




Bars of Suffocation: A Critical Review of the Covid-19 Pandemic and its Effect on Correctional Facilities in South Africa



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ABSTRACT

The study's objective was to give a critical analysis of the Covid-19 pandemic, while also assessing the influence of Covid-19 on correctional facilities in South Africa. The correctional society was not immune to the detrimental impacts of COVID-19, and its arrival forced all South African correctional facilities to take several measures, including limitations on correctional facility visitation and the early release of some offenders. Therefore, the study ought to review the impact measures devised to address this global scourge. A literature review analysis was adopted by the authors. The study critically analysed existing papers, which included; government documents/reports and scholarly papers. Thus, a qualitative content analysis was adopted for the data analysis. The study discovered that the measures that were implemented in correctional centres to address the spread of COVID-19 resulted in some incarcerated persons being released while not fully rehabilitated. The release of some of the inmates was based on the urge to reduce the overpopulation within the correctional centres. The study also discovered that the South African Correctional facilities had challenges with physical social distancing due to overcrowding. The study recommends that the administration and functions of prisons be objectively measured by the number of stakeholders and the gradation of specialist bodies to maximise the culture of efficient governance that is human rights oriented. This study adds to the existing literature on ensuring the safety of inmates of correctional facilities in South Africa.

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INTRODUCTION

Overcrowding in various correctional facilities has been a dire concern globally, particularly in African countries. As of 2021, over 11 million people have been incarcerated in correctional facilities globally, which is considered the highest number yet, and around 102 countries have reported occupancy levels of over 110% in correctional facilities.¹ Correctional centres in South Africa are now overcrowded because

¹ G. P. Trends, *Penal Reform International* (Thailand Institute of Justice, 2021).

of the proliferation of crime rates since the influx of new inmates adds to the numbers of those already incarcerated or cases pending trial. This became apparent during the COVID-19 epidemic, where prisoner crowding made it difficult to maintain physical distance in detention institutions.

People with underlying medical issues were more susceptible to diseases including HIV, viral hepatitis, and TB. At the peak of the epidemic, their weakened immune systems also made them more susceptible to COVID-19 infection. Prison overpopulation is still a problem, the World Health Organization (WHO) under the United Nations Subcommittee on Prevention of Torture made the recommendation that there must be a special liberation of convicts to relieve overcrowding and the spread of the virus to safeguard the lives of the community of prisons.² The South African government yielded the call and thus, the South African president authorised the release of 19,000 prisoners.³

Correctional institutions were significant COVID-19 hotspots during the peak of the pandemic in all affected nations, particularly in those where extremely high rates of COVID-19 infections were observed.⁴ Reviews of the procedures in place for correctional facilities in African nations indicated unfavourable circumstances that might lead to significant epidemics.⁵ In their paper, Nkengasong and Mankoula stressed that prior to the onset of the COVID-19 pandemic, a number of African nations were already burdened by dysfunctional healthcare systems, weak monitoring and laboratory capacity, and a lack of finances.⁶ Notably, the results of the Coronavirus Resource Center revealed that the number of COVID-19 cases in South Africa was the highest overall in Africa.⁷ According to several reports, overcrowded correctional facilities were left without enough medical equipment to treat inmates who had TB, HIV, or leptospirosis, a disease spread by rats.⁸

Overcrowded correctional centres also have a shortage of bed space and adequate facilities such as showers and toilets for their number of prisoners. In these circumstances, some inmates are forced to sleep on the floor where rats are likely to be present, and they must also use a single restroom with no disinfectants. For instance, in the 2015–16 fiscal year, Pollsmoor Correctional Center in Cape Town had the worst bed shortfall (only 2 448).⁹ Additionally, the lack of beds, poor and specialized medical facilities, a lack of showers and toilets, and improper sanitation all increase the danger of infectious illnesses spreading. Correctional facilities thereafter followed and put into practice the proposal of the United Nations Subcommittee on Prevention of Torture by releasing some inmates before the completion of their sentences as one of the methods to stop the coronavirus from spreading. Furthermore, restrictions on visits and communication with outside prisons were intensified as anxiety and tension within correctional centres erupted. However, some of the interventions gave birth to prison riots, escapes, and violence reached unprecedented levels.¹⁰ It is against this backdrop that this study emphasises on the effect of the COVID-19 pandemic interventions on already overcrowded correctional centres.

The paper seeks to give a brief overview of the situation in the correctional facilities in South Africa prior and during the COVID-19 pandemic. The authors give a critical review of this scourge that has ravaged the world, and SA is no exception. Therefore, the objective of the paper is to critically analyse the COVID-19 pandemic in South Africa as well as assess its impact on its correctional facilities. Literature from existing sources such as scholarly papers and government documents/reports will serve as

² Lukas M Muntingh, "Africa, Prisons and COVID-19," *Journal of Human Rights Practice* 12, no. 2 (2020): 284–92.

³ Kimberly R Kras and Lincoln Fitz, "The Social and Environmental Implications of the Novel Coronavirus on Institutional and Community Corrections in South Africa," in *The Global Impact of the COVID-19 Pandemic on Institutional and Community Corrections* (Routledge, 2021), 104–18.

⁴ Daniel Katey et al., "COVID-19 and the Marginalized: An Opinion Piece on Further Measures to Address COVID-19 in Prisons in Sub-Saharan Africa," *International Journal of Prisoner Health* 17, no. 3 (2021): 373–79.

⁵ C. Heard, "Towards a Health-Informed Approach to Penal Reform? Evidence from Ten Countries," Birkbeck Institutional Research Online, 2019, <https://eprints.bbk.ac.uk/id/eprint/27743>.

⁶ John N Nkengasong and Wessam Mankoula, "Looming Threat of COVID-19 Infection in Africa: Act Collectively, and Fast," *The Lancet* 395, no. 10227 (2020): 841–42.

⁷ Coronavirus Resource Centre, "COVID-19 Dashboard by the Centre for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU)," John Hopkins University & Medicine, August 24, 2020, <https://coronavirus.jhu.edu/map.html#918S>.

