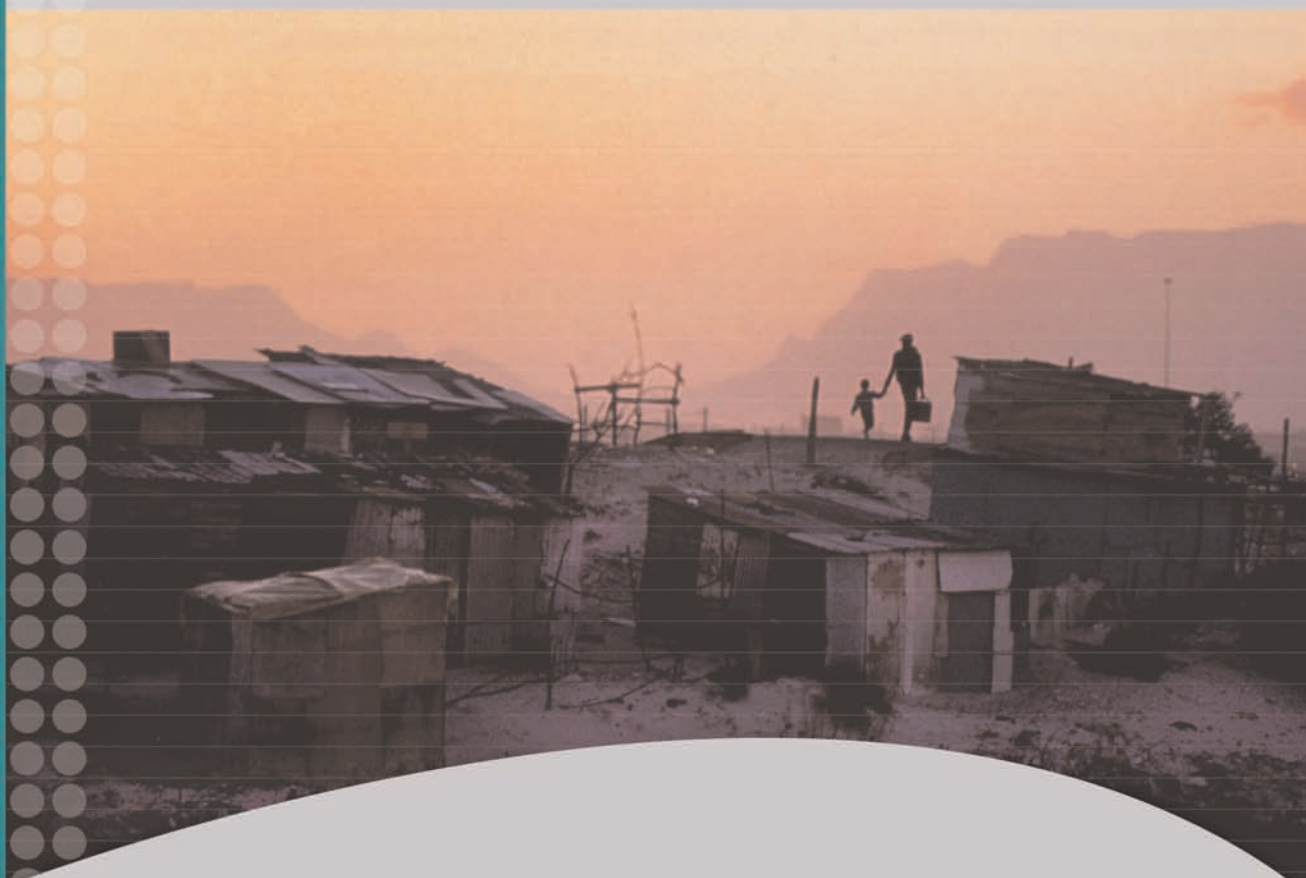


INSTITUTE FOR SECURITY STUDIES

SA CRIME QUARTERLY



Don't expect prisons to reduce crime

Inflammatory rhetoric no solution to crime

Measuring the extent of school violence

Assessing the impact of social crime prevention projects

The value of restorative justice to the reintegration of offenders

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Sundown in Khayelitsha Township, a sprawling informal settlement of shacks in the area designated for black South Africans under apartheid. Millions of black South Africans defied the Group Areas Act and lived in shacks near the cities where they went to find work.

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Editorial

2008 was a year of dramatic changes in South Africa. We saw the ousting of a President; the closure of the Scorpions; a major split in the ruling party; the establishment of a new political party comprising several former ANC heavyweights; a serious crisis in the judiciary brought about by allegations that a senior judge attempted to interfere in a decision of the Constitutional Court; and thousands of job losses on the back of the collapse of the world economy. We also watched with horror as South Africans demonstrated how quickly we can descend into violent conflict over resources. In this case, the violence was targeted at foreigners.

2008 also saw a somewhat less dramatic, but no less significant, shift in the way in which commentators, analysts and practitioners in the field of crime prevention talked about solutions to the high rate of violence and crime in the country. The emphasis shifted from the criminal justice system to social development as the key solution to high crime rates. While we have not heard anyone saying that a functional criminal justice system is not vitally important, there is an increasingly vocal group of specialists and ordinary citizens who argue that fixing the criminal justice system is not enough if the intention is really to impact on violent crime. This approach seems to be gathering momentum. The coming together of a large network of organisations and individuals under the banner of Action for a Safe South Africa (now chaired by Jayendra Naidoo), at the end of August, was evidence of the shifting discourse around crime.

At a more grassroots level we saw the establishment of the Social Justice Coalition (SJC). This movement has already held several large public gatherings in the Western Cape and is set to grow nationally during 2009. The SJC was established in June in response to the xenophobic violence. Since then it has developed into a movement that opposes the use of violence and wishes to see the strengthening of a rights-based approach to addressing crime and community safety.

This shift seems, however, to have escaped the notice of politicians, who appear to prefer to play to society's bloodlust and fears of crime (see the articles by Muntingh and Mashele in this edition). Certainly, the politicians are not altogether out of sync with the views of a large number of South Africans. The results of the 2007 ISS victimisation survey showed a significant hardening of attitudes towards crime and criminality between 2001 and 2007. In 2003, 39 per cent of respondents believed that greed was the motive for violent crimes. In 2007, the percentage of South Africans who believed that violent crimes were motivated by greed had increased to 44 per cent. Since 'greed' implies that the person being greedy wants more than they actually need to survive, it is not surprising that there was a corresponding decline in the number of South Africans who believe that investing in social development is the solution to reducing crime. Whereas in 2003 60 per cent of respondents felt that government should spend money on social development to make their areas safe from property crime, only 51 per cent believed that to be the solution in 2007. For violent crime the drop was far greater – from 62 per cent of people who felt that spending money on social development would make their area safer from crime, to 36 per cent. However, when one looks at the number of people who believe that punitive actions are the solution, it becomes clear that attitudes have hardened considerably. At least 13 per cent of those who had previously believed that social development was the solution would now rather see criminals being punished.

While it may be attractive for politicians to play to this hardening of attitudes in the run-up to the 2009 election, they should take note both of how quickly South Africans resorted to violence against those perceived to pose a threat to their access to resources, and to the apparent appetite for a more constructive, developmental approach to dealing with crime and social inequality. These are some of the complex issues that this edition deals with.

Chandré Gould

Punishment and deterrence

Don't expect prisons to reduce crime

LUKAS MUNTINGH

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The belief is thoroughly entrenched that prisons fulfil the triple function of punishing offenders, making society safer by removing dangerous individuals, and deterring potential offenders from committing crime. The fact that hundreds of years of evidence suggests that prisons do none of these terribly well has not had any effect on our belief in the utility of this institution. In this article the author suggests that we hold on to these beliefs because they serve the interests of politicians, who can appease their electorate with the clear and simple solution prisons purport to provide; and the private sector, as prisons support their commercial interests in a number of ways. What is needed, the author argues, is deeper discussion and clearer thinking about the value and function of prison.

One of the most persistent traits in thinking around crime and safety is the belief that imprisonment will reduce crime. This belief is shared by the judiciary, ordinary citizens, and politicians. It is merely a 'belief' as there is little (if any) evidence to support the idea that imprisonment can reduce crime on any significant scale anywhere in the world (Gendreau et al 1999). For the past 200 years the basic principles of imprisonment have remained essentially unchanged. Post-apartheid South Africa inherited a prison system built on these principles, yet we have not critically asked what the purpose of imprisonment is and whether prisons really do serve this purpose.

To politicians¹ and the private sector, prisons (and imprisonment) are very attractive, for a number of reasons. In this article it will be argued that the continued use of and support for imprisonment is a consequence of political and private sector

interests that are served by imprisonment. Imprisonment also enjoys significant public support.

It will be shown that a drastic decline in the number of offenders sentenced to imprisonment in the past five years did not result in a rapid increase in violent crime; in fact, imprisonment had no visible impact on the rate of violent crime. These observations raise questions both about the efficacy of imprisonment, and our expectations thereof, that require critical examination. The issues raised in this article are complex. It is impossible in the space of a journal article of this nature to deal fully with all the complexities of the argument, thus the argument, as presented here, may appear to be over simplified. This does not, however, negate the fundamental point that we (as a society) need to critically examine imprisonment, the use thereof, its appropriateness, and expectations when imprisonment is imposed.

This is especially important given the current high rate of incarceration. Ultimately, a clear and precise understanding is sought of the purpose of imprisonment within a constitutional democracy. More specifically, we need to critically examine the strategic utilisation of imprisonment in an overall crime control and reduction strategy; assuming that such a strategy exists.

OLD NEWS ABOUT PRISONS

The prison, as we know and understand it today, is a relatively recent phenomenon that reached its full stature by the early 18th century in Western Europe, and was influenced by reformations in North America. However, by the early 19th century there was increasing evidence that prisons were not effective in reducing crime and a number of astute conclusions were drawn (in France) between 1823 and 1842 to this effect, including:

- Freed inmates are subjected to conditions that necessarily condemn them to recidivism: they are under surveillance by the police; they are assigned to a particular residence, or forbidden others; they leave prison with a 'passport' that they must show wherever they go with details of the sentence they have served (1823)
- Prison produces delinquents. It does so by the very existence it imposes upon its inmates — whether they are isolated in cells or whether they are given useless skills for which they will find no employment (1836)
- Prison often indirectly produces delinquents by causing destitution among the inmate's family. The same authority that sends the head of the family to prison reduces the mother to destitution, the children to abandonment, and the whole family to homelessness and begging. It is in this way that crime takes root (1836)
- Detention causes recidivism; those leaving prison have an increased chance of returning (1837)
- Prison enables, even encourages, the organisation of a milieu of delinquents, loyal to one another, with a particular hierarchy, ready to aid and abet any future criminal act (1839)
- Prisons do not diminish the crime rate;

whether they are extended, their numbers multiplied or institutionally transformed, the quantity of crime and criminals remains stable or, even worse, increases (1842) (Foucault 1977:265-268)

Prisons systems and advocates for prison reform responded to these challenges. Prison reform in Europe and North America attempted to make prisons more humane and directed the focus at religion, fostering habits of industry, and rehabilitation. However, Foucault also reminds us that despite numerous attempts at prison reform, reform efforts were predicated upon the same seven universal maxims of the good 'penitential condition' which have remained unchanged for nearly 200 years:

- Imprisonment 'must have as its essential function the transformation of the individual's behaviour' – the principle of correction (1847)
- Prisoners must be classified in respect of the gravity of the offence, age, mental attitude and the stage of their transformation – the principle of classification (1850)
- It must be possible to adjust penalties, based on the degree of liberty, according to the behaviour or performance of the prisoner, the progress that has been made or relapse – the principle of modulation (1838)
- Work is an essential element in the transformation of the sentenced prisoner – 'it must enable him to learn or to practice a trade, and to provide the prisoners and his family with a source of income' – the principle of work as an obligation and right (1857)
- Prisoners must be educated 'in the interest of society and [education is] an obligation to the prisoner' – the principle of penitentiary education (1838)
- Prisoners must be supervised and supported by 'specialised staff possessing the moral qualities and technical abilities required of educators' – the principle of technical supervision of detention (1850)
- Imprisonment must be followed by supervision and support to ensure that the rehabilitation of the offender is completed – the principle of auxiliary institutions (Foucault 1977:269-270)

Unsurprisingly, the seven maxims are also found in the White Paper on Correctional Services (2005). For nearly 200 years prison systems have been subject to reform and yet the same fundamental principles are repeated when a new reform process is announced (Foucault 1977:269-270). We can thus conclude that the basic principles underpinning the purpose and function of prisons, and thus their fundamental nature has remained much the same for nearly 200 years. In addition, it was already known from about the middle of the 19th century that prisons did little to contribute to a safer society; rather they go a long way towards achieving quite the opposite effect. This necessarily begs the question: why do we have prisons and what can we expect of them? To answer this, we need to look at who stands to benefit from prisons – and the answer is simple: politicians and the private sector.

