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**JUST AFRICA**

All - Africa Journal of Criminal Justice

**ACJUS**

All Africa Criminal Justice Society

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No 1 2019

## ACJUS

All Africa Criminal Justice Society

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**JUST AFRICA** is a peer-reviewed academic journal that promotes academic and professional discourse and the publishing of research results on the subject of crime and criminal justice and other crime-related phenomena in the broad Criminological Sciences and applied field of criminal justice. **JUST AFRICA** was previously published by the ALL AFRICA CRIMINAL JUSTICE SOCIETY (ACJUS) (first published in 2013).

Southern Business School (SBS) and SARP Publishers, the publishers of Servamus Community-based Safety and Security Magazine, were recently granted permission to continue with the publication of **JUST AFRICA** and are joining forces to do so, combining their respective academic and publishing experience.

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Community-based Safety & Security Magazine

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# FOREWORD

## A NEW BEGINNING

Prof. Christiaan Bezuidenhout

Department of Social Work and Criminology - University of Pretoria

When I was asked by Jeanette Smit from **Southern Business School (SBS)** and Annalise Kempen from SARP Publishers (the publishers of **Servamus Community-based Safety and Security Magazine**), to write the foreword for the first "new" publication of the **JUST AFRICA** Journal, I readily agreed, because of my strong interest in the subject matter.

I have to confess that their request was not my only motivation to agree to write the foreword. The **JUST AFRICA** initiative had other important drivers before it came to fruition. Our esteemed colleague and dearly missed friend, Prof. Cornelis Roelofse and I had many discussions about the difficulty to publish local criminal justice material in international journals. We also pondered about the very limited accredited outlets we have in South Africa to publish criminal justice research findings. Prof. Roelofse informed me that the need to create a broad platform to publish criminal justice topics was also raised at the All-African Conference on Organised Crime and Contemporary Criminal Justice Issues in June 2012. After one of our discussions in 2013, we both endeavoured to investigate options to create more publishing outlets for criminal justice enthusiasts. I approached Annalise Kempen, the editor of **Servamus Community-based Safety and Security Magazine** and shared our idea with her. I also informed her that many academics and researchers shy away from publishing in non-accredited magazines and journals as they do not get recognition for these contributions. I told her that she had to consider getting **Servamus** accredited in order to lure more academics to publish in their magazine. In the meantime, Prof. Roelofse had even more adventurous plans. He called me one day in 2013 and informed me that he was going to attempt to incept a new journal that would offer additional avenues for scholars, researchers, practitioners and students to publish their writings about the criminal justice subject matter. Not long after this discussion, the first edition of **JUST AFRICA**, the official journal of the All-Africa Criminal Justice Society (AACJUS) was published. Prof. Roelofse shared his tribulations with me regarding the difficulty to get academics and researchers to support a new publishing initiative like this. It is very difficult to launch a new journal and it is also very difficult to convince scholars to share their research in a new journal. A new journal does not get instant accreditation and it often takes two to three years to get accreditation status from the Department of Higher Education. One prerequisite is that the new journal must publish at least two to three editions per year and research-based articles are also important. For this reason, many scholars refrain from publishing

in "new" non-accredited journals. However once accreditation has been granted, the journal articles become accredited.

I would therefore like to commend Jeanette Smit and Annalise Kempen for keeping Prof. Roelofse's dream alive. I am of the opinion that you will make the **JUST AFRICA** Journal an excellent publication. I would also like to urge scholars to contribute to the **JUST AFRICA** Journal as accreditation for this journal will be possible in the very near future. This will mean that scholars from Africa and abroad will have an additional accredited outlet to publish their research on criminal justice matters.

I have visited many countries and I have engaged myself with different topics in criminal justice on a local level and globally. Over the years it became apparent to me that, internationally, there were more similarities in criminal justice challenges than differences in the challenges the criminal justice machinery face with regard to the crime phenomenon. This is not surprising, since the major legal traditions across the world have their roots in the same civilisations founded centuries ago, with each nation providing modifications to suit its political, social and economic situation. A murder is a murder and a rape is a rape and these crimes are not viewed much differently in different countries. The majority of countries struggle with the challenge to make the relevant country crime free: the question is, is it possible? Different countries struggle with different crime challenges such as high levels of youth misbehaviour, gender-based violence, violent crimes in general, corruption, terrorism and other country specific challenges. In addition, indigenous laws and structures are also still very relevant in most developing countries. Even so, many similarities can also be identified in the processing of deviant behaviour in Western societies and in indigenous communities. Restorative justice, restitution and retribution fall into these domains of similarity. As the world grows smaller and those involved in the criminal justice systems communicate and interact much more frequently than in the past, we expect to find a greater exchange of ideas, findings from research, programmes and ideas for legislation pertaining to the treatment of offenders, the healing of victims and the management of crime by law enforcement role-players.

Since the theme of the first publication under the auspices of these two entities is **Global perspectives on safety in society from different perspectives**, my idea of "more similarities in criminal justice challenges than differences" contests scholars to share their "different" ideas. It would be significant and insightful if we can share our "differences" to determine how "similar" our criminal justice challenges are.

# IN MEMORIAM

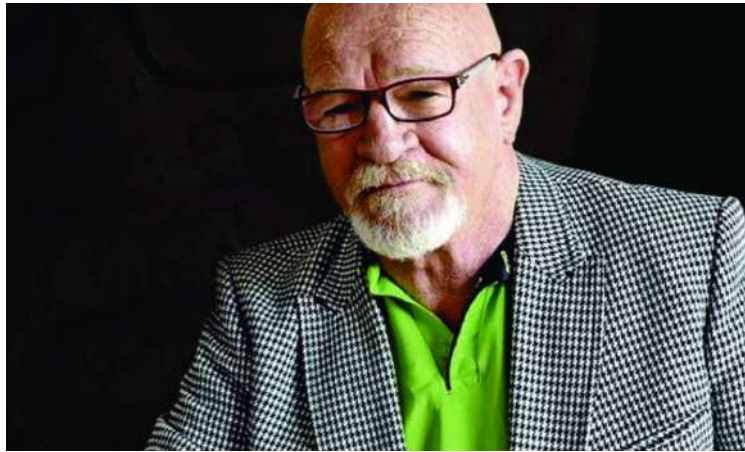
## CORNELIS JOHANNES ROELOFSE 1955 - 2019

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Prof. Jimmy Albrecht

Criminal Justice and Homeland Security - Pace University (New York, USA)

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It is with a saddened heart that I report the untimely passing of our dear friend and esteemed colleague Cornelis Johannes Roelofse. "Neels" has presented at many criminal justice, criminology and sociology conferences across the world and was the programme chair at the International Police Executive Symposium conference in Malta. He was an acknowledged academic and researcher, not only in his native South Africa, but was well-respected in the international criminal justice, policing and criminology communities.

Neels possessed an impressive education and had a remarkable career that positively touched many. He received his BA and his MA in Criminology and Police Science at the University of South Africa. He received his PhD in Criminology at the University of the North in South Africa. He was especially proud of his Certificate in Theology from the Rhema Bible Training Centre and was often asked to provide blessings at academic and local events. The list of his journal and book publications is extensive and he never hesitated to assist others with their research endeavours. As we all know, Neels enthusiastically shared his research undertakings and findings at conferences across the globe. He never turned down a request to act as a mentor to not only his own students, but reviewed many graduate research

projects at numerous universities across South Africa. Neels was often asked to conduct lectures at academic and policing institutions across the world and was a routine speaker at police academies in Poland. He held the full plethora of academic positions at different institutions across South Africa, ranging from senior lecturer to the Head of the Department of Criminal Justice. He was very active in the International Police Executive Symposium, the All-Africa Criminal Justice Society, the Policing Association in Southern Africa, the Criminological and Victimological Society of Southern Africa, and the Criminological Society of Africa. He even served as an elected member of the legislature in the Limpopo province for four years and was appointed the regional expert in safety and security. He had recently started a new political party in South Africa, namely the Renewed South Africa Party.

Neels is best remembered for his respectful sense of humour and strong leadership skills. Many may not know this, but he was a skilful and creative painter and enjoyed writing poetry. He had recently married and was looking forward to the start of a new life with his wife Hettie. He is also survived by his five children: Jacques, Riaan, Llewellyn, Anri and Nelri.

His friendship and collegiality will certainly be missed. May he rest in peace.

# ARTICLE

## POLICING FOR SAFE CITIES AND CITIZEN SECURITY IN URBAN SOUTH AFRICA: A FUNDAMENTAL HUMAN RIGHT

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### ABSTRACT

The right to be safe, to live in a safe environment, and to be protected from harm and violence is both globally and domestically acknowledged; yet available literature describing the state of urban communities in South Africa highlights a distinctly contrary picture. Among many, one of the critical factors contributing to unsafe urban communities in South Africa must be the deep-rooted socio-economic challenges that have resulted in a growing influx of people into cities, which are neither planned nor resourced to accommodate the population increase. Research shows that one of the consequences of such unplanned migration is heightened inequality within affected communities which leads concomitantly to crime, violence, personal peril and individual danger. Acknowledging the prejudice to and violation of civil and socio-economic rights as a consequence of unsafe cities, it is argued that the state has the responsibility to ensure effective resourcing and utilisation of police services - cf. the Nyanga Case *infra* - to realise the collective right to community safety, and the individual right to citizen security.

### KEYWORDS/PHRASES

Unsafe cities, urban safety, community policing, visible policing, civil and socio-economic rights, citizen security, personal safety, violence and crime, Khayelitsha Commission, effective resourcing of police services.

### INTRODUCTION

To live in a safe city free from harm and danger should be the right of every citizen. However, increasingly, urban ecosystems globally refute this right and South Africa has not been exempted. Analysing urban fragility in South Africa specifically, there can be no gainsaying that one of the key contributing factors has been the rapid and unplanned migration bulge into the cities post-democracy, without adequate spatial planning, urban design or financial allocation to accommodate the transfer and relocation of people. This is emphasised in the 2016 White Paper on Safety and Security (2016:22) which points to 12.9% of the South African population living in informal dwellings including 14.8% of the total Western Cape population, 19.2% of

the total Gauteng population, and 21% of the total population of the North West Province. Summarising the situation, Dolamo J noted in *Social Justice Coalition and 2 Others v Minister of Police and 3 Others* (hereinafter referred to as the Nyanga Case): “It is a well-known fact that for historical reasons poorer Black people tend to live in informal settlement characterised by lower levels of service provision” (para 53). A consequence of the burgeoning informal residential communities within the urban milieu, coupled with a national unemployment rate of 29.1% (Mail & Guardian, 2019:np) is that the nascent South African democracy is being confronted with growing levels of marginalisation experienced by the new urban immigrants, inequality and increasing disaffection.

Aligning the sociological theory of social disorganisation and foregrounding the relationship between poverty, inequality and crime and its impact on safety and urban insecurity, the Minister of Police succinctly closed the circle in his address to delegates at the Safer Western Cape Conference, stressing:

“[S]afety and security is dependent on people living in acceptable socio-economic conditions. ... [W]here people live without street lights, houses or roads, some will behave in a way that is hopeless. Where people cannot differentiate between day and night because there is no hope, employment, food, or schooling, many will feel oppressed” (Western Cape Government, 2018:9).

This does not mean that all informal residential areas will necessarily generate crime: however, two realities bear mention. Firstly, in April 2018 the World Bank described South Africa as the most unequal society globally with a Gini coefficient of 0.639 (World Bank, 2018:24-26); and secondly, there is consensus in the research that inequality is one of the most consistent predictors of the levels of crime and violence in a country (UNODC, 2005). However, as stated above, this is not a uniquely South African problem. As the UN Secretary-General (SACN, 2019:2) noted: “Urban areas are increasingly epicentres of crises, insecurity and violence.”

Reflecting on the steady increase of Africa's urban residents living in slums, Commins (2018:1-2) highlights the correlation between the levels of violence, and the unplanned and underdeveloped sections of these cities. He points out:

“Africans report among the highest levels of fear for safety of any region in the world when just urban areas are taken into consideration [while] levels of fear for safety in rural areas are significantly lower” (Commins, 2018:2).

Darchen and Simon (2018:3) reflect that as the crime rates soared in Argentina, people started consciously and aggressively securing their homes and “gated communities became the preferred type of housing, especially for upper-middle-class groups who could afford it”. However, gating, technology surveillance and barricades have not been a solution to shift communities from urban fragility to sustainable stability: rather, they highlight, citing examples from Colombia, Brazil and France:

“The strategies that have succeeded are linked to encouraging more social integration, shared use of public space, and less opposition to and marginalisation of ‘the other’” (2018:3).

Recognising that it is perhaps naive to believe that societies may ever eliminate “ghettoism”, Darchen and Simon (2018:4) emphasise the need for proper contextual analysis of the living spaces, community-driven solutions, and “a policy rethink on the structural drivers of strong social and spatial segregation in cities” if the commitments to safe cities and individual safety are to be realised. In short, the need for maintenance and management of urban spaces in a manner that responds to the risks of personal security and safety of cities is essential if we are to

create living spaces where everyone can continue to live sustainably (Canon Global, nd:1).

There is a comprehensive legal framework globally and nationally, protecting the right to life, security of person, and safe living environments. Among others, specifically Article 3 of the Universal Declaration of Human Rights states: “Everyone has the right to life, liberty and security of person.” The Sustainable Development Goals particularly highlights the importance of safe cities in the commitment to “[m]ake cities and human settlements inclusive, safe, resilient and sustainable” (Goal 11). Domestically, Chapter 2 of the Constitution of the Republic of South Africa, 1996 contains the Bill of Rights and Chapter 3, section 41(1)(b) requires “[a]ll spheres of government and all organs of state [to] ... secure the well-being of the people of the Republic”. Chapter 12 of the National Development Plan (NDP) sets out the vision for building safer communities with the commitment that by 2030, South Africa will be a society in which all people will live in safe environments, play a role in creating and maintaining the safe environments, feel and be safe from crime and violence and the conditions that contribute to it, and have equal access and recourse to high quality services when affected by crime and violence. Giving effect to the NDP the Integrated Urban Development Framework (DCoG, 2016:50-51) sets out specific targets to meet the policy priorities which include:

- developing integrative local safety plans;
- improving the urban built environment;
- focusing on prevention initiatives;
- incorporating social components into prevention initiatives;
- transforming spaces of chronic violence and crime; and
- incorporating community/public participation in crime prevention initiatives.

The 2016 White Paper on Safety and Security also concentrates on an integrated approach to urban safety emphasising the cooperative nature of the engagement between police and community to ensure a tangible, positive and sustainable impact.

Therefore, starting from the legal premise of safe cities and citizen security as a fundamental human right, this article examines the socio-legal onus and responsibility on the South African policing function to realise leading practice and give effect to the national commitments. Given the South African focus, the research hones in on the national policy framework underpinning safety and security, as well as the identified constraints and success. In addition, emphasis is placed on case law and other legal jurisprudence specifically dealing with the issues of community safety, policing and citizen safety; as well as comparative trends and leading practices that highlight effective policing in realising the fundamental rights of safe cities and citizen security.

## DISCUSSION

### Levels of urban safety in South Africa

The State of Urban Safety in South Africa Report 2018/2019 (SACN 2019:10) shows an increase in violent property crimes

since 2011/2012, with robbery at residential premises increasing by 21% - although a decrease of 1% is noted between 2016/2017 and 2017/2018, and carjacking increasing by 58% - although a decrease of 3% is noted between 2016/2017 and 2017/2018. Since the 1970s, South Africa's murder rates have not been lower than 30 per 100 000 people and while violent crimes resulting in bodily injury and/or loss of life have decreased by approximately 50% since 1994, South Africa still finds itself in the cluster of countries with the highest murder rates in the world. In 2018, the national murder rate was 36 per 100 000, translating to about 56 murders per day (SACN 2019:10-11). Discussing the crime statistics for the period between 1 April 2018 and 31 March 2019, the Minister of Police confirmed that of the 1.673 million community-reported serious crimes, 36.8% were contact crimes. Murder, attempted murder, sexual offences, robbery with aggravating circumstances, assault (common) and assault with the intent to cause grievous bodily harm had all increased in the past year (SAPS, 2019). Unsurprisingly, therefore, the records indicate interpersonal violence in South Africa as the sixth highest in Africa and fifteenth highest in the world (De Wet, Somefun & Rambau 2018:1).

Analysing the SACN Report (2019:21-24) and comparing respondents' (a) experience of violent crime; (b) feelings of safety; and (c) satisfaction with law enforcement, there is a clear indication that while the experience of crime and violence ranged between 6% (eThekweni and Mangaung) and 11% (Cape Town), the feelings of safety were still very low, ranging between 19% (Tshwane) and 28% (Cape Town). Interestingly, in Johannesburg, Cape Town, Ekurhuleni, Tshwane and Msunduzi (Pietermaritzburg) the fear of crime was more than double the actual crime experienced, while eThekweni, Nelson Mandela Bay, Mangaung and Buffalo City each presented with a more than treble disparity. Further recognising that there is no direct correlation in the city-for-city data, the overall perception of community safety (or the lack thereof) is reinforced by the responses on community satisfaction with law enforcement which ranges between 44% (Buffalo City) and 66% (Ekurhuleni). The findings make the cogent point about a heightened sense of fear that is beginning to set into South African communities. The fact that it may be overstated is immaterial given that the White Paper (2016:49) defines safety as referring "... principally to the state of an area and is determined based on the real and perceived risk of victimisation".

Discussing the increase in violent crime, the 2018/2019 SACN Report (2019:10) attributes it to the inherent failures of policing at both operational and strategic levels. At an operational level, some of the concerns include the inability to "dismantle organised crime networks", "police forces being poorly equipped to catch perpetrators", and the "growing backlog of cases that are incomplete and thus cannot result in conviction"; while strategically, the "instability in police and political leadership" contributes to the current crime patterns. There is no denying the material bearing each of these factors has on

- (i) the ability of the police to perform *vis-à-vis* crime prevention;
- (ii) ensuring safe living environments for urban communities; and
- (iii) safeguarding the personal security of individual citizens to be free from harm or the threat of harm.

### **Policing interventions for safe cities**

It is common cause that the state has the obligation to ensure community safety. Notwithstanding the specious argument for the Applicants in the Nyanga Case (2016:para 71) that "the SAPS does not police people but it polices crime", the statement in the National Development Plan clarifies the meaning of safety, emphasising the importance of the individual perceptions:

"Safety should be measured by the extent to which the most vulnerable in society feel and are safe from crime and the conditions that breed it" (White Paper on Safety and Security, 2016:49).

Acknowledging the contribution of socio-economic risk factors such as poverty and unemployment; dysfunctional families, uncaring parental attitudes, violence and parental conflicts; social valuation of a culture of violence; presence of facilitators such as drugs and firearms; and degradation of urban environments and inadequate surveillance of places (Palmary 2001:2), and in pursuit of the goal of establishing the legitimacy of the police in a new democratic order, Government policy embraced the need for community policing in the 1990s. Since then, much has been written about the importance and value of cooperative relationships between police and community to promote grassroots accountability and concomitantly, sustainable urban safety, and for communities and police to be "co-producers of public safety" (Skolnick and Baylay, 1988). Equally, while the opportunities have been emphasised, there is considerable research highlighting the challenges around the implementation of community policing.

There is no denying the importance of stakeholder collaboration and cooperation for the police to successfully perform their role. However, real partnerships are built on trust, which generates the necessary levels of confidence that is especially significant for all relationships between the police and community. In pursuit of this goal and acknowledging that the "traditional punitive criminal justice system" does not improve safety, policing in the United Kingdom is shifting to focus holistically on "health, violence and overall well-being" with the idea that the police should be positioned "as the gateway to broader social and health services" (Western Cape Government, 2018:8). Similarly, the Bavarian Police Force emphasised the element of trust recording:

"It took a long time after the Holocaust for police to be accepted and trusted by the community. It [therefore] had to be clear that police were not there for the government but that they were there for the people ... This also had to be communicated to and felt by the people in order for police to become part of the community" (PMGb 2018:2).

