mentioned that it is the State itself that sometimes, give steps of back and forward for the accomplishment of the rehabilitation philosophy and Harm Reduction strategies, starting that for instance, in Portugal, after a huge public budget investment on the Commission for Proposal of Prison Reform which has lead to the Ante-Project of Law-Frame for Prison System Reform, as approved by the Council of Ministers on 24th of June of 2004, with some relevant contributions [that hereby are going to be analysed], did not enter into force after the changing of Governments. A new Mission Unit for Penal Reform {Ante-Project for Revision of the Penal Process, as approved by the Council of Ministers on 26th of April of 2006} was addressed under the Socialist Party governance [on Government since February 2005]. To sum up, both of the most recent legal developments towards imprisonment, in Portugal, have not been enacted yet.

Meantime, after Prison Act enactment (Belgium, February 2005), multi-sector teams from the different Belgium prisons are studying the document to propose how to adapt it "into practice".

Hence, the challenge of the present research is to address a closer look to the Prison Reform in Belgium (Prison Act, 2005) and to Ghent Prison in order to make some possible comparisons about developments *in lege* and *in action* once compared with Portuguese experience. In addition, I expect this investigation to be a way of "becoming" as a student, as a professional and not less important, as a citizen.

I invite the reader to follow me.

II. RESEARCH QUESTION

How the inclusion of *rehabilitation* philosophy and *harm reduction* strategies, may be revisited in the core of the most recent prison reforming documents of Belgium and Portugal and in the prison dynamics *de facto* of both countries?

Belgium

Prison Act, 2005 [as published in Moniteur Belge – Belgisch Staatsblad, in 01.02.2005]

Portugal

Ante-Project for Revision of the Penal Process [as approved by the Council of Ministers on 26th of April of 2006], under the umbrella of the Socialist Party, presently in the Government since February 2005 [On February 2005, the Socialist Party gained with an absolute majority in the legislative elections]

Ante-Project of Law-Frame for Prison System Reform [as approved by the Council of Ministers on 24th of June of 2004], under the umbrella of the Social Democratic Party, in Government till February 2005

III. A CONCEPTUAL DEBATE UPON REHABILITATION

Rehabilitation is not a consensual concept.

Foremost, it revokes a complexity of sub-questions as the following: its definition, its place in the government's political programme, its possibilities when seen as an added value towards crime prevention and crime control and its shortcomings considering prevalence of recidivism rates showed on academic evidence.

DEFINITION

Firstly, one may say that *to rehabilitate within doors is to enhance development in order to prevent crime recidivism*.

Meaning that it is underline to the rehabilitative rationale, a sense of usefulness, that goes far beyond the humanist perspective *per se*.

In other words, there is no such thing as starting from a "zero point" when talking about rehabilitation within walls. All those who give entrance in a prison system, have themselves a profile of skills, capacities and competences. During the period of a custodial sentence, the latter are expected to be improved and optimized.

Secondly, rehabilitation implies the three periods of time: past, present and future. In other words, one does not speak about rehabilitation in doors unless speaking about an individual who has already been judged and imprisoned by the judicial sphere in one's criminal justice system.⁷ Even if the aim itself may be to reduce future perpetuation of crime, there is an intervention, on a social-behaviour level, in the present, upon the perpetrator from a past criminal act.

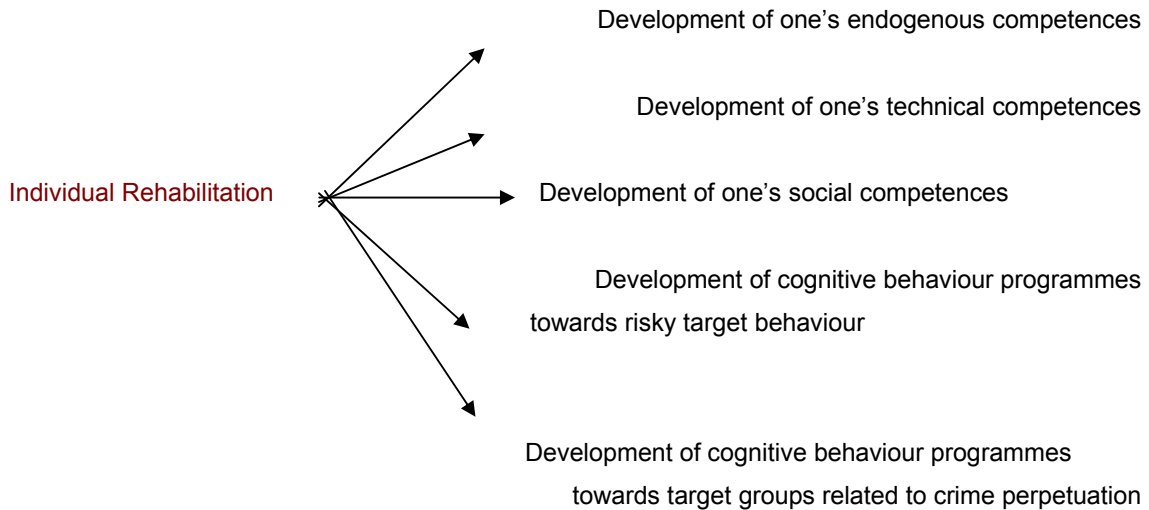
Thirdly, one may say that rehabilitation may lead to the re-integration of the individual. Whilst *individual* rehabilitation may imply improvement of inter-personal competences in the place where the rehabilitation intervention is being promoted, *social* rehabilitation depends a bridge outdoors (labour market integration, drug treatment in a therapeutic community, *inter alia*).

Fourthly, the overall process, of doing individual and social rehabilitation, one is speaking in one's Re-adaptation.

⁷ Needless to say that one is not speaking about physical rehabilitation after physical damage or injury. Rehabilitation is hereby connected with previous perpetuation of crimes and the response that national authorities find to avoid its repetition in time, on the behalf of the offender and of society.

Individual Rehabilitation ← → Social Rehabilitation → → Re-Adaptation

Individual Rehabilitation



Development of one's endogenous competences

Self-control, assertiveness, resistance to frustration, consistency on motivation, pro-active profile, sense of responsibility, critical capacity, aggressiveness control and everything that promotes maturity and autonomy.

Development of one's technical competences

Writing and reading skills, languages fluency, training (theoretical and specific formation and "know how"), *inter alia*

Development of one's social competences

Inter-personal skills, conflict management, respect for the "other", *inter-alia*

Development of competences towards risky target behaviour [violence, drug addiction]

Evaluation of programmes which are assessed by specific indicators (e.g., ability of physical self-control in "provoked" conflicting situations and relapse of consumption as far as drug addiction is concerned)

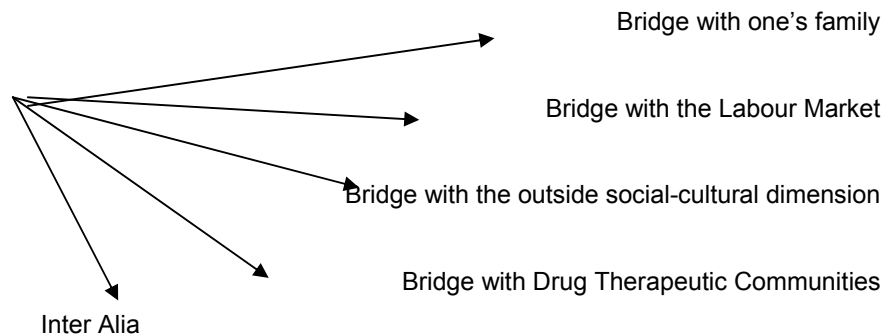
Development of cognitive behaviour programmes towards target groups related to crime perpetuation

Stop Programme relatively to alcohol abuse, sexual offenders, murders, *inter-alia*

There is a perpetual dynamic flow between the above mentioned types of development. This chart is divided conceptually but, in practice, even a statement between a prison officer and an inmate may involve two levels of competences, namely the individual and social ones. There is no Cartesian division amongst them. None of these categories exists or subsides without one another, even though the last two require a specific schedule of methodological concern, albeit a desirable concretization of the latter depends that some of the personal and social competences are acquired.

Social Rehabilitation

Social Rehabilitation



Bridge with one's family

Intimate or regular Visits within prison; Holidays; Intervention with one's family namely through systemic therapy

Bridge with the Labour Market

Employment interviews during imprisonment, Labour integration as an end-door measure, Employment Adviser (as the VDAB officer in daily terms allocated to the Ghent Prison), *inter alia*

Bridge with the outside social cultural dimension

Activities prepared inside prison which may be seen outside: a local exhibition of art crafts or theatre plays; Activities from the outside which are possible to be seen inside the prison context: guest speakers linked with Sport, Literature; theatre performances, musical exhibitions, *inter alia*

Bridge with Drug Therapeutic Communities

Guidance to Drug Treatment outdoors as done in Portugal and Belgium; Drug Treatment facilities with Health Treatment provided by external Health care units as the CAT in Portugal

One again, clear cuts between the above mentioned components are not possible to be made.

REHABILITATION'S PLACE IN THE POLITICAL SCENE

As will be seen in Chapter VI, both Belgium and Portugal assume that it is upon the State the responsibility the concretization of the rehabilitation philosophy during the execution of a sentence within a prison context (with co-responsibility of the inmate himself as in the underlying idea presupposed in the Individual Detention Plan).

ADDED VALUE TOWARDS CRIME PREVENTION AND CRIME CONTROL AND ITS SHORTCOMINGS ONCE CONSIDERED ACADEMIC EVIDENCE AND RECIDIVISM RATES

CAN ONE SPEAK ON THE USEFULNESS OF REHABILITATION?
YES, AND TRADITIONALLY, THE SCOPE IS OVER THE OFFENDER AND NOT OVER THE CRIME AS SUCH ► THE IDEA OF UNDETERMINED SENTENCES. (VON HIRSH AND ASWORTH, 1998)
YES, IF BY MESURING RECIDIVISM RATES (ASHWORTH AND VON HIRSH, 1998)
YES, ALBEIT RECIDIVISM RATES DON'T SAY ANYTHING OR SAY LITTLE (BRODY, 1998; SNACKEN, 2002; MOOS, 1975 AND SPARKS, 1996 AS IN LIEBLING, 2004)
YES, UNDER A FRAME OF PROPORTIONALITY (SUE REX, 2002 AS IN VON HIRSH AND ASWORTH)
YES, IF THAT REPRESENTS "MEASURABLE" ITEMS SUCH AS INTEGRATION IN THE LABOUR MARKET (AS IN VON HIRSH AND ASWORTH, 1998)
YES, AND A HUMAN RIGHTS APPROACH IS ENTAGLED WITHIN THIS IDEAL (CULLEN AND HUBERT AS IN VON HIRSH AND ASWORTH, 1998)
YES, IF APPLIED WITH SPECIFIC SUB-GROUPS/ TARGET-GROUPS (ANTE-LAW FRAME FOR A PROPOSAL OF REFORM IN PORTUGUSE PRISON SERVICES, 2004; GARLAND, 2001; REX AS IN VON HIRSH AND ASWORTH, 1998, BRODY AS IN VON HIRSH AND ASWORTH, 1998)
YES, SINCE INTERNAL QUALITITIVE MEASURES CAN BE MADE, NAMELY AS TO ASSESS HOW FAR THE PRISON STAFFS AND INMATES ARE PERCEIVING REHABILITATION INTERVENTION (LIEBLING, 2004) (LINE OF REASONING INCLUDED IN THE ANTE-LAW PROPOSAL OF PORTUGUESE PRISON REFORM, 2004)

CAN ONE SPEAK ON THE USEFULNESS OF REHABILITATION?

NO, SINCE IT WAS UNDER A WELFARE SYSTEM WHICH NOWADAYS IS NOT POSSIBLE TO BE SEEN⁸
(GARLAND, 2001; LEA, 2002)

NO, SINCE IT IS A VAGUE EXPRESSION
(ALLEN, 1998)

NO, IF AS SEEN BY LIBERALS ONES: CAN MEAN AVOIDABLE INTERFERENCE IN ONE'S MIND
(STATE HAS NO RIGHT TO INTERFERE IN ONE'S FEELINGS AND THOUGHTS AS IN VON HIRSH AND ASWORTH)

NO, SINCE MOST OF THE TIMES IT IS NOT POSSIBLE TO MEASURE THE CHANGES MADE (WHICH BEHAVIOURS COULD BE CONSIDERED AS MEASURABLE?) --- LACK OF TRANSPARENCY
(ALLEN AS IN VON HIRSH AND ASWORTH, 1998)

NO, SINCE THERE ARE STILL FEW OPTIMISTIC ACADEMIC FINDINGS
(ALLEN AS IN VON HIRSH AND ASWORTH, 1998)

NO, SINCE IT LEADS TO INMATES' CINISM
(ALLEN AS IN VON HIRSH AND ASWORTH, 1998)

NO, SINCE HUMAN RIGHTS SHOULD TAKE PRECEDENCE IN DETRIMENT OF SUPPOSED REHABILITATION GOALS
(LIBERALS APPROACH VON HIRSH AND ASWORTH, 1998)

In addition, on speaking of rehabilitation three other concepts must be implied: development (Liebling, 2004), normalization (Snacken, 2002) and legitimacy (Crawley, 2004).

⁸ Garland (2001) advanced that Rehabilitation was an axe of the Penal Welfarism (Garland, 2001), up until the nineteen-seventies when it was assumed that the State had the central position on assuring the personal needs and the social mechanisms in order to avoid the opportunities of crime (Lea, 2002) and for doing that, the stress was on the offender himself.