WHY PRISONS ARE ATTRACTIVE TO POLITICIANS AND THE PRIVATE SECTOR

Prisons have **symbolic value**; they communicate the message that government is tough on crime and is willing and capable of legally depriving citizens of their liberty because they have committed a crime and offended society. Prisons symbolise the state's power over its citizens. More importantly, they communicate the willingness of the state to use its coercive power. In establishing and maintaining a prison system, the state goes to enormous lengths, perpetuating a huge bureaucracy consuming vast quantities of resources, in order to give effect to its coercive power. The exercise of coercive power is important to the state – it symbolises and demonstrates authority.

The deprivation of liberty and the other, often incidental, ills associated with imprisonment also speak to a very human attribute, namely the need for **retribution**. Retribution is backward looking; it imposes pain as punishment for something that was regarded by the state (and society) to be wrong. We are led to believe that in imposing and executing this punishment, satisfaction is to be found. Concomitantly, the harsher the

punishment, the more satisfaction we should experience. Imprisonment, as the harshest punishment (in the absence of the death penalty) that can be imposed, results in the highest level of retribution and must therefore result in the maximum amount of satisfaction.

The deprivation of liberty, especially for long periods, is intended to have **deterrence value**. The legal provision for minimum terms of imprisonment for serious offences is largely motivated by the deterrence argument: would-be offenders will be deterred from committing such offences if they know the punishment will be severe, and the offender who is punished in this way will be deterred from committing such a crime again. From the politician's perspective, the deterrence value of imprisonment is important, for it links with other values such as retribution and simplicity (see below).

Prisons also remove people from society. They cannot commit any further crimes as long as they are in prison. **Incapacitation** gives a sense of security and a statement such as 'we put criminals behind bars' speaks to this sense of security. The subtext being that the state is in control: the state arrests criminals, prosecutes and convicts them, and removes them from society so that they can cause no further harm. It also communicates that the state takes care of law-abiding citizens and removes law-breakers from the benefits of being a free citizen.

Prisons, as buildings, also have **visibility value**. We can see the buildings, even from a distance, and know that this is where people who have offended are kept. As monuments to law enforcement they have simultaneously a comforting value and a deterrent value. It is easy to scare children with a prison building: 'this is where you go if you are naughty'. Occasionally we are allowed to see inside prisons when photographs and video footage are released, and these confirm the austere appearance of prison buildings. It is indeed when we see what people are doing inside prisons and what they have to endure that prisons attain their maximum visibility value.

Prisons **create jobs** for a large number of civil servants. The Department of Correctional Services (DCS) currently employs about 42 000 officials with plans to increase the number to 45 000. As an employer it is one of the largest in the civil service. Politically this is important and the previous regime knew this and used it extensively to create employment in rural areas; the number of prisons in the Free State and Boland bear testimony to this.

Prisons **consume vast amounts of resources** to feed, clothe, care for and maintain prisoners. This is continuous. The resources are largely supplied by the private sector and paid for by the taxpayer. Securing contracts with the prison system can be extremely lucrative for private companies. There are, therefore, good reasons for the private sector to support prisons, or at least not to oppose them. When private companies start operating prisons, as is the case with the two private prisons in South Africa, profits can be of a significant magnitude.

Prisons are also very **costly to build**. Building prisons requires specialist skills, high quality materials and far more rigorous standards than a residential building or other forms of accommodation. The increasing integration of information technology into prison architecture has created new features such as keyless prisons, biometric security and so on. Financially, construction and related companies can benefit greatly from prison construction, especially when the state embarks on a large-scale prison construction programme.

Perhaps the most attractive attribute, from the view of politicians, is that prisons have **simplicity value**. By stringing together the retributive value, deterrence, the value of incapacitation and visibility value of prisons, it becomes fairly easy for any politician to explain, in a convincing manner, why we need prisons and why we should have even more prisons.

According to politicians and the private sector, prisons work. It is far more beneficial to politicians and the private sector to promote imprisonment than to tell the public that prisons

have no or very limited value in so far as making society a safer place. The public has also, in general terms, been quite receptive to the use and expansion of imprisonment. For a South African politician it would be extremely risky to be perceived as being 'soft on crime'. What 'soft on crime' actually means is not clear, although being 'tough on crime' is generally accepted to mean doing more of the same thing (i.e. long sentences and high imprisonment rates) and expecting a different result!

PRISONS DO NOT REDUCE CRIME

There is a growing body of evidence to indicate that large-scale imprisonment makes the situation worse (Clear 2007). Even the incapacitation argument is unconvincing. It has been shown that in order to affect a ten per cent reduction in crime in the UK, using a general incapacitation approach, would require a doubling of the prison population (Piquero et al 2007:17). One can only speculate about what this means in the South African context. Other research has also confirmed that imprisonment does not contribute to reducing recidivism (Gendreau et al 1999). Even when controlling for risk profiles, those offenders who were sent to prison had a higher re-offending rate than those who received a community-based sentence. Higher recidivism rates are also associated with longer prison terms. In short, this implies that imprisonment *per se* increases the recidivism rate and the longer the term, the worse the impact. It is also reported that imprisonment increases recidivism for low-risk offenders. From a policy perspective it is concluded that:

Prisons should not be used with the expectation of reducing future criminal activity . . .

therefore the primary justification for the use of prisons is incapacitation and retribution, both of which come with a 'price', if prisons are used injudiciously (Gendreau et al 1999:20-21).

South Africa's current imprisonment rate is around 340 per 100 000 of the population, which is one of the highest in the world for a democracy. We also know that the imprisonment rate is not

evenly distributed across the population in respect of gender, age, race and socio-economic status. There is also reason to believe that certain geographical areas contribute disproportionately to the prison population.² In the past 15 years we have also seen how sentence lengths have increased dramatically following the increase in the sentencing jurisdictions of district and regional courts, and the introduction of minimum sentences. South Africa is indeed using imprisonment injudiciously and we will continue to pay the 'price' referred to by Gendreau, Goggin and Cullen above.

PRISONS DON'T MAKE A DIFFERENCE TO THE VIOLENT CRIME RATE

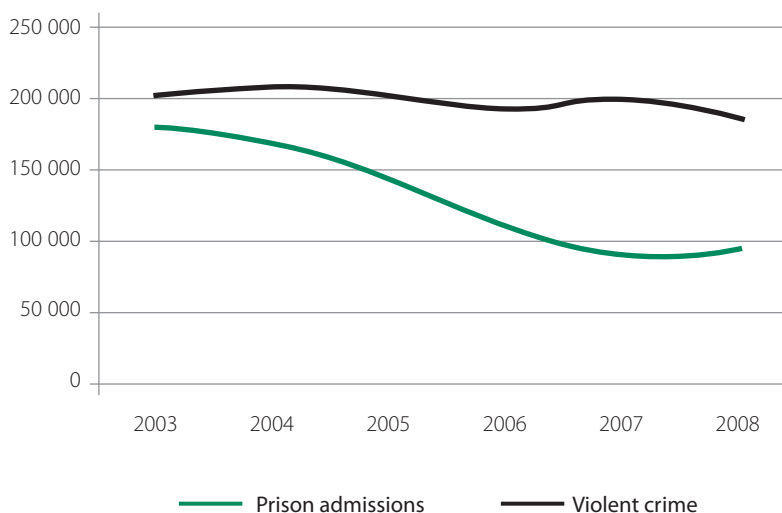
Logically it follows that if more offenders, especially violent offenders, are imprisoned, the rate of violent crime would decrease. This will hold true if one is able to imprison especially those offenders who are most likely, if not guaranteed, to be repeat violent offenders. Similarly, it follows that if fewer offenders were imprisoned, the rate of (violent) crime would increase. While advocates of the incapacitation approach support this logic, reality does not support it. The following will attempt to illustrate this.

For the purposes of this analysis the number of violent crimes reported annually to the SAPS will be compared to the number of offenders admitted annually to prison to serve sentences for the period 2003 to 2008.³ Violent crime is defined as murder, rape and aggravated robbery and used collectively as an indicator of violent crime in South Africa. Prison admissions refer to all sentenced admissions. The two data sets are presented in Figure 1.

During the period 2003 to 2008, violent crime remained fairly stable; deviating no more than 6 per cent from the full term average in any one year. The number of sentenced admissions to prisons, however, dropped from 178 569 in 2003 to 94 566 by 2007/8; a drop of 47 per cent. These figures are startling in their simplicity and have a number of implications for our understanding of criminal justice. This discussion will not go into the possible reasons for the drop in admissions as they are complex and relate to, amongst others, the quality of crime detection, docket preparation, effectiveness of prosecutions and so forth. The comparison being made is restricted to the results.

Firstly, there appears to be no link between the number of violent crimes reported annually and the number of sentenced offenders admitted to prison. The number of offenders imprisoned does

Figure 1 Violent crime and imprisonment, 2003-2008



not appear to have any direct and observable impact on the rate of violent crime. If this was not the case, the rate of violent crime should have climbed steadily during the period because fewer offenders were imprisoned, but this did not happen.

Secondly, the effect of the so-called minimum sentences became visible in sentence profiles from around 2000 (Giffard and Muntingh 2007), but the intended deterrent effect of this legislation is also not visible in the number of reported violent crimes. If it were having the intended effect we should have seen a reduction in violent crime. Even if it is assumed that the decreases (in 2006 and 2008) in the violent crime rate could be attributed to the deterrent effect of long prison sentences, increases in the violent crime rate of similar proportions are also observable in 2004 and 2007. What is clear is that imprisonment has a minimal (if any) deterrent effect and that the minimum sentences introduced in 1998 have similarly had no deterrent effect. There is simply no evidence of this.

Thirdly, if the imprisonment rate did not have an impact on the rate of violent crime, then something else must have had. What this is, is not clear, but may relate to socio-economic conditions, the general character of a violent society, the quality of policing, the effectiveness of prosecutions and so forth. Given the low conviction rate for reported violent crimes (between 8,9 per cent and 12,6 per cent for the three offences used above) (SAPS 2008:114), it seems unlikely that imprisonment could have an impact on the rate of violent crime.

Fourthly, whether the imprisonment rate is comparatively high (as it was in 2003) or low (as it was by 2008), it appears that imprisonment is being used injudiciously. Whoever are imprisoned do not appear to be the individuals driving the high violent crime rate, even if only a small proportion of them have ended up in prison in the past five years.

WHAT NOW?