Critical to building the trust relationship, they also underscored the importance of proper resourcing and the investment in quality training as a pre-condition of effectiveness and success and concomitantly advancing a more trusted relationship (PMGb 2018:2-3).

Interestingly, Ojebode (2016:2) notes that in Africa where there is often a low level of trust in the state, he was able to identify several very successful informal community-police partnerships. These emerged from the desire for safe cities and urban stability as communities, variously devastated by violence and crime, which began to rebuild or improve their lives. In all instances, the emphasis on promoting and ensuring active community participation, with mutual and reciprocal cooperation and benefit - or what Ojebode (2016:2) calls “communitisation” - is the pivot for the success of the projects.

An understanding of the cultural dynamics of the community is vital to effective community policing initiatives. However, the research of Choi and Lee (2016) highlights the need to also consider the sociology of all the groups constituting the community before offering options. This is especially relevant when dealing with diverse and heterogeneous communities. Their research compared the responses of respondents from Britain with those of participants from South Korea to questions on community policing. Studying the answers, the authors concluded that British participants looked at community policing through a much more individual lens, seeking out factors that primarily benefitted them as individuals, whereas the South Korean participants saw community policing as an extension of their commitment to their community (Choi & Lee, 2016:174-179).

“High among the social values of community residents [in East Asian cultures and South Korea is] the importance of maintaining a community's safety, harmony and cohesion” (Choi & Lee, 2016:174).

While interesting for the contribution made to the literature on different models for successful community policing, the results are not entirely unexpected. There is already available research dealing with what has been described variously as the Eastern and African spirit of identity, community and collectivism, and the Western value of individualism (cf Goziew, 2018). However, applying the lens provided by Choi and Lee (2016) it may be easier for some to understand why the communities in Nigeria would acquiesce to declaring all spaces, including private spaces, subject to community inspection and oversight “claiming that intrusion for the sake of security is better than privacy with insecurity” (Ojebode, 2016:2).

Reflecting on the failure of community policing forums (CPFs), Commins (2018:4) notes:

“A key lesson from the CPFs, however, was that their focus on crime prevention failed to address other drivers of urban fragility and their links to deficiencies in governance.”

Similarly, and also reflecting on the causes for community policing forums not being successful in South Africa, the SA Cities Urban Safety Reference Group (Urban Safety Brief, 2018:3) identifies the SAPS's narrow interpretation of partnership policing and limited approach to collaborating with the Metropolitan Police Departments as having substantial implications for cities in South Africa as a material limitation militating against the police achieving the vision of safe cities. While the Urban Safety Brief (2018) focuses on the failure to draw in the Metropolitan Police Departments, Minnaar (2004:18) highlights an equal opportunity missed referencing the private security industry in South Africa.

Given the number and diversity of role-players and stakeholders involved in an integrated, holistic crime prevention strategy, careful planning and coordination are required; and conversely, spur-of-the-moment emotional decisions must be avoided. Interventions need to be capable of sustained success as opposed to once-off activities. Addressing these issues demands the necessary understanding of two key imperatives: firstly, successful community policing interventions and visible policing leading to improved crime prevention and urban safety will be a process and not an event. Secondly, achievement of a sustainable model of success requires an informed, resourced strategic intervention with clear targets, monitoring and accountability. Acknowledging the ever-present resource constraints, a thriving urban regeneration intervention requires a thorough contextual analysis and understanding of the social dynamics of the environment because there is no “one-size-fits-all solution” - crime prevention initiatives must identify the relevant crime “hotspots” and plan and implement appropriate programmes of policing and crime prevention so that limited resources are always optimally utilised. The SACN Report (2019:11) also stresses this fact emphasising that “the most effective use of crime prevention resources is when the focus is on narrowly geographically targeted areas and identified groups at high risk of becoming perpetrators”.

At this point, the added caution of Tilley and Laycock (2018:6) analysing the failure of the 1999 United Kingdom Crime Reduction Programme (CRP) also bears noting. Highlighting the three factors that caused the failure of the programme, they note that firstly, too much was expected from the CRP too soon; secondly, the research community in Britain lacked the capacity to deliver the research side of the programme; and thirdly, the political landscape changes, new ministers arrive, priorities change and agendas move on. In the CRP example, as a result of the failure to manage expectations and poor planning, the entire programme was lost (Tilley & Laycock, 2018:6).

### **South African jurisprudence for safe cities**

In the case of *Minister of Police and 6 Others v Premier of the Western Cape and 8 Others*, the Constitutional Court was called upon to adjudicate the authority of a Commission established by the Premier of the Western Cape to subpoena

members of the South African Police Service (SAPS) to appear before it over allegations of police inefficiency in the township of Khayelitsha, a densely populated informal settlement carrying approximately 750 000 residents (para 2).

The background to the case was that a complaint from the residents of Khayelitsha was submitted to the Premier of the Western Cape who, after following an unsuccessful process with national government, proceeded to institute a Commission of Inquiry (hereafter referred to as the Khayelitsha Commission) to investigate the “breakdown of the rule of law in Khayelitsha and its adverse impact on residents” (para 5). The Minister of Police sought to interdict the proceeding of the Commission on the grounds that it was *inter alia* premature, and the respondents opposed the application. On appeal against the decision of the High Court, the Minister of Police referred the matter to the Constitutional Court. Handing down judgment, Moseneke DCJ prefaced his judgment noting: “The rights and interests of these residents lie at the heart of this dispute,” (para 2).

Referring to the objects of the police service set out in section 205(3) of the Constitution of South Africa, 2016, the Court noted that its function was to “prevent, combat and investigate crime, to maintain public order, to protect and secure the inhabitants of the Republic and their property and to uphold and enforce the law” (para 29). A premier and the province, on the other hand, bear the “duty to respect, protect and promote the fundamental rights of the people within the province” (para 51). In this case, the Court held that:

“The Premier is obliged to take reasonable steps to shield the residents of Khayelitsha from an unrelenting invasion of their fundamental rights because of continued police inefficiency in combating crime and the breakdown of relations between the police and community” (para 51).

Reflecting on the state of policing in Khayelitsha, the Court described the “incessant crime emerging from the complaint” as “unsettling” pointing out that:

“There is much to worry about when the institutions that are meant to protect vulnerable residents fail or are perceived to be failing” (para 52).

In dismissing the appeal by the Minister of Police, the Court also ordered that the Minister of Police and the National Commission of the SAPS (the second applicant) pay the costs of the Social Justice Coalition (the ninth Respondent) on the grounds that:

“The Social Justice Coalition [a civil society organisation acting in the public interest] should not be out of pocket for raising a matter of importance in favour of vulnerable people who are victims of pervasive crime” (para 72).

In 2016 in the Nyanga Case, the Social Justice Coalition and Equal Education (an NGO comprising learners, parents, teachers and community leaders working for quality and equal education in South Africa) acting with the Nyanga Community

Policing Forum brought an application against the Minister of Police, National Commissioner of the SAPS and two other parties in the Equality Court for an order “[d]eclaring that the allocation of police human resources in the Western Cape unfairly discriminates against Black and poor people on the basis of race and poverty” (para 2). The basis of the Applicant's claim was that in terms of section 205(1) of the Constitution of the Republic of South Africa, 1996, the national police service must be structured to function in the national, provincial and where appropriate, local spheres of government. However, the Applicants claimed that notwithstanding an awareness of the inefficiencies, high levels of crime, violence and community unsafety, and the breakdown of relations between the community and the police (as established by the outcomes of the earlier Khayelitsha Commission), the Respondents failed to ensure that proper resources were allocated to Nyanga (a township in the Western Cape with a population of approximately 58 000) to address these problems.

In responding to the allegation, the SAPS presented the Court with the detail of its human resource allocation model, which it described as a two-stage process. It explained that in the first stage, insofar as crime prevention was concerned, one post was allocated for every 20 reported contact crimes, every 25 crimes against property, every 30 contact-related crimes, every 35 other serious crimes, and every 50 other less serious crimes. A baseline figure is determined which is then factored into a demographic analysis designed by the SAPS and based on explicit traits that impact crime prevention. Factors included population size, unemployment, percentage of informal population, socio-economic circumstances (for example the lack of street lights, roads, telecommunications, as well as social degradation and the number of identified gangs in the precinct). It was explained that each of the 79 demographic determinants is weighted, with higher weighting being given to underdeveloped areas to ensure a higher resource allocation to these areas. Crime specific ratios are then applied - for example for murder, there is a ratio of one investigator allocated for an average of every four murder charges per month, for attempted murder the ratio is 1:5, and for common robbery the ratio is 1:10, but the final result is subjected to a further assessment of factors such as distances that the SAPS would be required to travel to entities involved in the investigation process (such as correctional services, the health facilities and forensic service laboratories), and contingencies for various possibilities of absenteeism (paras 22.2 to 22.9). The second stage of the allocation process is budget-dependent. However, the Respondents clarified that once a police station was identified as being disadvantaged based on the demographic determinants, it will be allocated one post for every 2500 community members - as opposed to the 1:5000 in non-disadvantaged areas - again prioritising the resourcing of police stations in the lower economic areas (para 23).

Revealingly, the Khayelitsha Commission in its final report reached a different conclusion to the one presented by the

SAPS in the Nyanga Case. While recognising the profoundly challenging nature of policing, the Khayelitsha Commission found that one of the signal factors compromising effective policing was the failure by the SAPS to properly allocate adequate resources to support its objects and functions outlined in the Constitution. Dealing specifically with the appropriateness of the allocation of human resources by the SAPS into Khayelitsha, the Khayelitsha Commission relied on the expert testimony of Redpath who suggested that (i) the SAPS model led to a skewed allocation of human resources which (ii) affected effective policing in Khayelitsha and other Black areas in the Western Cape primarily as a result of crime being significantly underreported in Khayelitsha which (iii) impacted on the allocation of police personnel to the area (Khayelitsha Commission Report, 2014:44 [paras 45; 118 and 317]). This latter indicator aligns completely with the data from the surveys conducted by Afrobarometer namely that “more than half of crime victims [in Africa] did not contact the police” (Commins, 2018:3). The identified reasons reveal their own story and include fear of being asked for a bribe, being dismissed and not taken seriously, or simply not trusting the courts which was particularly indicated among poorer respondents (Commins, 2018:3).

Dealing with the SAPS system of human resource allocation, the Khayelitsha Commission found that “the system does not appear to be fully understood or accepted even within SAPS ... [and recommended] that it be overhauled as a matter of urgency” (Khayelitsha Commission Report, 2014:450 [paras 33-34]).

The Applicants alleged that notwithstanding efforts on their part to get the SAPS to implement the recommendations of the Khayelitsha Commission, there has been no success (Nyanga Case, 2016: para 29). Hence this application for redress. Relying significantly on the evidence presented at the Khayelitsha Commission, Dolamo J in the Nyanga Case also picked up on the fact that the second stage of the human resource allocation model applied by the police - the budget allocation per unit - resulted in only 68% of personnel identified in the initial calculation being available for each police station (Nyanga Case, 2016:para 47).

“... the budget-dependent actual allocation led to perverse outcomes. These were not caused by any event or deliberate inclusion of factors which were obviously discriminatory in nature but was due to shortcomings in the method which resulted in unintentional, but nevertheless severe discrimination on the grounds of race and poverty” (Nyanga Case, 2016:para 48).

Accepting that higher numbers of police officials in any area may not, in isolation, reduce crime and realise the right to a better life, Dolamo J stressed that “it is a factor that contributes” by enhancing the acknowledged deterrent impact of visible policing (Nyanga Case, 2016:para 88).

An interesting comparison (albeit dealing with the right to housing) is drawn from the Indian case of *Chameli Singh v State of Uttar Pradesh* where the Court held:

“In a democratic society ... one should have a permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen ... and equal participant in democracy ... The ultimate object of making a man equipped with the right of dignity of person and equality of status is to enable him to develop himself into a cultured being ... State strives to provide facilities and opportunities to [people] ... to enable them to lead a good life assuring dignity of person ...” (paras 8-9).

In *Government of the Republic of South Africa v Grootboom*, also addressing the government's housing programme, the Constitutional Court held that though rational and reasonable in other respects, it was nevertheless inconsistent with section 26 for failing “to provide relief for people who have no access to land, no roof over their heads, and who are living in intolerable conditions or crisis situations” (para 99). The same may realistically be said for many people living in urban cities whose safety is continuously at risk because of the failure to make adequate provision to realise the commitment to a safe living environment and concomitantly, safe cities. Endorsing this opinion, Holcroft-Emmess (2013:1) points out that housing provides the essential base from which individuals and families build their livelihood and participate in the life of the community.

However, where cities are unplanned and there is no structure or design, where ownership is uncertain and accommodation consists of transitory dwelling structures all these rights that are fundamental in any democratic state, are compromised. When people are forced to live in inadequate structures without proper urban planning and utility allocations, it impacts their dignity, their economic potential, and the fundamental enjoyment of life. When the police report that they cannot assist and/or support communities because there are no street names, street lighting, or the community is too dangerous, it impacts on their safety; and when children are forced to grow up and go to school in unsafe communities, it impacts on their right to an equal future. Addressing only these issues, adult respondents from Philippi East, KwaMashu and Hillbrow - so-called “hotspot” city areas in South Africa - expressed deep-seated fears of being victims of crime as a result of the insecurities, the criminal activity and the violence in the areas in which they lived. The resulting prejudices included fears of running a business from home (economic detriment), allowing children to walk to school (financial detriment), playing outside or going to open spaces or parks, or walking to the shops, work or into town (social detriment) (South African Cities Network, 2017:42).

Recent media reports have highlighted the increasing levels of aggression among the youth, the growing number of violent crimes committed in schools, and the snowballing statistics of mental disorders, depression and anxiety across the spectrum of primary and high school learners as well as university students. Writing for the *Mail and Guardian* (2018:1), Sekhonyane comments:

“[This portrays] the education system as being under siege, with incidents of violence, possession of illegal weapons and mayhem in the schools.”

Research reinforces the belief that schools are not an isolated ecosystem: rather, schools are a “microcosms of the broader communities” (Burton and Leoschut, 2013:54). The research by Burton and Leoschut presents a sound factual basis for the recognition that the misconduct, antisocial behaviour and deviant transgressions that permeate the schools often reflect the antecedent behaviours that prevail in the communities, or as pointed out by Govender, “families in conflict produce children in conflict” (Western Cape Government, 2018:11). De Wet et. al. (2018:2) describe this as a “crime and violence cycle which perpetuates generation after generation” or as Burton and Leoschut (2013:54) state:

“Communities characterising such a level of social disorganisation, crime, exposure to violence, access to illegal substances and firearms, and proximity to criminals all affect children's risk of violence within the school environment.”

Research also shows that children exposed to and affected by violence are prone to problems linked to physical health and mental welfare, as well as cognitive and emotional development (Skeen, Tomlinson, Ward, Cluver & Lachman, 2015; Mathews & Benvenuti, 2014).

Of greater concern, however, is the apparent normalisation of criminal and violent behaviour by children living with crime and violence. Burton and Leoschut (2013:39) report that nine out of ten of the learners they had interviewed claimed to like the area in which they lived and would choose to remain while 80% agreed that they felt safe in the community, despite acknowledging the criminal character and/or admitting to having experienced violence. It becomes imperative that unless social dysfunctionality, crime and violence are sorted out or “de-normalised”, as Sekhonya (2018:2) states, the schools and the children will become increasingly susceptible to the challenges of the macro-environment. Contributing to the discussion, Commins (2018:4) identifies the further “need to belong and find identity” as a strong drawcard for young men to join the gangs and criminal networks especially “when faced with economic inequality and unemployment”.

A critical feature of “de-normalising” violence is to quash the heroism that is often linked to the criminal perpetrator who is revered for being fearless/invincible/bold/untouchable - especially when the police are seen to do nothing - and replace it with a respect for the rule of law. In other words, policing must be seen to be working, and the perpetrators must be seen to be punished.

While underscoring the multi-dimensional character and contributing risk factors that result in unsafe cities, and the importance of analysing and understanding the environmental influences collectively, the Nyanga Case highlights the pivotal role of the police - especially vis-à-vis visible policing and crime prevention - in facilitating safe cities and protecting the life,

dignity and well-being of the residents. The need for communities to be able to trust the police is at the very essence of safe cities. However, when residents testify: “There are screams every morning, and that's not even far from a police station. And there's no point of reporting, because there's nothing that's going to materialise out of that,” it is a stark reminder of the unsafe circumstances in which people live in South Africa and the lack of trust in the police service (Notywala, 2017:1). This is a national challenge and one that must be urgently addressed - as Notywala points out (quoting the Social Justice Coalition in the Khayelitsha Commission of Enquiry):

“Violence should not be the norm in our communities. We shouldn't have to wake up to screams. Poor working-class Black communities have been subjected to too many kinds of violence for too long, and this needs to come to an end” (2017:1).

## CONCLUSION

In any consideration on the importance of safety and security to human beings and human development, it would be remiss not to include Maslow's Hierarchy of Needs (Maslow, 1943), most-often illustrated by a five-tier pyramid indicating the progression of human development. At the base of the pyramid, Maslow situates the two most basic needs of every human being namely physiological needs (such as the need for air, food, shelter, warmth and sleep) followed by safety needs (that is, a need for psychological security fear, law and order). Cognitive needs, notes Eyer (2018:181) only come much later and as such, are subservient to the basic needs. Further, while recognising that human development is neither rigid nor linear and will always be influenced by external environmental factors, Maslow theorised that only once the lower need is “more or less” realised will it go away, and an individual's activities will become focused on the next level of needs (Maslow 1943:384). Maslow's model lays the quintessential foundation for understanding the human cost of unsafe societies.

The White Paper on Safety and Security (2016:8) recognises safety and security as a fundamental human right in terms of Chapter 2 of the Constitution and specifically the right to a safe environment that is not harmful to health or well-being, in terms of section 24 of the Constitution. The White Paper stresses the collective character of safe cities but highlights crime and violence prevention as the “necessary precondition for increasing people's feelings of safety and building safer communities”.

“Safety and security is not only a fundamental responsibility of the state ... but also a fundamental human right ... and a necessary condition for human development, improved quality of life and enhanced productivity” (White Paper on Safety and Security 2016:8).

Similarly, in its report on Citizen Security and Human Rights, the Inter-American Commission on Human Rights (nd:2) points out that:

“In recent years conceptual developments bring us closer to a concept of citizen security from the perspective of human rights. The concept of citizen security involves those rights to which all members of a society are entitled, so that they are able to live their daily lives with as little threat as possible to their personal security, their civic rights and their right to the use and enjoyment of their property; on the other hand, citizen security problems occur when a State's failure to discharge, either in whole or in part, its function of providing protection against crime and social violence becomes a generalised situation, which means that the basic relationship between those governing and the governed has broken down.”

Acknowledging the diverse prejudice and the impact on each person's fundamental human rights, there is a responsibility on states to create safer, more liveable cities promoting citizen security and every individual's right to feel safe and secure from crime and violence. The diversity of the problem and the range of challenges necessarily demands a multi-pronged approach that hinges on strong cooperative community relationships. However, the police, visible policing and crime prevention remain the drivers for safe cities. Acknowledging the vital importance of individual safety and safe communities, the Nyanga Case highlighted the importance of appropriate resourcing and effective utilisation of the policing services to realise the commitment to safe cities.