Garland (2001) and Lea (2002) having taken into account the American and Anglo-Saxonic experience stated that, nowadays, we are more in a situation of "Management of Risks" than of true Rehabilitation as the concept was seen some decades ago. Do Garland and Lea tend to subscribe a kind of fatalism, the so called *Criminology of Catastrophe*? (O'Malley as in Lea, John; Official Webpage Online [Dec. 2005, Jan. 2006]) Albeit Garland has said that there is no such thing as Rehabilitative and non Rehabilitative periods, Garland rejects that the State has the central position, at the present time, on the assurance of crime control (Garland, 2001) In his turn, Lea stresses the continuity of the State as the main actor of crime control, although advocates that there has been an erosion of its radius of action, dispersed by other social agencies such as volunteering agencies or pro-victims groups. (Lea, 2002)

Rex advocates that rehabilitation is still, nowadays, one of the veins of a custodial sentence linked with a proportionality approach (Rex as in Von Hirsh and Ashworth, 1998). By her turn, Liebling is categorical on saying that prison intervention is, still up till today, intrinsically related within a rehabilitative scope, even in Anglo-Saxon countries. (Liebling, 2004)

IV. CORE CONCEPTS TO ENABLE REHABILITATION

Development

According to Liebling, taking into account staffs and specially, inmates' auscultation, it is more appropriated to speak in the concept *development* better than the use of the word resettlement. "To re-settle suggests a prior, settled state. (...) Prisoners articulated, instead, a more universal need to learn, grow, and develop, sometimes from a poor base. Their meaning came closer to Allport's concept of 'becoming'. Allport argued that we are unique and striving beings, whose central problem of life is to make our lives worth living (Allport, 1955)." (Liebling, 2004)

Yet, on speaking in a custodial sentence one is speaking about the apparent paradox: the objective physical delimitation whilst it is promoted that a subjective profile of competences and horizons should be widen with in walls through rehabilitative processes, projects and programmes.

One must not be absent minded to the conceptualization used by outstanding authors once referring to the prison environment. Even if one does not subscribe the same type of conceptualization, one should not underestimate the symbolic weight associated with the characterization used by the following authors as far as the prison context is concerned: as a pathogenic space (Gonin, 1991 as in Chantraine, 2003), as a violent, "securitarian", defensive, warrior institutional space (Chauvenet, 1998 as in Chantraine, 2003), as a space of "non-law" (Cartuyvels, 2002), of "mortification" of the 'self' (Goffman, 1968 as in Chantraine, 2003), as a part of the "problem" and against the dignity of the democratic individual (Chantraine, 2003), which produces harmful effects in the inmates being preferable alternative sanctions to imprisonment. (Dunkel and Snacken, 1999)

Nevertheless, prison, on being the *ultimum remedium* used in one's criminal justice system, may be seen as a privileged setting in which different degrees of intervention are bound to be made that may goes from acquisition of healthier ways of dealing with the body (personal hygiene, medical care, sporting activities⁹, ergo therapeutic activities¹⁰), to the empowerment of one's skills¹¹ or to

⁹ Albeit the lack of some adequate material and human resources that would enable a desirable implantation of sporting activities, one must address the positive evolution of sporting infrastructures within Portuguese Prisons (such as gymnasiums) as well as some sporting competitions which are extremely important in inmates' individual rehabilitation. From my line of reasoning, it is throughout physical activities that one may achieve some of rehabilitative ends, such as respect the "other", resistance to frustration, increasing of self-esteem, *inter alia*. Alike, physical activities help to the canalization of aggressiveness which is of fundamental importance to prevent self and hetero-violence. A significant effort is being done by the Portuguese Prison Central Services to invest in this field. Football, Indoor Remo, Athletics are activities which are encouraged to be done even by inter-prison competition. A note worth mentioning is that external services are interwoven with Central Prison Services to operate these activities with higher degree of professionalism, such as National Athletics Federation.(Portuguese Central Prison Services Report of 2004 as published in 2006)

¹⁰ The relation mother/ son is "worked" by ludic activities as made in "Mother's House" in Tires Prison [a separated infrastructure for female inmates who desire to remain with their children till the latter have 3 years old or pregnant inmates]

opportunities of social achievement (training¹², labour integration). Hence, prison may be seen as a context of change in which individual and social rehabilitation are expected to be pursued. Alike, it may be seen as a privileged space to a psycho-social reorganization by promoting the internalization of rules, norms and limits that somehow may have been lost in inmates' life histories.

Nonetheless, one must bear in mind that there are specific dynamics of the prison setting, such as the security one, that on the lack of enough human resources, the needs of security are highlighted in detriment of socio-educative needs [or medical care when it is needed outside support]. The delay of the settled starting hours of classes or training, for instance, by lack of prison guards that are also designated to do the surveillance in other spaces of the wings, make part of the possible obstacles that one may find, *de facto*, in the implementation of rehabilitative processes. (Santos, 2003) Likewise, one must not be absent minded to the prison sub-cultures and informal economy (namely drug trafficking, mobile phones in "parallel sale", hand laundering for others paid by those who do not want to do this task, *inter alia*) that one may find within prisons that may be resistant themselves to the rehabilitative processes. It is worth mentioning the recent findings which advance that prison may be seen as part of the neighbourhood itself (Chantraine, 2004) where relationships of parenthood (Cunha, 2002) are likely to be seen.

Albeit all the constraints that one may find within prison environment, linked with the overcrowding capacity, lack of methodologies on rehabilitative intervention, *inter alia*, one may say that, at least, on a European level, a better quality in the living conditions of inmates may be found within prisons as well as a wider range of rehabilitative projects involving the more and more, a diversity of individual and institutional intervenient.

Liebling states that development is *becoming with humanism*. (Liebling, 2004)

Normalization

In an overall sense, it means that the prison setting, as a sub-system of society, should promote all the dimensions (affective, sexual, educative, social and cultural activities, *inter alia*) that occur outdoors (Snacken, 2002), as the inmate has lived before imprisonment or should have lived if one would live in a symmetric society. In short, the prison setting reveals *per se* the mirror of the

¹¹ One of the most compelling examples is to see that one of the most persistent pupils in prison classes are the female gypsy ones, who in the large majority of cases, enter in the prison being illiterate [due to the prohibition of going to school by their culture patterns] and after some time know some basic competences such as to write their names. Above all, one may deduce the degree of self-esteem that that may give, which is so relevant to their individual and social rehabilitation.

¹² Protocol Justice Center is one of the training units which give regular training within Portuguese prisons. A diploma is given without any reference to the place of training (prison) in order to skip to stigmatization in social rehabilitation processes. Furthermore, one of the most memorable examples of my professional experience was one of the proclamations of the training courses (Tires, 1999) in which the inmates have wear their own clothing "productions" made during the courses.

organization of one's society [in its processes of equalization and inequalities] (Lea, 2002) and the outside society must be mirrored indoors.

If one has into account John Lea words on saying that prison environment is crimogenic *per se* (Lea, 2002), all institutional efforts should be made to *normalize* life within doors.

The concept of normalization as such should be distinguished on two levels: 1) Normalization on the individual level: the acknowledgment of the inmate in the diversity of his social roles; 2) Normalization on a collective level: the contribution of the external services as similar as possible from those which exist outdoors. (Snacken, 2002)

All the situations within the prison context that reinforce the status of the inmate in an ostensive way (like calling the inmates for their numbers or patternized all the inmates with the same wearing) can only reinforce a fragile link between the inmate and the surrounding whilst and after one's imprisonment. According to Snacken, "the social role of the «inmate» still prevails above all the other possible roles." (Snacken, 2002)

Albeit being prison the last resort within a criminal justice system, it must operate as a social place where not only should exist the opportunities which may be found outside as the ones that have been denied or the ones that the individual did not take advantage about once in liberty. Hence, collective normalization is a key word if ones want to speak about rehabilitation. One must bear in mind that some sub-groups that may be found within a prison, are people who have found, previously to the imprisonment, a certain "displacement" in the formal or informal grounds of one's society, namely unemployed, ethnic minorities or drug addicts. Therefore, two occurrences may happen on a psychological level: low degree of self-esteem and internal resistance to external demands. Hence, on determining someone to a prison sentence, with a deterrent and rehabilitative end, it has to be ensured that the individual is likely to enhance and improve one's capacities and potentialities. In other words, imprisonment should widen and not handicap one's horizon.

Yet, important as the supply of occupational options such as training, schooling, social and cultural activities to be ensured by the different social actors and governmental and non governmental agencies, is the need for a constant evaluation of inmates' motivation which is some of the times, inconsistent and erratic. Thus, collective normalization is a key concept in one's rehabilitation if and every time that there is a dynamic compromise between those who manage the prison, its internal and external prison officers and the target population.

However, one must not under-estimate the disciplinary side of a prison context: "The normative principle of "normalization" does not hinder all the totalitarian and artificial features of prisons" (Snacken, 2002)

Legitimacy

Above all, there is a striking difference between what is legal and what is legitimate. Therefore, Elaine Crawley (2004) points “Legitimacy” as one of the key words to one understand the prison environment.

Hence, to prison rules and goals become legitimate by the prisons officers, it is far beyond satisfying all the inmates’ needs and appeals of attention. In other words, legitimacy is not appeasement.¹³ (Crawley, 2004)

The notion of ‘legitimacy’ is rooted in Beetham who has stressed two important lines of reasoning: a) legitimacy has to be justified in a subjective feeling and b) is fuelled by dialectic dynamic. (Crawley, 2004)

In a due process of legitimacy, all prison activities and demands should be explained and understood in order to avoid misunderstandings amongst the target-population [the inmates] and all the prison officers who are involved in the daily routine of a prison setting [uniformed and non-uniformed prison officers].

Thus, it should be made all efforts to have a degree of flexibility¹⁴ enough to avoid tense and conflicting relationships that may lead to implicitly or explicitly degrees of violence. There could be the case that the inmates, individually and collectively, blackmail the prison system with external pressures such as the media or by internal pressures such as the hunger-strikes or riots which ultimately may appeal to the media attention. (Snacken et al., 2005)

Thus, *prisons* which merely manage order and discipline over long periods of time are likely to be those that have gained a minimum degree of legitimacy in the eyes of their prisoners. (Sparks et al., 1996 as in Crawley, 2004) Likewise, in prisons with less flexible regimes, violent behaviours are more likely to be triggered. (Snacken et al., 2005)

However, room should not be given to the inmates to shove the prison officers with their intents. Likewise, room should not be given for the other way around.

Alike, on the one hand, inmates should obey to the discipline inherent to a prison organization; on the other hand, the former have to acknowledge those who give orientations and orders towards theirs

¹³ “Legitimacy of prison regimes, thus understood, ‘demands reference to standards that can be defended externally in moral and political argument’. An ethos of appeasement, on the other hand, entails prison staff making concessions and compromises simply to avoid upsetting them.” (Crawley, 2004)

¹⁴ A strategy which was found in some Western and Eastern countries was to introduce Prisoners Councils, in order to promote the visibility of the contributions and problems felt by the collective of the inmates. (Bishop, 2006)

behaviours. Otherwise, the inmates may create mechanisms of defence and resistance¹⁵ towards the prison officers and the so called rehabilitative goals.

Likewise, albeit the disciplinary side of a prison institution, internal prison officers can not perceive that they only accomplish orders “from above” with no added value contribution to be given.¹⁶ Hardly one can speak in rehabilitation if the prison officers exhibit demotivation, dissatisfaction and low self-professional's image.

Liebling has highlighted the need to measure inmates' attitudes and, in addition, attitudes which are shared amongst and between prison officers and prison administrations. It is only by taking into account that dialectic process that one may speak about intervention on a prison setting with the assumption that somehow there are bridges and links towards one another as well as gaps of communication and conflicting interests and views upon each other.

Therefore, legitimacy is something to be achieved: “*The achievement of 'legitimacy'.*”¹⁷ (Crawley, 2004)

In short, legitimacy is a process in circular action.

¹⁵ Generally speaking, one can say that the inmates adopt themselves different defensive strategies, *inter alia*, such as:

- a) An attitude of self-compassion;
- b) One's victimization;
- c) An *scape to disease* (Gonçalves, 1999; Gonçalves, 1993);
- d) Inconsistency in their decisions and motivation which may result in an erratic participation in inner activities;
- e) Skip to be in a dual conversation in a guidance conversation, for instance, by saying to the uniformed staff that they are unwilling to speak with the un-uniformed one.

¹⁶ A qualitative step, introduced in Portuguese prisons in the year of 2005, was the fact that internal prison officers can evaluate their direct hierarchy as well to exhibit the level of satisfaction and needs towards the institutional functioning.

¹⁷ “When personalised legitimacy is achieved, reliance on rules becomes unnecessary; formal rules are used ‘only in extreme cases or to set an example. They are no longer a major source of authority’ (...).” (Crawley, 2004)

V. FACTORS THAT MAY INFLUENCE THE REHABILITATION INTERVENTION

The following factors have been chosen as considered of high relevance in the rehabilitative processes within doors. It is a selection, as other could be made, taking into account the bibliography which was read and the former professional experience of the author of the present dissertation. Once again, as mentioned upon the sub-division made around the rehabilitation concept, the positive and negative factors co-exist and once tackling one of the negative points, it becomes a positive factor and the other way around.

Yet, in each prison there is a “prison culture” (Liebling, 2004) in which one may found exceptions on particular officers, particular programmes and particular line of reasoning from the prison administrations. One must bear in mind that even in the same prison one may found exceptional examples on coping with inmates’ development and, at the same time, procedures which underestimate the ability of changing one’s behaviour whether concerning to the prison officers whether to the inmates.

Facilitator Factors

1. Training and academic knowledge directed to prison officers
2. Mixed Staffs
3. Mixed Sectors
4. Combination between the internal prison officers and external prison officers

Hamper Factors

1. Resistance to change from the internal prison officers
2. Dependency of a hierarchy by the internal prison officers
3. Low promotion of rotation of the internal prison officers
4. Lack of supervision and coaching of the internal prison officers
5. Over-attention towards reports of Prison Leave or Release
6. Request of the inmate as the pull factor
7. *Economicus* Rehabilitation
8. De-personalized verbal communication
The Portuguese Case: Likelihood to the uniformed staff to call the male inmates by their numbers in the majority of Portuguese Prisons
9. De-personalized non verbal communication
The Belgium Case: The uniformization of the wearing clothes as far as male prisoners are concerned
10. Overextension of the State in form of its religious, political, cultural heritage

FACILITATOR FACTORS

Training and academic knowledge for prison officers

Training is needed for the prison officers' development to enable them to cope with adverse situations, risky behaviour, giving the proper counselling, *inter alia*. In other words, be empowered in order to achieve the know-how to inter-act with an appellative behaviour.

Training can reinforce a process of legitimacy for prison officers towards the prison administration which can in turn reflect positively in their interaction with the inmates.