It has been argued that the case for imprisonment is made by politicians and the private sector not because imprisonment reduces crime but because it is politically valuable and supports commercial interests. Society has in general been receptive to this message. It has also been shown that imprisonment, especially on the scale happening in South Africa, makes the situation worse and not better. Any argument stating that (increased) imprisonment will reduce crime must be viewed with extreme caution, as there is little evidence to support such a position. For example, the so-called 'three-strikes-and-you-are-out' legislation of California⁴ had no greater impact on serious or petty crime trends than what were predicted based on pre-existing trends (Piquero et al 2007:23). This harsh sentencing legislation was also found to be without deterrent effect (Piquero et al 2007:24). Using recent statistics it was shown that in the past five years the number of offenders sentenced to imprisonment dropped nearly 50 per cent but that the rate of violent crime remained fairly stable. It was concluded that imprisonment does not impact on violent crime and that there are other variables affecting the rate of violent crime. It was similarly concluded that the intended deterrent effect of long prison sentences did not materialise.

The solution does not lie in abolishing prisons because they are failed institutions, but rather to use them selectively, judiciously and with a clear understanding of their purpose and what they can realistically achieve. This requires a clear understanding by stakeholders, but especially the judiciary, of the place of imprisonment in a comprehensive and coherent crime control and reduction strategy. Regrettably such a coherent strategy has not emerged. The point of departure must be that imprisonment should be used as a measure of last resort. This means that all other options, not only penal sanctions, need to be assessed and exhausted before a person is deprived of his or her liberty (Muntingh 2007:7). This requires the highly selective and intelligent use of imprisonment, and above all, avoiding the

over utilisation of imprisonment, especially on offenders who may benefit from other interventions or much shorter terms of imprisonment. Imprisonment must be regarded as the most severe sanction to be imposed when no other sanction would have been reasonably able to achieve the same results intended by the court in a less restrictive manner.

Courts also need to be guided by an 'imprisonment policy' that defines the purpose of imprisonment in relation to other sanctions, the overall function of prison in society, the place of imprisonment in a constitutional democracy, the known risks of imprisonment, and what can realistically be expected as the outcomes of imprisonment. It has been noted by others that the size of prison populations is determined more by political sentiments and penal policy than by actual crime trends. The use of imprisonment as penal sanction should therefore not be regarded as the unrestrained and uncontrollable result of the interaction between crime trends and law enforcement.⁵ The opposite is in fact more accurate – the use of imprisonment is based on policy decisions emanating from particular philosophical positions. Imprisonment should therefore be used highly selectively to ensure that only those offenders for whom imprisonment will reduce the risk of re-offending, or who in reality do need to be incapacitated, are in fact imprisoned. How these offenders are selected is indeed another field of investigation, but that we need to depart from current practice is without question.

REFERENCES

- Clear T 2007. *Imprisoning Communities – How mass incarceration makes disadvantaged neighbourhoods worse*. New York: Oxford University Press.
- Foucault M 1977. *Discipline and Punish – the Birth of the Prisons*. London: Penguin.
- Gendreau P, Goggin C and Cullen FT 1999. *The Effects of Prison Sentences on Recidivism*. Canada: Public Works and Government Services.
- Giffard C and Muntingh L 2007. *The effect of sentencing on the size of the prison population*. Cape Town: OSF(SA).

Muntingh L (2007) *Prisons in South Africa's Constitutional Democracy*, CSVR, Johannesburg.

Piquero AR, Farrington DP & Blumstein A 2007. *Key Issues in Criminal Career Research*. Cambridge: Cambridge University Press.

SAPS 2008. *SAPS Annual Report 2007/8*. Pretoria.

ENDNOTES

- 1 'Politicians' in this article refer to the broad mass of political leadership in the country. They are understood to play a formative role, through various means, in shaping the discourse on crime and punishment. They are regarded as critically important in shaping people's views; either by providing innovative ideological leadership or by affirming already held beliefs.
- 2 As at the end of September 2008, 98 per cent of the total prison population were males; nearly 37 per cent were under the age of 25 years and Coloured people are imprisoned at double the rate of the national norm (Figures supplied by the Judicial Inspectorate for Correctional Services). Prisoners are also predominantly from the lower socio-economic strata.
- 3 Figures on prison admission were supplied by the Judicial Inspectorate for Correctional Services. Figures for the second half of 2008 were projected as these were not yet available.
- 4 It should be noted that California's imprisonment is only slightly above South Africa's at 474/100 000 of the population. Wagner P 2003. *The Prison Index: Taking the Pulse of the Crime Control Industry*. Available at <http://www.prisonpolicy.org/prisonindex/variation.html> [last accessed 21 November 2008].
- 5 Dünkel F and Van Zyl Smit D 2001. 'Conclusion' in F Dünkel and D Van Zyl Smit 2001. *Imprisonment Today and Tomorrow*, Kluwer Law, The Hague, p. 811; Gardner D 2002. 'Finland is soft on crime', *New Politics* Vol XI No. 3 and Tonry M 2006. Keynote address, *Conference on Sentencing in South Africa*, Hosted by the Open Society Foundation (SA), Cape Town, 25-26 October 2007, Cape Town.

The 'shoot to kill' approach

Inflammatory rhetoric no solution to crime

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As the countdown to the 2009 general election continues, the need to dig deeper for the real meanings of statements made by politicians on a range of issues affecting our nation is becoming increasingly urgent. But why bother about statements made in the often euphoric rhetoric of political campaigns? They are important because the utterances give us a preview of the thinking of those likely to become our president, ministers or local government leaders.

With the 2009 election around the corner, many South Africans are listening carefully to hear how those vying for public office promise to rid our country of the scourge of crime. Conscious of this, politicians have made a myriad of promises, some of which are deeply worrying. Before paying closer attention to the implications of some of the statements, it may be necessary to reflect briefly on the state of crime in South Africa today.

STATE OF CRIME: BETWEEN PERCEPTION AND REALITY

Crime is one of the uninvited guests that all too frequently encroaches on our social spaces. It is therefore to be expected that South Africans will be asking themselves what the new government will do with our criminal justice system.

From 2003/4 to date, the overall level of crime has dropped by about 24 per cent. The latest crime statistics (2007/8) also show a decline of about 4.6 per cent (SAPS 2008). While this is encouraging,

there is no disagreement that our crime situation remains extremely concerning.

The National Victims of Crime Survey conducted by the Institute for Security Studies in 2007 has shown that an overwhelming majority of South Africans find it hard to believe that crime is declining. It is important to interpret this against the backdrop of specific categories of crime that are at the core of public perception.

The 2007/8 police statistics show a disturbing rise in crimes that fall into the category of aggravated robbery, such as house robbery (increased by 13.5 per cent) and business robbery (increased by 47.4 per cent). Given this, most citizens would understandably ask: if I am not safe in my house and at my business premises, on what basis should I generally feel safe? This question is further complicated by the violence employed by criminals in our country.

SYSTEMIC PROBLEMS

There is evidence that our correctional facilities are overfilled both with convicted criminals and

suspected offenders. South Africa boasts the unenviable position of having the world's seventh highest number of prisoners, about 166 000 in total, while our bed capacity stood at 114 559 in March 2008 (Walmsley 2003). The facilities also have to cope with a high number of awaiting-trial detainees, currently at about 52 000.

While the South African Police Service (SAPS) has grown exponentially in the recent past (from 120 000 in 2001 to about 170 000 in 2008), the growth has not addressed the lack of specialised skills in the Service. Last year, only 15 per cent of SAPS members were detectives; there were only 1 691 crime scene experts; and only 923 forensic experts had to service the entire country.

Given the shortage of specialised skills in the SAPS it is hardly surprising that a study conducted by the South African Law Reform Commission in 2000 found that only six per cent of serious and violent cases of crime that were tracked resulted in a conviction; three quarters of the cases did not make it to court; and of those that did go to court, half were withdrawn by prosecutors. The other half of these cases went to trial and only one quarter resulted in convictions. Surely this is indicative of a critically ill system; moreover, no substantial improvements have since been made.

In between the police and prisons lie prosecutors and judicial officers, who also play a part in clogging the system. If these officers worked harder and more efficiently, we would arguably not have such a large number of awaiting trial detainees; investigative weaknesses notwithstanding.

The current state of our court system leaves much to be desired. In his presentation to the Parliamentary Portfolio Committees on Justice and Constitutional Development and Safety and Security on 5 August 2008, Deputy Minister of Justice Johnny de Lange made startling revelations in this regard. Across the country, regional courts have a 35 per cent case backlog. The hours spent in court are low (courts close at 15h30 daily). This year, on average, only seven cases have been finalised by each regional court per month.

From the police through the courts to correctional centres, inefficiencies and dysfunctionality are ubiquitous. Indeed, the Mbeki administration lamented the lack of coordination within the criminal justice system. It remains to be seen what the new government will do to address the problem after the 2009 general election.

SOCIO-ECONOMIC DISEMPOWERMENT AND CRIME

The systemic issues referred to above are further complicated by serious social challenges arising from the legacy of Apartheid, and are exacerbated by new complexities associated with the post-1994 social architecture.

Whilst major progress has been made in building a new social order, poverty remains a mammoth challenge.³ Unemployment and poverty create conditions for social ills such as crime and also lead to a breakdown of socio-cultural systems. The impact of this in South Africa is indeed severe. Sadly, young people in our country are hard hit by unemployment, constituting over seventy per cent of the unemployed population of South Africa. As Frantz Fanon (1961) observed: 'The young people of the towns, idle and often illiterate, are a prey to all sorts of disintegrating influences.' Is it surprising, therefore, that early in 2008 we witnessed rampaging youths committing heinous acts against those suspected of being foreigners?

The economic growth and socio-economic progress made post-Apartheid has also been accompanied by the undesirable phenomenon of rising inequality. That the economy has for the past three years been growing at an annual average of 4.5 per cent is indeed positive. But the distribution of this wealth has disproportionately benefited those who were already well off. A recent study undertaken by the Presidency laments this reality: '[t]hose at the top of the income distribution on average benefited more than those at the bottom' (Presidency 2008). Thus, this growth trajectory has catapulted our

country into the unenviable category of the most highly unequal societies in the world.

While wealth accumulation is not in itself necessarily a bad thing, an accumulation path that enriches a few while the majority sink deeper into poverty is bound to produce social instability and disorder. This, unfortunately, is the path our society has been following since the advent of democracy. Thus has a culture of conspicuous consumption and rapacious wealth come to characterise our communities. It is this culture that Thabo Mbeki (2006) decried:

[E]very day, and during every hour of our time beyond sleep, the demons embedded in our society, that stalk us at every minute, seem always to beckon each one of us towards a realisable dream and nightmare. With every passing second, they advise, with rhythmic and hypnotic regularity - get rich! get rich! get rich!

It is only in a society where this kind of mentality prevails that a socially disruptive flamboyance rules. The reality is that some of those who cannot afford the glamorous lifestyle that comes with the expensive material possessions, so often paraded in our communities, use criminal means to acquire those possessions.

Also related to the question of poverty is the mushrooming of informal settlements around metropolitan areas. Indeed, this is not a South African peculiarity. As the World Bank informs us: 'The rapid growth in developing world cities is making living intolerable for the urban poor and threatening the economic, social and environmental progress of these cities' (World Bank 1996). Combined with our violent political past, this trend adds to a powder keg of criminality.

This complex mix of social, political and economic factors is gradually eating into the heart of our social fabric. It is thus not surprising that 'social cohesion' and 'moral regeneration' have now become the golden thread of the discourse used by those who appreciate the complexity of our challenges.