Putting South Africa's resourcing crisis into perspective, the United Nations (UN) recommends a police official to person ratio of 1:220. In his presentation to the Parliamentary Portfolio Committee on Police, the Minister of Police acknowledged that in South Africa, the ratio was almost twice the UN norm, currently standing at one police official to 383 people (PMGa, 2018:1). “One major benefit of policing was visibility, and the figures meant that there was no visibility for half the population” (PMGa 2018: 1).

However, recognising the UN norm, the case study from the State of Bavaria indicates a ratio of police to citizens at 1:429. Addressing the disparity, they attribute it to (i) the trust that has been inculcated between the police and communities and (ii) borne of necessity, the active cooperation with other partners and organisations, the Bavarian State Police has been rated as the most trusted institution in Germany and the most sought-after employer by the youth (PMGa, 2018:2). However, notwithstanding the concession (PMGb, 2018:4) that “the challenges faced in South Africa were very difficult and could not be compared to the situation in Munich” there must be some leading practices that South Africa can learn from the Bavarian experience.

Safe cities, with the allied right of all citizens to adequate police protection, is a civil right with fundamental socio-economic causes and consequent responsibilities imposed on the state. The failure to adequately protect individuals and communities and provide a safe living environment has a direct

effect on fundamental values enshrined in the Bill of Rights, particularly the rights to dignity and equality. Urban fragility is the result of many socio-economic factors, and the solution will need to be interdisciplinary and multi-dimensional. However, there are two critical imperatives without which there will be no positive outcome: (i) responsive spatial planning, design and development that supports the national urban safety strategy; and (ii) an integrated and trusted police service (cf also Sreevatsan, 2018). The failure to address and correct the current malaise can only mean that the right to personal safety in a safe living environment will remain a pipedream for many, and a blight on the country's democratic ideals.

With the risks to citizen security and urban safety laid bare, “[a]ddressing inequality must no longer be considered an abstract and long-term ideal. It is a matter of life and violent death” (SACN, 2019:11). The right to live in a safe environment and feel and be safe is a fundamental human right with the concomitant duty on the state to reduce fragility and increase security, or as stated in *Chameli v Uttar Pradesh* (1995):

“The challenge for social justice is the challenge for equal opportunity not in form but in substance and the challenge of social justice [as] a constitutional mandate has to be accepted and answered on the basis of day-to-day experience of the performance of law ... while meeting the challenging situation in society” (para 9).

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# ARTICLE

## PEACE POLICING THE CONCEPTUAL BASIS: TOWARDS A DEFINITION

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### ABSTRACT

The article argues that the philosophical roots of the concept of peace should be examined more closely to determine what tasks a police official should carry out during peacekeeping. Peacekeeping is mostly associated with military operations on an international level where the police fulfil a diminished role. Due to the lack of a definition of peace policing, policing for peace is normally equated to the function of patrolling. The majority of policing models assume that crime fighting is the central component of police work and that non-crime calls are a lower priority. However, a growing number of policing experts currently argue that maintaining order, involving complex issues, is at least as important as crime fighting, if not more important.

The research problem for this article was the lack of a clear nominal definition for a concept or construct, namely “peace policing” that can guide police as peace officials. The research was of a descriptive nature mainly through a literature study, touching on existing definitions of peace through centuries and analysing where policing theory links up with the so-called peace official's activities.

Literature and qualitative data analysis at the conceptual level reveals that many police functions include patrol work that does not involve a crime scene, which are considered to be peacekeeping functions and are referred to as “peace official work” by the police themselves. The research points further to the difficulties of policing in democracies in non-crime situations where police officials apply the complex peace-related concepts of freedom, equality and justice as part of so-called democratic - or community policing. The application of the positive characteristics of the concept of peace sometimes fades away in the technical requirements of the work or when police officials walk away if the law does not appear to apply. In fighting racism for example, the promotion of a more complex social justice is forgotten - especially without some overarching definition on peace policing which should remind the official of the task at hand in the heat of the moment. This article concludes with a nominal definition of peace policing.

### KEYWORDS/PHRASES

Peace policing; non-crime; democratic policing; social justice; community policing; patrolling.

## INTRODUCTION

Inadequate attention has been given to the role of the police official as a peace official. Literature normally refers to the patrol function as the essence of being a peace official and then links peace patrolling to community policing activities (Broderick, 2019:3). This article argues that the philosophical roots of the concept of peace should be examined more closely to determine which tasks a police official should carry out during peacekeeping. Peacekeeping is mostly associated with military operations on an international level with the police playing a diminished role in those war-like situations. On the national or intra-state level, peace policing or policing for peace involves different tasks which should be clearly conceptualised or defined. The reason that strategic and operational police plans is sometimes abolished or severely altered, is mostly because of a lack of clear definitions of key concepts. To equate patrolling with the peace function of the police, should be considered an injustice to the complex peacekeeping function. As will be discussed below, there is a lack of a clear nominal definition of a concept or construct, namely "peace policing" that can guide police in terms of their role and function as peace officials and which can guide further peace policing research.

On a very general level, the role of the police includes the following:

- enforcing the law;
- preventing crime;
- investigating crime;
- providing certain services; and
- preserving the peace (Hess & Wroblewski, 2006:14).

The function of crime prevention is related to the function of preserving (or keeping) the peace, but the peace role of the police has not received sufficient attention, nor has it been documented in detail as a specialised function in order to assist policemen and policewomen meaningfully in this regard. It is only after 2017 that literature refers or links the concept of policing to an ill-defined or vaguely defined concept of peace, in that good police community relations might preserve a peaceful situation or prevent a non-peace situation, such as violent protests linked to issues of racism, etc. (Broderick, 2019:3).

## THE IMPORTANCE OF PEACE FUNCTIONS

Hess and Wroblewski (2006:105) furthermore indicate that although the peacekeeping function (as part of the patrol function) occupies most of a patrol officer's time, it is basically unrecorded and unaccounted for. The peacekeeping function is also seldom included in police training. When it is included, the focus is more on the requirements of the law (reflecting on a post-crime situation) than on what the detailed peace situation should look like (California District Attorneys Association [CDAA], 2019:1; Hess & Wroblewski, 2006:106). The majority of policing models assume that crime fighting is the central component of police work, and that non-crime calls are a lower

priority. However, some policing experts currently argue that maintaining order is at least as important as crime fighting (when a crime has already occurred) if not more so (Wolf, 2017:1-18; Walker & Katz, 2008:4-6; Dominguez, 2016:1-2).

Many police functions include patrol work that does not involve a crime scene, which are considered peacekeeping functions, and are sometimes referred to as "peace officer work" by the police themselves (Banton, 2005:138). The public request police assistance with various non-crime situations, including arguments, domestic disputes, protests and marches, medical emergencies (including injuries, death and suicide), assistance with dependent persons such as juvenile runaways, drunks and missing persons, and public nuisances such as noise, trespassing and suspicious persons (Walker & Katz, 2008:237). Peacemaking normally refers to actions to bring hostile parties to agreement, essentially through peaceful means. Peacemaking can be done through negotiation, mediation, conciliation and arbitration and for police officials it involves being allowed discretion in a non-crime situation, even if only to call for an expert in conflict management or authorised politician. This article will focus on the peacekeeping aspect of policing. Further research on peacemaking and especially on greater discretion for police officials need to be done regarding peacemaking.

In much of the literature on policing, peace and peace functions are not clearly defined. This article will therefore work towards defining peace and the meaning of police officials as peace officers, so that policemen and policewomen have a clearer understanding of what is expected of them as peace officials when they are called to a non-crime scene such as a protest, which may begin peacefully, but may not remain so, depending on many factors, including the actions of the police officials present.

## THE CHALLENGES IN DEFINING PEACE

It is difficult to define peace in essential terms. Science and research teach us that in the study of human behaviour in the social sciences or humanities, we have made great strides towards achieving the goals of science, namely describing and explaining human behaviour, such as criminal behaviour, using quantitative or qualitative research designs. However, we still cannot accurately predict the outcome of human actions and interventions, and their attitudes towards others, in the way the natural sciences can predict outcomes. Babbie (2007:378) reminds us further of the basic usefulness of the qualitative research approach as the "... nonnumerical examination and interpretation of observations, for the purpose of discovering underlying meanings and patterns of relationships". This article will reflect that approach basically through a literature study.

Water is described by natural scientists using letters for the elements as H<sub>2</sub>O. Irrespective of whether this combination of elements is found in South Africa, Nigeria, the United States of America or China, natural scientists can predict with certainty

that it is water. However, when social scientists such as police scientists, criminologists, or politicians define peace in South Africa as an integrated society or state, the very same politicians define peace in the Middle East at the beginning of the millennium to be the segregation or creation of separate states between Israelis and Palestinians (Shoki, 2019:1). Therefore, the word peace is defined relative to circumstances and circumstances can change. The same goes for the concept of policing. Some definitions place more emphasis on crime prevention, while others state that policing is about crime investigation. Concepts in the field of human behaviour are therefore defined nominally (in other words, according to what a term is said to mean by the person or peer group defining it), which is very different from the essential (definite) definitions that natural scientists work with (Isaak, 1975:67; De Vos, Strydom, Fouché & Delpont, 2002:29).

If the meaning of the term "peace" is relative and can change (and it can indeed change) it poses a challenge for policing. This is particularly so when it becomes clear that some ideas of what peace is, are only a means for getting closer to the ideal situation of "peace", and do not define the situation itself. Reaching an objective might turn that objective into a means to achieve the original goal at a later stage, such as a desirable situation called peace. However, people sometimes confuse the objective or means as the ultimate goal (Van der Merwe, 1973:171). Stating that there is peace in a home if conflict management methods have removed domestic violence (the objective) does not actually describe the elements of the positive, peaceful situation (the goal) in the home. It only confirms to us that conflict management methods have resulted in a lack of violence in that home and that that situation (the lack of violence) might be conducive to reach longer lasting peace in that home. These conceptual fallacies will be further elaborated on in the next section of this article.

If the purpose of this article is to assist police officials to police for peace, one must first define or elaborate on the "peace" concept. The building block or "brick" of science is the concept (Isaak 1975:63-82). Normally science defines concepts clearly in order to correlate it with related concepts to achieve the ideal situation. For instance, by way of another example, students and researchers might test effective policing through crime prevention by hypotheses such as:

- effective crime prevention is enhanced through the academic training of police officials; and
- effective crime prevention is enhanced by more physical resources for patrol officials.

In these examples, all the key concepts such as policing and crime prevention have been clearly defined in nominal terms in many scientific documents. This article will attempt to clearly define what peace means for police officials to function in such a way that peace can be maintained or achieved. It will also propose in summary, statements or hypotheses, as well as a definition of peace policing, for further peace-policing research,

based on a consideration of what peace currently means to peace researchers and activists whom have considered what the traditional perspectives on peace were.

## THE TRADITIONAL DEFINITIONS OF PEACE: THE ANTI-WAR PARADIGM

The concept of peace originated mainly in the international domain where the basic definition of a peaceful situation arose to describe a situation in which war did not exist. Peace was equalled to the absence of war. Analysing two peaceful periods in the nineteenth century, Blainey in his book, "The causes of war" (1973:4-17), indicates that peace was considered to exist in the past because of powerful ideas or powerful statesmen, or treaties or the distribution of knowledge and a world language. One is once again confronted with the circumstance that a method or objective of getting to peace is promoted as the most important or only element of a peace situation. It might well be that a widely understood world language or a powerful wise statesman or -woman might be of assistance in securing world peace, but it will not be the only element in a peaceful situation. Peace is a complex phenomenon and philosophers through the ages have tend to focus on just one or two elements which were sometimes just a means to get closer to a multi-dimensional peace. To end a war does not mean peace exist.

The well-known philosopher on peace, Immanuel Kant, in his work *Zum Ewigen Frieden* (Eternal peace) (1969:245-281) proposed no secret treaties between states, no permanent defence forces, no debt for military operations, no assassinations, the presence of republican constitutions, the rule of law, as well as partnerships or coalitions between states. Once again, these are all approaches to reach peace on an international level, with a "good" constitution on the nation state level perhaps an indication of one element of a permanent peace, but without detailing the content of such a peace-maintaining constitution.

In the same vein there was a range of ideas, pre-World War II (pre-1939), of what the concept of peace might mean or just how to get closer to it. A summary of ideas on peace and the names of the philosophers who argued for it is as follows:

- Opportunity to develop intellect (Dante);
- Alliance of Christian leaders (Pierre Dubois);
- A universal organisation of leaders (Crucé, 1623) - not only Christian leaders and open trade. "... (P)eace which is ...voluntary, equitable and permanent ... and to all indifferently, the liberty to travel and trading" (Hinsley, 1978:23);
- International Law (De Jure Belli ac Pacis - Grotius);
- Decolonisation and disarmament (Bentham);
- Universal parliament between nations (William Penn - Towards the present and future peace of Europe and St-Pierre [Plan of perceptual peace]);
- International Tribunal (James Mill; and the American Quaker, William Ladd);
- Utopian: Classless and stateless society (Karl Marx);

- No wars, but if, then just wars (Augustinus and Thomas Aquinas);
- No force (Confucius; Mo Ti); and
- Anti-war and anti-violence education (Pacifist Desiderius Erasmus; William Channing [Pioneer of American Peace Movement]) (Blainey, 1973:4-17; Ziegler, 1977:129-328; Gallie, 1978:24; Hinsley, 1978:14-16, 22-24, 63, 89; Leroy Bennett, 1980:13-15).

However, in 1945, the debate on peace and what it should mean changed dramatically when human behaviour demonstrated its capacity for creating and using weapons of mass destruction.

## CONTEMPORARY DEFINITIONS OF PEACE

### From international to national focus

After World War II, great emphasis was placed on creating international structures to monitor the arms race and trying to promote disarmament, especially nuclear disarmament. The idea was to integrate the various nation states of the world into structures (Galtung, 1970:14) such as the United Nations and the European Union. Examples of integration where large groups of people were forced to integrate or conquered in order to build empires have existed since ancient times (3200 years BC). The Mongol Empire of Genghis Khan and the Roman Empire come to mind. The so-called peace following the forceful approach were not experienced by all as peaceful. In terms of the Roman Empire, Burke (1965:22) indicates:

"The entire structure became dependent on the Romans' will to use the power available to them ... Those who accepted the leadership of Rome became prosperous. Those who did not were penalised ..."

Voluntary integration or closer cooperation between states was not easy to achieve, especially with the so-called "cold war" between the USA and the USSR. Therefore, modern-day policing still takes place within the sovereign nation states of the world such as South Africa or Nigeria and the approximately 200 other recognised states in the world. A world government as one approach to peace certainly seems a utopian ideal at this stage, and difficult to achieve.

### From anti-war to social justice

On the academic level there were positive developments regarding the definitions of peace. In the mid-1950s, specific research groups or schools of thought were formed to research the concept and approaches to peace. These included the Pugwash Movement; the Conflict and Research Society in the United Kingdom; the Canadian Peace Research Institute; the Stockholm International Peace Research Institute (SIPRI); and the Tampere Peace Research Institute in Finland (Wehr & Washburn, 1976:155-178). Until the early 1960s, most definitions of peace were, however, based on the conceptualisation of peace as the absence of war or the integration of humankind.

One of the famous peace researchers at that time was Johan Galtung, who believed in the associative approach (cooperation between states) and in peace being not only the absence of war, but also the absence of violence (Dunn, 1978:260). Adding non-violence to non-war as an element of peace broadened the scope of peace research tremendously. Psychological and structural violence entered the field of peace research. This researcher describes structural violence as a social relationship where one person (or group, class or country) is able to maintain a power relationship over another person (or group, etc.) in such a way that the latter is not able to reach a degree of self-attainment or self-realisation (Dunn, 1978:267). This understanding of structural violence classed apartheid South Africa as a violent society in which there was no peace. The police in those years claimed they were lawfully fighting against the military (violent) wing of the African National Congress (ANC), while the revolutionary movements claimed they were fighting against the violent structure and to get freedom from it. Both groups believed they were promoting peace. Years later, and from a different environment, retired Chief David Dominguez from the Palm Springs police agency in California (2016:1-2) summarised the tension between the ways to keep the peace and law enforcement, as follows: "Sometimes, the role of law enforcement officers is not to enforce the law, it is to diffuse the situation - to keep people safe with as little violence as possible" (Dominguez, 2016:2).

Galtung also developed his theories further and was impressed by the ideas of Herman Schmid, who wrote in 1968: "Peace research should formulate its problems not in terms meaningful to international and supranational institutions, but to suppressed and exploited groups and nations. It should explain not how manifest conflicts are brought under control, but how latent conflicts are manifested" (Dunn, 1978:267).

These ideas led Galtung to suggest a new definition for peace and a new phase in peace research, when he wrote in 1969:

"I used to see (positive peace) in terms of cooperation and integration, but I now fully agree with Herman Schmid that this expresses a much too integrated and symmetric view of conflict groups and probably reflects the east-west conflict or a certain ideology in connection with that conflict. I would now identify 'positive' peace with 'social justice'" (Galtung, 1969:190).

How does this affect policing? First, one must have a performing clarity on what we know about the concept of peace. Throughout centuries peace has therefore been negatively and positively defined as one of the following:

- negative conceptualisation: the absence of war, the absence of violence, the absence of conflict; and
- positive conceptualisation: the presence of social justice.

When social justice is defined, most authors agree that it deals with the concepts related to these definitions, or variables such as freedom, equality, fairness and impartiality (Rawls, 1980:58-60; Benn & Peters, 1977:107-134). Freedom and equality are also key concepts of democracy along with the safety of society. Once the majority has elected its government, it expects the democratic government to promote the ideals of freedom, equality and safety (Wolf, 2017:1-44).

Against the backdrop of a required just society, policing in South Africa has, since 1994, been required to be democratic in nature, following the principles of democratic policing, which incorporates an approach called community policing (Buthelezi, 2015:1-24). The approach of community policing was not very successful for the first ten years of South Africa's democracy (Minnaar, 2010:189-210). The interesting fact is that justice is not defined on its own. Justice is said to prevail when equal treatment has taken place. Social justice follows equal treatment and when the promotion of freedom has taken place, or in other words, when democracy has prevailed (Benn & Peters, 1977:107-134). This implies that when police officials are involved in peace policing, they must contain or manage violence, as well as promote freedom of individuals as far as possible, and apply the criteria of equal treatment. The question remains what all the definitions of peace to date mean more practically for policing in a democracy?

## **PEACE POLICING IN DEMOCRACIES: RELEVANT AND PROPORTIONAL EQUALITY**

The two key concepts in modern-day peace policing are therefore freedom and equality. This article will not address freedom in detail, as the promotion of freedom by police officials is limited. The freedom of the individual is in actual fact limited by the laws of the democratic state. Although it is expected of a police official to know and understand the laws well, those aspects of policing normally fall within the crime fighting or crime investigation areas of policing when a crime that has occurred has limited the rights of the victim and the offender (Snyman, 2014:24, 37-42). Although guiding laws such as the Criminal Procedure Act 51 of 1977 (as amended) can be complex, policing discretion is limited (referring to how much choice police officials have), and peace and justice will hopefully result after a crime incident due to the application of legitimate laws and procedures. Banton (2005:132-138) emphasises the fact that, in the democratic spirit, the police are the public and the public are the police. The police are those people who must pay attention to the duties and certain needs of the citizens. The police do not only deal with incidents, but in reality also with citizens' problems and concerns (see also Hess & Wroblewski, 2006:11).

The promotion of democracy-based peace in the non-crime situation is sometimes more difficult to police, because although a law may not have been broken, the method of how

the freedom of the individual is secured depends far more on how the police official has treated everyone relevantly and equally. To assist with this non-crime action, we must first take a deeper look into the criteria of equal treatment.