⁸ Maria Pilar Guallar et al., "Inoculum at the Time of SARS-CoV-2 Exposure and Risk of Disease Severity," *International Journal of Infectious Diseases* 97 (2020): 290–92.

⁹ G. Makou, I. Skosana, and R. Hopkins, "The State of South Africa's Correctional Facilities," Factsheet: Africa Check, July 18, 2017, <https://africacheck.factsheets/factsheet-the-state-of-south-africas-correctional-facilities/>.

¹⁰ April Pattavina and Michael J Palmieri, "Fears of COVID-19 Contagion and the Italian Prison System Response," in *The Global Impact of the COVID-19 Pandemic on Institutional and Community Corrections* (Routledge, 2021), 302–10; Dallas S Drake, "Effect of the Covid-19 Pandemic on the Lgbtq Prison Population," in *COVID-19, the LGBTQIA+ Community, and Public Policy* (Routledge, 2022), 99–122.

data for this study. Hence the paper is a literature review and uses qualitative content analysis to analyse the information gathered.

LITERATURE REVIEW

The epidemic of COVID-19 has impacted not only the social and economic elements of South Africa but also all levels of government, particularly public institutions that house persons such as hospitals and penal facilities. The impact of the virus in correctional facilities, which presently contain over 160,000 persons, offers major repercussions for both convicts and correctional staff.¹¹ Rapisarda and Byrne's study on an examination of the COVID-19 outbreak in African prisons and jails suggests that SA had the highest inmate population in Africa and thus, ranked 12 globally.¹² The population of inmates housed by the SA prisons as reported by the World Prison Brief in Rapisarda and Byrne's study is well over 150,000.¹³ The study reported that by 15 August 2020, the Department of Correctional Services (DCS) in SA had reported 6,202 positive cases and 94 deaths in the prison population which included inmates and staff members, and by 23 August 2020, *News24* as cited by Rapisarda and Byrne confirmed 6,448 positive cases, of which 4,116 were staff members of DCs and 2,332 were inmates.¹⁴

On the other hand, Kras and Fitz claimed that at the time of publishing their paper, SA correctional centres had recorded a total of 7,062 positive cases, with 4,379 cases being staff members while 2,683 were inmates.¹⁵ Other African prison institutions were accused of lacking transparency in their reportage except for SA. This lack of transparency is concurred by the authors of this paper, as they struggled to get accurate data on the actual confirmed cases of COVID-19 and fatalities incurred by prison populations during the rampage period of COVID-19 in other African countries. On the number of fatalities, the paper only found online newspapers that reported data from the DCs showing that 158 officials and 62 inmates have died of COVID-19-related illness.¹⁶

The WHO reported that as of 24 February 2023, the African continent has had about 10.8 million COVID-19 cases, adding that about 228,738 deaths had occurred, with 9.8 million recoveries.¹⁷ The DCs reported, that SA confirmed 6,212 cases of COVID-19 infections to have been recorded by 22 August 2020.¹⁸ A year later the DCs (2021) confirmed that by 22 August 2021 about 15,984 active cases in the correctional population.¹⁹

The Department of Correctional Services is one of the primary departments in the South African criminal justice system. This agency is responsible for incarcerating convicts who have been sentenced to imprisonment by the courts. Furthermore, the constitution requires the department to respect, promote, and preserve the rights of offenders. This department is also mandated by the international rules that govern governments that are members of the United Nations (UN), of which South Africa is a part. Inmates in countries that are members of international organisations, such as the UN and the African Union (AU), must be treated in accordance with applicable international and continental laws.²⁰

All detainees, guilty or not, are ordinary people who have been legally committed to detention institutions by courts of law for the crimes they have committed or are alleged to have committed; thus, while in the custody of the correctional facility, these individuals are protected by the relevant legal frameworks. The Constitution of the Republic of South Africa, 1996 (the Constitution), the Correctional Services Act, 1998 (Act 111 of 1998), as amended by the Correctional Services Amendment Act, 2008

¹¹ Kras and Fitz, "The Social and Environmental Implications of the Novel Coronavirus on Institutional and Community Corrections in South Africa."

¹² Sabrina S Rapisarda and James M Byrne, "An Examination of COVID-19 Outbreaks in African Prisons and Jails," in *The Global Impact of the COVID-19 Pandemic on Institutional and Community Corrections* (Routledge, 2021), 81–91.

¹³ Rapisarda and Byrne, "An Examination of COVID-19 Outbreaks in African Prisons and Jails."

¹⁴ Rapisarda and Byrne, "An Examination of COVID-19 Outbreaks in African Prisons and Jails."

¹⁵ Kras and Fitz, "The Social and Environmental Implications of the Novel Coronavirus on Institutional and Community Corrections in South Africa."

¹⁶ S. Naidu and D.R. Bedgood, "Learning in Social Context," in *Encyclopedia of the Sciences of Learning*, ed. N.M. Seel (Freiburg: Springer, 2012), 1705–2080.

¹⁷ World Correctional Facility Brief, "World Prison Brief Data," World Prison Brief, accessed February 18, 2023, prisonstudies.org.

¹⁸ Patrick Bashizi Bashige Murhula, "The Impact of COVID-19 Pandemic in South African Correctional Centres: Challenges and Solutions," *International Journal of Conflict and Violence (IJCV)* 17 (2023).

¹⁹ Murhula, "The Impact of COVID-19 Pandemic in South African Correctional Centres: Challenges and Solutions."

²⁰ Puleng Motlalekgo and Charl Cilliers, "The Right to Freedom and Security of the Person: Implications for the South African Correctional System," *Acta Criminologica: African Journal of Criminology & Victimology* 33, no. 1 (2020): 20–43.

(Act 25 of 2008), the White Paper on Corrections, 2005, the Correctional Services regulations, and the Prevention and Combating of Torture of Persons Act, 2013, are all relevant legal frameworks designed to ensure the safety of inmates in South African correctional facilities.