'SHOOT TO KILL' MESSAGES: REVERSING OUR HUMAN RIGHTS PROGRESS

Returning to the political statements that give cause for concern: We have recently heard utterances and observed political behaviour suggesting that those who make such statements barely understand the complexity of our social quagmire. The 'shoot to kill' instruction issued to the police by Susan Shabangu, Deputy Minister of Safety and Security, immediately comes to mind. The new Minister of Safety and Security, Nathi Mthethwa, has also played his part by instructing the police to 'fight fire with fire', with no emphasis on what the law prescribes. And the president of the ruling African National Congress (ANC) has signalled that under his administration, rape and murder suspects would not be granted bail.

While this kind of talk may appeal to those who place emotions above reason, our society should be wary of politicians who appeal for the deconstruction of our human rights-based jurisprudence. The 'presumption of innocence until proven otherwise' is a principle civilised societies embrace. When the new South Africa adopted this approach, attention was equally paid to the reality that crime would need to be firmly dealt with. It is, among others, through the Criminal Procedure Act that our nation has demonstrated its dexterity at striking a necessary balance between safeguarding human rights and intolerance to crime. For example, Section 49 of the Act empowers the police to use force:

[1] if any person authorised under this act to arrest or to assist in arresting another, attempts to arrest such person and such person -

[a] resists the attempt and cannot be arrested without the use of force; or

[b] flees when it is clear that an attempt to arrest him is being made, or resists such attempts and flees, the person so authorised may, in order to effect the arrest, use such force as may in the circumstance so be reasonably necessary to overcome the resistance or to prevent the person concerned from fleeing

[2] where the person concerned is to be arrested for an offence referred to in schedule 1 or is to be arrested on the ground that he is reasonably suspected of having committed such offence, and the person authorised under this Act to arrest or to assist in arresting him cannot arrest him or prevent him from fleeing by other means than by killing him, the killing shall be deemed to be justifiable homicide.

Those who remember our past will object to political discourse reminiscent of Apartheid. More importantly, no amount of war-talk can eradicate crime. The complex socio-economic situation referred to above suggests clearly that our country needs more than the police or the criminal justice system to deal effectively with crime.

However, it does not mean that we should not pay attention to the challenges facing the system. Attempts to address the ills that bedevil our criminal justice system need to be linked to wider efforts aimed at addressing bigger social challenges that complicate our nation's endeavours against crime. Simply pumping resources into the system alone will not have the desired effect. It should be remembered that in 2001 the SAPS budget was R17 billion and rose to R36 billion by 2008 – yet our crime situation remains worrying.

Threatening to kill and deny bail to suspects is also not a solution to our crime situation. In this regard, it is worth recalling the profound question posed by Karl Marx: 'Is there not a necessity for deeply reflecting upon an alteration of the system that breeds these crimes, instead of glorifying the hangman who executes a lot of criminals to make room only for the supply of new ones?' (Marx 1853).

Marx poses a formidable challenge to our political leaders in South Africa: to demonstrate a higher level of sophistication and deep thinking. Instead of listening to them instruct the police to 'shoot to kill', 'fight fire with fire' and 'deny criminals bail' we should be waiting to hear how politicians intend to alter the social conditions that breed

criminals. In other words, Marx goads our politicians to think seriously about addressing the socio-economic conditions that have guaranteed us the seventh place worldwide based on the size of our prison population.

CONCLUSION

Eradicating crime in South Africa is a noble goal, and all those who demonstrate seriousness in this regard indeed deserve praise. However, any such efforts should be based on a clear understanding of the complexity of the challenge, in order to avoid politically expedient statements that threaten to reverse our hard-won democratic gains. The recent war-talk by politicians certainly holds no solutions to our dire crime situation. Our society should be vigilant and raise critical questions each time politicians make easy but dangerous statements such as 'shoot to kill', 'fight fire with fire' or 'deny suspects bail'.

REFERENCES

- Fanon F 1961. *The Wretched of the Earth*. Paris: Penguin Books
- Mbeki T 2006. Nelson Mandela Memorial Lecture. Johannesburg: University of the Witwatersrand, July 29.
- Marx K 1853. 'Capital Punishment. Mr Cobden's Pamphlet: Regulations of the Bank of England'. *New York Tribune*, 28 January.
- Presidency 2008. *Towards a Fifteen Year Review*. Available at <http://www.presidency.gov.za/main.asp?include=docs/15year/main.html> [last accessed 4 December 2008]
- South African Police Service 2008. *Crime Situation in RSA - April to March: 2001 - 2008*. Presentation made during the release of the 2008 crime statistics. Pretoria.
- Walmsley R 2003. *World Prison Population List, Fourth Edition*. Available at www.homeoffice.gov.uk/rds/pdfs2/r188.pdf [last accessed 4 December 2008]
- World Bank 1996. *World Bank says world's worst slums can be transformed*. Available at <http://go.worldbank.org/YUUEH66S91>. [last accessed 4 December 2008]

Learning to fear, fearing to learn

Measuring the extent of school violence

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Violence in South African schools impacts on children, their families, and society more generally. Much of what occurs in schools is learnt through exposure to violence at home and outside the school, necessitating an integrated approach to addressing school violence that moves beyond a limited focus on the school itself. The Centre for Justice and Crime Prevention National Schools Violence Study provides an indication of how bad school violence is in South Africa, and through the wide range of data collected, provides a framework for interventions that cuts across sectors and conventional school-based stakeholders.

Over the past three years, schools as sites of violence have received much attention. Articles appear almost weekly in various national and regional newspapers, reporting on yet another incident of violence or drug use at secondary and primary schools. Those seeking to reduce violence and crime increasingly look to schools as a key site for interventions in a long-term strategy to halt unacceptably high levels of particularly violent crime in South Africa. Through the National Department of Education (DoE) and a number of provincial departments of Education, the government is exploring various programmes to address the most visible and immediate evidence of lawlessness and anti-social behaviour within the school environment.¹

Schools exist primarily to ensure that effective learning takes place, so that children are socially and intellectually prepared to become responsible adults who actively participate in, and make a positive contribution to, society and the economy. Right now, a number of factors stand in the way

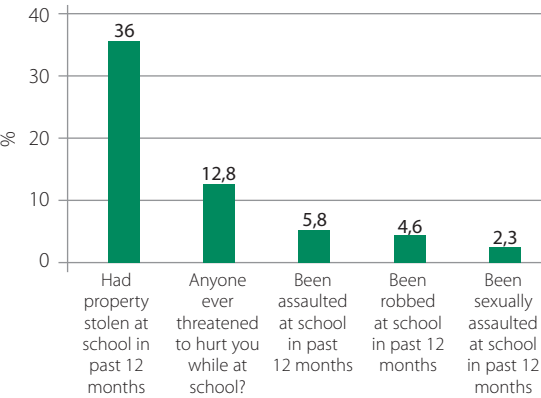
of effective and efficient learning at schools. Not least of these is school-based crime and violence, which is a barrier to education and threatens to deprive and even deny learners their Constitutional right to education. A range of other factors present at many schools in South Africa also impact negatively on education, including the isolation of schools from the surrounding community, unhealthy school environments (including the psychological environment), and the absence of adequate support for learners.

The National Schools Violence Study (NSVS) undertaken by the Centre for Justice and Crime Prevention in 2007/2008 revealed, for the first time, the true extent of violence and crime in South African schools (both public and private).² The study contextualised the school within the community and family environments, and highlighted the problem of drugs and alcohol within schools. The study sample was drawn to be representative of the population of both schools

and learners down to a provincial level. In total, 12 794 learners at primary and secondary schools were interviewed, representing 260 schools. In addition, 260 principals and 521 educators were interviewed. The sample at each school was stratified by grades, ensuring a spread of respondents across all grades, and learners were randomly selected within each grade.

The study found that in total, 15,3 per cent of learners between the grades of three and 12 had experienced some form of violence at school (see Figure 1) (Burton 2008 a, b). The range of violence covered was broad. Actual acts of physical violence, acts such as robbery (experienced by 4,6 per cent of learners), assault (5,8 per cent of learners), or sexual assault and rape (2,3 per cent), have profound effects on the development of children and their ability to form trusting relationships with their peers and adults. In addition, such violence often results in serious physical injuries. However, the non-physical forms of violence are often as serious, and can have equally detrimental effects on young people, despite often being viewed as less important. Being threatened with violence at school, a situation reported by 12,8 per cent of learners, results in a lack of concentration in the classroom, the inability to focus on school work, and also undermines the formation of healthy positive relationships and bonding with teachers and peers. Furthermore, threats of violence contribute to increased truancy and dropout rates, both risk factors for later delinquency, as the threatened child is too afraid to attend school.

Figure 1: Experiences of violence at school



Source: National Schools Violence Study, CJCP 2007/8

Institutionalised forms of violence are also common. There is much debate in the public arena around the issue of corporal punishment. An act that essentially constitutes the crime of assault, it is still the option of punishment most commonly resorted to by educators, many of whom see no alternative, or have received little training on effective alternative ways of instilling discipline amongst their learners. The problem is exacerbated by large classes that are, at times, in excess of 50 learners (in some cases going to more than 100), and where many learners might be high or drunk. Yet the relationship between corporal punishment at school and other forms of violence is clearly reflected in the data emerging from the NSVS.

As the table below reflects, one in five (20,5 per cent) learners who had been physically punished (spanked or caned) at home also reported that they had experienced violence other than corporal punishment at home, and some form of violence at school (21,2 per cent). Of those who had experienced corporal punishment at school, 17,4 per cent had experienced some other form of violence at home, while more than one in five (22 per cent) had experienced some form of violence at school.

Table 1: Corporal punishment at home and school in relation to other experiences of violence*

		Experienced any other violence at home	Experienced any other violence at school
Corporal punishment at HOME	Yes	20,5%	21,2%
	No	13,0%	19,3%
Corporal punishment at SCHOOL	Yes	17,4%	22,0%
	No	14,2%	17,4%

*p<0.05

Source: National Schools Violence Study, CJCP 2007/8

Alcohol and drugs are not substances that are commonly associated with the school environment. Yet one in ten primary school learners, (i.e. children under the age of 14 years),

reported easy access to alcohol at school, with access increasing at secondary schools. The same percentage reported easy access to drugs at school. As unnatural as this association might be, and as dangerous the consequences, it is hardly surprising, given the access to both alcohol and drugs in communities surrounding schools. In total, South Africans spend more than R16 out of R100 on alcohol (Holtman 2008). In a recent qualitative study, communities surrounding schools were mapped, and it was not uncommon to find as many as four shebeens or taverns located in the immediate vicinity of both primary and secondary schools.³ This lends substance to reports by learners in the NSVS of both children and educators going out in breaks or during classes to buy alcohol to bring back on to school property.

These incidents, and the generally unsafe nature of schools reflected above, undermine any sense of attachment that children might have had to school and learning. Yet this attachment has been shown to serve as an influential protective factor for young people, building resilience to anti-social and delinquent behaviour later in life. Empathy, self-esteem, self control, inter-personal skills, and morality and an appropriate sense of right and wrong have all been identified as key factors in building resilience to crime and violence through the teenage years and in later life, and all of these traits are moulded to a large degree in early childhood (Farrington & Welsh 2007 a, b). The school is the place where children spend up to two thirds of their waking hours, and as such is one of the two most influential environments on the development of these characteristics (United Nations 1990). In a society well known for its high levels of violence, violent school environments are particularly untenable.

DEALING WITH THE VIOLENCE

The most effective way to deal with the current situation is to initiate cross-cutting engagement between a range of stakeholders. The aim would be to deal concurrently with the school environment, violence in the community and in

the home, and factors that facilitate violence such as access to alcohol, weapons and drugs. Interventions should seek to offer both short-term and medium term benefits, bearing in mind that long-term behavioural change is unlikely to be immediately evident.