On the one hand, it is also an outstanding opportunity of being with other professionals and experts in order to widen one's mind. On the other hand, doing training affords the relief of leaving for some days a professional space that without the due supervision or self-defence, can become emotionally claustrophobic. Needless to say that updated information relevant to good practices of rehabilitation within the prison context should be even more shared and rooted in academical findings.

Mixed Staffs

Having "mixed staff" in prison environment, goes sharply to the *normalization* concept, since it creates within prison walls the closest resemblance as possible to the daily routine outdoors.

Seemingly by understanding the positive correlation that may be found between the concept of normalization and rehabilitation, one is likely to find mixed staff in all Ghent Prison wings. However, the influx of mixed staff within Belgian prisons did depend on a not very distant ministerial decision on having, at least, 20% of the opposite gender which is the predominant in a wing / prison. (Snacken, 2001)

In most Portuguese male Prisons, there is an overspread presence of male guards [albeit there may exist female guards for certain functions, as in the main entrance].

"Generally speaking, the relationships that take place inside the prison settings and normally between male inmates and male uniformed staff are of antagonistic character. Bruno Cormier classifies the relationship between guards and inmates as 'paranoid ones'." (Colaço, 1999)

However, there are added value reasons to introduce female prison officers in male wings/ prisons: a) Mixed staffs are more alike the social picture as it happens outdoors; b) Diminishes the degree of tension and aggression of the inmates, that may arise with the continued absence of women who may have been intrinsically related in their previous social routines; c) The conflicting tensions that tend to be reinforced between prisoners of the same gender; d) The presence of the female prison officers

favours the introduction of values and subjective feelings connected with motherhood in male inmates' mind.

Liebling stated that a over presence of the same gender, as the male one, creates a menace of a perpetuation of a masculine subculture in the male prison staff and therefore, the introduction of female prison officers into male prisons (and of male prison officers into female prisons) correspond to a movement in favour of 'normalization within doors'. (Liebling, 2001)

On not doing so, the Portuguese State is not getting along with the academic findings that, indeed, there are beneficial effects of increased female staff on its impact in prison environment: assault rates, suicide rates and staff-prisoner relationships (eg. Rowan, 1996 as in Liebling, 2001)

Likewise, the introduction of male prison officers in female wings / prisons can be of paramount importance because: a) It is coherent with the normalization concept; b) It may have a containing effect in a very appellative population [the female prison population is far more appellative] and c) It avoids a biased presence of the same gender in the same and between prison staff(s).

Hence, it should be injected in Portuguese female prisons, a higher significant number of male personnel (Re-educative staff and prison guards). Albeit the social or it should be said sexual risks, the presence of professional prison staff of male gender in female wings could fade the overemotional degree inside the female wings, besides the over-identification and permissiveness between female inmates and female prison officers. (Colaço, 1999)

In short, mixed staffs within doors correspond to the full respect of the concept of *individual normalization* and the reduction of unavoidable effects connected with imprisonment, as far as the inmates are concerned.

Mixed Sectors

At this point, I would like to invite the reader to a formula which was found to work in Ghent Prison: the involvement on a full basis of two prison officers of the uniformed staff on the set of operators who are in the front-line of the socio-cultural intervention¹⁸. The two internal uniformed officers working for the Federal Ministry of Justice are allocated to this programme and have the same degree of involvement as the JWW officers¹⁹, who are under the Regional Ministry of Judicial Welfare. Hence, the former and

¹⁸ Which in the same row are highly attentive to the enhancement of inmates' personal and social competences, as well as technical competences such as the languages acquisition.

¹⁹ JWW: Judicial Welfare Work of Ghent. In short, JWW is part of CAW *Artevelde*, which intervenes with people who are dealing a problematic situation due to an offence under the law.

the latter are fully committed in the planning and coaching of activities. The interweaving of two elements of internal prison staff that are normally seen as “agents of establishment of the order and authority” (Correia, 1989) with external prison officers is embedded with new rehabilitative non-verbal languages. By giving themselves as an example of co-operation and synergy reflects a willingness towards change and with an ability to show flexibility, coping with an environment that is stressful to all [namely to the staffs themselves], operating *per se* the concept of *legitimacy*. (Crawley, 2004; Snacken et al., 2005).

Using the same assumption, an interaction can be seen between uniformed and non-uniformed staff in the *Antro* Team, also in Ghent Prison. The *Antro* Team, who work with the internee, is constituted with internal and external professionals [namely, the *Centrum Obra* ones, who are specialized in working with handicapped people]. Their method is to take an evolutive behavioural approach in order that the internee may cope, sooner or latter, with the unpredictability of the external society, *inter alia*. It was quite remarkable to see the motivation of the *Antro* team in order to have the therapeutic features as realistic as possible to the outdoor situation of working with people with mental disorders. In other words, it is a paradigmatic example of interweaving between the individual and collective normalization. (Snacken, 2002)

Looking at the Portuguese example, it is also possible to be seen in some Portuguese prisons an involvement of uniformed staff in sporting and musical activities as part of rehabilitative intervention in a close link with the re-educative team, albeit the involvement of the surveillance team may depend on an exceptional availability of the uniformed officer itself.

Full importance should be given to the symbolic side in each item used as a facilitator factor towards rehabilitative aims. In other words, when the prison staffs induce pro-active examples, inmates have less ground to perceive the prison experience overstressing its deceiving side.

Combination between the permanent Staffs and External Staffs

An assumption that can be noted in both official documents from Belgium and Portugal is that rehabilitation does not imply a cut with one’s community. On the contrary, external services are complementary to inner services linked with rehabilitation ends.

Albeit the importance of the implication of the outdoors society for the consubstantiation of the contents of the *individual and collective normalization* concept (Snacken, 2002), one must not be absent minded that the involvement of civil society in the penal system is still fragile. (Cartuyvels, 2002)

HAMPER FACTORS

Resistance to change from the internal prison officers

An excessive degree of familiarization with the professional tasks, with the hierarchy and with the inmates would make imply for staffs' behaviour the concept of "prisonization". (Clemmer, 1940 as in Gonçalves, 1993)

One can see that it is a double edge sword: a certain degree of expertise and experience is needed to acquire inmates' respect with which to promote a ground for communicational processes embedded in legitimacy (Snacken and al., 2005), albeit stagnation and negative 'imaginary' (Liebling, 2005) is also likely to be found amongst professionals who work in the prison. Hence, if, officially, changes are to be made on inmates' behaviour during the length of the sentence, in a way of empowerment, of 'becoming' [rooted in the "development" concept] one must not forget that credibility is needed to be recognized from the inmates towards those who are responsible for the re-educative process.

Therefore, the more the prison officers fossilize, in time and space, the greater is the gulf between those who are supposed to rehabilitate and those who are supposed to be rehabilitated.

There are implicit or explicit forms of accommodation to routine procedures with a low level of open criticism. Thus, passive resistance is likely to happen amongst internal prison officers. Evidence found a higher degree of satisfaction and willingness of change demonstrated by the external officers and by its turn, perceived by the inmates. (Rostaing, 1997)

"There is no doubt (...) many prison officers resent several changes that have taken place within the service. In that way, so many officers perceive change as a threat to familiar and comfortable ways of working (...) tendency towards "conservatism". As in many other established organisations, tradition and nostalgia have an extremely important place in the occupational cultures of prison." (Crawley, 2004)

Dependency of a vertical hierarchy

It is likely that a vertical hierarchy may be found in a prison setting, largely managed as a public organization, as in Belgium and as in Portuguese case.

Vertical hierarchies may reduce creative inputs that, in a more horizontal type of management, could give room for critical positions from the prison staffs along with other proposals of thinking and doing *rehabilitation* from what is on 'habitude' offered to the inmates.

Once again, if opportunities are not given to the prison officers as individuals to develop, there is a circumscribed space for renewed strategies of enhancing rehabilitation. As mentioned, *legitimacy*

concept involves a process of permeable influence. Hence, if autonomy and assertiveness are competences which are expected from the inmates on the end of a rehabilitative process, the same competences should be seen in the prison officers who are supposed to empower on them the abilities of autonomy and assertiveness.

“These social professionals (social workers, animators-trainers, clinical staff...) stress their freedom of speech. They work in the prison but do not depend of the Prison Administration.” (Rostaing, 1997)

Beyond that, with working in a pyramidal hierarchy, it may occur that an internal prison professional instead of coping with new rehabilitative strategies could be thinking strategically of his own career in order to be promoted, with all the cessions that that may imply.

Low promotion of rotation of the internal prison officers

Many professionals, both uniformed and non-uniformed staffs can be working in the same prison setting, for several years, which may give room to:

- 1) The institutionalization of prison officers;
- 2) A surplus of informal relationships amongst staff and amongst staffs and inmates.
- 3) An excessive familiarization with the inmates who are recidivists;
- 4) Professional tasks which are likely to be over-repeated throughout the years without being questioned or improved;

Whilst respecting the need of not cutting the degree of physical proximity between prison officer's place of residence and social web; in cities or regions where it would be possible, the internal prison officers should not be allowed to remain in the same prison setting for more than a certain number of years. There are detrimental aspects of the permanence in the same work place such as the prison one, in which social relations are implied in an “emotional arena” (Crawley, 2004). Therefore, there is the danger of prison officers' encystations in a function with constant intervention with human beings which means that if the prison officer is not developing himself, the latter would hardly contribute to the *development* of the target-population.

The need for the prison officers' rotation is fully integrated in international recommendations. (New European Prison Rules, 2006; European Prison Rules, 1987)

Lack of Supervision or Coaching to prison staffs

Within prison environment, supervision and coaching are needed. Otherwise, it is up to the prison officers themselves to deal with conflicting emotions²⁰ (Crawley, 2004), in a place where burnout is likely to happen.

Whether uniformed or non-uniformed staffs are exposed in conflicting situations and confronted with ethical doubts. Furthermore, what can be considered trivial in liberty can have an amplified effect in prison. One can witness situations which reveal themselves to be on a 'razor edge' (because the inmate has a mental disorder; or because it implies decisions which provoke "mixed" emotions in the prison officer) and therefore, an external supervisor would be needed, whether to the uniformed whether to the non-uniformed staff.

The figures of Prison Governors are not suitable for the supervising role, since they are implied themselves in the organic of the service and thus:

- a) They may know the inmates, having a subjective opinion towards individual cases that may collide with the evaluation made by the prison officers, namely those making assessment behaviour reports;
- b) Supervision implies an 'emotional' distance towards the prison officer, towards the inmate and towards own daily dynamic of the services, which may only be guaranteed by an external element;
- c) A Director who represents the Prison Governor and has a team under his responsibility, is foremost a member of the Prison Administration. That should not be the role of a supervisor who *per se* should not represent individuals or groups of power;
- d) It may occur that instead of supervision, one may have the orientation, implicitly or explicitly, of the Governor or even superior "guidelines". In short, guidelines are not the same thing as guidance.

It is undisputable that Prison Administrations need to be coached themselves as one of the other top priorities of the prison system. Alike other prison officers, prison managers are somehow forgotten as one of the most important sub-systems in a prison setting, even in academic grounds:" If prison officers have received little academic attention, their managers have received less." (Liebling, 2001) Hence, is considered of paramount importance, in the heritage left by the former Portuguese Director-General (Central Prison Services Report, Portugal, 2004 published in 2006), the training program for prison managers: "Manage to Innovate".

In sum, the development of the prison officers can only constitute positively on the development of the inmates and to further the grounds of processes of legitimacy acknowledge by the inmates.

²⁰ "(...) interviewees acknowledge that the job could be extremely stressful. (...) The degree of emotion work that officers are forced to engage in when suffering these levels of anxiety and stress is intense. Officers who feel that they have lost control over prisoners (...)." (Crawley, 2004)

Over-attention towards Reports of Prison leave or Early and Conditional Release

The deadlines to produce behaviour reports fulfil the majority of the time of prison officers who work directly in assessing inmates' behaviour and evolution of prison behaviour.

"We are the pen officers, instead of being with the inmate to perceive who that person is." [A statement quoted from a Superior Officer of Re-education in a Portuguese Prison in Cunha, 2004]

"Our priority is the deadline of a report and we never stop to do Behaviour reports. There are days that we just do that. Not every time we are with the inmate to do his report, it can be with his file". (PSD officer in Ghent Prison)

Therefore, since these reports have the same structure²¹ (in Portugal and Belgium the items of assessment in an Early²² and Conditional Release Report are nearly the same), the "same type" of pre-structure is likely to happen on the dialogue with the inmates namely with the condemned ones and interviews are likely to have routine questions.

Yet, to correspond to the frame of the so called "behaviour reports", 'development' is somehow not likely to start from the inmates' potentialities but from the inmate capacity on adapting himself to the "code of integration" of the institution.

Gonçalves has made a typology of inmates' adaptation to the prison setting in which those who are the "over adapted" are not necessarily those who change their behaviour intrinsically according to rehabilitation programmes, but of those who know to perform the best in order to give a rosy image of them selves to obtain license releases. (Gonçalves, 1993)

Some of the times, prison officers who work even with re-educative ends, tend not to ask what are the needs, feelings and perceptions of the inmates but, on the contrary, tend to guide one's behaviour according to the institutional values and professional groups' attitudes. (Dias, 2000)

So, it suggests that the inmates know what to do in each of the moments of the so called "prison evolution" as it would be a "game boy". Thus, the inmates should correspond to a standard behaviour which is the opposite line of reasoning which should be underlined in a rehabilitative process, in short, in a process of becoming.

One may say that that diverges with the philosophy inherent to the concept of '*individual normalization*'.

²¹ With an exception: In Belgium, the degree of commitment of the inmate towards the willingness of compensating the victim (or the latter relatives), is included in the structure of items which are going to be weight in the assessment to grant an inmate a leave or release.

²² Juridical possibility in Belgium but not in Portugal (Tubex, Ghent University, 2006)

In short, the prison officers [Re-Educative team in Portugal and Psycho-social team in Belgium] who should guide and assess inmates' behaviour are those who expect a "mainstream behaviour", which creates the grounds to an artificial communication between inmates and prison staffs.

Plus, not necessarily the prison officers are seen by the inmates as role models and with ability to change and improve in their own professional radius of action. Hence, the chain of continuous flow between staffs' development and inmates' development is sometimes inexistent or not clearly evident.

If that is so, it seems that the prison institution has accommodated on time and the prison staffs, including prison administrations, not every time challenge themselves to creative alternatives or options with higher degree of unpredictability. Is that corresponds to a low degree of development of the staffs themselves?

