Deviances and the Construction of a ‘Healthy Nation’ in South Africa

A Study of Pollsmoor Prison and Valkenberg Psychiatric Hospital

c. 1964-1994

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Short Abstract

This thesis is a microhistorical investigation of the dynamics of control and resistance in Pollsmoor Prison and Valkenberg Psychiatric Hospital’s Maximum Security section from 1964 to 1994 in South Africa. It examines the evolution of daily life inside these institutions, both situated in the Western Cape, and the extent to which these institutions were part of the security apparatus developed by the apartheid state. The permeability of Pollsmoor and Valkenberg shed light on the connections between repression, resistance, collaboration and survival inside and outside closed institutions. The division of incarcerated populations according to race, gender, age and behaviour reflected wider logics of governance of the South African society. Similarly, the modalities of resistance and collaboration adopted by ‘political’, ‘common law’ and ‘insane’ prisoners on the inside echoed the processes of popular mobilisation on the outside. The construction of a ‘healthy nation’ through the production and control of deviances was hence far from being a smooth process.

The thesis is divided into three parts, each composed of three chapters. The first part analyses the way a system of law and order, based on delineation, the bestowal of privileges and violent repression, was imposed in prisons and psychiatric hospitals’ Maximum Security sections and how this evolved according to the changing social and political imperatives of the apartheid state. The second part shifts the gaze to the level of the courts, where psychiatric and criminological discourses became increasingly entangled throughout the period. The operating modalities of the judicial system reflected the fears and expectatives of the white minority, while providing a racialised image of black populations as both dangerous and childlike. Finally, the third part analyses the links between outside and inside resistances and adaptations to the regime of apartheid. It focuses on the 1994 prison revolts as prisms to understand the processes of subjectification and politicisation which had emerged in closed institutions during apartheid.
Long Abstract

This thesis looks at the mechanisms of control and resistance, repression and subjectification, anomy and identity in Pollsmoor Prison and the Maximum Security section of Valkenberg Psychiatric Hospital in South Africa from 1964 to 1994. Adopting a microhistorical methodology, this study explores prisoners and patients’ minute gestures and their place in the broader social dynamics of apartheid South Africa. It analyses the connections and distortions between practices in closed institutions and the judicial system in the Western Cape, while examining the way these practices nurtured racialised and gendered discourses on the boundaries between ‘deviancy’ and ‘normalcy’. In order to understand the extent to which the creation of the categories of ‘insane’, ‘political’ and ‘common law’ prisoners was crucial to the implementation of the apartheid system of law and order, the thesis focuses on three different levels of investigation.

The first one hinges on the daily life inside closed institutions and how it evolved from 1964 to 1994. It sheds light on the governance modalities that attempted to control incarcerated populations through categorisation, repression and division. The second level focuses on the mechanisms prevailing in the judicial system and how they changed according to the different social and political imperatives of the apartheid state. The third level analyses the connections between inside and outside dynamics of repression, resistance and collaboration. It argues for the permeability of supposedly closed institutions while revealing the processes of subjectification and politicisation which challenged the apartheid state’s endeavour to govern the South African population through fear and violence.

In addition to microhistory, this thesis adopts other methodologies relating to the fields of, among others, oral history, imperial and global history and subaltern studies. The wide range of archives used for this work include internal documents from Pollsmoor and Valkenberg, correspondence between prisoners or patients and non-governmental organisations or state administrations, newspapers, statistics and official reports. These have been complemented by more than forty interviews, led inside Pollsmoor with prisoners and warders or in the Western Cape, with lawyers, judges, psychiatrists, psychologists and former political and common law prisoners.
This work also draws from the still too scarce historiography on colonial medicine, colonial practices of incarceration, the South African judicial system, political and social violence during apartheid, as well as the dynamics of identity creation in gang structures. It is indebted to several theoretical influences comprehending the works of Frantz Fanon, Michel Foucault, Erving Goffman and Walter Benjamin, without dismissing the need to highlight their limitations when applied to the South African context. This thesis aims at filling in the lacunae of existing historiographies while providing ideas for new fields of research relating to the role of prisons and psychiatric hospitals in the broader governance of societies.

The three levels of investigation are each composed of three chapters. The thesis starts off by analysing the differentiation of punishments, privileges and repression according to race, age, gender and behaviour in Pollsmoor Prison and the Maximum Security section of Valkenberg Psychiatric Hospital from 1964 to 1994. Pollsmoor Prison was opened in 1964 as an answer to the general prison overcrowding resulting from the increasing number of prisoners, following the implementation of the first apartheid laws during the 1950s. By the end of apartheid, Pollsmoor encompassed five different prisons. Valkenberg was established in 1891. Although its Maximum Security section was only added in 1976, the connections between the hospital and the penal and judicial systems predated its opening. Throughout apartheid, Pollsmoor and Valkenberg increasingly categorised their incarcerated populations. Both institutions finally divided them according to gender, racial category, age and behaviour from the 1970s onwards. This classification, which authorities justified in terms of security and rehabilitation, was a crucial tool of control for the prison and hospital’s administrations. It reflected the fact that closed institutions, like in many other African colonial settings, objectified their populations in accordance with the ‘scientific’ discourses elaborated at the time.

These lines of categorisation formed the basis allowing Pollsmoor and Valkenberg authorities to implement a system of law and order based on the bestowal of privileges and on repressive methods. Certain elements, such as the system of privilege/punishment and the distribution of differentiated diets according to the prisoner or patient’s racial category, were similar in both institutions. Those relating to ‘security goals’ slightly differed. In Pollsmoor, warders mostly used transfers, assaults, flogging, spare diet and solitary confinement in order to coerce prisoners into obeying to the new system of rules imposed upon them. In Valkenberg, the deprivation of the
senses of self and dignity were implemented to a further degree and mainly rested on the administration of electroshocks and overdosed sedatives. The use of padded cells with physical restraints and of spare diets, on the other hand, bore a lot of resemblance with prison punishments. While due to this ‘treatment’, psychiatric patients increasingly became drugged shadows of themselves, in Pollsmoor, like in other South African prisons, inmates responded to warders’ brutality by organising themselves into gang structures. The Number, composed of three brother gangs, the 26’s, 27’s and 28’s, established itself in prison at the beginning of the twentieth century. It mimicked different military and judicial structures derived from the colonial period and invented a mythology, an army, a court system and a language in order to wage war against prison authorities. However, its official aims were far from reflecting the reality of its evolving practices.

To the first line of classification, the institutions’ administrations, in conjunction with the judicial system, added another one. The frontiers dividing the categories of ‘political’, ‘common law’ and ‘insane’ prisoners were fluctuating. The apartheid state systematically refused to acknowledge the existence of ‘political prisoners’, also called ‘security prisoners’. Common law prisoners asserted that the economic and social impact of apartheid laws had left them with no other choice than crime. The labelling of some prisoners as ‘insane’ answered to security logics as much as to psychiatric diagnoses. Despite their oscillating nature, these frontiers still served as powerful tools to define ‘deviancy’ and ‘obedience’ to the apartheid regime. With the intensification of police repression against political activities, which characterised the end of the 1970s, the treatment of ‘security prisoners’ attracted increasing public concern. Political prisoners fought for more privileges and, in the process, reiterated the difference between them and ‘criminal’ inmates, and more specifically between them and gang members of the Number, who considered themselves as taking part to the struggle for liberation. The fate of prisoners categorised as mentally ill, on the other hand, remained invisible in the public sphere. Sent to the Maximum Security sections of psychiatric hospitals, to prison-hospitals for ‘psychopaths’ from 1976 onwards or defined as State President Patients, they received a double sanction, one from the judicial system, and one from the psychiatric discipline.

In order to understand how these different lines of categorisation were part of the wider system of governance implemented by the apartheid state, one needs to shift the
investigation to the level of the courts. The judicial system underwent several changes throughout apartheid, the main processes being the growing entanglement between psychiatric and criminological discourses and the diminishing autonomy of judges and magistrates in relation to the security policies of the apartheid regime. The use of psychiatrists’ testimonies during court trials revealed a broader psychiatrisation of social control. In the Western Cape, from the 1970s onward, judges had to assess the ‘certifiability’, ‘triability’ and ‘responsibility’ of an offender, sending the latter to Valkenberg Maximum Security section for a 30-day observation period if there was any doubt as to his or her ‘sanity’. In contrast to Kenya or Mozambique, the judicial system made few attempts to psychiatrise the motives of political opponents. What was at stake in the involvement of psychologists on the side of the defence during 1980s terrorism, public violence and common purpose trials was of a different nature. Psychologists used the crowd theory to sustain the existence of extenuating circumstances or highlighted the psychological effect of detainees’ torture and isolation in order to discredit the accusations. Their participation in trials revealed that by the 1980s, courts had become political arenas where the legitimacy of the apartheid state was challenged.

Psychiatric authorities subjected offenders sent to Valkenberg for observation to a series of tests and to behavioural surveyance. Psychologists in training applied non-standardised tests to assess the ‘defective development’, the ‘psychopathy’ and/or the ability to understand the distinction between right and wrong. In turn, psychiatrists sent recommendations to the court as to the responsibility, mental deficiency and/or ability of the offender to follow the trial proceedings. This process constituted a ‘scientific’ basis allowing penal and psychiatric discourses to link specific forms of crime with mental illnesses according to racial categories. The judicial system was also supposed to warrant the legality of people’s committal to mental hospitals or homes for the ‘mentally defective’. Since the beginning of the twentieth century, a number of committal procedures had been abusive and had led to cases of illegal detention in the Western Cape. Despite the increasing presence of psychiatrists and psychologists in the courts from the 1970s onwards, committed psychiatric patients could barely use the judicial system to protest against their detention and the ‘treatment’ they received inside mental institutions. Interestingly, during apartheid, prisoners transferred to psychiatric hospitals for short periods sometimes perceived Valkenberg as a kind of refuge, an experience which seemed to contradict the most dreary depictions of the asylum.

The different connections between psychiatric hospitals, prisons and the judicial
system reveal how the apartheid state constructed the necessity of segregation and repression on ‘scientific’ discourses which evolved throughout the period. While the racial bias of the overwhelmingly white judges and magistrates became increasingly blatant, specific sentences such as corporal punishment, death penalty and those related to terrorism showed how the definition of violent acts and deviance changed from 1964 to 1994. The judicial system gradually lost its autonomy as the Parliament passed more and more security laws. In a number of 1980s political trials, the defendants argued that the justice of apartheid had become ‘criminal’ and that the ‘terrorism’ of which they were accused was in fact the deed of the apartheid state. The judicial system, however, was not only a tool legitimising police violence and apartheid laws. It nurtured broader discourses that produced an image of the swart gevaar as a threatening black mob prone to violence, crime, political unrest and sexual depravation. These discourses portrayed the contact between Whites and ‘non-Whites’ in terms of moral decay, which hinged on youth instability, drugs and the more classic ‘evils’ of urbanisation and industrialisation.

The massive incarceration induced by these judicial practices was part of the apartheid state’s attempt to control the South African population through the dissemination of fear and terror. With the passing of successive states of emergency, the 1980s, characterised by a blend of reforms and heightened repression, witnessed an intensification of arrests, torture and state violence. These methods encountered an increasing popular resistance. Violence and suspicion spread in townships and in the countryside, blurring the frontiers between ‘legitimate’ political activities and ‘illegitimate’ criminal ones. Gangs and ‘tsotsis’ involved themselves in this political turmoil, either on the side of the police or on the side of resistance movements. Inside prisons, the links between members of the Number and political prisoners reflected the ambiguities of such connections. The interactions between the two groups constituted a continuum which ranged from solidarity to betrayal. Although collaboration between gang members and the prison authorities in order to victimise and harass political prisoners was more often the deeds of other gangs than the Number, the latter also took part in such practices. On the reverse, gang members also helped some political prisoners, especially from the PAC or in women’s prisons, teaching them how to survive inside closed institutions or providing them with banned items such as newspapers. The echoes between what was occurring inside and outside prisons during the 1980s reinforced the idea of the permeability of institutions, for the relationships tied inside
prisons had an impact on the political activity developing on the outside.

Similarly, the wide range of attitudes the South African population adopted in response to the apartheid system of governance bore resemblance with the ones prisoners embraced. The distinctions between the resistance modalities of political and common law prisoners mainly rested on a differentiated access to tools and resources, which obliged common law prisoners to use more violent means of action to attract the attention of the public sphere on their conditions. The internal violence of the Number partly answered to the same logic. Two additional elements need to be taken into account, however, to understand the brutality of gangs’ activities. At a mythological level, the Number saw violence as a binding force, necessary to ensure the cohesion of its ‘army’ and to challenge the anomy imposed by the system. On a more practical level, the prison administration often instrumentalised assaults between different gangs or between members of the same gang. Throughout apartheid, the administration changed its tactic towards the Number, replacing direct repression with a better understanding of the Number’s structure in order to use it and maintain the fragile peace that characterised prison daily life. In psychiatric hospitals, resistance was even more ambiguous, for the psychiatric system of power and knowledge reduced any dissident speech or action from the psychiatric patient to a further manifestation of his or her mental illness. This did not prevent mental hospitals from being places of violent confrontation, complaints and discursive struggles on the distinction between ‘madness’ and ‘normalcy’.

At the end of the 1980s, despite several reforms attempting to improve the material conditions of daily life inside prisons, tensions steadily grew among prisoners and black warders. In 1988, Modderbee prisoners formed the South African Prisoners’ Human Rights Organisation (SAPOHR). One year later, black Western Cape policemen and Pollsmoor warders established the Police and Prisons Civil Rights Union (POPCRU). These two organisations rapidly became national and played a crucial role in structuring prisoners’ and warders’ mobilisations and bringing their voices into the public sphere. The violence, instability and hope which spread in the South African society during the democratic transition initiated in 1990 found a similar echo in prisons and, to a lesser extent, inside psychiatric hospitals. Black warders engaged in sit-ins, strikes and demonstrations and were consequently arrested by the police. Political and common law prisoners embarked on hunger strikes, refused to enter their cells and set fire to parts of the buildings in order to be granted amnesties. At the same time,
psychiatric patients assaulted nurses and organised collective escapes. In 1994, two waves of revolts shook the country’s prisons. The prisoners’ requests hinged on the right to vote during the April 1994 first multi-racial democratic elections and the granting of a general amnesty. Both these revolts functioned as prisms, which revealed to the public sphere how the apartheid regime had shaped the lives of prisoners through coercion and repression and how the latter had undergone processes of subjectification and politisation which challenged the authorities’ attempt to deprive them of their sense of being.
Preface

The documents accessed for this research were either found in public archives or in Pollsmoor Prison’s archives. I have also led a number of interviews, more than half of them inside Pollsmoor Prison. In agreement with the South African Department of Correctional Services, the names of all the people interviewed in Pollsmoor have been anonymised. In addition, I have anonymised the names of prisoners and warders found in the archives – with the exception of those whose story was widely known in the public sphere. I have asked the people I have interviewed outside Pollsmoor if they wanted their name quoted or not, and as the majority did not wish to be recognised, I have anonymised all the interviewees’ names to respect their will. I keep a master grid of all corresponding names.

The fact that a great proportion of the documents used for this thesis are drawn from Pollsmoor Prison’s archives and that I led numerous interviews there mean that I have spent an extensive period inside this institution. The experience has shaped my understanding of the prison’s history, especially its architecture and the relationships between warders and prisoners. It explains why I occasionally do not quote archives or interviews when I refer to smells, sounds, architecture and specific language expressions in this thesis. As I have been to Valkenberg Psychiatric Hospital more sporadically, this also applied, though to a lesser extent, to this institution.

A number of the archives, especially those from Pollsmoor Prison and those relating to court trials, are written in Afrikaans. I have translated them into English for the purpose of this thesis.
Acknowledgements

This thesis would not have been possible without the support of many people. I first wish to thank my supervisor Jan-Georg Deutsch for his continuous help, patience and understanding, as well as for the many debates we had, which led me to realise the limits of some of my arguments and to strengthen them.

I am also grateful to all the people whom I have interviewed and who have accepted to share with me parts of their individual stories. Their narratives, and their own construction of history, have proved crucial to my thesis. I am especially indebted to Pollsmoor prisoners and former prisoners who have trusted me enough to provide me with information on incarceration inside apartheid prisons.

The interviews and research led in Pollsmoor archives were conducted with the agreement of the Department of Correctional Services and the help of some Pollsmoor warders. I also wish to thank all the archivists in South Africa and England who have spared some of their time to assist me with my archival work.

The conversations I had with and comments I received from many academics in South Africa, England and France have partly shaped the theoretical basis of this thesis. I am grateful to Jocelyn Alexander, William Beinart, Raphaëlle Branche, Andy Dawes, Wayne Dooling, Don Foster, Kelly Gillespie, Frederic Gros, Gary Kynoch, Guillaume Piketty, Sloan Mahone, Nicolas Mariot, Henri Medard, Jonny Steinberg and Dirk van Zyl Smit.

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The people who have provided me with support, inspiration and hospitality in South Africa, France and Spain are too numerous to be quoted by name, although they deserve
many thanks. I wish to acknowledge more particularly Joël Charbit and Reuben Message for their helpful comments and Franziska Rueedi for all the moments and conversations we shared. I owe my family an endless gratitude. Clara, Elise, Eve and Olivier, thanks for being there, at all times. Guillem Figueras Moreu’s unrelenting support, understanding and encouragements have assisted me throughout the process of writing this thesis.

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<td>ADAC</td>
<td>Ad-Hoc Detention Action Committee</td>
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<td>APLA</td>
<td>Azanian People’s Liberation Army</td>
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<td>AZAPO</td>
<td>Azanian People’s Organisation</td>
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<td>AWB</td>
<td>Afrikaner Weerstandsbeweging</td>
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<td>ASALR</td>
<td>All South African Law Reports</td>
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<td>BCM</td>
<td>Black Consciousness Movement</td>
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<td>CADP</td>
<td>Central Archives Depot, Pretoria</td>
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<td>CO</td>
<td>Commanding Officer</td>
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<td>CSVR</td>
<td>Centre for the Study of Violence and Reconciliation</td>
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<td>CTAR</td>
<td>Cape Town Archives Repository</td>
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<td>DCS</td>
<td>Department of Correctional Services</td>
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<td>ECT</td>
<td>Electroconvulsive Therapy</td>
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<td>EMPSA</td>
<td>Ecumenical Monitoring Programme in South Africa</td>
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<td>ESG</td>
<td>Emergency Services Group</td>
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<td>HPW</td>
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<td>IDAF</td>
<td>International Defence Aid Fund</td>
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<td>IEC</td>
<td>Independent Electoral Commission</td>
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<td>IFP</td>
<td>Inkatha Freedom Party</td>
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<td>ICRC</td>
<td>International Committee of the Red Cross</td>
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<td>LHR</td>
<td>Lawyers for Human Rights</td>
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<td>LRC</td>
<td>Legal Resources Centre</td>
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<td>Lynn S. Gillis’s Papers</td>
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<td>MAR</td>
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<td>MASA</td>
<td>Medical Association of South Africa</td>
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<td>Full Name</td>
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<td>MDR</td>
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<td>NICRO</td>
<td>National Institute for Crime Prevention and the Rehabilitation of Offenders</td>
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<td>OASSSA</td>
<td>Organisation for Appropriate Social Services in South Africa</td>
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<td>PA</td>
<td>Pollsmoor Archives</td>
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<td>PAC</td>
<td>Pan Africanist Congress</td>
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<td>PDM</td>
<td>Prisoners’ Democratic Movement</td>
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<td>POPCRU</td>
<td>Police and Prisons Civil Rights Union</td>
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<td>SAIRR</td>
<td>South African Institute of Race Relations</td>
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<td>SAFLII</td>
<td>Southern African Legal Information Institute</td>
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Map 1. Cape Peninsula, Western Cape, South Africa
Map 2. Pollsmoor Prison (1990)
Map 3. Valkenberg Psychiatric Hospital (1990)
Introduction

The etymology of the word ‘prison’ is rarely brought back to mind. It is derived from the Latin term *prehendere*, meaning ‘to grasp’, ‘to seize’. Hence, initially, the exhaustive sense of a prison sentence was the grasp – understood as the seizure, the capture – of the body, the sense of self, the rights and the social, political and civic status of a person. Incarceration meant the confiscation of the status of subject itself. In Europe, at the beginning of the nineteenth century, normalising and humanising layers of signification started to conceal this original notion of prison as a capture. The words of ‘constraint’, ‘rehabilitation’ and ‘rescue’ began to appear in the penal narrative during the later nineteenth century.¹ In South Africa, like in other African colonised territories, incarceration retained for a longer period its original sense of a mere – though integral – capture.² Established at the end of the eighteenth century, the South African prison system reflected, up to the twentieth century, the primordial objectification of the Other, the reiteration of a radical difference, the relation of ‘implacable enmity’ between the colonised and the coloniser.³

The development of South African psychiatry during the mid-nineteenth century reinforced the categorisation of deviance by penal discourses according to lines of gender, race and class. Valkenberg Mental Hospital, the first hospital in the country designed to cater for white ‘lunatics’ only, was expanded to house ‘black’ and ‘coloured’ patients in 1910.⁴ It symbolised both the advance of institutional psychiatry in the white

⁴ Hereafter, the terms ‘Africans’, ‘Coloureds’ and ‘Asiatics’, as well as ‘non-White’, will only be used to reflect the discourse of the apartheid regime. In the case where official institutions did not make any differentiation, the word ‘Black’ will be broadly used instead of these three former categories.
dominion and the need for segregation in the treatment of ‘mental diseases’. From the formation of the Union in 1910 to the rise of the Nationalist Party to power in 1948, the psychiatric discourse became increasingly entangled to the penal one, more particularly on the issues of sex, drugs and racial degeneration, as related to segregation and the control of urban space. Both discourses contributed to give a ‘scientific’ legitimacy to the first series of laws passed to restrict contacts between the different South African populations, to impede the movements of Blacks and to exploit their labour.

By 1948, the social imaginary of the white minority had been shaped to accept the full-blown making of ‘Africans/Bantus’, ‘Coloureds’ and ‘Asiatics/Indians’ – according to apartheid’s racial categorisation – into a constant threat, potential offenders who had to be disciplined, locked up and ‘treated’. Apartheid’s ideology did not, however, amount to a monolithic discourse on ‘non-Whites’. On the contrary, it based itself on the differentiation – and the consequent nurtured divisions – between racial categories. The government, through its legal discourse and practice, defined a trend of specific crimes for each racially constructed category, including Whites. Psychiatry, with its theoretical shift during the first half of the twentieth century from ‘biological’ to ‘cultural’ differences between racial groups, buttressed criminalising discourses by essentializing the specific deviance of each population category. For instance, it associated behaviour, social and criminal deviances to the phenomena of urbanisation and ‘deculturation’ for Blacks, the disintegration of social links and alcoholism for ‘Coloureds’ and the decline of moral values for Whites. Criminological and psychiatric discourses both elaborated and controlled deviances in order to sustain the construction of a ‘healthy nation’ in South Africa during apartheid.

The decade of the 1960s, marked by the Sharpeville massacre, witnessed a shift in the apartheid’s apparatus of power and its disciplining effects. A series of laws had

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previously extended racial segregation to people’s most intimate gestures and attempted
to tightly supervise the daily life of the different population groups. This endeavour
rested on laws such as the Population Registration Act (1950), the Natives (Abolition of
Passes and Coordination of Documents) Act (1952) – also known as the Pass Laws Act,
an extension of the first Natives (Urban Areas) Act of 1923 –, the Public Safety Act
(1957) and the Immorality Act (1957). By the 1960s, they had led to a multiplication of
trials. The daily flux of awaiting-trial and convicted prisoners soared, to which were
added new batches of people detained under the diverse Internal Security Acts. The
enmeshment of legal, penal and psychiatric discourses grew deeper. In 1972, the Van
Wyk Commission of Inquiry into the Mental Disorders Act of 1916 emphasised the
importance of the development of forensic psychiatry and brought the focus on the new
problem of ‘individual psychopathy’.⁶ From the 1970s to the democratic transition,
defence teams increasingly summoned up psychologists during ‘security’ or ‘public
violence’ trials to shed light on extenuating circumstances. In turn, state prosecutors
called psychiatrists to produce counter-expertise.

From the 1970s to the end of the 1980s, the succession of Acts, Amendments
and Commissions of Inquiry on the issues of internal safety, mental health and crimes
reflected an attempt to tighten the control over a population which, despite the violent
repression it was submitted to, could not be kept in the ‘right path’ of ‘separate
development’. The disciplining of bodies through the creation of categories shaped by
lines of race, gender and class increasingly based itself on a further demarcation
between political, mental and criminal deviances. Adjudicated upon within the
courtrooms, this delineation revealed its role most blatantly when implemented within
prisons and the Maximum Security sections of psychiatric hospitals.

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Closed Institutions in the Western Cape: a Microhistorical Study

Closed institutions such as reformatories, prisons, mental hospitals or ‘institutions for the feeble-minded’, as they were called during the first decades of apartheid, are too often considered as autonomous microsocieties functioning on their own, places where archaic rules, violence and pure arbitrariness prevail. The historical study from 1964 to 1994 of life inside Pollsmoor Prison and Valkenberg Mental Hospital, the two biggest such institutions in the region of the Western Cape, proves the contrary. At Pollsmoor, a first prison, Medium A, was opened in 1964 to house the increasing numbers of sentenced and unsentenced offenders coming from the Western Cape. By the end of the democratic transition, in 1994, state authorities had built four additional prisons on Pollsmoor grounds. The institution was renowned in the whole country for its violence, its overcrowding, the power of its gangs and its function as a transitory place, where sentenced prisoners awaited their transfer to another prison. In 1976, a Maximum Security section was added to Valkenberg, on the ‘black side’ of the segregated hospital grounds. Initially designed as part of Pollsmoor Prison, its architecture held no ambiguity as to its main coercive objective. Most people viewed Valkenberg Mental Hospital as an old-fashioned lunatic asylum, where confinement and anguish mingled with fear-laden fantasies on frenzy.

Both institutions, due to their system of privileges, the brutality of their corporal punishment or ‘treatment’, their gruesome hygiene conditions and their heightened apartheid features, could be considered as backward and anachronistic. However, the implementation of ‘law and order’ on the inside echoed the evolution of the dynamics of governance on the outside. The segregation manifested in the walls separating the Whites’ from the ‘non-Whites’ sections and the racially differentiated diets revealed the fear of degeneration through racial contact prevailing in the rest of society. Corporal
punishment and reduced diet in Pollsmoor, or forced electro-convulsive therapy applied without anaesthetics to Blacks in Valkenberg, unveiled the coloniality of power underlying the governance of the apartheid state. Prisons and mental hospitals can thus be conceived as epistemological tools, magnifying glasses disclosing both the operation of discipline as a mechanism of power and the way society apprehends itself, and its walled margins, throughout a period of time.

During the 1960s, violent coercion characterised the daily lives of prisoners. The Death Row section of Pretoria Central was crowded, reflecting the apartheid regime’s will to tame the population through fear after the Sharpeville massacre. Psychiatric hospitals witnessed the introduction of new practices of treatment which, despite their brutality, constituted an attempt to catch up with the international developments of psychiatric incarceration. In 1966, the assassination of Prime Minister Hendrick Verwoerd, the architect of apartheid, by Dimitrios Tsafendas, a parliamentary messenger viewed as a ‘bastard’ and a ‘madman’, constituted the starting point of a tight interaction between penal and psychiatric institutions. While the police force deployed its new powers to fill up prisons and police stations with security detainees, several changes occurred in closed institutions. In the mid-1970s, the government established ‘prison-hospitals’, where prison authorities, psychiatrists and psychologists had to dedicate their common work to the ‘treatment’ of ‘psychopaths’. In 1979, Pollsmoor introduced a new disciplinary board, in an attempt to provide a gloss of legality to the repression warders implemented against prisoners.

The 1980s, with their successive states of emergency and heightened violence, shattered attempts to legitimise the government’s repressive apparatus. Massive incarceration soared while in psychiatric hospitals and prison-hospitals, the crude

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conditions of patients and prisoners’ lives revealed the failure of the 1960s ‘modern’ practices. Outside, movements of resistance, gangs, ‘comtsotsis’, vigilantes and the police formed changing alliances and entered into local conflicts. The number of complaint letters prisoners and, to a lesser extent, psychiatric patients managed to filter outside and the violent assaults they conducted against warders and nurses became more numerous. The passing of reforms improving some material conditions at the end of the 1980s did not allay the tensions. The creation of an organisation of prisoners in 1988 and of a policemen and warders’ union in 1989 transformed the relationships between inmates and black warders. During the democratic transition, while psychiatric hospitals witnessed small movements of protests and escapes, many acts of dissidence from warders and prisoners shook the country’s prisons. Once more, prisons echoed the confusion and historical developments prevailing on the outside. Inside prisons, tensions were at their height in 1994 during the two waves of revolts which led to a great number of injuries, deaths and prison buildings being burnt or destroyed.

The articulation between prisons and psychiatric hospitals is not a mere theoretical fiction. In the analogy drawn between Pollsmoor and Valkenberg, this relationship was visible in their architecture, the common locks and the keys carried by warders and nurses alike, their internal privilege system based on categorisation, the censorship surrounding them and, above all, the function they played within the apartheid society. Differences still remained, between for instance the production of medical knowledge for the one compared to an elementary aim to contain and deprive for the other. However, the way these institutions strived at controlling the most minute gestures of their inmate population, as well as their place within the overall patterns of white domination, violent repression and subjection to obedience were similar. The contrast derived from the modalities and intensities of their control mechanisms. As
Michel Foucault pointed out when speaking of Attica, if prison is a ‘curious mechanism of circular elimination’, then its psychiatric section is ‘the machine of the machine, or rather the elimination of elimination, elimination in the second degree’. In other words, the function of wards such as Valkenberg Maximum Security section was to suppress ‘mental deviancy’ among those who had already been constructed – and excluded from society – as ‘criminal deviants’.

Microhistory is a relevant methodology to analyse the dynamics and evolution of closed institutions. The premises of microhistory make it impossible to apprehend prisons and psychiatric hospitals without taking into account their role in the administration of society and the larger representations evolving around them. The significance of this methodology does not only lie, however, in its efficient ‘game of scales’ which enables to shift back and forth between individual gestures at a local level and broader dynamics of governance in a given society. Microhistory also turns away from standard heroic figures and deals with the extraordinary of daily life. According to Jacques Revel, privileging the experience of local actors can lead to the design of a wider social cartography. Applied to the historical investigation of Pollsmoor and Valkenberg during apartheid, this approach sheds light on dismissed personal trajectories and gives back to common law prisoners and psychiatric patients, who have too often been considered as mere objects deprived of any will or subjectivity, their place as historical actors.

Microhistory provides a way to bypass the complex issue of South African ‘exceptionalism’. The position of South Africa as the most industrialised country of the African continent, the blatant racial features of apartheid and their embedding in the

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law, as well as the difficulty of pinning down a specific moment for a colonial/postcolonial rupture are indeed quite specific.\textsuperscript{12} However, academics have too often seen the past of this postcolonial ‘setler’ colony as isolated from any other historical trend, an attitude which has prejudiced the usefulness of comparative analyses in grasping the object of apartheid.\textsuperscript{13} The microhistorical investigation of Pollsmoor and Valkenberg Maximum Security section from the 1960s to the 1990s exposes the multiple approaches one can use to make sense of the South African situation. Both institutions are located in the Western Cape. The specificity of this region lay, among others, in its large ‘coloured’ population, the massive forced removals of inhabitants from cities to townships, the important ‘grey zones’ of illegality, the strong activity of the Pan Africanist Congress (PAC) and Cape Town’s reputation as a white ‘liberal’ city.\textsuperscript{14} Taking into account the specificities of this region is essential in order to link the historical investigation of Pollsmoor and Valkenberg to the national scene. There were striking differences between prison and psychiatric institutions in the Western Cape and in ‘independent homelands’, the autonomy of which was reinforced in 1959 as a consequence of the ‘separate development’ ideology adopted by the apartheid state. Similarly, the functioning of prisons in South West Africa (now Namibia), which came under the direction of the Prisons Services in 1969, also diverged from the Western Cape one. Although those contrasts mean that some aspects of this analysis cannot apply to situations such as the ‘homelands’ or South West Africa, it still discloses crucial information relating to the wider political and social spheres during apartheid.


\textsuperscript{13} For an analysis of South Africa as a unique settler colony, see J. Darwin, \textit{Unfinished Empire: the Global Expansion of Britain} (London, 2012).

Microhistory also reveals how comparisons can be drawn between apartheid South Africa and, among others, penal confinement and the construction of madness in colonial settings in Africa or South Asia, the logics of racial segregation and criminalisation in the United States, the blurred frontier between political and common law illegality in European contexts and the incidence of British legal and penal systems on the internal organisation of white dominions. Microhistory therefore allows to break away from the idea of exceptionalism to replace it with a focus on specificity and representativeness. Moreover, the roles of justice and closed institutions in relation to the regulation of society through the concept of ‘law and order’ appeared more prominently in the apartheid configuration. Their study can thus be conceived, in a dystopian fashion, as an interesting starting point to bring to light their functioning in ‘democratic’ and ‘peaceful’ societies where philanthropic and egalitarian discourses frequently concealed their function.

The Violence of Law and the Law of Violence: Problematic and Theoretical Approaches

As Martin Chanock pointed out, the nature of the South African state from 1910 to 1994 was a ‘bifurcated’ one, encompassing both a democratic and an authoritarian rule of law. The first one was aimed at the white minority and at the international community, the second used to tame the ‘barbarian hordes’, the swart gevaar (‘black

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peril’ in English), as were perceived the country’s ‘non-white’ populations. This analysis is a first step towards a more comprehensive assessment of governance under apartheid. In addition, the epistemological and historical notion of violence must be introduced to understand the concrete manifestations as well as the limits of such governance for the everyday life of South Africans. For the violence of the law, which classically manifests itself through the triangular disciplinary action of justice, police and prison, cannot be apprehended without the law of violence which, according to Fanon, invades every aspect of the social structure in colonial settings. By conceiving violence not only as a profoundly disruptive force but also as a productive one, it becomes possible to approach from a new angle the role of closed institutions in the broader regulation of society and their links to the performative action of the judiciary.

During apartheid, the brutal rule on the inside was not a mere faint echo of the shattering sounds of Casspirs invading townships on the outside. The ferocious fight for survival in the walled margins of society was not a straightforward replication of the development of armed struggle by movements of resistance. Violence disturbs and destroys, but it also produces and unites, it creates links of solidarity while establishing the frontiers of enmity. When looking at the role of violence in prisons and mental hospitals during apartheid, a particular game of inside/out connections is exposed. Closed institutions, despite the high walls and stringent censorship surrounding them, were permeable. Their microhistorical investigation gives crucial hints as to the implementation of law and order in the wider society, the fluctuating delineation between criminality, madness and political illegality, the notion of resistance to the colonial system of power and knowledge, as well as the deeper implications of racial

segregation on the maintenance of social order. To investigate the dynamics of state control, deviance and resistance throughout apartheid, one needs to acknowledge as a starting point the fact that their historical features did not fit into classic dichotomies such as resisters and collaborators or victims and offenders.

Closed institutions and the judicial system played a central role in constantly attempting to redraw the identity boundaries imperative to the containment of a ‘muffled’ society. Violence was deeply anchored in apartheid law, even becoming its founding principle in the cases of the diverse Public Safety and Terrorism Acts. The law reflected the anxieties of the white minority while striving at disseminating fear among black populations. To understand the importance of law in the imposition of a strategy of terror on the South African population, it is necessary to resort to several theories on violence and to expose their limits by conflicting them with the realities of this specific historical configuration. Although most of these classic theories are Eurocentric, and/or denote a normative attitude towards the legitimacy of violence and hold to the dichotomy between means and ends, some of their concepts can still be put to use in the South African context. Hence, Giorgio Agamben’s reflection on sovereignty, Achille Mbembe’s thought on the slaves’ ‘state of injury’ and Frantz Fanon’s ideas on the deep entanglement of subjectivity with violence form part of the theoretical background of this analysis. The critical assessment of such theories also anchors itself in the perspectives developed by subaltern studies, which outline the need for a deconstruction of Western history and the danger of speaking for the ‘other’ from a Western and/or academic standpoint.

19 Such as, among others, the Public Safety Act no 3 of 1953, the Terrorism Act no 83 of 1967, the Public Security Act no 30 of 1977 and the Internal Security Act no 74 of 1982.
In his ‘Critique of Violence’, Walter Benjamin states that ‘a cause, however
effective, becomes violent, in the precise sense of the word, only when it bears on moral
issues. The sphere of these issues is defined by the concepts of law and justice’.23
Looking at the impact of the judiciary, as well as of prison and psychiatric systems
through the administration of violence, on bodies, minds or subjectivities, constitutes a
crucial step towards grasping the reactive violence of imprisoned or subjugated people.
Moreover, in order to apprehend the historical evolution of governance methods, it is
necessary to avoid restricting the investigation to a theoretical analysis of the law
discourse and mythology and to shift the focus to legal practices.24 Throughout
apartheid, the courts adjudicated on an offender’s motive, defining if it was political,
criminal or a case of ‘common purpose’ and giving interpretations as to the
responsibility, mental sanity and reformability of the offender. During the ‘instant of
decision’, which characterises the moment when the judge reinvents the law, a process
of objectification is initiated, a process which is buttressed by the expert criminological,
psychiatric and legal discourses and which manifests itself in its most exacerbated and
oppressive form inside prisons and mental institutions.25

By following Goffman and Foucault in their definition of prisons and psychiatric
asylums as ‘lineaments’ of social governance and by conceiving judicial courts as
instruments in the utterance of an objectifying violence, the microhistorical game of
scales between closed institutions, legal practice, discourses of expertise and the broader
logics and representations of white supremacy and black resistance takes a sharper

pp. 919-1046.
meaning. From these theoretical and methodological premises, a series of questions emerges. The most prominent ones relate to the subtle scheme hinging on the delineation between criminal, political and mental deviances. It is essential not to consider these categories as granted, but to understand the extent to which they were useful to the disciplinary mechanisms of the apartheid society and constantly redrawn by prison administration and courts according to different social imperatives throughout the period extending from the 1960s to the 1990s. The way prisoners and patients tried to regain some sense of subjectivity by bending these delineations also calls for attention. In this view, a close scrutiny – bypassing the means/ends binarism of research on violence – of the powerful gangs of the Number, which in prisons such as Pollsmoor established a parallel social order, is of utter importance. The Number’s members, in their mimicry of colonial armies, of the judiciary and of the institutional violence to which they were subjected, were the historical actors that most embodied the blurring of frontiers between political and criminal illegality, between legitimate and illegitimate violence and between objectification and the creation of subjectivity. More broadly, the diversity of resistance modalities adopted by prisoners and patients and the way they evolved throughout the period revealed the limitations of the authorities’ attempt to implement a ‘total control’ inside closed institutions. These modalities transformed such locations into spaces of negotiation and contestation.

Investigating the evolving function of prisons and mental hospitals’ Maximum Security sections also gives hints as to the elimination processes of those deviating from the social and political norms imposed to maintain a racial supremacist order in South Africa. Were these institutions simply the brick-built manifestations of a paradigm

fashioned to diffuse fear in the rest of the society, by encapsulating the threats of deprivation, social disappearance, corporal punishment and death penalty? Or did their function extend further than their initial role, transforming them into places where inmates were granted an aura of resistance and where they manufactured new practices of solidarity and violent defiance? These questions, by partly shifting the focus on the connections between the inside and the outside, also shed a new light on the ruthlessness of the apartheid regime. In this perspective, the extent to which the brutality of warders and policemen derived from notions of white security, black collaboration, feelings of military companionship and economic status also needs scrutinising. The legitimising and performative exercise of the law, sanctioning acts and threats of violence while pronouncing sentences of legal violence ranging from flogging to death penalty, also constitutes a crucial part in the study of justice and punishment dynamics. Finally, within prisons and mental hospitals, the questions of desire and subjectivity, social and civil deaths and the way institutional violence shaped expressions of brotherhood, resistance and survival must be perused through the prisms of race, gender and class.

**Power, Punishment and Discipline in (Post)Colonial Africa: an Historiography**

Several shortcomings and paradoxes characterise the historiography on closed institutions in colonial and postcolonial settings. Too often, studies applied the classic theoretical approaches of Goffman and Foucault to such historical configurations without putting in perspective their Western bias. As Frederik Cooper and Megan Vaughan have shown, however, it is imperative to outline the limits of these theories by examining how colonial power differed from the European ‘capillary’ bio-power.28

28 F. Cooper, ‘Conflict and Connection: Rethinking Colonial African History’, *American Historical
Although there has been a proliferation of historical and sociological studies focusing on prisons or psychiatric hospitals in Western contexts, few are available on African colonised territories.\textsuperscript{29} Notwithstanding this scarcity, the works academics carried out often proved to be of exceptional usefulness, such as the ones by Florence Bernault, Sloan Mahone, Jock McCulloch and Megan Vaughan.\textsuperscript{30} Regarding the South African context more specifically, most historical inquiries, other than a couple of essays written on the apartheid period, have focused on the development of mental asylums from the end of the nineteenth century to 1948.\textsuperscript{31} Similarly, the role played by medicine and psychiatry in the deployment of colonialist practices has been outlined in other African contexts but has hardly been studied in South Africa.\textsuperscript{32} In history, the field of research on prisons during the twentieth century is even scantier, the larger bulk of work being confined to the disciplines of criminology, law and anthropology, with the exception of


the prison of Robben Island. While former political prisoners have written a great number of autobiographies, which are helpful in reconstituting part of the atmosphere and daily life in prisons during apartheid, nearly no secondary source has been produced on the experience of common law prisoners during apartheid, but for The Number by Johnny Steinberg. Studies have generally considered gangs in South Africa as violent phenomena ultimately reduced to captivating subcultures, or mere expressions of economic deprivation and family dislocation. Although the few historical analyses in this field departed from such exotic fascination, their significance proves to be marginal to the understanding of gangs inside prisons and the way they related to the outside world. So far, no microhistorical investigation of the links between the daily survival inside prisons and maximum security sections of psychiatric hospitals, the objectifying processes of adjudication in the courts and the scientific gloss of ‘expert’ discourses during apartheid has been achieved. Such a lack leaves wide gaps in the apprehension of the subtle logics underlying the control of the South African society by a white minority through disciplinary mechanisms and direct repression.