The eruption of COVID-19 exposed and caused challenges to arise in meeting the legal obligation of the Department of Corrections particularly, the rights of inmates to be incarcerated in a secure and safe environment. COVID-19 did not only pose a threat to the safety of inmates, it also brought some strains on the inmates. The regulations meant for the prevention of the virus also affected some of the rights that prisoners enjoyed, whilst exposing conditions which human rights advocates have long been concerned about in Africa's jails, given the frequency of human rights violations, overcrowding, inadequate confinement conditions, and the extent to which the criminal justice system is used to punish the poor.²¹ Edwin Cameron, retired Justice of the Constitutional Court of South Africa, has argued that prisons are not places of rehabilitation but overcrowded penal institutions.²² He further claimed that overcrowding has a detrimental impact on prison conditions and the Department of Correctional Services' ability to function correctly, adding that South Africa now has around 164,129 convicts, 46,260 of whom are on remand, and 117,869 of whom have been condemned.²³

The overcrowding concept became key in addressing the spread of COVID-19, as the virus could easily spread in an overcrowded setting, thus, the overpopulated prison centres had to deal with overcrowding and device measures to ensure that the virus is contained and prevented. This required enactment of measures such as restriction of inmates receiving visitors, who would be possibly carrying the virus. Kras and Fitz have suggested that the history of human rights in institutional contexts provides a background for analysing the coronavirus experience and reaction in South Africa.²⁴ The United Nations Standard Minimum Rules for the Treatment of Prisoners, often known as the Nelson Mandela Rules, required government institutions to prevent foreseeable hazards to public health and to guarantee that those who require critical medical treatment receive it.²⁵ The link between COVID-19 and prisoner health is clear and critical for stopping the spread, guaranteeing effective health treatment, and, ultimately, safeguarding the general population. The UN Human Rights Office has updated guidelines on protecting the human rights of detainees and reminded governing bodies of their obligations under the Nelson Mandela Rules.

METHODOLOGY

The study used a qualitative research approach, and the data gathered was collected through the Google search engine and Google Scholar. Academic papers, newspaper articles as well government reports were used as the source of data. Thus, the study is a literature review, analysing already existing information. Qualitative content analysis was used to analyse the gathered data. The sources of information for inclusion had to be published during and after the rampage of COVID-19, also the source had to contain information regarding the conditions within correctional centres. Information on COVID-19 was the key or the centre of analysis for the study. Any other study prior to the scourge of COVID-19 to be included in the study had to have information regarding the state of prisons and to state how such affects infectious diseases within the correctional centres.

PRESENTATION OF FINDINGS

Overcrowding and COVID-19 in South African correctional facilities

Correctional facilities in South Africa were not equipped to handle the devastating effects of this virus that swept the planet; therefore, the COVID-19 epidemic caught them off guard. The manner in which the government handled the COVID-19 outbreak was therefore crucial to ensure that inmates survived the pandemic. According to available data on the incarcerated population before the pandemic in 2020, South

²¹ Muntingh, "Africa, Prisons and COVID-19."

²² Edwin Cameron, "The Crisis of Criminal Justice in South Africa," *South African Law Journal* 137, no. 1 (2020): 32–71.

²³ Cameron, "The Crisis of Criminal Justice in South Africa."

²⁴ Kras and Fitz, "The Social and Environmental Implications of the Novel Coronavirus on Institutional and Community Corrections in South Africa."

²⁵ United Nations, *United Nations Standard Minimum Rules for the Treatment of Prisoners*. (Malawi: Centre for Human Rights and Rehabilitation, 2015).

Africa had the world's 12th highest incarcerated population.²⁶ However, a major problem faced during the pandemic was that the government's response revealed a lack of understanding of current information about the incarcerated population, especially as it lacked evidence that it could deal decisively with this threat among incarcerated prisoners.²⁷

Prisoner records show that shortly before the pandemic's emergence in 2019, South Africa's correctional facilities were 37% congested, with 162,875 correctional inmates compared to 118,572 bed spaces available for lodging.²⁸ However, Rapisarda and Byrne, estimated that as of April 2020, there would be 154,437 inmates in South African correctional facilities.²⁹ The high level of trial-awaiting detainees that are accommodated in South African correctional services was a factor that contributed to this overpopulation at the time of the outbreak.³⁰ Prior to 2020 when severe lockdown restrictions were imposed, South Africa's prison population included 48 000 detainees awaiting trial and 115 000 sentenced individuals.³¹ The entire prison population (including inmates awaiting trial and remanded correctional institutions) was estimated to be 144, 938 in 2022.³² This dire picture meant that overcrowding, a lack of ventilation, and poor virus prevention practices all significantly increased the risk of virus transmission in South African correctional institutions.³³

Even before the pandemic, researchers such as Shabangu; Keehn and Nevin argued that South African correctional facility conditions were particularly dreadful and that prisoners' exposure to diseases and infections was unavoidable.³⁴ Prisoners and remanded detainees were subjected to severely crowded spaces and miserable living conditions at the time of the global epidemic, including poor ventilation, insufficient ablution facilities, a lack of sanitation and privacy, a lack of beds and bedding, a lack of supervision and oversight, and poor medical supply.³⁵ Prisoners were therefore at high risk of contracting the virus and could even die as they lived in overcrowded conditions. Overcrowding in correctional facilities was a significant challenge during the pandemic because social distancing prevention measures were nearly impossible to implement. Muntingh argues that physical separation is simply not an option in correctional facility settings.³⁶ Preventative measures such as keeping a safe distance from those sneezing or coughing were not an option for prisoners sharing overcrowded cells.³⁷ Correctional facility managers in St. Albans in the Eastern Cape Province expressed their concern, citing overcrowding in some cells and the daily admission of new prisoners as insurmountable challenges.³⁸ Just before the pandemic, Heard argued that overpopulation was a major threat to the spread of infectious diseases and he cautioned that this would exacerbate chronic conditions.³⁹

Regardless of the efforts by the Department of Correctional Services, an article published in *The New Frame* claimed that prisoners serving long sentences in a new facility in Pietermaritzburg were

²⁶ Rapisarda and Byrne, "An Examination of COVID-19 Outbreaks in African Prisons and Jails."