Moreover, the more the conversations staffs/inmates are guided by the institution needs or driven by practical problems of the inmate (see below), the less the *development* of the prison officers and of the inmates is likely to occur, which will abort or disable desirable processes of rehabilitation.

Request of the inmate as the pull factor

De facto, most qualified officers in the prisons are requested by the inmates with specific problems-concern. Therefore, that can lead to short attendances just to cope with a problem which is perceived as the main concern, instead an attendance with more global understanding of the inmate.

"In practice, (...) 'crisis counsellors'." (Vieira, 1998)

If one gives the right weight to what is subjacent in the just quoted statement, one can estimate how frustrating it must be for the internal prison officers to dedicate the great part of their time on resolving practical concerns²³. Undoubtedly, just on resolving practical problems of the inmates, one may speak on the minimal grounds to do one's individual and social rehabilitation. The only question is that when the concentration on those tasks outweighs over other type of rehabilitative intervention.

More than that, the inmates can perceive the non-uniformed Staff as the 'Aladdin' who are meant to resolve their immediate or long-term problems. Well, that is the counter-sense of what rehabilitation is, since the content of the latter concept means, *per se*, a sense of co-responsibility.

²³ As like as it happens with the T.S. R. team in Portugal, (Gonçalves, 1993) the P.S.D. team is also characterized with a list of competences which are quite disperse. In Belgium, besides of the Testing Assessment, the Psychologists may be resolving bureaucratic matters as requests of money or doing the phone call to the family. So, *de facto*, there is a "standardization" of the daily routine in detriment of a synergic approach. Likewise, in the T.S.R. teams, the sociologist, the psychologist and the social worker do nearly the same. (Gonçalves, 1993) The multidisciplinary approach is rather more than a euphemism.

In consequence, the prison officers are likely to be under a permanent pressure and feel that they are swamped beyond their capacity. If that happens, a crisis of legitimacy on the professionals may not only reflect negatively in the development of the target-population but also in doing rehabilitation per se.

In short, the moment of attendance with the prison officers can be seen as by both professionals and target-population as a 'confessionary space' where pragmatism fuels the conversation.

Generally speaking, in the inter-action inmates/ prison officers, the problems as mentioned by the inmates trigger a kind of utilitarianism with a need of an urgent attention.

Economic Rehabilitation

It is often said that the menace of the privatization of the prison would be to render the inmates to be commercialized in a kind of neo-liberal market. However, one sees nowadays, within some prisons, an increasing use of inmates' workmanship in favour of third parties, even though there is a remuneration provided for the inmates.

It can be advocated that companies from the private market, can facilitate the integration of the inmates once outside. Albeit follow up measures are often lacked in rehabilitative programmes, just hardly is there a process of continuity from those occupations inside and outside prison. It would not be harsh to say that enterprise needs far outweigh the occupational options provided by the Prison Services in the development of the inmate's intellect, capacities and potentialities.

On making a detailing description of the inner dynamics on the Portuguese Prisons on the beginning of the XX century, Xavier da Silva argued that the Prison Labour did not stimulate one's mind.²⁴

Moreover, do we have a clash between how the institution perceives the aims of certain occupational provisions for the inmate (schooling, training, prison labour, *inter alia*) and the way that the inmates cope with the choice? The demands²⁵ inherent to have a job whilst one is imprisoned may reinforce one's personal and social skills. Nevertheless, it prevail the existence of labour official units or

²⁴ On presenting to the reader an evolution of the prison labour in Portugal from the XIX to the XX century, it was given that the advantages of working in officinal rather than in a cell [the cell labour regime was abolished in 1913, subsequently to the Republic Proclamation] (Xavier da Silva, 1923) were: more space, more lighting and more hygienic conditions. Nonetheless, although stressing the paramount importance of the labour activity, it was advanced by Xavier da Siva that up until the beginning of the XX century, alike with other foreign experience, a proper solution towards prison labour had not been found, nor in favour of the State nor in favour of the inmate. (Xavier da Silva, 1923) Seemingly, almost hundred years have passed and a "proper solution" is still to be found.

²⁵ Such as sense of responsibility, engagement in a group without conflicts occurrences, to have a schedule since morning

functions for the Prison upkeep which presuppose a “mechanical behaviour”,²⁶ with repetitive behaviour, focused towards quantity, in sum, the non-use of adaptive behaviour to adverse and new situations or even to re-think about past ones.

In broad terms, it may be said that the tasks involved in the labour integration are the counter-face of “becoming” and to excel prison needs of maintenance, even though it is advocated that is to ensure one’s commitment with one’s process of rehabilitation.

“(…) it seems a counter-sense to integrate labour in the vital needs of the inmates. (...) The motivations for the inmates to opt to a labour opportunity has more to do with occupation of time, being out of the cells (...) and above all, give a good image of himself which they believe will lead to obtainance of holydays or Release. (...) The re-socialization project is converted in self occupational therapy (...) to work allows an easier representation of the behaviours considered institutionally convenient (...)” (Semedo Moreira, 1994)

Nevertheless, one must not underestimate prison labour as a way of promoting a certain degree of financial autonomy, as having money to their own needs such as stamps for correspondence, sending money to the family or purchasing tobacco or a cup of coffee.

At this point, I would like invite the reader to draw attention to one of the supposed veins of rehabilitation once detailing the Portuguese case: schooling.

Let us go to statistics but foremost, let us place those statistics in a specific social and cultural environment: the Portuguese one.²⁷ The national weight of Portuguese inhabitants who did not go to School before imprisonment is still striking. If one wants want to speak about social integration after imprisonment it can not be forgotten the precocity of social exclusion of the Portuguese ones who arrive in the prison without the minimum obligatory schooling²⁸.

²⁶ Albeit, for instance, in Portuguese Prisons, although the conjunction on having learning and labour option is encouraged, the tendency from the inmates is to dedicate their full time to officinal units to earn money instead of their own education.

²⁷ Unfortunately, the extension of this dissertation does not permit a specification by a decomposition of the inmates according to the regional and local belongings. Besides, the Portuguese Central Services Reports divide the inmates according to some socio-graphic indicators (as gender, age, educational frequency before imprisonment, *inter alia*) but also divide the prison universe (for a comparative option) between nationals and foreigners. (Semedo Moreira, Portuguese Central Prison Services Report of 2004, published in 2005)

²⁸ Which in Portugal is Secondary Schooling

Previous Educational Degree before Imprisonment

Nationality – Portuguese	Year 2004	Male	Female
Did not know how to read or to write		5.5%	13.1%
Knew how to read and write		4.7%	4.8%
Had completed of one of the four years of Primary School		28.9%	39.8%
Had completed one of the two years of the Second Cycle of Basic Education		25.1%	15.5%
Had completed one of the years of the Third Cycle of Basic Education		17.0%	15.7%
Secondary Schooling		5.0%	8.3%
University Education		0.5%	0.8%

Furthermore, in the year of 2004, the level of literacy of the foreigners' inmates was higher than the national ones²⁹

It is so deficient the degree of schooling of those who arrive in prison, that it should be a State priority for those who are convicted [conjugated, of course, with other ergo-therapy activities or others] to go to school indoors up until the completion of the obligatory schooling. When one does not know how to read or write one has much less autonomy, which is one of the basic skills when one is speaking about one's development. The decisions operated on a decision-making level have to be realistic to its social reality. It seems nonsense that, even on a European level, all countries invest in the same type of rehabilitative programmes as far as technical competences are concerned, when, on average, the citizens of each country may have different social needs. Each country has to define its own priorities in terms of some front lines of rehabilitation taking into account the inmates most observed needs, on a average level, in terms of those who arrive in the Prison System (information possible to be gathered by updated national reports, at least, of the year before) and, of course, by taking into account the needs of the market. It is up to the State to do that social effort and then giving room to the Prison units, by hearing Prison officers and Prisoners Councils³⁰, to propose other kind of needed interventions on a rehabilitative level.

It should be a priority of one's Government, such as the Portuguese case, in a country in which levels of illiteracy amongst mass imprisonment is so striking, to define an investment on technical competences, namely towards schooling. How is it possible to speak of re-adaptation when an inmate can be sentenced for a large number of years, without making, at least, the primary school within

²⁹ On the one hand, since in the male population, there is a recent weight of those who are originals from the Eastern European countries which corresponds to a migrant movement and criminals activities perpetuated by those who have themselves a licentiate degree; on the other hand, because in Portugal are arrested a great number of foreigner "mail" drug traffickers (Semedo Moreira, Portuguese Central Prison Services Report, 2005)

³⁰ According to Bishop, senior managers held that prisoners' councils operated as clear and improved channels of two-way communication. Yet, there is a drawback cited by two thirds of the senior management: some prisoners who were selected argue about points affecting themselves and not the majority of the prisoners. (Bishop, 2006)

doors? The reader may say, but not everybody is willing to study as an adult, being training more appropriate. The reader may have a point, but a basic understanding of literacy competence is needed in every training and in future terms, in every social integration, namely towards the labour market. However, it is not excluded from the radius of action of making other types of different interventions and programmes, which are complementary to the accomplishment of basic indicators of social inclusion.

In a ground breaking study made by the Permanent Observatory of Portuguese Justice: “Social re-insertion of the inmates: A contribute for the debate of the Reform of the prison system”, its Scientific Director refereed to the importance of schooling and training within doors, as the fundamental tools which are needed to do individual and social rehabilitation. Likewise, Santos and al. quoted two studies mentioned in the Report “Reducing re-offending by ex-prisoners” (Social Exclusion Unit, 2002) to relate education and training as highly important to the prevention of recidivism rates. In the same study, Santos and al. cited a Canadian study:” Effective regimes measurement research” (Clark, 2001), which one of the conclusive findings was that taking into account the low educational skills of the prison population, those who participate in classes and training courses during the reclusion time, were three times less susceptible to recidivism than those who don't. (Santos, 2003)

In Portuguese Prison System, since 1979³¹, it is strongly encouraged the need for the inmates to attain schooling within doors [collective normalization, Snacken, 2002] and the number of external professionals are slightly being reinforced in Portuguese prisons, delegated by the Ministry of Education (DGSP, 2006), although mechanisms of proper control and guidance, on a continuous level, seems to be missing. Furthermore, there is sometimes a collision in the type of reinforcement made by the uniformed and un-uniformed staff, since with the former the value of “work” corresponds more to a ‘traditional society’ and perhaps more to a sense of masculinity. Even though there are outstanding good examples of top priority investment in schooling (Linhó Prison, School-Prison [*Prisão-Escola*] Leiria), there still is, on national terms, once speaking about Portugal, an over concentration of inmates fully occupied with Prison labour rather than in training and schooling. (Semedo Moreira, Portuguese Central Prison Services Report, 2005; Santos, 2003)

A “in between” situation is the over-investment on the labour option within prison context: on Decree-Law 265/ 79³², in Portugal, it is stated that the Labour occupation is an obligation for those who are convicted. Albeit, in practice, no one in Portugal obliges an inmate to work, the fact that for not working, or more technically said, for not investing in his prison behaviour [when overcrowding or lack of prison officinals do not hamper the prison labour supply] can be reason enough to inform negatively upon a possibility to grant a leave to an inmate. The opposite way around is also curious. An inmate who works (one never knows which is higher: the degree of inmate's will or inmate's strategy to please prison authorities) may have his labour occupation as the indicator, *per excellence*, of his

³¹ Decree-Law of 265 / 79 of 1st of August

³² It is this legal framework which still guides prison practices.

prison behaviour. For some prison authorities that can be the indicator enough to grant an inmate all kind of legal flexible measures and to consider that individual rehabilitation has been made.

De-personalization of the inmate through verbal communication

The Portuguese Case: Likelihood of the uniformed staff to call the male inmates by their numbers in the majority of Portuguese Prisons

In spite of the recommendations emanated by the Portuguese Central Prison Services, one of the gravest matters, within Portuguese male prisons³³, is the current practice of the uniformed staff to call the inmates by their numbers and not by their names [not even by their surnames]. Besides being an attempt against one's equality (in this case, in disfavour of the male gender)³⁴ It is totally paradoxical to speak about rehabilitation or re-educative intervention whilst that annulment of the self still persists, revealing, by itself, the paradigmatic antithesis to the concept of *individual normalization* (Snacken, 2002).

Although it may be advocated that due to the emotional tension, defence mechanisms may need to be used by the prison officers, namely the prison guards [which may explain that to treat an inmate for its number is not even a conscious form of decreasing tenseness and a manner of getting an emotional, institutional equilibrium on the inter-face with the inmates], other solutions must be provided (as intra-rotation or readjustments on the time passed in a wing) that don't pass on the treatment of the inmate in a such un-personal way.

For a true process of *rehabilitation*, all ambiguities should be erased. It is supposed that the prison guards themselves are active part of the rehabilitation philosophy. Hence, just the possibility of someone who is by himself uniformed (which create a social distance linked to those who wear uniforms as representations of a so-called authority³⁵), to treat an inmate by robbing him of his most personal belonging and family heritage [name and surname], harm, straight the start, all the grounds on which one may speak about rehabilitative programmes.

Likewise, it may hampers the grounds for the inmate to acknowledge a positive ascendancy towards those [the uniformed staff] who share more hours of the day and night with them. Somehow it has

³³ Albeit the Portuguese Prison Central Services have been asked to give an official list relatively to the prisons in which inmates are treated by their identifiable numbers, the answer which has been given was that the superior orientation lean of favour of a nominal treatment, there was an acknowledge that inmates are treated by their number, namely in the Regional prisons. However, non-officially, it may be said that in Central prisons such as Izeda prison, Linhó prison, Male wing of Tires, *inter alia*, inmates are treated by the uniformed staff by the number that they have in the internal file. To put it more accurately, the only male prison in which there is a treatment by inmates' names is Lisbon prison, specially conceived for remand inmates.

³⁴ In Portugal, within female prisons, female inmates are called by their names. One should not only speak of the lack of equality when it disfavours the women position.

³⁵ Hence, one may have a very well structured and measured programme to cope with empowerment of skills of a certain set of inmates but if there are other symbolic tensions or representations which go totally against the minimums bases of humanism, it can be said that the success of that programme is lost from the beginning.

become so much “internalized” in the current procedures of a large majority of the Portuguese uniformed staff that, even if it is not done with negative intention, (academics studies urged to be done) it may certainly create a negative impact, which is not coherent with the Portuguese official policy which states that the custodial sentence in Portugal goes far beyond a deterrent or retributive effect.