Philosophers indicate that three criteria apply when the call for equal treatment is made (Benn & Peters, 1977:107-134):

### **1. Equality of consideration**

Since no one is guilty of a crime before a court of law finds to that effect, all people should be treated equally unless good reason can be provided for unequal treatment (Terrill, 2016:11, 676; Benn & Peters, 1977:110-113) (such as assisting people who are in wheelchairs with accessibility). Or, to use another example, equal consideration is not applied when someone is forced to travel in a police patrol vehicle which does not have safety belts for the passengers; the individual should enjoy the same protection or consideration under law as others.

### **2. Relevance**

Equality should be applied in a way that is appropriate or fair for the circumstances (Rawls, 1980:58-60). It may be relevant, perhaps for the purposes of protecting an individual (victim) or other individuals (alleged offenders), to transport certain individuals into a patrol vehicle that does not have safety belts for the passengers. Police officials need to analyse each situation and decide how to act (being wary of the possibility of facing civil claims in the event of negative developments such as vehicle accidents).

### **3. Equality of proportion**

Equality should be applied to a reasonable degree. For example, the conditions in a patrol vehicle need not be luxurious, but the police vehicle must have seats with seatbelts when individuals are transported.

## **Relevant and equal treatment: More policing examples: Crowd control**

Managing protests and marches is a typical non-crime policing function. Theory indicates that different types of crowds require different types of policing (Walker & Katz, 2008; Hess & Wroblewski, 2006:104):

- a self-controlled crowd, for example in a shopping mall or at a sporting event;
- an active crowd, for example at a protest where participants are showing emotion, police peace officials' functions will include providing information or talking to the leaders or the group; and
- an explosive crowd, for example at a protest where participants are provoked and angry, when crowd-control techniques are necessary (Dominguez, 2016:1-2).

A question that may have to be dealt with in a legal proceeding is whether the crowd transformed from being an "active crowd" to an "explosive crowd", and whether the police action was relevant and proportionate.

In April 2011, in a South African town called Ficksburg in the Free State, a crowd formed during a service delivery protest.

While the South African Police Service (SAPS) was on the scene, a member of the public, namely Mr Andries Tatane, was killed. The incident was thoroughly reported in the media at the time. Some of police officials who were present during the protest were charged but acquitted approximately a year later. On 16 August 2012, the SAPS killed 34 mineworkers at Marikana near Rustenburg following a week-long protest and industrial action during which the miners demanded higher wages. Ten other people, including two police officials and two security officers, were also killed in the period of the strike by workers from the Lonmin mine. A commission of enquiry was established by the State President under chairperson Judge Ian Farlam. In their report of more than 600 pages that was handed to the President of South Africa, the chair and the two members of the commission criticised the police for what can be interpreted as incorrect proportional action by the SAPS and therefore unequal and unjust policing (Farlam, Hemraj & Tokota, 2015:1-600).

In the incidents mentioned above, the role of police discretion is emphasised, which is an important concept for any civil servant, including police officials. In peacekeeping or peacemaking actions, police discretion requires both a thorough knowledge of the police department's primary goals, as well as of policies and procedures, before discretion is applied as to whether there is a need for an exception (Hess & Wroblewski, 2006:18-19). As indicated earlier, further research on peacemaking and especially on greater discretion for police officials need to be done regarding peacemaking.

Crime intelligence is logically also very important in democratic policing. It can be considered unfair (unequal) action if a police official gives a general ten-minute disperse instruction to a crowd, although justified by procedure, if some of the members of the crowd have physical disabilities or are wheelchair-bound. They clearly should get more time in terms of relevant, equal treatment. Then justice and policing for peace would prevail.

## NATIONAL AND INTERNATIONAL PEACEKEEPING ROLES

Between the crime investigating and crime prevention (non-crime) functions of the police, one is tempted to say that the police are more involved in peacekeeping when busy with crime prevention. A range of combinations of international and state-based policing activities are currently employed for the purposes of keeping the peace.

### National peacekeeping roles

In the context of a nation state, the police are considered doing peacekeeping or crime prevention in the following types of situations:

- when they respond to non-crime calls for service (e.g. noise and party calls, domestic disturbances, landlord/tenant disputes);

- some traffic functions;
- preliminary investigations (e.g. crime scene security, emergency first aid);
- arrests (including warrants and suspect transport);
- public gatherings (e.g. sporting events, special events); and
- community service (e.g. delivering babies, home/business security checks).

In any such situation, the aim is to prevent a non-crime situation from developing into a crime situation. Hess & Wroblewski (2006:106), however, argue that some of these actions are not regarded by the public as keeping the peace. The public considers certain forms of patrolling to be a waste of time, when police should be "chasing the criminals" instead. One could indeed infer that policing is a "tough job".

A lot of police training material does not address peacekeeping, leaving it to police officials to "play it by ear" (Hess & Wroblewski, 2006:105-106), which is evidence of the lack of significance accorded to this function, until approximately 2017. Currently, retired police officials from the USA at academic and training institutions in especially California, have started referring more intensely to the social justice component of the peace official's work, although still basically focusing on practical issues such as anti-violent circumstances for promoting freedom and safety, as well as avoiding racism when dealing with community relations (Broderick, 2019:3; Dominguez, 2016:1-2; Wolf, 2017:1-34).

Peacemaking is theoretically more suited for international peace policing where initiative in volatile situations is needed, but the military command remains in control, as will be indicated below.

### International peacekeeping roles

Apart from non-crime situations inside the borders of a nation state, research on peace policing focuses increasingly on the police's role in international peacekeeping missions in unstable regions of the world. Perito (2007:2-11) documents the importance of an international "civilian constabulary" for the United States of America (USA) when troops are deployed in war-torn countries on so-called peace missions, pointing to the fact that the military forces cannot handle normal policing functions as well as correctly-trained police officials can. He refers to the situations in Panama (1989), Somalia (1992), Haiti (1993/1995), Bosnia (1995) and Iraq (2003), indicating that the military intervention of peacekeeping forces cannot be successful when confronted with ordinary crimes such as theft, ransacking, etc. Often the "outside" police services assist immediately in training or re-training local police forces to get them functioning effectively. Such missions are usually approved or sanctioned by the United Nations (UN).

In his November 2016 report to the Security Council of the United Nations, the outgoing Secretary-General, Ban Ki-moon (Ban, 2016:6), again referred to the mission of the UN's police as basically being involved in the pursue of community-oriented

and intelligence-led policing approaches to contribute to the protection of civilians and human rights; address, among other things, sexual and gender-based violence, conflict-related sexual violence and serious and organised crime, as well as, conduct investigations, special operations and electoral security.

Greener (2011) also reflects on New Zealand's international police force, whose actions until the 1990s revolved around less intrusive support, monitoring and training of other countries' forces, and since then has focused more directly on reform, restructuring and rebuilding (the so-called three Rs). This is one of the reasons why some criminologists refer to policing for peace as being part of the restorative justice school. As Greener indicates, the rise of international policing can be viewed as a positive development, because it is a means to protect and serve civilians.

In the case of Somalia, the challenges for international peace policing was clearly illustrated when, in 1992, the UN mandated a humanitarian relief mission to that east-African state. One challenge for the 20 countries that contributed to the relief force was that the largest component, the US military police, was not originally allowed by US law to train the local Somali police who at that stage were willing to receive such training. By 1993, the situation between the warring factions had deteriorated, and in October the USA decided they would leave in March 1994. The USA then gave permission for them to train the local police, but it took six months for this authorisation to be passed by the US Congress. The trainers arrived in Mogadishu at the time when the troops were leaving Somalia, and the project had to be abandoned. The UN Security Council terminated the entire mission in March 1995. According to Perito (2007:4-5), the lesson to be learned from the Somali situation is that a police training programme cannot exist in a war zone.

In his report to the Security Council of the UN on 10 November 2016, Secretary-General Ban Ki-moon also elaborated on challenges for the UN's police forces in peacekeeping operations such as training a special kind of police official, as well as other human resource issues such as gender equality. In 2016, approximately 13 500 officials were deployed in 12 peacekeeping operations and six special political missions, of whom only 10% were women (Ban, 2016:4).

Despite the present day attempts of some training institutions in areas in the USA referred to above, to train a special police person for the whole spectrum of peace operations as requested by the previous UN Secretary-General, Ban Ki-moon, the majority of training police for peacekeeping is still post-crime incident and law application-driven.

## Training for peace policing

Since the Second World War, peace researchers have emphasised that the world cannot expect to achieve peace when the issue of peace is not included in the curricula of schools and other training, as well as higher educational institutions (Wehr & Washburn, 1976:155-178). As indicated above, authors on

policing such as Hess and Wroblewski (2006:105-106) do not believe that police training material address peacekeeping enough and in detail. Given the complexity of the concept of peace, as well as its relativity, it is however, not easy to decide what information should go into educational materials on peace policing.

Currently (2019 -) training material for police on peace official tasks seems still focused only on the narrow aspects of requirements of the law in all situations and not the wider perspective of peace promotion. In South Africa, members of the municipal police services and provincial traffic officials, who have functions to fulfil in terms of crime prevention which can be considered closely related to the peace task, are claimed to be trained in so-called peace functions. However, in 2018 the Qualifications Authority in South Africa (SAQA) published a unit standard, entitled "Demonstrate an understanding of the role and functions of a peace officer and traffic warden" to be followed by interested training institutions (South African Qualifications Authority (SAQA) 2018: ID 377224). The purpose of this unit standard, despite the positive conceptual title referring to peace officer, indicates that learners achieving the qualification, will be "... capable of understanding the relevant sections and regulations contained in the criminal procedure legislation ..." (SAQA 2018: ID 377224). The issues in terms of the legislation on how to handle offenders, search and seizure procedures and other post-crime situations are then addressed in the specific outcomes and assessment criteria.

Deduced from the definitions of peace, international experts referred to in this article as well as the variables related to the definitions, the following themes indicated below should perhaps be included in training materials for peace officials and especially police officials. Training for police officials should recognise the need to:

- develop skills for recognising and respecting the complexities of cultural diversity, for identifying and responding to changing communities, to be aware of stereotyping, which could lead to prejudicial viewpoints and unlawful acts of discrimination (irrelevant unequal treatment);
- discuss the legal considerations they should consider regarding racial profiling (relevance);
- identify the crime elements required in order to arrest someone for resisting, delaying or obstructing a peace official, or an emergency medical technician;
- recognise the role of peace officials when interacting with people with disabilities (relevant unequal treatment), and appropriate actions during field contacts with people with developmental disabilities;
- describe the physical and emotional reactions of victims in crisis;
- promote environmental health legislation;
- have knowledge of search and rescue;
- have knowledge of special events security and crowd control;
- have knowledge to protect children in many situations;

- know the managerial and other resources available to assist them; and
- communicate effectively in non-crime situations.

Some training institutions also focus on the fact that although peacekeeping activities take place in a non-crime environment, the police official must know the laws of the state, and include in training courses:

- the elements required to arrest for crimes that obstruct law enforcement in their duties, and to correctly categorise these crimes as misdemeanours or felonies; and
- the crime elements required to arrest for kidnapping, child abduction without custodial right, and child abduction with custodial right.

More philosophical aspects such as professionalism and ethics should be taught too, as well as human rights (civil rights and civil liberties). Research results on community perceptions of the police and partnerships with relevant role-players in the community would also be of value in such a training course.

## CONCLUSION: A NOMINAL DEFINITION

Human behaviour is difficult to understand and to control. Concepts, definitions and theory are important in the process of attempting to understand and control human activity. Operational definitions of key concepts such as crime, peace and crime prevention are required, otherwise strategic and operational plans (such as police plans) may not be implemented as expected by governments or management. Peace as an ideal has developed over centuries in terms of conceptualisation, in dictatorial and democratic regimes in the world. It is a complex concept and as ideal difficult to achieve for politicians as well as civil servants such as police officials working in different policing systems.

The public, however, in the majority of political systems, request police assistance in various non-crime situations, including arguments, domestic disputes, protests and marches, medical emergencies, etc. In handling these and other complaints or requests or taking initiative to prevent a peaceful situation to develop into a non-peaceful or violent one, police should be aware of the different positive outcomes to be achieved that have proven to be considered as peaceful situations in the past.

To summarise policing for peace in a non-crime situation one can hopefully indicate the following without too much criticism:

- Peace policing is enhanced by avoiding or reducing war-like situations;
- peace policing is enhanced by avoiding or reducing physical violence;
- peace policing is enhanced by avoiding or reducing structural violence;
- peace policing is enhanced by avoiding or reducing psychological violence;
- peace policing is enhanced by promoting social justice;
- peace policing is enhanced by promoting democracy;

- peace policing is enhanced by promoting freedom, unless legitimately curtailed by law;
- peace policing is enhanced by promoting equal treatment (including fairness);
- peace policing is enhanced by attending to public problems and concerns; and
- peace policing in a non-crime situation also expects an appropriate level of discretion by a police official.

(Each of these listed statements can of course serve or are already used as hypotheses for ongoing peace research in different environments.)

In conclusion, police officials engaged in promoting peace through peacekeeping (where low levels of discretion are required) or peacemaking (where higher level of discretion are required), are carrying out an important activity, because the ideal is not only to manage conflict or maintain a non-violent peace, but to create and enhance positive peace. A peace policing definition might guide such research.

Peace policing in a democratic environment can therefore be defined in nominal terms as all those actions and reactions by authorised officials in a non-crime situation, at national or international level, securing a non-crime situation within the legal environment, in order to achieve social justice.

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# ARTICLE

## UNDERSTANDING ROAD SAFETY AND ITS IMPACT ON REGIONAL SOCIO-ECONOMIC DEVELOPMENT

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### ABSTRACT

Efficient transport systems lead to accessibility to markets, employment and investment opportunities. Road transportation is crucial within the Southern African region as it enhances economic efficiency in the movement of goods, services and persons across different countries. South Africa is a signatory to agreements in the Southern African Development Community and Southern African region. These agreements require member countries to cooperate and harmonise legislation for economic development of all. The National Development Plan is South Africa's vision to eliminate poverty and reduce inequality by 2030. People need road infrastructure and development that will help them grow and create wealth. Road accidents are a challenge globally and domestically as they pose a threat to socio-economic development. It is estimated that more than 1.2 million people die annually across the globe due to road accidents and that approximately 50 million people suffer different degrees of injuries. It is expected that by 2030, road accidents will be a leading cause of death, overtaking illnesses such as AIDS, tuberculosis and lung cancer.

As a signatory to the United Nations Decade of Action, South Africa committed itself to the reduction of deaths resulting from road accidents by 50% by 2020 based on 2010 figures. Road accident statistics show that pedestrian jay walking is the highest cause of road accident fatalities, followed by speed. In terms of the safe system approach, interaction between roads, vehicles and road users must be considered holistically, as they all contribute to road safety or the lack thereof. The theory of causation is discussed in order to understand the relationship between aspects that contribute to safety. While road safety awareness and educational campaigns play a role in influencing human behaviour, road infrastructure and vehicles must be built in such a way that is accommodating or forgiving in terms of human error. Corruption within the traffic fraternity undermines law enforcement efforts that are critical to create a culture of road safety.

### KEYWORDS/PHRASES

Road safety, law enforcement, road accidents, causations, cost of crashes, corruption, fatalities, safe system approach, forgiving roads.

## INTRODUCTION

Transport plays a key role in all spheres of society, including household, community or education. We need transport to travel to work, school, move raw material from production to the points of sale, etc. According to the Annual State of Cross Border Operation Report (ASCBOR) (2016:6), a region or a country's ability to achieve significant growth levels and compete in global markets is strongly dependent on its ability to move goods, services and people in a cost-effective manner. This includes safety of both people and goods, as well as the speed at which commodities are moved from the point of origin to its destination. Road transportation systems are key to socio-economic development in Africa to enable the region to participate in global markets, particularly due to the fact that 40% of countries in Africa are landlocked, out of which six countries, namely Lesotho, Botswana, Zimbabwe, Zambia, Malawi and Swaziland, are within the South African Development Community (SADC) region. SADC countries are geographically distant from major trading partners that are required to unlock economic potential. South Africa has an interest in the economic development and well-being of both South African Customs Union (SACU) and SADC member countries because problems in any of those countries spill over to South Africa.

Road accidents are a threat to the safety of humanity and socio-economic development as they reduce people's life expectancy and physical ability to enjoy quality life and create wealth.

## THEORIES OF ACCIDENT CAUSATION

According to Toft, Dell, Klockner and Hutton (2012:1), an accident can be defined as "a short, sudden and unexpected event or occurrence that results in an unwanted and undesirable outcome ... and must directly or indirectly be the result of human activity rather than a natural event". Toft et. al. (2012:3) indicate that authors have over the years, developed several theories in an effort to explain the mystery of accident causation. Linear models that suggested that there are several factors waiting to be activated by one, like a domino effect, leading to an accident occurring, were developed. Other models developed argued that there are complex factors that act concurrently, resulting in an accident.

Simple linear models are based on the assumption that accidents occur as a result of several events or circumstances that directly interact with each other. In terms of this theory, accidents can be prevented by eliminating one of the causal factors. Heinrich's Domino Theory or Domino effect is an example of a simple linear accident model. According to Heinrich (1931) (as cited in Raouf 2011:1), 88% of all accidents are caused by unsafe acts of people, 10% by unsafe actions and 2% by acts of God. This researcher identified five factors that occur in a linear sequence leading to the occurrence of an accident namely

social environment, human fault, hazardous factors, accident and injury, as indicated in figure 1 below:

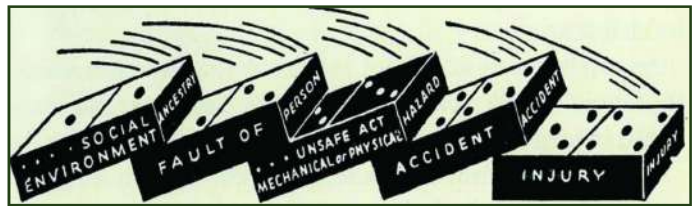


Figure 1:

Heinrich's domino model of accident causation (Marsden 2017:1)

Heinrich (1931) argues that by removing one factor, eg. the unsafe act, an accident will not be triggered and that there will therefore be no subsequent injury.

Complex linear models are based on the assumption that accidents are caused by a chain of events between multiple causal factors. This theory suggests that there may be sub-causes that all contribute to the occurrence of an accident. Raouf (2011:1) indicates that the contributory factors of the complex linear theory can be grouped into the following categories:

Behavioural factors pertaining to the worker:

- Improper attitude;
- lack of knowledge;
- lack of skills; and
- inadequate physical and mental condition.

Environmental factors:

- Improper guarding of other hazardous work elements;
- degradation of equipment; and
- unsafe procedures.

Complex non-linear accident models assume that there may be multiple factors that contribute to accidents and that they do not necessarily occur in a sequence. Toft et. al. (2012:16) define a system as "interrelated components that are kept in a state of dynamic equilibrium by feedback loops of information and control". The systems theory recognises that a system consists of subsystems and components that interact, thus affecting the whole. Four of the identified sources are:

- humans;
- technology;
- latent conditions; and
- barriers.

Although the above discussion is based on research in the occupational health and safety environment, the principles and application are relevant to road safety. Raouf (2011:1) asserts that the belief that accidents are caused and can be prevented enables people to find the root cause so that measures can be put in place to prevent the recurrence of accidents. The root causes may be grouped as immediate or contributory causes. Immediate root causes include unsafe human actions and environmental conditions, while contributing causes could be the mental or physical condition of the operator (driver) or environmental factors.