²⁷ Muntingh, "Africa, Prisons and COVID-19."

²⁸ Department of Correctional Services, "DCS Annual Reports Pretoria," 2019, https://www.gov.za/sites/default/files/gcis_document/201910/dcsannual-report.pdf.

²⁹ Rapisarda and Byrne, "An Examination of COVID-19 Outbreaks in African Prisons and Jails."

³⁰ J. Sarkin, "Correctional Facilities in Africa," *Oxford Research Encyclopaedia of Politics*, 2019.

³¹ Muntingh, "Africa, Prisons and COVID-19."

³² World Correctional Facility Brief, "World Prison Brief Data."

³³ Kate Dolan et al., "Global Burden of HIV, Viral Hepatitis, and Tuberculosis in Prisoners and Detainees," *The Lancet* 388, no. 10049 (2016): 1089–1102; Massimiliano Esposito et al., "The Risk of COVID-19 Infection in Prisons and Prevention Strategies: A Systematic Review and a New Strategic Protocol of Prevention," in *Healthcare*, vol. 10 (MDPI, 2022), 270.

³⁴ Kosabo Isaac Shabangu, "Prison Overcrowding in the South African Correctional Services: A Penological Perspective" (2009); Emily Nagisa Keehn and Ariane Nevin, "Health, Human Rights, and the Transformation of Punishment: South African Litigation to Address HIV and Tuberculosis in Prisons," *Health and Human Rights* 20, no. 1 (2018): 213.

³⁵ Safer Spaces, Prison Violence in South Africa: Context, Prevention and Response Available online <https://www.saferpaces.org.za/understand/entry/prison-violencein-south-africa-context-prevention-and-response> Accessed 20 December.2020

³⁶ Muntingh, "Africa, Prisons and COVID-19."

³⁷ World Health Organization (WHO), "Frequently Asked Questions about Prevention and Control of COVID-19 in Correctional Facilities and Other Places of Detention," 2020, http://www.euro.who.int/__data/assets/pdf_file/0008/436904/correctional-facilities-FAQ-COVID-2019.pdf.

³⁸ Country Profile, "South Africa: Country Profile Correctional Facility Insider," 2020, <https://www.correctionalfacility-insider.com/countryprofile/correctionalfacilitiesinsouthafrica>.

³⁹ Heard, "Towards a Health-Informed Approach to Penal Reform? Evidence from Ten Countries."

terrified of contracting COVID-19, particularly as no antidote against it had been developed.⁴⁰ Their fear stemmed from the poor quality of masks, the lack of sanitizers, and an inability to social distance due to overcrowding. Furthermore, the article stated that four prisoners who worked as cleaners in the correctional facility had contracted the virus, while a prisoner stated that testing within the facility was limited. However, Singabakho Nxumalo, a DCS spokesperson, stated that the correctional facility had taken preventative measures such as hiring 600 healthcare practitioners to help fight the virus, eliminating Independent Correctional Centre Visitors' (ICCV) visits, and changing the prisoners eating routine in order to create ventilation.⁴¹ These examples affirm that COVID-19 compelled the managers of overpopulated South African correctional institutions to effect changes in their operations for the safety and well-being of prisoners.

Health and Hygiene in Correctional Centres

Regardless, the paper argues that despite their incarceration, inmates still hold entitlement to basic human rights, among others, the right to access quality healthcare systems without being discriminated against. Prior to the pandemic, overcrowding and population density in correctional facilities already exacerbated the challenges caused by the burgeoning rate of infectious disease outbreaks in these facilities, although this occurred at a much more manageable rate than when COVID-19 erupted.⁴² Chapter 2, of the Constitution of South Africa, explicates the basic rights of all persons in South Africa, including access of people to health services.⁴³ Therefore, in terms of the Correctional Services Act No. 111 of 1998, the Department of Correctional Services is mandated to provide primary health care services to all prisoners. The correctional centres should also transfer inmate patients to healthcare services outside the centres for much better healthcare if required.⁴⁴ However, most South African correctional institutions are overcrowded, and basic rights such as healthcare are not adequately protected. In cramped conditions, and with communal activities such as eating, showering, and using the toilet, it was impossible for South African correctional facilities to comply with global trends in response to COVID-19 lockdown requirements. Along with this growth of prison overcrowding, other scholars confirm that the conditions of living in most correctional centres worldwide are unhealthy.⁴⁵ The population in correctional centres is expanding more quickly than the infrastructure can cope with in terms of quantity and quality, which worsens the situation.⁴⁶

Infection-spreading practices like tattooing, overcrowding, violence, and a shortage of access to safe water, clean air, and nutritious food are all very frequent.⁴⁷ Various scholars have noted with great concern that some correctional centres in South Africa had permanently available doctors to attend for instance to female inmates' medical needs, while medical staff provisioning was inadequate to cope with the medical needs of prisoners in over-populated correctional institutions.⁴⁸ The lack of healthcare staff resulted in prisoners reverting to home care remedies to attend to their healthcare needs. As an instance, in the Western Cape Province's Voorberg Correctional Facility, correctional officers protested because of the appalling conditions and lack of support from human resources management, which was supposed to sanitize the facility despite the high number of reported positive cases.⁴⁹ Warders at the Waterval Correctional Facility in KwaZulu-Natal Province reportedly admitted to working without protective

⁴⁰ A. Khoza, "Pietermaritzburg Prisoners Fear Covid-19," 2020, <https://www.prison-insider.com/en/articles/afrique-du-sud-pietermaritzburg-prisoners-fear-covid-19>.

⁴¹ Khoza, "Pietermaritzburg Prisoners Fear Covid-19."

⁴² Makou, Skosana, and Hopkins, "The State of South Africa's Correctional Facilities"; Chris Beyrer, Adeeba Kamarulzaman, and Martin McKee, "Prisoners, Prisons, and HIV: Time for Reform," *The Lancet* 388, no. 10049 (September 2016): 1033–35, [https://doi.org/10.1016/S0140-6736\(16\)30829-7](https://doi.org/10.1016/S0140-6736(16)30829-7).