In a book published in 1906, describing the inner living conditions of the Portuguese Prisons in the XIX century, it was mentioned that once an inmate entered into a prison he stepped in a world of silence, in which he lost his identity and won the anonymity of a number which identified him. Furthermore, along with wearing a label with his number inscribed, he was given a hood that was to be always worn in the presence of his companions. (Rocha Martins as in Moutinho Santos, 1999) The compulsive use of the hood was vanished, in 1923, with the Republic proclamation (Rocha Martins as in Moutinho Santos, 1999). Two centuries after, the hood has gone, even though the designation by inmates’ numbers still remains.

In Belgium, it is out of question that the inmates may be called for their numbers whether by the uniformed staff whether by the non-uniformed staff.

De-personalization of the inmate through non-verbal communication

The Belgium Case: The uniformization of the wearing clothes as far as male prisoners are concerned

In Belgium³⁶, up until now the male inmates are compelled to wear a standard uniform the colour which may be different according to the labour functions.³⁷ On the contrary, the female inmates can wear their own clothes.

Thus, one is in presence of discrimination in gender, in this case, in favour of women. Needless to say that discrimination according to gender is something that should be avoided in all its extension.

A common uniform may contribute to what is called “equalization between people from different classes”. Yet, that is merely artificial since outdoors the balance amongst classes is not countered by equal clothing. What one may have outdoors is the reinforcement of a special uniform in professions related to industry or services, but that is just to identify those who serve third ones.

On top of that, an inmate who can not be free to choose his own clothes according to his preferences as it happens outdoors, in the first moment of the daily prison routine, goes against the concept of

³⁶ In article 15 of Prison Act (Belgium, 2005) it is state that inmates are allowed to wear their own clothes.

³⁷ The reason of that patternized wearing it is said that it is to avoid the exhibition of social differentiated conditions. [As it was also advocated for School pupils when Portugal was under a dictatorship.]

collective normalization. The use of a common wear reinforces the 'inmate status' which restrains the full use of *individual normalization*. (Snacken, 2002)

Beyond that, on a cultural level, people from different ethnicity tend to wear clothes in accordance with their cultural belonging and that social-cultural aspect should not be removed indoors.

In sum, obliging the inmates to totalitarian forms, is contributing to avoidable defensive mechanisms which can be a hindrance to the due development processes expected within rehabilitative programmes.

Overextension of the State in form of its religious, political, cultural heritage

In Portuguese Prisons, one may find an excessive use of catholic symbols in the main collective spaces which goes sharply against the concept of collective normalization. Foremost, due to the fact that Portugal is a laic country, there should not be promoted in State institutions what is considered outdoors as a personal choice and of inner intimacy, which is in contrast with the collective normalization principle.

Although Portugal has always been characterized as a catholic country in terms of the large majority of believers amongst inhabitants, it is not justification enough to impose that historical and political heritage on the inmates, just because there is an old relationship between the Church and political dome. If an inmate is a Muslim, protestant or even atheist, does not have to be confronted, every day, with catholic images which may collide with one's particular beliefs.

"The institution helps to de-characterize the individual, but respect of the person must not be forgotten independently of being someone who has robbed, raped or even murdered, it is a right to be demanded." (Rostaing, 1997)

Besides, Prison Services should permit the possibility of spiritual guidance (of all kind) for those who are willing to do so. It is known that different types of spiritual options may be found within Portuguese prisons. However, the prison setting should be as neutral as possible in order to avoid inmates' neutralization. On the contrary, Catholic symbols can be found in a great extension of the "anthropological space" of Portuguese Prisons, namely in spaces where the inmates gather with their relatives or with other inmates. (Antunes, 2002) Secondly, that can be internalized as a process of moralization and Manichean vision.

"Symbols of belonging (...) of collective identity tend to be highly prized and vigorously defended, especially if prisoners believe that disrespect is deliberately shown to them. It is as the confined nature of prison life increases sensitivity to matters of individual and collective respect". (Beckford and Gilliat, 1998)

VI. EXTENSION OF STATE INTERVENTION CONCERNING REHABILITATION IN BELGIUM AND PORTUGAL

If one speaks about reforming the prison institution, the headline is: prison, at the core of the Penal System, is itself in a process of 'becoming'.

However, the political movement for prison reform is criticized by the analytical positions of several noted authors such as Foucault (2002), Chantraine (2003) and Cartuyvels (2002). Foucault was categorical on stating that 'reforming to humanize' is nothing more than a masked 'alibi' to prolong and consolidate the "*l'asile pénitentiaire*". (Foucault as in Cartuyvels in Shutter and Kaminski, 2002) In his turn, Chantraine (2003) advocates that those who pursue a prison reform are trapped in their own labyrinth: since the prison institution is deceived into ensuring the impossible mission of doing re-insertion and of enabling the inmates of the "*droit d'initiative*" (*right of initiative*), some juridical adjustments are made in order to reproduce the historical inertia of the institution. (Chantraine, 2003) According to Chantraine (2003), the new diversity, the pluralism and the opening processes to the outdoors which have characterized imprisonment in the past decades (namely the social-cultural activities, prison rights, *inter-alia*), are not a process of 'normalization' of imprisonment conditions, but form part of a higher degree of complexity of contemporary forms of political power, in the heart of a sovereignty-discipline-government triangle. (Chantraine, May 2004) Furthermore, a prison reform can not be a justification for the use of imprisonment rather than the use of alternative sanctions (Snacken, 2001), being the latter, according to some authors, less detrimental to the offenders. (Dunkel and Snacken in Aswhorth, 1999)

Can we or can we not move from that "*impasse carcérale*", asks Cartuyvels (2002)? If by advancing prison reform, one knows that the prison institution is not going to disappear in the near future, one knows that by trying to make prison a space of law is to reinforce the maintenance of a penal system which is based on one's deprivation of freedom, which may be seen as against human rights. (Cartuyvels in De Shutter and Kaminski, 2002) Similarly, to accept a public space which generates exclusion [prison as a space of "double exclusion", (Lea, 2002)] is to legitimate a space which *per se* is passing by a crisis of legitimacy. (Cartuyvels in De Shutter and Kaminski, 2002) Yet, Cartuyvels (2002), alike Mongin (as in Cartuyvels, 2002), demarcates himself from radical scepticism and advances that there should be room for prison reform, otherwise, that would be counter to the development of measures involving the deprivation of liberty, the latter being the assurance of guarantees, protections and notorious improvements in the prison universe. (Cartuyvels in De Shutter and Kaminski, 2002)

Beyond that, can a process of reform, in the hands of the legislator, in its definition of ideal goals to be achieved, compete with the dynamics that occur within prisons, whether as far as the staff are concerned (overburden of cases, lack of methodological procedures, conflicting relationships between

staff, passive resistance such as absenteeism), or whether as far as the inmates are concerned (likely to create their own “code of integration”, sub-cultures, informal economy, passivity, erratic motivation towards institution options) (Vieira, 1998; Chantraine, 2003; Barbosa, 2001), or whether as far to the forms that prison administrations tend to find to regulate an overcrowded prison³⁸ and any emergence of violence by providing for the supply of sedatives (Monceau, Jaeger, Gravier and Chevry in Faugeron et al, 1996; Chantraine, 2004; Gonçalves, 1993; Cartuyvels in De Shutter and Kaminski, 2002) or by allowing huge amounts of ‘hypnotic time’ such as television? (Cartuyvels in De Shutter and Kaminski, 2002)

However, prison reform may be dependant on historical, political and conjectural factors and all of which may play a role in the contents of the reform, its possibilities of implementation and in its impact.

Under the scope and proposals of prison reform, both in Belgium and Portugal, does one see any further developments in terms of enhancement of shared responsibilities between the State and the offender during the length of the sentence? In the core of the reforming legal documents, what weight is given to the rehabilitation aim? Once after the deprivation of liberty, which factors and intervenient are likely to be engaged in order that one has individual and social rehabilitation? No less important, what room is being given to the involvement of the victim and civil society in the rehabilitative processes and programmes that are supposed to occur within doors? What similarities, differences or peculiarities, can one find by comparing the legal documents of the two countries?

Belgium and Portugal were selected³⁹, to examine the Prison Reform topic, in its latest developments, in order to understand what the official prospects are on giving someone a custodial sentence, in the beginning of the XXI century, when it is said that, in Europe, one is in presence of a “Social-Security State” as far as penal developments are concerned, whilst in the USA one has already seen a shift from a “Charity State” to a “Penal State”. (Cartuyvels in De Shutter and Kaminski, 2002)

In addition, Belgium and Portugal, are dealing with a *common characterisation as far as its prison population* is concerned: the existence of overcrowding⁴⁰ (Snacken, 1999; Deltrene and Maes, 2004)

³⁸ Nevertheless, there are other ways on trying to manage an overcrowded prison population: 1) more flexibility in regimes (Snacken and al., 2005); 2) larger possibilities for the inmates to express their concerns as in the Prisoners councils (Bishop, 2006), inter alia.

³⁹ Portugal, for being the country where the author of this dissertation has former professional experience within the prison context and Belgium, for being the country where the Master graduation is taking place and facilities have been be arranged in order to visit a Belgian prison, for a short period of time. That would enable to see in particular, the “law in action” and current professional practices within walls. Hence, Ghent Prison is a case study, Ghent being a city in the Flemish community of Belgium. Likewise, Tires Prison, situated near Lisbon [with a mixed gender population] is the prison where the author has had her former experience and hence, any examples of other Portuguese prisons are taken from official documents.

⁴⁰ As the former Directorate General of Portuguese Central Prison Services advanced in a Report published in 2006, if overcrowding in Portugal, by having into account its national average is reason for high preoccupation, if one looks to the reality

and a prolongation of the length of sentences related to certain type of crimes (such as sexual offenders, drug trafficking, inter alia). (Tubex in Tata and Hutton, 2002; Asworth, 2000; Moreira / DGSP, 2004; Cartuyvels, 2002)

Both in Belgium and Portugal, it is *up to the State, the execution of a custodial sentences and the management of the prison institution*. (Snacken, 2001) (Ante-Proposal of Law of Prison Reform, Portugal, 2004) Over the next years, no shift to the private sector, of any major responsibility, in terms of intervention and assessment towards inmates' individual and social rehabilitation⁴¹, is expected in either of the countries. (Snacken and Beyens in Matthews, 1999) Thus, the presence of private parties are, up until now, welcomed in terms of the concretization of the collective normalization concept and in providing specific services needed to prison management (provision of food by specialized companies and clinical services, namely nursery ones, are stressed in Portugal, as a qualitative progress in the life of the inmates). (DGSP, 2006) Albeit one may say that to dismiss the private sector of a more concrete intervention within doors, is to avoid a menace of the exploitation of inmates by neo-liberal interests, it should be borne in one's mind that target rehabilitation programmes⁴² are scarce, in both studied countries, not to say nearly inexistent, when there is not an injection of money to afford the application of certain methodologies, assessment of results and of qualified expertise⁴³.

Taking into account the official documents studied in both countries, one may say that the vagueness upon and around the 'rehabilitation' concept, still persists after the elaboration of the Prison Reform Law as in Belgium and after the proposals on Prison Reform as in Portugal. Beyond that, it lacks in each national reform programme which priorities and front-lines of types of rehabilitation are to be made, in which period of time, by whom and how.

of some specific Regional prisons, the situation is almost catastrophic. (DGSP, 2006) On a list related to the prison population by prison, between 15 to 31st of July in 2006, one may find some of the striking numbers: Angra do Heroísmo: 216.1%; Castelo Branco: 180%; Viana do Castelo: 202.4%; Guimarães: 193%; Portimão: 232.1%; Viseu: 132.7%; Montijo: 136.7%; Évora: 140%, etcetera. (www.dgsp.mj.pt) One of the top priorities advanced by the New Direction of the Portuguese Central Prison Services, which mandate began in 1st August 2006, was to announce the close-down of some Regional Prisons to renewed or new prisons with larger capacity. (Lusa, 01.08.2006 in www.lusa.pt) It is time to ask, who can asks for a qualitative rehabilitative intervention relied in criteria of excellence, once dealing with these numbers? Until the definitive placement of the inmates to "new penitentiary structures", is one's development of competences and harm reduction possibilities, doomed to fail?

⁴¹ More broader, one may say that within Continental Europe, with exception of France and Netherlands, resistance still prevails to the introduction of the private sector in the prison context, beyond certain limits. (Snacken and Beyens in Matthews, 1999)

⁴² In this dissertation, and to reiterate, a striking difference is made between rehabilitation programmes and rehabilitation processes or projects. The former imply planning, execution and continuous assessment, something that is hardly done outside the Anglo-Saxon countries.

⁴³ A rehabilitative programme towards self-control and the decrease of levels of personal violence developed in an Australian Prison was once presented in Tires Prison. It was remarkable to see the amount of human and material resources (namely audio-visual ones) involved in that programme. Also of paramount importance was the planning of activities and the possibility of guidance by a defined team, who was full time devoted to the programme.

Nevertheless, on comparing Portugal and Belgium⁴⁴, we find that they agree on what is considered the most important to be tackled on willing to do one's rehabilitation within doors, albeit some variations which are going to be addressed.

POINT 1: INDIVIDUAL AND SOCIAL RESPONSIBILITY

One of the transversal lines of reasoning of both reforming national documents whereas in Belgium, whereas in Portugal, is that: For one to have the rehabilitation of an inmate, his **individual and social responsibility has to be enhanced**.

In other words, *the inmate has to be co-responsible of the processes of change that involve him*. That directly makes the point that there should be no paternalistic vision made upon the lives of the inmates' and hence, *both State and individual inmate should co-invest in the processes of one's change*. However, *co-responsibility* was already a conceptual expression highlighted in the article 5 of Decree-Law 265/ 79 of August 1 - Enforcement of Measures involving deprivation of Liberty, nowadays, this is still seen as a kind of Utopia, since through default of the State capacity, or for lack of consistent motivation from the inmates, 'co-responsibility' is not necessarily a 'shaking of hands' between two "equal" parties with a willingness to agree.