Within schools

At a school level, situational prevention through environmental design is the most fundamental intervention. Secure fencing, monitored access and exits, adequate lighting, secure classrooms and well-maintained open spaces all contribute to a school environment that is easier to monitor for incidents of violence, and are likely to discourage acts of violence that often occur in particular unkempt locations. Within the classroom, educators need to take responsibility for being in the class at all times. The NSVS showed that the classroom is one of the most common sites for violence, and that teachers often spend as much of their time outside the classroom as they do inside, leaving learners unsupervised.

Similarly, open spaces such as playing fields should be monitored or supervised at all times. In this case the problem does not seem to be a shortage of teachers who can supervise (analysis of the learner:educator ratios drawn from the Department of Education EMIS system show that there are sufficient educators in all provinces to adequately monitor learners). Rather it would seem that educators need to be held accountable for what occurs in their classrooms through a performance management system, ensuring not only sound learning, but that they assume responsibility for supervising their classes and monitoring behaviour in the classroom.

In addition, educators should be trained on alternatives to corporal punishment. Such a process has already been embarked upon by the National Department through a partnership with Boys and Girls Town, a partnership that is also being rolled out nationally.

All of the above are simply a matter of effective classroom and school management. Effective management systems within schools will enable and enhance discipline and control, while facilitating a safer physical environment in which learners can spend their time. Minimum standards set by the National Department of Education need to be adhered to, and school principals and management teams must be held accountable for failure to comply with these minimum standards. As part of this, school authorities should be held accountable for dealing appropriately with unacceptable behaviour on the part of teachers, including the use of corporal punishment, arriving drunk or consuming alcohol during school hours, or encouraging learners to do the same.

Drawing on the data available in the NSVS, there is evidence that different provincial departments of Education vary substantially in their ability and commitment to effectively address school violence. It is also perhaps time to consider whether school safety is best located as part of the provincial departments' core competencies, or whether the cause might be better served under the single umbrella of the National Department.

Safety starts at home

In total, more than one in ten secondary school learners found it easy to get alcohol at school, while 11 per cent thought it was easy to get dagga. Three in ten secondary school learners, and more than one tenth (12,8 per cent) of primary school learners thought it was easy to get a knife at school. The alcohol, drugs and weapons that are so easily available to learners within the school environs, or immediately outside the school grounds, come from the homes and communities in which the learners spend the rest of their time. Similarly, the behaviour, attitudes and examples of parents, caregivers, and other adults in the home and community all have a profound impact on learners' academic development and performance, their social attitudes, behaviour, and responses within school.

The NSVS highlights the linkages between school experiences and learners' homes and

neighbourhood environments. Between ten per cent and 15 per cent of learners have family members who have used illegal drugs in the past year. Between ten and 13 per cent have caregivers who have been in jail, while almost one in five learners have siblings who have been, or currently are, in jail. Exposure to violence as well as personal experiences of violence are as common in the home and community as at school, with one tenth of primary school learners having been assaulted at home, and one in ten secondary school learners having been robbed at home.

The study shows that all of these factors are significant in predicting learners' experiences of violence at school. More than one third of those learners in both primary and secondary schools who have been exposed to violence at home have been victims of violence at school, as opposed to less than one fifth of learners who had not been exposed to violence in the home. Similarly, one in three (31 per cent) of learners who had been victims of violence within the home experienced violence at school, opposed to 14,2 per cent of learners who had not experienced direct violent victimisation at home. This relationship shows not only that young people are surrounded by violence in all their spheres of life, but also suggests a complex relationship between victimisation in different environments, with a vulnerability to victimisation common within a range of different environments.

These findings suggest the need for a range of urgent, targeted, well-planned and coordinated responses from the Department of Social Development (DSD), as well as a more limited role for the South African Police Service (SAPS). The role of DSD is critical in addressing violence in schools, and in the long term the failure of this department to involve itself will undermine any meaningful change, both within and outside schools. It is beyond the scope or mandate of the DoE to offer interventions within the home, or to address violence outside schools.

The levels of violence within the home also emphasise the importance of a social crime prevention approach. The SAPS argues that the

majority of violent crime (assault and sexual assault/rape) is committed within the home, beyond the reach of conventional policing. While the NSVS data do not provide detailed analysis of violence within the home, or how it relates to other crimes outside of the home, the data provide sufficient evidence of the relationship between school violence and exposure to and experience of violence within the home. These forms of violence can only be adequately addressed by directly targeting the social correlates of crime, for example (but not limited to) high levels of gender and economic inequality, poverty, unemployment, access to services such as housing, health and welfare, as well as environmental design.

Data from previous youth and child studies show that for many children violence has become normalised – it is a way of life, and the means through which any conflict is resolved (Leoschut & Burton 2006; Burton 2007). This has a multitude of implications for young people and is likely to impact negatively on their mental well-being, the development of healthy peer and authority relationships, and on their ability to resolve conflict in a positive manner. Most worryingly, such exposure to violence at a young age has also been shown to increase the likelihood of later criminal and violent behaviour (Farrington & Welsh 2007).

The SAPS and local government also have an essential role to play in limiting access to alcohol and drugs in and around the school environment. A number of school principals participating in the NSVS recounted failed attempts to engage with local police in dealing with drug dealers selling wares around the perimeter of the school premises. Those schools displaying the lowest problems of both drug and alcohol use at or related to school were significantly also those that reported the most positive relationships with local police officers. The development of an effective relationship where police work with particular schools is relatively cost- and resource-free, and can reap substantial benefits in making schools safer for learners. Local government, for its part, can drive the cleaning and maintenance of public spaces around the school, and can engage the

police in dealing with illegal alcohol and all drug outlets around the school.

THE SPACE TO SPEAK

The NSVS shows that, while information on how to protect oneself and where to report violence is generally available, the majority of learners who fall victim to violence still do not report it. This is not unique to young people – it is a common occurrence in South Africa that much crime goes unreported, for a range of reasons including lack of confidence in the police, a sense of relative unimportance of the act, apathy, or fear of retribution (when the offender is known).

Whether the failure to report acts of violence in schools can be attributed to fear, a lack of trust in the authorities, or a lack of trust that anything can or will be done, it nonetheless undermines both the monitoring of incidents, as well as trends and measures to deal effectively with violence in schools. Young people need to be encouraged to establish forums within schools where they learn to give voice to, and take responsibility for, the issues that affect them. Mechanisms to encourage anonymous reporting and to ensure feedback to the learners can be established at school with no additional resources. Feedback on how complaints have been dealt with is as important as the reporting itself, as learners need to be made aware that actions are taken against those engaging in violence.

There is a strong correlation between inactivity and victimisation and the perpetration of violence. Planned, coordinated and, most importantly, consistent extra-mural activities are needed at all schools to involve learners in positive activities and reduce their exposure to gangs and violence or criminal opportunities. Such activities could focus on sport, or drama, or other cultural events and activities. It is important that learners are involved in designing appropriate activities if they are to participate in those activities. It is also essential that these activities are available throughout the school year, and over the course of a learners' schooling, rather than targeted at one set of school holidays or grades. Ideally, such activities can be run by the school

with the support of the department, but there are a number of examples available where partnerships with NGOs and other local organisations have led to ongoing activities for learners.

DIFFERENT SCHOOLS NEED DIFFERENT STRATEGIES

The basic infrastructure and resources available to schools differ substantively across South Africa. A lack of basic resources, like a functioning school governing body, trained teachers and support structures, for instance a school safety committee or a provincial Safer Schools programme, makes universal implementation of school safety programmes or interventions unlikely. This means that a national linear approach to wider implementation of school safety programmes is not likely to succeed. Rather, a staggered and incremental approach is required – an approach that acknowledges the necessity of a basic resource level and works to achieve that as the foundation of a safe school.

Given the differing resource levels of schools across and within the provinces, the implementation of school safety programmes should be based on a framework for incremental rollout that consists of:

- A detailed assessment of the basic resource requirements
- The categorisation of schools in each of the clusters according to their resource levels
- The identification of their capacity and entry for implementation of project interventions
- The engagement of appropriate support structures and potential partners such as the Safer Schools programme or Hlayiseka School Safety project to support implementation
- The formulation of district and school-specific safety plans, based on the individual needs, available resources, and priorities of each school
- Detailed monitoring of implementation so as to provide appropriate support to the schools as the required resources are built and more of the component is implemented

While unlikely to deal with the issue of school violence in its entirety, the above steps, which involve a range of government departments and stakeholders, will achieve substantial benefits in terms of making schools safer for learners. They will also contribute to making communities as a whole safer as learners are able to concentrate on their studies and develop healthy, positive networks and relationships with their peers and adults, learning pro-social behaviours that will inform later development and interaction with others as they reach adulthood.

REFERENCES

- Burton P (ed.) 2007. *Someone stole my smile: An exploration into the causes of youth violence in South Africa*. Cape Town: CJCP Monograph Series No 3.
- Burton P 2008. *Merchants, Skollies and Stone. Experiences of School Violence in South Africa*. Cape Town: CJCP Monograph Series No 4. Cape Town.
- Burton P 2008. *Dealing with School Violence*. Cape Town: CJCP Issue Paper No 4.
- Farrington DP and Welsh BC 2007. *Preventing Crime: What works for Children, Offenders, Victims and Place*. New York: Springer Verlag.
- Farrington DP and Welsh BC 2007. *Saving Children from a Life of Crime: Early Risk Factors and Effective Interventions*. London: Oxford University Press
- Holtman B 2008. Presentation to the Action for A Safer South Africa Conference, 25 August.
- Leoschut L and Burton P 2006. *How Rich the Rewards: Results of the National Youth Victimisation Study*. Cape Town: CJCP Monograph Series No 1.
- United Nations 1990. Convention on the Rights of the Child, General Assembly Resolution 44/25. Available at <http://www.un-documents.net/944r25.htm> [last accessed 4 December 2008].

ENDNOTES

- 1 The best example of this is the CJCP Hlayiseka School Safety Toolkit, a programme that has been rolled out in all nine provinces by the National Department of Education, as well as expanded in some provinces through the provincial departments in partnership with provincial departments of Community Safety.
- 2 The primary school component of the study was undertaken in partnership with the Soul City Institute for Health and Development Communication.
- 3 Mapping exercise undertaken as part of the CJCP Youth Resiliency Study, publication forthcoming.

To measure and what to measure

Towards assessing the impact of social crime prevention projects

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The idea that it is necessary to address crime through social development is gaining currency in South Africa. Indeed, in the face of high crime rates that seem not to respond significantly to increases in the number of policemen and women, and in the face of seemingly intractable problems in the criminal justice system, there is a need to determine and address the social causes of crime. In order to convince government, funding institutions and the public that social interventions offer a long-term solution it is necessary to be able to measure their impact. This article describes a social development initiative aimed at preventing and reducing crime in a rural area in the Western Cape. It argues that while it is possible to identify indicators of success, measuring the impact of these kinds of interventions cannot be achieved in the short term. Also, while monitoring and evaluation are important, a balance must be found between allocating resources to core activities, and to monitoring and evaluation.

Hoekwil is a tiny town in the south Western Cape. So tiny, in fact, that you would be hard pressed to find a map that reflects its location. The village is close to the larger town of George and the well-known holiday destination, Wilderness. Apartheid planning saw to it that, much like every other village or town in South Africa, the majority of residents live in a township, Touwsranten, some 200 metres from the village. Stretching all the way from Hoekwil through the hills and natural forest to Knysna is a farming district that yields vegetable and dairy produce found in Woolworths and Pick n Pay stores from Johannesburg to Cape Town, and even Tesco and Marks and Spencer in the United Kingdom.