⁴³ Republic of South Africa, *Chapter 2: The Constitution of the Republic of South Africa* (Pretoria: Government Printers, 1996).

⁴⁴ Republic of South Africa, *Correctional Services Act No. 111 of 1998* (Pretoria: Government Printer, 1998).

⁴⁵ Caroline Agboola, "Memories of the 'inside' Conditions in South African Women's Prisons," *South African Crime Quarterly* 56 (2016): 19–26.

⁴⁶ Agboola, "Memories of the 'inside' Conditions in South African Women's Prisons"; Luiz Dal Santo, "Brazilian Prisons in Times of Mass Incarceration: Ambivalent Transformations," *The Howard Journal of Crime and Justice* 61, no. 4 (2022): 502–18.

⁴⁷ Stella May Cabeliza et al., "Bringing Education to the Communities: Its Conceptualization, Implementation & Evaluation," *Language, Literature and Society* 2019, 2019, 39.

⁴⁸ Agboola, "Memories of the 'inside' Conditions in South African Women's Prisons."

⁴⁹ S. Vuso, "Western Cape Warders Strike, Demand Mass Testing at Correctional Facility," Independent Online, May 12, 2020, <https://www.iol.co.za/capetimes/news/western-cape-warders-strike-demand-mass-testing-at-correctional-facility-47876492>.

clothing and masks to a Mail and Guardian reporter.⁵⁰ The Department of Employment and Labour eventually suggested that duty schedules should be revised so that correctional officers could work shifts to reduce their numbers in an environment that is characterized by overcrowding to minimize the risk of contracting COVID-19 in South African correctional centres.⁵¹ This suggests that measures were put in place to protect the health of officers, yet it begs the question of what was done to ensure the health and safety of prisoners.

Early Release of Prisoners

On a worldwide scale, there were approximately 11 million inmates in correctional facilities in 2020, the highest number ever. According to the 2020 Global Correctional Facility Trends, above 110% occupancy rates were observed in over 102 nations. When strategies had to be developed to stop and limit COVID-19 outbreaks in these facilities, it became apparent how serious the problems and related human rights abuses resulting from overpopulation in correctional facilities were. Simpson and Butler noted that risk management, prevention and control, treatment, and information exchange were all encouraged by the WHO's recommendations for dealing with COVID-19 in detention institutions.⁵²

The management of these institutions had to respond quickly to stop COVID-19 epidemics in detention centres and to safeguard people who were in custody, the employees, and the general public. This was especially important since overcrowding affects health negatively and contributes to the spread of infectious illnesses, with a rate of 59% across all nations in the globe. Due to mounting evidence that COVID-19 clusters began in confined spaces and were linked to wider community transmission, release approaches were therefore put into place in the interest of public health along with measures to improve correctional facility hygiene and screening, testing, and isolation of cases.

To reduce the risk of the virus spreading within correctional facilities, South Africa identified prisoners who posed a low risk to the public's safety for early release, and inmates who had been imprisoned longer than their minimum sentence periods were able to apply for parole by mid-July 2020.⁵³ Governments on the whole African continent followed suit, and despite the associated financial implications, they were lauded for their quick action in halting the virus's spread.⁵⁴ Significant releases were reported in seven nations, with South Africa announcing the most with 19,000. Mozambique freed 5,032 convicts, while Ethiopia released a total of 5,600. With 149 inmates freed, Botswana had the lowest release rate.⁵⁵

To prevent the spread of Covid-19 in detention centres, Mr. Cyril Ramaphosa, the president of South Africa, approved the release of certain kinds of prisoners on parole. This decision was also taken to assist in relieving the load in these institutions and to facilitate less congestion.⁵⁶ According to Kras and Fitz, parole is "a discretionary placement option that is executed by the DCS to place an incarcerated person under community corrections after serving a certain portion of their sentence."⁵⁷ The President authorized the early release of no fewer than 19,000 of the country's 155,000 correctional population. From 1 July 2020, only 4,138 prisoners were released on special parole, which eased overcrowding by approximately 5% (Over 4,000 parolees released..., 2020). The President mentioned that parole dispensation would apply to only low-risk prisoners who had passed their minimum detention period or would approach this period in the following five years. This dispensation excluded prisoners sentenced to

⁵⁰ P. Harper, "COVID-19 Hits Correctional Facility System," Mail & Guardian, 2020, <https://mg.co.za/article/2020-04-08-covid-19-hits-correctional-facility-system/>.

⁵¹ Department of Employment and Labour, *Consolidated Coronavirus COVID-19 Direction on Occupational Health and Safety Measures in the Workplace* (Pretoria: DEL, 2020).

⁵² Paul L Simpson and Tony G Butler, "Covid-19, Prison Crowding, and Release Policies," *Bmj* (British Medical Journal Publishing Group, 2020).

⁵³ E. Mabuza, "6, 791 Inmates Granted Parole under Lockdown Dispensation," Sunday Times, July 17, 2020, <https://www.timeslive.co.za/news/south-africa/2020-07-17-6791-inmates-granted-parole-under-lockdown-dispensation/>.

⁵⁴ A. Bruce-Lockhart, "Africa 'Least Affected' by COVID-19; Hydroxychloroquine Trial Suspended," World Economic Forum, WHO Briefing, 2020, <https://www.weforum.org/agenda/2020/05/covid19-africa-hydroxychloroquine-world-health-organization/>.

⁵⁵ Muntingh, "Africa, Prisons and COVID-19."

⁵⁶ Kras and Fitz, "The Social and Environmental Implications of the Novel Coronavirus on Institutional and Community Corrections in South Africa."

⁵⁷ Kras and Fitz, "The Social and Environmental Implications of the Novel Coronavirus on Institutional and Community Corrections in South Africa."939.

life or serving terms for specified serious crimes such as sexual offences, murder and attempted murder, gender-based violence, and child abuse.