## SOUTH AFRICA'S REGIONAL COMMITMENTS

South Africa is a signatory to the Southern African Customs Union (SACU) Agreement between the governments of Botswana, Lesotho, Namibia, Swaziland and South Africa. The SACU Agreement, which was concluded in 1969, was renegotiated in November 1994 because it no longer catered for the needs of the customs union. The intention of the SACU Agreement is, among others, to increase investment opportunities and enhance economic development within the Common Customs Area. According to article 1 of the Southern African Customs Union Agreement (1994), Common Customs Area means the combined areas of Botswana, Lesotho, Namibia, South Africa and Swaziland. In the spirit of the SACU Agreement, noting that member states are at different levels of economic development, it is imperative for them to cooperate; eliminate impediments that might limit development; and harmonise trade policies and procedures. South Africa must have an interest in the economic development and well-being of its neighbouring countries because any problems in those countries will spill over to South Africa. Mabila (2013:1) asserts that undocumented migrants and legal migrants from neighbouring countries often move to South Africa in search of a better quality of life and economic purposes. This influx affects South African labour markets and increases levels of unemployment due to limited work opportunities. It is therefore in the interest of all SACU member states to cooperate to ensure economic development in the region. Part of the contribution includes ensuring adequate road safety in each of the member states so that persons, goods and services can reach their destination without any impediments.

The SACU region further forms part of the South African Development Community (SADC). In addition to the SACU member states, SADC includes the Democratic Republic of the Congo, Tanzania, Angola, Zambia, Malawi, Mozambique, Zimbabwe, Comoros, Seychelles, Madagascar and Mauritius (see figure 2). The objectives of SADC include the achievement of economic growth and the alleviation of poverty among all people in the region through regional integration (SADC, 2012).



Figure 2:  
SADC member states. © SADC 2012

Road and border post infrastructure is crucial for goods, people and services to move from point of origin to point of destination in an economic and efficient manner. The ASCBOR (2016:2) indicates that road infrastructure in the region is generally in an unacceptable condition and that border posts are inadequate, therefore causing unnecessary delays to road users.

Challenges such as poor road infrastructure, unsafe roads, accidents, congestion along the roads, delays at cities where commercial vehicles need to pass through and bottlenecks at border posts, lead to higher costs for transportation and trade thus making South Africa uncompetitive against her counterparts in the region (ASCBOR, 2016:3). This also discourages investors that could contribute to economic development.

## SOUTH AFRICAN VISION 2030

The South African Government developed a National Development Plan, also known as Vision 2030 which is the country's vision to eliminate poverty and reduce inequality by 2030. The view of Government is that while South Africa is a democracy, not all South Africans experience economic freedom as many people still live in poverty where few are working. The enabling milestones for the NDP (2011:34) include:

- Increasing employment from 13 million in 2010 to 24 million in 2030; and
- establishing effective, safe and affordable public transport, lower infrastructure and lowered cost of doing business and strengthening the functioning of the labour market.

Efforts towards the creation of the 11 million additional jobs include the improvement in coordination and implementation of policy as well as partnerships between the public sector, private sector and labour. It is important to understand how road infrastructure, transport systems and safety contribute to the achievement of Vision 2030. Of all the objectives of the NDP, the following stand out:

- Raising employment through economic growth;
- improving quality of education, skills development and innovation; and
- building the capacity of the state to play a developmental, transformative role.

As indicated above, transport plays a major role to enable the government and society to achieve these objectives. Economic growth or better education is not possible without effective and efficient transport systems to move goods, services and people around. The NDP (2011) acknowledges that poor transport infrastructure and barriers related to tariffs in the region, deter investment and internal trade due to the high cost of doing business. Poor transport infrastructure and unforgiving roads increase the possibility of road accidents.

## Objectives of the NDP

The NDP has 12 objectives of which four are highlighted infra as relevant to issues related to road safety.

## **Objective 2: increased life expectancy for both males and females to an average of 70 years.**

This objective is based on the concern that there has been an increase in infectious and non-communicative diseases. HIV/AIDS is epidemic, while the high levels of tuberculosis, maternal and child mortality and violence and injury levels contribute to the reduction in life expectancy to an average of 45 years. Women are dying at a younger age than males. Injuries are inclusive of those arising from road accidents due to factors such as unroadworthy vehicles, irresponsible driver behaviour and alcohol and substance abuse.

## **Objective 3: People are and feel safe**

Personal safety is regarded as a human right. All people must be safe and feel safe. This objective is also relevant to road safety as all people must have the confidence that they will arrive at their destination without being victims of accidents on the road or failing to arrive at all.

## **Objective 6: Infrastructure**

The NDP (2011) acknowledges the importance of infrastructure not only for economic growth but also to promote inclusive growth and provide means for people to improve their own lives. The road infrastructure must be such that it enables people to live long, work and create wealth for themselves and not reduce their lifespan and quality of life through accidents.

## **Objective 12: Ethical public service**

The government must take the lead towards building a developmental state. Public servants must be professional and skilled in order to provide services of a high quality. Unfortunately, corruption is a challenge which is linked to the matter of ethical public service which works against the achievement of a developmental state. Corruption can be summarised as an act of accepting gratification from someone else in order to influence a decision in a dishonest manner. Simply put, it is the abuse of entrusted power for private gain. Section 3 of the Prevention and Combating of Corrupt Activities (PCCA) Act 12 of 2004 defines the general offence of corruption as follows:

"3. General offence of corruption

Any person who, directly or indirectly -

(a) accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or

(b) gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person;

in order to act personally or by influencing another person so to act, in a manner -

(i) that amounts to the -

(aa) illegal, dishonest, unauthorised, incomplete, or biased; or

(bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;.."

This Act also defines gratification to include, among others, money, property, a service or a favour, employment, any real or pretended aid, vote, consent, influence or abstention from voting, or any valuable consideration or benefit of any kind, including any discount, commission, rebate, bonus, deduction or percentage. People might be exposed to corruption when a government official charges them for a service to which they had a right. The official could take advantage of or creates bureaucracy in the system to try and convince people to pay for services which are free. The preamble to the Prevention and Combating of Corrupt Activities Act 12 of 2004 indicates that a comprehensive, integrated and multi-disciplinary approach is required to prevent corruption and related activities.

According to Transparency International's Corruption Perception Index 2018, South Africa ranked 73 out of 180 countries in 2018 based on perceptions of respondents. These perceptions are supported by scenes of traffic officers who are arrested for taking bribes from motorists on South African roads or at testing stations and which have become a common sight.

The International Monetary Fund (IMF) (2016) emphasises that corruption undermines growth and economic development. In South Africa with its perceived high levels of corruption, this may discourage potential investors from investing in the country or the region because of income lost to corruption. Other countries that contribute to the economy of a country by using corridors, might decide to bypass a country where they are required to pay bribes to obtain government services. Furthermore, corruption might increase road accidents if unroadworthy vehicles are allowed to operate on roads, unlicensed drivers are passed without adhering to the licensing requirements, or traffic infringements are allowed in exchange for a bribe.

## **ROAD SAFETY INSTRUMENTS**

South Africa is a signatory to the United National Decade of Action (UNDA) which plan is an effort to reduce deaths as a result of road accidents globally. This section focuses on this commitment and the effort made to achieve reduced road fatalities and accidents. The National Road Safety Strategy is discussed in detail because the strategy must be implemented to enable the country to achieve the desired reductions. It is imperative for all road users to understand the strategy as the heart of road safety where every road user can make a contribution.

## **United Nations Decade of Action (2011 - 2020)**

South Africa, as signatory to the United Nations Decade of Action, committed to the reduction of serious injuries and deaths due to road accidents by 50% by 2020 based on 2010 statistics; in an attempt to save five million lives. The Global Plan for the Decade of Action (2011 - 2020) indicates that about 1.3 million people die annually due to road accidents, which

amounts to an average of approximately 3000 people dying each day. In addition, between 20 and 50 million people sustain non-fatal injuries of which some lead to disability, annually (WHO, 2010:3). Half of those killed are said not to be travelling in a motor vehicle, which makes them pedestrians, bikers, etc.

Through the UN Decade of Action, countries are encouraged to implement initiatives and activities to reduce death as a result of road accidents in line with the five pillars, namely road safety management; safer roads and mobility; safer vehicles; safer road users; and post-accident response. In 2010, the actual road accident fatalities in South Africa were standing at 13 967, which should be reduced to 6984 by 2020 in order to achieve the 50% target (NRSS 2016-2030). Table 1 below indicates the actual fatality statistics against set targets since 2010 to 2018. Although there have been reductions over the years, the numbers have always been above the targeted figures. Furthermore, the years 2016 and 2017 recorded the highest increases since 2010 which is a clear indication that South Africa will not achieve the UNDA target by 2020.

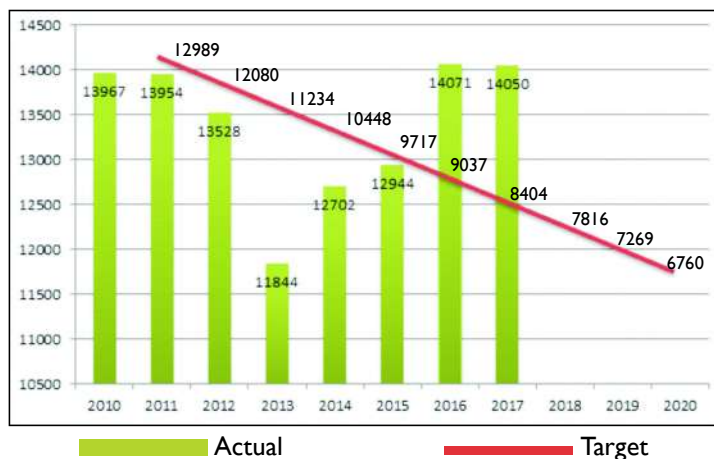


Table 1:

Actual fatalities versus UN decade of action target from 2010-2020.

Source: NRSS (2016 - 2030)

## National Road Safety Strategy (2016 - 2030)

South Africa developed a National Road Safety Strategy (NRSS) (2016 - 2030), which is aligned to the UN Decade of Action and intended to reduce fatalities and injuries as a result of road accidents in South Africa. The strategy considers road safety as one of the most pressing issues, noting that, according to World Health Organisation (WHO), by 2030, road accidents are expected to be the fifth leading cause of death worldwide and might overtake HIV/AIDS and tuberculosis. The National Development Plan (2030) regards road accidents as a health issue, but also highlights that the South African health system has been poor over the years resulting in 83% of the population utilising public health services with the remaining 17% utilising private services. This means that the majority of low-income South Africans have to endure poor quality health services.

According to Roux (2016), the impact of road accidents on the South African society is measured in terms of lives lost, pain and grief and the cost to the economy. Diedericks (2014:1) argues that road accidents are a leading source of trauma worldwide. This has a huge impact on the productivity, careers and economic conditions of victims as they experience a loss of income, loss of capacity to work (such as due to the loss of a limb) and/or the loss of earning potential. Diedericks (2014:4) further refers to research conducted by the European Federation of Road Traffic Victims, which found that road accidents can result in other damages to victims and their families, that are not directly costed. Challenges such as psychological stress leading to headaches and sleeping problems have also been reported.

Congestion due to road closures to allow emergency vehicles to attend to an accident, affects many other people who are not involved in the accident as they get delayed from reaching various destinations, such as their place of work. The National Road Safety Strategy estimated the cost of road accidents in 2017 at more than R162 billion which covered deaths, injuries and medical treatments, vehicle repairs and lost productivity in South Africa. This amounts to about 3.4% of the country's gross domestic product. In 2015, the cost of road accidents in South Africa was estimated to R142 billion as indicated in table 2 below:

Total cost of road traffic accidents (R million)					
	Fatal	Major	Minor	Damage only	Total
Human Casualty Costs	58 332	24 794	14 546	1 358	<b>99 030</b>
Vehicle Repair Costs	218	809	2 902	17 395	<b>21 324</b>
Incident Costs	2 018	5 113	2 740	12 723	<b>22 594</b>
<b>Total Cost</b>	<b>60 568</b>	<b>30 716</b>	<b>20 188</b>	<b>31 476</b>	<b>142 948</b>

Table 2:

Total cost of road traffic crashes.

Source: National Road Safety Strategy (2016 - 2030)

## Pillars of the NRSS (2016 - 2030)

The National Road Safety Strategy (2016 - 2030) is aligned to the Pillars of the United Nations Decade of Action, as indicated below:

### Pillar 1: Road safety management

Road safety management requires that a lead agency be created to lead and monitor the development and implementation of national road safety strategies and targets. The responsibility for road safety is attributed to multiple stakeholders, inclusive of all spheres of government, public entities and private organisations. In South Africa, the lead agency is the Road Traffic Management Corporation (RTMC). It is charged with the

responsibility to strengthen the relationship between the various stakeholders responsible for road safety, conduct research on road safety-related matters and ensure integration of data management systems.

### Pillar 2: Safer roads and mobility

This pillar is based on the safe system approach, which acknowledges that humans are fallible, therefore, the responsibility for safety on the road must be shared between individuals and those who design roads, operate and maintain road systems. This will enable a holistic approach to road safety. The following guiding principles are highlighted as important for the creation of a safe system:

- People make mistakes therefore the limits of human performance must be acknowledged;
- people become physically vulnerable when they are involved in a traffic accident, so their tolerance to violent forces is limited;
- everyone must take an individual and shared role in road safety to ensure a shared responsibility;
- there is a need for a forgiving road system which will help to minimise injuries and avoid deaths in the case of a road accident;
- a forgiving road system appreciates that human beings have shortcomings and will make mistakes on the road, therefore, transport systems must accommodate these and prevent accidents or serious damages in as far as it is possible; and
- a need for increased use of public transport which will reduce the number of vehicles on the road and hopefully contribute to a decrease in road accidents.

Road designs must accommodate human errors and limitations that might result in injuries or death. This requires interventions such as the identification of hazardous locations, the use of intelligent systems, research and road safety audits on new and/or upgraded roads. A 2014 report from the RTMC indicates that sharp bends were reported as the highest contributor to fatal accidents at 25%, followed by poor visibility and wet/slippery roads at 19.4% each. The safer roads and mobility pillar acknowledges that road design features such as sharp bends, blind corners, etc., contribute to human error and must therefore be addressed.

### Pillar 3: Safer vehicles

This pillar focuses on a need for deployment of improved vehicle technology to save lives in the case of a road accident. Interventions in this pillar include the fitment of protective technologies such as safety belts and airbags to vehicles. The framework for safer vehicles encourages the development of global safety standards, vehicle safety technologies and incentives to encourage voluntary compliance to road safety. A 2014 RTMC study indicates that issues related to tyres were reported as another one of the highest causes of road accidents. Khorasani, Tatari, Yadollahi and Rahimi (2013:110) assert that Intelligent Transport Systems (ITS) have a great potential to improve road safety for various road users.

ITS is defined as:

"systems in which information and communication technologies are applied in the field of road transport, including infrastructure, vehicles and users, and in traffic management and mobility management, as well as for interfaces with other modes of transport".

Khorasani et. al. (2013:115) argue that technology such as driver assist systems (which include collision avoidance system, dynamic vehicle control, etc.) can prevent road traffic accidents as they have the potential to prevent human errors. Automation of control functions or some of the functions that were traditionally performed by humans can contribute to a reduction in road accidents. With the dawn of the 4<sup>th</sup> industrial revolution, (full/partial) forgiving, driverless cars are entering markets and it can therefore be expected that they will have a positive impact on road safety as it is intended for them to reduce or eliminate human intervention.

### Pillar 4: Safer road users

The safer road users pillar is aimed at strategies that improve the behaviour and attitudes of road users. Emphasis falls on sustained enforcement of laws and standards as well as road safety awareness and education. According to UK Essays (2018:1), various researchers agree on five factors that contribute to road accidents namely bad weather, the condition of the road, human behaviour, the condition of the vehicle and leniency of law enforcement.

The RTMC has classified three factors contributing to fatal road accidents namely human, vehicle and environmental factors. In terms of the RTMC causal analysis of fatal accidents report (2014), 73.6% of fatal road accidents were as a result of human factors, 14.1% were as a result of vehicle factors while only 12.3% of road accidents were as a result of roads and environmental factors. These statistics are said to compare favourably with international trends in terms of the weight of contributory factors. Figure 4 below provides a breakdown of human factors contributing to fatal accidents as reported in the National Road Safety Strategy (2016 - 2030).



Figure 4:

Human factors resulting in fatal crashes (NRSS 2016 - 2030)

The above table shows that pedestrian jaywalking was the highest cause of road accident deaths, followed by high speed.

Pedestrian behaviour may be affected by a lack of infrastructure such as bridges and sidewalks. It is worth noting that the above factors may be addressed through road safety education and law enforcement interventions.

The National Road Safety Strategy indicates that there has been a new trend that contributes to road accidents namely distracted and inattentive driving. This refers to the tendency of drivers to engage in secondary activities such as talking on cellular telephones, applying make-up, reading newspaper, shaving, etc. while driving, which cause distraction to the driver.

Driving under the influence of alcohol and/or other dependence producing substances is also highlighted as a problem in South Africa (NRSS 2016 - 2030). Alcohol is highlighted as contributing to about half of the accidents that occur on the roads with young road users being more vulnerable. Rolison, Regev, Moutari and Feeney (2018:11) report that while causes of vehicle accidents are complex, they largely depend on the characteristics of drivers. These researchers further indicate that factors such as risk-taking and a lack of experience played a role in road accidents where young drivers were involved. Accidents involving older people were linked to errors such as failure to see certain objects on the road, ignoring road signs and improper turns or line changes. Medical conditions and poor vision are associated with high risk of crashes among older drivers.

### **Road safety education and awareness**

One of the important aspects of road users (pillar 4) is to educate motorists, pedestrians, passengers and all other road users about safety on the roads. Law enforcement and road safety education play a major part in reducing the contribution of road users to road accidents. The Department of Transport is collaborating with the Department of Basic Education in South Africa to include road safety in the Life Orientation curriculum. This will help to create a culture of road safety among children who will hopefully grow up to be responsible road users.

Hoekstra and Wegman (2011:80) assert that human behaviour is of interest to road safety professionals because people are prone to make mistakes. Road safety campaigns, such as education and training, are important to influence road users to behave more safely and appropriately on the roads. Road safety publicity campaigns aimed at promoting safe road usage have the following purpose namely to:

- Raise awareness;
- change the attitudes of road users; and
- change behaviour.

Considering the impact of road safety campaigns, the World Health Organisation concluded that these can influence behaviour when combined with other initiatives such as legislation and law enforcement. Campaigns must be targeted at specific behaviour that needs to be changed, such as the use of safety belts, for them to be effective.

Mass media educational campaigns are based on the belief that they reach the majority of the population. According to

Hoekstra and Wegman (2011:81), this is based on the assumption that the majority of the population either watch television, read newspapers or listen to the radio. However, people with lower levels of education are less likely to be reached through mass media messages. This is not because of a lack of understanding, but research has shown that they are less likely to pay attention to such messages. The best way to reach this sector of society is through personal, direct campaigns. Mass media campaigns must take the following into consideration for them to be effective:

- Identifying specific behaviour which the campaign aims to change;
- targeting a specific audience such as adults, youth, the working class or pedestrians;
- ensuring that the message content is relevant and acceptable to the target audience;
- confirming that the selected media is accessible and of interest to the target audience; and
- ensuring that the timing of the campaign is right for the message to be well-received.

Road safety awareness campaigns that induce fear are based on the belief that people become more motivated to change behaviour when they see the alarming consequences of similar behaviour on others. However, Hoekstra and Wegman (2011:82) argue that fear appeals might make people avoid the message or become defensive, questioning the authenticity of the message or believing that it will not happen to them.

Understanding the culture and attitude of the target audience is important before a decision is made about which media campaign needs to be employed. For example, in the Netherlands, road safety campaigns emphasising humour rather than fear, are used. Countries such as New Zealand, Australia and United States prefer to use explicit pictures of road accidents, inducing fear as a way of changing road user behaviour (Hoekstra and Wegman 2011:83).