The broader historiography on South Africa is as diverse as it is fragmentary. Such a characteristic derives from the recent opening, at the beginning of the 2000s, of several archives as the result of the Truth and Reconciliation Commission. This positive development induced as well numerous access problems inherited from the apartheid


habits of secrecy around information. The historiographic characteristic also rests on the existence of successive South African trends in the discipline, ranging from older liberal or radical and Marxist schools to black consciousness and a more recent focus on rural and popular movements. Several edited volumes strove to give a comprehensive account of the wide historical dynamics at play in twentieth-century South Africa, such as Manganyi and Du Toit, *Political Violence and the Struggle in South Africa*, Liebenberg et al (eds.), *The Long March: The Story of the Struggle for Liberation in South Africa* and SADET, *The Road to Democracy*. Race is a cornerstone of this new South African historiography but its links to the judicial and penal system during the second half of the century still need further investigation. Hence, the study of these connections highly benefits from a comparison with the more extensive research on the United States’ system of segregation and massive incarceration. With regard to gender in colonial settings, both postcolonial and subaltern studies have been critical in reminding the academic realm that it was not only producing a generally white and middle-class discourse but that it had also left aside or depicted in stereotypical terms some gender logics. Despite this breakthrough, secondary sources on gender in

41 A. Burton, *Burdens of History: British Feminists, Indian Women, and Imperial Culture, 1865-1915* (Chapel Hill, 1994).
relation with imprisonment and the construction of deviances, and more particularly on female patients and common law prisoners, are hard to find. This thesis is an attempt to fill in some gaps of the South African historiography with regard to the penal and judicial systems. It also aims at contributing to the historical study of social control and marginalised resistance in colonial Africa and other colonial and postcolonial settings. It is nonetheless highly indebted to most of the above-mentioned theories and studies, and, due to its restricted scope, has left numerous gaps yet to be investigated. Finally, this analysis has attempted to assess, each time some research is referred to, the degree to which it is biased by a Western, masculinist, white or middle-class gaze. To the extent that I am myself a white Western female researcher, the same critical appraisal has to be applied to this thesis.

**Tracking the ‘Voiceless’: Written Archives and Oral History**

It is now a well accepted fact in the historical discipline that archives need to be used with caution, for they convey the version of the dominants, of the ‘winners’ at a certain period in time. The records contained in Pollsmoor Prison are a good example of this tendency. The ‘voices’ of prisoners, in the sense of the expressions, reactions, sensations and hopes, barely surface in the administrative accounts, in the exchanges between different prisons and in the department memoranda. These records are, hence, a reflection of the prison administration’s perceptions and contradictions, the issues it encountered and the discrepancy between the department’s directives and their application by warders. Occasionally in the 1960s, and increasingly so from the end of the 1970s onward, when the first reforms were implemented, collective and individual letters from prisoners emerged in the archives, slightly disturbing the relatively

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monolithic discourse of the administration. However, even such letters must be carefully handled, as they only represent the voices of those prisoners who could write or who were in a position to ask a social worker to transcribe their complaints. Taking into account this ‘filtering’ process, the letters smuggled outside and sent to organisations and individuals advocating prisoners’ rights seem to express in a more vivid fashion the resentment of those forsaken in the walled margins of society.43

The records left by psychiatric hospitals are even more problematic for the historian. In the case of Valkenberg Hospital, in addition to the fact that most archives have not yet been processed and are lying in disordered piles in one of the hospital’s halls, the available documents embody the utter objectifying logic of medical discourse in asylums. Patients’ records and administrative exchanges create the patient as an absolute Other whose attempts to speak out are systematically subjected to further psychiatrisation and portrayed as symptoms of mental illness. A similar objectifying process, though to a lesser degree, can be found in criminal records of the period extending from 1964 to 1994. Historians have already worked on the problematic use of legal archives.44 In his founding article ‘Checking the Evidence: The Judge and the Historian’, Carlo Ginzburg reminds us that despite a common use of ‘evidence’ and ‘proof’, terms which have been highly criticised by anti-positivist trends, the roles of the historian and of the judge should radically depart from one another. Indeed, court trials are not so much valuable for the information they can provide on certain events but rather for the social logics they unveil.45 In order to fully appraise the historical interest and difficulty of criminal records, it should be added that court trials also give

43 These letters were sent to organisations such as the Black Sash, the Legal Resources Centre and the Trauma Center for Victims of Violence and Torture. With regard to individuals, the records of Helen Suzman, the only member of the Progressive Party sitting in Parliament during the first half of apartheid, contain a great number of such letters.
44 Such as B.S. Godfrey and G. Dunstall, Crime and Empire, 1840-1940: Criminal Justice in Local and Global Context (Cullompton, 2005).
hints as to the performativity of the legal discourse and practice, what kind of ‘reality’ they produce while pretending to merely describe and sanction past ‘events’.

Moreover, the extensive instrumentalisation of the law by the apartheid regime to implement its ‘state of terror’ reinforces the value of legal archives to understand the dynamics of racial governance through legal repression and its disciplinary effects.

The various collections from the Cape Town Archives Repository, the Central Archives Depot in Pretoria, the Historical Papers and the South African History Archives at Witwatersrand University, the Manuscripts and Archives section of the University of Cape Town and Rhodes House Archives at Oxford University contain, among others, a wide range of newspaper cuttings. Analysing the press proves to be highly relevant in order to assess the evolution of public opinion, the rhetoric of ‘reforms’ whose birth coincided with the creation of prisons as well as the emergence of scandals and affairs in the public sphere, reflecting new feelings of ‘indignation’.

Newspapers are fundamental when applying a microhistorical methodology, for they enable to inscribe the inside life of closed institutions within the rest of society. However, each newspaper must be examined differently according to its readership, its dissemination as well as the tradition it belongs to – be it white and liberal like The Cape Times, or catholic and based on the theology of liberation like New Nation, or written in support of the apartheid government like Die Burger. A further precaution derives from the fact that due to the apartheid legal censorship sanctioning any unofficial investigation on conditions of life inside prisons and psychiatric hospitals, journalists mostly had to rely on official accounts and figures drawn from the annual reports produced by the Departments of Health and of Prisons.

The comparison between these reports and documents found in diverse archives, including the ones of

47 Foucault, Surveiller et Punir, p. 271; Boltanski and Claverie, ‘Du monde social’, p. 419.
48 Mental Health Act n° 18 of 1973 and Prisons Act n° 8 of 1959.
Pollsmoor Prison and Valkenberg Hospital, reveals that these reports were, above all, instruments of state propaganda under the disguise of objective statistics. A systematic study of these reports year after year from 1964 to 1994 can still give a general idea of the evolution of statistical figures such as, for instance, prisoners’ and patients’ population – by assuming that the degree of discrepancy with the reality was fairly similar across the period. More interestingly, these reports constitute a valuable indication of the way processes of categorisation varied according to the different social and political imperatives of the time.

Historians have often thought that oral history, since its newly acquired legitimacy in the 1980s, was the perfect way to overcome the bias of written archives and to recover the ‘voices’ of those viewed as, alternatively, ‘dominated’, ‘voiceless’, ‘hidden from history’ or ‘subaltern’. Considering the highly unequal representation of prisoners’ and psychiatric patients’ voices in the archives available on the apartheid period, leading interviews with historical actors of the time has been part of this research from the very inception. However, it soon became obvious that oral history, in its sometimes ingenuous and stereotypical approach towards the ‘voiceless’ – a category it actually reinforces through the reiteration of the dichotomy between dominant and dominated – could easily reproduce the very bias it purported to criticise.


50 Refer to the Appendice pp. 295-296 for more precise statistical figures.

51 The change of name from the ‘Department of Prisons’ to the ‘Department of Justice and Prison Services’ before its final transformation into ‘Department of Correctional Services’ in 1990 is in itself quite revealing. Similarly, the ‘Department of Health’ was divided at the beginning of the 1980s between the ‘Department of Health and Welfare’ and the ‘Department for National Health and Population Development’. Government Publications, University of Cape Town (hereafter GP, UCT).


53 For assessments on the pitfalls of oral history, see S. Vandecasteele-Schweitzer and D. Voldman, ‘The Oral Sources for Women’s History’, in M. Perrot (ed.), Writing Women’s History (Oxford, 1992),
methodology has therefore been applied during the forty-eight interviews led with prisoners and ex-prisoners, warders, psychiatrists, psychologists, lawyers and judges.54 For instance, the fact that only a quarter of the interviews were led with women must be taken into account when trying to derive interpretations as to gender dynamics from this oral history. Similarly, the influence of gangs’ hierarchy and structure when conducting an interview with a gang member must be kept in mind. Although the difference of positionality between a white Western researcher and imprisoned interviewees is ultimately insuperable, steps have been taken to try and lessen the power relationships at play and to establish some kind of trustfulness in an environment that usually prevents any freedom of speech.55 For this purpose, and to comply with the regulations of the South African Department of Correctional Services and the will of most informers, all interviews have been anonymised and a master grid of corresponding names has been constructed. Similarly, most names present in the archives have been anonymised, with the exception of people whose personal stories were widely known during the period in question. The fact that the setting of more than half of the interviews was a carceral institution also brought up the notion of consent in an exacerbated way, a problematic which can be found in more discrete forms in a number of oral history projects on colonial Africa.56 Interestingly, some state authorities have instrumentalised this ethical

54 This methodology has been approved by the Central University Research Ethics Committee of Oxford University and, in the case of interviews led within Pollsmoor Prison, by the South African Department of Correctional Services.


interrogation and combined it with a rhetoric allegedly based on ‘common sense’ – asserting that the memory of ‘madmen’ is necessarily incoherent and therefore deprived of any interest – to prevent me from conducting interviews with psychiatric patients.

The project of recovering ‘voices’ through oral history is first and foremost linked to a reconsideration of the dynamics underlying the phenomenon of memory, the way in which it matches an official memory or a counter-narrative, and the extent to which it constitutes an ‘accurate’ vision of the past.\textsuperscript{57} \textit{Les cadres sociaux de la mémoire} by Maurice Halbwachs critically shifted, in 1925, the focus to the social determinism of memory and the difference between collective and historical memory.\textsuperscript{58} However, analysing testimonies through the prism of memory construction should not only be circumscribed to a theoretical consideration. In all the interviews led for the purpose of this thesis, specific care has been applied when dealing with the memory of violent events. Indeed, the researcher, due to his or her position potentially mirroring former power relationships, can unwillingly provoke violence to re-emerge in its most traumatic aspects – be it the violence that one perpetrated or was subjected to – where mnemonic practices had, until then, helped the interviewee to ‘forget’. These testimonies were also analysed, following Bourdieu’s theory, as reconstructions of ‘meaningful’ life narratives through the combination, in front of an external observer, of fragments of life. Despite these precautions, the possibility of an hegemonic reproduction of a reified ‘Other’ through the use of oral history should always be kept in mind.\textsuperscript{59}

\begin{flushleft}
\textsuperscript{57} M. Foucault, \textit{Language, Counter-Memory, Practice: Selected Essays and Interviews} (Ithaca, 1977).
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Punishment, Social Control and Resistance: an Outline

The structure of this thesis follows from the application of a microhistorical methodology. The first part, composed of three chapters, analyses the daily life in Pollsmoor and Valkenberg Maximum Security section, emphasising the way it evolved from 1964 to 1994 and the connections between the two institutions. Chapter 1 examines the architecture of both institutions and the way it influenced the implementation of law and order by nurses and warders through crisscrossing lines of categorisation. Chapter 2 focuses on the modalities of punishment and their ‘excesses’, which derived from the attempt to control in an absolute way the gestures of the incarcerated population. It also analyses the historical phenomenon of the Number in terms of mimicry of and resistance to prison brutality. Chapter 3 studies the function of a further line of categorisation. The discursive frontier separating ‘common law’, ‘political’ and ‘insane’ prisoners fluctuated throughout apartheid, echoing the changes in the social imperatives of the government.

In order to investigate the role of prisons and psychiatric hospitals during apartheid, part II shifts the gaze to the level of the courts and their relationships with closed institutions. Chapter 4 outlines the procedures at play during trials. These mechanisms related to the issues of reformability, responsibility and ‘mental sanity’ while producing normative discourses on the links between deviance and race. The challenges of the courts by psychologists and defence lawyers from the 1970s onwards gradually transformed these spaces into political arenas. Chapter 5 shows that such challenges were nearly absent in the observation sections of psychiatric hospitals where offenders were sent for their behaviour and mental status to be assessed. Chapter 6 apprehends the broader ideology sustaining the practices of the courts, more specifically for trials involving the death penalty, corporal punishment or accusations of terrorism. It
reveals that the construction of race was deeply anchored in the white minority’s fears relating to uprisings, sex, drug, alcohol, youth, industrialisation and urbanisation.

Part III reconstitutes the patterns of resistance and adaptation produced in reaction to the apartheid regime’s security apparatus. Chapter 7 outlines the permeability of closed institutions, analysing how the lines of categorisation created by courts and local authorities of power were disturbed and transformed inside and outside prisons and psychiatric hospitals. Chapter 8 goes more deeply into the different modalities of resistance, collaboration and survival adopted by political, common law and insane prisoners. In Chapter 9, the prison revolts of 1994 and the violent tension of the democratic transition are presented as a retrospective prism to understand the logics of objectification and subjectification which shaped the lives of patients and prisoners under apartheid. As the following chapters will show, the diversity and evolution of the modalities of resistance adopted by prisoners and patients throughout apartheid revealed the limits of the apartheid state in its attempt to implement a ‘total’ social control over its population, and more specifically over those it constructed as ‘deviants’.
PART I

CONTROLLING AND CONSTRUCTING

DEVIANCES THROUGH

INCARCERATION

Now we realise that this is an age of polarization – an age of labelling people. To label a person is the easiest thing in the world. Whether you’re going to call him an aggressive psychopath, or an egocentric psychopath or a manipulating psychopath or all three or any combination of the three, you simply do it – because you are, after all’s said and done, a commissioned officer in the prison service. Now, whether this labelling is being done for moral or legal rights, it is merely just a label, and thus reduces a man to what the prison authorities want to reduce you to. Their prime object – this in particular from the disciplinary staff – is to turn you into a craven image, a model prisoner, a completely spineless, dehumanised, utterly institutionalised creature who does nothing wrong, and absolutely nothing right; who just goes along merrily in prison to wait for his eventual day of release, to go out of prison only to come back to prison again.

MAR, BC1065. Prisoners’ interviews, received by Prof M. Savage, 1989
Chapter 1

The Differentiation of Punishment in Prisons and Asylums

Foucault asserted that power is to be found in practices of incarceration rather than in theories, ideologies or institutions.¹ This research contends that the best entry point in order to unveil the practices of incarceration in South Africa is a microhistorical analysis of closed institutions, as well as of the penal practices and discourses surrounding them. It would however be misleading to consider that all closed institutions revealed in the same way the wider disciplinary dynamics prevailing in the rest of society during apartheid. Successive penal and mental health reforms shaped Pollsmoor Prison and Valkenberg Mental Hospital. They were part of the broader history, which began at the end of the eighteenth century, of British colonialism and its corollary discourse on the abolition of slavery, on rehabilitation and medical scientism. Nonetheless, each institution also encloses within its walls and the silence surrounding them its own history, its own smells, sounds, riots and traumatic events. Only a microhistorical analysis can bring them to light. It is there, in the muffled voices and the traces left on the walls by violent patterns, that the memory of each institution lies hidden, along with what they reflect about the wider social logics of objectification and subjectification.²

² Hereafter, ‘subjectification’ will alternatively be used in both foucauldian senses of being subjected to power relationships and getting hold of one’s own sense of being. M. Foucault, ‘The Subject and Power’, Critical Inquiry, 8, 4 (1982), p. 791.
Pollsmoor Prison

Pollsmoor Medium A Prison, a low red-brick building, was opened in 1964 as a response to the increasing bulk of awaiting-trial and convicted offenders, that was a consequence of the new apartheid legislation following the Sharpeville massacre. Surrounded by a few dozen hectares of farmland and circled by high fences topped with razor blades, the prison lays between the township of Retreat and the Cape Peninsula mountain range, some thirteen miles south-west of Cape Town. The amplification of the repression directed against social and political deviances during the 1970s led to the construction of adjacent buildings on the prison grounds. Medium B, a building similar to Medium A, was first reserved for white prisoners only, before an extension was added to house white and non-white female prisoners. The Maximum Security section, also erected in red bricks during the second half of the 1970s, towered, with its three floors, over the rest of the carceral complex.\(^3\) Pollsmoor population shifted from 3,000 in the 1960s to 4,500 in the 1970s.\(^4\) In 1989, with the addition of a last prison, Medium C, a long white two-floor building, Pollsmoor population reached over 6,500.\(^5\) Regardless of the constant increase in the number of buildings, the rate of overcrowding in the carceral complex was always high, and reached 99.6 per cent in 1989.\(^6\)

The Prisons Act of 1959 regulated everyday life at Pollsmoor. It legitimised and extended racial segregation in accordance with the strengthening apartheid rhetoric.\(^7\) Racial segregation had been implemented in prisons since the formation of the Union in

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\(^3\) Interview, Mr. Sandow, warden, Pollsmoor Maximum Security Prison, 29 March 2011. For each interview, the place and date will only be indicated for the first occurrence. Refer to the list pp. 303-304 for an overview of all interviews with places and dates.


\(^5\) Pollsmoor Archives (hereafter PA), S5/B. Pollsmoor to the Prisons Services, 7 April 1989.

\(^6\) PA, 1/2/3. Internal statistical report, 10 August 1992; *Cape Times*, 27 April 1989.

\(^7\) Act n° 8 of 1959.
1910 and embedded in the law by the Prisons and Reformatories Act of 1911. The Prison Act of 1959 also mirrored the ambiguity of the apartheid regime in its choices of policies. It deliberately shifted towards harsh punishment, breaking in the process with the British colonial tradition, which tended to insist on liberal notions of ‘rehabilitation’ and ‘moderate punishment’. Simultaneously, the apartheid regime attempted to present, with a more benign face to international observers, an admissible image of its practices by notably incorporating the Standard Minimum Rules for Treatment of Prisoners in the Prisons Act of 1959 and inviting, in 1965, the International Red Cross to visit its prisons.

The annual or biennial reports published by the Commissioner of Prisons until 1980 and by the Department of Justice and the Prisons Services from then on partly displayed this attempt to give a new legitimacy to the prison system while opting for harsher methods. These reports consisted in a compilation of statistics classifying the national prison population according to race, gender, age, offence and length of sentence. They also included statistics on the prevalence of specific violent crimes for each racial category. In addition, the reports insisted on the ‘rehabilitative’ and ‘disciplinary’ aspects of the prison system, falsely portraying that there were widely available social services and including a focus on workshops, sport, access to psychologists and social workers. The reports presented only partial statistics on deaths,

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8 Act n° 13 of 1911. Despite several local public scandals over the common accommodation of Whites and ‘non-Whites’ in prison during the nineteenth century, racial segregation was not carried out in prisons, to the dissatisfaction of many judges, who saw a reason in it ‘for imposing lighter sentences on them.’ Sachs, Justice in South Africa, p. 59.


11 GP, UCT. Annual Reports of the Commissioner of Prisons / of the Department of Justice.
escapes and the use of corporal punishment. In Pollsmoor, the accommodation of prisoners inside different sections and the organising principle regulating the various ‘activities’ of the day reflected this categorising frenzy while also showing the limits of its application on the ground. They also revealed the discrepancy between official statistics and the bareness of prison life.

Although the allocation of prisoners sometimes shifted due to overcrowding or to the material degradation of buildings, during apartheid and up to 1994, Pollsmoor was, as a whole, divided into five different prisons: Medium A Prison, reserved for long-sentences black prisoners; Medium B, which housed white prisoners; the Female Prison; the Maximum Security Prison, which also enclosed in its buildings awaiting-trial offenders; the Juveniles Section, which was not considered as a prison *per se* and was transferred from Medium A to the awaiting-trial section and, afterwards, to Medium B; and Medium C, constructed at a later stage for minimum sentences and prisoners nearing release. Like in other ‘mixed’ prisons of South Africa, limited resources did not allow the thorough implementation of segregation for each racial category. As the priority hinged on the prevention of moral contamination by ‘non-Whites’, only white prisoners were housed separately, although the system of privileges did apply differently for ‘Bantus’, ‘Coloureds’, ‘Asiatics’ and ‘Whites’. The terminology used for the racial categories changed during apartheid. For instance, ‘Blacks’ replaced ‘Bantus’ in 1977. In 1966, the division of the national prison population was, according to governmental

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12 Until 1961, there was no separate category for ‘coloured’ prisoners. After 1961, despite the fact that most statistics were structured according to the four racial categories, the differences of treatment inside prisons were mostly noticeable between Whites and ‘non-Whites’. See for instance, GP, UCT. Statistical Report of the Commissioner of Prisons, 1971-1972; Interview, Mr. Mpendu, prisoner, Pollsmoor Maximum Security Prison, 29 March 2011.

13 PA, 1/4/2/10. Pollsmoor to UCT Department of Psychiatry, 17 November 1987. No precise account of the evolution of these different allocations were to be found in Pollsmoor Archives. These informations have hence been drawn from interviews and from autobiographies by political prisoners who have been incarcerated in Pollsmoor, such as Breytenbach, *The True Confessions*; N. Mandela, *Long Walk to Freedom: the Autobiography of Nelson Mandela* (London, 1994).

14 For a description of the differences of treatment between ‘Coloured’ and ‘African’ prisoners for instance, see Makhoere, *No Child’s Play*, p. 23.
statistics, as follows: 51,544 ‘Bantus’, 11,079 ‘Coloureds’, 2,560 Whites and 404 ‘Asiatics’. In 1989, at the end of apartheid, the numbers had greatly increased. There were 77,747 ‘Blacks’ in custody, 27,367 ‘Coloureds’, 4,690 Whites and 770 ‘Asians’. The stronger presence of ‘Coloureds’ in the Western Cape meant, however, that these national statistics did not reflect perfectly the population of Pollsmoor.

Reconstructing in every detail the specific smells and sounds characterising Pollsmoor during apartheid is far beyond the scope of this research, although microhistory has been particular successful at this exercise. Nonetheless, drawing from the interviews led with prisoners and warders and from the frequent visits I had to make to this institution from 2008 to 2011, it is possible to re-create to some degree the general atmosphere. The location of Pollsmoor and its architecture, with its five warehouse-like prisons separated by large roads, entailed that sounds were not amplified like in prisons built according to the nave model, composed of several floors organised around walkways and which functioned like ‘sound-boxes’, but echoed against the walls of the adjacent prisons and against the Silvermine mountain side, forming a multi-layered clamour. To the shouts and the distinctive rumbling murmur common to many prisons, were added in Pollsmoor the sounds coming from the neighbouring townships, from the warders’ lodgings built on the prison grounds, as well as from the cackles of farm animals and the shrilling chirps of ibis hadeda searching in the prison bins exposed to the open. The smells were a particular blend of salt coming from the nearby ocean, of mold and humidity staining the dark grey walls of the cells, of mistreated bodies

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infrequently washed with ice cold water, of ‘urine overflowing from the sanitary buckets’ and of rotten food, largely dominated by the pervasive smell of rancid mealie pap – maize porridge.\(^{19}\) Reconstructing these smells and sounds – some specific to Pollsmoor, others shared by several closed institutions under apartheid – is neither a neutral act nor a mere narrative game for the historian. Their miserabilist description, along with the ‘crushing weight’ of architecture and the ‘anguish’ of inside life, has always been part of the discourse criticising prison conditions, a discourse ‘consubstantial to [the] very existence’ of prisons and which operates in an amnesic way, seemingly forgetting that similar discourses had regularly emerged since the birth of prisons.\(^{20}\) Nonetheless, smells and sounds, analysed through a microhistorical perceptive, can be, due to their overwhelming presence in the ‘pathogenic eternity’ of prison life, in the void of stretching time, valuable indicators of the most common causes of complaint by prisoners.\(^{21}\)

Indeed, food, hygiene, medical services as well as forced work constituted, in Pollsmoor during apartheid, the main aspects of concern marking the rhythm of everyday life. In the 1980s, black prisoners were waken up at 6 am, or at 5 am for those who had to work or who had to go to court, and dished their first ration of barely edible porridge\(^{22}\):

The first thing in the morning, the radio goes on, that’s 6 o’clock. Then you must get up, you have to fold your blanket in a bundle, then you must stand at the back of the cell, with a ticket in your hand, so that the warders come in, they count us in the cell. And if you don’t stand like this, they punish you with three

\(^{19}\) Interview, Mr. Ahmadi, former warder trained as a social worker, Cape Town, 5 April 2011; Manuscripts and Archives, University of Cape Town (hereafter MAR), BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989; HPW, A2084. Goedemoed prisoners to Suzman, 28 August 1970.


\(^{22}\) Due to the far higher percentage of black prisoners in comparison with white prisoners at the time, white prisoners’ conditions of life will be described further along, when evoking the different privilege statuses.
meals. You must stand like that. They count the whole prison, and then you get food: porridge, tea, and so on, without sugar.

[...] at that time, we used to get worms in our porridge. The warders don’t bother if you get hot or cold food. If you go to work they give you a dish with rice or mealies in, and the plates on top of each other. At lunch it is ice cold, you can turn your plate around and the rice doesn’t fall. The coffee wasn’t actually coffee.

Up to the 1990s, prisoners could only get two meals a day, the last one being dished out in the middle of the afternoon, before the general lock up of cells until the next morning. During the 1960s and 1970s, prisoners raised few complaints, as use of the official ‘channels for communication’ that were allegedly available only led, in practice, to disciplinary sanctions. In the 1980s, with the implementation of the first prison reforms, inmates started to smuggle out more letters or send them to the prison administration. They all complained about ‘food that is not fit for any animal to eat’, hunger, stomach illnesses, vitamins deprivation and corruption. Two letters, written in 1985 by prisoners of Waterval Prison and a prisoner from Pollsmoor, are symptomatic of the growing irritation related to food:

False figures are given concerning the food we are supposed to receive in order to cover-up for the loss of food smuggled. [...] Vegetables are grown inside the prison for the private use of certain warders whilst we receive only two vegetables, most times only one.

Prisoners kill each other day after day, but no further steps are being taken by the gaol members. [...] Prisoners commit crimes so readily for the sake of getting enough food because they are suffering and starving with hunger.

In Pollsmoor during the 1980s, prisoners also expressed their concern as to the ‘exorbitant’ prices at the prison shop, the only way for them to improve their diet, by

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23 Reference to the reduced diet punishment.
24 Interview, Mr. Jordan, prisoner, Pollsmoor Medium B Prison, 28 February 2008.
25 Interview, Mr. Hendricks, prisoner, Pollsmoor Medium B Prison, 28 February 2008.
26 Interview, Mr. Stevens, prisoner, Pollsmoor Medium B Prison, 28 February 2008.
buying crisps, sodas and biscuits.\footnote{HPW, A2084. Suzman to Pollsmoor Commandant, 3 December 1984.} The occasional refusal to eat provoked by the poor cooking conditions was part of a wider denunciation of deficient hygiene and lack of medical services.\footnote{Interview, Mrs. Tillis, prisoner, Pollsmoor Female Prison, 30 March 2011.} The green uniforms that men had to wear were rags that had been made in the female section and worn by previous generations of prisoners. Shoes were only distributed when available.\footnote{HPW, A2084. Preliminary Report by Suzman, September 1985.} Humidity and cold infiltrated the cells, soaking the ‘hard mats, one was like a rope, the other like a grey thing’ laid directly on the concrete floor, deprived of sheets and covered with lice-infected blankets.\footnote{Interview, Mr. Hendricks.} Such conditions induced numerous illnesses and led to outbreaks of tuberculosis in 1980 and 1988, though Pollsmoor administration ruled that affected prisoners would receive sufficient treatment at the prison hospital and could still continue doing ‘light duties’.\footnote{In 1988, 15 per cent of male prisoners at Pollsmoor were infected with TB. PA, 1/4/2/12. Internal Report, 21 September 1988, and Internal Memorandum, 1980.}

Notwithstanding the Prisons Services’ propaganda, prison hospitals barely provided any treatment. In Pollsmoor, pain killers and Flamizine were nearly the only available medicines.\footnote{HPW, AG3199. Memorandum by the Legal Resources Centre (hereafter LRC), 3 January 1994; Interview, Mr. Bartram, warder working in Westlake prisons services band, Pollsmoor Maximum Security Prison, 28 March 2011.} Warders trained as nurses, occasionally assisted by visiting district surgeons and psychiatrists, formed the medical staff. During the 1980s, the Cape Town branch of the Legal Resources Centre, a lawyers’ organisation that provided legal aid and support to both political and common law offenders from 1979 onwards, sent several requests to Pollsmoor Commandant in order to provide medical treatment to its clients.\footnote{HPW, AG3199. LRC to Pollsmoor, 26 August 1988.} The authorities systematically denied these requests, sometimes leading to the death of the prisoner in question.\footnote{HPW, AG3199. Exchange of letters between Pollsmoor and the LRC, June 1987 to September 1988.} In 1982, in the aftermath of the scandal raised by the death in custody of Steve Biko, leader of the Black Consciousness Movement (BCM),
the issue hinging on the medical treatment of prisoners and detainees re-emerged in the public sphere. Detainees were held without trial in prison or police cells under Emergency regulations. Doctors asserted that they, instead of prison authorities, should have ‘the ultimate say’ in deciding over prisoners’ treatment.\textsuperscript{39} Despite these various demands, for the Prisons Services, an incarcerated patient remained above all a prisoner, and his or her treatment was as a result considered as a privilege more than a right.

Work was compulsory in the entire prison, even for sick inmates, with the exception of the awaiting-trial section and some parts of the Maximum Security section, where cells were locked up for 23 to 24 hours a day until the end of the 1980s.\textsuperscript{40} Before 1994, the majority of prisoners who had access to the workshops were white, with the exception of some female prisoners doing textile work.\textsuperscript{41} These workshops, which ranged from carpentry and building to mat making and painting, depending on the prison, produced most of the furniture used by the prison administration as well as by other state departments.\textsuperscript{42} All the other prisoners, male and female, had to work six days a week, either within the buildings or in the agricultural sector:

Everybody goes to work besides those who are pregnant or are sick in the hospital, they have to clean, everybody has to work, they were not doing it with mops before 1994, they had to go on their knees, the place was clean.\textsuperscript{43}

It was forced work. Today they have a choice if they want to work. That’s a big difference. In those days they were just allocated to a work team and they had to go out, if they didn’t go to work then they were charged.\textsuperscript{44}

A few privileged prisoners, called the ‘monitors’, were in charge of cooking food for all the sections and cleaning the offices, and hence benefited from slightly more freedom of movement. The monthly ‘gratification’ delivered in exchange for forced

\textsuperscript{39} Rand Daily Mail, 18 May 1982.
\textsuperscript{40} Cape Times, 7 July 1983.
\textsuperscript{41} PA, 1/4/6/1. Pollsmoor to the Department of Correctional Services (hereafter DCS), 17 March 1992; Interview, Mrs. Jooste, prisoner, Pollsmoor Female Prison, 30 March 2011.
\textsuperscript{42} MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
\textsuperscript{43} Interview, Mrs. Allen, wardress, Pollsmoor Female Prison, 31 March 2011.
\textsuperscript{44} Interview, Mr. Muller, warder, Pollsmoor Female Prison, 31 March 2011.
work was put on an ‘account’ – prisoners were not allowed to have money in their possession – and could be spent in the prison shop. The amounts were so trifling that prisoners could barely buy anything else than additional toiletries. Such conditions of work are reminiscent of Goffman’s analysis, according to which ‘[i]n some institutions there is a kind of slavery, with the inmate’s full time placed at the convenience of the staff; here the inmate’s sense of self and sense of possession can become alienated from his work capacity’. The fact that, like in other colonised territories of Africa, the abolition of slavery in the Cape Colony concurred with the introduction of convict labour was not a mere historical coincidence. As Kelly Gillespie puts it, ‘[b]y the time of Union in 1910 the prison was profoundly implicated not only in the expansion of colonialism but also in the development of South Africa’s racial capitalism’. The exploitation of prison labour in South Africa was brought to light in the 1950s, only to be buried again under the new legislation of 1959. The lease system had predominantly been applied in South Africa since the nineteenth century and essentially targeted ‘Africans’ who broke the pass laws. They were mainly employed on farms or in the mines, but could also be used to replace strikers, as in the case of the 1957 go-slow strike on Port Elizabeth docks, where, after the dockworkers had left the harbour, ‘hundreds of barefooted convicts flooded into the harbour, driven at the point of a rifle to load manganese and to handle cargo in conditions that were not any better than those in which the slave drivers’ whip cracked on the backs of slaves two centuries ago.

45 Interview, Mrs. Jooste.
46 Interview, Mrs. Neumann, prisoner, Pollsmoor Female Prison, 30 March 2011.
49 Gillespie, ‘Criminal Abstractions’, p. 15.
Pollsmoor Prison, despite its agricultural production, was not a ‘farm jail’. Its inmates were under the regulation of the contract system, which entailed that they had to work inside, although they could be employed by an outside public or private enterprise. During apartheid, in the Western Cape as a whole, other prisons applied the lease system, though it was more common to see convicts constructing public roads and buildings at the beginning of the twentieth century. In the 1900s, Valkenberg Hospital accommodated on its grounds an outstation of convicts from the Cape Town Goal, guarded by armed warders after several escapes had occurred. As in many other settings, inmates were employed to construct the very walls which would, at a later stage, circumscribe the lives of other inmates, in this case the walls of what would become the most prominent lunatic asylum of the country.

**Valkenberg Psychiatric Hospital**

During the nineteenth century, in the Western Cape, only two institutions – other than goals – could accommodate ‘lunatics’, along with paupers and lepers. Historians have conducted in-depth research on Old Somerset Hospital and Robben Island until 1891, when a mainland hospital conceived to cater for only the mentally ill was eventually opened. Johann Louw, Sally Swartz and Harriet Deacon have described in great detail how the successive reforms implemented in these institutions were part of the development of a ‘modern’ racial and ‘scientific’ psychiatry. The construction of

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52 During the 1970s, there were 16 farm prisons in South Africa. The most famous included: Barberton Farm Prison, Zonderwater, Waterval, Brandvlei and Victor Verster. GP, UCT. Report of the Commissioner of Prisons, 1970-1971.
53 Cape Town Archival Repository (hereafter CTAR), CO, 2411. Exchange of letters between Valkenberg Superintendent and the Colonial Secretary, May to November 1902; CTAR, CO, 7980, 628. Exchange of letters between Valkenberg Superintendent and the Colonial Secretary, January to May 1908.

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Valkenberg constituted a watershed in this renewal of social practice. The subjugation of bodies found a novel legitimacy in the rhetoric of treatment adapted and assimilated from the British medical science.\textsuperscript{56} The very architecture and location of the hospital reflected the British influence. First designed to be built in Tokai, in the vicinity of where now stands Pollsmoor Prison, Valkenberg was eventually established in the old buildings of a reformatory on Valkenberg Farm.\textsuperscript{57} The new structure, built under the advise of Scottish architects, was erected in 1894, after Robben Island had transferred a first group of 36 white patients to Valkenberg.\textsuperscript{58} Drawing from ‘50 years of achievement in psychiatric architecture in Britain and America’, the hospital, with its perfect British-like grass gardens where white patients could play cricket, soon became an exemplary ‘colonial showpiece’.\textsuperscript{59}

The buildings were located on what constituted, in those days, the outskirts of Cape Town – while still well separated from the neighbouring residential areas by the Liesbeeck River and the Swart River, in accordance with contemporary British reforms on the management of lunacy.\textsuperscript{60} Male and female wards, as well as nurses’ quarters and the superintendent’s lodging, were scattered around the main building, which contained both the administrative offices and the admission centre. Constant overcrowding and the threat of plague in 1901 led to the construction of adjacent buildings during the first half of the twentieth century and of a temporary isolation ward on the other side of the Black River.\textsuperscript{61} When it appeared that Robben Island could no longer be the sole institution to

\textsuperscript{56} For an analysis of the adaptation and assimilation of medical science in the British Empire, see M. Harrison, ‘Science and the British Empire’, \textit{Isis}, 96, 1 (2005), pp. 60-1. \\
\textsuperscript{57} The land was part of the first farm established in the Cape Colony, in 1661. Its last owner was Cornelius Valk, who named it Valkenberg. MAR, BC1008. Valkenberg Hospital, \textit{Centenary Newsletter, 1891-1991}, January 1991. \\
\textsuperscript{58} CTAR, PWD, 1/2/272. Specification of the several works to be executed for the Government of the Cape of Good Hope, by Mitchell & Wilson, architects, Edinburgh, 1901. \\
\textsuperscript{60} M. Donnelly, \textit{Managing the Mind} (London, 1938), quoted in Louw and Swartz, ‘An English Asylum in Africa’, p. 7. \\
\textsuperscript{61} CTAR, PWD, 2/1/26. Exchange of letters between Valkenberg Superintendent, the Colonial Secretary and the Secretary of Public Works on the issue of plague, March 1901 to January 1902; Central
cater for ‘non-white’ lunatics, Dr. Dodds, Valkenberg’s first superintendent, proposed the building of a new block at Fort Beaufort Hospital. However, in 1916, it was on the other side of the Black River, opposite Valkenberg, that Uitvlugt, a section designed for ‘non-Whites’, was established in what was the former temporary isolation ward. The river manifested the distance that would separate Whites’ from ‘non-White’’s treatment until the eventual integration of psychiatric services in 1991. Although the initial idea was to prevent the complete isolation of the hospital from the community, the successive physician superintendents did not always consider these natural barriers to be effective enough. In 1938, Valkenberg’s superintendent asked the Secretary of Interior for funds to build a ‘smooth cement wall 4 1/2 inches thick and 6 feet in height with iron spikes on top’ to separate the institution from the Garden Village and hence keep off ‘a large group of Coloured people’ from the grounds.

Valkenberg, the first hospital in the country to house both white and ‘non-white’ patients, then sank into slow decline until the 1960s. In the 1940s, the decay of its buildings was so advanced that the government decided to sell the hospital in order to reconstruct a new one. However, due to overcrowding and budget restrictions, the wards, ‘in a lamentable state of disrepair and a danger to the patients’, continued to be used. The 1960s witnessed the second major watershed in South African psychiatric services since their inception. In 1962, Groote Schuur Hospital established a Department of Psychiatry, under which fell Valkenberg, and the University of Cape

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64 CADP, PWD. 1705 2.6227. Secretary for the Interior to the Secretary for Public Works, 11 April 1938.
65 CADP, PWD, 1705 2.6227. Secretary for the Interior to the Department of Public Work, 19 December 1948.
Town launched its first teaching department in the field. Tara Hospital, a Whites-only psychiatric institution opened in 1944 in Johannesburg, had by that time overtaken Valkenberg as the precursor of new practices. In 1964, Valkenberg started a psychiatric community service in the Cape Province, after the first treatment centre for alcoholics had been opened in 1959 in Rondebosch. Under the impulse of Lynn Gillis, a young psychiatrist trained in Tara and in Maudsley Hospital, in England, who became the head of the new Department of Psychiatry, Valkenberg quickly moved forward again. By the end of the 1970s, the old lunatic asylum, in the opinion of its physicians, had become a dynamic centre of knowledge and of new practices in keeping with worldwide trends in the discipline. The hospital was divided into three general treatment units, a long-stay section, an adolescent unit named Sonstraal and a psychogeriatric assessment unit, the two latter being reserved for white patients only.

During the first half of the apartheid period, the whole country witnessed an increase in the provision of psychiatric services, with sixteen psychiatric hospitals in function. In 1964, there were 23,742 patients residing in state or private psychiatric hospitals. In 1971, the number of patients at state psychiatric hospitals amounted to 14,858, 5,141 of them being classified as ‘Whites’ and 9,717 as ‘non-Whites’. In 1976, in Cape Town, the Alexandra Institute (for white ‘mentally-defective’ patients), the Garden Home and the Torrance Home (for ‘coloured’ ‘mentally-defective’ children) and three weekly clinics held by the Cape Mental Health Society extended the services

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available at Valkenberg. In addition, Stikland Psychiatric Hospital, which had been established in 1964 in the district of Belleville, was designed to cater for patients coming from the rural regions in the east of the province. This new governmental focus did not prevent all psychiatric institutions, and especially ‘non-white’ sections, from being grossly overcrowded. Despite the implementation of community therapy, through which psychiatrists sent back patients to their communities and regularly assessed their behaviour, the waiting lists of patients requesting admission grew longer. The government’s assumption was that the incomplete racial segregation of the country led to a rise in mental illness, through the degenerating contact between different race groups. State authorities increasingly appended psychiatric labels to ‘social evils’. Paradoxically, they also perceived degraded social conditions as impeding the treatment of mental illness, a view that reinstated Whites in their paternalistic position of providing comfort to Blacks until the achievement of an authentic ‘separate development’. In the 1950s, in its demand for the creation of a home for ‘non-European feeble-minded persons’, the Cape Mental Health Society argued that:

Under the prevailing conditions of life for coloured persons, feebleminded children can seldom be trained with the patience and skill that alone can enable them to acquire habits of control and cleanliness. There is a restless type that becomes a menace to other children, finding a sense of power and satisfaction in terrifying them by throwing stones and filth, or by attacking and even wounding them.

The government gave a new impetus to the discursive relationship between violence, social conditions, race and mental illness in the 1970s, when it implemented a series of laws and regulations to extend, rationalise and organise the incarceration of the insane. In 1972, a Commission of Inquiry into the Mental Disorders Act recommended the establishment of new institutions for ‘psychopaths’, described as a ‘disruptive influence’

72 Cape Times, 28 February 1958.
in prisons. The new Mental Health Act of 1973 followed the trend set up by the Prisons Act of 1959, presenting psychiatry in its most ‘modern outlook’ and inviting the International Red Cross to visit its hospitals while authorising censorship and harsher treatment for substance abuse and ‘psychopathy’. In 1974, a Tripartite Agreement between the Cape Provincial Administration, the Department of Health and the University of Cape Town also enhanced coordination and efficiency in the provision of psychiatric services at a provincial level.