In June 2020, the Minister of Justice and Correctional Service, Ronald Lamola, told a virtual sitting of the National Council of Provinces that the Department had started releasing selected low-risk incarcerated persons on 20 May 2020. He said that, on 17 July 2020, just under 7,000 of the 19,000 targeted prisoners had been released on parole.⁵⁸ Minister Lamola admitted that this initiative had been delayed due to various challenges although it had been started on 11 May 2020. The total number of confirmed COVID-19 cases in correctional facilities stood at 2,424 on 30 June 2020. Of these, 1,193 were officials and 1,231 were prisoners.⁵⁹

A requirement that had to be met for an incarcerated person to be considered for early release was that s/he had to have completed an appropriate rehabilitation programme aimed at addressing their criminal behaviour. These incarcerated persons were considered for early release because they posed a low risk of re-offending. Other requirements for an early release included the collection of fingerprints and DNA samples for comparison with the South African Police Services (SAPS) database. Before making the final decision to place qualifying sentenced incarcerated person on parole, the Parole Board had to assess and consider their profiles individually, and the board would then make a recommendation. Victims were given the opportunity to express their feelings about whether the incarcerated person should be considered for parole. Finally, all other relevant factors, such as prior convictions for violent offenses, were considered (Over 4,000 parolees released..., 2020).

COVID-19 Cases in Correctional Facilities

Contradictions between the provisions for prisoners in the Correctional Services Act and the actual conditions in correctional centres pose a threat to prisoner's constitutional rights. Nkosi has established that overcrowded correctional centres not only provoke violence and aggression among prisoners but also serve as a melting pot for the spread of many viruses and diseases.⁶⁰ The first positive COVID-19 case in southern and east Africa was reported in South Africa on 5 March 2020, and the first correctional facility case (an official) was also reported in South Africa on 6 April (Call for Minister to release correctional facility data, 2020). Towards the end of August 2020, a total of 4,104 officials and 2,309 prisoners had tested positive for the coronavirus.⁶¹ Sadly, since the outbreak of the pandemic, 103 officials and 43 prisoners died. In a news story published by *News24* on the Sun City correctional facility, one incarcerated individual reported as follows:

*It's a mess here, to tell you the truth. We don't even have a doctor or nurses on site. We don't have PPE, [and] we don't practise social distancing at all. The situation is very bad. People are dying, each and every day. Last week two diabetic prisoners died because they didn't get their injections. It's really bad. I even had to buy my own mask, because we are not provided with any.*⁶²

Overcrowding had a dire effect on the effective functioning of correctional centres, particularly as self-injury and injury to others, increased levels of aggression, violence, increased drug use, and a number of health issues escalated in this period.⁶³

Overcrowding undeniably exacerbated the spread of the virus in correctional facilities and severely endangered the lives of prisoners, wardens, and other officials who worked hard to contain it.⁶⁴ Social distancing was not a choice under these conditions as it was impossible to quarantine large numbers of infected prisoners. Research by Muntingh revealed that correctional facilities remained overcrowded with

⁵⁸ South African Government News Agency, "Over 4, 000 Parolees Released to Make Social Distancing Possible," 2010, <https://www.sanews.gov.za/south-africa/over-4-000-parolees-released-make-social-distancing-possible>.

⁵⁹ South African Government News Agency, "Over 4, 000 Parolees Released to Make Social Distancing Possible."

⁶⁰ Nozibusiso Purity Nkosi, "The Impact of Correctional Centre Overcrowding on Rehabilitation of Offenders: A Case Study of Durban Westville Correctional Centre" (2018).

⁶¹ Khoza, "Pietermaritzburg Prisoners Fear Covid-19."

⁶² C. Gililli, "Correctional Facilities Fear for Their Lives at Sun City as COVID-19 Wave Spreads," *News24*, July 31, 2020, <https://www.news24.com/news24/southafrica/news/correctional-facilities-fear-for-their-lives-at-sun-city-as-covid-19-wave-spreads-20200730>.

⁶³ Nomakhosi Nomathemba Sibisi and Sogo Angel Olofinbiyi, "A Critical Analysis of Overcrowding in South African Correctional Centres," *African Renaissance* 18, no. 2 (2021): 2.

⁶⁴ Sibisi and Olofinbiyi, "A Critical Analysis of Overcrowding in South African Correctional Centres."8.

limited space to practise social distancing, which was a primary prevention measure at the height of the COVID-19 threat.⁶⁵ This tells that congestion was a major obstacle in adhering to social distancing when the highly contagious COVID-19 disease ravaged the world. As a result, the risk of infection for prisoners and correctional staff was severe.⁶⁶ In less than six months after it had been declared a global epidemic, researchers found that 2,332 inmates and over 4,116 prison personnel across Africa, with the majority living in sub-Saharan Africa, had been infected with the virus.⁶⁷ Furthermore, this was an indication of the inability of the state to provide adequate institutional support to equip correctional authorities, prisoners and staff with protective equipment as a form of human security against the virus.⁶⁸

Restrictions on Access to Correctional Facilities

Correctional centres are not cut off from society, despite the general desire to believe so. In many ways, visitors from family and friends who visit loved ones incarcerated in correctional facilities are the lifeblood of these institutions because they not only guarantee that inmates connect with one another and have interaction with the outside world, but they also offer resources like money, food, bedding, and toiletries.⁶⁹ While the virus obviously infiltrated correctional facilities by means of those who entered them from 'outside' (e.g., correctional facility staff, visitors, legal representatives, etc.), it could also have been taken to the outside world by the same people.⁷⁰ The restrictions that were imposed due to COVID-19 on correctional institutions meant that prisoners were deprived of the opportunity to enjoy the presence of visitors such as family members, loved ones and friends, even for short periods. It is predominantly the poor who commit crimes and are incarcerated, but as the state cannot provide every resource, prisoners are dependent on outside support for a few 'luxuries' to make life inside a little more bearable.⁷¹ Having contact with the outside world is important for a prisoner's physical and psychological well-being. Limited resources can be bought (often clandestinely) and bribes often ensure a prisoner's safety, but this means that they are vulnerable to intimidation and victimisation.

