

Chapter 45

Corrections and Punishment Approaches in South Africa

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ABSTRACT

In this chapter, the authors focus on corrections and punishment in South Africa by drawing from the historical background of corrections to current punishment approaches. The different punishment eras are described ranging from the Colonial Era to Apartheid and finally Democratization. Within each of these eras the punishment philosophy is discussed. The authors then proceed with a discussion of current punishment approaches, which include incapacitation, retribution, rehabilitation and deterrence, with the last two approaches being applied to the South African context. Regarding deterrence, minimum sentence legislation is used as an example to illustrate how long term imprisonment may deter people from committing crime. However, the consequence of such a punishment approach is the overcrowding of prisons. Rehabilitation of offenders is discussed from the viewpoint of nothing works to what works and includes a description of rehabilitation programs and the introduction of victim-offender-dialogues in South African prisons.

INTRODUCTION

In post modernity humanity is faced with many challenges with regard to law enforcement, crime management, correctional interventions and rehabilitation. The changing landscape of crime, order and control places a huge burden on criminal justice initiatives and many scholars question existing interventions. Recidivism rates are high and rehabilitation seems to fail in many instances. South Africa is not unique to this challenge as this country has a notoriously high violent crime rate, overpopulated prisons and a recidivism rate amongst violent criminals of 94% (Jules-Macquet, 2014). During 2015 South Africa

DOI: 10.4018/978-1-7998-3019-1.ch045

had the highest prison population in Africa and was ranked 11th in the world in terms of prison population. This implies 292 prisoners per 100,000 of the national population (World Prison Brief, n. d.). The government's capacity to deliver security is therefore in question. The police and criminal justice system has limited control over crime. Furthermore, the monopoly of the State regarding social control is diffused amongst many different private actors (e.g. private corrections and private security). Private security and private corrections are commodities that come at a high price. The global society and the South African society have seen many different approaches or eras of punishment and change over the years to address crime and rehabilitate offenders. Every country has its history and every part of history has its own practices, traditions and establishments regarding punishments and correctional services. To better understand current justice practices and correctional interventions in South Africa one needs to understand the punishment narrative of the country.

BACKGROUND

To contextualize the diversity of punishment influences in corrections and the current criminal justice machinery of South Africa one needs to briefly look at South Africa's history. South Africa has a rich and diverse history and with that history came different eras of punishment and philosophies. South Africa has a very broad and complex history that has greatly influenced the unique, diverse and democratic South Africa citizens know today. This one of its kind history has influenced South Africa in all facets of life including the current and past punishment philosophies of the country. Historical scripts indicate that South Africa was first habituated by the San and Khoekhoe people (otherwise known individually as the Bushmen and Hottentots or Khoikhoi; collectively called the Khoisan). Both were resident in the southern tip of the continent for thousands of years and both had their own unique systems of punishments before its written history began with the arrival of Africans and Europeans. The Bantu-speaking people or African people moved down into South Africa from the North (West Africa) into the north-eastern and eastern regions before the arrival of the Europeans (Brand South Africa, 2016).

Although the Dutch were the first European trading power to set up a permanent settlement in South Africa the Portuguese landed in South Africa before them. The first European known to set foot on South African soil was the Portuguese explorer, Bartholomew Dias. In December 1487 Dias sailed down the African coast, landing in among other places present-day Angola and Walvis Bay, Namibia. During this voyage, strong winds forced him to sail over a thousand kilometres off-course, and thus he sailed around the southernmost tip of Africa. He named the Cape "the Cape of Storms" (Cabo das Tormentas), but King John II of Portugal afterwards renamed it Cabo de Boa Esperanca (Cape of Good Hope). Later a second Portuguese explorer, Vasco da Gama and his crew landed in South Africa. As mentioned above the land was already occupied by the Khoisan people. The Da Gama-Portuguese expedition who set off 8 July 1497 sailed for almost four months across the Atlantic Ocean without sight of land until 4 November 1497 when they reached a bay (currently known as St Helena bay). Vasco da Gama named the bay Bahai da Santa Elena (St Helena Bay), after the Religious Mother of Constantine the Great. It was here that they had their first encounter with the Khoikhoi. A misunderstanding arose between them, and fearing attack, the Khoikhoi threw spears at the Portuguese seamen, wounding Da Gama in the thigh. They sailed onward and rounded the Cape on 22 November 1497. Here, Da Gama traded gifts with the

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