The year 1976 saw the opening of a Maximum Security unit at Valkenberg, also called Ward 20. One of the only two such units in the country, it was located next to Uitvlugt, the hospital’s ‘black side’. First designed to be part of Pollsmoor, its architecture was identical to the one of the prison. Surrounded by a five-meter high wall covered with razor wire, its buildings were ‘barely fit for human habitation, with 8 patients per windowless, unventilated room and chamber pots for toilets overnight’ and highly overcrowded. As a psychiatrist from Valkenberg stated:

Ward 20 is supposedly a Maximum Secure ward, so it’s very difficult to get out of there, the conditions inside are dreadful. It was built on the lines of a prison, they took the plans of a prison and just planted it down there. We have been campaigning for many many years to have it destroyed and rebuilt.

The discrepancy between official discourses highlighting the development of modern forensic psychiatry and the creation of ‘hospital prisons’ on the one side, and the living conditions and brutality of ‘treatment’ in Ward 20 on the other, was symptomatic of the wide gap between the 1970s rhetoric of frenetic modernisation and what actually

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76 LSGP. Gillis, ‘The Cape Town Psychiatric Service’.
77 The other one was at Weskoppies Hospital, Pretoria, for white maximum-security patients. GP, UCT. Annual Report of Department of Health, 1976.
79 Interview, Mr. Colman, forensic psychiatrist at Valkenberg, Cape Town, 10 December 2010.
prevailed on the grounds.\textsuperscript{80} Racial segregation, colonial architecture and the large bunch of keys carried by senior medical officers and nurses seem to be the first elements remembered by interviewed psychiatrists and psychologists working in Valkenberg at that time:

And I had keys, about that big, huge big keys, about 8 centimetres, that were made in England. The locks were made in England, the whole hospital, you must know this, was designed on the basis of English mental hospitals. […] there was this colonial architecture if you want, for prisons, for mental hospitals, for anything. So those buildings that were put up in the late 19\textsuperscript{th} century would have had a very similar design. […] If you’re thinking of the panopticon and so on, there were windows through here. You could observe the ward. Very much like that film, \textit{One Flew Over the Cuckoo’s Nest}, very similar. The keys were marked like this. Male, female, white, male, coloured, female.\textsuperscript{81}

The locks matching the keys were also made in England, by James Gibbons Ltd. Master keys could open all the locks, while the rest of the keys differed according to the hierarchy of the hospital’s personnel, ranging from ‘ordinary attendants’ to psychiatrists.\textsuperscript{82} Such an emphasis on locks and keys in a mental hospital gives a clear idea of the priority given to the maintenance of order and the incarceration of bodies at the time. Due to the obnoxious reputation that Valkenberg developed after several cases of illegal detention had shaken public opinion, the Department of Health passed successive reforms throughout the twentieth century to control more tightly the certification process.\textsuperscript{83} As Sally Swartz pointed out for the end of the nineteenth century, these certificates, adopted from British legislation, ‘appeared to protect all alleged lunatics, regardless of race, class or gender’. During the second half of the twentieth century, for each involuntary committal, psychiatrists had to collect an Application for Reception Order, two medical certificates, the actual Reception Order and a report by a

\textsuperscript{81} Interview, Mr. Buten, researcher in psychology at the University of Cape Town, Cape Town, 9 December 2010.
\textsuperscript{82} CTAR, PWD, 1/2/272. Letter from the Superintendent Dr. Dodds, 29 August 1901.
\textsuperscript{83} CTAR, HVG, 2/1/1. Secretary for the Interior to Valkenberg Superintendent, 21 June 1926.
magistrate. The first period of detention could not exceed 42 days, after which the magistrate had to adjudicate, under the advise of the hospital’s psychiatrists, if further detention was required.

Despite this supposedly protective legislation, in the few complaint letters which managed to get across the asylum’s walls, some patients were still adamant that they were illegally detained and had no way to reach the magistrate. The situation was even more acute in the Maximum Security units of Valkenberg and Weskoppies. Even the mostly white – paying patients initially held at Valkenberg had to wait for the Superintendent to find an agreement with their families before being released. These patients were divided into four classes, according to the ‘diet scale’ under which they were admitted, that is, according to the daily amount the hospital received for their accommodation. The population incarcerated within the hospital was therefore essentially composed of so-called ‘chronic’ patients. Dressed in greenish-grey ‘tattered prison uniforms’ identical to the ones of Pollsmoor, most patients spent the day confined in the buildings’ halls and courtyards, with the exception of less ‘acutely mentally ill’ patients and those who had to work as part of their ‘occupational therapy’. All ‘manageable’ patients were compelled to work during apartheid, although the chores reserved for Whites were cleaner and often involved lighter duties. From 1891 to 1954, part of Valkenberg land was dedicated to farming, which included the growing of vegetables for the needs of the hospital. While white patients were entitled to

84 MAR, BC1043. A magistrate to Valkenberg Superintendent, 4 June 1944.
86 HPW, AG3199. Exchange of letters between a patient, the LRC and Valkenberg Superintendent, 1983 to 1998.
87 HPW, A2084. Weskoppies Hospital patients to Suzman, 1983.
88 The four classes ranged from ‘ordinary paying patients’ to ‘first class paying patients’. MAR, BC1043. Valkenberg Superintendent to the father of a voluntary patient, 10 June 1947.
workshop activities for men, and domestic chores for women, black patients were ‘regarded primarily as an unpaid labour force’ since their very admission in 1916.\(^{91}\) Once the hospital abandoned farming activities, it mainly used black patients to maintain the buildings and take care of the gardens:

The gardens were often beautifully kept on the white side of the fence, particularly because black labourers were brought across from the black side to work in the gardens, and we had beautiful, stunning gardens. Because they thought that labour was a very good thing for African mad people, but labour was not a very good thing for Whites. An old neo-Darwinian Spencerian notion of madness in the colonies.\(^{92}\)

Part of the white patients’ work was under the equivalent of the contract system, providing products for outside industries against a small remuneration supposed to ‘contribute to their reintegration in the community’.\(^{93}\) For instance, in 1948, in Alexandra Institute, located three miles away from Valkenberg, patients sewed tobacco bags for a neighbouring factory at a rate of 4 South African pounds per 1,000 bags.\(^{94}\)

The exploitation of the labour force derived from black ‘insanity’ was revealed to all in 1975, when an article in the *Sunday Times* entitled ‘Millions Out of Madness’ publicly condemned the practices prevailing in the eight Smith Mitchell institutions of the country.\(^{95}\) Since 1963, the Smith Mitchell company, appointed by the Department of Health to provide accommodation for black patients, conceived its asylums as warehouses under the guise of self-sustaining enterprises which also offered services to outside factories.\(^{96}\)

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92 Interview, Mr. Holler, researcher in psychology at UCT, Cape Town, 18 November 2010.
93 LSGP. Gillis, ‘The Cape Town Psychiatric Service’.
94 The South African pound was replaced by the rand in 1964, at a rate of two rands for one pound. CTAR, HAI, 2/1/1. Alexandra Superintendent to the Commissioner for Mental Hygiene, 6 October 1948.
95 *Sunday Times*, 22 April 1975.
96 For a discussion on the functioning of Smith Mitchell institutions, see Jones, *Psychiatry, Mental Institutions*. 

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For black patients, working in the gardens might have been a way to avoid staying in the wards where they could not enjoy any private space, with the exception of the dreaded padded single cells. It also constituted one of the best ways to attempt escaping from the hospital grounds, although most of the patients who did manage to flee did not remain on the run long and were soon brought back to the hospital. The harsh conditions of life prevailing in the hospital throughout the twentieth century seemed to have enticed patients to try and escape. In 1941, the Commissioner for Mental Health came to inspect Valkenberg. In his subsequent remarks, he noted that the space available for patients was unsufficient, that the bathrooms and lavatories were ‘totally inadequate’ and ‘unhygienic’, ‘beggar[ing] any description’, the accommodations ‘in a state of collapse’. He also called attention to the overall problem of ventilation and foul smell in the hospital and the gross overcrowding of some areas, which in some wards led to patients having to ‘eat their meals outside in the open’. The food was, like in Pollsmoor, badly cooked and the diets were racially differentiated. At the end of the 1960s, the conditions became so appalling that Valkenberg administration managed to request a visit from the Minister of Health. Lynn Gillis described this ‘shock visit’ in the following terms:

The building stock was completely unsuitable for modern treatment: out-of-date wards, gross overcrowding, insufficient privacy for patients, minimal furniture and toilets in short supply, in some cases overflowing. For example, in the acute male ward only one functioned for 40 patients. The opportunity to do something about this came when we induced the then Minister of Health, a conservative Apartheid politician but a compassionate man, to visit the hospital. He was ushered into the grossly overcrowded male admission wards; […] we unlocked the door of the wildest ward with one of those huge old mental hospital keys, and were immediately in the midst of a mass of milling psychotic patients. […] some were running around naked and others were manifestly aggressive – one squared up to the Minister who muttered ‘My God’ and left as soon as he reasonably could. A few weeks later the Department of Health phoned to ask if I would lead a team of experts and architects to visit new psychiatric installations

99 CADP, PWD, 1705 2.6227. Department of Public Work to the Secretary of Interior, 18 February 1941.
in Europe, Britain and Scandinavia with a view to building a new hospital, and that is how Lentegeur Hospital came about. Also, on that model some years later, the new Valkenberg Hospital wards were built.  

Lentegeur Hospital, located in the township of Mitchell’s Plain, was eventually opened in 1986. It only admitted ‘coloured’ patients in its buildings, organised in a village-like fashion to enhance therapeutic treatment. However, despite this additional hospital in the Western Cape and some architectural improvements made in Valkenberg at the beginning of the 1980s, the former remained, until the democratic transition, the archetype of the archaic lunatic asylum.

**The Process of Categorisation**

Valkenberg and Pollsmoor administrations used several lines of division to categorise their inmates. The official rhetoric of this system hinged on notions of rehabilitation, security and management. However, the attempts to classify populations are never neutral governance tools, and imply objectification processes with specific aims regarding the disciplining and control of bodies. As Megan Vaughan showed when analysing medical disciplines in colonial settings, ‘classification systems and practices’ are ‘to be seen as intrinsic to the operation of colonial power.’ In the South African case, with its colonial features, the construction of the ‘non-White’ as an essential Other required the exacerbation of similar processes of objectification, which

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102 LSGP. Gillis, ‘The Cape Town Psychiatric Service’.
104 Vaughan, *Curing Their Ills*, p. 8.
found their ultimate expression in the entangled lines of division within the compounds of prisons and mental hospitals. The first layer of categorisation was based on the seemingly most clear-cut categories: age, gender, race, class and behaviour, and was applied in a similar fashion in both institutions. Interestingly, in the Valkenberg Maximum Security section, the incarcerated population was relatively homogeneous and mostly made use of this delineation procedure unnecessary. Rather than taking this uniformity as a given fact, one must hence ponder why it prevailed in Valkenberg Ward 20, and if the section’s population was not the output of practices of classification and isolation which had happened previously during trials and inside prisons.

The presence of juveniles and children in prison only appeared in the public sphere as a matter of alarm in the 1980s, after waves of unrests had led to thousands of detentions under the diverse Security Acts. The police arrested many children during this decade, detaining them sometimes for several months and without any contact with their families. According to Amnesty International, in 1985, 25 per cent of the detainees under emergency regulations were under the age of 18.\textsuperscript{105} During the previous year, state authorities recorded 911 male and 60 female juveniles as being scattered across the country’s prisons.\textsuperscript{106} Notwithstanding this sudden public interest, due to the scarce number of reformatories for ‘coloured’ and black juveniles across the country, awaiting-trial and sentenced juveniles had been incarcerated in prisons for decades.\textsuperscript{107} In Pollsmoor, awaiting-trial juveniles mingled with adults in the Admission Center, a situation allowed for by the Prisons Act of 1959. In 1985, Pollsmoor housed about 150 awaiting-trial juveniles between the ages of 11 and 18.\textsuperscript{108} Sentenced males were

\textsuperscript{106} HPW, AG2918. House of Assembly, 11 June 1984.
accommodated in the Juveniles’ Section, while females were held in the Women’s Prison. Regulations subjected both groups to the same conditions of incarceration as adults, with the exception of work duties. Due to the fact that some prisoners lied about their age to be kept in the Juveniles’ Section (admitting only convicts below the age of 21), it can be assumed that conditions in this section were slightly less harsh than in the rest of the prison.\textsuperscript{109} Except perhaps under specific circumstances, Valkenberg Ward 20 did not admit juveniles. During the 1980s, only one per cent of Valkenberg patients were under the age of 20 and were held in Sonstraal adolescent unit.\textsuperscript{110} In the Western Cape, most of those deemed to be ‘disturbed children’ and who had to face the judicial system were sent to the Alexandra Institute, the Garden Home or the Torrance Home.

Those called ‘children’ in Pollsmoor were, as opposed to ‘criminal juveniles’, infants or young people incarcerated with their convicted mothers in the Women’s Prison. Social services were supposed to transfer infants born in prison out of Pollsmoor when they reached the age of 2. One of the Female Prison’s largest rooms was designed to be a ‘nursery’. There, prisoners would watch over the kids while their mothers worked in the prison compounds. However, some older children could also be detained along with their mothers for some months, until the family or the state found a home for them.\textsuperscript{111} The presence of children in prison, and especially the moment when warders pulled them away from their mothers, were distressing and characteristic elements of the female section:

You know, many children are born here, and when they start walking, when we take them out for a walk, even if they feel the grass on their foot soles they will get a panic attack. If they see a tree, it’s like: ‘what is this?’, if they hear a car or a dog, that child will scream and scream and scream.\textsuperscript{112}

\textsuperscript{109} Unrecorded conversation with a sentenced juvenile in B5, Pollsmoor, 10 March 2006.
\textsuperscript{111} Interview, Mrs. Lubbe, wardress at Pollsmoor Female Prison, 31 March 2011.
\textsuperscript{112} Ibid.
The existence of a ‘nursery’ could not disguise the sordidness of the Women’s Prison. Life inside this section was no less harsher than in the rest of Pollsmoor. Female prisoners had to complete the general domestic chores for the whole prison, such as washing and ironing. They also worked in the agricultural sector, collecting vegetables, and in the textile workshop, sewing prison uniforms. After the occurrence of several incidents, they were under the sole supervision of female wardresses, in order to prevent sexual abuse from male warders. Treatment between male and female prisoners only really differed when people from outside the institution could see female inmates. Indeed, the Prisons Services’ policies reflected the two-facedness of the general discourse on female offenders. This discourse paradoxically depicted them both as evil – the path taken by women to end up in crime being conceived as less ‘natural’ than for men, and hence expressing stronger amorality – and victims – the position of women in society remaining, even in the criminal world, one dominated by larger dynamics and stronger men. In 1984 for instance, an exchange of letters between the security escort services and Pollsmoor reasserted the need to withdraw female prisoners’ leg-irons and footcuffs when outside the compound, a directive that was not applied to male prisoners. As to the presence of certified women in Valkenberg Maximum Security section, the absence of available statistics makes it difficult to estimate their exact number. However, taking into account that at the beginning of the 1990s, women represented 10 per cent of Pollsmoor population, and 38 per cent of the general Valkenberg population, and that psychologists and psychiatrists who worked at different times in Valkenberg from the 1960s to the 1990s barely record their presence, it can be assumed that the number of women in the Maximum Security section was fairly low. As

113 Interview, Mrs. Neumann.
114 Interview, Mrs. Allen.
in Pollsmoor, they were segregated from the male inmates and female nurses only could attend them.\textsuperscript{116}

Race was the third line of classification. Only the white/‘non-white’ prisoners separation was visible in the configuration of the sections. White prisoners – awaiting-trial, juvenile and sentenced – were held in different sections of the same prison, Medium C. They received more lenient treatment from the warders, a treatment which manifested itself in the number of visits, the quality of toiletries, the warmth of clothing and the overall warders’ attitudes towards them.\textsuperscript{117} The categorisation into four racial groups had, however, an impact on diet. It increased prisoners’ frustration over the aspect of daily life retaining the most importance, and could also embitter warders themselves:

The african inmates, the coloured inmates, the white inmates, they were eating different diets. What else? The african inmates and the coloured inmates were staying together. So the white inmates were kept separate from the other inmates. They’ve got their own recruit units, they’ve got their own cook, a white cook, they’ve got their own menu and the warders who are working there are also white, we are not allowed to work with these warders. They had the privilege to have a night visit. Married with their wives, unmarried with their girlfriends. […] Then after, late 80s, 87/88, they started to work out the diets. For african inmates it was soup, and just dry vegetables, coffee or tea something like that. The Coloureds have vegetables and meat, like chicken, but they are not allowed to eat the meat with the bones. The white inmates were eating steaks, fried chicken, all that fancy food. And a dessert at the end of the day. Coloured were mainly eating bread.\textsuperscript{118}

As it can be seen in this interview extract, frustration led to fantasies from both prisoners and warders as to the way white prisoners were treated. For instance, the ‘dessert’ consisted in fact of ‘four slices of brown bread, no butter, with jam, with sometimes a boiled egg’, and the fried chicken was ‘what we called \textit{chicken à la hand-}

\textsuperscript{116}LSGP. Statistics on Re-Admissions to Valkenberg, 1980-1989, 1991; PA, 1/2/3. Report on overcrowding, 18 March 1992. Interview, Mr. Buten; Interview, Mr. Dejan, former forensic psychiatrist at Valkenberg, Cape Town, 30 November 2010; Interviews, Mr. Holler and Mr. Belling. The fact that only male psychologists and psychiatrists were interviewed introduced a bias in the historical reconstruction of the female presence in Valkenberg.

\textsuperscript{117}HPW, A2084. Preliminary Report on a visit by Suzman to Prisons, 1965; Interview, Mr. Mpendu.

\textsuperscript{118}Interview, Mr. Nyathi, warder, Pollsmoor Medium B Prison, 25 February 2008.
grenade, it was smashed chicken, the bones had been all smashed up with all the bones inside’. It still constituted a critical privilege, as the other prisoners were deprived of this third meal. The fact that black and ‘coloured’ prisoners had no contact with white prisoners, except occasionally when they were brought to court or transferred to another prison in the same vehicle, reinforced these perceptions. For the prison administration, this mode of transport was dissatisfactory but the number and availability of state vehicles left it with no other option. Despite the fact that the prison administration placed emphasis over racial categorisation in accordance with a discourse on rehabilitation through the avoidance of ‘racial degeneration’, it always had to give, although reluctantly, priority to security and financial curtailments. The only place in the prison where it implemented racial separation to a lesser extent was the Women’s Prison. Due to the extremely scarce number of white female prisoners, they were held in single cells, sometimes in an isolated section, but in the same prison building, as in this case gender had priority over race.

Racial classification functioned in the same way in Valkenberg and affected the diet, treatment, work duties and privileges of the differently constructed racial groups. In 1967, the number of white patients admitted amounted to 570, while the number of ‘non-white’ admissions reached 1,127. By 1984, the percentage of white patients in the hospital as a whole had decreased, as there were 908 admissions during the year, compared to 3,941 for ‘non-Whites’. Although there were white forensic patients, they were not held in Ward 20. Short-term patients were housed in the ‘ordinary wards’ along with other white patients. Long-term forensic patients were sent to Pretoria

119 HPW, A2084. An ex-convict to Suzman, 1 June 1977; Interview, Mr. Jeffrey, former political prisoner, Fish Hoek, 24 March 2011.
120 PA, 1/3/5. Circular from the Prisons Services (hereafter General circular), 11 September 1990.
121 Interview, Mrs. Allen.
123 Interview, Mr. Colman.
Ward 20 hence mainly accommodated black and ‘coloured’ forensic males over 21 years old. In the hospital, food differed according to race and gender, as ‘white men got the highest calorie intake and then it went down to black females’.125 Otherwise, nurses subjected all the inmates of the Maximum Security section to the same treatment, far below the standards of the white patients. They deprived them of any anaesthetic, which would have acted as a muscle relaxant, before electroconvulsive therapy (ECT) sessions. During the 1970s, black patients could only get old bandages which had already been used on white patients.126 Nurses administered them far fewer ‘modern drugs’ than on the white side and kept them locked up in warehouse conditions 24 hours a day. As one of the psychologists who completed his internship in Valkenberg during the 1970s put it, it was ‘differential treatment in a crude, primitive fashion’.127

Behaviour and class were the two last lines of delineation of this first layer of classification. Both in Pollsmoor and Valkenberg Maximum Security section, class was barely a significant factor, as the vast majority of inmates came from low social backgrounds. Leaving apart political prisoners, privileged patients were kept in isolated wards in Valkenberg, or in the prison’s hospital in Pollsmoor.128 The story of Giuseppe Di Blasi, incarcerated in 1993 in Pollsmoor hospital for the murder of his wife, reveals that for higher class patients, lawyers and psychiatrists argued that incarceration was detrimental to the rehabilitation of mentally disturbed criminals. In this case the psychiatrist summoned to court asserted that his depression, which could not be strictly appraised as a ‘mental illness’, had led him to commit the murder.129 Involved lawyers and psychiatrists sent several letters to Judge Williamson, in charge of the case, demanding the release of Di Blasi, for ‘[h]e continued to struggle within the prison

124 Interview, Mr. Dejan.
125 Interview, Mr. Buiten.
127 Interview, Mr. Holler.
128 Interview, Mr. Dejan.
situation which is totally alien to the core of his being’, and came ‘from a refined background and has throughout his sentence been imprisoned in the company of hardened criminals, often with serious personality disorders, or with gang members’. 130

Within the institutions, class often fused with behaviour, as the exceptional upper class inmates received an ‘A group’ treatment. Indeed, in Pollsmoor and Valkenberg, authorities applied a grading system going from A to D to evaluate the perceived behaviour of inmates. They based this assessment on the offenders’ crime, their compliance to the institutional rules, their violence, and, in Valkenberg Ward 20, their ‘illness’. 131 In 1967, after a visit to Robben Island, Helen Suzman, the Progressive Party MP, complained to the Minister of Justice and Prisons about the fact that this classification took into account the offender’s crime, which led to a double punishment, for ‘the Courts [had] themselves determined the gravity of a man’s crime by virtue of the sentence which they have inflicted’. 132 In practice, administrations used this ‘A, B, C, D’ system to control inmates by awarding or abolishing the privileges and elementary rights that came with the different ranks. 133 It also enabled them to shift groups of their incarcerated populations from the Medium to the Maximum Security in Pollsmoor, and from Pollsmoor to Valkenberg Ward 20, under the disguise of a rationality based on the estimated ‘violence’ of the inmate. As in courts, violence and illness constituted one of the bases, in prisons and mental hospitals, for the implementation of disciplinary measures. The grading system drew the attention of the public opinion when the press revealed that, in the 1950s and 1960s, political prisoners were systematically classified in the ‘D group’. Organisations of support to political prisoners challenged this situation

132 HPW, A2084. Suzman to the Minister of Justice and Prisons, 16 February 1967.
in several instances throughout apartheid. This involvement led to some changes, such as the promotion of all political prisoners from D to C group in 1966.\footnote{Sunday Express, 2 January 1966.}

These intertwined lines of delineation profoundly affected daily life inside Pollsmoor and Valkenberg Maximum Security section. They strove at creating homogeneous groups of inmates easy to rule over, while fractioning the institutions’ populations into differently privileged casts in order to delimitate and control individual behaviours. This procedure reflected the wider logics of segregation at play in the rest of society. It also echoes Megan Vaughan’s analysis of the limits of Foucault’s application in a colonial setting, where classification in terms of different racial groups was more significant than the individualisation process described by Foucault in Europe.\footnote{Vaughan, Curing Their Ills, p. 11.} Categorisation according to age, gender, race, class and behaviour within prisons and mental hospitals also disclosed in an acute way the imaginary of the white minority in power. As Delphine Gardey and Ilana Löwy have shown, the complexity of this revealed \textit{imaginary} lay in the fact that it presented itself as \textit{knowledge}, in this case through the intersection of the criminological and psychiatric disciplines.\footnote{For an analysis of the links between science and imaginary, see D. Gardey, ‘Introduction. Pour en finir avec la nature’, in D. Gardey and I. Löwy, \textit{L’invention du naturel. Les sciences et la fabrication du féminin et du masculin} (Paris, 2000), pp. 7-28.} A the next chapter will show, in order to assess whether the specific South African power/knowledge as expressed in prisons and mental hospitals was more repressive than productive, one needs to turn to the implementation of law and order within these institutions.
Chapter 2

Law, Order, Subjugation and Repression

The implementation of law and order in prisons and mental hospitals during apartheid suggests that such institutions functioned like magnifying glasses, disclosing the nature, ambiguities and violence of a state based on terror and colonial mechanisms. Violence permeated daily management and extreme violence manifested itself in the barely regulated corporal punishments and use of physical restraints. The Prisons Act of 1959 and the Mental Health Act of 1973 protected prisons and psychiatric hospitals’ administrations by prohibiting the publication of any information relating to their activities. Simultaneously, taking into account Steven Pierce and Anupama Rao’s argument that ‘violence also appeared to be the antithesis of civilised government’, methods of subjugation had to be portrayed as rational.137 These administrations therefore assimilated them to a discourse on behaviour improvement and rehabilitation, while daily management displayed an endeavour to brutalise inmates and deprive them of their subjectivity. Cut-off from society and in the midst of this paradox, the staff and inmates developed strategies of survival, which maintained the fragile equilibrium between war and peace necessary to the perpetuation of prisons and mental hospitals.138

Law and Order in Pollsmoor and Valkenberg

The violence of institutional disciplinary measures is often what strikes the external observer. However, daily prison management, symptomatic of the war led by the state against its social dissidents, based itself, above all, on the inmates’ acceptance

of a multitude of constraints. In Pollsmoor and Valkenberg Maximum Security section, this ‘armed peace’, as Antoinette Chauvenet describes it, sustained itself on the division of inmates – as an attempt to prevent their coalition –, on the barbed wire fences, the arbitrary enforcement of a highly restrictive sets of rules and the punishment/privilege system.\footnote{Ibid.} In a report published in 1994, Human Rights Watch, commenting on the legacies of the apartheid prison administration, asserted that:

> Almost anything an inmate is allowed to do or have in his or her possession is called a ‘privilege’ or an ‘indulgence’ in the South African prison system. Prisoners have few rights, and are entitled only to have those ‘privileges’ granted to them by the Commissioner of Correctional Services at his discretion.\footnote{Human Rights Watch, \textit{Prison Conditions in South Africa}.}

In mental hospitals, rights and privileges were even fewer. According to some patients, this was due to the fact that the administration regarded them as even less ‘human’ than prisoners.\footnote{A Valkenberg patient to the LRC, 28 February 1994.} For Valkenberg nurses, patients were unable to understand the notion of ‘rights’. They could, however, feel in their bodies what ‘punishment’ meant.\footnote{Report on Human Rights Violations and Alleged Malpractices in Psychiatric Institutions, November 1995.} As Erwing Goffman analysed it, ‘punishments and privileges are themselves modes of organisation peculiar to total institutions’.\footnote{Goffman, \textit{Asylums}, p. 53.} They acquire the role of new social standards in the inmates’ world, which is completely alienated from the ones they inhabited previously. For even during the infliction of punishment, it is not the \textit{crime} that warders or nurses castigate, but the \textit{criminal}, the affinity of the delinquent with his or her guilty act.\footnote{Foucault, \textit{Surveiller et punir}, p. 292.} Under this objectifying procedure lies the management of a simplified ‘society of order’, whose function is its own perpetuation.\footnote{R. Castel, ‘Introduction’, in E. Goffman, \textit{Asiles. Etudes sur la condition sociale des malades mentaux} (Paris, 1968), p. 31.}
In prison during apartheid, in order to manifest the passage from the external world to this new society, with its specific rules and behaviouristic model, warders subjected inmates to a mortifying admission procedure, supposed to function as an ‘obedience test’ which helped prognosticate on the prisoners’ future behaviour. The degrading practice involved naked searches, medical examinations, a decontaminating shower, the distribution of clothes and toiletries, the brief reading of essential rules and a number of physical and verbal humiliations. The aim was to accustom the inmate to his new ‘dog’ status, according to the phrase recurrently used by interviewed prisoners. In 1984, the Cape Times relayed the findings of the Van Dam Committee of Inquiry into Events at the Barberton Maximum Security Prison, revealing to the public ‘barbarous malpractices’ regarding an ‘initiation ceremony at the prison in which new prisoners were stripped naked and assaulted by warders with truncheons or pieces of rubber pipe, sometimes receiving as many as 30 blows’. In his autobiography, Moses Dlamini, a Pan Africanist Congress (PAC) political prisoner incarcerated during the 1960s, described a similar ritual at Leeuwkop Maximum Prison in 1963:

In front of the wall we were harshly and with kicks, instructed to bend down and touch our toes. As we were 44 in number, we stood in a long line next to one another, our heads touching the wall – a distance of a yard from each other. Meanwhile, warders were moving up and down carrying pick-handles and truncheons beating down the heads and shoulders of those who had not bent properly. I peeped through my outstretched left arm and saw the ‘doctor’ putting on his thick brown gloves and guessed that he was about to begin with the ritual. I almost lost my balance as I anticipated the pain I was going to feel as he thrust his middle finger into my rectum.

Although an exactly similar initiation ceremony was not recorded in Pollsmoor, other abuses took place during admissions or entrance searches. In 1988, a prisoner

149 Dlamini, Hell-Hole, p. 18.
serving a periodical sentence, represented by the Legal Resources Centre, complained that Pollsmoor warders had humiliated and injured him during an internal search for *dagga* [cannabis], on one occasion when he came to serve his sentence:

[H]e was even subjected to the humiliating experience of an internal examination of his rectum, which was repeated several times, including being forced to excrete faeces until he experienced pains and fainted. We are instructed further that he was then taken to Victoria Hospital, where the search of his rectum was repeated without any dagga being found. Our client instructs us further that he was threatened that this procedure would be followed on each occasion when he reported to serve his sentence as above-mentioned.\(^\text{150}\)

Despite several complaints of abuse, the Prisons Services considered this procedure as ‘satisfactory’ and did not amend the regulations.\(^\text{151}\) As for patients held at Valkenberg Ward 20, some of them were sent directly to the hospital after their court sentence. Prior to this committal, they were held in a prison awaiting-trial section and did not, therefore, experience this admission procedure. Many others were, however, admitted in prison as regular inmates before being categorised as mentally ill and sent to Valkenberg.\(^\text{152}\)

As in South African mine compounds, admission rituals were the first stage of a brutalisation process which attempted to deprive inmates of their former sense of self in order to bend them to the new regulations.\(^\text{153}\) In Pollsmoor, like other prisons of the country, this brutalisation took place in a militarised environment where inmates were not allowed to speak unless they were spoken to and had to follow warders at a distance of three meters when they walked down the corridors. The *Prisoner’s Handbook* described the regulations of prison life and was supposedly available to inmates on request. It listed numerous actions considered as ‘disciplinary offences’, as opposed to

\(^{150}\) HPW, AG3199. LRC to Pollsmoor, 26 August 1988.
\(^{151}\) PA, 1/3/3. General circular, 6 May 1990.
\(^{152}\) Interview, Mr. Dejan.
offences condemned by the law. Prison authorities could inflict disciplinary measures
for a wide range of behaviours, such as giving an ‘untrue reply to a question’, being
‘stubborn or disrespectful’, being lazy, swearing, whistling or committing ‘an act to
endanger [one’s] life or to hamper [one’s] work’. A prisoner held in Zonderwater in
1974 described in the following terms the impact of these degrading rules on the
incarcerated population:

Should a prisoner in anyway try to retain his identity – try to remain a thinking
human being – this normally causes him to run counter to the prison authorities
ideas, or ideals, of what rehabilitation really should be. What they seem to forget
is that rehabilitation simply means ‘the return, with dignity’. Now how a man
can return to a free society, with dignity, after having been subjected to almost
every indignity in the book is utterly and completely beyond my comprehension.
[...] Is it any wonder that so many men in prison turn into nothing else but
robots. If a man’s identity is being threatened and he tries to retain his identity,
he of necessity has to object to this type of treatment, and once he does this, he is
subjected almost immediately to punishment of some form or another. I have
used the word brutalised. I have used the word assault. I have used the word
degradation.

In addition to this set of rules presumed to function as an intricate repressive net
placed on the inmates’ minute gestures, warders maintained a society of order inside
Pollsmoor. Armed with tonfas and teargas until 1997, they patrolled the sections several
times a day, sometimes with Alsatian dogs trained for the purpose of ‘safe custody’.

For ‘minor disciplinary misdemeanours’, warders brought prisoners to the Head of
prison to be charged. The sentence could consist in a denial of privileges or gratuity, or
in the withdrawal of three meals. In 1979, the administration established an ‘X Court’
in Pollsmoor. This new disciplinary board adjudicated upon more serious offences, or
smaller ones when the prisoner had denied his or her guiltiness in front of the Head of
prison. Pollsmoor authorities expected the X Court to function as a safeguard against

155 MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
156 Interview, Mr. Theron, warder working as a dog-handler, Pollsmoor Maximum Security Prison, 19
March 2011; Steinberg, The Number, p. 13.
158 CTAR, 1/WBG, 1/2/17/1/1. List of accused and verdicts, Pollsmoor X Court (1978-1986).
abuses in the implementation of punishment by providing the prisoner with witnesses and a legal representative for his or her defence. In practice however, it was extremely rare for a prisoner to be able to afford legal aid.\textsuperscript{159} The Prisons Act of 1959 defined the jurisdiction of prison courts. Magistrates or commissioned officers presided over these trials. Prosecutors were chosen within the Prisons Services – they sometimes even coincided with the complainant, the Head of Prison.\textsuperscript{160} The sentences pronounced by these courts included flogging, a common legal punishment throughout apartheid.\textsuperscript{161} These disciplinary boards, which manifested ‘the fundamental ceremony of the administration, this quasi-mythical moment when its power established itself by making a spectacle of itself’ – appeared as simulacra of justice in an environment regulated above all by violence and arbitrariness.\textsuperscript{162} Indeed, if warders perceived any behaviour as violent, they were entitled to punish the inmate with solitary confinement without referring to their supervisor.

Focused on the maintenance of order, Pollsmoor daily management did not leave much room for the rehabilitative aim commonly associated with prison in public discourses. The Prisons Act itself merely recommended reformation ‘as far as practicable’.\textsuperscript{163} Attending church on Sundays and the possibility to see religious workers from a wide range of faiths seem to have been the sole ‘rehabilitative’ means available to prisoners. For instance, in 1993, between July and September, 64 religious workers from 20 different churches and faiths visited inmates in Pollsmoor.\textsuperscript{164} The prison also employed warders trained as psychologists or social workers, but most inmates considered them as mere auxiliaries of the prison’s administration:

\textsuperscript{160} Ibid, p. 311.
\textsuperscript{161} This practice is detailed in Chapter 6, pp. 177-208.
\textsuperscript{163} Prisons Act n° 8 of 1959.
\textsuperscript{164} PA, 1/3/B. Activities of churches/faiths and chaplain, July-September 1993.
They say they send the people there to be rehabilitated, but in the meanwhile they get provoked more than they get rehabilitated. On paper, they can state and stipulate everything is here in order for inmates to rehabilitate, but how well do they implement it? […] Social workers and psychologists, all these people, they mean nothing. They are like a river without water, that’s what I can say. To see a psychologist, it’s not like you can go and see a psychologist. You can’t just go and see a social worker. A lot of things need to happen. You have to do a lot of things and then they’re gonna start believing you’re crazy.165

Some social workers were aware of the ambiguity of their position:

It’s a very unnatural environment for humans to be in. […] Our focus was on rehabilitation services, and if you see that the environment doesn’t support your goal, even for a person to be locked up for that amount of time, you just had a session with a patient, a therapeutic session, you give him hope, as soon as he is out of your office, then he’s confronted with a different reality. And I think as social workers we are, we were and we still are in this dichotomy of: you work for the system but in many instances the system is not facilitating where you are going. So we’re sitting in that dichotomy.166

In Pollsmoor, social workers and psychologists could also help writing letters of complaint and channelling them up the administration hierarchy. According to prison authorities, inmates had, throughout apartheid, ample possibility to lodge complaints and requests on a daily basis, or during visits by inspecting committees.167 In practice, prisoners only began to use internal channels for communication during the 1980s, when the implementation of reforms and the increased knowledge by prisoners of their rights led to a rise in official complaints.168 It was common knowledge that inspection visits were mock ceremonies, as an inmate from Pollsmoor Maximum Security Prison testified in a letter smuggled out to Suzman in 1985: ‘You must catch them offguard, then you will see the real situation of the whole problem. Because if they know you are coming, we must clean the place and we are threatened that if anyone dares to lodge a complaint, he will be locked up in solitary confinement’.169

165 Interview, Mr. Pieterse, former prisoner at Pollsmoor, Cape Town, 22 April 2011.
166 Interview, Mr. Ahmadi.
168 Petit, Ces peines obscures, p. 477.
The difficulty to fight for one’s rights was aggravated in Valkenberg Ward 20. The lesser number of visits and the low turnover of inmates meant that the latter could rarely smuggle out letters. No channels for complaints really existed, and even family members were ‘totally helpless’ when they wanted to report an abuse. Like in Pollsmoor, implementing law and order inside the institution was best done through the control of information by the staff. In psychiatric hospitals, management through deprivation took a specific form, and affected the right to complain, to move around or to acquire knowledge over one’s treatment and future. Throughout apartheid, patients still managed to send a number of letters to their families, to organisations or individuals, accusing psychiatric hospitals of illegal detention. To the extent that, in 1983, a patient from Weskoppies claimed that:

many of the patients being held at the above institution do not belong there and are being kept unnecessarily for very long periods, when they could just as easily have been living productive lives outside. The process of discharge from this institution is so slow that it seems to be non-existent. As a result of this many of these patients become hopeless and resort to the only alternative open to them, i.e. escape. Others take more drastic steps – suicide.

In Ward 20, the security component of daily governance was, from its opening to the democratic transition, surprisingly low. In the 1990s, only two guards, who were not part of the Department of Correctional Services and who did not have any specific training, watched over more than thirty inmates. As a result, in order to prevent escapes, nurses held forensic patients within the section or in its small courtyard 24 hours a day. However, the absence of dogs, teargas and tonfas did not mean that law and order was not kept through subjugation. In Valkenberg, ECT and, from the 1970s onwards, neuroleptic drugs efficiently replaced the more overt control mechanisms of Pollsmoor.

171 Goffman, Asylums, p. 19.
172 HPW, A2084. A Weskoppies Hospital patient to Suzman, 1983.
While the use of ECT had widely prevailed for years in different parts of the world, sedatives and neuroleptics were seen as a revolutionary treatment. Psychiatric hospitals increasingly used drugs such as Largactil or Stelazine, introduced in South Africa in the late 1950s. First reserved for white patients, the staff began giving them to black and forensic patients, less as a form of cure than as a control measure. Indeed, after few days of highly overdosed treatment, patients became ‘zombies’, barely able to express themselves coherently. In addition, Valkenberg senior officers admitted that due to budget restrictions they bought the cheapest of these ‘modern’ drugs, which had heavy side-effects. The apparently complete alienation of the patient’s identity was reinforced by the fact that most nurses and attendants only spoke Afrikaans and English, and were thus unable to communicate with more than half of the hospital’s population. In these conditions, Valkenberg Ward 20, in its daily management of so-called ‘psychopaths’, State President Patients and ‘deluded’ prisoners, both bore colonial and European features. On the one hand, its main priority was the ‘safe custody’ of those deemed too deviant and violent to be manageable in prison – but safe custody actually meant the protection of society from them. On the other hand, nurses deprived forensic patients of the very ability to speak and saw their task as making sure that ‘everything is quiet’. In its internal functioning, Valkenberg Maximum Security section hence resembled the process described by Foucault, where the sole voice of the psychiatrist filled in the vacuum left after the disappearance of the dialogue between madness and reason.