Outsider visitation doesn't mean only family and friends, but officials such as lawyers, teachers, and doctors provide services for prisoners on a daily basis. The COVID-19 restrictions meant that these officials could not provide these necessary services and contact (except in the case of health emergencies) and this was a severe disadvantage that prisoners resented. The pandemic also delayed legal and transfer processes and prisoners who were supposed to be transferred to other institutions closer to home, or whose cases had to be heard, could not be involved due to the high risk of infection.⁷²

These results highlight the need to expedite inmate releases and enhance remand detention facility conditions, particularly for those who have yet to face trial. During the lockdown, the majority of trials and criminal procedures were put on hold, leaving many people in a situation where they were still facing charges but there was no progress being made on their cases. Eradicating overcrowding was the only way to curb the spread of COVID-19, but this did not occur. In fact, even innocent people could have been incarcerated at this time as they did not have the opportunity to present their cases to a fair court of law. The South African government removed certain limitations while advancing to level 2 of the lockdown measures, and it was only after many months of prohibited visits that the Correctional Services Department announced the gradual introduction of visits to inmates on August 25, 2020.⁷³

⁶⁵ Muntingh, "Africa, Prisons and COVID-19."

⁶⁶ Katey et al., "COVID-19 and the Marginalized: An Opinion Piece on Further Measures to Address COVID-19 in Prisons in Sub-Saharan Africa."

⁶⁷ Rapisarda and Byrne, "An Examination of COVID-19 Outbreaks in African Prisons and Jails"; Carlos Franco-Paredes et al., "COVID-19 in Jails and Prisons: A Neglected Infection in a Marginalized Population," *PLoS Neglected Tropical Diseases* 14, no. 6 (2020): e0008409; Marie Claire Van Hout et al., "A Legal-Realist Assessment of Human Rights, Right to Health and Standards of Healthcare in the Malawian Prison System during COVID-19 State Disaster Measures," *International Journal of Prisoner Health* 19, no. 3 (September 5, 2023): 273–89, <https://doi.org/10.1108/IJPH-10-2021-0108>.

⁶⁸ Katey et al., "COVID-19 and the Marginalized: An Opinion Piece on Further Measures to Address COVID-19 in Prisons in Sub-Saharan Africa."

⁶⁹ Muntingh, "Africa, Prisons and COVID-19."

⁷⁰ M Ollove, "How COVID-19 in Jails and Prisons Threatens Nearby Communities," *Pew Research Institute*, 2020.

⁷¹ Muntingh, "Africa, Prisons and COVID-19."

⁷² Catherine Heard, "Commentary: Assessing the Global Impact of the Covid-19 Pandemic on Prison Populations," in *The Global Impact of the COVID-19 Pandemic on Institutional and Community Corrections* (Routledge, 2021), 16–29.

⁷³ S. Mlamla, "COVID-19 Outbreak: Put Moms in Correctional Facilities under House Arrest," *Independent Online*, 2020, <https://www.iol.co.za/capeargus/news/covid-19-outbreak-put-moms-in-correctional-facility-under-house-arrest-49114529>.

DISCUSSION

In modern society, prison overcrowding has undergone an unprecedented expansion, and this has given rise to a great mass of malfunctioning of correctional centres which is linked to the vulnerability of prisoners' and officials' lives. As far as the prison situation in South Africa is concerned the central fact is precisely the overcrowding and inadequate institutional support, which is both cause and effect of the malfunctioning of prisons which remained exposing both prisoners and officials to health high risks. It is worth noting that the elaboration of prison management in concrete reality during the pandemic does not fully adhere to the Bodies that govern correctional centres. The current study found that there were uncertainties about how correctional centres prevent and manage the pandemic in overcrowded prisons to ensure a healthy conducive and stable environment. By the end of the pandemic, it was quite clear that the government had been ineffective in fully addressing the effects of overcrowding in prisons to ensure that prisoners enjoy basic human rights. The government's efforts to the problem of prison overcrowding were closely connected with poor governance to ensure a safe environment for all prisons and officials during the pandemic to adhere to Chapter 2 of the South African constitution and this indicates a limitation in the functionality of correctional centres. The paper makes the case that correctional facilities were hotspots for infectious diseases during the COVID-19 period because of a high incidence of infection, an increasing degree of risk for infection, inevitable close proximity in cramped, unclean, and inadequately ventilated infrastructure, and limited access to medical services.

Prison overpopulation has a negative influence on the prison system, the public's health, and the health and well-being of inmates. Numerous problems are brought on by overcrowding, including subpar healthcare, a shortage of resources, a lack of nutritious food, and the maintenance of aggressive behaviour.⁷⁴

Numerous inmates are frequently forced to sleep on the floor because thousands of them serve the majority of their sentences in appalling circumstances with little room to sleep. According to Giffard and Muntingh, many convicts are squeezed into cramped living spaces, sometimes in terrible hygiene conditions and with little or no privacy, (and this) enhances the experience of being deprived of liberty (which is) already unpleasant in ordinary circumstances exponentially worse.⁷⁵

Overcrowding in prison entails a staggering increase in disease prevalence, especially psychiatric and infectious disorders. In addition, discovered that prisons that were overcrowded had a greater prevalence of psychological disorders, diseases, aggressive conduct, a high suicide rate, and a higher likelihood of recidivism.⁷⁶ Correctional facility overpopulation has contributed to the inefficiencies of criminals' reintegration and to the cruel and cruel treatment of prison staff members. Increasing awareness about this issue significantly eliminates this deficit in health care and social welfare. Overcrowded prisons are contributing factors to health issues spread in jails. It is argued that some detainees die despite the fact that they are on death row since many overcrowded prisons lack proper medical treatment.⁷⁷ To improve inmates' health and give them an environment that is secure, these correctional facilities present extensive and complicated obstacles. Overcrowded correctional facilities are "prone to unsanitary, violent conditions that are harmful to prisoners' physical and mental well-being."⁷⁸

Correctional service employees face a variety of threats as well. They risk illness, increased stress and mental health problems, potential prisoner aggression, and heightened anxiety. According to Ronald Lamola, minister of justice and correctional services, there were 10,807 additional inmates during the 2020–2021 and 2022–2023 fiscal years, a 7.67% rise. The minister noted that because they had to take care of a greater number of inmates, the department frequently ran into problems. As they had more

⁷⁴ Nozibusiso Nkosi and Vuyelwa Maweni, "The Effects of Overcrowding on the Rehabilitation of Offenders: A Case Study of a Correctional Center, Durban (Westville), KwaZulu Natal," *The Oriental Anthropologist* 20, no. 2 (2020): 332–46.