In many respects Hoekwil is an unlikely location for a crime reduction initiative, not least because the rate of crime in the area is low by comparison to the more densely populated George and its surrounding townships of Thembalethu, Conville and Pacaltsdorp. Yet 12 months ago some of the most prominent commercial farmers in the area became concerned when the young men and teenage children whose parents labour on their farms started forming gangs. On several occasions these groups of young men engaged in violent fights over weekends and there were rumours that some had firearms. It was feared that unless something was done to change the situation, violent crime would become an entrenched problem.

An unscientific, but probably fairly accurate analysis of the problem by the farmers led to the conclusion that the problem was boredom – there was not much for young people to do on the farms over the weekends. This, in combination with the alcohol abuse that is common amongst young people and their parents in the area, created fertile conditions for violence to flare up. Initially the farmers thought that if they were to provide the impetus and resources for sports activities over the weekends it would go some way towards alleviating the problem. Twelve months later the youth development programme that has developed from this initial idea is doing a great deal more than that.

The Seven Passes Initiative is now a registered non-profit organisation operating in the area between the Hoogekraal river and Hoekwil, encompassing some 38 commercial farms, two former state forestry reserves, as well as the residential areas of Hoekwil and Touwsranten. The Initiative is managed by a board made up of farmers, local businessmen, a prominent member of the Touwsranten community, the head of the Dutch Reformed Church in Touwsranten, a representative from Eden Campus (an entrepreneurial school located near the even smaller town of Karatara), and the author of this article, both as a member of the Hoekwil community and as an ISS researcher.

In January 2008 the farmers agreed that a portion of the financial allocation given to them by local government to subsidise their security costs could go towards paying a fulltime co-ordinator for the Initiative. They did this based on the understanding that a social intervention aimed at youth development could have as much, if not more, impact on their security in the long run than policing the problem through increasing the number of guards in the district. The money that became available was sufficient to pay a full-time local co-ordinator. The idea was that the co-ordinator would ensure that children, particularly those from disadvantaged backgrounds, were engaged in positive activities in the afternoons after school and over weekends and holidays. These activities were intended to include at least sport, drama, and music.

Very early on the board decided that the Initiative should begin by establishing homework clubs for children living on farms and in Touwsranten. It was reasoned that the children living on the farms are, in many cases, unable to turn to their parents for help with their homework, either because their parents are illiterate or because they work long hours and are too tired in the evening to assist them. In the absence of any homework support, the children are unlikely to perform optimally at school, which in turn affects their self-esteem and motivation to pay attention to their schoolwork. It was also quite evident that high levels of alcohol abuse by some of the parents affected their children's ability to cope at school and socially. The homework clubs were identified both as an end in themselves and a way of gathering children together so that they could be involved in other activities.

As an initiative that is aimed at the long and medium-term reduction and prevention of crime and at positive youth development, the challenge has been to establish indicators of success. Indeed, in the context of increased calls for a social development response to the high crime rate in South Africa, projects like this need to be able to show whether in fact they can contribute to making communities, and ultimately society in general, safer. Unless they can show their worth through ongoing monitoring of indicators, it is unlikely that they will attract support in the long run. However, the challenge with any endeavour aimed at bringing about positive social change, and in particular changing behaviour, is that such change takes place slowly and in ways that are hard to measure. Indeed, measurement itself can become expensive, and attract resources away from initiatives themselves.

Some measure of success or failure is essential in order to determine whether allocating resources to these kinds of initiatives, rather than to more traditional forms of crime control, is worthwhile. Yet determining the unit of measurement and the most accurate indicators is no simple matter. Indeed, while it is vital to ensure that measurement and assessment of activities such as this take place, it is equally important to make

sure that the process of measurement does not become so burdensome to the implementing organisation that it takes resources away from core activities. In the following section an overview is provided of the relationships that the organisation has established in order to be sustainable, and some of the indicators that have been identified to measure the success of the project.

ALLIANCES AND INDICATORS

Eden campus is a small post-matric entrepreneurial training centre linked to the Nelson Mandela Metropolitan University. It is located in Karatara, a former forestry settlement that borders on the area covered by the Seven Passes Initiative. Through consultations with the students, who themselves come from disadvantaged communities in the Western Cape, it was agreed that students would make themselves available on a volunteer basis to supervise the homework clubs and assist the children with their homework. Since the beginning of 2008 a handful of students have made themselves available twice a week (on a Tuesday and Thursday evening between 5 and 7pm) to supervise homework. They have been transported from Eden campus to two farm halls and a church hall (and later the community hall) in Touwsranten where high school children have gathered to do their homework.

At these locations the children are provided with a light snack (sandwiches or soup). While the feedback received by the Committee suggests that the homework clubs have become an important aspect of some of the children's lives, there were some unforeseen problems. For example:

- The students were not always able to assist the children with homework in certain subjects; particularly those subjects they did not take at school or themselves struggled with. During exam times when the school children should have been receiving extra assistance with their studies, the students were also writing exams and were unable to come to homework clubs
- Although the homework clubs were aimed primarily at high school students, the younger children in Touwsranten started coming to the hall and initially disrupted the classes, as they were noisy and uncontrollable.

This last problem has subsequently been solved by establishing a junior homework class that has, over time, developed even more consistent and diligent participation than the senior clubs. The junior class is managed by volunteers from the Hoekwil and Touwsranten communities.

The problem of students not being able to assist the children in certain subjects has been overcome by forming an alliance with a private school in George. A small number of teachers from this school (Maths and Science teachers in particular) have volunteered to come to one of the farms one afternoon a week to provide extra lessons in the subjects that the students have identified as problematic. Although it took some time for the children to appreciate and take advantage of the service being offered (there were a few weeks when no children arrived for extra lessons), over the past two terms the classes have become more popular and are regularly attended.

What the board has come to realise is that while the homework clubs can assist children who do relatively well at school to do better, they do not assist children who are failing or who have learning difficulties. These children, who appear to be in the majority, require far more intensive and specialised assistance that they are not receiving at school or at home. It has also become clear that children in rural and impoverished communities are at a tremendous disadvantage when it comes to meeting the project-related requirements of the OBE system. In order to complete research projects the children require access to libraries or the Internet, neither of which is readily available. The area co-ordinator therefore spent a great deal of time in the public library copying resource books for the children to use for projects. As helpful as this may be, it points to a failure of the schools and Department of Education to understand the circumstances of learners. As such, the homework clubs themselves

can provide indicators of where schools are failing.

INDICATOR 1: LEVEL OF PARTICIPATION IN HOMEWORK CLUBS

Registers are kept of the children who attend homework club. The registers include the name of the child, his or her grade, and remarks about what assistance was required. Through these registers it is possible to assess whether there is regular attendance and when attendance rises or falls. Over the year a small group of children (particularly those who are doing well at school) has regularly attended homework clubs, while others come only when they need particular help.

Although this indicator does not provide any information about the extent to which the Initiative is specifically contributing to crime reduction, the fact that there is a core group of children who attend regularly suggests that the intervention is meeting a need.

INDICATOR 2: SCHOOL ACHIEVEMENT

In order to monitor the progress of children in the catchment area, the area co-ordinator obtained permission from those learners and their parents to see copies of their quarterly school reports. To get copies of the reports the area co-ordinator had to establish a relationship with all the schools attended by children from the area. In 2008 a number of the children's reports were accessed and scrutinised. Although over time it should be possible to determine whether individual children's marks are increasing or decreasing, it is impossible to directly link the cause of the increase or decrease to homework club participation in the short term. In the long term, however, (over say two or three years) it will be possible to determine trends. If, for example, a significant proportion of homework club members' marks go up or down, it may suggest that the homework clubs have had an effect. The

children who do not attend would provide a control group against which results could be measured. In the short term, however, monitoring the results does allow the area co-ordinator to identify whether he needs to intervene, for example by speaking to a child and/or his or her parents about marks that are going down, or by assisting a teenager who is doing well to apply to tertiary institutions.

There are several teenagers whose consistently low marks and low school attendance have alerted the board to problems. A few of these children have extreme learning difficulties that the schools are unable to address. Indeed, given the large number of children who appear to have foetal alcohol spectrum disorders, this is a problem that is likely to continue for many years to come. The fact is that in the absence of state institutions that can provide support in the form of skills training or protected employment, there is very little that can be done to prevent vulnerable teenagers from falling into poverty and unemployment.

INDICATOR 3: CRIME STATISTICS

For a citizen involved in an initiative like Seven Passes, obtaining regular police statistics is no simple matter. Thus monitoring the local police statistics over a period of time is not as easy as it first may seem, especially since the area covered by the local police station does not correspond neatly to the area covered by the Initiative. Nevertheless, the fact that a relationship was built between the head of the local police station and the area co-ordinator and members of the board of the Initiative did facilitate the flow of information. In addition, the security company employed by the farmers in the area has a strong and functional relationship with the SAPS and with Seven Passes. The board was thus able to obtain the police statistics to establish a baseline.

However, it soon emerged that many of the crimes that plague the community are not recorded in the statistics. The statistics for example did not, and could not be expected to, provide an indication of the level of violence resulting from the gang activities. That is because in some cases the police

were not called to respond to the activities, or broke up fights with warnings rather than charging individuals. Indeed, the head of the local police station (Wilderness) told members of the board that although there is a mechanism for recording cases of domestic violence, even those that don't result in any judicial action, drunken assault is not recorded at police station level other than in the notebooks of individual officers and perhaps the Occurrence Book. So these acts, while they certainly have an impact at community level, cannot be monitored through use of police statistics. The following table shows the crimes recorded by the local SAPS between 1 May and 31 July 2008.

Table 1: Police crime stats: 1 May – 31 July 2008

Offence	Total number of cases
Liquor trade, liquor products and sorghum beer	7
Assault GBH	9
Burglary at residential premises	8
Offences under the Drugs and Trafficking Act	4
Common assault	5
In possession of presumed stolen property	2
Attempted rape (not wife by own husband)	1
Domestic violence	1
Indecent assault	1
Theft general	2
Unlawful intrusion of premises with criminal intent	1
Robbery	1
Murder	1
Theft from a motor vehicle	1
Theft of motor vehicle and motor cycle	1

Source: SAPS: Crime Statistics Analysis, George Blocks 101946, 101945, 101950

INDICATOR 4: POSITIVE PARENTING

Over time, the Initiative has established a range of activities in collaboration with local government, local sports clubs and other service organisations. During the course of 2008 children in the area have taken part in sailing lessons, first-aid courses, and sports teams (rugby, soccer and netball) have been established. Drama and singing groups have emerged. In the case of these activities records have been maintained, not only of the children's participation but also of their parents' participation in showcase events. The Initiative aims to increase parental involvement in children's lives and thus make a small contribution to encouraging better parenting. Monitoring whether parents increase or decrease their involvement in these kinds of activities will allow an assessment of successes in this area. Once again, change is unlikely to be evident in the short-term.

Other indicators such as a drop in teenage pregnancy rates and an increase in the number of children who apply for and are accepted at universities will also be used to assess the impact of the initiative. Of course, increases in the number of teenage pregnancies would be a warning sign that the programme is not achieving its objectives.

CONCLUSION

Ongoing monitoring and evaluation (M&E) of programmes such as the Seven Passes Initiative is vitally important to assess whether they can have an effect on crime rates and social development. Yet few CBOs or NGOs that are project-focused have the skills or the time required for ongoing M&E. In this case a partnership between a research institute and the CBO allows for M&E to take place on an ongoing basis at relatively little cost.