175 Lambley, The Psychology of Apartheid, p. 79; Interviews, Mr. Holler and Mr. Buten.
176 Interview, Mr. Belling.
177 Ibid.
It would be misleading to consider the repressive daily management within these institutions as the direct result of the administrations’ will to subjugate prisoners and patients. The training received by nurses and warders, as well as the regulations they were submitted to, also played a crucial role in the brutalisation process they implemented. Warders were part of a military hierarchy strictly differentiated along racial lines. In Pollsmoor, each morning, when calling for duty, they had to regroup into two parades, one for Whites and one for ‘non-Whites’, where they were inspected from head to feet. Even the warders’ beards, for those wearing them, were scrutinised.\textsuperscript{179} Recruitment procedures were strict and differed according to racial groups. In the 1980s, applicants suffering from hunchback, flat feet or obesity were systematically refused.\textsuperscript{180} By the 1990s, HIV-positive applicants were seen as unfit to serve in the Prisons Services.\textsuperscript{181} In addition to these physical requirements, warders also had to pass several psychological tests for selection. The recruiting officer applied these tests differently according to the group in which the applicant was supposed to fit: ‘Whites/Coloureds/Asians’, ‘Blacks (male)’ and ‘Blacks (female)’.\textsuperscript{182} In 1982, due to an ‘unfavourable economic climate’, the Prisons Services even ordered the recruiting clerk to stop taking black and ‘coloured’ male applicants as well as white women into employment.\textsuperscript{183} The jobs allocated, as well as the training received and the housing provided, also reflected this stringent racial hierarchy. Black warders were mainly working night-shifts, securing the outside perimeter; ‘Coloureds’ took care of the daily management of the worst sections and Whites held senior positions. In 1981, black warders from Point Prison, Durban, complained that the Colonel in charge swore at them as if they were ‘dogs’, despite the fact that they were diligent in their work, for

\begin{itemize}
\item \textsuperscript{179} The wearing of beards was officially authorised by the Prisons Services in 1986. PA, S12/B. Pollsmoor internal circular, 3 September 1986.
\item \textsuperscript{180} PA, S3/1/B. General circular, 3 October 1986.
\item \textsuperscript{181} HPW, AG3199. LRC to the DCS, 18 June 1997.
\item \textsuperscript{182} PA, S3/1/B. General circular, 29 March 1984.
\item \textsuperscript{183} PA, S3/1/B. General circular, 18 November 1982.
\end{itemize}
they liked ‘to look after [their] brothers for them to go straight in life when they go out again’.\textsuperscript{184} Interestingly, the resentment which stemmed from this segregation was such that those who did not ‘fit in’ – such as the Pollsmoor ‘coloured’ warder who constantly had to show her ID to prove she was not white – were pressurised by their colleagues to take sides.\textsuperscript{185} In this stressful environment, suicide was relatively frequent, although it was often covered up under personal and familial reasons by fellow colleagues, despite the fact that most of these suicides took place on prison grounds with service arms.\textsuperscript{186}

Valkenberg nurses and attendants were also subjected to poor conditions of work and held the lowest positions in the hospital’s hierarchy. Those living in accommodation provided by the hospital were deprived of private space.\textsuperscript{187} Specific training for registered psychiatric nurses was only put in place in the Western Cape during the 1960s, and was still quite limited.\textsuperscript{188} In her analysis of the ‘micro-physics of power’ in South African asylums, Shula Marks showed that most nurses and attendants came from lower-middle class background, were overwhelmingly white and acted like ‘jailers’.\textsuperscript{189} In the 1970s, there were approximately 60 registered nurses and 100 nursing assistants at Valkenberg during the day, which meant that they were highly overworked.\textsuperscript{190} Psychologists and psychiatrists described them as authoritarian, brutal and terrorising.\textsuperscript{191} In their violence and the fact they were themselves exploited, warders and nurses represented the values and fears of the rest of society. Guardians of law and order for a supremacism state that also subjugated them, they were in a position of utter ambiguity. Brutalised themselves to some degree, they let out against inmates and patients the

\begin{itemize}
\item \textsuperscript{184} HPW, A2084. Point Prison warders to Suzman, 1981.
\item \textsuperscript{185} Interview, Mrs. Allen.
\item \textsuperscript{186} Dlamini, \textit{Hell Hole}, pp. 83-4; Interview, Mr. Mehra, 28 March 2011.
\item \textsuperscript{187} Louw and Swartz, ‘An English Asylum in Africa’, p. 18.
\item \textsuperscript{188} Interview, Mr. Belling.
\item \textsuperscript{189} Marks, ‘The Micro-Physics of Power’, pp. 81-3.
\item \textsuperscript{190} LSGP. L.S. Gillis, Draft, ‘Factors Influencing Nurses’ Attitudes to Psychiatric Patients’, 1976.
\item \textsuperscript{191} Interviews, Mr. Buten and Mr. Holler.
\end{itemize}
worst physical abuses and hence embodied the harsh treatment against ‘savages’ that society as a whole wanted them to mete out.

**Repression and Physical Punishment**

Inmates and patients who attempted to bypass the institutional regulations in some way or another, or who refused to submit to the daily implementation of law and order, faced increased repression. The harshness of punishment was also a result of the colonial features of prisons and mental hospitals in apartheid South Africa. As Harriet Deacon showed, ‘the racialised penal discourse proposed that the “brutal savage” could not understand the abstract nature of imprisonment as deprivation of liberty: imprisonment in itself was therefore not sufficiently punitive’.\(^{192}\) Even those who described themselves as reformists characterised prison life, which they considered as a ‘living death’, by ‘the proselytism of vice, the distorting influence of the abnormal, the depravation’.\(^{193}\) In the eyes of the white minority, black delinquents were the archetype of the *swart gevaar*, and once they were incarcerated, society conceived their violent castigation as a normal and justified consequence for their threatening deeds. The violence of prisons and mental hospitals was compounded by arbitrariness, uncertainty and the expectation of punishment, which transformed this violence into what Bourdieu has described as ‘absolute power’.\(^{194}\)

The Prisons Act of 1959 gave Heads of prisons or, alternatively, warders, the discretionary power to apply different sorts of punishment. It also allowed the use of deadly force in case of high security events such as escapes. However, despite the

regulations, prisoners and warders described the implementation of these practices as random. In 1988, in the aftermath of the 1983 Barberton bloodbath when warders killed nine prisoners, the Prisons Services had to recognise that it did ‘occur from time to time that Heads of prisons overstep their discretionary powers within the limits of fairness, reasonableness and humanness, occasionally with tragic consequences for either the prisoner himself and/or the image of the South African Prisons Services.’

In Pollsmoor, from 1964 to 1994, transfers constituted the only punishment which did not imply some degree of physical violence. Notwithstanding, such transfers strongly affected prisoners. The administration used them either as a security measure to get rid of their most ‘disruptive’ elements – hence cutting them off from the ‘inside community’ in which they were inserted – or as a behaviour sanction – by sending inmates away from their families, who could no longer visit them. On the contrary, when prisoners applied for a transfer in order to get closer to their families, ‘they can’t help you, they just give you a transfer form, so you finish it and you give it to them, then […] you just have to wait, and wait’. In Pollsmoor, apart from transfers, spare diet was one of the most common punishments implemented against inmates who had broken the rules. Despite the fact that the law strictly regulated dietary punishment, its application was erratic and changed throughout apartheid. In the 1960s and the beginning of the 1970s, the number of days under spare diet was not exactly stated but warders had to give the inmate two meals composed of 200 g of mealie pap without salt and one protone soup cooked in 570 millilitres of water every day. At the beginning of the 1980s, the length of punishment increased, due to the new practice of alternating different rations – spare diet, reduced diet (half the spare diet) and full rations – during

196 Interview, Mr. Mehra.
197 Interview, Mr. Mpendu.
six days each.\textsuperscript{199} For lighter sentences, the inmate got three meals withdrawn from his or her diet. But the worst seems to have been the ‘rice water’ or ‘milk diet’, when warders deprived the inmate of any food but rice water or milk for seven days in a row.\textsuperscript{200} Nurses also used food deprivation as a castigation practice in Valkenberg, although it was far less regulated and seems to have been left out entirely to their will.\textsuperscript{201}

In Pollsmoor, warders always sent the inmate to isolation for the duration of the dietary punishment. Solitary confinement was also an extremely common disciplinary measure. The Prisons Services distinguished between ‘segregation’, used as a privilege to protect the inmate from his or her fellow prisoners, and ‘solitary confinement’, which was not supposed to be a punishment but ‘a coercive way to strengthen’ warders’ authority.\textsuperscript{202} As such, during the 1970s and 1980s, an inmate could virtually be sent to isolation for any reason:

Maybe they misbehaved, or they were caught with cannabis. Anything that they did wrong. Disrespect. The sentences wouldn’t be that hard on disrespect, but if you were caught with sugar! […] That was illegal. If I caught you with sugar, or golden syrup, you’re gonna be put for two weeks away in solitary confinement.\textsuperscript{203}

Warders could implement solitary confinement for weeks or months, despite the fact that in the 1980s, prominent psychologists such as UCT researcher Don Foster had drawn public attention, in the case of detainees, to its severe psychological effects.\textsuperscript{204} In 1984, the Pietermaritzburg Agency for Christian Social Awareness and Action (PACSA) hence stated that:

Solitary confinement could be technically described in terms of ‘sensory’ or ‘perceptual deprivation’. […] if confinement is kept up, the person loses contact

\textsuperscript{199} PA, 1/3/2/2. Pollsmoor Commanding Officer (hereafter CO) to Victor Verster CO, 4 December 1980.
\textsuperscript{200} Interviews, Mr. Jordan and Mr. Bartram.
\textsuperscript{202} PA, 1/3/2/3. General circular, 7 March 1986.
\textsuperscript{203} Interview, Mr. Van Tonder, warder, Pollsmoor Medium B Prison, 27 February 2008.
\textsuperscript{204} The book published in 1987 led to the emergence of a public scandal on the psychological effects of detention. See D. Foster, D. Davis and D. Sandler, \textit{Detention and Torture in South Africa} (Cape Town, 1987).
with reality and becomes totally disorientated and exhibits symptoms found in a
person with psychosis – disturbance of the mind – such as high levels of anxiety,
panic, delusions. In Pollsmoor, the fact that this disciplinary measure often occurred after the warders had severely beaten up the inmate reinforced its violence. It also entailed a profoundly degrading aspect and an utter fear of what might happen in this prison inside prison, even further away from the gaze of society:

when they finish hitting you, they put you in a small cell, they put all your clothes off, you’re naked, with no blanket, nothing. There’s only you and that cell. In the night, they come again, they open the cell and they hit you in the cell. People died in prison. Your people don’t get your body. Your body is buried here by the prison.

Warders could also apply mechanical restraints such as handcuffs, leg-irons and chains during solitary confinement. Due to the great number of ‘accidents’ that resulted from this practice throughout apartheid, the Prisons Services regularly had to remind warders of the necessary safety measures. These officially included assessing the inmate’s mental state, checking if the restraints were not too tight and asking registered nurses or medical officers to monitor the process in case of ‘trouble’. Despite these regulations, prisoners’ testimonies reflect the violence and damage of this double punishment, sometimes implemented for extremely long periods:

When I was re-arrested after my escape, I was removed to Pretoria Central. I was placed in chains. These chains weigh 24 pounds each – two manacles, one on each side, and are about one metre long. The manacles are riveted onto your legs around the ankles in the fitters shop. These chains you are to wear day and night, 24 hours of the day. You sleep, eat, shower with them. You cannot remove them at any stage because they are rivetted. […] After nine months in chains, I was kept a further 21 months in solitary. This means being locked up 23 hours of the 24. I have 30 minutes exercise in the morning and half an hour in the afternoon – if I’m lucky.

206 Interview, Mr. Jordan.
208 MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
Warders also subjected women to these disciplinary actions. In addition, in Pollsmoor, they nearly exclusively employed straightjacket while in isolation as a specific repressive measure against women. It can be assumed that warders considered women’s violence and deviance from the rules as so unnatural that they bordered on mental illness, and hence called for psychiatric methods. In June 1989, the South Africa Medical and Dental Association (SAMDA) launched an inquiry into the death of Carol Meyers and, in 1993, charged Dr Fisher, the District Surgeon who had monitored this process in Pollsmoor during the 1980s. Carol Meyer was held in Pollsmoor Women’s Prison when she attempted to commit suicide. As a consequence of this ‘misbehaviour’, warders placed her, with the help of the District Surgeon, in a straightjacket and left her in a solitary confinement cell, despite her protests regarding the straightjacket that was too tightly applied. Both ‘officers involved were promoted after the death occurred’ and Wynberg Magistrates’ Court eventually found the District Surgeon not guilty. At the beginning of the 1990s, also at night, another woman died in solitary confinement at Pollsmoor. Although warders had not placed her in a straightjacket, they had chained her to the bars of her cell. She was burnt to death after the inmates held in adjacent cells threw her a ‘light’ – ‘something that we make with toilet paper, and you put a little bit of spray on it, and you can spark it and you’ve got a light’ – for her to be able to smoke. The word that she had caught fire spread from cell to cell and all the inmates held in the Women’s Prison began shouting to catch the attention of the warders on duty, to no avail. In 1994, the law eventually abolished the use of the straightjacket, along with dietary punishment.

209 Interview, Mrs. Lubbe.
211 Interview, Mrs. Tillis.
212 Human Rights Watch, Prison Conditions in South Africa.
213 Interview, Mrs. Tillis.
According to Foucault, if violence is in itself terrible, what makes it dangerous is its ‘rationality’, the way it is anchored in a society’s sets of norms at a certain period in time.\textsuperscript{215} Although physical punishment was implemented in an arbitrary and extreme way in Pollsmoor and Valkenberg, the law actually approved it. As in Equatorial Africa where, according to Florence Bernault, ‘the use of physical force […] openly transgressed the moral norms that had informed European political tradition for centuries’, warders and nurses’ violence was disguised as rational thanks to the monitoring processes and the bureaucratic complexities which were supposed to take place during its application.\textsuperscript{216} The covering of physical abuse with a ‘scientific’ gloss was amplified in Valkenberg Maximum Security section, where what psychiatrists deemed to constitute medical treatment was also used as a form of punishment and torture.

In the mid-1970s, the very fact of treating detained mentally ill without their consent began to raise questions in Britain. The debate hinged on the ‘common law right of self-determination’ over one’s body.\textsuperscript{217} In South Africa, this assumption was not challenged until the end of the 1980s.\textsuperscript{218} In Valkenberg, the treatment of patients without their consent can hence be considered as a first violation of their rights. As in Pollsmoor, punishment and the abuses it entailed took different forms. In Ward 20, psychiatrists could use the threat of transferring a patient back to prison as a way of managing his or her behaviour. The first degree of punishment consisted in degrading work duties. In 1995, in a report to the Minister of Health, the Mental Health and Substance Abuse Committee pointed out ‘sluicing’, i.e. ‘washing other patients’ linen or clothes which is

\textsuperscript{218} \textit{Daily News}, 7 February 1991.
soiled with human faeces’, as the worst of these degrading practices.\textsuperscript{219} It followed Goffman’s description of the ‘mortification of the self’, induced by a ‘contaminative exposure of a physical kind’. ‘Forced interpersonal contact’ was also part of this mortification procedure.\textsuperscript{220} In Valkenberg, forced feeding was consistent with this second feature, and reflected a further step in the inmate’s loss of control over his or her own body.\textsuperscript{221}

The most common repressive method was, however, the ECT sessions. Due to the violence of this ‘treatment’, nurses applied ECT both as a ‘cure’ and as a brutal way to maintain order throughout apartheid. Medical officers rarely challenged its use and considered it as such an established cure that in 1949, they recommended the administration of ECT on white pregnant women.\textsuperscript{222} In the 1970s, on the ‘black side’ of Valkenberg, in Uitvlugt, and in Ward 20, even when they did not take place as punishment following a violent outburst but as general treatment, ‘nurses’ conducted ECT sessions in such a way that they called forth the worst memories of old lunatic asylums. This process profoundly shook some psychologists completing their internships at the time in Valkenberg:

Electroconvulsive therapy was absolutely standard at the time. The radical difference would be that on the white side there would be muscle relaxant and on the black side, people would queue up, 150 in a long queue, they were literally seized by six burly male attendants, not even nurses, they would have no qualification as nurses, held down and shocked, the metal beds thrown down the whole way. They would process 150 people in an hour and a half. It was literally like processing cattle. I observed these things and I was deeply disturbed. I was appallingly shocked. And these were simply everyday events. The ECT was administered Mondays, Wednesdays and Fridays, these queues were repeated over and over again.\textsuperscript{223}

\textsuperscript{220} Goffman, \textit{Asylums}, p. 35.
\textsuperscript{221} MAR, BC1043. Report of the District Surgeon, 16 December 1948.
\textsuperscript{223} Interview, Mr. Holler.
In addition to the threat of subjecting patients to further ECT, nurses could also lock them up in padded cells and immobilise them with physical restraints:

I was taken into a padded cell in my first week, padding on the floor, padding on the walls, the whole cell padded, with these tiny little visa windows that you could peer in. […] Psychotic patients, both black and white sides, were certainly put in there, and of course it was held to be for their own protection. People who would be raving and regarded as uncontrollable were certainly regularly either put in restraints, strapped down, arms and legs strapped, and/or thrown into these cells. I had thought these things had gone out in the dark ages.  

Nurses were supposed to check on patients held in padded cells, with or without restraints, every half an hour, though due to the shortage of staff it was impossible that such regular monitoring could take place. In Ward 20, the legitimising discourse surrounding both ECT and isolation referred to the ‘security’ of patients and was based on the perception that only brutal methods could have an effect on the depraved habits of convicted patients. As Shula Marks showed, this violence was a way of implementing law and order through fear, but also ‘led to the appearance and often the reality of “madness”’. Much as the judicial and penal systems produced ‘criminality’, categorising processes and institutional practices produced ‘madness’.

The production of madness through violence and degradation was even more blatant in the overdoses of neuroleptics and sedatives administered to patients, transforming them into shadows of their prior selves. In 1993, Psy-Watch, an organisation which described itself as ‘a psychiatric consumer group based on the critique of Thomas Szasz’, attempted to charge psychiatrists from Valkenberg with chemical torture. It focused on the case of a forensic patient who had been incarcerated since 1977 in Valkenberg. The patient tried, over a period of thirty years, to be released from Valkenberg and to charge its staff with illegal detention, assault and

224 Ibid.
227 HPW, AG3199. Psy-Watch to the Senior Public Prosecutor, 6 June 1993.

74
torture. In the numerous letters sent to the Legal Resources Centre, he described how he was forcibly administered sometimes 8 and up to 16 times the maximum doses allowed for Modecate, a controversial antipsychotic drug.\textsuperscript{228}

The permeating violence of Pollsmoor and Valkenberg also induced a high number of assaults from staff against inmates. Due to the existence of more accessible illegal and legal channels for communication for prisoners, assaults and deaths in prisons can be more precisely tracked and documented than those in mental hospitals, although nurses occasionally acknowledged their occurrence.\textsuperscript{229} When circumstances were particularly desperate, prisoners managed to filter out information on these frequent events. In May 1965, a prisoner was ‘brutally beaten and disfigured’ at Suider Paarl. Other inmates received privileges and were transferred from the prison after testifying in defence of the warders.\textsuperscript{230} In 1966, a prisoner released from Pollsmoor endeavoured to charge a warder with assault.\textsuperscript{231} At the end of the 1960s, warders attacked and killed a prisoner who had attempted to commit suicide in Port Elizabeth Prison:

Two chaps committed suicide – they both cut their wrists. In the one case, the warder saw the bloke in the showers, bleeding with his wrists cut. He said: ‘If you want to die, I will help you.’ I saw this bloke crawling on his hands and knees, all the blood pouring out, and the warders kicking him. […] The next morning, we had to carry his body out of the cell. They put his body in a canvas bag and dumped him in the back of the van.\textsuperscript{232}

In 1972, in a collective letter, Worcester prisoners attempted to raise public attention regarding the conditions in Worcester and Brandvlei prisons, where ‘prisoners are dying like flies by torturing’, alleging that warders had ‘freedom to kill prisoners, because

\textsuperscript{228} HPW, AG3199. A patient to the LRC, 1 January 1993.
\textsuperscript{230} HPW, A2084. An ex-prisoner to Suzman, 13 September 1965.
\textsuperscript{231} HPW, A2084. An ex-prisoner to the Commissioner of Prisons, 16 April 1968.
\textsuperscript{232} MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
here in South Africa a white man who works under government of South Africa is allowed to kill innocent people’.  

In 1974, after the murder of a black prisoner by three warders at Leeuwkop Prison, the Department of Prisons asserted that it had led 230 investigations into assaults by prison warders during the year, and that it ‘was dismayed at the impression created after the Leeuwkop case “that warders come to court only when there is death through assault”’.  

In 1983, the Barberton massacre shook public opinion to such an extent that the government appointed a Commission of Inquiry. The worst physical abuses took place from 1990 to 1994, when prisoners throughout the country launched a series of riots in connection with their demands for amnesty and the right to vote.

Although sexual abuses by warders on prisoners also occurred in prison, this practice seems to have been more widespread in mental hospitals, where nurses disclosed that during strikes, when the situation is out of control and some wards are unattended, male staff have gone to the extent of raping female patients with impunity. The quick, standard and very casual response which one gets when trying to follow the matter up is that a patient is psychotic and therefore hallucinating. The same goes for incidents of sodomy.

In its extreme physical violence, the nature of punishment and abuse in prisons and mental hospitals revealed in an exacerbated way the dynamics of control at play in the rest of society, where any deviance from the plethora of laws attempting to regulate the black population, any protest, led to violent and bloody repression. However, the coercion the state resorted to entailed a symmetrical violence by the oppressed populations. Within prisons, this violence took the form of mimicry.

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The Number as Mimicry

Throughout the twentieth century, in all South African prisons and especially so in Pollsmoor, a parallel order coexisted with the one implemented by the prison administration. The Number was a highly organised structure composed of three ‘brother gangs’, the 26’s, 27’s and 28’s. As Gary Kynoch pointed out, gang members are too often viewed as glorified bandits or ‘destructive predators victimising fellow blacks’. Academics have for a long time analysed prisoners’ structures as subcultures functioning in an autonomous social space. However, if one follows Foucault’s conceptualisation of prisons as ‘lineaments of power’, the social extremities where power becomes ‘capillary’, it becomes possible to apprehend gangs as phenomena reflecting the construction of subjects in an environment aiming at the annihilation of such subjectivity. Adopting Foucault’s method of genealogy and Bhabha’s concept of mimicry also helps understand the links between the Number as a social movement of resistance and the wider dynamics of repression and defiance prevailing in the rest of South African society.

The Number functioned as a mythical organisation, reenacted each time it was put into practice and based on a powerful oral history which its members perpetuated decade after decade. This narrative was the overarching structure regulating the management of the gangs and knowledge of it acted as a proof of the inmate belonging to the Number. Charles van Onselen produced a detailed historical account of the genesis of this mythology, and Johnny Steinberg reconstructed part of the story through numerous interviews led in Pollsmoor Prison. As in any myth, the dates and names

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236 Kynock, ‘From the Ninevites’, p. 59.
237 Combessie, Sociologie de la prison, p. 78.
238 Foucault, Il faut défendre la société, p. 25.
239 Foucault, Il faut défendre la société, p. 10; Bhabha, ‘Of Mimicry and Man’, p. 126
vary. It all began in the 1880s-90s, when a migrant worker called Pomabaza, or ‘Po’, refused to work in the mines of the Witwatersrand and decided to engage in criminal activities. He recruited two other workers on their way to the mine, Kilikijan and Nongoloza and attributed them the numbers 27 and 28. Soon, the gang began robbing miners on their way back home with their payroll and also attacked a British military camp. As part of their initiation, Kilikijan and Nongoloza were ordered to ‘draw blood’ from a retired Mapuza (policeman) living on a farm. After having brought back proof of their deed, they began recruiting new members into their bands. Conflict then emerged between the two men, who finally parted their ways. Nongoloza operated at night, Kilikijan during the day. Nongoloza called his army the Ninevites, and stated that he chose that name for his gang of ‘rebels against the government’s laws’. At the turn of the century, both leaders were arrested and incarcerated in prison, where they reestablished their armies. They also created a third brother gang, the 26’s. By the 1910s, the Numbers had lost all connection with outside gangs and began spreading in every single prison of South Africa, perpetuating the ‘fundamental book’ of their genesis.

By 1948, the Number was a powerful organisation which had adapted its discourse to fit the newly entrenched system of racial oppression. Its members were westlaners, those who fought against the law, but also those who constituted the law. If one followed Eric Hobsbawm’s classification, the Numbers could not be described as ‘social bandits’, for their parallel order was closed off from society. For him, social bandits could be the precursors of social movements, but could not constitute such a

241 HPW, AG3012. ‘Prison Gangs, Western Cape’, Confidential report by the Intelligence Coordination, 1991; Steinberg, The Number, p. 45.
242 Steinberg, The Number, p. xv.
243 Thanks to Jonny Steinberg for his highly valuable conversations and advices on the mythology and structure of the Number.
244 Breytenbach, The True Confessions, p. 247.
movement per se.\textsuperscript{245} Regardless of their categorisation as social bandits or terrorising soldiers, the members of the Number were nevertheless part of an integrative social force, a fraternity which viewed its members as freedom fighters:

\begin{quote}
We fought in prison! I don’t know, maybe other people explained you what is gangsterism in prison. But in our days we called it ‘freedom fighters’, people who fought for liberation, in the struggle against oppression that we had inside prison. This was formed by black men, with their culture, and they named it 26, 27, 28. When you go to individual rooms whereby you are locked up alone, and they put you in a straightjacket, and they don’t give you food, and you dirt yourself with your faeces and all that. And we had to create a structure to fight this people, because when I am alone, I am not able to overcome these things. But when we are a group, we are bound, and we can overcome it. That is how we fought.\textsuperscript{246}
\end{quote}

To become a \textit{westlaner}, the inmate had to undergo an initiation procedure which involved \textit{bloedvat}, the fact of drawing blood from a target chosen by the gang hierarchy, with a blade specifically designed for the gravity of the wound to be inflicted.\textsuperscript{247} Often, this target was a warder, and a severe beating from his colleagues followed the assault, as well as a period of solitary confinement. When warders sent the inmate back to the collective section, his training as a ‘brother’ began.\textsuperscript{248} Each step of the formation was imbued with imagery from the lives of Po, Kilikijan and Nongoloza and was subjected to a law of silence, forbidding the member to speak to outsiders about the fundamental book.\textsuperscript{249} The mythology and consequent training differed depending on the gang the inmate was assigned to. All members of the 26’s, 27’s and 28’s were, however, taught the secret language of the Number, \textit{sabela}.\textsuperscript{250} The military hierarchy and highly structured organisation was then explained to the new member. The 28’s were divided into two lines, the gold one, composed of fighting soldiers operating at night, and the

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\textsuperscript{246}Interview, Mr. Stevens.
\textsuperscript{247}The \textit{Star}, 20 February 1986.
\textsuperscript{248}Interview, Mr. Hendricks.
\textsuperscript{249}HPW, AG3012. ‘Prison Gangs, Western Cape’, Confidential report by the Intelligence Coordination, 1991.
\textsuperscript{250}Interview, Mr. Urbosch, prisoner, Pollsmoor Medium B Prison, 28 February 2008.
\end{flushleft}
silver line, constituted by *wyfies* who took care of the soldiers. The 26’s acquired the financial means necessary to run the organisation, which in practice meant robbing non members, or *frans*, as well as gambling and smuggling activities. The 27’s represented justice and maintained the ‘balance of blood’.251 They were the mediators between the 26’s and 28’s, resolved conflicts and ‘drew the blood’ of warders if they assaulted one of the members.

In addition to this task division between the three brother gangs, each group was organised following a military ranking system. The Number invented a military structure mimicked from the British army and the penal order, in an attempt to transform the prison system into a war of inmates against warders, of *westlaners* against *boers*.252 According to the oral history of the Number, each time Kilikijan, Nongoloza or Grey, the leader of the 26’s, stabbed a law enforcement official, his rank was incorporated into the gangs’ military system. Hence, amid the three brother gangs, the highest positions were held by, among others, Generals, Fighting Generals, Inspectors, Magistrates, Captains, Lawyers, Doctors, Sergeants and Sergeants Majors. The term ‘British’ referred to the military potential of a gang at a given time.253 The uniforms of each ranking position and the different flags of the 26’s, 27’s and 28’s were symbolically tattooed on the members’ bodies. These symbols included poison and penises for the 28’s, crowns and dices for the 26’s, stars and sabres for the 27’s. Generally, through prison tattoos the inmate, deprived of other means of self-determination, gained a new sense of control over his body and transformed his skin into a resource for self assertion.254 In the case of the Number, tattoos were also a way of

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251 Steinberg, *The Number*, p. 68.
252 In prison slang, ‘boer’ refers to any policeman or warder. Interview, Mr. Urbosch. For a comparison with the mimicry of the British army by the Revolutionary United Front in Sierra Leone, see Z. Marks, ‘The Internal Dynamics of Rebel Groups: Politics of Material Visibility and Organizational Capacity in the RUF of Sierra Leone’, (Oxford University, Ph.D. thesis, 2013), pp. 122-4.
253 HPW, AG3012. ‘Prison Gangs, Western Cape’, Confidential report by the Intelligence Coordination, 1991.
254 A. Hahn, ‘Ecrire sur soi-même, s’écrire soi-même : le tatouage’, *Sociétés et représentations*, 2
identifying one another, especially when warders transferred a member to another prison where slightly different gang rules operated.

While in *Criminal Man*, one of the founding nineteenth century texts of criminal anthropology, Cesare Lombroso conceived slang and tattoos as undeniable proofs of the brutal, primary and savage features of the criminal, the practices of the Number showed how these were means of communication enabling the perpetuation of an organisation operating outside the warders’ knowledge.\(^{255}\) In addition to the *sabela* language, members used hand signs to express their affiliation and prepare for assaults. In Pollsmoor during the 1970s and 1980s, although the administration knew about the structure of the Number, it was unable to decipher the different communication processes and felt this greatly impeded the possibility of preventing aggressions against its personnel.\(^ {256}\) In a setting closed off from society, surrounded by censorship and silence, and where the control of information was a powerful tool of subjugation for the prison administration, the Number created unofficial means of communicating, of sharing experience, of planning attacks. Like in a great number of prisons across the world, inmates emptied toilets of their water to communicate through the pipes, held mirrors through the windows and barred doors to watch the coming warders and to flash signs, and tied up and used sheets and covers to pass food, drugs and arms from cell to cell.\(^ {257}\)

The presence of the Number in Pollsmoor was such that the prison had already acquired, by the 1970s, the reputation of being the most violent institution of its kind in the country.\(^ {258}\) This situation was due to several factors. The prison architecture, with its long corridors, entailed that warders’ surveillance was necessarily discontinuous, and

\(^{256}\) PA, 1/3/14. Pollsmoor CO to the Prisons Services, 13 October 1983.
\(^{257}\) MAR, BC756. Interview with a former detainee, 1976; Bellanger, *Vivre en prison*, p. 43.
\(^{258}\) This impression was shared by the vast majority of interviewees.
that prisoners could easily hear them coming. The high rate of overpopulation made it impossible for warders to identify and control each and every prisoner, especially at night, when the Number’s judicial system settled conflicts through violence. In 1979, the National Institute for Crime Prevention and the Rehabilitation of Offenders (NICRO) reported that 90 per cent of the cases of prison violence ending in court were committed during the night. According to this Institute, in Pollsmoor,

members of a gang who had planned a murder often swop places with other prisoners in order that they might all be in the same cell as victims. It would appear that this was quite easily done, since the warders only count the number of prisoners and check the figure against the previous total without any reference to names.259

NICRO also listed poor administration and frustration induced by the absence of any recreational activities as factors of the gangs’ prevalence. Moreover, since its very opening, Pollsmoor had been the institution in the Western Cape where awaiting-trial offenders were held and convicted prisoners kept before being transferred. As such, it was a compulsory halt for all those who had deviated from the laws. This great turnover facilitated the recruiting process and different activities of the Number. For instance, weapons could be smuggled in more easily due to the contact of awaiting-trial offenders with the exterior. During the 1980s, Pollsmoor administration instructed its personnel to look for illicit elements such as daggers hidden in the buckle of belts, keys opening cell doors and made out of shoe soles, and even firearms.260

Although the 26’s, 27’s and 28’s were by far the most prominent gangs in South African prisons during the twentieth century – their members represented 50 to 90 per cent of the inmates according to the prison –, other groups were created after 1945, shifting the focus from a mimicry of the British colonial army to a reappropriation of

World War II symbols. The 24’s, also called the Royal Airforce, dedicated itself to the planning of escapes and could sometimes be used for communication with the exterior. The 25’s, or the Big Fives, collaborated with the prison administration, becoming the warders’ ‘tea-boys’ and abusive underlings. Their flag was blue with a swastika in its center and they greeted each other with the Nazi salute. The Desperadoes were former 28’s who decided to direct their efforts to the amelioration of their conditions inside prison. They enshrined the sickle and hammer on their flag. In 1984, Pollsmoor administration also identified the presence of what it called ‘civil gangs’, by which it meant street gangs who retained some of their exterior features inside prison. The Scorpions were the most numerous but did not pose any ‘discipline problems’. Like the Mafias and the Crazy Kids, they remained outside the Numbers. The Born Free Kids and the Mongrels were, on the contrary, described as ‘the violent type’ whom the Numbers could absorb.

As William Beinart asserted, although both outside gangs and inside gangs were ‘central vehicles of self-organisation’ during apartheid, prison gangs, like mine compound ones, call ‘for a shifting explanatory framework’. In its mimicry of the colonial and penal orders, the Number fits Bhabha’s conceptualisation, for it established its authority through the production of an anti-colonial discourse ‘at the crossroads of what is known and permissible and that which though known must be kept concealed; a discourse uttered between the lines and as such both against the rules and within them’. Members of the Number entered in the realm of ‘politics’, understood on the

262 Dlamini, Hell Hole, p. 38.
263 HPW, AG3012. ‘Prison Gangs, Western Cape’, Confidential report by the Intelligence Coordination, 1991.
266 Bhabha, ‘Of Mimicry and Man’, p. 130.
basis of Jacques Rancière’s interpretation as ‘a matter of modes of subjectification’. 267 In the symbolic division of bodies, they moved from the speechless and unseen to the category of those who uttered their subjectivity in an articulated way. In an attempt to benefit from such an empowering fraternity, women in Pollsmoor mimicked, in turn, the male structure of the Number and created other forms of alliances to fight against prison authorities. Isolated from the exterior world, categorised and reduced to the status of ‘sub-women’ – the stigma attached to criminal women being even stronger than the one to men – female prisoners created their own modes of solidarity, which the prison administration did not recognise as such.268 Although they were aware of the irony entailed by the mimicry of such a masculinist organisation, some of them nevertheless chose to copy the Number, for it constituted a powerful tool available to apartheid common law prisoners:

The same goes with men being gang-related. Women also want to be in that category because most of them have been in the company of men that were gangsters so they pick up the language, so they bring it with them […] When you feel that you know more than the other one, that actually puts you in a greater power than the other one, so there is that thing about women being in there. To me it’s like you know a woman can never be a Number. But because they have the language, they know maybe a bit of it, they feel they have that power to become a Number so they kind of establish themselves into certain groups as to who they are.269

In both female and male sections, sexuality was a fundamental and dividing factor in the gangs’ organisation. When analysing the effects of incarceration on the inmates’ sense of self, desire is often left unaccounted for, whereas the question of “the libidinal body”, the pleasure, the “desiring machines”, the “fantasised body” is of extreme importance in prison.270 For the 28’s, sex was a war asset, and homosexuality was part of the military arrangement of the gang. Although the prison administration

268 Interview, Mr. Muller.
269 Interview, Mrs. Tillis.
270 Baillette, ‘Corps reclus, Corps torturés’, p. 33.
described it as ‘sodomy’, gang members referred to the genesis of the Number, when Nongoloza brought this practice back from the mine compounds where it was extremely common, and asserted that this sexual relationship did not involve any penetration. According to the 26’s and 27’s, who condemned this custom, the silver line was composed of wifies – ‘females’. According to the 28’s, this was not the case, and homosexual relationships only took place between ndotas – gang members – and young frans – non-members. Notwithstanding this debate, desire and abuse mingled with each other in prison. Like South African mine compounds, prisons had a profound impact on the organisation of intimacy and deeply anchored sexuality in power relationships. Female prisoners often reproduced this sexual structure, adopting ‘conservative’ gender roles and using violence as a basis for sexual relationships. During apartheid, penal laws criminalised homosexuality and sodomy, especially when it took place between racial groups or was seen as the sign of a deviant male white body. Hence, for warders, homosexual practices merely constituted an additional proof of the Number ‘savagery’. In addition, up to the democratic transition, Pollsmoor prison forbade pornographic readings, for it considered that it would increase the sexual excitation of inmates and lead to further ‘abnormal sexuality’. Homosexual couples also existed outside the Number and complained that warders discriminated against them. Conversely, some inmates viewed homosexual prisoners as collaborators who ‘would rat on the others to the warders’ and would consequently ‘get certain luxuries’.

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274 Interview, Mrs. Tillis.
276 PA, 1/1/2/1. Pollsmoor CO to the DCS, 23 November 1995.
278 MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
In Pollsmoor, the line between homosexuality and forced sexual relationships was, however, tenuous. Rape was a common practice that happened at night and was especially directed against newcomers. Sometimes, this first sexual abuse would lead to the young assaulted inmate’s submission. In the case of male prisoners, he would then become a ‘wyfie’, or ‘jol’, or ‘grocery rabbit’. In other occasions, a fight would occur, and the sexual assault became a way for the new inmate to assert his or her future combativeness in prison:

It was the most scary day of my life. I think it was the first time reality really came down on me. I remember there was this older woman, and she kept coming at me, she was much more grown up, we were kept in a cell at the front, and she kept saying that evening I would be hurt. [...] And so night came and we went to sleep and some time I don’t know, probably it was early morning or late at night. [...] both of them were up and they were like facing me. She again said that I should undress myself and I said I’m not going to and that’s how I got this scar that I still have on top of my eye. Cause she had this piece of glass, [...] and she like stabbed at me and the first time I blocked and somewhere on my thumb here I still have the side mark of it. And then the next thing I know I got a punch from the other girl and when she came at me again, my reflexes weren’t quick enough so she caught me. I started screaming [...] when you come, you can show people that you have an inner strength and that you’re actually just as willing as they are to go the extra mile to survive and to defend yourself. And gradually they back down and then life starts getting a bit easier.279

Relationships between inmates and warders also occurred and could lead to the warder being transferred or, in the most extreme cases, to the inmate or the warder committing suicide.280 It seems, however, that warders more commonly sexually assaulted prisoners, especially in the men’s sections.281

In the 1980s, a paradoxical configuration began to emerge in Pollsmoor. The traffic of the ‘Mandrax’ (Methaqualone) drug impacted the Number’s structure. Senior members began breaking the strict rules of initiation in order to recruit in a swift way awaiting-trial offenders and connect outside gangs to prison ones.282 By drifting away

279 Interview, Mrs. Tillis.
280 Interview, Mr. Bartram; MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
from the ‘fundamental book’, members started to lose some of their authority as a military and ‘uncorruptible’ organisation. At the same time, however, violence was increasing in Pollsmoor and other South African prisons, and assaults against warders intensified.\(^{283}\) In a letter sent to Suzman in 1985, an inmate from Pollsmoor Maximum Security Prison asserted that:

> All such grievances are building up. Madam, something very ugly is going to break out in this prison. But the authorities don’t realise it until it is too late and then the blood will really flow. Because we are prepare to sacrifice our freedom so that this place can be inhabitable. Madam, we may be criminals but is it necessary to treat us like animals? For civilised and educated persons, this whole prison staff are worse than barbarians in the way they treat, handle and speak to us.\(^{284}\)

In this feverish collusion which reflected the tensions and heightened repression prevailing in the rest of society, the Number found a new legitimacy as an organised means of struggle against prison authorities, while its mythological structure was slowly beginning to melt down. The solidity of the apartheid prison institution initially based itself on the fact that it not only deprived inmates of their freedom, but that it also encapsulated the project of social disciplinarisation, which aimed at the technical transformation of individuals. Like mental and political deviances, the authority of the Number represented a challenge to this supposedly sovereign power. Confronted with these deviances, the prison administration retaliated through a further objectifying system of classification.

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\(^{283}\) PA, 1/3/B. Statistical report from Pollsmoor to the DCS, 27 March 1991.  
Chapter 3

Political, Common Law and Insane Prisoners: Treatments and Representations

In *The Colonizer and the Colonized*, Albert Memmi asserted that what characterised the colonised was his assimilation to an ‘anonymous collectivity’.  

In South Africa however, since the implementation of apartheid in 1948, the government classified black populations according to different lines of differentiation, which were amplified when put in practice in prisons and mental hospitals. Throughout apartheid, the state dubbed political prisoners ‘security prisoners’, in an attempt to hide the reality of political repression. By the 1980s, the focus by resistance organisations on the treatment of political prisoners had led to the emergence of a ‘public affair’, defined as a normative, argumentative and emotional public appeal to mobilisation based on sentiments of justice and pity. As the category of ‘political prisoner’ became visible, the status of ‘common law’ and ‘insane’ prisoners was left in the shadow, except when it was commented upon to reassert the difference between political prisoners and ‘the others’. The implementation of this delineation in prison reflected both what the state prescribed and what it codified as knowable in the overall classification of black South African populations.

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286 For a more detailed definition of the notion of ‘public affair’, see Boltanski and Claverie, ‘Du monde social’.
In 1982, at a local conference on criminology, an Afrikaner academic stated that ‘it is society’s ideal to organise heterogeneous groups with diverse philosophies of life, expectations and interests, into a harmonious unity’, adding that ‘the State is empowered not merely to direct and regulate behaviour within this overall framework, but also to ensure obedience’, which involved the effective suppression of ‘any internal or external threat’. This discourse reflected and justified the increase in state violence that followed the 1976 countrywide arrests. During the seven months following the Soweto uprising in June 1976, the police arrested 5,980 people for security-related matters. From 1985 to 1987, during the two States of Emergency, Marks and Andersson record that approximately 3,000 people were killed in ‘street political violence’. The different sections of the Internal Security Act of 1982 authorised the detention of people for interrogation or preventive measures. Section 50 of the Criminal Procedure Act of 1977 allowed the detention of a person for criminal or political investigation for 48 hours before being brought to court. Following the Terrorism Act of 1967, no day limits were imposed on detention periods anymore. In addition, pass laws, combined with the Aliens Act of 1937, led to the arrests of thousands of people for the violation of ‘influx control’ regulations. As Michelle Alexander explained in the case of twentieth century United States, mass incarceration evidenced that Whites increasingly perceived black populations as a threat to their privileges.
Africa, the plethora of security laws attempted to criminalise any kind of protest and to construct the racial Other as deviant and threatening. The police also subjected white dissidents to violence, although the latter generally took less extreme forms.\(^{295}\) In this state of exception which, according to Agamben, ‘appears as the legal form of what cannot have a legal form’, Benjamin’s notion of police ‘ignominy’, residing in the fact that it abolished the difference between ‘lawmaking violence’ and ‘law-preserving violence’, came to light.\(^{296}\) The colonial features of the South African police’s brutality cannot be understood, however, independently from the hegemonic discourse that attempted to legitimise the state’s authority through the normalisation of people’s compliance.\(^{297}\) In this regard, the politics of criminalisation implemented by the apartheid regime played a crucial role, by depicting Blacks as prone to deviance and whose cultural inadequacy justified any kind of disciplinary violence, especially once they were in custody.\(^{298}\)

Both the police violence and the state’s refusal to acknowledge the political foundation of its repression induced the gradual emergence, in the public sphere, of concern about the status of political prisoners and detainees, which reached its peak in the 1980s. During the 1960s, the denial by the state of the existence of political prisoners began to raise questions in the press. Newspapers, notwithstanding their affiliation, started to reveal the gruesomeness of the prison conditions forced on these ‘men with a social conscience’.\(^{299}\) In the 1970s, the increasing number of deaths in detention gave rise to stronger public indignation as to the fate of those dubbed by the state as security prisoners, as terrorists impeding the maintenance of law and order in

\(^{295}\) The repression against white dissidents and the construction of an ‘homogeneous’ white racial identity are not included in the framework of this thesis, but call for further research.
\(^{298}\) Rao and Pierce, ‘Discipline and the Other Body’, p. 4.
\(^{299}\) Rand *Daily Mail*, 26 July 1967.
the country. In 1977, the murder of Steve Biko by the security police occasioned an international scandal that played a significant role in the launching of an economic embargo against the country. The Detainees’ Parents Support Committee (DSPC) was founded in December 1981, after the police had arrested numerous leaders from resistance organisations and trade unions. It kept records of detentions, raised funds, provided counselling and organised protests in front of law courts. In 1982, the National Detainees Day was launched on March 12th. During the same year, the trial for treason of Barbara Hogan, a white woman detained for ‘having furthered the aims’ of the banned ANC, demonstrated that the judicial system used the charges of treason and terrorism, even in case of non-violent activities, in an attempt to criminalise political movements where the Internal Security Act failed to do so. For the South African government, recognising the activities of organised political movements would have come to contradict its depiction of ‘non-Whites’ as inherently violent and childish people who had to be governed in both a paternalistic and repressive fashion. Indeed, for repressive politics to become socially acceptable, the government endeavoured to portray those it targeted in terms of an absolute and condemnable alterity. The aim of the apartheid regime was not to define precisely the notion of ‘political crime’ but to familiarise the population with the criminalisation of acts of protest.