### **Pillar 5: Post-crash response**

The post-crash response pillar is aimed at ensuring that emergency response after a road accident is increased, so that victims can get medical treatment. The South African National Roads Agency Limited (SANRAL) is an independent, statutory company established in terms of the South African National Roads Agency Limited and National Roads Act 7 of 1998. Its mandate is to finance, improve and maintain the national road network of South Africa. In 2011, South Africa's national road network was more than 18 000 km.

There is high volume of heavy motor vehicles and commercial vehicles that traverse national roads daily. As noted supra, the high rate of accidents and incidents lead to delays and congestion in traffic which challenges emergency services such as traffic police and medical services to be activated and reach accident/incidence scenes. SANRAL is responsible to ensure that roads operate optimally including that traffic is flowing smoothly. As indicated supra, the cost that is paid by all road users being stuck in traffic is very high and has a negative impact

on economic development. Road Incident Management System (RIMS) establishes best practices and common standards in responding and dealing with incidents on the roads. RIMS provides technology that makes operations effective and efficient from detecting an incident on the road, to activating emergency services and alerting road users of the incident (information) until the road is cleared and traffic can flow again.

## **CREATING A CULTURE OF ROAD SAFETY**

The achievement of safety on the roads requires a multi-faceted approach targeting all elements of the challenge. This is in line with the safe system approach which requires a holistic view of the road systems and interaction between roads, vehicles and road users. The following is a summary of some of the efforts that should be made to create a culture of road safety in South Africa and the region to contribute to economic development.

### **Strengthening road safety legislation**

Road safety laws are critical in controlling road user behaviour and can therefore reduce traffic-related injuries and deaths. Road safety legislation must be supported by strong enforcement (WHO 2015:18). Law enforcement will be credible and effective if law enforcement officers are ethical and free from corrupt activities. Effective law enforcement requires adequate resources and effective administrative processes. Public awareness campaigns to increase understanding and education are also effective in supporting compliance with road safety legislation.

### **Forgiving transport systems**

Bekiaris, Wiethoff and Gaianidou (2011:15) define a forgiving road as:

"a road that is designed and built in such a way as to interfere with or block the development of driving errors and to avoid or mitigate negative consequences of driving errors, allowing the driver to regain control and either stop or return to the travel lane without injury or damage".

This is based on the concept of sustainable safety which requires that transport systems be designed in such a way that it accommodates human limitations. The intention is to ensure that factors that contribute to road accidents would rather be prevented and that if they happen, reduce their impact.

Forgiving roads are designed in such a way that they accommodate road users (human factor) and do not have unnecessary hazards or obstacles. Alina, Otaia and Mihai (2015:2) refer to unforgiving obstacles such as walls that might lead to collisions and/or obstruct driver visibility. The authors also provide an example of drainage systems that might be more of a hazard if they are built too close to the road. An unforgiving road does not accommodate human error and limitations; therefore, road accidents cannot be prevented.

In the same way, advanced technology must be used to build forgiving vehicles that will accommodate human errors and not cause damage or limit such, should an accident occur. Another element that can be added is "forgiving road users". Road users must understand that other people, including themselves, are fallible and must be forgiven when they make mistakes on the road. This will reduce fights on the roads (so-called road rage), which sometimes lead to accidents as people argue that they were right.

### **Enforcing national speed limits**

Speed limits are set for different areas and roads which means that the speed limits for rural areas, highways and neighbourhoods are not the same. Enforcement of speed limits must be done on a continuous basis to control driver behaviour and various solutions are available in the market that can be used to monitor speeds.

### **Pedestrian safety**

Efforts must be made to educate pedestrians about their own safety. However, the WHO (2015:48) indicates that pedestrian injuries are mostly caused by the impact of the vehicle more than by hitting the ground. Therefore, vehicles must be built with more "forgiving fronts" in the form of softer bumpers without rigid structures that may cause more injury to humans. Collision avoidance systems that enable vehicles to detect obstacles and reduce speed or avoid collision should become standard in all newly built models.

Furthermore, efforts must be made to educate motorists to respect pedestrians and always be on the lookout for them. Roads may be designed making provision for pedestrians, such as crossings or proper sidewalks, but these will not be effective unless both pedestrians and motorists recognise their use.

### **Enforcement of alcohol- and drug-driving legislation**

Detecting the levels of drugs or intoxicating substances in drivers' system is more complicated than testing them for alcohol. The word "drugs" is often used but it encompasses a wide variety of substances that impair a person's concentration and response abilities. Alcohol- and drug-driving detection requires intensive law enforcement through random checks and the use of detector devices. Vehicle manufacturers can assist by installing alcohol- and drug-detecting devices that will immobilise a vehicle upon detection of such substances.

### **Increase safety belt use**

All vehicles must have standard-issued safety belts for all passengers and be equipped with child restraint anchorage points to secure child seats. Road safety education and awareness campaigns, as well as law enforcement must be conducted to ensure the mandatory usage of safety belts and child seats.

## Reducing distracted driving

The growing use of cellular phones, including texting, while driving is one of the areas of serious concern which requires policymakers to restrict and authorities to enforce. Talking or texting while driving is said to reduce driving considerably, with young drivers being more at risk (WHO, 2015:43).

## Dealing with corruption within the traffic fraternity

Effective and stern law enforcement is required to enhance the culture of road safety. Corruption undermines the efforts made to increase road safety and save lives and as noted supra, the arrest of law enforcement officers for corruption in South Africa is becoming a common sight in the media. The concern is raised in the NRSS (2016 - 2030) that the number of licensed drivers grow at a higher pace than population growth. The concern is mainly lodged about the quality of drivers produced as well as "multiple claims of corruption within the driver licensing and vehicle testing sector". Apart from law enforcement officers arrested for allegedly taking bribes from motorists on the road, arrests have been affected at Driver-Learner Testing Centres (DLTC) and Vehicle Testing Centres (VTC). In order to curb this, anti-corruption educational and awareness campaigns are held at the various DLTCs and VTCs.

## THE IMPACT OF ROAD SAFETY ON SOCIO-ECONOMIC DEVELOPMENT

Socio-economic development is defined as a process of social and economic development in a country or region (Kapur, 2018:1). It entails improving people's lifestyle through employment, skills development and improved education. South Africa's commitment to a better life for all, is a statement of socio-economic development. Indicators such as the Gross Domestic Product (GDP), life expectancy, employment rates and education levels are used to measure socio-economic development. GDP refers to the total value of goods and services that are produced by the country within a given year. Socio-economic development should lead to improvement in the general well-being of citizens.

The ASCBOR (2016:6) focuses on the functioning of transport infrastructure from an economic perspective. Transport and logistics services must enhance seamless flow of commercial (and other) vehicles from the point of origin to the point of destination. Raw materials must flow smoothly along road corridors to ports where they get exported to various destinations while finished and/or imported products also travel back through the same corridors. However, bottlenecks caused by various factors, including road accidents, hamper industries that rely on road transportation for their operations and the associated economic development.

Having established that transport plays a major role to enable the movement of people and goods from the point of origin to the point of destination, it goes without saying that this

will only contribute to socio-economic development if systems are effective and efficient. The ideal which governments are striving for through safe, effective and efficient road transport include the following:

- Passengers, goods and services will reach their destination in a good condition, safely and people will arrive alive;
- life expectancy will increase as people will die of other causes rather than road accidents, whereas it was indicated that road deaths are expected to be the leading cause of death by 2030;
- the absence or reduction in injuries and/or disabilities will reduce post-crash financial burden on the fiscus. Resources can be used to fund other projects that contribute to socio-economic development, such as education, skills development and employment opportunities;
- people of an employable age will be able to contribute to the national income as they will be healthy and able to work, free from road accident-related injuries/disabilities that lead to a loss of income and increase dependence on state funds;
- reduced accident-related congestion will enable domestic and cross-border operators to create wealth as passengers, goods and services will move as planned. There might be other impediments within the region, such as border delays, but safety on roads will reduce some of these factors. This will increase investments as investor confidence increases.
- when more people are able to create wealth for themselves, they will be able to employ others, therefore reducing the high unemployment rates in South Africa; and
- law enforcers will have integrity and not take bribes in order to create a culture of compliance with road legislation.

## CONCLUSION

South Africa, as a developing country, needs effective and efficient road networks that enable people, goods and services to be moved from the point of origin to the point of destination. Fatalities as a result of road accidents are increasing and fast becoming the leading cause of death both locally and globally. It is important to understand the complexity and causes of road accidents in order to design solutions to address the challenges. Solutions for a complex challenge must be multi-faceted and integrated. The importance of forgiving solutions that cater for human error and shortcomings cannot be overemphasised. Road safety education and awareness, standards, law enforcement and advanced technology must be activated in an integrated manner to address road safety and allow economic growth in the region.

Road transport systems play a major role in the socio-economic development of the SADC and SACU regions. Persons, goods and services traverse the different countries in search of trade opportunities. Foreign road users are expected to respect the local road and other legislation and in turn, their lives should be protected, as with all other people in South Africa. Harmonisation of road safety policies within regional

member states will reduce road accidents locally as foreign road users will know the road safety rules. South Africans will then be able to live longer and create wealth, thus contributing to the national income.

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# ARTICLE

## THE DETERRENT VALUE OF PUNISHMENT ON CRIME PREVENTION USING JUDICIAL APPROACHES

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### ABSTRACT

Preventing future criminal activities is in all likelihood the principal aim of any criminal sanction. Criminal systems around the world consider imprisonment as the most important form of sanction. There are two basic functions of imprisonment: First, criminals are incapacitated, therefore they are prevented from committing further crimes. Second, the threat of being incarcerated, or the experience of incarceration, should deter potential criminals from offending. While the incapacitating effect of imprisonment is due to the mechanical removal of criminals from society, its deterrent effect presumes that individuals change their criminal behaviour in response to the severity of sentences. Policymakers often advocate the deterrent role of imprisonment as an effective approach to crime reduction. Deterrence is a function of the declaration of some harm, loss, deprivation or pain that will follow non-compliance with command. The central tenet of deterrence is based on the concept of threat which involves a threatening agent and a threatened audience. In this article, the concept of deterrence, in particular its function as the motive and justification for crime control, will be empirically analysed. It will subsequently be determined whether deterrence can be an effective tool for crime prevention.

### KEYWORDS/PHRASES

Special deterrence; general deterrence; punishment; crime prevention; sentencing.

### INTRODUCTION

"It is better to prevent crimes than to punish them." - Beccaria.

Deterrence as a means of controlling crime dates back hundreds of years. Cesaria Becaria and Jeremy Bentham contributed a great deal to the development of the theory of deterrence (Reid, 2011:77). In his 1764 essay entitled "On crime and punishments", Becaria argued that the prevention of crime was to be accomplished through the mechanism of deterrence,

which was founded on certain assumptions regarding human nature (Brown, Esbensen & Geis, 2015:142). He further noted that deterrence employs threats of punishment to influence behaviour. Beccaria outlined the variables that are still considered the basis for research on deterrence, namely, the certainty of punishment; the severity of punishment; and the swiftness

of punishment (Livingston, 1996:501). Crime prevention can be achieved through the proper manipulation of these factors. Failure to apply these principles in a consistent manner will lead to a rise in crime. In terms of the certainty of punishment, Beccaria states that as the perceived certainty of punishment increases, the probability of norm violations declines. In terms of the severity of punishment, it was determined that the severity of punishment was justifiable and it accomplished the desired deterrent effect but only up to a certain level. Although the severity of punishment was given less recognition than the certainty of punishment, it was concluded that the certainty of punishment, even if moderated, will always make a stronger impression than the fear of another punishment which is more terrible but is combined with the hope of exemption from punishment. In terms of the swiftness of punishment, it was determined that the swifter the punishment response, the more the probability of norm violation decreases. Thus, if the punishment is more certain, swift and severe in response to a criminal act, then people will refrain from committing such a criminal act.

Like Beccaria, Bentham is widely recognised for his contribution as a criminal reformer rather than a theoretician. After identifying inconsistency and cruelty in the administration of justice in his time, Bentham responded by advocating that the punishment of offenders should not be guided by retribution but rather by the aim of preventing crime. He further noted that actions should be judged according to whether they contribute to happiness and benefit humanity; and, because criminal acts do not contribute to happiness they should therefore be prevented (Brown et. al., 2010:182).

Although deterrence has various definitions, it is based on the idea that a person is prevented from doing certain things because she or he knows the severe consequences they might suffer by taking such action (Tonry, 2008). In deterrence, punishment is used to prevent the criminal and others from committing the same offence. History indicates that earlier modes of punishment were for the most part deterrent in nature, ensuring that people refrained from committing an offence because of the unpleasant punishment that would follow its commission (Paranjape, 2005:204). As for the fear associated with it, punishment increases the chances of people complying with the law. Unlike retribution where the aim is to inflict pain that offenders might deserve because of their past actions, the aim of deterrence is for punishment to affect future actions.

## CRIME PREVENTION: A CONCEPTUAL DILEMMA

Crime prevention is a vague concept with different interpretations to different people. For some, crime prevention might refer to a programme such as a neighbourhood watch, while others might refer to one of the varying theories of the causes of crime and the possibilities to prevent it; for example, by getting rid of its causes. As Walklate (2005:160) states "there are three broad approaches to causes of crime, i.e. psyche,

opportunity and structure and they all articulate different ways of thinking about crime prevention". Those who think that crime is caused by the criminal mind (psyche) might only opt for solutions that emphasise the importance of deterrence and incapacitation. Those who believe that circumstances lead to criminal behaviour (opportunity) opt for solutions that will change the social and/or physical setting in which crime occurs. Those who believe in the structural approach tend to believe that crime prevention can only be allowed if efforts are made to alleviate social and economic inequalities. Over the years, crime prevention has been defined in many ways by different public agencies and scholars. The National Crime Prevention Council (1997:2) defines crime prevention as "a pattern of attitudes and behaviours directed at both reducing the threat of crime and enhancing the sense of safety and security, to positively influence the quality of life in our society and to help develop an environment where crime cannot flourish". The United Nations (2010:9) defines crime prevention as strategies and measures that seek to reduce the risk of crimes occurring, and their potential harmful effects on individuals and society, including fear of crime, by intervening to influence their multiple causes. Crime prevention covers all measures that are intended to reduce or otherwise contribute to reducing crime and citizens' feelings of insecurity, both quantitatively and qualitatively, either by directly deterring criminal activities or through policies and interventions that reduce the potential for crime and its causes. Martin (2008:325), however, believes that crime prevention is that activity which is directed at sound personal development and adjustment, the provision of adequate preventive services and the improvement of environmental conditions. Nevertheless, crime prevention entails any action designed to reduce the actual level of crime and/or the perceived fear of crime (Lab, 2016:23).

Crime prevention should however not be confused with crime control. While crime prevention involves any attempt to eliminate crime prior to the initial occurrence or before further activity, crime control alludes to the maintenance of a given or existing level and the management of that amount of behaviour. **Prevention** involves steps taken **before** and **control** involves steps taken **after** the commission of the crime. Unlike prevention, control fails to adequately address the problem of fear of crime. Crime prevention is proactive and encompasses all programmes or initiatives that are implemented in order to reduce the impact of crime. Crime control, in contrast, is reactive and encompasses the controlling of specific crime events that have already occurred. While defining crime prevention by results rather than programme intent or content, Sherman and Hawkins (2001:5) focus on three crucial questions: first, one should ask what the independent effect of each programme or practice on a specific measure of crime is; second, one should ask about the comparative return on investment for each programme or practice using a common metric of lost and crimes prevented; and, third, we need to establish what conditions in

other institutional settings are required for a crime prevention programme or practice to be effective or to increase or reduce its effectiveness.

Crime prevention is a difficult beast to tame. Recently, there have been four identifiable strategies aimed at tackling crime where each of these has a different focus on where the cause of crime lies. Though they are not mutually exclusive and do not frequently exist side by side, these trends vary in their political popularity. They are offender-centred strategies, victim-centred strategies, environment-centred strategies and community-centred strategies (Walklate, 2016:55). Of particular interest is the offender-centred strategies where crime prevention focuses on the individual offender as both the cause and the cure of crime. It is related to all initiatives that are undertaken by the correctional system. Within offender-centred strategies it is believed that the correctional system works because it acts as either a deterrent to crime or as a means of incapacitating the offender. Imprisonment acts as quarantine for the criminally contagious. The view of imprisonment as having a preventive role is most frequently associated with those who adopt a tough political stance on law and order that appeals to a wider range of people. Not only is the preventive role of imprisonment focused on its deterrent role, it is also focused on its rehabilitative role which offers learning or behavioural work to individual offenders.

Another view on crime prevention, which is centred on the offender, is sociological rather than psychological in orientation. This is mostly visible in the youth justice system and social work that is primarily focused on getting young offenders to make amends for their offences as a way of getting them to understand the impact of their offence on the victim, or the general community. Although offender-focused work can take different forms, the rate at which most countries are sending offenders to the correctional system seems to embrace the view that imprisonment works much more readily than others strategies.

## **DETERRENCE THEORY**

### **Preventing crime through the threat of punishment**

There is no doubt that fear of punishment serves to deter most people from committing crime. Deterrence helps prevent future criminal activities because of the consequences suffered by convicted offenders. There are two types of deterrence, namely, special deterrence and general deterrence. Special deterrence applies to the offender who is punished for the crimes she or he committed in order for that the punishment to make him or her stay away from criminal activities in the future (Seiter, 2013:55). With special deterrence, the underlying principle is that anyone who experiences the suffering and unpleasantness of punishment will refrain from committing future criminal acts. As a means of protecting society, individual deterrence occurs after the offender has been apprehended,

prosecuted and convicted. With special deterrence there are three preventive functions of deterrence punishment regarding the special offender (Bentham, 2017:53), namely, the offender's physical power may be taken away either through incarceration or capital punishment; the infliction of punishment may be meant to take away the desire to offend, which results in rehabilitation; and through intimidation or fear the offender may refrain from reoffending.

On the other hand, general deterrence occurs when individuals other than those who are punished avoid criminal activity because they are afraid of the actions that might be taken against them (Stafford and Goodrum, 2015:2). The essence of general deterrence is the use of punishment against apprehended criminals to serve as an example, showing other individuals the consequences of failing to comply with the law. The miserable fate of those who fall into crime threatens the rest of society and keep them in line. Unlike individual deterrence, general deterrence is aimed at the whole community. It should be noted that most people refrain from crime because of the fear of getting caught and receiving severe punishment. While the objective reality of such dangers without a doubt affects perceptions, neither efficient nor harsh law enforcement will deter those contemplating crimes if they are not aware of the penal sanctions that come with it or are ignorant of the actual risks. Because of the lack of public knowledge about the details of the penal code, threats must be communicated, whether formally or informally, for them to be effective.

Very often people are not able to distinguish clearly between what is legal and what is illegal. Even worse, people may not have accurate knowledge about the credibility of legal threats in terms of the chances of being caught and being convicted. Because of a lack of accurate data regarding the chances of getting caught, even some crime analysts have trouble determining the odds of getting caught. As a result, the average person may not receive such information. There are also indications that some people might break the law because they underestimate their personal chances of arrest. The results of such over optimism cause them to miscalculate what the cost to them will be in relation to the benefits received, hence they may attempt to commit crimes even when it is riskier than they think. Since the actual chances of success are fairly good for many crimes, this irrationality caused by imperfect information may nonetheless lead to more successes than failures (Levine et. al., 1980:359).

A lack of information about the possibility of arrest would seem to be problematic for all attempts at deterrence, but in fact a high degree of public knowledge about potential sanctions may not be essential (Wellman, 2005:26). First, and most important, is the fact that those who have committed crime or are planning to do so generally have a far better knowledge of criminal law than the public at large. Second, special communication may be directed at the class of potential offenders to publicise, emphasise and dramatise the consequences of violations.