It remains to be seen whether Seven Passes will in fact make a long-term difference to the community. At this point the crisis in the world

economy is already being felt in the farming district with a number of dairy farmers currently having to sell their milk at less than what it costs them to produce it. This has led to job losses in the commercial dairy sector in the area, with more expected to follow. It means that Seven Passes is unlikely to be able to rely on the financial support from commercial agriculture that has kept it afloat for the past year. Ideally local businesses and local government should step in to fill the gap because it is fairly obvious that initiatives such as this are only sustainable in the long term if they have the support and buy-in from people and businesses in the area in which they operate.

Ngwana phosa dira ga a bolawe¹

The value of restorative justice to the reintegration of offenders

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Does restorative justice have anything to offer the field of offender reintegration? Restorative justice is defined, and distinctions are drawn, between a restorative justice worldview and processes and programmes that are restorative. Restorative justice processes focus on relationships and create opportunities for individual, family and community restoration and reconciliation. In doing so they open up new social spaces for offenders and nurture social inclusion. They also help offenders accept responsibility and help all parties manage the process of release from prison.

While the concept of restorative justice has been well articulated at an academic level and has become a significant aspect of the academic discourse on justice, there remains a lack of clarity in the public discourse about what it is and how it can be integrated into the criminal justice system. It is thus important to start by defining what is meant by restorative justice.

Although there is no universally accepted definition of restorative justice, the following is gaining currency:

Restorative justice is a theory of justice that emphasises repairing the harm caused or revealed by criminal behaviour. It is best accomplished through inclusive and cooperative processes (Van Ness 2004).

From this statement it is clear that a distinction needs to be made between restorative justice as a **theory** (or way of thinking) and restorative justice

processes. It may be helpful to consider a third element of restorative justice, namely **restorative programmes**. The UN Handbook on Restorative Justice Programmes defines a restorative justice process as ‘any process in which the victim and the offender, and, where appropriate, any other individuals or community members affected by a crime, participate together actively in the resolution of matters arising from the crime, generally with the help of a facilitator’ (UNODC 2006:7).

Although terms are sometime used interchangeably, and there can be variations within models, common examples of restorative justice processes include:

- **Victim offender mediation** where the starting point is bringing the individuals involved together, but possibly drawing in other relevant people

- **Victim offender/family group/restorative justice/community conferencing.** The emphasis is on involving all who have a stake in the offence/incident
- **Victim offender panels,** in which groups of offenders meet with groups of victims, but are not matched according to offences. This application is normally used when no offender has been apprehended.

The typical outcomes of these processes (apart from victim offender panels) are:

- An apology
- Restitution in kind or in monetary terms, aimed at compensating the victim for the loss suffered
- Performing some service for the victim
- Performing community service as a way of making right to the community
- Referral of the offender to some form of assistance programme to address some of his/her needs
- A plan to address what future steps can be taken by all involved to reduce the possibility of the recurrence of the crime committed.

A restorative justice **theory** and restorative justice **processes** must be distinguished from **programmes** that are **restorative**, such as:

- **Victim support,** arranged either individually or in groups, at any stage after a crime or violent incident
- **Victim awareness.** This is usually targeted at offenders in either a custodial or non-custodial setting with the purpose of helping them understand the impact of their behaviour on others
- **Life skills and mentoring for offenders.** These would typically be the kind of assistance programme that an offender could be referred to after a restorative justice process.

Alone, these programmes cannot be called 'restorative justice' in the sense that they do not meet the criteria of a process stated above, but they do contain restorative elements and values and can thus be regarded as being part of an overall restorative justice system.

At this time in South Africa we need to understand how restorative justice applies to the realm of rehabilitation, treatment and reintegration of offenders. These terms are deliberately used simultaneously, as they are often used interchangeably but with different nuances in meaning that are not always recognised.

Bezuidenhout (2007:54) is critical of the impact restorative justice processes have on rehabilitation, and regards restorative justice activists as being far too idealistic in their approach to rehabilitation, although he does not detail or substantiate this. Skelton and Batley (2008:37-51) have challenged this, showing that internationally restorative justice theory and practice have been substantially documented, and have withstood critical analysis. Despite the loss of credibility of rehabilitation due to the famous article by Robert Martinson (1974:22), and the ensuing 'nothing works' debate, the concept of rehabilitation refuses to disappear. In South Africa it remains a central feature in criminal justice. Furthermore, South Africa's Department of Correctional Services states clearly in its White Paper (2005:3) that 'rehabilitation is central to all our activities'. The dream of offenders mending their ways remains alive, despite having been broken repeatedly. For example, some analysts suggest that the recidivism rate in South Africa could be as high as 94 per cent (Cilliers and Smit 2007: 86).

The terms 'rehabilitate' and 'treat' reflect a medical understanding of offending. Brunk (2001:43) is highly critical of the therapeutic approach to punishment, as it implies that offenders have a certain 'illness' that needs to be cured and do not need to take personal responsibility for their actions.

Restorative justice is both backward-looking, in that it includes dealing with the 'aftermath of the offence', and forward-looking, in that it is a process that looks at implications for the future. This introduces a crime prevention element to the process in that an effort is made to identify how future incidents may be avoided. The standard criminal justice response is rarely forward-

looking. It generally aims to incapacitate the offender as a strategy to avoid future crime – chiefly through imprisonment. (See Muntingh's article in this edition of SACQ). Alternatively, imprisonment is intended to prevent crime by deterring potential criminals through instilling fear of the punishment that will follow. A restorative justice process represents a break from this thinking and a fresh approach that involves those with a stake in the crime considering implications of that crime for the future, meaning that those who are personally and directly involved can formulate targeted strategies to avoid further incidents (Skelton 2007:228).

The White Paper on Corrections in South Africa (2005) provides a vision for viewing correction as a societal responsibility:

Correction is therefore not just the duty of a particular department. It is the responsibility of all social institutions and individuals (starting within the family and educational, religious, sport and cultural institutions), and a range of government departments. It is only at that final point at which the society has failed an individual, where the criminal justice system and the Department of Correctional Services step in (White Paper on Corrections 2005:34).

In addition, reconciliation of the offender with the community is listed as a key objective by the White Paper (White Paper on Corrections 2005:39) and the principles of restoration are stated as a 'correctional management objective' (White Paper on Corrections 2005:40). However, as Sloth Nielsen (2003) has pointed out:

It is not clear that the concepts restorative justice, corrections and rehabilitation are at all coterminous, and there may well be tension between the restorative justice philosophy (and its advocates) when contrasted with the statements to the effect that the core mission of the Department is to correct offending behaviour. Alternatively, since the Corrections aspect is intended to take place after, among other things, assessment and the development of individual plans for prisoners, it may be that restorative justice sits 'next to' correction as a distinct policy initiative.

This vision of correction as a societal responsibility resonates well with the various writings of Bazemore and others. Bazemore (1999:155–184) refers to the concept of 'relational rehabilitation'. He criticises treatment programmes that are insular and one-dimensional, and makes a plea for them to nurture relationships. He advocates for the use of 'sanctioning needs' (imposing constructive consequences, setting limits and reparations) as well taking public safety into account. Taking this thinking further, Bazemore and Bell (2004:119–132) have developed a restorative model of rehabilitation. They concur with the view of Brunk that it is difficult to reconcile the 'strengths-based' assumptions of a restorative approach with a 'medical model' perspective that views offenders primarily in terms of deficits and 'thinking errors'.

A restorative model of rehabilitation would have the following features: A *collective* approach to offender reintegration that focuses on building or strengthening relationships damaged by crime, or on building new, healthy relationships; a *naturalistic* focus that does not always assume the necessity of formal intervention; and an organic process of informal support and social control that emphasises the *community* role in offender transformation and increased reliance on the role of citizens as 'natural helpers'. When specifically needed, professional treatment would be utilised, but only of those models that adhere to the principles of Effective Corrective Treatment.

Bazemore and Bell (2004: 129) conclude that 'a blend of restorative justice and effective treatment principles builds on the assets of offender, victim and community by broadening the rehabilitative context to include victim and community, emphasising the non-punitive accountability for harms in a way that reinforces reciprocity in human relationships, and finally by connecting the offenders with informal supports and controls'. This is a very different approach to regarding offenders as having something 'wrong' with them that needs to be 'fixed' by a professional in an isolated context.

Skelton and Batley (2008:49) suggest that

Apart from its doubtful record, a highly professionalised approach to rehabilitation is

entirely unfeasible, given our current crime levels and scarce professional human resources. Furthermore, the collective nature of South African society as opposed to the highly individualised nature of Western societies, suggests that restorative justice is a more appropriate approach. What we should be aiming for is understanding how a restorative justice approach can be a catalyst to create possibilities for a crime-free life for the offender, and by doing so create a safer environment for all. The prospects of this appear to lie in the way that restorative justice changes dynamics in relationships, and creates space in the community for offenders to connect with opportunities. This has multiple implications for the development of both restorative justice and rehabilitation in the country, as well as the research agendas attached to each. Researchers need to turn their attention to assisting practitioners and policy makers discover what rehabilitative programmes work under what circumstances and what the exact relationship is between these programmes and restorative justice processes.

THE VALUE OF RESTORATIVE JUSTICE

As mentioned above, restorative justice processes include:

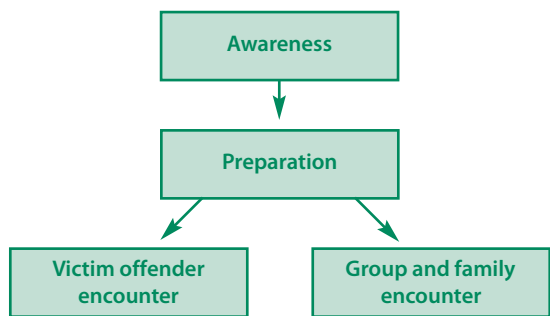
- Victim offender mediation
- Victim offender/family group/restorative justice/community conferencing
- Victim offender panels

A recent evaluation of a victim awareness programme suggested that ‘there is a dearth of research and information about restorative justice in prisons. The little that exists concentrates on changing prisons systemically rather than integrating restorative justice within the existing regime’ (Wilson and Cavendish 2007). In South Africa, the discussion, insofar as it has begun, has tended to focus on the relationships offenders have with their families in addition to relationships with their direct and other secondary victims. The current thinking within

the Restorative Justice Initiative Southern Africa (RJISA)² is that restorative justice needs to be viewed as part of reintegration work, and not treated as a separate intervention. This would include awareness raising and a focus on healing and reconciliation, particularly acknowledging other victims besides direct victims. A process of engagement between the Department of Correctional Services and the RJISA is currently underway with a view to expanding the level of implementation of restorative justice within the DCS environment.

The RJISA’s view is also that increasing the level of implementation of restorative justice processes should not be done at the expense of developing general reintegration services. Other important points that have emerged are that individual and group processes need to be considered and that these should be adapted to the needs of a specific client and situation, rather than having a ‘one size fits all’ programme-based approach.

This was represented graphically as follows:



The clear direction emerging among practitioners is that

- Restorative justice processes should include a wider focus than the direct victim of a crime and should include individual and group interventions
- These processes must be linked to rehabilitation/treatment/reintegration/ corrections services if these are understood as ‘programmes that are restorative’ and approached from a restorative world view, rather than a medical one

Some significant research has been conducted on elements of this approach. In South Africa, Khulisa has developed a Peacemaking, Restorative Justice and Conflict Resolution Programme that is a holistic and integrated programme combining Khulisa's community development, rehabilitation and reintegration programmes with restorative justice, peacemaking and conflict resolution processes. What is significant about this programme from a conflict resolution point of view is that it not only brought together victims and offenders in dialogue with a narrow focus on healing and taking responsibility by offenders (as is done in North America), but it conducted processes of **peacemaking** within and between families and in communities, and it engaged in **dispute resolution** wherever needed. It also made justice more meaningful and accessible to the public, particularly to disadvantaged communities and vulnerable groups, such as women and children (Haynes 2004, Khulisa 2007).