While political detention gradually entered the public sphere as a cause for indignation, both mental and common law detentions were left unspoken or only alluded to in order to prove the singularity of political prisoners and detainees. During the 1960s and 1970s, the most prominent cause of public concern was the perception

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300 Mashinini, *Strikes Have Followed Me*, p. 131.
that political prisoners, despite the fact that they were ‘often people of superior education and living standards’, were ‘treated in the same harsh manner as escapers, sex deviates and the most hardened of criminals’. The press and the government depicted common law prisoners as bloodthirsty brutes who deserved the worst treatment. The police could also use the fear produced by such imagery as a menace to convince detainees of cooperating, threatening to hold them in solitary confinement or ‘amongst criminals’ if they did not talk.

Throughout apartheid, the fact that numerous mentally ill inmates were held in prisons where psychiatric services were either insufficient or grossly abusive barely raised any public concern. Zonderwater Prison-Hospital, also called ‘psycho-city’, was established in 1976 near Cullinan, some 30 kilometers away from Pretoria, to incarcerate white ‘psychopaths’. Zonderwater served as a Maximum Security Prison for inmates who could not be accommodated in the few psychiatric hospital’s Maximum Security wards. The few hints of psychiatric malpractices in prisons which managed to cross the institutions’ walls and enter specific sections of the public sphere were often found in white political prisoners or detainees’ testimonies.

The prison administration perceived the presence of security prisoners as problematic. Despite the fact that these inmates were not officially recognised as ‘political’, they were isolated from the common law sections and distributed according to race and gender across the country. Robben Island mostly detained black male leaders of the ANC, the PAC and the Black People’s Convention (BPC). Theoretically, white men were held in sections of Pretoria Central and Local, black women in Kroonstad and Potchefstroom Prisons, ‘coloured’ women in Worcester Prison and white women in

305 MDR. Detention narrative by Colin Petersen, accused in the Ashley Forbes and 13 others trial, 1988.
307 For an analysis of Robben Island under apartheid, see Buntman, Robben Island.
Pretoria Central or Barberton Prison. In practice however, political prisoners of all kinds could also be sent to prisons close to the court where they were standing trial. Pollsmoor, for instance, accommodated small numbers of male and female political prisoners from the four apartheid-designed racial categories from 1964 up to 1994. Following the larger prison classification system, warders applied differentiated treatment to each category, despite the objections of political prisoners. Some, as Caesarina Makhoere, made it ‘a policy to fight for equal treatment’, in an attempt to continue inside the walls the struggle against the fact that ‘the apartheid regime grows fat by dividing and ruling’. Although the overall treatment for political prisoners greatly improved from the 1960s to the 1990s, throughout the period, warders still generally considered Whites as ‘respectable prisoners’, who constituted the ‘bourgeoisie of prison’. The same differentiated treatment applied to detainees, who were held in prisons and police stations across the country. In a poem published in *STIR, A Journal from South African Women* in 1991, a white female detainee held in Pollsmoor described the ambiguous feelings deriving from this situation in the following terms: ‘And locked in your cell/ you hear women screaming/ can’t take it anymore/ and later they calm down/ and sing/ songs of freedom/ but we/ the white women/ do not know the words/ don’t want to lose the slight rights/ that we have’. Such blatant discrepancies showed why the feminist myth of universal sisterhood could not get to anchor and develop itself in the South African society, for even within prison, where the living conditions of white and black women were far more similar than on the outside, forced privileges and isolation impeded the establishment of solidarity.

308 HPW, A2084. Sachs to Suzman, 22 February 1968.
310 Interview, Mr. Jeffrey; HPW, A2675. A. Cook, *South Africa: The Imprisoned Society*, 1965.
312 On the impact of the myth of universal sisterhood on history, see Vandecasteele-Schweitzer and Voldman, ‘The Oral Sources for Women’s History’.
In some cases, the geographical allocation of security prisoners reflected the denial by the judicial and penal system to classify these prisoners as political. In 1988, Ivan Thoms, a white conscientious objector held in Pollsmoor, repeatedly asked to be transferred to Pretoria Central as a recognition of his political protest, to no avail.\textsuperscript{313} In the 1980s, some members of the PAC were also held along common law prisoners in Pollsmoor.\textsuperscript{314} The inmates’ young age, as well as the explicit violent line chosen by the organisation’s armed branch, Poqo/APLA (Azanian People’s Liberation Army), could explain why neither the justice nor the prison administration acknowledged their status as political prisoners. Indeed, depending on the period, the prison and the political organisation the inmate was affiliated to, the prison administration could perceive black political deviance as even more despicable than common law offences. In an account of his detention as a PAC member on Robben Island, Moses Dlamini recalled the haranguing political prisoners received at the prison church: ‘Some of us had robbed and killed, others murdered in cold blood, others raped young and old women. And I was the worst of them all – I had wanted to steal the White man’s land’.\textsuperscript{315}

Throughout apartheid, increasing public concern around political prisoners and detainees hence transformed their prison into a ‘political object’, although the normative aspect of the categorisation process which led to this singularity was never clarified in the public sphere.\textsuperscript{316} Despite the fact that the criteria applied by judges and warders to identify security prisoners were quite erratic, they were crucial in their function of embedding fear in the wide and fluctuating notion of terrorism instrumentalised by the government to rule over the country. As Fanon described for the Algerian colonial setting, however, amplified repression only proved that ‘between oppressors and

\textsuperscript{313} HPW, A2084. Suzman to the Minister of Justice and Prisons, 28 April 1988.
\textsuperscript{314} PA, 1/4/2/9. A PAC prisoner to Pollsmoor CO, 9 November 1994.
\textsuperscript{315} Dlamini, \textit{Hell Hole}, p. 104.
oppressed, force is the only solution’.317 While the notion of armed resistance gradually spread from the 1970s onwards, political prisoners fought for distinct treatment, echoing the slow failure of the apartheid state’s aim to discredit resistance movements.

**Political Prisoners: Differentiated Treatment and Singular Status**

Throughout apartheid, the government especially targeted ‘security prisoners’, in an attempt to naturalise the connection between political defiance and harsh punishment. The specificity of political inmates lay in the differentiated treatment they received as well as in their very status inside prisons or police cells. As Giorgio Agamben has shown in the cases of Taliban detainees, this distinctiveness was particularly blatant in the case of detainees, who were the objects of ‘pure sovereignty’ due to the indefinite temporality and nature of their detention.318 During the first half of apartheid, the law, in the sense of a system offering some degree of legal protection, seemed to have no effect in the case of political prisoners, who constituted a state of exception within the broader South African state of exception. However, from the end of the 1960s onwards, political prisoners increasingly managed to fight for an improvement of their conditions and a recognition of their status. This barely affected, however, the status of detainees. As in colonial societies, where rulers ‘determined who in African society introduced the terms of political debate’ but ‘could never determine where that debate would end’, the apartheid regime, in its attempt to deprive political dissidents of the right to express themselves in the public sphere by incarcerating them, gave rise to a situation of publicly acknowledged – and often approved – struggle between political prisoners and the prison administration.319 Hence, in 1984, in the trial

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317 Fanon, ‘On violence’, p. 32.
‘Barbara Hogan v. Officer Commanding, Johannesburg Prison and the Commissioner of Prisons’, Barbara Hogan submitted that her political status had induced her continuous segregation, despite the fact that the prison administration refused to recognise it.\footnote{HPW, AK2442. Letter between advocates on Hogan’s affidavit, 10 January 1984.} Similarly, in 1998, in the trial ‘Nongoma and 4 others v. the Minister of Justice and Prisons and the Commissioner of Prisons’, one of the applicants, describing the conditions prevailing at Wellington Prison, submitted ‘that the classification “political prisoner” already has de facto recognition; it rightly deserves de jure recognition’.\footnote{HPW, AK2525. Nongoma and 4 others v. the Minister of Justice and Prison and the Commissioner of Prisons, 18 August 1988.}

Within Pollsmoor Prison, the presence of ‘security prisoners’ entailed numerous complications in the implementation of the fluctuating lines of categorisation underlying the maintenance of order. Indeed, from the 1960s to the 1990s, some high profile political prisoners spent time in Pollsmoor, a situation that attracted a significant amount of public attention on a prison otherwise known for the presence of gangsterism and the poor conditions of detention. To various degrees, this unwanted public attention troubled all the prisons that housed political prisoners in South Africa. The Prisons Services and the government attempted to limit such effects by targeting journalists and warders with a stringent censorship. In 1982 for instance, the Prisons Services ordered all personnel not to cooperate with the Medical Association of South Africa’s committee of inquiry into the medical care of prisoners and detainees.\footnote{PA, 1/8/3. General circular, 1 September 1982.} Pollsmoor administration took the surveillance of its personnel to a further degree. The security police selected the warders who could work with political prisoners.\footnote{Interview, Mrs. Allen.} All had to be white, revealing the fear of a political contamination between black political prisoners and black warders.\footnote{Interview, Mr. Bartram.} Although warders considered working with political prisoners as an honour,
when it came to detainees, they seemed to have been less comfortable with the task, due
to tensions with the security police and the fact that the latter sometimes conducted its
interrogations within Pollsmoor.\textsuperscript{325} Officially, all security prisoners were held in separate
cells away from common law inmates. The latter were allowed to speak to the former
under no circumstances, even when they had to bring them dishes of food. Pollsmoor
authorities used segregation in order to preclude any political influence on the rest of the
prison population and implemented it for some high-profile political prisoners such as
Oscar Mpetha, Nelson Mandela, Ahmed Kathrada, the accused of the ‘Toni Yengeni and
13 Others’ trial for terrorism, most commonly known as ‘the Rainbow Trial’, and the
accused of the ‘Mandela’s Men Trial’ of 1987.\textsuperscript{326} While detainees were held in single
cells, political prisoners could be put together in communal cells, or at least spend their
exercise time together.\textsuperscript{327} Some were, however, placed with common law inmates, and
repeatedly asked to be transferred with other political prisoners, sometimes asserting
that warders or the security police had ordered inmates to treat them harshly.\textsuperscript{328}
Pollsmoor administration often replied to such requests by arguing space was lacking in
the sections where security inmates were held, or by refusing to acknowledge the
political status of the said prisoners.\textsuperscript{329} As a result, in a contradictory fashion, although
the symbolic frontier separating political prisoners from the rest of inmates was
fluctuating, Pollsmoor administration acknowledged and reinforced the singularity of
those whom the courts or itself had decided to label as security prisoners.

\textsuperscript{325} MAR, BC756. Interview with a former detainee, 1977; MAR, BC756. Interview with a former
detainee, 1980.

\textsuperscript{326} MAR, BC854. Poster: ‘March 12, National Detainees Day’, 1984; MAR, BC1020. Report on
Mandela’s Men, Trial of the 13, 1987; Interview, Mr. Bloomberg, former political prisoner held in
Pollsmoor, Cape Town, 23 November 2010; Interview, Mr. Gardener, defence lawyer for political
prisoners during apartheid, Cape Town, 23 March 2011.

\textsuperscript{327} Cape Times, 7 January 1980; Interview, Mr. Bloomberg.

\textsuperscript{328} Interview, Mr. Bloomberg.

\textsuperscript{329} PA, 8/1/3. Lawyers to Pollsmoor Maximum Security section, 2 April 1990.
Notwithstanding the fact that communication between the segregated political prisoners and common law prisoners was strictly forbidden, some verbal and material exchanges still took place between the two groups. A former political prisoner incarcered in Pollsmoor awaiting-trial section in 1986-1987 described his interaction with awaiting-trial juveniles held on the other side of the passage in these terms:

of course they were interested in what we were detained for and so on, so of course we would speak, but during the day, even when this warrant-officer or this sergeant was there on duty, they were not allowed to speak at all. […] Not during the day, they really didn’t allow us to communicate with them and vice versa but after lock-up, lock-up was about 4 o’clock in the afternoon. And, because of our status as detainees, we would get sometimes grocery stuff from outside, and I would get means to share, or give some of it to these common law prisoners and so on. That time they were seriously locked, so of course giving them cigarettes and tobacco was important.330

In exchange for tobacco and groceries, common law prisoners often provided political inmates with newspapers and toothpaste.331 Despite the prison administration’s fear of political prisoners bearing a negative influence on the rest of the prison population, these inmates focused more on fighting for an improvement of their rights and a recognition of their singularity than on ‘politicising’ their fellow inmates. Paradoxically, they often based their argument on an indictment of the prison administration’s habit to discriminate between political and common law, while they strove at reasserting their distinctiveness rather than acquiring better rights for all.332

From the 1960s to the 1990s, security prisoners held in prisons across the country, supported by outside organisations such as the Black Sash, the Legal Resources Centre, the Trauma Center for Victims of Violence and Torture and the Ad-Hoc Detention Action Committee, took a stand on a variety of issues related to their treatment. As a result of these actions, in 1966, political prisoners were officially promoted from D to C

330 Interview, Mr. Bloomberg.
331 Interview, Mr. Khumalo, former PAC prisoner held in Pollsmoor in 1965, Cape Town, 5 April 2011.
332 HPW, AG2510. Mandela to the Commissioner of Prisons, January 1970.
grade and were authorised one letter and one visit every three months instead of six.\textsuperscript{333} In 1969 however, the Prisons Services, exasperated by these improvements, ordered new restrictions as to the number of letters and visits allowed and the possibility to enjoy recreational time.\textsuperscript{334} In 1974, political prisoners rose the issue of remission of sentences and parole, which they were not allowed to get.\textsuperscript{335} They had requested access to proper medical treatment, education and newspapers since the 1960s, but the issue gained momentum at the end of the 1970s, provoking a public debate on the difference between ‘rights’ and ‘privileges’ for political prisoners. In the aftermath of the ‘Goldberg v. Minister of Prisons’ trial in 1979, an Afrikaner criminologist from the University of South Africa took side with the requests of political prisoners in a speech delivered in Cape Town:

\begin{quote}
I speak therefore not as a colourless, pale, ‘neutral’ academic but as a Christian Afrikaner legal criminologist. […] Man is made in the image of God. The divine image constitutes man’s uniqueness. This fact is not suspended when the prison doors slam shut. […] A virtually absolute administrative discretion to grant or remove ‘privileges’ (without a proper hearing and evidence), which is virtually unchallengeable in court, is a denial of these Biblical concepts. Clearly defined rights – a ‘Bill of Rights’ – not only enunciates legality and justice, it guards legality and justice. I submit that we need this for our prison system.\textsuperscript{336}
\end{quote}

Compared with common law inmates, whom the judicial system reduced to both infantile and dangerous criminals, their status gave political prisoners some advantages. They could for instance receive support from outside to pressurise the authorities. Nonetheless, the prison administration often instrumentalised the problematic singularity of their half-recognised status to invalidate their requests. One example of this strategy was the prison authorities’ refusal to provide political prisoners with the Prison Regulations, for, according to Dlamini, they ‘applied only to criminal convicts

\begin{flushright}
333 \textit{Sunday Express}, 2 January 1966. \\
334 HPW, AG2510. Mandela to Mrs. Sheila, 21 August 1978. \\
335 \textit{Sunday Times}, 20 October 1974. \\
336 MAR, BC668. Speech delivered at the Metropolitan Church Hall by Prof. J.A. van Rooyen, 22 May 1979.
\end{flushright}
and since we were criminal convicts of a special category we were being treated at the
discretion of the Commissioner of Prisons’.\(^\text{337}\) In this specific case, the justice
condemned the Prisons Services’ tactics during the trial ‘Hassim and Venkatrathnam v.
Robben Island Commanding Officer and the Commissioner of Prisons’ held in 1973 in
Cape Town.\(^\text{338}\)

The International Committee of the Red Cross (ICRC) has often been perceived,
along with other foreign organisations such as the Anti-Apartheid Movement or
Amnesty International, as a crucial element of support for the South African political
prisoners’ fight for better treatment. Until its expulsion from the country in 1986, it was
the only non-governmental organisation allowed within prison compounds. In addition
to its inspection visits, it also pressurised the Prisons Services to conform with the
Standard Minimum Rules for the Treatment of Prisoners and provide adequate medical
services. For instance, it appointed, with the approval of the government, a forensic
psychiatrist from Valkenberg to go and visit political prisoners held on Robben Island.\(^\text{339}\)
However, if some prisoners such as Breyten Breytenbach were retrospectively laudatory
towards the ICRC, others were more cynical as to its impact, advancing that prior to its
visits, they had to clean sections of the prisons, while warders granted sudden and
temporary improvement to the prisoners.\(^\text{340}\) In an interview led by the Detention
Resources Centre in 1976, a former detainee explained that he and his fellow inmates
refused to speak to the Red Cross, for it was ‘actually being used to lend credibility to
these kind of attacks against the liberation movement’.\(^\text{341}\)

When compared with the intensity of the repression and psychological terror
implemented against political prisoners and detainees, the impact of the ICRC
\(^{337}\) Dlamini, *Hell Hole*, p. 122.
\(^{338}\) HPW, AK2525. Hassim and Venkatrathnam v. Robben Island CO and the Commissioner of Prisons, 4
\(^{339}\) Interview, Mr. Dejan.
\(^{341}\) MAR, BC756. Interview with a former detainee, 1976.
monitoring role could arguably seem limited. According to Nancy Scheper-Hughes and Philippe Bourgois, torture cannot be restricted to its physical manifestations, for it also lies in ‘the reversals and interruptions of the expected and predicable, striking terror in the ontological security of one’s lifeworld’.342 Although in the Western Cape, the police also tortured pre-trial common law offenders, these methods were more frequently used against political detainees and prisoners, adding another level of degradation and ‘personal disfigurement’ to their experience of incarceration.343 Still, while political prisoners were subjected to specific repression, the possibility for them to use their lawyers as a threat to compel the prison administration to grant them privileges was a powerful tool unavailable to detainees and common law inmates.344 Moreover, assaults on political prisoners or deaths in detention were far more publicised than the every day brutalisation common law prisoners endured.

Notwithstanding the singularity of this relative ease of access to the public sphere, the prison administration carried out specific strategies in its attempt to control and subjugate political inmates. As in many other countries across the world, it subtly used the promise of amnesties as a lever to impel the cooperation of political prisoners.345 Paradoxically, despite the fact that the government repeatedly asserted that amnesties did not concern such prisoners, this hope spread recurrently in waves of rumours across prisons throughout apartheid and constituted one of the main requests formulated by political prisoners, who were often kept in the dark as to the exact length of their detention.346 In a setting which deprived inmates of any conceivable future, the effect of rumour and hope largely exceeded the power of reality, and the prison administration exploited this characteristic to implement its institutional order.

344 Interview, Mr. Khumalo.
345 Vimont, La prison politique, p. 4.
On a more daily basis, warders used assaults, solitary confinement and the withdrawal of access to adequate medical treatment to deal with this category of prisoners, which they deemed perpetually ‘demanding’. As proven by the omnipresence of their evocation in political prisoners’ testimonies, assaults, as for common law inmates, were an inherent part of prison routine. But while brutality against common law prisoners rarely hit the headlines, in 1985, the matter of assaults against political detainees at the Johannesburg and Modderbee Prisons was brought to the House of Assembly, and specific attention was drawn to the resulting fact that ‘when these people are eventually released they will be more opposed to the system of apartheid than ever before’. Increasingly so from the 1970s onwards, political prisoners brought to court the issue of detention in solitary confinement for illegal lengths of time, which could exceed two years, describing it as a form of torture inducing severe depression and desperation. During the ‘Hassim and Venkatrathnam v. Robben Island Commanding Officer and the Commissioner of Prisons’ trial, Robben Island Commanding Officer, in order to justify the six-month solitary confinement punishment received by Kader Hassim, alleged that, due to an administrative error, what the warders had understood as ‘solitary confinement’ was in fact ‘segregation’. The defendants advanced that in any case, channels for complaint existed in prison, and that ‘discipline in a prison was of paramount importance and it could therefore never have been the intention of the Legislature that an aggrieved prisoner should have the right to challenge prison disciplinary action in a court of law’. Although the presiding judge refuted both arguments, the implementation of solitary confinement largely remained bound to warders’ arbitrariness. Political prisoners also perceived the administration’s

347 Interview, Mrs. Allen.
348 HPW, AG2510. Mandela to the Commissioner of Prisons, January 1970.
refusal to provide proper medical treatment as a form of physical and psychological torture. Some of them even alleged that Pollsmoor warders inserted drugs in the food they served them.\textsuperscript{352}

Here, one needs to reflect on the links between memory, biographical material and oral history as related to the trajectories of political prisoners. As in all the interviews and biographical material used in this thesis, those pertaining to political prisoners are analysed according to a Bourdieusian approach, where life itineraries are perceived as both the result of the social determinism of structures and the individuals’ actions and wills.\textsuperscript{353} For indeed, as explained by Jennifer Cole in her investigation on the links between memory and colonialism in Madagascar, ‘the points where one is likely to see tension and changes are precisely the junctures between socially constructed memory and individual experience’.\textsuperscript{354} If one follows the recent feminist and post-subaltern studies developed on oral history, the relevance of interviews – and, in a similar fashion, of written archives – lies in the meaning drawn from them more than in the reconstructed evidence they contain.\textsuperscript{355} Testimonies emanating from prison settings must be analysed with specific caution, for they often reveal the point of view of an ‘elite’, of those who had the ability and capacity at the time to write, or those who could express a coherent version of their past to an exterior narrator.\textsuperscript{356} In the case of political prisoners and, to a lesser extent, members of the Number, yet another consideration must be taken into account. They partly designed their emphasis on the struggles led against the prison administration, their insistence on their fight for equal treatment for all and on the violence they were subjected to so that they could fit in the narrative reconstruction of their lives, in terms of their political trajectory. From time to time,

\begin{itemize}
\item \textsuperscript{352} MAR, BC756. Interview with a former detainee, 1977.
\item \textsuperscript{353} Bourdieu, ‘Pour une science des œuvres’, pp. 81-9.
\item \textsuperscript{354} J. Cole, \textit{Forget Colonialism? Sacrifice and the Art of Memory in Madagascar} (Berkeley, 2001), p. 23.
\item \textsuperscript{355} Geiger, ‘What is so Feminist’, p. 174.
\item \textsuperscript{356} Chantraine, \textit{Par-delà les murs}, p. 9.
\end{itemize}
points of discordance still emerged in these testimonies, revealing a more complex experience of detention. For instance, in an account of his prison time at Port Elizabeth North End and Pretoria Prisons in the 1960s, a white political inmate, who stressed the number of actions he had taken in defence of black common law prisoners assaulted by warders, disclosed that with his fellow political prisoners: ‘We had decided for ourselves never to talk politics to the staff or to other prisoners, in our own interest, because as political prisoners it could only cause antagonism and this would mitigate against our welfare’.357 While common law inmates strove to prove that modalities of political and economic resistance against apartheid were blurred, political prisoners constantly reiterated, through their own fight, the difference between them and ‘the others’. This will of differentiation reflects Edward Said’s account of human history as ‘the struggle over historical and social meaning’, a struggle from which prisoners categorised as ‘insane’, be them common law or political, seemed to have been ousted by the prison administration and their fellow inmates.358

**Insanity in Apartheid Prisons**

The existence of Valkenberg Ward 20 and a few other similar institutions across the country did not prevent the presence, during apartheid, of mentally ill inmates within prisons. Warders and psychiatrists, in their role as ‘authorities of delimitation’, qualified in different ways behaviours as disorders and relied on this categorisation to manage incarcerated populations.359 In Pollsmoor, the boundary between mentally ill and sane prisoners was the most fluctuating of the prevailing delineation systems. Temporarily letting aside State President’s Patients and inmates sent to Valkenberg for observation prior to their trial, the governance of mentally ill prisoners in Pollsmoor can

be investigated through what Lynette Jackson dubbed, in the case of colonial Zimbabwe, ‘surfacing up’. This method focuses both on ‘the place and location at which an individual was perceived as abnormal and perhaps dangerous, and the agency and reasoning of the individual who moved into sight’. Although the scant available written and oral materials emanating from mentally ill prisoners prevent a detailed reconstruction of their agency, the analysis of the discrepancies between the different objectifying discourses and historical actors’ testimonies at play in the qualification and perception of this group still sheds some light on the personal trajectories of these prisoners.

The incarceration of the ‘mentally ill’ – a category which replaced, in 1972, the former ones of ‘mentally disordered’ and ‘mentally defective’ – did not constitute, throughout apartheid, a real cause of concern for the government and the public opinion, except at specific points in time. In 1972, the Van Wyk Committee of Inquiry into Psychopathy called for the creation of ‘prison-hospitals’ to detain and treat the high number of ‘psychopaths’ held in prison. According to the Committee, they represented between 38 and 46 per cent of the inmates’ population. In 1980, in the aftermath of the death of a white mentally ill prisoner, the Parliament released to the press that during that year, 7,122 mentally ill people had been held in prison. According to interviewees, the number of prisoners presenting psychiatric symptoms was relatively high in Pollsmoor. Due to the vagueness of this category, however, Pollsmoor administration did not produce any precise statistics. The presence of the mentally ill in prison stemmed from a variety of reasons, including the insufficient accommodation available at Valkenberg Maximum Security section, the warders’ lack of training in

360 Jackson, Surfacing Up, p.11.
psychiatric diagnosis and the prison administration’s amalgamation of violent behaviour and psychiatric illness. This category of prisoners encompassed both inmates showing what was appraised as signs of mental illness once they were detained and prisoners certified as mentally ill by the courts and who, due to bureaucratic lingering, ended up in prison rather than in a psychiatric hospital.364 The presence of ‘unsound criminals’ in South African prisons answered to two contradictory logics also at play in other colonial settings. On the one hand, the different Mental Disorders Acts passed since the first Lunacy Amendment Act of 1879 apparently distinguished between the dangerous and violent insane and the ‘ordinary lunatic’, while they legitimised the criminalisation of the mentally ill, who could hence be more easily detained in diverse closed institutions.365 On the other hand, the creation of additional psychiatric hospitals and Maximum Security sections was, in part, an answer to the prison administration’s request to empty its institutions of their ‘disturbing elements’ but, due to the fear stemming from the perceived ‘violent nature’ of such inmates, they were still predominantly placed under the direction of the Prisons Services.366

Some political prisoners and detainees showing signs of psychiatric illnesses were also held in prison rather than in a psychiatric hospital. During the 1960s, barely any psychiatric service was available to them.367 From the mid-1970s onwards, however, the consequences of detention on political prisoners’ mental health raised increasing concern in the public sphere, and the prison administration began providing them with better treatment and services. This was especially true for white political prisoners, who occasionally had access to visiting psychiatrists without delay. Prison authorities could even, as in the case of Gertrude Ferster, detained in 1988 at Pollsmoor awaiting-trial

364 HPW, A2084. A Pollsmoor prisoner’s wife to Suzman, 3 March 1972.
367 Interview, Mr. Khumalo.
section, allow them to consult with their own private psychiatrist.\footnote{368 Interview, Mr. Jeffrey; PA, 1/4/2/10. Pollsmoor CO to the Head of Pollsmoor Female Prison, 2 November 1998.} During the 1980s, Pollsmoor psychologists, whom Breytenbach described as ‘the parasites living off our twisted souls’, gave special attention to some ANC and PAC prisoners held in the Maximum Security section.\footnote{369 Breytenbach, \textit{The True Confessions}, p. 188.} They wrote regular psychological reports where they closely scrutinised the evolution of the prisoners’ political thoughts and reactions to outside social developments, with a specific focus on their perception of use of violence against the state.\footnote{370 PA, 1/4/7/1. Pollsmoor psychological services to the Prisons Services, 7 June 1988.} In their accounts of the psychological effects of detention, political prisoners described with acuteness the general feeling, bordering on insanity, produced by the incarceration system:

Looking at this ensemble, a normal, reasonable person could see that this was insane. The place looked like a mental asylum when we appeared in these crazy combinations of clothes. White apron, sky-blue denim overalls, navy-blue jersey, brown shoes, navy-blue socks and red doek! These people had decided to treat us like mad people, but all identically mad, a uniform insanity.\footnote{371 Makhoere, \textit{No Child's Play}, p. 21.}

They also feared the long-lasting effects these psychological conditions would induce:

So this is how life is on this island. I wonder whether some of us will be able to leave this place alive or still sane. I could imagine leaving prison like a vegetable, unable to speak coherently – stuttering or with a slur and fearing any White man I come across. And when someone tells me of the struggle for freedom – looking at him in shock and just shaking my head.\footnote{372 Dlamini, \textit{Hell-Hole}, p. 33.}

For the rest of Pollsmoor population, warders mostly allowed the provision of psychiatric and psychological services to those whom they perceived as the most extreme cases. Forensic psychiatrists from Valkenberg and, later on, from Lentegeur, came every Monday afternoons and held sessions in the prison hospital where they had set up a clinic.\footnote{373 Interview, Mr. Dejan.}

From the mid-1970s onwards, warders trained as nurses and clinical psychologists were supposed to ensure that the medical treatment and directives ordered
by the psychiatrists were complied with during the week. By 1994, four full-time psychologists worked in Pollsmoor, each dealing with 200 to 300 cases annually. \(^{374}\) Social workers also worked along with psychiatrists but, according to a younger social worker, due to the fact that they were predominantly white, ‘they were not sensitive, not knowledgeable, of the conditions that the other people found themselves in’. \(^{375}\) Despite these additional posts, relationships between visiting psychiatrists and the prison personnel remained tense until the democratic transition, when Valkenberg stopped sending psychiatrists to Pollsmoor and the DCS consequently privatised the provision of these services. \(^{376}\) During the 1980s and the beginning of the 1990s, visiting psychiatrists regularly complained to Pollsmoor administration that the prison personnel was not cooperative, that time was wasted in locating the prisoners who had an appointment and that the prison hospital lacked the comfort necessary for consultations. \(^{377}\) In 1993, the DCS and the SAMDC even filed a complaint against a Valkenberg forensic psychiatrist, who brought to the attention of a judge the negative impact of ‘lack of suitable clinical psychology personnel’ at Pollsmoor. \(^{378}\)

From the visiting psychiatrists’ viewpoint, the provision of their services at Pollsmoor was, though problematic, still quite efficient. According to common law prisoners, however, psychiatric treatment was either nonexistent or bordering on medical torture. Indeed, in order to have access to a psychiatrist or a psychologist, a mere request was not sufficient, and one had to be categorised as ‘mad’ by the warders to get such access. Most of the time, for inmates who were not considered as ill enough to be held in the prison hospital, but who still managed to get a medical appointment,

\(^{374}\) PA, 1/4/7/1. Pollsmoor psychological services to Groote Schuur Department of Psychiatry, 12 April 1994.
\(^{375}\) Interview, Mr. Ahmadi.
\(^{376}\) PA, 1/4/2/10. Department of Health to the Prison Provincial Commissioner, 4 December 1996.
\(^{378}\) PA, 1/4/7/1. Pollsmoor clinical psychologists to the DCS and the SAMDC, 29 November 1993.
the treatment boiled down to being offered sleeping tablets. In a complaint lodged in 1985 against prison officials, a prisoner from Pollsmoor Medium B, who worked in the prison hospital, denounced that in the sick bay:

Mental and physical patients have been assaulted by warders and prisoners. [...] The patients are restrained from using their beds during the day. They must sleep on the ground if they want to relax in the day. The beds are displayed for inspection and visits. The sheets are taken off the beds at night so that they can be used for display the following day. Hypocrisy. [...] Mental and physical patients are segregated in cells without working alarm available. There are mental patients amongst us prisoners who are of a violent nature. Some of them go about assaulting prisoners, breaking state property and causing serious bodily harm to themselves. These offences are committed in repetitions. They are charged and put into isolation cells and chains instead of receiving appropriate treatment.

Until the beginning of the 1990s, the role of the visiting psychiatrists was three-fold. For the most acute cases of neurosis and psychosis, they could recommend a transfer to Valkenberg Maximum Security section, although Ward 20 gross overcrowding prevented the use of such transfers on a regular basis. They could diagnose prisoners as ‘psychopaths’ and advise their reassignment to Zonderwater or Brandvlei Prison-Hospitals. The rest of the prisoners whom they deemed showed signs of mental disorder were kept in the prison hospital for a certain period of time before being sent back to their cell and received as treatment a combination of neuroleptics and sedatives. According to a forensic psychiatrist from Valkenberg, the most common illnesses found in this third category were depression, epilepsy, chronic schizophrenia and alcohol and drug-related syndromes – due to addictions developed prior to prison or within prison, where inmates could access smuggled drugs and alcohol. These problems constituted, according to him, the very reason why ‘they got into trouble with

379 Interview, Mr. Pieterse.
381 The way the institutions’ attempt to implement a total control over incarcerated populations was limited by the different strategies adopted by prisoners and patients is described in Chapter 8, pp. 235-257.
Pollsmoor warders trained as psychologists recorded a high prevalence of personality disorders, affective mood disorders and anxiety disorders, as well as a ‘disproportionally high’ rate of sexual disorders. In addition to these diagnoses, reflecting psychiatrists and psychologists’ conviction of a powerful link between crime and mental illness, it seems that the prison environment produced the most common signs of maladjustments. According to psychiatrists, numerous prisoners suffered from a dissociative disorder dubbed ‘prison psychosis’, a strong stress reaction created by conditions of detention and characterised by phenomena of withdrawal. Self-mutilations, attempted suicides, overdoses of neuroleptics and sedatives and the swallowing of foreign objects were recurrent and were also seen as ‘prison-related’ syndromes. Interestingly, psychiatrists and warders alike often considered that prisoners presenting these syndromes were in fact malingering. For the prison administration, mutilations were a classic way to avoid work, while prisoners faked the other symptoms in order to benefit from the slightly less oppressive conditions of psychiatric or general hospitals. The government occasionally used a similar argument in the case of political prisoners and detainees. In 1982, a psychiatrist denounced that South Africa’s Ambassador to Washington had claimed, against his medical advise, that Sam Kikine, the detained general secretary of the South African Allied Workers’ Union, ‘faked mental illness for publicity purposes’ while he was in fact suffering from severe depression.

Despite the tense relationships between psychiatrists and the prison administration, from the beginning of the 1970s onwards, the penal system was increasingly infused with psychology. In the 1960s, admission procedures already

382 Interview, Mr. Dejan.
383 PA, 1/4/7/1. Pollsmoor psychological services to Groote Schuur Department of Psychiatry, 12 April 1994.
384 Interview, Mr. Dejan; PA, 1/4/2/13/P9. Victoria Hospital to Pollsmoor CO, 18 April 1994.
385 Interview, Mr. Dejan.
functioned on the basis of ‘Observation Centres’, located at several prisons, where any prisoner sentenced to two years or more was assessed before being classified into the A, B, C or D group and into medium or maximum security. In the 1970s, with the appointment of the first prison clinical psychologist, the Prisons Services applied newly standardised psychological tests and added to the first horizontal classification an ‘in depth’ classification. The latter was formed by four categories: prisoners with ‘a good prognosis’, ‘cases with a low intelligence and/or inadequate personality’, ‘psychopaths’ and ‘cases which are not classifiable in the above categories’. The most famous Observation Centre was undoubtedly the one at Pretoria Central, which was designed for maximum security white male inmates. As recalled by a white political prisoner, in practice, the time spent in the Observation Centre largely amounted to a period of solitary confinement:

The ordinary prisoner in this section was allowed out at the most for half an hour morning and afternoon exercises. He was allowed to talk to no other prisoner. They all had to walk five paces apart, round and round a small exercise yard surrounded by prison blocks several stories high. [...] This Observation Centre was called the ‘madhouse’ by all the prisoners. I thought when I first went into it that it was called this because psychiatry was practised there. But in fact it turned out that it was called this, not because you were mad when you went in but because you were mad when you came out. Prisoners regarded these six weeks or two months in the madhouse as their worst time in prison.

If, while at an Observation Centre, prisoners were classified as a ‘psychopaths’, they were admitted to the Zonderwater ‘treatment programme’ for Whites, or to Brandvlei Prison-Hospital, launched in June 1979 for ‘Coloureds’. Although provisions were made for the creation of a similar institution for black ‘psychopaths’, it was never opened. Psychopathy had been a thorny moral issue for the apartheid government since the 1960s, especially in relation to the white community. The attention cast on this

term reflected the strong discursive links created between violence, mental illness and social deviance. Public criticisms as to the vagueness of the definition of this category called for a more exact description and its embedment in the law. In 1967, L. F. Freed, a lecturer in social medicine at the University of Witwatersrand who had submitted several memoranda to diverse commissions of inquiry led by the government, characterised psychopathy in the following terms:

The behaviour of the psychopath may appear in a variety of forms, e.g. pathological lying and drinking, eccentricity in dress and speech, unusual political and religious beliefs which are subversive of peace and order, extreme emotional lability, vagabondage, criminalism, and litigious activity over trivial and preposterous issues. Psychopathic behaviour, when overtly criminal in character, may take the form of larceny, theft, forgery, homosexual and heterosexual promiscuity, and even murder and assassination; or, in the more passive variety, it may take the form of alcoholism, the abandonment of home and family and, finally, suicide.\(^{391}\)

The fear of the threat represented by white psychopaths gained momentum in 1971, after the ‘screwdriver murderer’ was sentenced to death on five charges of rape and four of robbery.\(^{392}\) On appeal, his sentence was commuted to 20 years to be spent at Zonderwater prison. In 1972, the government appointed a Committee of Inquiry into Psychopathy, restricting its terms of investigation to white ‘psychopaths’. In its final report, although the Committee took into account genetical theories and models bordering on criminal anthropology, it advised that ‘psychopaths’ be judged under the principle of diminished responsibility. It further asserted that the mere incarceration of such persons was not sufficient and that services should be provided for ‘treatment’ in specially designed ‘prison-hospitals’.\(^{393}\) Such was, officially, the role of Zonderwater Maximum Security section from 1976 to the democratic transition. Brandvlei Hospital, though smaller and less famous, followed the same model. According to prisoners’

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testimonies, living conditions at Zonderwater were ‘putrid’, especially after 1977, when inmates rioted and burnt down some sections of the prison in protest of these very conditions.\textsuperscript{394} Privileges such as visits and letters were extremely hard to get, and the psychiatrists and psychologists in charge of the ‘treatment programme’ were in fact barely available.\textsuperscript{395} In 1977 for instance, a prisoner held at Zonderwater requested to see a psychologist in order to treat his alcoholism. When he finally managed to see her, she recommended electroshocks against his alcoholism, a treatment which he refused.\textsuperscript{396} The same prisoner asserted that the authorities used experimental drugs against psychopathy, called ‘the drops’, during a limited period of time at Zonderwater in the late 1970s:

> you had to sign a document saying you wouldn’t hold the department responsible for any side effects. These drops were originally in liquid form but subsequently came out in tablets. The hospital would give you some of these in a bottle twice a day and you would take them and they would make you high. Unfortunately, you would pass out before you had an opportunity to enjoy being high. This was stopped by the authorities because they were not doing any good. In fact, they were harmful to the prisoners. You slept about 18 of the 24 hours, you ate like a horse and you became fat as a pig. When I say ‘ate like a horse’ I mean that you were getting more food issued to you than others because you were a guinea pig.\textsuperscript{397}

Not all the prisoners classified as ‘psychopaths’ ended up at Zonderwater or Brandvlei, although the conditions to which they were subjected in other prisons were little better than the ones prevailing at these prison-hospitals. On family request, prison authorities could sometimes transfer an inmate back to a regular prison, an allocation which posed serious problems to Pollsmoor administration, because of what the warders described as the ‘overtly aggressive’, ‘arrogant and presumptuous’ attitude of the said prisoners.\textsuperscript{398} In Pollsmoor, due to the blurred definition of what constituted a

\textsuperscript{394} MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.\textsuperscript{395} Breytenbach, \textit{The True Confessions}, p. 188.\textsuperscript{396} MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.\textsuperscript{397} Ibid.\textsuperscript{398} PA, 1/4/7/1. Pollsmoor Head Psychologist to the DCS, 18 December 1991.
‘psychopath’ and the fact that psychiatrists themselves had troubles differentiating between ‘the bad guy, the gangster, and the guy who’s got personality problems’, warders treated some gang members or other ‘difficult cases’ as such. They combined the neuroleptics and sedatives treatment with harsh repression, consisting in physically restraining the ‘ill’ prisoner and placing him in solitary confinement in the Maximum Security section. In the Women’s Prison, wardresses adopted a similar attitude towards ‘troubled’ inmates, although they alleged that they used to leave the door of the single cell opened and constantly monitored the whole process. Inmates classified as mentally ill or psychopaths could do little against this repression. Channels for complaint, already barely available to common law prisoners, proved completely inadequate in the case of those deemed insane. Indeed, the prison administration often contended that the ‘psychotic’ and ‘rebellious’ nature of the prisoner had led him or her to lodge false complaints.