## Preventing crime through the certainty of threats

Crime would decrease if there were a 100% certainty that everyone who commits crime would be caught, convicted and detained. However, because there is a lack of information regarding such apprehension and the punishment received, certainty is a probabilistic notion. People who often commit crime do not even think about their chances of getting caught, especially those who are seeking material gain. These include muggers, embezzlers and price fixers, who spend large amounts of time plotting how to get away with their crimes (Tonry, 2008:25). Deterrence depends on closing the law enforcement net tightly enough around the criminal population so that the risk does not justify the probable payoff for any criminal activity.

The importance of certainty in making deterrence effective is suggested by several studies that have shown people's perception of the risks related to their self-reported criminality. Nevertheless, deterrence often fails because of the ease of committing many crimes. Problems with the criminal justice system give criminals a tremendous advantage when engaging in criminal activities, namely, invulnerability to arrest, irregular imposition of penal sanctions and legal immunity (Tonry, 2008:26).

## Preventing crime through severe sanctions

In order to ensure that deterrence works effectively, punishment must be painful enough to scare those who are contemplating crime. Punishment must offer more losses than gains. For example, small fines will not deter hired killers; hence, the need for efficient law enforcement. Determining the severity of punishment in instilling fear in those who might consider crime is, however, much more difficult. It is therefore important to ascertain the threshold necessary to deter particular kinds of offenders because inflicting punishment is not only costly for the government's resources but also for those who will be subjected to it.

In the criminal justice system, it is generally acknowledged that the order of severity, from most harsh to most lenient, is capital punishment, imprisonment, probation, suspended sentences and fines. However, this list differs from one country to another because, for example, countries such as South Africa have abolished capital punishment. In other countries, however, some contend that capital punishment is less severe than life imprisonment as no pain will be experienced at death, while others suggest that death is the worst punishment that can be inflicted on a person.

Imprisonment, on the other hand, is an oppressive and brutal experience for most people. Although there are people who believe that imprisonment is preferable as it improves their living conditions, for most people the deprivation of freedom, privacy and autonomy makes it difficult for them to think about spending even a short time in detention. Even those offenders

who are detained under minimum security, which offers some privileges of life and greater freedom of choice compared to medium and maximum security, abhor imprisonment. Probation imposes constraints on criminal behaviour, supervision of daily activities and the continuing potential for revocation and consequently imprisonment, even though it allows the criminal certain freedoms, while fines on the other hand can create financial hardships even though they are often imposed on those who can afford them.

Unlike probation, suspended sentences allow offenders to walk free as they set no limits on behaviour. Although this may seem like a negligible punishment, the consequences to the perpetrators of serious crimes in some countries include that they lose certain privileges such as the right to vote, the right to hold public office, and the right to engage in certain occupations. In some countries, offenders may even lose the right to own licences, including driving licences and firearm licences (Tonry, 2008:27). Particularly in South Africa those with suspended sentences will have a criminal record and a person with a criminal record finds it difficult to get employment.

In addition to capital punishment, imprisonment, probation, suspended sentences and fines, forms of informal punishment also exist that may deter criminal activities. Arrest, whether it leads to any formal sanction, is a humiliating experience except for those who are used to it. Not only does arrest make it difficult for the offender to obtain employment, it also makes it difficult for the person to be accepted by society in general. In addition, if such a person were prosecuted, she or he would suffer financially and emotionally while mounting a defence. Although there is general agreement regarding the severity of punishment, it is not clear just how much more intimidating a harsh penalty is than a more lenient penalty. When legislators double the length of sentence from five to ten years for a certain crime, the punishment is presumed to be twice as heavy (Tonry, 2008:28). But beyond a certain level of severity, additional increments of punishment may easily be understood by those contemplating crime. Smaller differences in punishment at the low-end level, however, may have a greater impact than larger differences at the high-end. Diminishing returns may set in as penalties are increased to stratospheric levels.

No direct relationship has been uncovered between the severity of punishment and crime even though research has clearly linked greater certainty of punishment to lower crime rates. Multiple studies including Paternoster (2010:764-823) and Apel (2012:67-101) found that increases in significant penalties did not have a deterrent effect. It may be that those plotting to commit serious crimes are more concerned about the chances of being caught than the subsequent consequences if they are caught. However, if the possibility of getting away with the crime is great, the penalties may seem far-fetched. Murder is a special case because the high rates of apprehension make penalties worth contemplating and the longer sentences applied in some areas give some murderers a more frightening

picture of what could happen to them. Together with other research findings, this suggests that the combined effects of certainty and severity of punishment do yield less crime, also suggesting that severity deters only when certainty levels are high enough to make severity a concern.

In some instances, making sentences more severe may result in more crime than stopping it. There are several reasons for this. First, presiding officers (judges and magistrates) may hesitate to convict at all and may lean over backwards to require further evidence if prescribed penalties are excessively high. Second, criminals who might otherwise have committed a lesser crime may argue that they have nothing else to lose by committing other serious crimes. If a whole range of crime carries severe punishments, for example if punishment for burglary and robbery were the same, a criminal might use physical force against a resident in trying to obtain that person's property because the punishments were the same. Furthermore, if punishment for rape were the same as that for murder, a criminal might not see any reason for not killing the victim so that she or he could not testify against them. Third, heavier penalties may result in high recidivism rates. It is relatively easy to increase severity by simply amending laws and building more correctional centres but this may not deter the commissioning of crime.

### **Preventing crime through swift punishment**

For justice to be effective it must be swift (Tonry, 2008:29). Delays in the criminal justice system represent sustained punishment and the anxiety caused by the prolonged uncertainty may prevent receiving a clear-cut sanction right away. The long ordeal that defendants go through until conviction and sentencing may act as functional deterrence. In some instances where the accused is detained prior to the trial, delay may be most effective because of the miserable conditions the defendant experienced while she or he is detained.

### **THE MINIMUM SENTENCE AND DETERRENCE IN SOUTH AFRICAN COURTS**

In 1998, the Criminal Law Amendment Act 105 of 1997 was passed and led to the enactment of minimum sentences for a wide range of more serious offences which include murder, rape, robbery and serious economic crimes (South African Law Commission, 2000). The mandatory sentencing provisions also contain a section that allows for judicial discretion whereas courts may impose a lesser sentence in cases in which "substantial and compelling circumstances exist that justify the imposition of a lesser sentence" (Van Zyl Smit, 2000:5). The guidance provided to the courts is furthermore complicated by the different approaches in the case law to the so-called theories or aims of punishment. In *S v Khumalo 1984 3 SA 327 (A)*, the court held that:

"In the assessment of an appropriate sentence, regard must be had inter alia to the main purposes of punishment ... namely deterrent, preventive, reformatory and

retributive ... Deterrence has been described as the essential, all important, paramount and universally admitted object of punishment."

In a number of cases, deterrence has played a prominent role. This can be found in many cases that are violent in nature and those involving the abuse of women and children. The Constitution of the Republic of South Africa, 1996 and many major international instruments to which South Africa is a signatory state regard the rights of women and children very highly. Concerning rape, the late Chief Justice of this country, Mahomed C.J., in *S v Chapman 0 1997 (2) SACR (3) SCA* had this to say:

"The Courts are under a duty to send a clear message to the accused, to other potential rapists and to the community. We are determined to protect the equality, dignity and freedom of all women, and we shall show no mercy to those who seek to invade those rights."

Also in *S v Zitha and Others 1999 (2) SACR (W)*, it was similarly remarked that the courts should send a message to everyone in society, including the townships, that crimes of violence and, especially sexual violence against women and children will not be tolerated by the courts and that they will not shy away from their duty to protect society even if it means that severe sentences such as life imprisonment be imposed however painful it might be for the courts to do so. In the recent case, *S v Bhekibutho Vincent Nxumalo CC 94/14*, while delivering his sentence for two rape charges, murder, robbery with aggravating circumstances, housebreaking with intent to rape and rob, two charges for housebreaking with intent to rape as well as theft, Judge Lamprecht had this to say:

"I could not find any substantial and compelling circumstances that would justify any preferential treatment in your case to receive a lesser sentence than that prescribed by the minimum sentencing law. To the contrary, even had it not been for that law, I would have considered at least one term of life imprisonment as an appropriate sentence in your case. You have proven that you are a menace to society and that society has to be protected against you. The deterrent effect of punishment will also be underscored by such a sentence and it will send out the required message to society, the law-abiding part and the criminal part thereof, namely that rapists, robbers and murderers of this kind have no place in society and need to be removed for protection and deterrence ..."

### **TIMING OF LEGAL INTERVENTION: FINDING THE RIGHT BALANCE BETWEEN PUNISHMENT AND CRIME PREVENTION**

The aim of the criminal justice system of any country is to reduce the incidence of criminal acts among its citizens, to assure equal protection under the law of the rights of victims and the accused and to increase the efficiency, effectiveness and

productivity of all those in the system. However, it should be noted that the criminal justice system alone cannot prevent crime, hence the responsibility is shared by the family, schools, churches and the like.

Deterrence, on the other hand, focuses on the circumstances in which the threat of punishment prevents crime. Conklin (2010:358) notes a problem of simultaneity. He states that while sanctions may reduce crime, the crime rate also affects the sanctions imposed by the criminal justice system. Although an inverse relationship exists between crime rates and the certainty of punishment because the threat of sanctions reduces crime, it may also exist because a high crime rate reduces the certainty of sanctions. Therefore, it may be concluded that the crime rate could affect the certainty of punishment as much as the certainty of punishment affects crime.

A review of macro-level studies that examine offence rates of a specific population, conducted by the Institute of Criminology at Cambridge University and commissioned by the British Home Office, concluded that increased certainty of apprehension and punishment is associated with declining crime rates. Another study by Nagin and Pogarsky (2001:404-430) concluded that "punishment certainty is far more consistently found to deter crime than punishment severity, and the extra-legal consequences of crime seem at least as great a deterrent as the legal consequences". Also recently while reviewing deterrence scholarship since the 1960s and five leading studies from the past two decades, Nagin (2017) concludes that evidence supporting a deterrent effect from "the certainty of punishment is far more convincing and consistent than for the severity of punishment". Moreover, he writes that "[t]he certainty of apprehension, and not the severity of the ensuing legal consequence, is the more effective deterrent". Although the court system differs from one country to the next, the importance of the courts in crime deterrence cannot go unnoticed. When discussing the courts, one has to bear in mind that a court is not an investigative agency, a punishing agency, a rehabilitation agency or an educational agency; rather, it is just one of the several steps in the criminal justice system. Courts have been designed to afford a fair trial according to the rules imposed by legislatures. To a large extent the court has a responsibility to deal with the heavy caseload and still afford all the protection guaranteed by the constitution and the judicial processes. Presiding officers have the responsibility for imposing sentences. When sentencing, these officers have to consider the following factors: promoting respect for the law; reflecting on the seriousness of the offence; providing just punishment for the offence; deterring future criminal conduct; protecting the public from the offender and recommending rehabilitation programmes for the offender (Champion, 2008:3). Sentencing is not only about ensuring that the punishment fits the crime; it also functions as a deterrent to future criminal activity.

The rate of serious crime decreased when the punishment expected by criminals increased. Expected punishment is a function of the probability of arrest, conviction after such arrest

and being sentenced to imprisonment after conviction, as well as the time spent by those who are sentenced in imprisonment. The statement that increased expected punishment caused serious crime to decrease is in line with the findings mentioned earlier that for punishment to be effective, it should be certain, swift and severe. It is at the sentencing level that the balance between reform and deterrence becomes most difficult. In addition, a previous study by Anderson (1997:49-55) conducted in New York entitled "The mystery of the falling crime rate", revealed that earlier intervention by the courts has an impact on crime deterrence. If offenders can be sentenced to drug treatment programmes, community service, electronic monitoring and work release programmes, crime rates may decrease. The goal of this approach is to break the cycle of crime as early as possible while criminals are still committing relatively minor crimes and to show intent to react repeatedly to those offences. If courts could recommend meaningful sanctions and treatment after the first or second minor offence, much crime could be avoided.

## RESEARCH OBJECTIVE AND METHODOLOGY

The aim of the study was to determine the deterrent value of punishment for crime prevention. The objective of the research was to establish the respondents' views on crime prevention and how it can be brought about through deterrence. The hypothesis of the study was that deterrence as an objective of sentencing has relations with crime prevention. The null hypothesis for the study was that deterrence as an objective of sentencing has no relation to crime prevention. Conducted among judges and magistrates, the study followed a descriptive and exploratory research method approach. In descriptive research, data are usually collected by administering questionnaires, interviewing subjects, observing events or analysing documentary sources with the aim of testing hypotheses, making propositions, measuring attitudes or describing patterns of behaviour and quantities (Kelley, Clark, Brown & Sitzia, 2003:265). On the other hand, the focus of exploratory research is on developing a preliminary understanding about a new or unusual problem. A questionnaire was deemed a suitable perception measuring instrument to collect data on judicial perceptions of crime prevention and deterrence. The questionnaire consisted of four sections: Section A focused on the biographical information of the respondents; in section B respondents were asked to rank the objectives of sentencing; section C consisted of five closed-ended questions aimed at determining respondents' views on deterrence and crime prevention; while section D was aimed at determining the deterrent effect of punishment.

Maxfield and Babbie (2008:235) assert that "occasionally, it may be appropriate to select a sample on the basis of our knowledge of the population, its elements and the nature of the research aims". Rubin and Rubin (1995:66) suggest three guidelines for selecting informants when designing a sampling

strategy, namely that informants should be knowledgeable about the cultural arena or situation or experience being studied; informants should be willing to talk and informants should be representative of the range of points of view.

The sample was limited to the jurisdiction of the Thohoyandou High Court, the Thohoyandou Regional Office and the Sibasa Regional Court. At the time of the research, the Thohoyandou High Court had three judges, one permanent and two acting, while the Sibasa Regional Court had three regional magistrates. The Thohoyandou Regional Office, with a total of 25 magistrates in its eight sub-offices, is the biggest in the Limpopo cluster. All of these presiding officers (the judges and magistrates) participated in the study, thus making it 100% valid and reliable.

## THE RESEARCH PROCESS

### Research design

Criminal justice research serves many purposes which include explaining, exploring, describing and applying (Maxfield & Babbie, 2008:18). The exploratory method is used to investigate little understood phenomena and to identify important variables. Exploratory research refers to research that is intended to develop initial insights into the phenomenon, thus providing direction for further research needed into the phenomenon - if they arise. The focus on exploratory research is on developing a preliminary understanding about a new or unusual problem (Osang, Udoimuk, Etta, Ushie & Offiong, 2013:63). Descriptive studies, however, are often conducted in the criminal justice system in order to gain the ability to test hypotheses about virtually any variable in virtually any situation. Descriptive methods give the flexibility to test whether two or more variables are related. Kelley, Clark, Brown and Sitzia (2003:265) confirm that descriptive data are usually collected by means of administering questionnaires, interviewing subjects, observing events or analysing documentary sources with the aim of testing hypotheses, propositions, measuring attitudes or describing patterns of behaviours and quantities.

### Hypotheses

A hypothesis specifies the facts and the relations among them that offer a logical description or explanation of the conditions or events that gave rise to the problem. The main function of the hypothesis is to state a specific relationship between a set of phenomena in such a manner that their relationship can be empirically evaluated. Four factors that should be considered when converting an idea into a research hypothesis were adhered to:

- the hypothesis must be testable;
- there should be a solid rationale for the hypothesis;
- a research hypothesis should be relevant; and
- the testing of the research hypothesis should be practical and ethical (Mitchell & Jolley, 2007:59).

After formulating a hypothesis, the researcher must then deduce its consequences. The researcher must select or develop tests that will determine through empirical investigations whether those consequences actually occur. Then, finally, the researcher must carry out the tests thereby collecting facts that will either support or oppose the hypothesis. To address the research questions in more detail, a number of areas related to crime prevention and sentencing were identified. The research hypotheses and analysis strategy were then formulated and conducted according to these issues of crime prevention and sentencing.

### Data collection

The value of any type of research depends on how data is collected. Maxfield and Babbie (2008) mention three basic ways of collecting data for criminal justice research, i.e. by asking questions, making observations and examining written records. This study involved asking questions in the form of a questionnaire and examining written records in the form of a literature review.

A questionnaire was deemed a suitable perception measuring instrument to collect data on the presiding officers' perceptions of crime prevention and sentencing. The questionnaire used in this study was a structured instrument. The questionnaire consisted of a first section concerned with the biographical information of the respondents (namely gender, race, years experience, etc.) and 11 sections with subsets of closed-ended questions, each relating to an area of crime prevention or sentencing identified in literature as a critical element of the penological system on sentencing, imprisonment and crime prevention.

During the research process, all ethical principles were observed and adhered to. The ethical principles of voluntary participation, informed consent, avoidance of harm, anonymity and confidentiality, as well as deception of subjects were considered.

## RESEARCH RESULTS

### Section A:

#### Biographical background

The first section of the questionnaire required the respondents to provide their views on crime prevention and deterrence. This section assisted in describing the research sample and allowed the researcher to describe the sampled respondents as representative of the target population. As noted supra, the sample was limited to the jurisdiction of the Thohoyandou High Court, the Sibasa Regional Court and the Thohoyandou Regional Office with its eight regional sub-offices, in order to obtain a 100% response rate.

Accordingly, it was found that the majority of the 31 sampled respondents (58.06%) were aged between 50 and 59 years and 67.74% of the respondents were Black Africans. The majority of the respondents were males, who comprised 80.65% of the

sample. Respondents with more than 11 years' experience comprised 90.32% and those who handled less than seven cases per day comprised 58.06% of the sample. It can thus be deduced that the sampled respondents were relatively experienced and comprised mature/older people. The outcome of the findings of this study should thus be viewed against the background of the qualities of the people who participated in the study.

## Section B: Ranking of the objectives of sentencing

The respondents, comprising judges and magistrates, were asked to rank the seven common objectives of sentencing, including punishing the offender; separating the offender from the society; expressing community disapproval; assisting the offender's rehabilitation; deterring others from committing similar crimes; deterring the offender from reoffending and compensating the victim(s) or the community. The respondents were asked to rank the objectives from number 1 to 7 according to their view of the purpose of sentencing, with 1 being the most important and 7 being the least important.

OBJECTIVES OF SENTENCING									
Objectives	Ranking of objectives: rank 1-7								
Frequency Row Pct	1	2	3	4	5	6	7	Total	Rank
Punishing the offender	4 12.90	5 16.13	6 19.35	6 19.35	5 16.13	4 12.90	2 6.45	31	3
Separating offender from society	1 3.23	5 16.13	4 12.90	4 12.90	6 19.35	6 19.35	5 16.13	31	6
Expressing community disapproval	1 3.23	3 9.68	5 16.13	8 25.81	6 19.35	6 19.35	2 6.45	31	5
Assisting offender rehabilitation	20 64.52	3 9.68	4 12.90	0 00.00	3 9.68	1 3.23	0 00.00	31	1
Deterring others from crime	2 6.45	11 35.48	3 9.68	5 16.13	5 16.13	3 9.68	2 6.45	31	2
Deterring offender, reoffending	3 9.68	4 12.90	6 19.35	6 19.35	1 3.23	11 35.48	0 00.00	31	4
Compensating victim(s)/community	0 00.00	0 00.00	3 9.68	4 12.90	4 12.90	0 00.00	20 64.52	31	7
<b>Total</b>	<b>31</b>	<b>31</b>	<b>31</b>	<b>31</b>	<b>31</b>	<b>31</b>	<b>31</b>	<b>217</b>	

Fisher's Exact Probability (Chi-square = 182.90) < 0.0001\*\*\*

Table 1  
Objectives of sentencing

The final ranking of the objectives of sentencing is displayed in the last column of Table 1. Rank 1 was considered to be the objective with the highest frequency in the rank 1<sup>st</sup> column (the 2<sup>nd</sup> column of the table); rank 2 the objective selected from the remaining objectives with the highest cumulative frequency ranked "1" and "2" (columns 2 and 3); rank 3 the objective selected from the remaining objectives with the highest cumulative frequency ranked "1", "2" and "3" (columns 2, 3 and 4), etc. Their ranking, from the most to least important objectives of sentencing, was found to be as follows: offender rehabilitation; deterring others from offending; punishment of the offender; offender crime deterrent; expressing community disapproval; separating the offender from the society and compensating the victim.