KEY DEBATES AROUND RESTORATIVE JUSTICE

Internationally some of the key debates surrounding restorative justice work in prisons³ include:

Will the offender benefit from having participated in a restorative justice process?

A number of victims feel unable to participate if there is a direct link between the restorative work and a sentence benefit for the offender, as they question the real motive of the offender.

Who should initiate a restorative justice process?

The typical approach in both Europe and North America has been that only a victim may initiate the process in order to protect victims' right to privacy from further intrusion by the offender. However, as Buonatesta (2004:5) points out, this creates a double bind for offenders:

Sooner or later, the majority of detainees are involved in a conditional release procedure. Among other criteria, according to the same "restorative spirit", they will be assessed by their positive initiatives towards the victims. In such

a context, they often face a double bind situation. On the one hand, if they undertake such an initiative (e.g. a mediation process), they are often suspected to be self-interested. On the other hand, if they do not undertake anything, they do not fulfil the parole release criteria. So, in order to help them to get out of this dead end, we came to consider that detainees' requests to participate at a mediation process have to be admissible in any cases. Moreover, the victim should be given the opportunity to assess themselves their interest in reacting to the proposition. So, it is more relevant to consider that the offender should be judged according to the way he fulfils an agreement towards the victim and not according to his subjective position in the initiation of a mediation process.

Sharpe and Lai Thom (2007:3) reflect that

North Americans like this policy (of only victims being able to initiate processes) because it reduces the risk of offender manipulation and frees victims from any concern that their choices might help or hinder the offender. But the policy was perplexing to people in South Africa, where participation in victim-offender dialogue is broadly seen as an appropriate basis for early release. In our conversations about this difference, people asked, "Why would there be a policy against recognising someone's effort to make amends?" More to the point, "When someone has had a change of heart, why would you keep them in prison?" At this stage, there are no restrictions in South Africa to prevent offenders from initiating processes.

What is the main aim of a restorative justice process?

If restorative justice is truly about helping victims, it needs to provide services or processes (e.g. victim-offender groups) that they can access independently, no matter what stage their offender has reached or the offender's willingness to be involved, or even if s/he has never been caught. But if evaluations are centred on the effects on the offenders and reduced recidivism, the effects on victims may be negated and can lead to some victims being reluctant to get

involved because they don't want to be 'used' (Liebmann and Wootton 2004:3).

Restorative justice processes can be an important tool for both parties to manage the parole release procedure in a more consistent way.

This refers to the practice that has arisen in a number of countries (including South Africa) over the past several years where the victim may make a statement at the parole board hearing that determines whether or not the offender may be released. If this is done without any prior encounter, it is likely to be a negative experience for both victim and offender, for instance when excessively restrictive conditions are set. On the one hand the victim will not understand why his/her expectations are not taken into account by the parole commission and then will feel 're-victimisation', which is quite the opposite of what the procedure intended. On the other hand, the offender will not understand why such harsh conditions were imposed when s/he had good intentions, and may come to consider the victim as his or her tormentor and be reluctant to fulfil those conditions (Buonatesta 2004). Restorative justice processes have proved to be a very effective way of generating more satisfying and realistic release conditions.

EVALUATING RESTORATIVE JUSTICE PROCESSES

In considering the value of restorative justice processes in general, a recent review of research on restorative justice in the UK and beyond by Lawrence Sherman and Heather Strang (2007) showed that, in 36 direct comparisons to conventional criminal justice, restorative justice had, in at least two tests each:

- Substantially reduced repeat offending for some offenders, but not all
- Reduced crime victims' post-traumatic stress symptoms and related costs
- Provided both victims and offenders with more satisfaction with justice
- Reduced crime victims' desire for violent revenge against their offenders

These conclusions were largely based on two forms of restorative justice: face-to-face meetings among all parties connected to a crime, including victims, offenders, their families and friends; and court-ordered financial restitution. These meetings were compared to conventional criminal justice, without benefit of restorative justice, at several stages of the justice process for violence and theft:

- As diversion from prosecution altogether (Australia and US)
- As a pre-sentencing, post-conviction add-on to the sentencing process
- As a supplement to a community sentence (probation)
- As a preparation for release from long-term imprisonment to resettlement

Evaluations of the Citizens, Victims and Offenders Restoring Justice Program at both the Washington State Reformatory (Lovell et al. 2002) and the Shakopee Women's Prison (Burns 2001) found that victims felt less fear and shame and were more accepting of offenders. Many offenders were finally able to recount their crimes and the terms 'responsibility' and 'accountability' became more real. Other changes included overcoming stereotypes of each other, enhanced awareness of commonalities, enhanced awareness by offenders of harms caused to victims, victims' families, and the pain and suffering their own families experienced, and greater appreciation of the need for atonement and making amends (Armour 2006:4).

There are at least two restorative justice processes that have been developed specifically for use in prison and that have been evaluated: the Sycamore Tree Project (STP), which is run by Prison Fellowship in a number of countries, including South Africa, and Bridges to Life (BTL) that runs in 15 Texas prisons (Wilson and Cavendish 2007).

SOUTH AFRICAN EXAMPLES OF RESTORATIVE JUSTICE WORK IN PRISON

Apart from the examples from Khulisa and Prison Fellowship referred to above, other initiatives in South Africa include:

- A pilot project by the Restorative Justice Centre offered at Pretoria Local Prison. The project uses a group approach, which deals with the emotional needs of offenders and helps them understand restorative justice principles, before giving them the opportunity of engaging in an individual victim offender conference
- Regular programmes offered at Pollsmoor Prison by Hope Now. These programmes are based on group activities that can lead to individual victim offender meetings
- Programmes offered by Phoenix Zululand in the prisons located at Eshowe, Mthunzini, Stanger, Maphumulo, Empangeni (Qalakabusha), Empangeni (Medium B), Ingwavuma, Melmoth, Nkandla, Nongoma and Vryheid.

CONCLUSION

From the above we can summarise that restorative justice offers the following to the field of offender reintegration:

- The values and principles of restorative justice offer a sound framework to inform rehabilitation/treatment/reintegration programmes
- A restorative world view seeks to keep victims as a central point of reference and creates additional opportunities for addressing their needs as valid in their own right, not as an adjunct to offenders' needs
- Restorative justice processes
 - Focus on relationships and create opportunities for individual, family and community restoration and reconciliation. In doing so they open up new social spaces for offenders and nurture social inclusion
 - Help offenders accept responsibility
 - Help all parties manage the process of release from prison
- Pursuing a restorative justice world view would help us live the truth embodied in the Sotho proverb, so badly needed at this time, 'Ngwana phosa dira ga a bolawe'. (If a person has erred he does not deserve to be punished too harshly).

It is clear that a restorative justice approach and restorative justice processes and programmes offer valuable additional tools in responding to crime, and need to be integrated at the pre-trial, pre-sentence and pre-release stages of the criminal justice system. Civil society practitioners are currently frustrated with the state's tardy response to this; a far greater commitment and sense of urgency is required.

REFERENCES

- Armour M 2006. Bridges to Life: A Promising In-Prison Restorative Justice Intervention. Available at www.restorativejustice.org [accessed 4 October 2008]
- Bezuidenhout C 2007. Restorative justice with an explicit rehabilitative ethos: is this the resolve to change criminality? *Acta Criminologica*, 20(2):43-60.
- Brunk C 2001. Restorative Justice and the Philosophical Theories of Criminal Punishment. In M Hadley (ed), *The Spiritual Roots of Restorative Justice*. Albany: State University Press.
- Buonatesta A 2004. Victim-Offender Mediation In Custodial Settings: Outcome Of An Experiment Carried Out In Several Belgian Prisons. Third Conference of the European Forum for Victim-Offender Mediation and Restorative Justice. *Restorative Justice in Europe: Where are we heading?* Budapest, Hungary, 14-16 October. Workshop 11:5.
- Cilliers C & Smit J 2007. Offender rehabilitation in the South African Correctional System: Myth or reality? *Acta Criminologica* 20(2).
- Haynes H 2004. Forgiveness and Reintegration Process for Families and Offenders. Khulisa External Report.
- Khulisa 2007. The Impact Of Restorative Justice In Dealing With Serious Violent Crime. Khulisa internal report.
- Liebmann M and Wootton L 2004. Restorative Justice In Bristol Prison. Third Conference of the European Forum for Victim-Offender Mediation and Restorative Justice. *Restorative Justice in Europe: Where are we heading?* Budapest, Hungary, 14-16 October. Workshop 11:3
- Martinson R 1974. What Works? Questions and Answers About Prison Reform. *The Public Interest* 22.
- Sharpe S and Lai Thom G 2007. *Making Sense of North American and South African Differences in the Practice of Restorative Justice*. Available at <http://restorativejustice.org/editions/2007/dec07/comparesaandusa> [last accessed 4 December 2008].
- Sherman L and Strang H 2007. *Restorative justice: the evidence*. Available at http://www.smith_institute.org.uk/pdfs/RJ_full_report.pdf [last accessed 4 December 2008].

- Skelton A 2007. Tapping indigenous knowledge: Traditional conflict resolution, restorative justice and the denunciation of crime in South Africa. *Acta Juridica* 228.
- Skelton A and Batley M 2008. Restorative Justice: A Contemporary South African Review. *Acta Criminologica* 21(3).
- Sloth-Nielsen J 2003. *Overview of Policy Developments in South African Correctional Services 1994–2002*. Cape Town: CSPRI Research Paper Series, 1 July.
- Third Conference of the European Forum for Victim-Offender Mediation and Restorative Justice 2004. *Restorative Justice in Europe: Where are we heading?* Budapest, Hungary, 14–16 October. Available at <http://www.euforumrj.org/readingroom/Budapest/workshop11.pdf> [last accessed 4 December 2008].
- United Nations Office on Drugs and Crime 2006. Handbook on Restorative Justice Programmes. United Nations Criminal Justice Handbook Series available at http://www.unodc.org/pdf/criminal_justice/06-56290_Ebook.pdf [last accessed 4 December 2008].
- Van Ness, DW 2004. *RJ City®: Contemplating a restorative justice system*. Paper presented at Building a Global Alliance for Restorative Practices and Family Empowerment, 5–7 August 2004. Richmond, BC, Canada. Available at www.restorativejustice.org [last accessed 4 December 2008].
- Wilson, M and Cavendish, L 2007. Inside out: how does an in-prison victim awareness programme affect recidivism? College M.Phil.in Criminological Research. Available at www.restorativejustice.org [accessed 4 October 2008].

ENDNOTES

- 1 Sotho proverb, 'If a person has erred he does not deserve to be punished too harshly'. This article is based on a paper presented at the Conference "Creating paths for offender reintegration" hosted by the Open Society Foundation and the Department of Correctional Services 14 and 15 October 2008.
- 2 For comprehensive discussions on the classification of models see Robert AW 2004. 'Is restorative justice tied to any specific models of practice?' in H Zehr and B Toews (eds) 2004. *Critical issues in restorative justice*. Monsey, New York: Criminal Justice Press. And Raye BE and Roberts AW 2007. 'Restorative processes' in Johnstone and van Ness (eds) 2007. *Handbook of restorative justice*. USA and Canada: Willan Publishing..
- 3 Minutes of RJISA Task Team 24 June 2008. The Restorative Justice Initiative Southern Africa is a network of organisations and individuals that promotes restorative justice.



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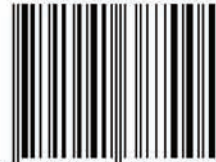
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