Deprived of credibility and visibility in the public sphere, mentally ill prisoners, be they detained in prison, prison-hospitals or psychiatric hospitals, were therefore the object of a double punishment, one emanating from the law, and the other from the psychiatrists’ ‘expert’ discourse. They epitomised the Foucauldian notion of the ‘training of bodies’ as docile and useful machines integrated within functional systems of control. During apartheid, the scientisation of the penal discourse based on, in particular, the growing influence of psychiatry and psychology, created a new process of objectification, in which punishment was assimilated to cure, and disciplinary discourses helped in defining what was knowledgeable. Hence, in order to unveil the dynamics of power prevailing in a society aiming at the control of social, political and

399 Interview, Mr. Dejan.
400 Interview, Mrs. Lubbe.
401 HPW, A2084. Minister of Justice to Suzman, 1 December 1980.
mental deviances and at the preservation of racial domination, one needs to climb the rungs of the microhistorical scale, and investigate the links between the judicial system and the penal and psychiatric discourses in relation with the criminalisation of the South African black populations.
PART II

JUDGES AND PSYCHIATRISTS: THE ‘INSTANT’ OF DECISION

Will the court understand me as I am? Will the court understand why an ordinary simple man like myself who has suffered all his life eventually turned to violence? Will it be possible for the court to believe and understand that I am not a lover of violence? Will this court understand that it is my love for people that drove me to do what I did?

Chapter 4

Issues in the Court: Responsibility and Reformability

The apartheid government grounded the function of prison in the manifestation of punishment and the dissemination of fear in the rest of society. The latter involved a subtle play between the silence, the supposedly unknown of what happened behind closed doors, and a broad social awareness imbued with terror of the mistreatments that all too often took place within prisons. There was, however, a discrepancy between the will to impose terror through the creation of ‘total institutions’ and the way this strategy encountered its limits when confronted to prisoners and patients’ strategies for survival. Although they were connected to the prisons’ function, courts, as part of the public sphere, played a distinct role from the prisons’ one. They were spaces where the definition of what constituted, at a certain point in time, transgression, was constantly redrawn. From the 1970s onwards, these definitions increasingly relied on the ‘expert’ discourses of psychiatry and psychology, rhetorically transforming the apartheid project into a scientific appraisal of the differences between cultures and the need for separate development. Like in other colonial settings such as Kenya, Nigeria, Zimbabwe or Madagascar, psychiatry became involved in the social control of those constructed as ‘the violent Africans’, deprived of self-control, dangerous to the white minority and hence calling for a significant degree of repression. Simultaneously, during political trials, a minority of critical psychologists attempted to counter the state’s legal apparatus of power. Throughout apartheid, courts became political arenas where the conceptions of black deviance and white fears came into full light.

The Psychiatrisation of Social Control

As Mahmood Mamdani explained, in order to ‘understand the nature of struggle and agency, one has to understand the nature of power’. The historical study of trial reports emerging from a colonial/post-colonial setting such as South Africa is a complex one. However, the analysis of power dynamics is even more compelling in a context where archival material only portrayed individuals who had transgressed the apartheid rule. Far from being static, this representation evolved throughout apartheid, moving from a qualification of offenders based on their acts to a characterisation of their personality, their ‘criminal predispositions’, in a biographical account of dangerousness. In this process, the use of expert discourses requalified the authority of judges, revealing the gradual scientisation of apartheid ideology.

The South African Nationalist government rested its power on a plethora of constraining laws, divided into two bodies. ‘Petty apartheid laws’ reflected the segregation and repression affecting everyday life, while ‘grand apartheid laws’ led to the division of the South African territory according to racial categorisation, through the creation of ‘Bantustans’. To implement these numerous laws, the judiciary system was organised on three levels: the magistrates’ courts, the provincial divisions of the Supreme Court and the Appellate Court. The ‘race laws’, passed in the 1950s, referred to the repressive legislation targeting Blacks’ activities in relation with liquor, trespassing, taxes, ‘masters and servants’ regulation and passes. Influx control, initiated by the 1923 Natives (Urban Areas) Act, was particularly representative of these racial laws. It attempted to regulate the very movements of black men – such laws did not apply to ‘Coloureds’ or ‘Indians’ – and, from the 1950s onwards, of black men and

2 Mamdani, Citizen and Subject, p. 23.
4 Foucault, Surveiller et punir, pp. 26-7.
women. Influx control accounted for a high rate of incarcerated black people: from 1978 to 1979, 40.2 per cent of all black offenders sentenced to prison had transgressed the pass laws.\(^6\) Due to the obvious racial, economic and social bias implied by this legislation, it regularly came under harsh criticism from various sectors of the society, including official commissions of inquiry, which stressed the fact that ‘the reason for this virtually unstemmable influx is poverty’.\(^7\) By the mid-1970s, daily repression began to accelerate. The police arrested and detained a large number of Black Consciousness leaders under the Terrorism Act, which ‘hardly raised a whisper of protest in parliament’.\(^8\) In the Western Cape, the destruction of the KTC squatter camp in 1983 led to 289 arrests, announcing the wave of repression which would strike the region in 1985, under the state of emergency.\(^9\)

While legally enshrined repression swept through the country and trials became more numerous, as Martin Chanock pointed out, the gap between ‘professed legalism with its accompanying rhetoric of justice, and the racist abuse of power by the state’ became increasingly visible. The government instrumentalised the courts’ normative function. Consequently, while the regime strove to appear as a liberal state to retain the support of the non-conservative white minority, the judiciary system lost its legitimacy in the eyes of the black population.\(^10\) In this context, the gradual psychiatrisation of the penal system requires specific attention. It reveals the fact that the judicial system increasingly perceived transgressions of the apartheid rules as colonial manifestations of intrinsic ‘otherness’, where difference amounted to madness and danger. The Mental Disorders Act n° 38 of 1916 enunciated the norms for the treatment of mentally ill

offenders. Despite some amendments, it remained in force until 1973. After the assassination by Dimitrios Tsafendas of Prime Minister Verwoerd in 1966, the need for the revision of the old Act and a more comprehensive inscription of mental illness in the penal system became more pressing for the government. Following the Rumpff Commission of Inquiry into the Responsibility of Mentally Deranged Persons and Related Matters of 1967 and the Van Wyk Commission of Inquiry into Psychopathy of 1972, the Parliament passed a new Mental Health Act in 1973. It defined ‘mental illness’, as opposed to the previous denomination of ‘mental disorder’, as ‘any disorder or disability of the mind’, which included ‘any mental disease, any arrested or incomplete development of the mind and any psychopathic disorder’.

In the case of mentally ill offenders, it restricted its aim to the issues of treatment and rehabilitation. The regulations over the notions of ‘certifiability’, ‘triability’ and ‘responsibility’ were to be included in the new Criminal Procedures Act n° 51 of 1977.

This two-fold legislation, the diverse time lapses between the commissions of inquiry and the Acts and the broad definitions contained in these documents reflected the fact that in practice, judges had a large margin of manoeuvre in their adjudication of mentally ill offenders. State prosecutors hence increasingly summoned psychiatrists from public hospitals and, occasionally, clinical psychologists to clarify the different classes of mental illness under which an offender suspected of insanity could fall. In the process, the entanglement between the discipline of criminology and the psychiatric one deepened. The racially-based judgements emanating from courts where the legal personnel was nearly exclusively white could now rely on ‘scientific’ explanations of the difference between the accused’s mental state depending on the diversity of South

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African ‘cultures’. The status of psychiatrists testifying in court revealed changes in the boundaries of their knowledge and power as experts. Drawing from the orthodoxy of colonial ethnopsychiatry which had also emerged in Kenya, Nigeria and Southern Rhodesia, psychiatrists consolidated the power of the courts by brandishing their own authority. Defined in Said’s terms, this authority was ‘virtually indistinguishable from certain ideas it dignifies as true’. In courts, the role of psychiatry in objectifying cultures and otherness became more blatant, exposing how the white minority constructed the black body as a natural object for disciplinary measures and violent repression. In the 1970s and 1980s, the international denunciation of the function of South African psychiatry as a tool for the apartheid state partly based itself on the role played by psychiatrists during trials. These accusations specifically targeted the Society of Psychiatrists of South Africa, established in 1956. Some of its members, however, retrospectively alleged that, although the Society had agreed to set up an official panel of psychiatrists to provide advise for the courts in 1989, they were aware of the bias of these courts:

[T]he Society, in common with other medical organisations, had to function within the legislated framework of a repressive apartheid society. The adverse consequences for patient care were plain to psychiatrists in the daily course of their work, for example, the psychological effects of detention of persons without trial, the Mixed Marriage Act, forced removals, and many other abhorrent apartheid measures.

Although such an assertion can only be read through the lens of a post-apartheid rhetoric, it is still certain that some psychiatrists summoned to court during apartheid did not perceive themselves as mere underlings of the apartheid state. Some of them actually thought of their role as a ‘safeguard’ for those individuals who were in too

15 Said, Orientalism, p. 19.
16 Pierce and Rao, ‘Discipline and the Other Body’, p. 4.
weak a state to endure the conditions of prison incarceration, regardless of the fact that conditions in asylums were hardly better than in prisons and that the label of ‘State President Patient’ essentially amounted to civil death.\textsuperscript{18} In essence, psychiatrists were, to follow Gyan Prakash’s theory, part of the dynamics of colonial power, which ‘was required to relocate its categories contingently and contentiously as it sought to negotiate and regulate unequal knowledges and subjects’.\textsuperscript{19} Psychiatrists were caught up in the contradictions of constantly re-asserting the fixity of differences between Whites and the ‘others’, while redefining the categories of abnormality depending on the changing social and political imperatives of the time.

During apartheid, and especially so after 1973, state prosecutors called psychiatrists to comment on the issue of triability, certifiability and responsibility. In cases where the judge suspected the accused of suffering from some degree of mental illness or disability, he could interrupt the trial and order the accused’s referral to a psychiatric hospital for a minimum observation period of thirty days. Once the trial resumed, the psychiatrist in charge of the accused had to report on the triability of the offender – if he or she was fit to stand trial –, his or her responsibility – if the accused was aware of the moral distinction between right or wrong at the time of the offence – and his or her certifiability, where the psychiatrist could recommend treatment in an asylum rather than imprisonment.\textsuperscript{20} As the medical expertise could lead to extenuating circumstances, in the case of capital offences, prosecutors asked a panel of psychiatrists to conduct an inquiry into the mental state of the offender, in order to preclude any swift assessment. Despite the apparent scientificity of this procedure of referrals and reports, the criteria used for diagnosis and the problematic notion of ‘responsibility’, which

\textsuperscript{18} Interview, Mr. Dejan.
implied a subjective appraisal of social norms, led to numerous debates on the attitude judges had to adopt. As Elizabeth Hopkins analysed it in the case of Uganda, responsibility over arson and witchcraft for instance, had been a powerful judicial instrument in the implementation of early British colonial power. In South Africa in 1967, L. F. Freed submitted a memorandum to the Commission into the Responsibility of Mentally Deranged Persons. He challenged the implementation of the ‘either-or approach in respect to sanity and responsibility’ of the British M’Naghten rules, which implied that any man was to be presumed sane and responsible until tests on criminal responsibility proved the contrary. Freed was particularly wary of these rules in the case of psychopathy. According to him, the decision over the imposition of sentence should be left to the judges, while psychiatrists should deal with the analysis of responsibility, for:

> if it were possible to distinguish irresponsible criminals from responsible criminals on the basis of some test which could identify the former as those whose actions were motivated by insane delusions and the latter as free agents, then the law would be placed in the paradoxical position of having to regard the most dangerous criminals as the ones whose actions are the least punishable.

Such debates emerged at specific times, in most cases when an offender charged with murder escaped death penalty due to his or her mental condition, or when published statistics reinforced the idea of a strong link between violent criminality and insanity. In its report, the Rumpff Commission of Inquiry into the Responsibility of Mentally Deranged Persons of 1967 asserted that 64 per cent of all ‘President Decision Patients and Criminal Cases’ had committed violent offences, which included, among others, murder, assault and rape. In practice, the intervention of psychiatrists in courts often

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revealed that judges used psychiatrists to add a ‘scientific’ gloss to cover their impressions and personal views. In the same process, psychiatrists produced through their alleged expertise the criteria of normality and abnormality for white and ‘non-white’ populations.24

Once a judge found an offender not responsible for his or her acts or unable to follow the court proceedings, he placed him or her under the care of a psychiatric hospital. If the judge did not perceive the offence as serious, he would ‘certify’ the offender, which meant the latter would be admitted as an involuntary patient in an asylum’s Maximum Security section and the charges against him or her would be dropped. In other cases, the judge declared the accused was to become a ‘State President Patient’ and indefinitely postponed his or her trial – and consequent release.25 As South African law professor Barend van Niekerk publicly asserted in 1976, ‘once declared insane or a State President’s patient, a person essentially became a non-person in the eyes of the law’.26 State President’s patients could either end up in psychiatric hospitals or, like Dimitrios Tsafendas, in Maximum Security prisons. From 1976 to the democratic transition, judges could also sentence offenders to a prison-hospital such as Zonderwater or Brandvlei. The ‘insane criminals’, confined for an indeterminate number of years, hence fell, as Scheper-Hughes and Bourgois described it, in the ‘category of the unworthy living’.27 The American psychiatrist and academic Thomas Szasz traced back the origins of the M’Naghten rules to the murder of Robert Peel’s private secretary in 1843 by Daniel M’Naghten. The court declared the latter not guilty due to insanity. M’Naghten remained incarcerated until his death at the Broadmoor Institution for the Criminally Insane.28 Brought back to the South African setting, such a

The resemblance between the legal and psychiatric discourses, which both defined through different vocabulary what constituted ‘normal’ and ‘deviant’ behaviours according to each racial category in apartheid South Africa, partly explains their growing intricacy, especially from the 1970s onwards, when the increasing violence of the apartheid regime called for renewed legitimacy. During numerous trials, prosecutors summoned psychiatrists to support evidence presented by the state and justify, beforehand or retrospectively, the government’s repressive measures. A representative example was the 1982 inquest into the death in detention on 5 February 1982 of Neil Aggett, a white trade union leader. The commission of inquest called psychiatrists to testify as to Aggett’s suicide risk and to corroborate the sometimes incoherent evidence presented by the police. The commission concluded that the security police had not killed Neil Aggett but that he had committed suicide. It deemed the phenomenon unsurprising, taking into account the fact that suicide was ‘more prevalent in the higher socio-economic classes’ and that Aggett had ‘surely’ developed feelings of guilt and betrayal once in detention. Only a restricted number of trials and inquests, often related to political prisoners or white offenders, were disclosed to the public opinion. They highlighted the role of psychiatrists in offering a scientific vocabulary that enabled to portray and describe the deviances, be they common law or political, of the different racial categories and to justify the regulation, detention and control of all behaviours threatening the white minority. Like in other colonial contexts such as Algeria,

psychiatrists produced, through their intervention during court trials, an image of ‘non-Whites’ as an inherently and pathologically dangerous group.\(^{31}\)

Robert Turrell has shown that in South Africa, during the first half of the twentieth century, prosecutors more often called psychiatrists for minor offences than for capital ones.\(^{32}\) Although the general psychiatrisation of the penal system during the second half of the century led to more psychiatrists and psychologists being summoned for capital offences, this discrepancy remained. It did not reflect, however, that the influence of psychiatrists was restricted to a specific sphere of the judiciary. The very fact of producing labels and classifications and infusing them with medical authority served as a tool of social control, spreading an ideology that entangled the notions of race, violence and insanity. It would still be misleading to appraise the historical link between judges and psychiatrists as a smooth and coherent relationship evolving according to a linear pattern towards a complete congruence of objectives. Echoing the characteristics of colonial power, conflicts and discontinuities also shaped the juxtaposition during trials of the authorities of the judge and of the psychiatrist.\(^{33}\) One area of conflict appeared when the issue of illegal detentions in asylums was brought before the Supreme Court. In 1928, a Supreme Court trial initiated a trend that would become more prominent during the second half of the century. The presiding judge admitted that the plaintiff, who claimed damages from the government for his illegal arrest and detention at Pietermaritzburg Mental Hospital, could not be considered as ‘mentally disordered’. The judge recognised that neighbouring farmers had persecuted the plaintiff and that, with the help of a doctor, they had forced his admission to a mental hospital on the basis of a minor offence.\(^{34}\) On that occasion, the judge harshly


\(^{33}\) Prakash, ‘Can the “Subaltern” ride?’, p. 169.

\(^{34}\) CTAR, HVG, 2/1/1. Grant v. Minister of Interior, 1928.
condemned the psychiatrists’ lack of carefulness and biased diagnoses. Moreover, in other cases, a judge could reassign a psychiatrist first summoned by the prosecutor to the defence, according to the type of sentence the court desired to decide upon. As Barend van Niekerk criticised in 1977, in South Africa, ‘the really important role of psychiatric evidence in such a trial is to give the sentencing authority the chance to support its “hunch” by means of psychiatric labels if it wishes to do so’.36

Disagreement in the medical evidence presented to the court also revealed that the discourse of psychiatrists and psychologists summoned to testify was far from being monolithic. During apartheid, the small number of South African psychiatrists and clinical psychologists belonged to a relatively homogeneous class. There were few black psychologists, and even fewer were summoned in court.37 Despite this apparent homogeneity, a variety of movements of thought existed. The opposition was particularly blatant between psychologists and psychiatrists. Until 1974, the latter fiercely stood against the official registration of the former.38 In 1947, during a trial before the Witwatersrand Division of the Supreme Court, in the case of an offender charged with five counts of theft, practicians presented such conflicting medical evidence as to the offender’s psychopathic character that the confused judge had to postpone the trial.39 The lack of a precise nosography relating to Blacks’ standards of ‘normality’ and ‘abnormality’, as well as the difficulty entailed by the assessment of responsibility at the time of the offence in cases where offenders had recovered by the time of the trial, also strongly affected the coherence of the evidence a psychiatrist

37 Cape Times, 16 June 1983; Interview, Mr. Buten. Noel Chabani Manganyi was one of the only psychologists known to have testified in court.
38 Interview, Mr. Holler.
could present to a judge.\textsuperscript{40} Despite these discords and waverings, the South African psychiatrist increasingly become, from the beginning of the 1960s onwards, the perfect embodiment of objective knowledge and, consequently, an appropriate tool for the dissemination of the racial ideology of the apartheid state.\textsuperscript{41} Simultaneously, however, another medical figure was emerging in the courts, contesting the dynamics of apartheid power and giving a new meaning to the discipline of psychology.

\textit{Torture and ‘Common Purpose’: the Role of Psychologists}

During apartheid, the role of courts, with the gradual influence from the 1970s onwards of expertise discourses emanating from psychiatrists, revealed that apartheid power shared similarities with colonial power. As Nicholas Thomas described it relating to colonial power, ‘even what would seem its purest moments of profit and violence have been mediated and enframed by structures of meaning’\textsuperscript{42}. Anti-apartheid resistance movements and liberal academics, among them psychologists and historians, did not leave the reification and repression of the Other at play during trials unchallenged. From the end of the 1970s to the democratic transition, defence lawyers for anti-apartheid resistsants asked for the help of academic psychologists with a clinical training during trials involving torture or the offences of ‘public violence’ and ‘common purpose’. In the Western Cape, these individuals had often completed their training at Valkenberg Hospital and had become researchers at the University of Cape Town. They perceived themselves as ‘politico-psycho activists’ and attempted to bring to light, through their

\textsuperscript{40} Interview, Mr. Buten; LSGP. L.S. Gillis, ‘The Diagnosis of Psychiatric Illness in Different Cultures’, \textit{Continuing Medical Education}, 2 (1984). Similar difficulties, especially relating to the constructed black symptom of ‘frenzied anxiety’, are presented in the case of colonial Kenya in McCulloch, \textit{Colonial Psychiatry}, p. 54.

\textsuperscript{41} McCulloch, \textit{Colonial Psychiatry}, p. 74.

intervention during trials, that the mythology of the law based itself on the legitimization of state violence.\textsuperscript{43}

Dissensions in the South African medical profession had already been building up during the 1970s, but it was only in the aftermath of the public scandal around the death of Steve Biko, and the role played by district surgeons in the legitimization of the suicide version, that the split became concrete.\textsuperscript{44} In 1982, a group of doctors, who denounced torture and conditions of detention for political prisoners, founded the National Medical and Dental Association (NAMDA). It was created in opposition to the conservative Medical Association of South Africa (MASA). The psychological discipline followed a similar trend. In 1983, the Family Therapy Association organised a conference at Sun City, a ‘folly palace […] set up in a black homeland’.\textsuperscript{45} A group of white people, among them psychologists, protested outside the conference, criticising the racial bias and political instrumentalisation of psychology. After their arrest, they formed the Organisation for Appropriate Social Service in South Africa (OASSSA) and the Emergency Services Group (ESG), which aim was to provide counsel to ex-detainees and survivors of torture. OASSSA was constructed as an alternative to the pro-apartheid Psychological Association of South Africa (PASA) but remained predominantly white, although it was linked to the black Psychology and Apartheid Committee (PAC) created in 1989.\textsuperscript{46} Despite the fact that OASSSA and the ESG constituted a minority and were predominantly based at white liberal universities such

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\item[43] Interview, Mr. Buten.
\item[45] Interview, Mr. Buten.
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as Witwatersrand and UCT, their public criticism of apartheid had a far-reaching influence and profoundly impacted the South African medical profession.

Within the academic realm, heated debates between scientificity and ideology opposed psychologists. Some clung to the scientific veneer of their discipline and reiterated their objectivity, while younger psychologists expressed their will to participate in the struggle against the regime and to bring to light the connections between mental health, apartheid, psychology and repression. \(^47\) The younger psychologists attempted to adopt a perspective of ‘critical psychology’, which acknowledged the fact that ‘psychology is always profoundly political, profoundly involved in the reproduction and extension of relations of power and control’. \(^48\) On the ground, the ESG did most of the work. It defined its aims as ‘offering first aid training for lay people living in volatile communities, support groups for families of detainees, post-detention counselling, and medical assistance in safe houses for comrades on the run. ESG operated a 24-hour crisis intervention service’. \(^49\)

Simultaneously, the harsher repression, the increased number of trials and the new legal concepts implemented along with the emergency states that characterised the late 1970s and the 1980s led to the need, in some instances, for a new defence. Defence lawyers approached psychologists from OASSSA and the ESG in the view of finding mitigating circumstances for the accused, who were often under the threat of death penalty. The arguments developed by these psychologists were different if the trial involved references to torture or to the concepts of ‘public violence’ and ‘common purpose’. The role of these ‘radical experts’ in trials where offenders had been tortured hinged on the admissibility of evidence. By the 1980s, the suspicion that the security police routinely used torture to extract confessions from detainees had become a

\(^{47}\) Interview, Mr. Holler.
\(^{49}\) MAR, BC668. Minutes of meeting between the ESG and the Trauma Centre, 30 July 1992.
recognised fact in the public sphere. For instance, in 1983, in its report on the Medical Care of Prisoners and Detainees, MASA recommended to the government that detainees should not be tortured and should be regularly examined medically and psychiatrically.  

In the Western Cape, police officers from the Security Branch such as Jeffrey Benzien, known for having killed the young anti-apartheid activist Ashley Kriel in 1987 by shooting him in the back, were infamous for their tactics of torture. The defence denounced them during the terrorism trials of Ashley Forbes and 13 others, in 1988 and Yengeni and 13 others (‘Rainbow Trial’) from 1988 to 1990. In his affidavit, Ashley Forbes described how Benzien had undressed him, suffocated him with a plastic bag filled with water and ‘stuck a rod, not deep but a small way up [his] anus and started to shock [him]’. During the Ashley Forbes and 13 others trial, defence lawyers called psychologists to prove the defendants had made confessions after having been tortured and kept in solitary confinement, which was in itself a form of psychological torture.  

During the Rainbow Trial, the issue of the admissibility of evidence constituted a trial within the trial, especially in the case of Jenny Schreiner’s confession. According to the defence psychologist, the state of mind in which the white woman found herself when she gave her confession prevented her from telling the truth. More broadly, defence lawyers intended to demonstrate the existence of a ‘system of torture’. To purport their claim and reassure the slightly progressive presiding judge, Selikowitz, of their legal professionalism, they chose ‘Lang’ Dawid De Villiers, an ex-member of the Afrikaner Broederbond, as leading advocate. Indeed, psychologists and lawyers involved in the defence for such trials, despite their outside commitment, had to be

50 MAR, BC854. Memorandum from the Detention Action Committee of Cape Town to MASA, 1984.
52 Interview, Mr. Gardener.
53 Interview, Mr. Ebbing, defence lawyer for resistance movements during apartheid, Cape Town, 22 April 2011.
careful not to be labelled as ‘activists’, for any recognised anti-apartheid affiliation would have delegitimized the evidence they presented. In the Western Cape, in each trial where psychologists testified on the mental effects of torture and detention under Section 29, a forensic psychiatrist from Valkenberg, summoned by the State prosecutor, presided over the medical evidence introduced. Paradoxically, this same psychiatrist had sometimes provided services to the defendants while they were in detention, occasionally attempting to pressurise the police and prison authorities into giving them better treatment.

The Yengeni trial also offers a precise historical example of the way psychologists submitted their evidence in relation with the admissibility of evidence. Following individual interviews with the awaiting-trial defendants, who were then held at Pollsmoor, the defence psychologist established a psychological report for each of them. He based his argument on the description of the Post-Stress Traumatic Syndrome (PSTS) in order to assess ‘the pressures of Section 29 detention which might lead to an individual’s decision to make a confession before a Magistrate’. He explained that, in addition to torture and abuses during interrogation periods, the defendants were detained under conditions of Restricted Environmental Stimulation. This had induced, for some of the accused like Jenny Schreiner, Gary Kruser and Gertrude Fester, to attempts to commit suicide or demands for psychiatric services. He also reminded the court that during other trials, judges had acknowledged that certain detainees, such as A. A. Kader, had been admitted to psychiatric hospitals after they were held in solitary confinement and repeatedly interrogated by the security police. According to this psychologist, the conditions of detention for the defendants engendered the ‘D.D.D. Syndrome’, which stood for:

55 Interview, Mr. Buten.  
57 MDR. Psychological report on the accused, 28 April 1989.
Debility: fatigue brought about by interrogation, anxiety, lack of sleep, etc; 
Dread: chronic fear of what is going to happen; 
Dependency: solitary confinement strengthens dependency on the captors whose 
control over the detainee is virtually total.  

A psychologist could also use his authority as a ‘medical expert’ to point out to the court 
some procedural errors, which often concealed evidence fabricated by the police. He 
could, for instance, ask the judge if a defendant’s handwriting had been tested, in order 
to demonstrate that the alleged confession had been written by the police themselves. 

Psychologists called by defence lawyers did not restrict their work to the 
courtroom. Most awaiting-trial offenders had just been released from Section 29 
detention and were suffering from severe psychological stress induced by isolation 
and/or torture. They were also relieved, at that point, to know that they were eventually 
acquiring a form of legal status, that they were no longer ‘detainees’ but regular 
‘awaiting-trial’ offenders. During their visits to Pollsmoor and other prisons, 
psychologists would hence provide counsel to the defendants, and remind the prison 
administration that, on court order, the defendants were allowed to access public or 
private psychiatric services. Although political awaiting-trial prisoners were separated 
according to their racial category and gender, the sessions held with their lawyers, 
psychologists and psychiatrists were opportunities for them to gather in a collective cell 
inside the Maximum Security section, as well as to get legal advise and group 
therapies. 

In addition to trials involving torture and the admissibility of evidence, 
psychologists were called to present extenuating circumstances in another kind of trials. 
The apartheid government extensively applied the doctrine of ‘common purpose’, often 

58 Ibid. 
59 Interview, Mr. Buten. 
60 Interview, Mr. Ebbing. 
62 Interview, Mr. Buten.
associated with the charge of ‘public violence’. Brian Currin, the national director of Lawyers for Human Rights, described in 1989 the content of this doctrine in the following terms:

if a person actively associates him or herself with a mob and that mob has formed a common purpose to kill and persons in the mob then do kill, the actions falling within the common purpose that brought about the death of the deceased will be attributed to that person and render him or her liable for murder.63

Along with public violence, which was defined as the violent, unlawful and intentional disturbance of the public peace and security by a number of individuals, or the threat to do so, this doctrine allowed for the arrest and sentencing of virtually any person found by the police during a movement of unrest.64 The concept of common purpose, combined with a murder charge, authorised a judge to order a death sentence without any substantial proof, like in the case of Solomon Mahlangu. The latter was found guilty of murder in 1978, although the court recognised he was not the one to have fired the shots and thrown the hand-grenades which resulted in the death of two white people.65 Common purpose soon became the government’s legal way to pathologise the ‘black mob’, which manifested the essence of the swart gevaar. The possibility to be arrested and sentenced under this doctrine had a profound impact on the population, for it widely disseminated the threat of police and prison violence, as some interviews strongly laid out.66 Although the tools of common purpose and public violence allowed such a wide margin of manoeuvre to the police and the courts that they were criticised in the public sphere, they were essential in the legal implementation of social control by the white minority in power, for, to take up Benjamin’s words,

63 HPW, A2084. Paper delivered at a conference in Cape Town by Brian Currin, 1989.
64 MDR. S. v. Ashley Forbes and 14 others, 2 August 1988.
66 Interview, Mr. Holler.
the law’s interest in a monopoly of violence vis-à-vis individuals is not explained by the intention of preserving legal ends but, rather, by that of preserving the law itself; that violence, when not in the hands of the law, threatens it not by the ends that it may pursue but by its mere existence outside the law.67

Faced with the dilemma engendered by this new pathologising rhetoric, defence lawyers asked for the help of psychologists to counter the state’s discourse and find mitigating circumstances in order for the accused to avoid the death penalty. Although the defence put up with the help of psychologists was rarely successful, the latter still intervened in a great number of cases throughout the 1980s. The very ambiguity contained in the definition of ‘common purpose’, through which a crowd was given personal attributes such as the formation of a common intention, created a fertile ground for debate.68 Once the courts had delivered a guilty verdict, defence lawyers called psychologists during extenuation proceedings to present their arguments based on the crowd theory. Also called ‘crowd psychology’, this trend was developed by European intellectuals at the end of the nineteenth century. Broadly, they argued that an individual lost his or her responsibility and ability to choose and control oneself once in a crowd. Interestingly, these South African psychologists did not actually believe in the French theory, but employed it in an attempt to diminish the responsibility of the accused:

It was Le Bon, the now infamous Le Bon, in 1895 with his famous book on crowd, and that whole tradition. So I would regale the court with all these long histories on the psychology of crowd. […] I didn’t believe in that theory any more, I didn’t believe in this mob psychosis, we actually believed in this alternative theory, the social identity theory. It transforms people to act in concert, not that it makes them mad, that it drives them out of their mind, in fact they are acting more mindfully.69

Due to the fact that the court generally dismissed such evidence, psychologists also presented individual psychological accounts of the accused. Youth or evidence of

69 Interview, Mr. Holler.
drunkeness were more successful arguments which sometimes persuaded the judge to commute death penalties into prison sentences. The sole trials where evidence based on crowd theory was taken into account involved as a testifying psychologist the British academic Andrew Colman, and took place in 1989. They were the South African Railways and Harbours Workers’ Union (SARHWU) trial and the retrial of the ‘Queenstown Six’, charged with the ‘necklace’ murder by a crowd of a woman presumed to be a collaborator.

Although the use of psychologists by the defence was a reaction against the pathologisation discourse of the state which tried to demonstrate the threat represented by ‘the black mob’, the public reaction to the defence strategy was ambiguous. During the 1983 trial of Mpetha and 18 others, charged with terrorism and murder, the Cape Times reported in a slightly ironic fashion that two psychologists had presented evidence purporting the fact that:

In this country, where real political grievances existed, people tended rather to commit political acts which had a ‘higher return value’ in terms of political martyrdom. This type of behaviour was often the result of low self-esteem which was compensated for in ‘acts of bravado in defiance of authority and the established social and political order’. [...] crowds of people tended to commit ‘greater extremities of action’ and greater violence than individuals separately.

The reaction of the state was fierce. At first, the evidence presented by psychologists was simply dismissed. However, as the number of trials where psychologists testified increased, prosecutors began summoning psychiatrists to counter the evidence presented by the defence. For instance, during the 1989 trial of the ‘Upington 14’, two psychiatrists testified on behalf of the state. These medical experts

70 Interview, Mr. Buten.
72 Cape Times, 16 June 1983.
contested the crowd theory analysis and presented as an alternative a cost-benefit analysis:

they were saying, these people are acting quite rationally, and their argument then was, these are political killers, but they’re acting quite rationally, in a political fashion, under cover of a crowd. They are pretending it is a crowd. They know what they’re doing. They in fact are out to kill what they regard as enemies of their own revolution. They made it into two steps. They made it clearly a rational decision, and secondly a rational political decision.73

Although the role of defence psychologists proved to be relatively unsuccessful, it attempted to unveil in the public sphere the connections between apartheid repression and psychological suffering, while connoting the increasing scientisation of the judiciary system. In the case of political defendants, lawyers were, however, wary of taking the implications of such a psychologisation further. Some defendants, such as Mxolisi Petane, who demanded during his trial in 1987 to be considered as a soldier and hence be judged as a Prisoner of War (POW), would have categorically refused the use of psychology for mitigating circumstances.74 In contrast with the contexts of Kenya, Mozambique and Rhodesia, although the apartheid judiciary system was infused with theories on the pathology of black deviance, it rarely psychiatred the accused’s political motives.75 Such tactic was used before, at the beginning of the twentieth century, to label Nontetha Nkwenkwe, an Eastern Cape prophet, as a hysteric and commit her for life to a psychiatric hospital.76 After 1948, except in cases where the death penalty could be imposed, the defence rarely considered a plead for insanity, be it for common law or political defendant, due to the fact that they considered the status of State President Patient as a harsher punishment than a prison sentence.77

73 Interview, Mr. Holler.
74 MDR. State v. Mxolisi Edward Petane, 3 November 1987; Interview, Mr. Gardener.
75 On Kenya, see Mahone, ‘The Psychology of Rebellion’. On a comparison between different African colonial settings, see McCullock, Colonial Psychiatry.
where defence lawyers rarely appealed to the psychological discipline during Mau Mau trials, such a plead was considered ‘too dangerous an option’ for South African political prisoners.\textsuperscript{78} Indeed, the latter saw prison incarceration as part of their political career, especially if they were sent to Robben Island, and generally preferred the more ‘political path’ of prison than the delegitimation engendered by a psychiatric admission.

Ironically, psychology was eventually used to prove the lack of responsibility of the accused in 1997, during the Truth and Reconciliation Commission hearings. As described by Leigh A. Pane, Jeffrey Benzien, ‘the iconic apartheid torturer’, received amnesty after his psychologists managed to convince the committee that his will to obey his superiors had provoked emotional trauma and amnesia.\textsuperscript{79} In the meantime, the appearance of psychologists and psychiatrists from the 1970s onwards revealed that the courts had become political arenas where the authority of the apartheid state was constantly challenged and reiterated.

\textit{The Court as a Political Arena}

While the use of experts gave a gloss of objectivity to the adjudication process of apartheid courts, black South Africans were losing trust in this system, too blatantly biased against them to be perceived as fair. In the 1960s, during the first peak of repression, the courts, although they retained some independence, showed little resistance to the repressive legislation they were to implement. By the mid-1970s, some dissident voices began to express criticism as to the collusion between the executive powers of the state and the judiciary. In 1975, the General Council of the Bar of South Africa opposed itself to the proposed legislation on the Codification of Common Law

\textsuperscript{78} Interview, Mr. Ebbing.
Crimes against the State. In 1979, the academic lawyer Van Niekerk exposed the influence of race on the imposition of death penalty in South Africa, and was consequently charged – and eventually acquitted – for contempt of court. The 1980s were characterised by a heightened repression, the enacting of legal reforms and the declaration of successive states of emergency. In the midst of this ambivalence, a Commission of Inquiry into the Structure and Functioning of the Courts, appointed in 1979, handed over its final report in 1983. It outlined a number of aspects to be modified in order to ensure the perpetuation of the role of justice ‘in the maintenance of peace, order and stability in the community’. Despite this rhetorical effort from the part of the government to assess the good functioning of its courts, the decade was marked by an increasing contestation of the bias inherent to the apartheid justice. The legal and judiciary systems had become, in the view of the black population and of white dissidents, criminal. Courts became political arenas, where the defendants and their lawyers questioned the legal discourse and its bitter ‘games of truth’, which defined what was ‘true’ and what was ‘false’.

This was particularly manifest during ‘political trials’, where the accused had access to legal aid and were more knowledgeable about the law, and where the public attention drawn by the cases was significant. The very recognition of a trial as ‘political’ was, however, a fight in itself. Indeed, being labelled as a ‘political prisoner’ was tantamount to one’s struggle being apprehended as legitimate. People who were not recognised as leaders or active members of banned organisations were largely charged

83 HPW, AG3245. Submission to the TRC on the Role of the Legal System under Apartheid, by the Centre for the Study of Violence and Reconciliation (hereafter CSVR) and Lawyers for Human Rights (hereafter LHR), 29 October 1997.
with ‘common law crimes’. For instance, the police used the doctrines of common purpose and public violence to criminalise public protests and movements of dissents. They especially targeted young people. According to the Repression Monitoring Group, in 1985, out of the 18,966 people arrested for ‘politically-related offences, 13,556 were under the age of 20 and 9,857 were arrested for public violence’.85 The use of psychiatrists and psychologists during these trials concealed that the actual debate hinged on the qualification of offenders as ‘criminal’ or ‘political’.86 The defence sustained by psychologists’ arguments on the crowd theory was hence ambivalent. On the one hand, during public violence and common purpose trials, it attempted to diminish the political awareness of the accused in order to save them from a death sentence. On the other hand, during acknowledged political trials, the psychological defence was restricted to the links between torture and admissibility of evidence, in order not to prejudice against the political awareness of the accused. In a sense, this two-fold defence reinforced the dynamics of the government, which criminalised and pathologised the behaviour of the swart gevaar, while recognising the political status of some freedom fighters to condemn them to long and exemplary prison sentences.

As Martin Chanock had described it, the division of the apartheid judiciary into three levels was instrumental in creating an ‘image of legalism’ covering the fact that ‘the “rule of law”, far from being colour blind, was in its outcome an instrument of legal segregation’.87 Regional magistrates’ courts were mainly responsible for the control of deviant bodies. They reproduced colonial features of governmentality by sentencing Blacks who had transgressed the rules specifically designed to control them.88 Magistrates, the ‘footsoldiers of the judiciary’, as the Centre for the Study of Violence

85 Cape Times, 6 June 1986.
86 Interview, Mr. Holler.
and Reconciliation and Lawyers for Human Rights called them, had close affinities with police officers, who often served as public prosecutors in Magistrates’ courts. They were hence perceived rather as ‘an extension of the police force’ than a part of the judiciary. The provincial divisions of the Supreme Court dealt with serious crimes such as murder and rape, as well as with political offences involving, among others, treason and terrorism. Their judges both reflected and reinforced the frontiers between constructed racial categories, between deviance and normality, between submission and dissent. The Appellate Division, as the country’s highest court, played a fundamental role in legitimising the tactics employed by the apartheid police force to impose social control. It interpreted the security legislation and refuted, for instance, any contestation of the admissibility of evidence relating to torture.

Public violence, common purpose and ‘political’ trials differed from other trials due to the fact they received much more publicity. During the lengthy 1983 trial of Oscar Mpetha and 18 others, charged with murder and terrorism, a crowd of 400 people gathered outside the Cape of Good Hope Provincial Division, located in the Cape Town Huguenot Chambers. The police attacked them and arrested seven people. Such public attention was crucial in the constitution of courts as political arenas, for it played an eye-witness role to the argument opposing the prosecution and the defendants, who not only had to win the case but also had to convince the public of the rightfulness of their stance. These trials, which rhythm the 1970s and 1980s, rapidly turned into public scandals revealing the bias of the judiciary system and its colonial foundations. Indeed, the mere composition of the courts reflected the conflicting dynamics between the state and its opponents as well as the racial structure of the South African society. Judges and

89 HPW, AG3245. Submission to the TRC on the Role of the Legal System under Apartheid, by the CSVR and LHR, 29 October 1997.
90 Ibid.
91 Cape Herald, 9 April 1983.
assessors were nearly exclusively Afrikaans-speaking Whites, while the majority of
defendants were black. Defence lawyers, although predominantly white, came from a
more diverse range of communities.\textsuperscript{93} From the beginning, black offenders were hence
confronted by two obstacles when attempting to explain their side of the story. The first
one rested in the fact that they could not follow the proceedings of the court conducted
in Afrikaans and that the interpreters deformed their arguments.\textsuperscript{94} The second was that in
the vast majority of criminal cases, the accused were either not aware of their rights to
legal representation or could not afford the latter.\textsuperscript{95} The trials involving high-ranking
members of banned organisations, or common purpose and public violence trials where
the Legal Aid Fund provided the accused with a defence constituted exceptions to this
rule which revealed that class and race bore a fundamental influence on the adjudication
process.