It is with that perspective, that even then there was a conceptual change in the contents of the Prison Act. (Belgium, 2005) From now on, in Belgium, one is no longer speaking of 're-socialization' but of the concept of 'reintegration', implying more the sense of responsibility of the inmate himself.

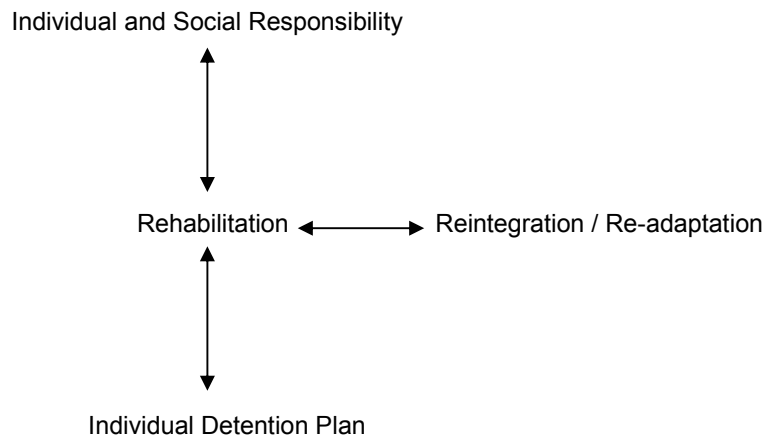
Thus, the *rationale* of a individual re-adaptation plan, once applied to pre-trial and condemned⁴⁵ inmates, guarantees that on signing a "kind of contract", not only is the State granting the **individualization of penitentiary intervention** but it is ensuring that **neither** the individual part (the inmate) nor the collective part (the State) **dismiss the need of doing rehabilitation under the scope of a custodial sentence**.

However, that implies, of course, that some individual and social competences must be promoted in the inmates themselves, in order to ensure minimal grounds of personal receptivity to see the imprisonment experience as an outstanding opportunity to enhance one's personal development.

⁴⁴ It is important to stress that on the execution of a sentence, there is a different political organization, in the two countries. Whilst in Portugal, all competences linked with execution of a sentence are under the umbrella of a national Minister of Justice, in Belgium there is a "sharing agreement" between the Ministry of Justice, a federal Ministry and the Judicial Welfare Ministry, a regional Ministry. (Snacken, 2001)

⁴⁵ This goes far beyond the undetermined sentences cases, as traditionally. In the "pure" rehabilitation philosophy, the main object was to "cure" an offender in order to avoid future criminal acts. Once a person was assessed by his behaviour to be cured, he could be set free. The major importance was upon the evolution of an individual behaviour. In that perspective, the length of a sentence was a total underestimate as a criteria. (Von Hirsh and Ashworth, 1998)

Hence, the 'individual detention plan' is foreseen to be the appropriate tool to motivate the inmate to participate and commit towards the inner activities, as long as the latter do not collide with the security side of the prison setting. (Snacken, 2001)



POINT 2: INDIVIDUAL DETENTION PLAN

The individual detention plan⁴⁶, is overstressed as the 'golden formula' as a way of implying the State and the inmate from Article 35 to Article 38 inclusive of Prison Act, (Belgium, 2005) and in item b) of Article 4 of Ante-Project of Law-Frame for Prison System Reform in Portugal. (Portugal, 2004).

In an overall sense, a 'individual detention plan' should be a delineation of the type of activities which would it be more suitable to the inmate's profile (such as previous professional background, schooling, etc.) and as well should define the top priorities needed for intervention, during a short or medium period of time. This 'individual detention plan' is to be made up with prison officers who are more technical responsible for the accomplishment of individual and social rehabilitation of the

⁴⁶ It is expected in the Ante-Project of Law-Frame for Prison System Reform (Portugal, 2006), as seen in the former chapter, further obligations on the elaboration of the individual re-adaptation plan. Last year, it was demanded to Tires Prison, a set of individual re-adaptation plans, as a pilot experience to be sent to the Central Prison Services. Hence, internally, on a socio-educative level, it was said that all priority should be given to the elaboration of these plans and to the meetings with the re-insertion team. As in Portugal, it is the re-educative team who makes the social-cultural and sporting projects and the assessment behaviour reports, one has not to be graduated in Management to understand that, on practice, some professional actions are up to be suspended and it is my hypothesis, that as before, the social-cultural and sporting activities are going to be harmed. But it doesn't stop here. Well, one of the added values of the individual re-adaptation plan is to motivate and to entice the inmate to embrace the social-cultural and sporting activities as development opportunities on one's individual rehabilitation. Who is going to coordinate those activities? What time is left for individual interviews with the inmate with qualitative time? What emotional and institutional pressure is going to be added to the existing ones? What time is left for a re-thinking of qualitative interventions? What time remains for the desirable dialogue between staffs, namely the prison guards and re-educative officers, inter-alia?

inmates, in conjunction with the inmate. However, as seen in the last Portuguese legal development on this level, the 'individual detention plans' that are required to be made within 30 days after the inmate entry into the system, should be made ideally with the interaction of the inmate, but not necessarily, meaning, it can simply be a set of suggestions made by the prison services after a first interview.⁴⁷

To be straightforward, implementing the individual detention plan is a harsh measure.

To put it more accurately, when one is still speaking about:

- 1) Overburden of cases due to an imbalance staff / inmate ratio;
- 2) Lack of professionals to coordinate socio-cultural activities due to a pressure to produce assessment behaviour reports, as in Portugal;
- 3) Lack of a widespread provision of socio-cultural activities⁴⁸, as in Belgium;
- 4) Gaps in communication between prison staffs;
- 5) Scarce existence of methodological tools for helping the prison staffs to do a sharper intervention according to some criteria such as target groups, or target type of crimes (which some authors believe is the only efficient way on doing rehabilitation as in Von Hirsh and Ashworth, 1998);
- 6) Imbalance in proportion between the prison activities which demand a higher degree of instrumental and mechanical behaviour and those which demand a higher degree of intellectualization.⁴⁹ ...what legitimacy can be acknowledged by the inmates that real opportunities for change are offered within doors? Is the State really prepared to sign a kind of contract with each inmate individually?

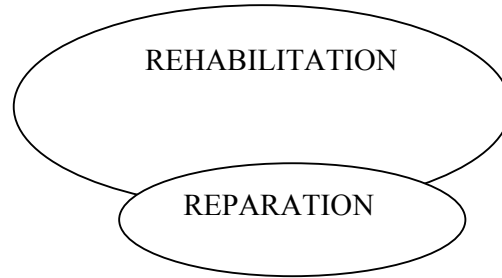
... is the State really prepared to enhance its own degree of responsibility that may correspond to the level of expectations created with the so called individual detention plans?

⁴⁷ That starts to open a critical precedent.

⁴⁸ As I have been told by several professionals in Ghent Prison, I should not overemphasise some examples of good practices (such as the *Learning Punt*, or the Socio-cultural team) to all Belgium. I was advised to not take the "all by a part", since in the majority of Belgian prisons there is more a coincidence with a "grey prison", with low investments in other occupations beyond prison labour and in some cases, training. It was commented by different intervenient of Ghent Prison, that the Prison Administration of Ghent Prison revealed a strategic vision, a forward looking vision which, according with the interviewees, is seldom found in the great majority of Belgian prisons. (Ghent, 2006)

⁴⁹ In Portugal, for instance, the production of the prison newspaper, which is one of the socio-cultural activities that is officially embraced as a rehabilitative project of outstanding importance, is often suspended by lack of human and material resources. Tires, Linhó, and Izeda, all Central Prisons and Alcoentre, a Regional Prison (Duarte, 2003) are examples of where this type of suspension has occurred in latter years. Now, one may do an intellectual exercise: multiply the suspended newspapers by the number of individual detention plans in which the integration in the newspaper team could be considered of paramount importance and that orientation can not be done through lack of infra-structures of the institution itself.

POINT 3: REPARATION – A NEW VEIN OF REHABILITATION?



One of the rationale of the Belgium reforming text is that the **individual detention plan**, embedded with a rehabilitative aim, should include the **need for reparation⁵⁰ for the victim⁵¹**. In that way, restorative justice regained new life, since Mr. Verwilghen whose policy was to include restorative justice as an essential component part of the penal system. (Snacken, 2001)

It is important to mention that **in Portugal**, taking into account all the drafts of Prison Reform and Ante-Proposals of Law of Prison Reform, **no word about the need of compensation towards the victim is included**, as an intrinsic part of the maturity of a prison behaviour and positive evolution of an offender attitude towards his past criminal act.

That no legal document should be seen to be displaced out of the historical and social developments and 'extralegal phenomena' (Zweigert and Kotz, 1977) must be stressed such as structural (political evolution) and conjectural context (such the Dutroux case which triggered at the end of nineties, in Belgium, a "domino effect" in the judicial and execution of sentences spheres).

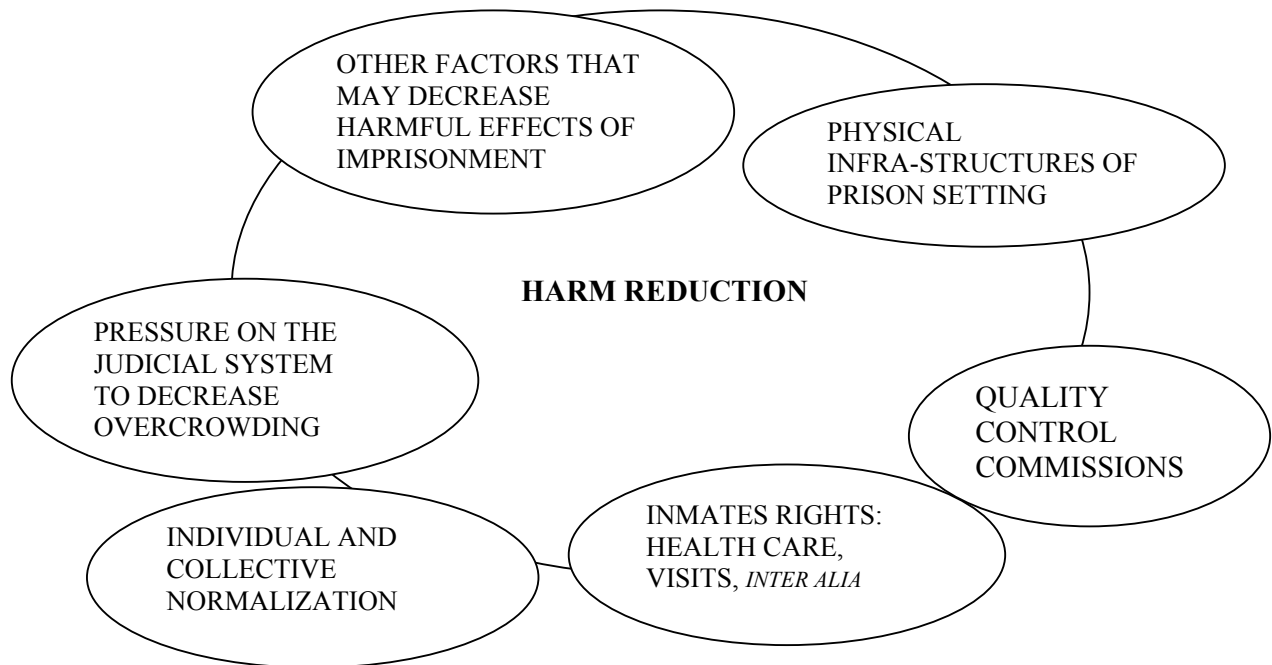
In Portugal, the 'absence of the victim' is certainly due to the underdevelopment of criminological studies, being scarce the number of academical findings in this field. As mentioned by Agra et al., it was only after the "decades of irrationality" (Agra in Outrive and Robert, 1999) of dictatorship [up until 1974 when the Carnation Revolution took place], that one started to see a favourable political climate for the Academical Thought. (Agra et al. in Hebberecht and Duprez, 2002) Nonetheless, in Portugal, still up until today, studies with a criminological perspective are nearly non-existent which, of course, (Agra in Outrive and Robert, 1999) reflects itself by omission on penal developments, such as may be seen in England and Wales or Belgium. Likewise, whilst the Dupont Commission in Belgium, gathered

⁵⁰ This inclusion of compensation to the victim as an even more inexorable element of the assessment of the offender evolution once imprisoned was probably influenced by the Dutroux case, but was definitely inspired by a steady academical concern about Restorative Justice. (Snacken, 2001) One must bear in mind, that if there is any kind of reparation, compensation done by the inmates towards the victim, one is speaking about a great amount of individual and social responsibility [see first point of this same chapter]. (Robert and Peters in Céré, 2002)

⁵¹ Or victim' relatives as in cases of murder, for instance, in which compensation may be in form of excusing himself, demonstrating regret for the committed crimes or in form of money.

for the writing of the Prison Act included experts with criminological background, in Portugal, that did not happen.

POINT 4: HARM REDUCTION



One may say that further developments upon the **need of decreasing possible risk factors within the prison environment** can be summed up in the conceptual expression **Harm Reduction**, whether in the text of Belgian Prison Reform or in the text of Ante-Project of Law-Frame for Prison System Reform in Portugal.

Being said in another way, **for Rehabilitation may take place one has to be in presence of a set of positive conditionants**, in other words, **of a protective womb**, hereby designated as Harm Reduction.

However, one may stress different kinds of possible detrimental factors provoked by imprisonment. Hereby it will be demonstrated that not even using the word Harm Reduction, both countries, in the hands of its Commissioners for Proposal of Reform, demonstrated willingness on tackling some factors that may be seen under the scope of 'Harm Reduction'.

As far as the Portuguese case is concerned, it was advanced in the Ante-Project of Law-Frame for Prison System Reform (2004) that two important front lines should be considered as an official top priority, if one wanted to speak about the prison setting as a place where it can be feasible to do

individual and social rehabilitation. Firstly, the need to renew the penitentiary “park”, namely through the eradication of the bucket in the cells; secondly, pressure on the judicial side to reduce the large number of those who were in pre-trial detention at that time. Once again, the set of factors that may influence rehabilitative intervention are uncountable and for rehabilitative processes take place with efficiency, one needs to think pragmatically. Therefore, basic needs be ensured to the establishment of legitimacy from the target population towards those who represent the prison authorities. Likewise, by reducing the number of entries in the prison system, or by developing other judicial options such as the application of intermediate sanctions, a better quality of life may be expected within walls for the inmates and prison professionals.