### Fear of punishment deters transgression

Deterrence is based on the assumption that threats can reduce crime by causing a change of heart, induced by the unpleasantness of the specific consequences threatened. Authors such as Winner, Lanza-Kaduce, Bishop and Frazier (1997); Steiner and Wright (2006), as well as Steiner, Hemmens and Bell (2006) have over the years supported this statement. Beccaria (1963:30) states that the intention of punishment is to instil fear in other men. In terms of the theory of simple deterrence, people who are tempted by a particular form of threatened behaviour will refrain from committing crime because the pleasure that they might obtain from committing such a crime is more than offset by the risk of great unpleasantness communicated by means of a legal threat. In this model, a person compares crime and its penalty, and the results of weighing up the

advantages and disadvantages of lawbreaking do not alter the individual's personality, or his or her sense of right or wrong, or his or her general tendency to obey the law. For deterrence to work each individual must be aware that committing a criminal act is a risk not worth taking. As stated by Bentham (1843:399),

"the profit of the crime is the force which urges man to delinquency: the pain of the punishment is the force

employed to restrain him from it. If the first of these forces be the greater the crime will be committed; if the second, the crime will not be committed".

While only 9.68% of the respondents seemed undecided, the majority seemed to agree that fear of punishment deters individuals from offending, with 74.19% agreeing and 6.45% strongly agreeing and only 9.68% disagreeing with the statement.

<b>OBJECTIVES OF SENTENCING AND CRIME PREVENTION</b>						
<b>Issues</b>	<b>Agreement rating</b>					
<b>Frequency Row Pct</b>	<b>Agree++</b>	<b>Agree</b>	<b>Un- decided</b>	<b>Disagree</b>	<b>Disagree ++</b>	<b>Total</b>
<b>Punishment should be unpleasant</b>	12 38.71	14 45.16	0 0.00	3 9.68	2 6.45	<b>31</b>
<b>Punishment conveys society's values</b>	3 9.68	26 83.87	0 0.00	1 3.23	1 3.23	<b>31</b>
<b>Punishment offender, accountable &amp; culpable</b>	3 9.68	22 70.97	1 3.23	5 16.13	0 0.00	<b>31</b>
<b>Fear of punishment deters transgressing</b>	2 6.45	23 74.19	3 9.68	3 9.68	0 0.00	<b>31</b>
<b>Punishment should fit personality and not the offence</b>	1 3.23	14 45.16	4 12.90	12 38.71	0 0.00	<b>31</b>
<b>High recidivism shows that punishment is not deterrent</b>	1 3.23	6 19.35	13 41.94	7 22.58	4 12.90	<b>31</b>
<b>Deterrence prevents crime more than rehabilitation objective</b>	1 3.23	14 45.16	12 38.71	2 6.45	2 6.45	<b>31</b>
<b>Deterrence is recognised as a sentencing objective</b>	1 3.23	26 83.87	4 12.90	0 0.00	0 0.00	<b>31</b>
<b>General and individual deterrence: effectiveness</b>	0 0.00	13 41.94	15 48.39	2 6.45	1 3.23	<b>31</b>
<b>Society shows disappointment when the sentence is lenient</b>	12 38.71	16 51.61	1 3.23	1 3.23	1 3.23	<b>31</b>
<b>Deterrence requires greater publicity</b>	12 38.71	15 48.39	2 6.45	2 6.45	0 0.00	<b>31</b>
<b>Incarceration &amp; fines more than probation</b>	17 54.84	12 38.71	1 3.23	1 3.23	0 0.00	<b>31</b>

Table 2  
Objectives of sentencing and crime prevention

### **Section C: Deterrence strives for crime prevention**

Sentencing is the most important function of the criminal justice system while one of the goals of sentencing is to deter the offender from future criminal conduct. By imposing punishment that fits the crime, offenders will be prevented from committing future criminal activities. As offenders reoffend, their

sentence length increases, even if the same offence is repeated in later separate crimes. The majority of the respondents agreed that deterrence is indeed mainly aimed at preventing crime and not aimed at reforming the offender. This was indicated by 48.39% of the respondents, with 38.71% undecided and only 12.9% disagreeing.

## General deterrence is preferred to individual deterrence

General deterrence occurs when individuals other than those who are punished avoid criminal activity because they are afraid of the actions that might be taken against them, whereas individual deterrence applies to the offender who is being punished for the crimes she or he committed in the sense that the punishment will make him or her stay away from criminal activities because of bad experiences due to previous offences. In terms of the theory of general deterrence, it is assumed that the crime rate will decrease when the probability of punishment increases. The concept of general deterrence has been widely used in determining the effectiveness of legal sanctions in crime control. The response pattern regarding a preference for general deterrence over individual deterrence differed. While 41.94% agreed, the majority of the respondents (48.39%) remained undecided, with only 9.68% of the sample disagreeing with the statement.

## Society expresses disappointment when lenient sentences are imposed

Sentencing is aimed at promoting respect for the law and by sentencing an offender, judges are sending a strong message to the criminal community. However, if the sentence is too lenient, the criminal community might think that offenders will not be punished harshly and therefore engage in further criminal conduct. By imposing sentences that are proportionate to the crimes committed, presiding officers are promoting respect for the law. The message to the criminal community is that if the law is violated, those who violate it will be punished. In that way

the law will be respected and those who want to offend will be deterred. The majority of the respondents confirmed that society is indeed disappointed when a lenient sentence is imposed instead of a harsher penalty. This was confirmed by 38.71% and 51.61% of the respondents who respectively indicated that they strongly agreed and agreed with the statement. On the other hand, 3.23% of the sample remained undecided and 6.46% disagreed with the statement.

## Deterrence requires greater publicity

General deterrence works best when potential offenders are aware of the previous punishments given to offenders, so punishing someone quietly with no one else knowing would have little or no general effect. Brown et. al. (1998:192) identify publicity as an essential component of the process of general deterrence because the wider the dissemination of sanctioning information, the greater the potential impact of that information. Publicity that is designed to deter unlawful conduct usually takes the form of media campaigns or informal word-of-mouth which may communicate accurate information regarding the sanctioning process or utilise distorted messages designed to serve as scare tactics. The theory of general deterrence assumes that crime rates are influenced and controlled by the threat of criminal punishment. According to this theory, if people fear being apprehended and punished, they will stay away from any criminal conduct. Therefore, an inverse relationship should then exist between crime rates and the fear of legal sanctions. Most respondents were of the opinion that if punishment was publicised, crime could be prevented. This was confirmed by 87% of the sample.

THE DETERRING EFFECT OF PUNISHMENT ON LISTED CRIMES						
Crimes	Effectiveness rating responses					
Frequency Row Pct	No effect	Dubious	Slight effect	Reasonable effect	Great effect	Total
State & administration of justice	0 0.00	4 12.90	17 54.84	9 29.03	1 3.23	31
Reputation	1 3.23	8 25.81	11 35.48	9 29.03	2 6.45	31
Freedom of movement	1 3.23	5 16.13	13 41.94	9 29.03	3 9.68	31
Property and damage	1 3.23	14 45.16	7 22.58	6 19.35	3 9.68	31
Bodily integrity	1 3.23	11 35.48	10 32.26	6 19.35	3 9.68	31
The person	0 0.00	12 38.71	8 25.81	8 25.81	3 9.68	31
Public administration	0 0.00	4 12.90	15 48.39	10 32.26	2 6.45	31
<b>Total</b>	<b>4</b>	<b>58</b>	<b>81</b>	<b>57</b>	<b>17</b>	<b>217</b>

Fisher's Exact Probability (Chi-square = 182.90) < 0.0001\*\*\*

Table 3: The deterring effect of punishment on listed crimes

## Section D: The deterrent effect of punishment

(Refer to Table 3 on p 43.)

Respondents were asked to indicate the extent to which punishment for a list of crimes has a deterrent effect. The crimes included crimes against the state and administration of justice; crimes against reputation; crimes against freedom of movement; crimes against property and damage to property; crimes against bodily integrity; crimes against the person; and crimes against public administration. In determining the deterrent effect, the respondents were asked whether the effect of punishment has no deterrent effect whatsoever; whether the deterrent effect is dubious; whether there is a slight deterrent effect; whether there is a reasonably deterrent effect or whether there is a totally deterrent effect.

It was subsequently found that respondents were of the opinion that punishment had at least a slight deterrent effect. The researchers thus found that there was statistically significant stronger support for crimes against public administration, state and administration of justice, and crimes against freedom of movement than for crimes against property and damage; bodily integrity and reputation.

## FINDINGS

In this explorative review, the authors aimed to determine the role of deterrence on crime prevention through practical judicial approaches. From the rankings it was concluded that general deterrence is considered to be a more important factor in determining the sentence than individual deterrence. Surprisingly, punishing the offender was ranked third after offender rehabilitation and general deterrence. The study has indicated that by imposing unpleasant punishment, potential criminals are deterred from committing crime because of the penalties they suffer if they are arrested. In addition, it is believed that punishment is aimed at upholding society's values; hence, society is dissatisfied when criminals receive lenient sentences that do not seem justified in light of the crime. It is up to judges and magistrates to ensure that offenders are punished in a manner that equates to the seriousness of the crime (Mackenzie, 2005:116). As both Becarria (1963) and Bentham (1789) agree, the prevention of crime can be accomplished through the mechanism of deterrence.

The role of deterrence in sentencing has been accorded significant recognition by the courts. Deterrence is based on the notion that certain and severe punishment can discourage future criminal activities either by the offender or potential offenders. As indicated in this study, deterrence can be either specific or general. While specific deterrence is what is done to offenders to prevent them from committing another offence, general deterrence on the other hand is what is done to an offender to prevent others from deciding to engage in wrongful behaviour (Pollock, 2007:395). Although the punishment of crimes such as those against public administration has a slightly

deterrent effect, its effect on crimes against property, body integrity and the person remain dubious.

The study has shown that the judges and magistrates in the sample were undecided as to which contributes more to crime prevention - general deterrence or specific deterrence. For this reason, Ruby (1987:9) writes that the main problem in dealing with deterrence as a matter of practice is to reconcile what is needed to deter the offender with what is needed to deter others. While quoting Morrisette & Two Others (1970), 1 C.C.C (2d) 307, he wrote:

"... the problem is different if the purpose of sentence is to deter the offender from repeating the offence from that if the purpose is to deter others who may be inclined to commit the same offence. In neither case does it necessarily follow that a long sentence is required to achieve the purpose. Deterrence should be considered from an objective view if the purpose is to deter others who may be inclined to commit the same offence. In such case, the gravity of the offence, the incidence of the crime in the community, the harm caused by it either to the individual or to the community and the public attitude towards it are some of the matters to be considered. If the purpose is to deter the offender from repeating the offence, then greater considerations must be given to the individual, his record and attitude, his motivation and his reformation and rehabilitation. If both purposes are to be achieved, then there must be weighing of all the factors and a sentence determined that gives a proper balance to them."

In addition, the judges and magistrates were of the opinion that there is a strong link between deterrence and publicity. Mackenzie (2005:105) states that without dissemination of the details of the sentences imposed on offenders, it can hardly be argued that the sentence before the court is justifiable on the basis that it will deter others from offending. As proven in the study, penalties for offences should be widely known and be perceived to be a deterrent.

## RECOMMENDATIONS

Tonry (2011:50) asserts that punishment has become synonymous with imprisonment and there is a general belief that if a convicted person is not sentenced to imprisonment then that person has avoided punishment. Walker and Padfield (1996:44) argue that imprisonment has nine purposes. Among these, imprisonment can be used as both an individual and general deterrence. Imprisonment as a sentence serves to symbolise degrees of disapproval of the offence. Therefore, it can be concluded that corrections pursue a mixture of goals which includes, among others, retribution, reform, incapacitation, deterrence and rehabilitation. Because of the high costs associated with imprisonment and many other problems, the study revealed that not all criminal offences require imprisonment.

Judges and magistrates may, among others, sentence offenders to fines, probation, community services and restitution to victims. Powell (2003:109) states that the court shall not pass a custodial sentence on an offender unless it is of the opinion that: (i) an offence or the combination of offence and one or more offences associated with it was so serious that only imprisonment can be justified for the offence; or (ii) when the offence is violent or sexual in nature, that only imprisonment would be adequate to protect the public from serious harm from that offender. The fact that the penalty of imprisonment is available as a sentencing option to the courts does not mean that it will always be necessary to impose it on convicted offenders. Apart from special cases, such as murder and rape which carry a mandatory penalty of imprisonment, all imprisonable offences may instead be dealt with by any non-custodial sentences. Legislators often encounter the dilemma of changing criminal justice policies without being sure as to whether such changes will eventually prevent people from committing crimes. Legislators can look up to the deterrence theory which provides that should there be severe punishment, certainty that an offender will be punished, and swift punishment, there is a chance that crime can be prevented. Though there are crimes that can be deterred more easily than others, research has shown that:

- Offences that involves thorough planning can be easily deterred more than those that are related to addiction;
- the increase in imprisonment sentences that are already lengthy will have less deterrent effect; and
- policies that increase the likelihood of arrest and sentence to imprisonment deter crime more effectively than those that increase punishment (Johnson, 2019).

Governments strive to prevent crimes from taking place to protect people from any form of abuse. It is up to the policy-makers to decide which types of changes are most likely to have a deterrent effect, and which are less likely to reduce crime. Criminalising behaviour appears to deter that behaviour. When new laws prohibit actions that were previously allowed, studies suggest that many people change their behaviour. Many people prefer to follow laws and, even if following the law is inconvenient, they will adjust their behaviour to comply with the law. Increasing certainty of detection often deters behaviour. Individuals who believe they are likely to be arrested are less likely to commit crimes. In committing criminal offences, perception is generally more important than reality. A potential offender who, for example is aware at least indirectly of the rule intended to influence his or her conduct and is aware of the perception that the immediate benefit of the crime is less than the distant punishment, will bring such a perception to mind when deciding whether or not to continue with his or her conduct. When a person weighs the benefits of violating a law against the potential consequences, that individual's belief about those consequences is what matters. Increases in enforcement or penalties will only deter individuals who are aware of those

increases. As has been proven in this study, it is important to publicise increases in punishment and enforcement.

## CONCLUSIONS

The article determined that punishment through sentencing has always been the primary goal to achieve when dealing with individuals who commit crime. It has always been imposed based on the idea that it will deter individuals from committing crime or repeating criminal acts. Rehabilitation, however, is regarded as a more permanent fix in deterring crime as it is based on creating a change in the criminal's attitude or resources so that crime is neither a desired nor a necessary activity. Being able to identify potential criminal behaviour is vital for prevention and intervention. Four conclusions can thus be considered: a convicted criminal pays a debt to the society for his or her actions; punishment deters the offender including others from committing the same crime; imprisonment protects others from becoming his or her victim by keeping the criminal off the streets; and rehabilitation makes it less likely that the criminal will repeat the crime.

It is the responsibility of each government to protect its citizens from criminals. However, preventing crime can take many forms. Criminal laws, in part, exist to create some assurance that people are unlikely to harm one another, or take property that belongs to someone else. When people believe there is a possibility of arrest and eventually punishment, they are less likely to commit crimes. That is, an appropriate level of punishment coupled with a high likelihood of arrest is likely to deter some potential criminals. Legislators can consider certainty and severity of punishment, in pursuing legislation to deter crime. Legislators seeking to discourage people from committing criminal offences can use the deterrence theory to inform policy choices. For example, if the goal is to reduce an action that is currently legal, studies suggest that the most effective policies would include criminalising the behaviour, establishing a reasonable consequence, developing an awareness campaign, creating periods of targeted enforcement, and publicising the results of the enforcement campaign. This article has shown that when legislators need to design and assess policy proposals, they can use the deterrence theory as a guide.

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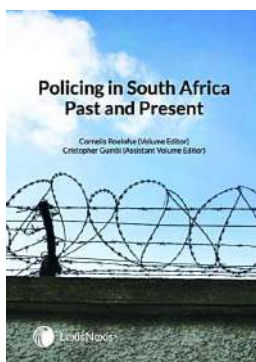
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# BOOK REVIEW

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## POLICING IN SOUTH AFRICA PAST AND PRESENT



Editors: Cornelis Roelofse & Cristopher Gumbi  
Publishers: LexisNexis  
481 pages  
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ISBN: 978-0-6390-0256-9

The aim of this publication, according to the volume editor is to "provide readers with insight of policing developments in South Africa with perspectives on developments from the early colonial days to the period of democratisation (pre-and post-1994)" (Roelofse et. al., 2018: vii). The book chapters cover various developments that took place within the policing environment as a result of socio-political changes over time. The book has 18 chapters and consists of a comprehensive bibliography, table of statutes and an index.

These 18 chapters broadly cover the following areas:

- **Issues relating to policing in transitional contexts** (the history of police reform, human rights, labour relations and legal frameworks);
- **Generic police organisational dynamics** (leadership and management, organisational structure, recruitment and training, functional and geographical divisions, corruption and anti-corruption practices);
- **Contemporary policing approaches** (community policing, sector policing and over-arching strategies);
- **Specialised policing functions** (crime intelligence, forensic investigations and detective services);
- **International cooperation** (regional and international cooperation); and
- **Policing theories**

In the absence of a foreword, it is difficult to determine what contribution the book will make towards new knowledge in the field of policing, for whom it is written and why these specific

policing areas were selected for inclusion in the book. The preface in the book does not provide clarity on these matters either, since it is a mere summary of the history on policing in South Africa, already covered comprehensively in Chapter 1 of the book.

In the light of the above, it is the reviewer's considered opinion that the book is too general in nature to contribute towards new knowledge in the field of policing. A dearth of publications already exists on a number of areas covered in the book, such as community policing, sector policing, management and leadership<sup>a</sup>. There is a dire need for taking research forward to cover issues such as the "demilitarisation of the police" as described in the National Development Plan Vision 2030 and "evidence-based policing" as advocated by the Institute for Security Studies.

All things being equal, the book should resonate well with undergraduate or diploma level students in policing and those with a vested interest in the developments in the policing environment in general.

Note:

a. See for example: Banchani, Juan-Paul and Van der Spuy, E. 2013. *Bibliography on police and policing research in South Africa, 2000-2012*. Centre of Criminology. University of Cape Town. Rondebosch. One could argue that the list of publications on these issues has increased, since 2013.

# UPCOMING ISSUES 2020

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The editorial team of the **JUST AFRICA** Journal invites submissions for articles for the publication in its upcoming issues for 2020.

The details are as follows:

<b>Issue</b>	<b>Theme</b>	<b>Submission date</b>	<b>Publication date</b>
ISSUE 1/2020	ALTERNATIVES TO TRADITIONAL POLICING	15 JANUARY 2020	30 APRIL 2020
ISSUE 2/2020	TOWARDS A CYBER-SECURE ENVIRONMENT	15 APRIL 2020	31 AUGUST 2020
ISSUE 3/2020	THE CONSEQUENCES OF TRAFFIC INFRINGEMENTS: DEMERITS OR INCARCERATION?	15 AUGUST 2020	30 NOVEMBER 2020

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