During the 1980s, the new security legislation restricted some aspects of the
independent status of judges and reinforced the ideological collusion between executive
and judicial powers. Courts had to buttress police repression. Louis le Grange clearly
stated this two years before his appointment as Minister of Law and Order in 1982 when
he threatened that ‘all white liberals and black radicals’ would be ‘exposed to the full
force of the authority of the state’ if they violently attacked ‘the white man’.
\textsuperscript{96} To take
up the analysis of Jean and John L. Comaroff, the apartheid state, in its colonial
features, relied on ‘lawfare’, defined as ‘the resort to legal instruments, to the violence
inherent in the law, to commit acts of political coercion, even erasure’ for its imposition
of social order.\textsuperscript{97} As it encountered resistance in townships and rural areas, the apartheid
state also encountered protest within courtrooms. Interestingly, by the 1980s, another

\begin{flushright}
\textsuperscript{93} Interview, Mr. Holler.
\textsuperscript{95} Cape Times, 16 May 1975.
\textsuperscript{96} Rand Daily Mail, 20 February 1982.
\end{flushright}
reason why resistance movements chose courts as ‘spaces of struggle’ lay in the fact that all other meetings, with the exception of those taking place in churches, had been outlawed:

we spoke in those days about spaces of struggle, where you could legitimately fight battles against the apartheid state. The apartheid state closed down so many places because they simply banned organisations, illegalised, outlawed meetings. The standard process was repression. From 1985 effectively there was a state of emergency across the country, which meant the whole country was closed down. It was one of the few places you could actually legitimately gather people together, so quite apart from the actual business of the court case, it was also a legitimate place to get struggle comrades with lawyers, and actually talk about tactics. Apart from this, it was sometimes a place to pass information. The ANC was planning this manoeuvre. Pass this to your comrade in prison. So it was a distinct site of struggle. 98

Although resistance to the judiciary expressed itself in a great variety of forms, the strategies implemented during political trials were the ones which drew more public attention. Among others, three kinds of approaches gained specific significance. They revolved around the thorough explanation, to the attention of the public more than for the white judges, of the reasons which had led individuals to become politically-involved; the refusal to recognise the legitimacy of the apartheid courts; and the request to be judged as Prisoners of War. Defence lawyers applied the first strategy in a number of renowned cases throughout apartheid, the most famous one being the Rivonia Trial of 1963-4, and often corroborated it with ‘expert’ witnesses. In 1976, during the SASO-BPC trial, Adam Small, a ‘coloured’ writer, commenting to Judge Boshoff the point of view of the accused, asserting that ‘Whiteness had become a value which negated the Blacks’ humanity. The Black man became the departure from the norm – the non-White. As such the Whiteness concept must be destroyed, but not the White man himself’. In another instance, in 1987, during the ‘Mandela’s Men Trial’, the historian Colin Bundy summarised the history of the ANC, outlined the policy of the party relating to ‘soft’ and

98 Interview, Mr. Holler.
‘hard’ targets and analysed the political context of the 1980s for the court in an attempt to find extenuating circumstances for the accused.\(^9\) He spelled out ‘the cumulative impact upon individual lives of the apartheid system’ and how ‘all of these men came to know the structural or objective “givens” of racial capitalism’.\(^10\) The economist Francis Wilson also gave evidence during this trial.

Political defendants increasingly used the strategy which consisted in refusing to acknowledge the legitimacy of the courts during the 1980s. This strategy often involved some act of protest by the defendants. The latter attempted to prove that courts, by acquiescing in the executive powers of the apartheid state, had lost their fairness and had become a ‘farce’.\(^11\) The judiciary reflected without challenging them discrepancies such as the fact that apartheid courts were condemning an ideological violence, defined in the Internal Security Act as ‘a method applied by a group or groups to eliminate the existing order in the country by means of non-parliamentary conduct’, while such Parliament only represented a minority of South Africans.\(^12\) During the Ashley Forbes trial, which began on 22 March 1988, the accused, charged with terrorism, sabotage and membership of a banned organisation, the ANC, refused to ‘recognise the jurisdiction of the Court’, and consequently entered pleas of not guilty.\(^13\) On 27 April 1988, the judge decided to exclude the public from the hearings, after ‘shouting and disturbance’ that ‘emanated from the accused and [were] responded to by the gallery’ had affected the proceedings. The next day, the accused refused to come to court, requesting the presence of their families. The judge therefore ordered that the accused be brought in, by force and handcuffed if necessary, in order for them to explain their attitude. The

\(^{99}\) Information drawn from a personal communication with Colin Bundy, 28 November 2013.
\(^{100}\) \textit{New Society}, 14 August 1987.
\(^{103}\) MDR. S. v. Ashley Forbes and 14 others, 2 August 1988.
accused reasserted their will to be absent from the hearings, a position which led to the following debate between Judge Williamson and Ashley Forbes:

\[\text{Accused n° 1:}\ I\ think\ maybe\ I\ just\ want\ to\ re-explain\ the\ position\ that\ in\ the\ beginning,\ we\ made\ quite\ clear\ that\ we\ first\ refused\ to\ plea\ because\ we\ do\ not\ recognise\ proceedings\ and\ secondly\ that\ we\ see\ that\ in\ the\ proceedings,\ there\ is\ a\ farce.\ I\ think\ the\ way\ proceedings\ are\ going...\]
\[\text{Court:}\ I\ can’t\ hear\ what\ you\ are\ saying.\ You\ say\ what?\ The\ proceedings?\]
\[\text{Accused n° 1:}\ Is\ but\ a\ farce.\]
\[\text{Court:}\ What\ do\ you\ mean?\]
\[\text{Accused n° 1:}\ That – maybe a better way is to say a joke.\]
\[\text{Court:}\ Why\ do\ you\ say\ it\ is\ a\ joke?\ Have\ you\ ever\ been\ in\ court\ before?\ Maybe\ I\ shouldn’t\ ask\ you\ that\ question,\ but\ what\ is\ happening\ here,\ this\ is\ the\ normal\ way\ in\ which\ trials\ are\ conducted.\]
\[\text{Accused n° 1:}\ No,\ I\ don’t\ see\ any\ normality\ in\ this\ case.}\]

In 1990, 17 people were charged after the police arrested them during a women’s march in Ashton on 30 June 1989, to protest against the police violence which prevailed in the township. The accused decided, although they knew they would be found guilty of ‘common purpose’, to contest the legitimacy of the court:

\[\text{we will refuse through the statement to participate in the court proceedings; it’s our opinion that the law that prohibits people from peaceful protest – and more especially when their lives and those of their children are in grave danger – is contrary to the interests of the people and the community in which they live, and is therefore not acceptable, and we do not recognise the court proceedings which seek to enforce such a law.}\]

During the Yengeni trial of 1989, the accused went as far as reversing the charge of terrorism against the apartheid regime, revealing the dynamics at play behind this defence strategy:

\[\text{The regime therefore stands accused of treason and the people do not and will not withdraw that charge. […] This is called the maintenance of law and order. We call it terrorism. […] Most regrettably, apartheid has not left the legal system and the judicial process of this country untainted. With due respect to your Lordship and learned Assessors, we have to point out that an official Court in this country cannot ignore the laws to which it owes its existence, nor the body of laws which constitute the apartheid legal system: in other words it is enjoined to apply an unjust legal system. […] We cannot therefore have confidence in those Courts; they are not the Courts of the people of South Africa; they cannot}\]

dispense ‘justice’ except in accordance with the guidelines and rules devised by the oppressor. […] While, therefore, we find ourselves compelled by circumstances to participate in the proceedings in this case, as we intend to do, we have no desire, nor do we find it necessary, to plead to the charges brought against us in this court.106

Through these statements, the defendants attempted to contest the use of the courts in the legitimation of the South African state of emergency, by challenging, in Agamben’s words, ‘the juridical significance of a sphere of action that is in itself extrajuridical’.107 The last approach which could be adopted by the accused was to claim to be judged as Prisoners of War. The defence implemented this method in a few trials such as the 1987 Delmas Four trial and S. v. Mxolisi Edwards Petane trial.108 Notwithstanding the fact that the accused faced death penalty, they deliberately chose a hopeless strategy. It consisted in convincing the court to recognise them as belligerents in order for them to be protected under the Geneva Conventions. Although it was inadmissible for the judges to recognise that they were themselves illegitimate, the purpose of this approach was to demonstrate that the apartheid regime was at war against the South African population which, in accordance with international law, was allowed to claim the right to self-determination.109 In his refusal to plead, Mxolisi Petane stated that:

The inherent political system of racial discrimination, i.e. apartheid, has prevented the majority of the people in South Africa from participating in the making of the laws which are now being enforced against me. […] Consequently I find myself in conscience unable to plead to charges which label me as a terrorist for opposing apartheid and I regard the prosecution itself as a crime against humanity. […] Lastly, with all due respects to Your Lordship, I foresee my trial being used by the State to deceive my fellow countrymen and the world at large into believing that the judiciary is independent and that there is justice in South Africa. I believe that unjust laws cannot by definition be justly applied. Therefore I do not believe that these proceedings can be just, or that the judicial

106 MDR. Plea of the Yengeni accused, 1989.
107 Agamben, State of Exception, p. 11.
108 For a precise account of the Delmas Four trial, see P. Harris, In a Different Time: the Inside Story of the Delmas Four (Cape Town, 2008).
109 Interview, Mr. Gardener.
system can be independent or indeed that it can operate for any other purpose than for the further entrenchment of white domination.¹¹⁰

During the 1970s and 1980s, quite a different series of trials disclosed that common law prisoners, who were deprived of any access to the public sphere, also constructed the courts as political forums. As Caesarina Makhoere described, committing an act of violence in prison that ‘involved blood’ could be a method to access the public sphere, for any such case was referred to the South African Police and judged in a court outside prison.¹¹¹ From the mid-1970s onwards, a number of prison gang members were charged with murder across the country. Each time they appeared in court, they revealed the living conditions and daily abuses warders subjected them to.¹¹² They also disclosed, to the astonishment of judges, part of the functioning of the Number and other prison gangs. Although it was mainly interested in the dreadful details of these murder cases, the South African society discovered that a parallel order ruled the prisons, with its own allegiances, judiciary system and language. In 1978, during the S. v. Pietersen and two others trial, the accused suddenly shouted at a state witness who was their fellow inmate at Victor Verster in a language ununderstandable by the court and the public. As related by Johnny Steinberg, the reason for this outburst was that ‘the state witness had strayed from the script written for him by the gangs that controlled Victor Verster prison’.¹¹³ During the same year, five Brandvlei prisoners, who were charged with the murder of another inmate, explained to the court that in this particular prison, the 26’s and 28’s had been at war since 1976. Often sentenced to the death penalty, gang members sometimes told the judges that they favoured the rope over a lifetime in jail.¹¹⁴ Gradually, judges were confronted with the thorny issue of

¹¹¹ Makhoere, No Child’s Play, p. 65.
¹¹³ Steinberg, The Number, p. xi.
appraising the belonging to a prison gang as an extenuating circumstance, for the accused were ‘soldiers’ who obeyed the orders of their organisation and who would have been severely punished, and sometimes killed, if they had refused to obey.\textsuperscript{115} Prison murders were not only the consequence of the punishment meted out by the gangs’ own judiciary system. They were also a way to try and skirt the social isolation of prison sentences and bring to light the abuses inherent to the prison system. As a Pollsmoor prisoner explained it, ‘We make murders in prison. We kill the inmates to get attention by the high court. But the high court is also corrupted, then they give us the death sentence. Then everything goes dead’.\textsuperscript{116} The same tactic was at play when stabbing a warder to death, although prisoners were well aware that the courts would eventually only give legitimacy to the fellow warders’ testimonies.\textsuperscript{117}

The strategies prison gang members implemented in front of the courts differed from the legal defence advanced by accused recognised as ‘political’. They still challenged the judicial system, though in a less straightforward way. Indeed, following Rancière’s definition of political activity, prison gang members interrupted ‘the natural order of domination’ by enunciating a discourse that was, until then, considered as mere ‘noise’, by displacing bodies from their assigned places to new sites where they would be visible.\textsuperscript{118} By appearing in court with their own codes of conduct and loyalty, prison gang members attempted to detach themselves from the mark of social infamy and assert their role as soldiers fighting against the prison administration.\textsuperscript{119} For political accused and gang members, the court had hence become, during the second half of apartheid, a political arena. The fate of those qualified as ‘mentally ill’ during judicial

\begin{small}
\textsuperscript{116} Interview, Mr. Urbosch.
\textsuperscript{117} Interview, Mr. Bashophu.
\textsuperscript{118} Rancières, \textit{La mésentente}, p. 53.
\end{small}
proceedings also involved a struggle for legitimacy, albeit in confrontation with another set of rules: those enounced by the medical body.
Chapter 5

Allocating and Transferring: From the Prison to the Asylum and Back

Until the establishment of Lentegeur Hospital in 1986, every person referred to a psychiatric hospital by the courts, the police, the prisons or other institutions from the Cape Province, which included the Northern Cape and the Eastern Cape, ended up in Valkenberg for observation. If, according to the tests applied during this period, psychiatrists found the person to be mentally disturbed or ‘retarded’, they recommended his or her admission to a psychiatric hospital or a prison under the status of State President Patient, psychopath or involuntarily committed patient. The scant presence of patients’ testimonies and experiences in the archives makes the task of a historical reconstruction of their trajectories particularly complex. This ‘pregnant silence’ which according to Gayatri Spivak characterises the colonial archives as a whole, does not impede, however, the analysis of the dynamics at play behind the incarceration of mentally ill people.\textsuperscript{120} The assessment, categorisation and consequent incarceration of the mentally ill revealed both the social norms sustaining the apartheid system and the ‘barriers to understanding’ and struggles over space and body, opposing the predominantly white doctors to the predominantly black deviant Others.\textsuperscript{121}

\textit{Psychiatric Referrals and Observations}

Throughout apartheid, when a judge referred an offender to a psychiatric hospital during his or her trial, or when the police or the family of a person deemed ‘troubled’

brought him or her to a psychiatric hospital, such person was subjected to a 30-day observation period in the Maximum Security section of the hospital. In addition to the elements outlined above relating to the extenuation of circumstances and the ‘psychopathic’ personality, a magistrate often referred an offender for observation when he could not apprehend the rationality of the latter. In 1948 for instance, a judge sent an offender charged with trespassing to Valkenberg during his trial for he ‘gave no explanation’, ‘refused to speak, and persisted in shouting and whistling’.\textsuperscript{122} Magistrates could also charge offenders with minor offences in order for them to be admitted for observation in a psychiatric hospital and consequently be incarcerated more easily as involuntary patients.\textsuperscript{123} Indeed, if psychiatric authorities found offenders to be mentally disturbed, they did not have to send them back to the prison awaiting-trial section, and could directly admit them in their hospital for an indefinite period of detention.\textsuperscript{124} From the 1960s to the 1990s, 30 to 40 referred people arrived at Valkenberg per month. Due to the limited number of beds, many offenders were kept in the awaiting-trial section of Pollsmoor for weeks, waiting to be ‘observed’ and for their trial to resume.\textsuperscript{125} Valkenberg could also refuse to admit some awaiting-trial prisoners, such as Mr. Simons, the alleged ‘Station Strangler’, for ‘security reasons’, and observe them in Pollsmoor hospital.\textsuperscript{126} People admitted for observation without being charged by the courts were referred by district surgeons, whom psychiatrist considered as bureaucrats with a strong tendency to label people as mentally ill.\textsuperscript{127} Magistrates supervised the certification process, except when the police recognised a person as a ‘known patient’ and bypassed the courts in order to bring him or her directly to the hospital.

\textsuperscript{122} MAR, BC1043. Public Prosecutor to Valkenberg, 9 December 1948.
\textsuperscript{123} CTAR, HAI, 2/1/1. Commissioner for Mental Hygiene to Alexandra Superintendent, 1 December 1947.
\textsuperscript{124} CTAR, HVG, 2/1/1. Secretary for the Interior to all Magistrates in the Union, 25 February 1926.
\textsuperscript{125} Bateman, ‘The Insanity of a Criminal Justice System’, p. 208.
\textsuperscript{126} Cape Times, 30 April 1994.
\textsuperscript{127} Interview, Mr. Bauer, psychiatrist at Valkenberg, Valkenberg Hospital, 2 December 2010.
At the end of the 1970s, the major reasons sustaining the referral of offenders for observation included, in descending order, the fact that they had previously been psychiatric patients, their behaviour, addiction to alcohol or drugs, the nature of the offences, ‘low intelligence’, physical disabilities, head injuries, epilepsy, suspected psychopathic personalities and the social circumstances of the offenders. The charges against them mainly comprised theft, murder and assault, which constituted 47.3 per cent of the referred offences, as well as, to a lesser degree, housebreaking, sexual offences, rape, drugs, fraud, property damage and robbery. Vagrancy and arson were the less common offences leading to an admission for observation.128 Mental ‘abnormality’, ‘feeble-mindedness’ or ‘degeneracy’, as was considered intellectual disability depending on the period, received special attention from psychiatrists in the case of black offenders. Indeed, the link between crime, the theory of inferior races and the necessity for separate development was based on a scientific explanation, at the junction between criminology and psychiatry, of the physicality of the savage character and backwardness of ‘non-white’ populations.129 The incarceration of those who deviated from norms, be them social, political or mental, had to publicly appear as a legal and scientific necessity, a procedure of legitimation which the functioning of Valkenberg Maximum Security section best exemplified.

Before the construction of the building in which Ward 20 was to be located in 1976, nurses held people referred from the courts in a closed ward separated from the common wards.130 The courts informed Valkenberg of each new referral, and the hospital, in turn, gave notice to Pollsmoor each time it could admit an awaiting-trial prisoner.131 Soon after the opening of Ward 20, the number of referrals resulted in the

128 These statistics are drawn from Zabow, ‘Management of Mentally Ill Offenders’, p. 453.
129 Chanock, The Making of South African Legal Culture, p. 64.
130 Interview, Mr. Dejan.
rapid overcrowding of the section, initially designed for 80 beds, with some offenders being allocated a place to sleep on the floor after the police brought them from the court. High-profile political awaiting-trial prisoners were held in special wards, with a policeman standing guard at the door. For Valkenberg psychiatrists, this situation interfered with the medical environment created in the hospital. Forensic psychiatrists could also ask Pollsmoor to keep the referred offenders in jail, for they considered them too dangerous to be admitted in Ward 20. During the 30 days of observation, the offender referred by the court had to pass a series of tests and was under the behavioural surveillance of a multidisciplinary team. A psychiatrist and a registrar led the team, which was constituted of a psychologist, who subjected the offender to a set of tests, a social worker who collected information on background, an occupational therapist who assessed functioning, and the nurses, who reported how he or she behaved inside the ward. Under the new precept of the multidisciplinary team and its emphasis on therapy lay, in fact, a rigid hierarchy where psychiatrists were in position of command and left very little margin of manoeuvre to other physicians in their attempt to create a more therapeutic environment.

Psychiatrists treated psychologists as mere ‘vehicles to test people’. During the late 1960s and 1970s, psychologists in training had to test offenders. Despite the fact that they were not qualified psychologists, they had the responsibility of determining if an accused would be sent to prison, receive mitigating circumstances or be certified as a State President Patient:

132 Interview, Mr. Colman.
133 Interviews, Mr. Dejan and Mr. Belling.
134 Interview, Mr. Dejan.
135 Interview, Mr. Colman.
137 Interview, Mr. Holler.
So I spent vacations probably in 1968, 1969, 1970, the long vacations and even some of the short vacations around about 1969-70, at Valkenberg Institution, where I was given a white coat, a name tag, a bunch of keys. Astonishingly, although I had no training, I was regarded as a psychologist. So the very first task I was given there was to interview a murderer to see if he was fit to stand trial, unbelievable responsibility for somebody who was probably then in his second year of psychology, with no official training. This was part of the astonishing lack of accountability, the almost primitiveness of an institution like Valkenberg in those days.\(^\text{138}\)

Psychologists had to appraise the ‘defective mental development’, the ‘psychopathy’ and if the accused understood, at the time of the offence, the difference between right and wrong or was in a ‘psychotic’ state. They would then make recommendations to psychiatrists as to the criminal responsibility of the accused, his or her mental deficiency and his or her ability to follow the trial proceedings. In the case of violent offences, if the referred offender failed the tests and showed symptoms of mental illness or deficiency, psychiatrists advised the court to certify him or her as a State President Patient. For minor offences, charges could be dropped and the offender would be admitted as an involuntary patient. Lesser forms of mental disturbances could have an impact on the severity of the sentence passed by the judge or magistrate.\(^\text{139}\)

The functioning of Ward 20, despite the problematic tests applied, the use of trainees as psychologists and the conditions of detention, gave the courts a scientific legitimacy which, as Bernault described in the case of colonial Southern Gabon, moved ‘away from frightening images of domination predicated on racial distance, to a narrative of benevolent racial hierarchy and scientific expertise’.\(^\text{140}\)

The tests applied by psychologists hinged on two legal aspects: the circumstances of the crime, and the ability of the accused to stand trial. Regarding the first aspect, an initial series of tests aimed at assessing the IQ of the offender, also called query of Defective Mental Development. Psychologists then had to assess the offender’s

\(^\text{138}\) Ibid.
\(^\text{139}\) Interview, Mr. Buten.
degree of psychopathy, by using, in addition to a clinical interview, the Minnesota Multiphasic Personality Inventory (MMPI) and projective tests such as the Rorschach Test and the Thematic Apperception Test (TAT):\textsuperscript{141}

Sometimes you would use these things for intellectual and cognitive assessments, but also for diagnosis of psychopathy you would use tests like the thematic apperception test, TAT, which is the European derivation where you show picture cards to people and you ask them to tell you what’s going on and what’s happening. And you can pick up trends about responsibility and remorse and so on... it’s a projective test. And then there was another test that was commonly used, called the MMPI, the Minnesota Multiphasic Personality Inventory, and that is a card-sorting thing. What happens is that the person sits with a whole load of cards that are in a box, and I forgot exactly how it worked, but out of that test you develop a profile of that patient which you plot on a graph where in x axes you have clinical conditions like psychopathy, like anxiety disorders, like depression, etc. So you would put that kind of evidence together with the TAT test, and a clinical interview of course, a mental state interview. And out of that you would form an opinion putting all these tests together, that you would then provide to the medical officer.\textsuperscript{142}

Through these tests, psychologists were also supposed to assess if the accused were psychotic when they committed the offence, and if they were still psychotic at the time of the trial, and were therefore unable to follow the court proceedings. Usually, they only implemented these tests in ‘borderline’ cases. For other cases, psychologists deemed that a clinical interview was sufficient to appraise the mental status of the accused. Despite this supposedly strict and scientific categorisation process, judges could also ask the psychiatrists whom they called into court to comment on their reports, questions about the personality of the offender. This revealed that the courts did not only increasingly rely on psychiatric and psychological categories, but were subjected to a more general process of psychiatrisation, where the functions of the police, the courts and psychiatry sometimes risked becoming blurred.\textsuperscript{143} In 1970, during the trial of two accused charged with theft, arson and murder, the presiding judge

\textsuperscript{141} HPW, A1212. Memorandum submitted by L.F. Freed before the Commission into the Responsibility of Mentally Deranged Persons and Related Matters, 28 March 1967.
\textsuperscript{142} Interview, Mr. Buten.
\textsuperscript{143} Bennett, \textit{The Cohen Case}, p. 184.
refused to admit the evidence presented by a psychiatrist from Valkenberg whom the state prosecutor had summoned. The psychiatrist had provided the court with information relating to the circumstances of the crime – and not the mental state of the offender – received during a clinical interview with one of the accused, referred for observation at the hospital. On this occasion, the judge asserted that accepting such evidence ‘would be to embark upon a dangerous course’, where the distinction between ‘the duty of the Police’ and the expertise of the psychiatrist would fade away.144 Under their scientific gloss, the tests applied during observation periods also disclosed the accepted premise linking mental illness and criminal acts. The power of psychologists was not only vested in the impact of their reports on the sentence or the certification process an offender would consequently be subjected to.145 Their expertise, thus brought in the public sphere, provided the South African society with ‘parameters of normality and abnormality’.146 Psychologists both reflected and devised the social norms at play behind the questions of self and difference, sanity and deviance, and participated in the formulation of the apartheid repressive power as a natural and legitimate one.147

Throughout apartheid, a recurrent cause of worry and criticism hinged on the acknowledgement that the different tests applied to categorise mental illnesses were not ‘standardised’ for the South African ‘non-white’ populations. This concern mainly emanated from institutions and individuals involved in psychiatric and psychological practices, and mostly targeted the appraisal of ‘Defective Mental Development’. In 1950, in its annual report, the Cape Mental Health Society deplored the lack of institutions for ‘mentally deficient non-Europeans’ and asserted that ‘for diagnostic purposes it has been found that the available standardised tests are not all suitable for

the population concerned’. Some psychologists who worked at Valkenberg during the beginning of the 1970s described how they complained that Block tests and Draw-a-Person tests, which were supposed to be ‘culturally fair’ because they were not verbal, were not sufficient to assess the intelligence of people coming from townships and rural areas, living in deprived social conditions forced upon them by the apartheid state and with low degrees of literacy. Although it is obvious that the construction of memory, influenced by the ‘socio-political context of experience’, played a role in depicting their role as opponents to the system, at the time, other institutions and individuals already saw this method of testing as problematic. Psychologists retrospectively structured the time they spent at Valkenberg as being a ‘mad’ one, a realisation that what they were doing was ‘crazy’, but without the choice to do more than slightly disrupting the system from the inside. As it often occurs with interviews led with psychiatric hospitals’ personnel, ambivalence and feelings of shame punctuated the discourses of these psychologists, who later became involved in the struggle against the apartheid system.

In a repressive regime that shared many features with colonial settings, and that based its perpetuation on the hierarchization of racial categories, the absence of standardised tests for ‘Africans’, ‘Indians’ and ‘Coloureds’ could seem paradoxical. As Sally Swartz has pointed out however, although white doctors described the ‘non-White’ as colonisable, they were also embedded in the tradition of Western thought, which presupposed universal illnesses and treatments. The South Africa medical discipline was hence caught in the contradiction of asserting biological and cultural differences between constructed racial groups, which allegedly led to different impulses towards

149 Interviews, Mr. Holler and Mr. Buten.
151 Interview, Mr. Buten.
crime, while applying similar tests and categorisation processes to all patients. The discrepancy between the language of the white doctor and the particular rationality of the ‘indigenous’ also became a growing cause of concern at the beginning of the 1970s. In the line of the separate development theory, psychiatrists’ answers to this dilemma was to call for

a new and less specialised grade of [indigenous] mental health worker, and we need him in his thousands – someone with a basic general education onto which has been grafted a special (if limited) psychiatric training of say, a year or two, which is strictly relevant to the work he will do and to the particular community he will work in.\textsuperscript{154}

As Keller has shown in the case of French Algeria, psychiatrists both had to present themselves as part of a modern and cutting-edge medical world, while adapting the use of racial categories to the political situation in which they were immerged.\textsuperscript{155} This double trend was even more blatant in apartheid South Africa for, by the 1950s, at an international level, the reference to race had left the psychiatric discipline, to be replaced by the ambiguous one to ‘culture’.\textsuperscript{156} The impact of this situation on psychiatric categorisation process was two-fold. Psychiatrists focused on black patients and offenders in order to find the social and cultural bases that would bolster the theory of racial differences.\textsuperscript{157} As the same time, they diagnosed fewer mental illnesses for black patients, for they saw the treatment deriving from a precise identification as a less important social concern.\textsuperscript{158} The outcome of this double process was that psychiatrists naturalised mental illnesses affecting black people, linking diagnoses to their primitive ‘culture’ and highlighting their relationships with crime, while dismissing the necessity to allay their suffering. The categorisation of ‘black illnesses’ by white psychiatrists

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\textsuperscript{154} LSGP. ‘Psychiatric Education and the Social Function of the Psychiatrist’, Presentation by L.S. Gillis at the World Congress of Psychiatry, Mexico, 1971. \\
\textsuperscript{155} Keller, ‘Taking Science to the Colonies’, p. 22. \\
\textsuperscript{156} McCulloch, \textit{Colonial Psychiatry}, p. 141. \\
\textsuperscript{157} Vaughan, \textit{Curing Their Ills}, p. 6. \\
\textsuperscript{158} Marks and Andersson, ‘The Epidemiology and Culture of Violence’, p. 50.
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answered to the same logics as the colonial knowledges described by David Washbrook in ‘the self-referential ways in which they “represented” the subject of their study’. Psychiatrists did not construct illnesses diagnosed among black patients as inherently specific, but essentially described them as differing from those of white patients.

The diagnostic and treatment of ‘female problem cases’, as they were called during the 1940s, revealed the same dual pattern. The psychiatric discipline offered an explanation of the links between women – and even more so black women – and crime primarily based on their sexuality. Women who committed criminal acts did not only infringe the laws of apartheid, they also went against gender norms which placed them in the domestic sphere of obedience and femininity. In 1941, the Coordinating Council of Welfare Organisation of the Cape Province had asked for the creation of an institution for the incarceration of female epileptics, who were mainly ‘problematic’ in the ‘Coloured community’ due to their frequent ‘delinquency’. Despite this initial demonstration of concern as to the links between black women and crime, due to the fact that the percentage of women ending in court was far lower than the one for men – during the year 1982-3 for instance, 92,396 women were sent to prison, in comparison with 467,939 men – the diagnostic of mental illness for women received limited attention from psychiatrists. Female mentally ill patients left scant traces in the archives, and were often categorised under the few same labels: hysterical, epileptic, hallucinated, excited, suffering from post-partum disorder and violent. In the interviews led with psychiatrists and psychologists, the latter did not recall the presence of women in psychiatric hospitals. Statistics, however, reveal that in 1953, across the

159 Washbrook, ‘Orients and Occidents’, p. 596.
163 Durbach, ‘Reforming Women’, p. 66. Refer to the Appendice pp. 295-296 for broader statistical figures on sentenced men and women according to racial category.
164 MAR, BC1043. Medical certificates on female patients, 1948 and 1952.
country, there were 3,599 white women held in mental institutions as against 4,158 white men, and 2,632 black women compared to 5,380 black men. In 1975, the numbers were of 4,020 women against 4,324 men for white patients, and 3,349 women against 7,079 men for black patients. By the 1980s, all reference to gender had disappear from the official annual reports, except for drug rehabilitation statistics.

Despite the series of tests implemented during the observation period, the absence of precise standardisation and the few diagnostics available to label Blacks’ and women’s mental illnesses revealed the conditions of treatment to which the referred offenders were subjected if they were deemed mentally ill, psychopathic, mentally retarded and/or requiring the status of State President Patient. Once admitted to a psychiatric institution, patients were mainly divided into three groups according to their mental status: psychotic, non psychotic or mentally retarded. As it has been shown earlier, the main categorisation lines hinged on race, class, gender and violent behaviour. Interestingly, the only moment when a future patient could get an idea of the diagnosis elaborated on his or her mental state was when a prosecutor summoned a psychiatrist to court to comment on his report. Once committed, the person would be deprived of any such information, and would founder in the anonymous mass of patients, cut-off from society and with extremely few resources to fight against their social and civil death.

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165 GP, UCT. Annual Report of the Commissioner for Mental Hygiene, 1953-1954. Due to the exclusion of ‘independent homelands’ from the end of the 1970s, official population statistics according to racial categories during the later part of apartheid did not represent the whole population. The 1986 Survey of Race Relations by the South African Institute of Race Relations stated that, including ‘homelands’, in 1985, ‘Blacks’ constituted 74.1 per cent of the population, ‘Coloureds’ 8.6 per cent, ‘Asians’ 2.6 per cent and Whites 14.8 per cent. According to the 1996 population census, 77 per cent of the population classified themselves as ‘Africans’, 11 per cent as ‘Coloureds’, 3 per cent as ‘Asians/Indians’ and 9 per cent as Whites. C. Cooper, J. Schindler et al., Race Relations Survey 1986, Part I (Johannesburg, 1987), p. 2.


Committals to Mental Hospitals

Due to the intervention of psychiatrists in court, and the mechanisms of referral leading to involuntary detention, psychiatrists working in public hospitals took part in the dynamics of racial administration, power and control characterising apartheid South Africa.\textsuperscript{168} During the first half of apartheid, the state placed emphasis on the certification of involuntary mentally ill patients, for the establishment of a precise procedure sustained the liberal discourse hinging on the notions of care and treatment.\textsuperscript{169} This mechanism was also an attempt to prevent abuses generated by the discrepancy between the overwhelming medical power of the psychiatrist and the patients’ mute status. Any referral to a psychiatric institution for observation and consequent incarceration hence needed to be accompanied by several official documents.\textsuperscript{170} The escort of patients by the police to the hospital admission ward was also a cause of concern revealing the strong stigma associated with psychiatric referrals. In 1938, Valkenberg reminded the Deputy Commissioner of the Police that a police woman had to accompany female patients and that ‘in no case should European patients be sent under the care of constables in uniform’.\textsuperscript{171} The new Mental Health Act of 1973 did not change much of the referral procedure, and retained the most abusive mechanisms. It was not requested of doctors writing the reports to have any psychiatric training, and one doctor was enough to initiate the referral procedure. The allegedly ill person was not informed of the procedure, and in most cases, did not even see the magistrate who ordered his or her admission to a psychiatric hospital. Magistrates could only agree to the expertise of sometimes untrained doctors and the Act made no provision for the patient to contest the procedure in court. In addition, a special procedure for ‘urgent’ and ‘violent’ cases

\textsuperscript{169} Swartz, ‘The Black Insane in the Cape’, p. 401.
\textsuperscript{170} MAR, BC1043. A magistrate to Valkenberg superintendent, 4 June 1944.
\textsuperscript{171} CTAR, HVG, 2/1/1. Valkenberg to the Deputy Commissioner of Police, 16 March 1938.
was implemented, which enabled to bypass the referral by a magistrate and commit an individual against his or her will, the magistrate only being asked to caution the incarceration *a posteriori*.\(^1\)

The racial difference in treatment entailed by these referrals was blatant. During the second half of apartheid, only two per cent of all black patients were admitted voluntarily to hospitals, against 17 per cent for white patients.\(^2\) In addition, across the country, black patients were mostly committed to the privately-run Smith Mitchell institutions, where conditions of detention were far worse than in State Hospitals, to which white patients were sent. The situation in the Western Cape was slightly different, for judges committed a great number of black people to Uitvlugt, Valkenberg ‘black side’. In 1967, the total number of admissions at the hospital, voluntary and involuntary, for black patients amounted to 1,127, compared with 570 for white patients. By 1984, the numbers had risen to 3,941 and 908 respectively.\(^3\) According to Valkenberg psychiatrists, black and ‘coloured’ patients were, in comparison to white patients, younger, came from lower socio-economic backgrounds, and were generally affected by schizophrenia and substance abuses, while white patients suffered from affective disorders.\(^4\) In addition to this categorisation according to racial lines, patients referred by magistrates fell into different statuses, which all entailed indeterminate detention. The involuntarily committed were people referred by their family or neighbours, or found in the streets by the police, or offenders who had committed minor offences and whose charges had been dropped to commit them to a psychiatric hospital. State President patients had been found not guilty due to insanity by the court or unable to

\(^{172}\) Haysom, Strous and Vogelman, ‘The Mad Mrs Rochester Revisited’, p. 344.
\(^{175}\) Ibid.
follow the court proceedings. Those labelled as ‘psychopaths’ were sent to prison or to Zonderwater or Brandvlei prison-hospitals.

The ‘mentally defective’ constituted the last category, and were either sent to psychiatric hospitals or specialised institutions.\textsuperscript{176} Due to the fact that authorities used the same referral procedure for all categories, they had to reassert the difference between them every now and then. For instance, in 1931, Valkenberg Superintendent had to remind other institutions that there was a ‘definite delineation of the delinquent from the feeble-minded’.\textsuperscript{177} In the Western Cape, the creation of new ‘mental homes’, as they were called in the 1950s, revealed that the specificity of ‘arrested or incomplete development of the mind’ had become more largely known. With the exception of Alexandra Institute, which mainly accommodated European patients of all ages, these institutions targeted young people. By 1958, the Garden Home and the Torrance Home admitted a restricted number of young ‘coloured’ men, while the lack of facilities for young ‘coloured’ women and adult ‘Coloureds’ was publicly criticised.\textsuperscript{178}

In addition to authorising the initial committal, the magistrate was supposed to monitor the length of the patient’s detention as well as his or her discharge. Despite this attempt to circumscribe the power of the institution over detained patients, illegal incarceration and abuses were common throughout apartheid. In 1991, when medical officers had already accepted and implemented the idea of ‘community therapy’ for 20 years, a psychiatrist led a survey at Valkenberg Hospital and asserted that in most cases, discharges had not taken place due to a lack of contact with the family or to the status of State President Patient. According to him, the reason for the absence of discharge was not linked to any kind of mental illness, and 75 per cent of the detained patients did not

\textsuperscript{176} CTAR, HAI, 2/1/1. Alexandra Institute to the Secretary for the Interior, 2 January 1937. 
\textsuperscript{177} CTAR, HVG, 2/1/1. Valkenberg to the Dominion House, 15 May 1931. 
\textsuperscript{178} Cape Times, 28 February 1958.
need containment in a psychiatric hospital.\textsuperscript{179} The habit of keeping chronic patients for extremely long periods of time disclosed the profound structural problems of apartheid psychiatric services. In addition, a number of more straightforward cases of illegal detention scattered throughout the twentieth century produced a negative image of psychiatric institutions. As it was extremely hard for patients to raise complaints against their illegal detention, the few cases that left traces in the archives reveal broader patterns at play. In 1926, the fact that more than the legal six weeks could elapse between the issue of the reception order by psychiatrists and the magistrates’ orders to further the patient’s detention raised public concern.\textsuperscript{180} Ten years later, Valkenberg Superintendent commented to the Secretary for the Interior that measures restricting the time lapse for observation period helped ‘to allay the suspicion of the public about patients being illegally and unnecessarily detained in Mental Hospitals’.\textsuperscript{181} In 1950, a woman held at Valkenberg without being discharged due to the fact that the Superintendent was on a six month leave hired a lawyer to question her alleged insanity.\textsuperscript{182} At the beginning of the 1970s, a man’s wife and his mother-in-law committed him to Valkenberg after a magistrate accepted their application. He had to spend 30 days at the hospital, although psychiatrists asserted that he should never have been brought in the first place.\textsuperscript{183}

In 1984, a maximum security patient complained that despite representations from Valkenberg, Pollsmoor prison board was not prepared to consider his release on parole, although the offence of fraud he was initially charged with had occurred more than twenty years before.\textsuperscript{184} Indeed, the discharge of a ‘criminal mentally ill’ from a psychiatric hospital depended on the nature of the offence rather than on the state of

\textsuperscript{180} CTAR, HVG, 2/1/1. Secretary for the Interior to Valkenberg, 21 June 1926.
\textsuperscript{181} CTAR, HVG, 2/1/1. Valkenberg to the Secretary for the Interior, 7 September 1936.
\textsuperscript{182} MAR, BC1043. Attorneys to Valkenberg, 31 July 1950.
\textsuperscript{183} MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
\textsuperscript{184} HPW, AG3199. A Valkenberg patient to the LRC, 8 April 1984.
mind of the patient. This led to paradoxical situations where psychiatrists, who advised his and her release, had to keep the patient detained due to the prison administration’s disapproval.\footnote{Zabow, ‘Management of Mentally Ill Offenders’, p. 454.} In 1993, the South African Medical and Dental Council ‘disgraced’ a doctor for committing to a psychiatric hospital a man who was allegedly suffering from ‘alcohol psychosis’ without having examined him.\footnote{Cape Times, 23 June 1993.} In their functioning, psychiatric hospitals hence disclosed broader social trends in a caricatural fashion, while presenting themselves as rational organisations.\footnote{R. Castel, ‘Introduction’, pp. 30-1.} In 1932, the Ministry of Interior asked Valkenberg Superintendent to comment on the mental state of patients sending him complaint letters.\footnote{CTAR, HVG, 2/1/1. Secretary for the Interior to Valkenberg, 7 November 1932.} From the 1930s to the 1990s, it was also officially prohibited, except in very specific cases, for a patient to see the magistrate’s order of referral in order to prevent him or her from charging the authorities with illegal detention.\footnote{CTAR, HVG, 2/1/1. Secretary for the Interior to Valkenberg, 16 February 1933.} Both measures revealed that once authorities categorised people as mentally ill patients, they considered them as unable to formulate any rational thought, as deprived of the ability to complain and hence sentenced them to a form of civil and social death.

As the psychiatric discipline constructed ‘mental deficiency’ as a biological and uncurable condition, the detention of those labelled as ‘feeble-minded’ gained particular significance, for it exposed the frontier between humanity and the ‘inferior Other’. In the Western Cape during apartheid, Alexandra was the most prominent institution which housed, as they were still called in 1948, the ‘mentally infirm’, the ‘idiots’, the ‘imbeciles’, the ‘feeble-minded’ and the ‘socially defective’.\footnote{MAR, BC1043. Report of a district surgeon, 16 December 1948.} Alexandra either received patients referred by the courts or people whose family paid for their institutionalised treatment.\footnote{CTAR, HAI, 2/1/1. Alexandra Institute to the Secretary for the Interior, 24 June 1931.} Although in 1945 this mental home still refused to accept
'coloured' patients, by 1954 the increased public pressure placed on the issue of 'destitute' and 'mentally defective non-Europeans' led to the creation of a new 'coloured' male ward, which was designed to accommodate black, ‘coloured’ and ‘Indian’ men. Detained ‘Europeans’ mainly suffered, according to the administration, from ‘defective mental development’, with or without epilepsy. However, Alexandra also housed black patients categorised as psychotic, schizophrenic or paranoiac, revealing the fact that the delimitation between different mental statuses and the consequent allocation in distinct hospitals was implemented to a far lesser extent for black people. Indeed, although the South African intelligence-testing industry was already well established at the beginning of apartheid, the detention of ‘non-European feeble-minded’ people primarily responded to a white concern, nourished by the Mental Health Societies, about the security issue the latter allegedly constituted. In Scientific Racism in Modern South Africa, Saul Dubow traces the development of mental testing at the beginning of the twentieth century, explaining how psychological tests and investigation helped portraying an image of the black South African as innately inferior to the white one, and hence in need of political governance. A first series of tests had been standardised in the 1930s according to the perceived differences between the South African populations, but these tests were rarely updated during apartheid. In 1967, P. M. Robbertse, the president of the conservative Psychological Institute of the Republic of South Africa (PIRSA), stated that members of this association ‘should be encouraged to undertake such research because it concerns the scientific basis of separate development and strikes at the root of our continued existence’. The function of these

192 CTAR, HAI, 2/1/1. Alexandra Institute to the Magistrate, 23 July 1945.
196 Interview, Mr. Holler.
outdated intelligence tests also rested in the fact they legitimated the need to separate and detain the intellectually disabled and compartmentalise different styles of delinquency. Once committed to these mental homes, children and adults received ‘elementary training in acceptable social behavior’ and ‘individual instruction in ordinary crafts and hobbies’.\textsuperscript{198} At Alexandra, the main activities consisted in stringing tobacco bags and fringing rugs for outside factories. According to the administration, this work had a ‘stabilising effect’ on the patients and resulted in significant savings for the Department of Health.\textsuperscript{199}

During the 1960s, some psychiatrists and psychologists attempted to break away from the monolithic treatment to which patients were subjected once they were categorised as mentally ill, psychopathic or mentally retarded. At Valkenberg, psychiatrists opened sections to treat in a more specialised way patients suffering from alcoholism, drug addiction, senility, or labelled as ‘acutely psychotic’. Despite this endeavour, the more detailed categorisation did not prevent the fact that Valkenberg authorities still primarily appraised involuntary patients as dangerous. According to a psychiatrist who participated in the launching of this treatment differentiation, patients remained above all people who ‘escaped’, ‘raped’ and were ‘troublesome, addicts, psychopaths, behaviourally disturbed individuals’.\textsuperscript{200} Indeed, like in other colonial settings such as Nyasaland (now Malawi) or Nigeria, the general perception shared by psychiatrists was that black involuntary patients who had committed a crime prior to their admission filled mental hospitals.\textsuperscript{201} For apartheid psychiatrists, this came to support the theory of a link between race, criminality and madness. They rarely took into account the fact that a number of social dynamics could explain the higher rate of

\textsuperscript{199} CTAR, HAI, 2/1/1. Alexandra psychologist’s report, 16 August 1949.
\textsuperscript{200} Interview, Mr. Belling.
\textsuperscript{201} Vaughan, ‘Idioms of Madness’, p. 221; McCulloch, Colonial Psychiatry, pp. 32-3.
black ‘criminally insane’. The implementation of apartheid laws, which specifically strove at controlling and repressing the everyday gestures of black South Africans, and the structural racism of the apartheid society meant that the police were far more likely to arrest black people. Due to the use of psychiatric tests designed by white psychiatrists and the fact that the medical staff only spoke English and/or Afrikaans, medical officers rarely understood the rationality behind the accused’s acts. In addition, the conflict between traditional healers, belief in witchcraft and structures of local solidarity on the one hand, and the discipline of psychiatry practiced by a white doctor, seen as an auxiliary of the apartheid state on the other hand, also explained why proportionally, more black patients were referred by a judge than by their own family.  