As far as the Belgian case is concerned, whilst reiterating the need to ensure the provision of social-cultural activities (also mentioned in the Portuguese legal text) as a current practice within doors, it is stressed the indisputable importance of granting the regularity of such activities that go far beyond the disciplinary side of a prison.

Furthermore, as in Portugal as in Belgium, both legal texts highlight the priority on adjusting activities indoors as close as possible to social life outdoors [collective normalization]. In addition, the openness shown by both States to involve external services in rehabilitative processes, within walls, reveals a growing compromise on reducing the detrimental effects of imprisonment by advancing strategies towards the offender that involve an interweaving between the prison services and civil society. Thus, by widening inner opportunities on inmates’ rehabilitation, and involving, for that, society outdoors, one can say that both the reforming texts stress the individual and collective normalization as a two way road of harm reduction.

To sum up, from the importance of renewing the penitentiary “park” [Portugal, 2004], to the need for injection of social-cultural activities to optimize time within doors [Belgium, 2005 and Portugal, 2004], to the appeal to the judicial sphere for the reduction of the excessive number of detainees in remand situation [Portugal, 2004]⁵², to further developments on avoidance of the gap between prison services and civil society, etcetera, all of them are positive signals under harm reduction “umbrella”.

Nevertheless, albeit that all the just mentioned indicators contribute for a decrease of stressful conditions for all those who are directly or indirectly linked to the prisons, quite surprisingly the urge of reducing the impact of “traumatism cárcerale” is, on academic and political grounds, mainly thought about the inmates. (Peters and Roberts, 2002; Snacken, 2001; Ante-Proposal of Law, Portugal, 2004)

⁵² Even though not having entered into force, at that time, the Ante-Proposal for Prison Reform stressed so clearly this point that, afterwards, there has been a sharp decrease of those who were in pre-trial detention being diverted to electronic monitoring. Even though electronic monitoring may be considered a ‘prison without walls’, the decrease in the number of those who are within walls, can contribute to a better qualitative rehabilitation intervention.

POINT 5: QUALITY CONTROL COMMISSIONS

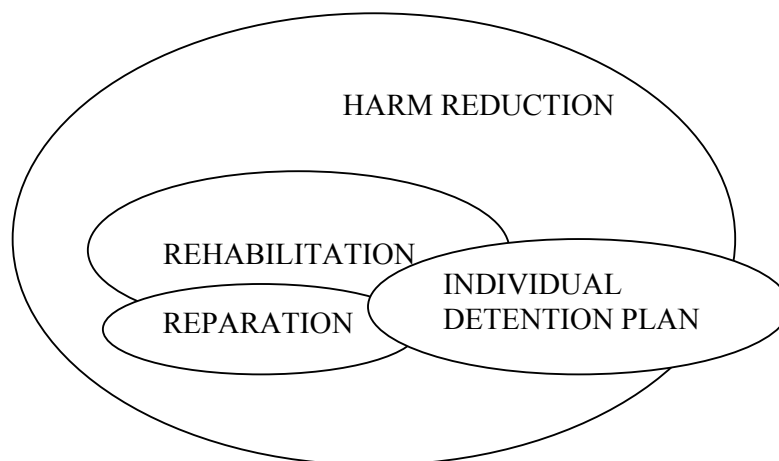
If it is often said that a gap exists between the law *in lege*, and the law *de facto*, legal provisions should be created in order to control the lack of application of the law itself, when this is the case.

Hence, **the need to introduce and to regularize as a common practice, external and independent teams of the Prison Administration**, who could supervise and control the living conditions and concerns advocated by the inmates as well as problems advanced by the prison staffs, *inter alia*, are included in the Prison Act (Belgium, 2005) and on the Ante-Proposal of Law (Portugal, 2004)

Thus, the creation of mechanisms of control of the quality of conditions to be ensured in a prison setting, monitored by independent observers, can only contribute to a more democratic and humanizing environment, which is likely to influence positively on the individual and his social rehabilitation which is expected to be done within doors. On the contents of the Ante-Law of Proposal of Prison Reform (Portugal, 2004), a very interesting contribution was made that should not be neglected during the production of the Reform itself: **an introduction of criteria of quality to assess the intervention made within doors through a management tool.**

To sum up, important bridges may be made in terms of transversal lines of reasoning, in how both countries are finding answers to the same kind of end: how to enable that those who are deprived of freedom may be rehabilitate 'with humanism'.⁵³ (Liebling, 2004)

Thus,



⁵³ However, it is too narrow just to think in the figure of the inmate once speaking of imprisonment.

Nevertheless, reparation, in the core of the rehabilitative processes, is still out of Portuguese political agenda.

In a final note of this chapter, both legal documents referred to the disciplinary side of the prison setting and the need to ensure security to all those who are within the prison context, namely the prison staffs. Yet, the main theme is to demand for an involvement from those who are within and outdoors to contribute to the individual and social rehabilitation. However, it should not be forgotten that as far the Portuguese case is concerned, it is an official document as an Ante-Law of Proposal but has not entered into force, meaning that, in practice, is still the reforming document of 1979 (quite reformist for that time, taking into account Portugal's political heritage) which is inspiring the practices of those who are linked to the Portuguese prison system (inmates, prison guards, re-educative officers, prison managers, *inter alia*).

Portugal is, then, in a period of transition. So is Belgium, stated Snacken. (Snacken, 2001) It means that both countries are, then, in a process of 'becoming' as far as execution of prison sentences are concerned.

VII. THE MISSING ITEMS IN BELGIUM AND PORTUGAL REFORMING DOCUMENTS

One has seen, in the former chapter, items of paramount importance for inmate's rehabilitation within prison context, such as Harm Reduction [which may go from the eradication of the bucket in the cells as mentioned in the Ante-Law Proposal for Prison Reform (Portugal, 2004) to the need of a systematic quality control made by external and independent commissions [Ante-Law Proposal for Prison Reform (Portugal, 2004); Prison Act (Belgium, 2005)].

Nevertheless, recovering the definition of Rehabilitation presented in the third Chapter, some items seem to be missing in the core of both reforming documents hereby in analysis, such as:

- a) The need of review of existing methodological tools such as the First Interview or the Report for a Prison Leave or Conditional Release for its better use and efficiency;
- b) The need of doing a better adequacy to the target-population in order to achieve individual and social rehabilitation. For instance: "In order to incite the participation of the inmates in educational and training programmes, Tumim suggests that classes should be designated by another name, as 'study periods'" (Tumim, 1996 as in Santos, 2003);
- c) The need of delineation of methodologies that have into account facilitator and hamper factors related to rehabilitative intervention;
- d) The need of acknowledgment of meritorious projects and programmes existed in other countries or in some specific prisons within one's country that may serve as a 'model' to the intervention in other prisons. In other words, the need of sharing of 'best practices'.⁵⁴
- e) The need to give a higher attention to harmful effects that imprisonment may have on prison officers (uniformed and non-uniformed), special the internal ones. It is bear in mind that even in academic grounds, prison officers suffer of "low visibility".
- f) The need of positive measures that may operate the ⁵⁵ "essential character of the inter-personal relationships in the prison environment" as enclosed in Item 3 of Article 3, Chapter II of the Ante-Project of Law-Frame

⁵⁴ It is from Estonia that one may see the existence of a Prize for Intervention of Merit within Prisons (Tallinn, 2002) which may be a backing for prison officers and it may introduce a 'healthy' competition between prisons. Likewise, there is been made a huge effort on the recent years from the Education and Social-Cultural Division of Portuguese Central Prison Services on collecting rehabilitative projects which are made throughout the country on Reports that may be read for prison officers of all Portuguese prisons.

⁵⁵ One must not be absent-minded, however, to an innovator type of training in Portugal, in the current year, which was to give a training of "Enterprising attitude" to uniformed and non-uniformed staff in the same room, which is a qualitative step to enhance a better integrated intervention as far as rehabilitation is concerned.

for Prison System Reform, Portugal, 2004); "(...) demands a constructive detention."⁵⁶ (As informed by Item I, Article 105, 1st Chapter of Prison Act, 01.02.2005).

- g) Likewise, it should be stated by the fist of legislator, specific sanctions towards 'bad practices'.⁵⁷ In the same line of reasoning, it should be mentioned in the contents of a body Reform, the eradication of non-neutral elements that contradicts with the collective normalization rationale.
- h) The need for introduction of precise coordinates in the so addressed Individual Detention Plan, namely its definition on time and space of action. Until when is up an Individual Rehabilitation plan up to measured [if, on practice, it is measured at all]? Until the end of sentence? Until the end of the Conditional Release in the cases in which the latter is granted? If so, how can one has the real assessment of success or failure about the Individual Rehabilitation Plan?
- i) The need of impact studies relatively to prison intervention. Which impact for instance, has the re-educative team in Portugal or the psycho-social and the social-cultural team in Ghent Prison, in the alteration of one's behaviour? Is its performance variable according to the prison setting characteristics (does it varies in a regional or central prison?), according to the composition of prison staff (mixed staffs or / and mixed sectors), according to socio-demographic factors of the sub-groups within prison population? Academic evidence seems a priority.
Quite surprising without doing impact studies, the State continues to reiterate the existence of some prison staffs and curiously, enhancing further competences, namely towards the Individual Detention Plan.
- j) Likewise, follow up measures should be of paramount importance within a prison reforming document. The need of "feedback of the interventions" to those who do the intervention "on the field" and the urgency for a higher degree of accountability, are preoccupations raised by Valérie Lebrun once one is speaking about a criminal policy (Lebrun, 1999).

⁵⁶ The Antro Team and Socio-Cultural Team in Ghent Prison should inspire professional practices in other prison settings

⁵⁷ As designation by inmates' numbers (see above)

VIII. FINAL CONSIDERATIONS

Once speaking in a prison context, one is speaking about an organizational setting whose aims (rehabilitation, correction, security, *inter alia*) are not easy to define and therefore it is difficult to make clear separations between them. (Faugeron, Claude in V. Ruggiero, 1998) Plus, they mesh with one another. (Lemire, 1994) The tension towards doing rehabilitation inside the 'justice model' exists, since justice is backward-looking to the seriousness of the offence, whilst rehabilitation is 'consequentialist', forward looking. (Brody as in Von Hirsh and Ashworth, 1998) There are those who even think that that logic is incompatible. (Raynor as in Von Hirsh and Ashworth, 1998) However, one can see nowadays, that prison setting can be not only a place to rehabilitate the offender, but to do reparation towards the victim.

On crossing the contents of reforming documents as in Belgium and Portugal, one may say that both countries are giving recent important steps towards *individualization of sentences, shared responsibility towards inmates' individual and social rehabilitation*, in which are implicit words as "*negotiation*", *individual choice* and *co-decision-making*. However, it was also stressed that the Individual Detention Plan and its proper implementation must be accompanied with a more realistic looking of the prisons where so many factors can, in a minute, do a check mate to all the ethereal goals advanced by the fist of the legislator and approved on Minister Councils. Just the aim of doing rehabilitation contemplates other complex concepts such as normalization, legitimacy or developing with humanism. For that complexity, several actors with different responsibilities within the social tissue have a role to play. Thus, the State is still the main regulator of Crime Control (Lea, 2002) but other intervenient, traditionally out of the criminal justice, such as the non-governmental agencies, are implicated in crime control (Lea, 2002; Garland, 2001), namely, towards imprisonment topic.

The contents of this dissertation have shown that legal steps of paramount importance are being done whether in Portugal whether in Belgium to interwoven rehabilitative aims on the same row as trying to tackle as much as possible the "traumatism carcéral"⁵⁸ subjacent to the prison context. Doing a Prison Reform reveals, *per se*, the implicit meaning of Harm Reduction. Since one can not tackle the phenomenon in a whole (certainly, a better prison is to have better social policies), at least, one must minimize risk factors, as much as possible, within prison institution. Hence, the State and its Prison

⁵⁸ The need to reformulate the inner living conditions of a prison setting in order to refrain the possible negative impact of a prison experience [*la limitation du dommage lié à la détention*] (Robert and Peters in Céré, 2002) is one of the major ideas which is embedded in the Prison Act (Belgium, 2005). However, seemingly that conceptual expression is highly linked to the position of the inmate only. My theoretical assumption is that it should be stressed for all the intervenients directly linked, by professional vinculum, to a prison environment, since they also suffer the harmful effects of imprisonment (Snacken et al., 2005; Gonçalves, 1998; Gonçalves, 1993; Vieira, 1998) which may lead to an attitude of negativity, meaning, a tendency to consider only the bad side of their experience, exhibiting lack of hope and enthusiasm. (Liebling, 2004; Liebling, 2001; Liebling, 1999; Crawley, 2004; Santos, 2003; Gonçalves, 1998) On top of that, harm reduction of the prison staff may give an improvement in the intervention that is made with the prison population, thus, reducing the harmful effects of imprisonment in the inmates. Therefore, harm reduction upon inmates and harm reduction upon prison officers must be jointly seen, since the former and the latter are inextricably interwoven in the daily practices of a prison environment.

system must be perceived on a process of becoming. The Portuguese State, by its Ministry of Justice and by the Portuguese Central Prison Services, on allowing the payment for the Master in Ghent University, which would integrate this comparative study, has shown to believe on that.

IX OPEN QUESTIONS

Rehabilitation related with target sub-groups

The Portuguese Central Prison Services have a constant preoccupation with respect to the *principle of regionalization*, so that the inmates can be as close as possible to their social web (family residence, for instance). However, a closer look at recent developments in Portuguese prisons, may lead us to say that Portuguese Central Prison Services have been, in some specific cases, re-distributing their prison population according a *rationalization principle*⁵⁹, meaning by their juridical condition and more recently, by the type of crimes committed. Hence, a total new structure fully devoted to work with sexual offenders has opened in the Carregueira Prison in 2001. Beyond that, the male wing in Tires Prison which was conceived two years ago to receive people with short sentences [moreover, related with driving under alcoholism influence or driving with no legal permission, such as a driving license], may lead to the conclusion that a new strategy is implicit: if one wants efficiency, some target crimes and some sub-groups of prison population must be worked upon specifically. This option doesn't find favour with the consensus of the academic field, as seen in Chapter III, since it may be discussable if it is up to State to intervene in this "back-looking" manner, or to the contrary, should think of individual and social rehabilitation with no explicit link to the crime committed by the offender. Nonetheless, evidence is needed to assess if the impact on the individual and social rehabilitation of these target groups is worthy enough to justify that the *regionalization principle* may be sacrificed. The last two years of my professional experience of working in a male wing specially related to short period sentences, namely with alcohol addiction, has made me tend to think that the lack of a planned programme with diagnosis of aims and indicators to be achieved and the due human and material resources to sustain the rehabilitative intervention, had turned this type of intervention⁶⁰, in the end, into to something that was not so far different from that what was being made in the other wings for female population, where the separation by type of crime is not made.