⁷⁵ C. Giffard and L. Muntingh, *The Effect of Sentencing on the Size of the South African Prison Population (Report Commissioned by the Open Society Foundation for South Africa)* (Open Society Foundation for South Africa, 2006).

⁷⁶ Nomfundo Mcetywa, "Boy, 15, 'sold' for Jail Rape," IOL, May 18, 2008, <https://www.iol.co.za/news/south-africa/boy-15-sold-for-jail-rape-400901>.

⁷⁷ T. Kenan and J. Manda, "Overcrowding and Its Effects on the Health of Prisoners in Malawi: A Role for the Malawian Courts," in *Using the Courts to Protect Vulnerable People*, ed. A. Meerkotter (NAWABO, n.d.), 32–38.

⁷⁸ Morag MacDonald, "Overcrowding and Its Impact on Prison Conditions and Health," *International Journal of Prisoner Health* 14, no. 2 (June 11, 2018): 65–68, <https://doi.org/10.1108/IJPH-04-2018-0014>.

inmates, there were many frequent fights between the inmates and prison guards, during which guards were stabbed, as well as greater violence among the convicts themselves. *ibid* reiterate (2014:39) that “assault is driven by overcrowding (and this) makes adequate supervision of daily prison life nearly impossible, both inside the cells and in the wider prison environment.” As warders are required to monitor two to three times as often in overcrowded correctional facilities, it is believed that there is less monitoring.⁷⁹ *ibid* argue that “the influx of inmates and (the) subsequent decline in supervision have flipped the balance of power and placed inmates largely in control of each other.” The study found overcrowding to be the cause of many problems that correctional facilities encountered. The following section provides recommendations on how correctional facilities could reduce or manage overcrowding within correctional centres.

RECOMMENDATIONS

Dealing with a pandemic like an infectious disease in overcrowded correctional centers presents unique challenges. Here are recommendations tailored to address these specific circumstances:

- **Decompression Strategies:** Prioritize efforts to reduce overcrowding through measures such as early release for non-violent offenders, expanding alternatives to incarceration, and expediting parole processes for eligible individuals.
- **Isolation and Quarantine Facilities:** Establish dedicated isolation and quarantine areas within the facility to separate individuals who have tested positive for the infectious disease or have been exposed. Ensure these facilities have adequate medical staffing, supplies, and support services.
- **Temporary Housing:** Explore options for temporary housing arrangements, such as utilizing vacant facilities or repurposing non-correctional spaces, to create additional space for isolating and quarantining individuals while maintaining appropriate medical care.
- **Enhanced Screening and Testing:** Implement enhanced screening measures upon entry to the facility, including temperature checks and symptom screening, to identify individuals who may be infected. Increase testing capacity and frequency to detect cases early and prevent transmission.
- **Intensified Hygiene Protocols:** Introduce rigorous hygiene protocols, including frequent handwashing, provision of hand sanitizer, and increased cleaning and disinfection of high-touch surfaces. Ensure adequate access to soap, water, and sanitation facilities for all inmates.
- **Physical Distancing Strategies:** Implement creative solutions to promote physical distancing within the facility, such as staggering meal times, limiting group activities, and reconfiguring living arrangements to reduce crowding in shared spaces.
- **Education and Communication:** Provide clear and consistent communication to inmates and staff about preventive measures, symptoms of the infectious disease, and available healthcare resources. Use multiple channels, including signage, educational materials, and staff training sessions, to disseminate information.
- **Collaboration with External Partners:** Forge partnerships with local health departments, healthcare providers, and community organizations to leverage resources and expertise in managing the pandemic. Coordinate closely on testing, contact tracing, and outbreak response efforts.
- **Monitoring and Evaluation:** Establish mechanisms for ongoing monitoring and evaluation of pandemic response efforts within the facility. Regularly assess the effectiveness of preventive measures, identify areas for improvement, and adapt strategies as needed based on emerging trends and guidance.

By implementing these recommendations, overcrowded correctional centers can better manage the challenges posed by a pandemic like an infectious disease and protect the health and safety of both inmates and staff.

⁷⁹ Nkosi and Maweni, “The Effects of Overcrowding on the Rehabilitation of Offenders: A Case Study of a Correctional Center, Durban (Westville), KwaZulu Natal.”

CONCLUSION

The paper confirms that the safety of prisoners and officials from health risks is still in its romantic phase, in which the elements of the struggle against persistent overcrowding have become unhealthy and deprived some of the basic rights of prison communities. This article supports that inmates who are held close to one another act as carriers and sources of infection, viral amplification, and the subsequent spread of an infectious illness both within and outside of the high walls of correctional facilities. Many countries throughout the world aggressively reduced their populations to prevent the development of the contagious COVID-19 epidemic in detention centres. Theoretically, preventing and restricting in-person contact between family members and convicts lowers the risk of infection spreading from visitors to inmates and/or personnel. However, doing so does not lessen the risk of COVID-19 and other infections being contracted by inmates and staff who attend correctional facilities daily. Due to the restricted nature of incarceration, the extensive transmission of the coronavirus in communities constituted a major hazard to both inmates and employees in correctional facilities. The study has recommended that the management and functions of prisons should be measured objectively by the number of stakeholders and the gradation of Specialised Bodies to maximize the culture of effective governance that is human rights oriented.

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