Furthermore, being myself, a former Vice-President of a Ethnic Minorities organization and having made my licentiate degree thesis upon Cape-Verdian immigrants outdoors, it would be interesting to give a higher degree of attention to the foreign population within doors and to try to access what are the levels of impact as far as individual and social rehabilitation are within this group of inmates.

⁵⁹ In this case, inmates must be confined to these Prison units, independently of their zone of residence and thus there is a confluence of inmates from all parts of Portugal. This is quite different that what still happens in the majority of the Portuguese prison park.

⁶⁰ [Rooted in the STOP programme [meaning inspired in the cognitive-behaviour model as in Anglo-Saxon experience] it has been dependant on the voluntarism of some individuals. (some inmates, professor of First Cycle, prison manager, re-educative officer, inter-alia)]

Restorative Justice and Rehabilitation

The link between the offender and the victim, once the former is under a custodial sentence, seems to be of absolute importance to the process of self-awareness in the development of the offender's individual and social responsibility.

Needless to say that "sense of responsibility" is one of the key expressions used when one speaks about enhancement of development and in the mutual contract with the State (as in Belgium and in Portugal) of 'co-responsibility'.

Nevertheless, the Portuguese State with respect to the execution of sentences, does not highlight compensation towards the victim as a relevant indicator under the rehabilitative scope.⁶¹ Thus, it would be extremely important to do specific academic research upon this grey zone between rehabilitation and restorative justice, contributing to the academic debate in Portugal in what concerns to victimology and the execution of sentences.

Factors that may Influence Rehabilitation Intervention

Each of the factors stated in Chapter IV, would deserve a dissertation in itself, in order to study the effective impact that each factor has on prison staffs and inmates. However, the aim of this dissertation was to raise possible problems after an overview of rehabilitation within prisons, taking into account different sources of information such as non-participative observation in Ghent Prison, former professional background and bibliography. Hence, further qualitative analysis (by content analysis) and specific quantitative data would be important to include in a future research.

⁶¹ In Portugal, once in a pre-trial condition [even if the inmate is convicted but may be responding to pendent processes in which no judicial decision has been made], the detainee may be asked directly by the Court how he intends to reimburse the victim, namely in financial terms. When the detainee does not feel confident to answer, they may ask the re-educative services to make a declaration, in which in the great majority of the cases, the detainees plead lack of economical means to compensate the victim. The detainee is then informed that on not paying the victim, the amount may be converted in days of imprisonment. However, re-educative officers are not allowed to use the information of the decision of willingness / possibility of payment in the rehabilitative intervention and never, as a way of assessment of evolution of prison behaviour or as a way to redress the negation of prison leave.

In short, on this point it seems that the sentencing and execution of sentences spheres work independently. On the contrary, the degree of responsibility towards the victim is one of the items of assessment behaviour made by the PSD officers (Ghent Prison, 2006) and obligations towards the victim may be defined in a Conditional Release. (Mary, 1999) Beyond that, in Belgium, the introduction of Restorative Justice advisers since the beginning of XXI century, as part of the permanent staff of a prison setting, address the main importance of optimizing the time of execution of sentences to delineate further bridges between the offender and the victim. Through an interesting conversation with the Restorative Justice adviser of Ghent Prison, I've been informed that some training has been made by external services so far, albeit the participation of the inmates is still scarce. It is worth to be mentioned that the role of the restorative justice officer is to motivate the mediation offender-victim. The mediation itself is made by other expert officers of victims' organizations.

X METHODOLOGY

March 1998 - April 2004, Portugal

Superior Officer of Re-education⁶² [*Técnica Superior de Reeducação*] in a Special Central Prison near Lisbon with **female** population, incorporated in a team officially designated as Education and Teaching Services [*Serviços de Educação e Ensino*]

April 2004 - September 2005

Superior Officer of Re-education [*Técnica Superior de Reeducação*] in a Special Central Prison near Lisbon with **male** population, incorporated in a team officially designated as Education and Teaching Services [*Serviços de Educação e Ensino*]

September 2005

With the agreement of the Director of Education and Teaching Services, I was allowed to take some periods of the morning or afternoon to go to the Prison Central Services Library, in Lisbon, where I had the opportunity to order bibliographies of several Portuguese experts dealing with the Prison subject over the recent years. In a multidisciplinary approach and taking into account that scientific experts, about prison dynamics in Portugal, are not that many, bibliographies were chosen from the field of Anthropology (Cunha, 2002), Sociology (Santos, 2003; Semedo Moreira, 1994); History (Moutinho Santos, 1999), Psychology (Gonçalves, 1999, 1998, 1993, 1989), *inter alia*.

October 2005, Belgium

Master Student of “European Criminology and Criminal Justice System” authorized and sponsored by the Minister of Justice of Portugal, under the proposal of doing a dissertation related to Portuguese Prisons.

November 2005

Meeting with Professor Tom Vander Beken which resulted in: a) the intermediation with the Ghent Prison Governor and b) a starting methodological decision that Staff with rehabilitative functions in Ghent Prison would be my target-population rather than the inmates.

⁶² This is a literally translation from Portuguese language. However, a native speaking of English would be likely to translate it to Rehabilitation Officer, since I do Counselling, Assessment Reports to the Courts, Dynamization of activities, *inter alia*

October / November 2005

Started the task of gathering basic information of possible interest for the subject of the dissertation from the wide selection of international magazines and bibliography related to Prisons to be found in the Faculty of Law Library and Criminology Library

November 2005

I was informed by the Chairman Professor Hebberecht that the presumption of the dissertation was delimited to a theoretical debate, since it was a full time year. In a polite way, Prof Hebberecht drawn my attention to one of the important notions that a beginner or a senior researcher has to have: sense of realism. Nonetheless, I've shared my interest on doing informal interviews with the Ghent Prison Staff to be interwoven with my own practical experience. The last word would be of my promoter, Professor Sonja Snacken.

December 2005

Meeting with my promoter Professor Sonja Snacken after a) I'd made a selection of possible subjects for study with reference to my former professional experience; b) We have defined a subject of study and a final title; c) Professor Snacken gave me a useful bibliographic orientation within the criteria of interest for my dissertation

December 2005

Research and reading of bibliography

February 2006

Meeting with Ghent Prison Governor and Psycho-Social Team Director and full accessibility was given to visit the prison. A planned pre-schedule produced by myself was sent to and approved by the Prison Administration.

February / March 2006

Interviews during a full day, some days of the week // mid period with the following different Ghent Prison professionals: a) PSD officers; b) JWW officers from the Socio-cultural team; c) Two Uniformed officers who are designated full time to the Socio-cultural team; d) An uniformed officer who is allocated in a wing; e) Restorative Justice adviser; f) VDAB officer; g) a professor of Dutch classes.

The interviews were semi-directed with an open structure based on the information that the respondents considered relevant to be mentioned. All the interviewees knew who I was in terms of my professional and academic background.

Beyond that, I have had the opportunity of having:

- A) Made an informative guided tour of several of sections of Ghent Prison with a member of the Surveillance team;
- B) Attended a theatre performance by inmates of mixed gender at the invitation of a member the Socio-cultural team;
- C) Been present in some interviews between PSD officers and inmates;
- D) Been present in a daily conference Prison Administration;
- E) Been present in a Disciplinary Council meeting;
- F) Been present in a Dutch Class for foreigners;
- G) Been present in a group session with internees mediated by the Antro Team co-assisted by a *Centre Obra* element, as well walking with them in the open space of female wing;

In all the above mentioned items, the methodological position that I have assumed was of non participant observer.

March 2006

Meeting with my promoter

April/ May / June 2006

In conjugation with the demands of the Master, reading of bibliography

The elaboration of the paper to "Penal System" was of paramount importance as a first draft of parts of my dissertation.

July and August / 2006

Final composition of the dissertation

Two last weeks of August: Review of English spelling with John Ross, an English native speaker and one of my dearest friends.

Added Value

Scholarship condition which has enabled me to fully dedicate to the Master with no need to have a part-time job

My former professional experience which gives a more critical attitude towards the law on paper and the 'law in action' namely as far as Portuguese Prison System is concerned (Nelken, 2002)

To have a senior researcher with an outstanding background in this field besides which has personal skills as a promoter knowing how to demand and to encourage in a sober way

The kindness and receptiveness found in Ghent Prison, which greatly helped my research there. (Nelken, 2002)

The full respect of my background showed by Professor Tom Vander Beken on mediating the possibility that I could go to 'research there' (Nelken, 2002) within Ghent Prison

The realization of the papers in all courses, which help to create in the Master Student a more mature writing

The ability to read in French allowed me to read the article by Professor Snacken about the concept of normalization (2002), the Prison Act as published in its French version [Moniteur Belge – 01.02.2005] as other academical articles deemed relevant

Shortcomings

The pressure on conjugating the needs of the courses of the Master and the time that is due to a proper reflection about certain matters.

I am myself, part of the object of this study. On accepting to make a dissertation in which staffs' legitimacy and development is as a fundamental precondition to one having inmates' development and acknowledgment as far as rehabilitation is concerned is necessarily affected by my own critical appointments and perceptions, from having a specific professional position in the Portuguese Prison System. Thus, my starting points in terms of professional, social and cultural beliefs have played a role. (Nelken, 2002)

Furthermore, I did not have the intention to speak as an expert of all Portuguese Prisons.

Although my eight years of experience, have allowed me to inter-change experiences (and some of the times, frustrations and delimitations) with colleagues and inmates from other Portuguese Prisons,

each prison has its 'own culture' (Liebling, 2001). Nevertheless, the recently published Central Prison Services Reports were relevant to have an overview about Portuguese Prisons.

The core of my dissertation was itself an academic challenge. The notion of Rehabilitation and its supposed contents are themselves under an endless debate and the academic research around this concept is still scarce and extremely divided in terms of its "defendants" and "opponents". To a Master Student hoping to be a junior researcher I was likely to be puzzled or to have entered in a spiral thought. Beyond that, the fact that what I do professionally in Portugal is called re-education, inspired in the French experience of *re-éducation* but once translated to English is often translated to the word rehabilitation, made me think of the ambiguity that is created not by the function of a word itself but on its languages appropriations. Besides, which there are the grey zones between "rehabilitation", "social rehabilitation", "re-adaptation" and "social integration"? However, here the guidance of my academic promoter was handy and supportive.

The delimitation of a case-study narrowed my own line of reasoning about Belgian Imprisonment. Beyond that, the fact that there are sharp differences in terms of political and administrative composition of powers between Portugal and Belgium, demanded more rigour in terms of the way that I was handling the information in analysis *in lege* and *de facto*. (Eser, 1998)

The contacts with the Ghent Prison have given much useful information. However, owing to practical reasons, my inter-action with them was made within an intensive short-time period, the meetings gave more information about the competences of the professional function / sector than to some of the core questions of my dissertation: also revealed was the quality of relations amongst staff and the reciprocal relationship between staff-inmates as well as other factors that may facilitate or hamper the rehabilitative processes. Nevertheless, the fact that I also work in a similar organizational setting, I was able to be more attentive to some of the dynamics or observations that otherwise would escape one's notice.

I was working with two types of different legal documents. The Prison Act has already been enacted, whilst the Proposal of Reform in Portugal was officially approved by the Council of Ministers as an Ante-Project of Law-Frame of Reform of the Prison System [February of 2004]. It has to be mentioned though that, meanwhile, the Socialist Party has now been in Government since February 2005 and the Commission for the Study and Debate for Prison System Reform was designated and concluded their main results under the umbrella of the Social Democratic Party. Generally speaking, there is no clear signal that there will be any line of continuity of the contents of the Ante-Project of Law frame proposed by Commission for the Study and Debate for Prison System Reform, besides the Individual Detention Plan [*Plano Individual de Re-Adaptação*]

The lack of mastering the Flemish language handicapped me to have access to all the bibliography about Penal developments, namely towards Imprisonment which are published in Flemish.

Complementary Notes

The most recent information is that there is a Unity of Mission for the Penal Process which is supposed to include some developments towards the Prison Services. Insofar, the juridical appointments contained on the Ante-Project for Revision of the Penal Process which was approved by the Council of Ministers on 26th of April of 2006 and delivered to the Government on 28th of July of 2006 were relevant to: The rights of the offender; Conditional Release and Re-adaptation Individual Plan.

It was agreed with my promoter, that I should also analyse the legal document that was written by the hand of the legislator five years after the implementation of Democracy: Decree-Law nº 265 / 79 – Enforcement of Measures involving deprivation of Liberty, which up until today, is still *the* legal basis which determines the conducts for all those who are related to the Portuguese Prison System (inmates, staffs, legal professionals, inter-alia).

In addition, on the 1st of August of 2006, in Portugal, all the main Directives including the General Directive have been changed albeit in the Press it was announced that the New Directive is going to prioritize two main lines: the eradication of the bucket in the cells and the renewal of the penitentiary “park”. So, there is, at the moment in Portugal, as far as prisons conditions are concerned (for professionals and inmates) an open scenario and a moment of expectation.

In top of that, one must bear in mind that speaking about legal frameworks and prison realities of different countries means that one is speaking about laws and social realities embedded in different cultural and political situations. Thus, during the realization of the dissertation it was always borne in mind that law is ‘social engineering’ and can not be displaced out of its societal and historical environment. (Zweigert and Kotz, 1977) Nonetheless, as can be seen, it was possible to draw lines of similarities and differences.

Thus, the idea is to speak about situations where I’ve been (the one where I’ve worked or Ghent Prison) or in which I was *virtually there* (as the other Portuguese Prisons) (Nelken, 2002) and make an intellectual discussion about rehabilitative practices.

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