In some cases however, psychiatric hospitals came to symbolise a place where the supposed disarray stemming from the overlapping of ‘ethnicity’, as described by John Lonsdale, with the authority of the South African state could be ‘treated’. A psychologist working at Valkenberg in the 1970s described how, for instance, a patient’s family committed him because he heard voices. The patient asserted he was in fact receiving the calling to become a sangoma, a traditional healer, a calling which has often been assimilated to a kind of psychosis. His parents, who were Methodists, refused to let him follow his initiation path and committed him to Valkenberg to cure his auditive ‘hallucinations’. Such an example illustrates that the violence of psychiatric labelling and involuntary incarceration during apartheid was not only induced by the abusive mechanisms of referral and the overwhelming form of power-knowledge imposed by psychiatrists. In its colonial features, the apartheid state led to a ‘schizophrenic culture’. The state delegitimised the healing repertoire of structures of

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204 Interview, Mr. Buten.
solidarity and belief which did not tally with the one of the white minority while it equated Blacks’ ‘madness’ with crime, contamination and social degeneration.  

**Transfers Between Prisons and Psychiatric Hospitals**

Although judges directly committed most patients held in Valkenberg Ward 20, non-certified common law and political prisoners also ended up in the hospital for shorter periods of time. The high prevalence of mental illness in detention was a subject of preoccupation for psychiatrists, who were aware that the services they delivered inside prison were largely insufficient. Often, when they accepted the transfer of a particularly extreme case from Pollsmoor to Valkenberg Maximum Security section, they perceived their action as providing a refuge, far from the psychological pressures of prison life, to suffering inmates. For Pollsmoor administration, dealing with mental illness was a burden but it could also use it as a strategy to send away its most violent inmates. Hence, forensic psychiatrists sometimes had the feeling that Pollsmoor administration attempted to manipulate them in order to foster its system of control. Although it was hard for a prisoner to see a psychiatrist on request, warders often brought inmates they perceived as violent to visiting psychiatrists by force. The prison authorities’ unwillingness to recognise the physical, psychosomatic and psychological effects of detention and provide consequent care to prisoners did not mean, however, that penal and psychiatric discourses failed to elaborate theories on the links between crime, mental illness, incarceration and rehabilitation. As early as 1936, psychiatrists relied on views developed outside South Africa to explain how the mentality of

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206 Interview, Mr. Belling.
207 Interview, Mr. Dejan.
208 Interview, Mrs. Lubbe.
criminals could adapt to different forms of seclusion. As Gail Super has described, until the end of the 1980s, the dominant view prevailing was that offenders were ‘emotionally ill’ and should hence be ‘treated’ through incarceration. In 1988, the Prisons Services shifted the focus to ‘behavior modification’, which entailed that prisoners were perceived as responsible people who had to comply to discipline in order to ‘reintegrate’ society.

Warders and psychiatrists reacted differently to symptoms of mental illness for political or common law prisoners, especially from the 1970s onwards, when political prisoners’ rights became more widely recognised. On the one hand, some political prisoners could more easily gain access to psychiatrists than their common law counterparts. On the other hand, the security police and the prison administration constructed the psychological pressure of detention as a tool to weaken the will of political prisoners. The intervention of a psychiatrist could either facilitate or restrain this process, depending on the degree of collaboration the psychiatrist showed. For common law inmates, the main reasons which could provoke a transfer to a mental hospital were self-mutilations, attempts to commit suicide and aggressiveness. In Pollsmoor, self-mutilations could go as far as swallowing razor blades or injuring oneself to the extent of risking amputation. Psychiatrists were wary of such cases, for they often interpreted this ‘prison related behaviour’ as malingering. According to them, this behaviour only reflected the will to avoid compulsory work, or to try and escape once transferred to Valkenberg. Nicolas Bourgoin has shown, however, that self-

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211 Interview, Mr. Dejan.
aggressive conducts in prison often constituted one of the only tactics available to prisoners who refused to accept the situation imposed on them.212

Attempts to commit suicide by hanging oneself or taking an overdose of pills were relatively frequent, to the extent that in 1991, Pollsmoor Commanding Officer issued specific guidelines for warders to deal with such situations.213 These attempts were more common in the Maximum Security Prison, where the fact of being locked up for 23 to 24 hours a day in an overcrowded cell painted in dark grey put a heavy psychological strain on inmates.214 The referral of these prisoners to Valkenberg did not reflect that the prison authorities believed they needed specific treatment. Indeed, in many cases, warders first sent the inmates to isolation as a punishment for this ‘misbehaviour’. Rather, it constituted a way for the warders to release themselves from the responsibility of a potential death under their command.215 Outbursts of violence were the main cause of transfer to a mental hospital. As a prisoner from Pollsmoor said, Valkenberg was viewed as ‘the place where you put the violent, the place where you put the mad people’.216 The confusion between aggressivity and mental illness was such that on several occasions, Valkenberg psychiatrists had to send back prisoners who had previously assaulted warders or disrupted the daily order of Pollsmoor but did not actually present any mental illness.217 During the democratic transition, in an attempt to circumscribe this tendency, the Department of Correctional Services had to remind all Provincial Commissioners that ‘aggressivity and unmanageable prisoners are not psychiatric syndromes’.218 In addition to the reality of the psychological strain produced by incarceration, transferring those labelled by warders as ‘mentally ill’ to psychiatric

214 Interview, Mr. Ahmadi.
216 Interview, Mr. Mpenu.
hospital played an important role in the maintenance of law and order inside prison, while supporting theories on the links between violent deviance – be it turned against oneself or the other – and mental illness.

The situation for political prisoners was slightly different. During the 1970s and 1980s, international organisations such as the World Psychiatric Association alleged that political prisoners were tortured in psychiatric hospitals, comparing South Africa with the Soviet Union and accusing South African psychiatrists to collude with the apartheid system.219 South African psychiatrists vehemently rejected this accusation.220 While Valkenberg admitted some political prisoners and detainees during or after their detention, no evidence appears to support the fact that nurses treated them in a harsher way than other maximum security patients. Although detention in Valkenberg could entail some forms of physical, psychological and chemical torture, psychiatrists did not design any specific treatment for political prisoners. The repressive experience conducted in Kenya and Malawi during the 1950s seems to have left little trace on the ‘rehabilitation process’ implemented against political prisoners in South Africa. Sloan Mahone and Jock McCulloch have described in detail how the British government responded to the Mau Mau rebellion by either killing them or detaining them in camps, where a psychologisation of political dissidence and race took place.221 In Kenya, Mau Mau detainees were kept in camps where confessions, forced work and discipline were supposed to cure them of their mental ‘disease’.222 The Nyasaland Government attempted to put in place a similar system of detention, based on the idea of ‘the irrational nature of African nationalism’ but soon abandoned any reference to

220 Interview, Mr. Belling.
psychological theories in the dealing of political detainees. The South African government applied methods of ‘psychological terrorism’ against political prisoners, but did not elaborate an overarching psychological explanation of their dissidence, which would have led to individual diagnoses of the degree of their mental disturbance. Psychological theories on racial difference still influenced the government’s perception of black activists, whom it saw as lacking the strength of mind necessary to self-organisation, and hence perceived as being instrumentalised by foreign white Communists.

Torture, indeterminate incarceration and isolation were the three pillars of the South African security police’s actions against political detainees. In addition to forcing the detainee to confess, these methods aimed at leaving the individual with no other concern, especially political, than his or her own survival. A female political detainee held at Pollsmoor from 1976 to 1980 recalled that:

I didn’t actually know that that’s apparently a common thing […] feeling very passive, and feeling fairly submissive towards the wardens and not particularly wanting to rock the boat because you know that they can take things away from you. And the main thing that I feared was them taking away exercise – it became an incredibly important thing. But at the same time, you feel guilty because of that. Because you want to see them as the enemy, and you feel a bit bad about being submissive, but you don’t feel yourself able to get out of that, and that worried me.

From the beginning of the 1970s onwards, the psychological impact of these tactics constituted the main reason explaining the transfer of political detainees or prisoners to psychiatric hospitals. The presence of certified political prisoners in mental hospitals was more exceptional. In Valkenberg, Mondy Johannes Motloung was one of the certified political prisoners. He was initially charged with Solomon Mahlangu in 1977

226 Ibid.
227 MAR, BC756. Interview with a former political detainee, 1980.
for the killing of two white people during what was later called ‘the Goch Street shooting’. Motloung, who was, according to Valkenberg psychiatrists, severely brain damaged, was held in Ward 20, along with another man whom the police had shot at during riots and who eventually committed suicide while he was still detained at the hospital. Throughout the 1970s and 1980s, stories of political detainees who had suffered psychologically from their incarceration occasionally reached the public sphere. In 1976, a psychiatric hospital admitted a young woman, who was detained under Section 29 of the Internal Security Act for two months, immediately after her release from custody. In 1983, a district surgeon diagnosed a young detainee who had been beaten up by the security police as a ‘schizophrenic’ and transferred him to Tower Psychiatric Hospital in Fort Beaufort. During the same year, a visiting district surgeon suddenly found a detainee held at a police station in Port Elizabeth to be ‘incommunicative’ and recommended he be examined by a psychiatrist. He was eventually referred to a mental hospital for observation during his trial.

Although from the beginning of the 1960s to the mid-1970s, it was extremely hard for political detainees or prisoners to see a psychiatrist on request, interviewed psychiatrists have retrospectively constructed the fact of admitting ‘broken’, anxious or depressed political detainees or prisoners in their hospital as synonymous with providing them with a refuge. This was in fact mostly restricted to white female inmates during the 1980s. The trials of Gertrude Fester and Jenny Shreiner brought light on the psychological strain put on female political prisoners. In 1987, the Federation of Transvaal Women revealed that the police had tortured and sexually assaulted many

228 IDAF, Prisoners of Apartheid, p. 38.
229 Interview, Mr. Bauer.
231 Cape Times, 1 December 1983.
233 Interview, Mr. Belling.
women and pregnant women while in detention. During the same decade, a forensic psychiatrist decided to use the emergency procedure to transfer a white political female detainee from Pollsmoor to Valkenberg without passing by a magistrate. According to this psychiatrist, the woman, who had been arrested a few days after giving birth to her child and was threatened by the police to have her child killed if she did not confess, had developed a post-partum psychosis and was going to commit suicide. She was held at Valkenberg until her release, a situation which effectively protected her from any further interrogation by the security police. The conditions for black political prisoners differed, the reason for their transfer to a psychiatric hospital often lying in the fact that the security police or the prison administration wanted to be relieved of the most ‘unmanageable’ ones. Prison authorities rarely perceived intense psychological suffering as a sufficient reason to order such transfer.

The conception of an apartheid psychiatric hospital as a refuge could seem quite paradoxical when taking into account the similarity in the degree of daily violence implemented by psychiatric hospitals and prisons alike. The fact that the only hints available within the framework of this research as to the historical existence of such an ambivalent situation were found in medical reports written by psychiatrists or in interviews with the latter offers a biased version of this apparent incongruence. According to oral and written sources, this ‘shelter’ was also available to common law prisoners. Inmates whom psychiatrists considered mentally ill were occasionally caught between the pressures of the gangs and of the warders, and psychiatrists could request a transfer to protect them from the harshness of prison life:

234 MAR, BC1065. Federation of Transvaal Women, A Woman’s Place is in the Struggle, not Behind Bars, 1987.
235 Interview, Mr. Dejan.
236 HPW, A2084. Retranscribed telephonic conversation between Suzman and the Minister of Law and Order L. Le Grange, 4 October 1985.
The gang history in prisons goes back to the century before the last century, and the gangs obviously involved the vulnerable people. And mentally ill people are vulnerable. Many of them would unfortunately be targeted by gangs. Because if you’re mentally ill, you are rather naive, and the warders would say tell me about what goes on at night. And then the gangs would know they are talking. So they were very vulnerable.  

Prisoners who were in a difficult position in jail and had been transferred to Valkenberg due to depression or anxiety sometimes threatened to commit suicide if they were brought back to Pollsmoor. These claims showed that common law prisoners could sometimes perceive a transfer to a psychiatric hospital as a slight change in their conditions, which would enable them to escape the adverse circumstances of prison for the period necessary in order for them to regain some strength.

The occasional protective attitude forensic psychiatrists adopted did not conceal the fact that in the majority of cases, and especially so for political prisoners, mental hospitals’ Maximum Security sections were under the command of the apartheid government and its penal system. They hence played a crucial role in the implementation of repression against political and common law prisoners who disturbed the daily functioning of prisons. Such was the case, for instance, in 1982, when a common law prisoner went on a hunger strike to denounce the harsh treatment to which warders subjected Pollsmoor inmates. Warders transferred him to Valkenberg to separate him from other prisoners and prevent any further publicity of his dissident action. Some political prisoners also claimed that authorities used removals from Pollsmoor to Valkenberg to silence them. In 1992, a District Six activist supported by Psy-Watch wrote to Queen Elizabeth II to describe how, after his participation to movements of protest in District Six, Cape Town, a judge had sent him to Pollsmoor. He was then diagnosed as ‘an acute paranoid schizophrenic psychotic psychopath’, was

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237 Interview, Mr. Dejan.
239 HPW, A2084. Suzman to the Minister of Justice and Prisons, 12 February 1982.
later re-diagnosed as a ‘major paranoid’ and subjected to chemical torture each time he was transferred from Pollsmoor to Valkenberg.\textsuperscript{240} The different attitudes psychiatrists could adopt in front of prisoners transferred to their institution hence ranged from collaboration with the prison authorities to protection of suffering inmates and evolved throughout apartheid. Despite these individual variations, the links between the discipline of psychiatry and the penal discourse defining who was to be punished and to which degree of institutional repression the offender was to be subjected formed one of the bases allowing the maintenance of a supremacist order in apartheid South Africa.

\textsuperscript{240} MAR, BC668. Psy-Watch to Queen Elizabeth II, 2 May 1992.
Chapter 6

‘Scientific’ Discourses and the Definition of Punishable Offenders

From the 1960s to the 1990s, criminological, psychiatric and psychological discourses increasingly influenced the sentencing process taking place in South African judicial courts. The growing entanglement between the law and scientific discourses, which was at its height in the course of the 1980s, revealed how the definition of who was to be punished under the apartheid regime evolved according to the changing social and political imperatives of the government. If the study of conditions of incarceration sheds light on the methods of punishment, the analysis of the legal system mechanisms gives hints as to the reason sustaining the massive incarceration characterising apartheid South Africa. Following Foucault’s perspective, one can argue that the repressive sanction meted out by the courts against the majority of the South African population entailed a function of exclusion while it produced a legitimising discourse necessary to the functioning of the apartheid state.241 As they relegated a vast number of individuals into prisons, the walled margins of society, courts also provided a ‘scientific’ justification for segregation, separate development and petty apartheid legislation. Above all, they reflected the fears of the white minority, by constructing an inverted image of the dangerous Other, the ‘non-White’, who was more prone to juvenile delinquency, sexual deviance, drug addiction and aggressive behaviour.

241 Simon, ‘Michel Foucault on Attica’, p. 28.


Race and the Sentencing Process

During the 1950s and 1960s, individuals and organisations occasionally criticised the fact that courts were racially biased. It was only in the 1970s and the 1980s, however, that public disapproval gained momentum. As Charles R. M. Dlamini described it, the ‘racial mythology’ influencing the sentences passed by courts included judges’ statements such as that ‘blacks can and do recognise people they know in comparative darkness in circumstances in which it would be almost impossible for a white person to do so’, ‘black women submit to rape without protest’ or that a ‘black woman will generally not support the evidence of her husband against her lover’.\(^{242}\)

In March 1985, an article published in *The Financial Mail* dubbed ‘clash of cultures’ what was taking place inside apartheid courts.\(^{243}\) It described how a few days earlier, a Johannesburg magistrate had sentenced a policeman guilty of killing a young ‘coloured’ breakdancer, who was in a relationship with a white woman, to a R30 fine. The article also evoked a number of contemporaneous criminal cases where such racial bias was blatant:

- A white youth who boasted he was going to kill a black and did so was sentenced to 1,200 hours’ weekend imprisonment;
- Three young white men who kicked a black man to death were sentenced to five cuts each;
- A black woman received 18 months’ jail (12 suspended) for possessing a Penguin book which was ruled to have been published in the interest of the ANC;
- Two soldiers who roasted a black man over a fire and raped his wife were fine R50 each; while
- A black who had a tea mug engraved with ANC slogans got three years’ imprisonment (half suspended).\(^{244}\)

In their submission to the Truth and Reconciliation Commission, Lawyers for Human Rights and the Centre for the Study of Violence and Reconciliation also commented on the disparity in the sentences imposed by white judges depending on the

\(^{242}\) Dlamini, ‘The Influence of Race’, p. 44.
\(^{244}\) Ibid.
racial category under which the offender was labelled. They explained how, in 1988, a judge sentenced a farmer who had murdered one of his labourers, as a punishment for driving over one of his dogs, to a suspended five year prison sentence.\textsuperscript{245} 11 years before, in a similar case, a wine farmer from the Western Cape Province had initially been sentenced to one year’s imprisonment after having chained a young boy by the neck and beaten two labourers ‘strung up by the neck’, which led to the death of one of them.\textsuperscript{246} In such cases where judges passed extremely lenient sentences on white offenders, they evoked as mitigating circumstances the young age of the individual, his sense of duty or the fact that a heavier sentence would constitute a prejudice to the community (as in the event of white farmers whose imprisonment would have resulted in numerous labourers losing their jobs). When a black offender found him or herself in front of a white judge, the later often based his adjudication on the supposed ‘nature’ of ‘non-white’ offenders. For instance, during the 1964 S. v. Xhego trial, an Appellate Judge accepted the admissibility of confessions made under torture, asserting that ‘the native is so prone to exaggeration that it is often impossible to distinguish the truth from fiction [...] There are [...] other factors which militate strongly against acceptance of the allegations of the accused, again resulting largely from the inherent foolishness of the Bantu character.’\textsuperscript{247}

The reason for the courts’ clemency towards white offenders could also lie in the perceived affinity between the judge and the accused, an affinity which, in the system of apartheid, would have been inconceivable towards a black offender. During the 1992 Di Blasi trial, the Judge initially sentenced Giuseppe Di Blasi, who was facing the death penalty after killing his former wife, to a 16 months’ imprisonment sentence, which

\textsuperscript{245} HPW, AG3245. Submission to the TRC on the Role of the Legal System under Apartheid, by the CSVR and LHR, 29 October 1997.
\textsuperscript{246} Cook, \textit{Akin to Slavery}, pp. 32-3.
\textsuperscript{247} HPW, AG3245. Submission to the TRC on the Role of the Legal System under Apartheid, by the CSVR and LHR, 29 October 1997.
would later be extended to 15 years during appeal. The Judge, who was a Roman Catholic, showed leniency for he agreed with Di Blasi about the fact that getting married implied making an oath before God, which the offender’s former wife had apparently broken. Trials such as this one revealed that the discriminatory practices of the courts did not merely result from the fact they applied a racist legislation. As Jacques Derrida has argued, a judge, in choosing a specific sentence, does not only apply the law, but ‘must also assume it, approve it, confirm its value, by a reinstituting act of interpretation, as if ultimately nothing previously existed of the law, as if the judge himself invented the law in every case’. During the nineteenth century, the administration of justice in the Cape Colony was at the hands of British or anglicised Afrikaners. From 1910 to 1948, in the Union of South Africa, judges remained white but were selected from senior counsel in the Bar. At the beginning of apartheid, the government changed the judicial system in order to promote nearly exclusively Afrikaner judges supporting apartheid policies. Despite this selection process, judges were still supposed to incarnate the idea of equality of all before the law, and continued to criticise the attitudes of magistrates. They saw the latter as biased, negligent about the fact that most offenders appeared unrepresented before the court and contemptuous in their habits of addressing offenders as ‘accused’ or ‘beskuldigde’.

Interviewed legal practitioners who began working during the 1970s distinguished between several types of judges: the scarce liberal ones, those who rigidly followed the law but were reluctant to pass a death sentence and ‘the hanging judges’. A former defence lawyer described apartheid judges in the following terms:

248 Interview, Mr. Gardener.
251 HPW, AG3245. Submission to the TRC on the Role of the Legal System under Apartheid, by the CSVR and LHR, 29 October 1997.
The judges were thugs, in the ordinary sense. Some were sophisticated, some weren’t. Now and then they acquitted, when the cases were compellingly calls for acquittals. It was a public relationships exercise. But they reflected the fears of the white minority in this country. And they reflected that fear in their judgements, in how they argued away the obvious. You know it was just a lie that we had justice in this country. It is a lie in the ordinary sense of the word, because, I mean, if all the judges come from a sector of society, the ruling class, determined on the basis of race, how on earth can you call it a justice? The basic immorality of sitting on a bench is indefensible, and they still defend it to this day.253

Indeed, the fact that most judges reflected in their decisions the anxieties of the white minority was significant, for it evidenced that far from responding to objective events, they reacted, to follow Sudipta Kaviraj’s argument, to ‘threats and possibilities fashioned by their perception of the political world’.254 In June 1974, a small public scandal emerged after the Rand Daily Mail reported that a Johannesburg magistrate had told a black accused: ‘we Whites are too lenient with you’. Outside the court, the magistrate added: ‘I like to talk to them sometimes – I was just chatting. I grew up in the Lowveld and know the mentality of these little old kaffirs’.255 Pressed by the Civil Rights League to comment on the issue, the Minister of Justice answered that ‘no substantiation of racial bias on the part of the Magistrate could be found’. According to the Minister of Justice ‘Jimmy’ Kruger, as the accused had killed black people, the magistrate found that he was ‘an enemy of his own people’, and that ‘if he had to be punished by his own people, they would most probably have taken a much more serious view of the situation’.256

Although most judges and magistrates applied and supported apartheid legislation, when some of them expressed racist ideas in a blatant way during trials, they put at risk the legal veneer of the judicial system. During the first half of apartheid, their decisions and discourses revealed the will to retain the myth of a proud and equitable

253 Interview, Mr. Morarka, former defence lawyer, Cape Town, 6 April 2011.
256 MAR, BC653. Minister of Justice to the Civil Rights League, 11 February 1975.
judicial system. In the 1950s and 1960s, though critical voices sporadically emerged from organisations and lawyers, the Bench itself remained silent in front of the discriminatory laws it had to apply and interpret. By the beginning of the 1970s however, the hardening of apartheid legislation began to raise concern among the judiciary. In 1972, both the Bar and the Bench publicly announced their opposition to the new Drugs Act n° 41 of 1971, asserting that the duty of judges was also one of social leadership. Some judges and professors of law also criticised censorship and capital punishment.257 A year later, the General Council of the Bar attacked the introduction of the new Criminal Procedures Bill, denouncing an erosion of the judicial ‘traditional safeguards’, in order to make the courts ‘readier to convict that acquit’.258 In an article published in 1978, the Head of the Department of Legal Philosophy at the University of Potchefstroom reflected the more general view founding the emerging opposition of the legal and judicial professions. He conceded that strong state control was needed to tame the growing political subversion, but condemned the new laws passed by the Parliament, which were a ‘disgrace’ to Western Civilisation and Christianity.259

The South African legal culture which, according to Martin Chanock, can be described as ‘a set of assumptions, a way of doing things, a repertoire of language, of legal forms and institutional practices’, also came under the criticism of politicians and non-governmental organisations such as Lawyers for Human Rights, the Civil Rights League and NICRO.260 In 1981, the Civil Rights League published a pamphlet entitled ‘The Responsibility of Judges in Applying Unjust Laws in South Africa’. In it, the Civil Rights League drew from the memory of Nuremberg to condemn the collaboration of

257 Cape Times, 4 April 1972.
South African judges with the apartheid government, quoting a German jurist who ‘was compelled by the experience of the Nazi Holocaust to argue that there is a stage at which a law ceases to be a law, when it sinks below a minimum level of humanity or justice’.  

In 1984, the Hoexter Commission into Legal Reform raised the issue that the government appointed certain judges to preside over specific political trials, revealing a strong instrumentalisation of the judiciary by the executive in the implementation of repression. Rather than illustrating a real will to change the legal system, which in fact became more and more repressive throughout the period, the criticism which sprang from white officials reflected how the evolution of discourses was contingent to the need to reformulate the difference between the norm and the deviance, between Whiteness and Otherness, between ‘security-related’ and common law offences. Courts remained political tools which offered a scientific and legal veneer to the maintenance of apartheid law and order.

The role of politically committed defence lawyers in resisting against apartheid courts’ practices was also ambiguous. In order to counter the fact that most offenders were not aware of the existence or were not able to afford legal representations, these lawyers established a few organisations with different priorities and political alignments. The Legal Resources Centre (LRC) was created in 1979 in Johannesburg. Its aim was to provide public legal services to the vulnerable and marginalised. The National Association of Democratic Lawyers (NADEL) was funded in 1987, as an attempt to coordinate the actions of Lawyers for Human Rights, mainly composed of white lawyers fighting against the restrictions of freedom of movement, and the Black Lawyers Association (BLA), whose aim was to confront the judicial system more

262 Cape Times, 18 May 1984.
The International Defence Aid Fund (IDAF) funded lawyers working for offenders affiliated to the ANC until the 1990s, when it scaled down its funding. The position of white defence lawyers within a legal system that bolstered white supremacy was an ambivalent one. In the Western Cape, some immediately started to work for liberal firms such as Mallinick, Ress, Richman & Closenberg. The political awareness of others took more tortuous paths, beginning to work as state prosecutors in order to avoid the military conscription before becoming defence lawyers committed to the struggle. Although most of them were linked in one way or another to resistance movements, their professions compelled them to hide such affiliation, in order to appear as ‘neutral’ actors within the courtroom. Black lawyers’ function was also ambiguous. Applying to South Africa Mitra Sharafi’s arguments on lawyers emerging from colonised groups as ‘cultural intermediaries’, the latter can be seen as both translating the legal system to their black clients and their clients’ perceptions and attitudes to the white courts. At the crossroad between legal order and nationalism, they took ‘advantage of the court’s adherence to procedural strictness’ to win their cases, though their mere presence in the courtroom alienated most white judges and magistrate. They were frequently arrested, incarcerated or banned. Some, like Griffiths Mxenge, were murdered by the police.

264 Interview, Mr. Gardener.
266 Interview, Mr. Ebbing.
267 Interview, Mr. Gardener.
The growing intervention of psychiatrists and psychologists during trials from the 1970s onwards reinforced the predominant whiteness of the courts. By 1983, there were only eight black psychiatrists in the country, none of them being South African. By 1986, only one black South African had become a psychiatrist.²⁷⁰ Most of the white psychologists and psychiatrists spent part of their studies in Britain and either came back with ideas stemming from the circulating imperial knowledge of the time or with alternative and more radical theories from the broader European tradition.²⁷¹ In South Africa, some psychologists went through a process of political awareness similar to the one of white lawyers and decided, when confronted to the stark inequalities of treatment between white and black patients prevailing in mental hospitals, to provide an alternative set of psychological practices and theories.²⁷² Psychiatrists testifying in courts were working for the state and were hence generally compliant with the system, although their professions entailed that they witnessed the severe psychological effects produced by apartheid.²⁷³ Their connection to the government went beyond their appointment at public mental hospitals, for they reviewed the drafts of acts, provisions and official commissions of inquiry concerning the treatment and control of mentally ill people. From the 1970s onwards, they became concerned, however, with the fact that the majority of South African mental health practitioners were white. Far from viewing this disparity as a systemic problem, they attributed it to the ‘lack of interest amongst African and Coloured doctors in being trained as psychiatrists’, which was, according to them, problematic for ‘many African and Coloured psychiatric patients can only be really understood by someone of the same background and culture’.²⁷⁴

²⁷¹ Interview, Mr. Holler.
²⁷² Interview, Mr. Buten.
²⁷³ Interview, Mr. Belling.
Such a view gives a hint as to the role of psychiatry in the legitimation of segregation and, later on, separate development, a role which was even more forceful when associated to the legal discourse. At the beginning of the twentieth century, the Union government had made use of psychology and psychiatry, along with social sciences such as sociology, to provide a scientific explanation sustaining the need for segregation. This scientific argument outlined urbanisation and industrialisation as sources of psychological problems and criminal attitudes among black populations. In 1959, the social imperative of segregation was enlarged by the doctrine of ‘separate development’, which justified the creation of Bantustans, also called ‘independent homelands’. Despite this change in formula, urbanisation and industrialisation remained the central pillars explaining the need for the political, economic and social separation of Whites and Blacks. The psychiatric and judicial discourses were crucial in legitimising this rhetoric. In 1975, the South African National Council for Mental Health asserted that the reason for the defective provision of public services to ‘Africans’ lay in the fact that ‘because of urbanisation and the adoption of a Western way of life relatives are no longer prepared to care for their mentally ill or retarded and often abandon them’. Such argument endowed the government with a paternalistic function while it revealed that psychiatric discourse, like in other African colonial settings, was as concerned with constructing an image of the Black as an ‘Other’ as in defining his or her madness in terms of deculturation and dangerousness.

277 Megan Vaughan argues that in colonial East and Central Africa, psychiatry was more concerned with the construction of the ‘African’ and a constant re-stating of his ‘Otherness’ than in portraying the ‘madness of the colonial subject’ and the fear it was supposed to entail. In apartheid South Africa however, the discourse on the *swart gevaar* equally used both constructions. See Vaughan, *Curing Their Ills*, p. 118.
During apartheid, and especially so from the 1970s onwards, the judicial system echoed this perception and reinforced the idea of a salutary separate development. In 1975, F. H. L. Rumpff, Chief Justice of South Africa, publicly announced that ‘independent homelands’ were on their way to industrialisation. He asserted the need for ‘Black lawyers into whose hands our legal heritage could be placed’, adding that:

But where this process leads to closer identification between White and Black, colour only as a reason for social separation will naturally and in due course disappear, even, and notwithstanding that it is sought to preserve national identity.\(^{278}\)

However, in addition to this paternalistic assessment of Blacks’ evolution, which reflected the rhetoric of grand apartheid, he also condemned its corollary. According to him, the latter involved the ‘disintegration of Western civilisation’, where ‘[b]roken homes, drugs, pornography, permissiveness, decadent art and the loss of the will to fight are symptoms of this cancerous disease’.\(^{279}\) In 1985, the government accepted the recommendation by the Hoexter Commission that ‘Special Courts for Blacks’, with the exception of chiefs’ courts, be abolished, for ‘the Black population, since the institution of special courts for Blacks, underwent a material change in respect of their standard of living, way of life, family life and education’.\(^{280}\) These courts, established after the 1927 Black Administration Act, functioned in the apartheid legal order as a ‘subordinate system of African personal laws defined and administered by Whites’.\(^{281}\) Throughout apartheid, general courts, with the help of psychiatric and criminological discourses, were hence instrumental in the implementation of segregatory measures. To follow Chanock’s thesis, in addition to interpreting apartheid legislation, courts presented an

\(^{278}\) Cape Times, 2 April 1975.
\(^{279}\) Ibid.
image of themselves as one of ‘discernment and restraint’, as a ‘counterpoint of the opposing image of savagery, impulse and transgression’. This mechanism, sustaining the definition of who was to be punished in apartheid South Africa and how, was revealed in an even more blatant way by the labelling of terrorism offences and the application of corporal punishment and death penalty.

**Terrorism, Corporal punishment and Death Penalty**

It is in this setting, where white courts predominantly judged black people who had deviated from the norms and multifarious laws of apartheid, as well as Whites who were perceived as traitors to their community or corrupted elements, that the labelling of terrorism occurred. Under the legal gloss of the judicial system, two conceptions of terrorism and legitimate violence conflicted. On the one hand, the state used the notion of terrorism to broadly define and condemn acts of dissent, waving the threat of death penalty to reiterate its sovereignty over the life and death of its unwilling subjects. On the other hand, the tightening of security laws from the end of the 1970s onwards and the passing of state emergencies accelerated the disregard of most South Africans for the judicial system, redefining what was to be viewed as legitimate in terms of violence and deviance. The police’s unrestricted actions, the use of corporal punishment and death penalty, which most blatantly manifested the state’s monopoly of violence, were labelled as terrorism, while the majority of the black population positively sanctioned the actions ranging from violent attacks against state officials and institutions to everyday gestures of defiance.

Judges alternatively applied the security legislation, or common law concepts such as ‘treason’ or ‘public violence’, to condemn those who stood up against the

283 Foucault, *La volonté de savoir*, p. 178.
apartheid regime. Although, as commented by Beinart, the armed struggle did not make ‘so direct an impact within South Africa’, the emergence of other actors such as the Inkatha Freedom Party, vigilantes – defined as armed conservative groups operating in the black communities – and township ‘comrades’ in the 1980s led to an amplification of illegal ‘political violence’. The use of the ‘terrorism’ label by the state predated this historical evolution, revealing that what was at stake was, in fact, the fear of the white minority faced with a black population it perceived as violent and invasive. This association between blackness and riot and the ‘racial imaginary’ which sprang from it was not specific to South Africa. It was characteristic of other colonial settings where the colonised was constructed as ‘an enemy of values’ and also prevailed in the United States during the 1960s. Under the increasing use of the word ‘terrorism’ to label attacks on the apartheid government lay the colonial ambivalence of the white body, which presented itself as a device of power while always fearing for its integrity. Indeed, as Bernault explained in the case of Equatorial Africa:

This symbolic and metaphoric tactic portrayed the white body as the sign of social forces larger than itself – Europeans’ military, technical and economic superiority – rather than the material embodiment of colonizers’ material rule. Hence, at the same time the white body was displayed among Africans as a material tool of power (e.g. as a fetish of colonial rule), it was supposed to recede into the realm of mere signs, and escape Africans’ desire and hate.

The public demonstration of legal violence through corporal punishment and death penalty was hence a way to make sure that the South African population continued to accept the state’s authority. The infliction of pain and death on Blacks accused of transgressing and violating the white body helped preserving the idea of the

latter’s sanctity. As the apartheid regime answered to what it constructed as a riotous ‘black peril’ with increased violence, the process of adjudication taking place in the courts disclosed the changing structure of repression implemented against deviancy.\footnote{Dollimore, ‘The Dominant and the Deviant’, p. 179.}

The most flagrant evolution lay in the additional powers handed down to the security forces from the 1970s onwards. The police force became even more repressive after the deployment of students’ uprisings, resulting, among others, in the death of numerous people arrested for political or common law offences while they were detained in police cells. For instance, although they attracted less attention from the public opinion than political detainees, during the year 1977, 128 common law detainees died in such circumstances.\footnote{Rand Daily Mail, 25 April 1978.}

The states of emergency passed during the 1980s and applied to numerous magisterial districts widened the powers of security forces and reiterated the legitimacy of their lethal use of violence. From March 3rd, 1986, to March 6th, the Black Sash recorded that the police killed 763 people in the street, while they wounded 2,571 people, 99 per cent of them being black.\footnote{MAR, BC1020. Black Sash Advise Office, Hansard n°5, March 1986.} According to the same source, from July 1985 to February 1986, they arrested 7,777 people. During states of emergency, the apartheid regime ruled that any member of the South African Police, the South African Defence Force, the Railways Police and the Prisons Services could use illimited force to prevent any danger to ‘public safety’. They could for instance arrest a person without warrant and detain him or her during 14 days or search any person or place without a warrant. The state also forbade anyone to sue a Force member for an action he had done ‘in good faith’ relating to the Emergency Regulations.\footnote{MAR, BC854. ADAC (Ad-Hoc Detention Action Committee) News, August 1985.} These additional powers bestowed on the different forces highlighted the fact that the legal system was no longer sufficient to produce obedience to the apartheid regime.\footnote{Benjamin, ‘Critique of Violence’, p. 287.} The terror to which the state
resorted was by no means alien to the white pro-apartheid population, for it fitted, as Beinart has described, ‘with the reinvented traditions of the Afrikaner commando’, composed of ‘heroes fighting dehumanised targets’.  

As the legal veneer of the courts barely hid the terrorism applied by the state, the latter put in place another game of labelling to act as a cover-up for political repression. By refusing to acknowledge that the trials stemming from the 1980s historical setting were political, the state endeavoured to reassert the legitimacy of its legal system and social control. In 1985, the Ad-Hoc Detention Action Committee publicly explained this point of view:

Why has law always been a weapon used by the government against activists? The basic reason is the nature of the South African State. Although this state is a repressive dictatorship towards the oppressed people, towards the white minority (except for those who identify with the masses) and the capitalists who invest here, it appears as a ‘parliamentary democracy’ like Britain. There is a parliament, an opposition party, and courts who seem to be independent of the government. Such a state should not be seen to suppress opposition. Therefore, South Africa had to try to show that its opponents were actually lawbreakers and criminals, not legitimate activists and leaders.  

While courts already employed this strategy in the 1960s, they implemented it to a far larger extent after the Rabie Commission of Inquiry into security legislation handed in its report in 1982. In the Western Cape, some magistrates and judges became notorious for their role in treating what would have appeared as political trials under common law, using the legal tools of ‘public violence’ and ‘treason’ to achieve this aim. A defence lawyer who participated in similar trials during the 1980s summed up this tactic in the following terms:

The answer is that in the system of criminal administration, the State enforces laws, […] and it does it on the basis that it will have a monopoly of coercion. It can hurt you more than you can hurt anybody else. Sometimes people come along and they want to overthrow the State as a State, like our people did. And

296 Interview, Mr. Ebbing.
that is overtly political. The State responds by making a statute, a legislation, which on the face of it is non-political, it’s just law, but it’s not. It’s not because they make a law called terrorism, they make laws called treason in the common law, and they make it look like it’s not political, that is ‘law law’, but it’s not. It’s direct politics, it’s people taking on the State to try and change the political regime.297

Despite this attempt to conceal the political nature of the late apartheid system of law and order, the very fact that courts passed extremely harsh sentences during ‘common law’ trials disclosed the priority given to the maintenance of control over black populations. During the 1980s, such inequality in the sentences imposed did not leave the public sphere indifferent. In 1987 for instance, the Black Sash criticised the contrast between the seven-year prison sentence imposed on 17 years old youth for public violence and the two and five-year prison sentence passed on two young adults implicated in the physical assault of ‘an unoffending black man and then burning his body while he was still alive’.298 Following Chanock’s argument, the harshness of the condemnations for ‘common law’ offences revealed that extreme punishment and deterrence were crucial to the maintenance of the apartheid regime, and that offenders, rather than being seen as individuals, were perceived as always part of a ‘potentially defiant mass’.299

Before the terror characterising the apartheid regime in the 1980s, the administration of corporal punishment and its differentiated use according to the racial category of the offender had also revealed how the South African penal law based itself on a racialised portrayal of its population and reflected specific fears of the white minority. According to Stephen Peté and Annie Devenish, at the end of the nineteenth century, white settlers in colonial Natal saw corporal punishment as the only suitable means to punish black offenders.300 Comparing this situation with the Kenyan settler

297 Interview, Mr. Gardener.
colony in the 1920s and 1930s, David Anderson showed how white settlers conceived the use of brutal corporal punishment as a civilising device which, in fact, echoed the white minority’s fears of being attacked by an encircling black population. The use of flogging as an alternative sentence to imprisonment or fine gradually increased, reaching a first peak during the initial decades of apartheid. If the quantity of strikes actually ordered against each offender diminished, the number of offenders submitted to flogging during the 1960s and 1970s had doubled in comparison to the former forty years. Despite the recommendation of the Lansdown Commission of 1947, flogging in apartheid South Africa increased and was, until 1977, imposed for the crimes of sexual offences, assaults, cruelty to children, repeated stock-theft, cruelty to animals, housebreaking and theft. Flogging was also administered to juveniles in cases of violence, assaults, indecency and dishonesty. In the Criminal Procedure Act of 1977, the maximum age limit for offenders sentenced to whipping was reduced to 30 years. The crimes which could lead to this sentence included rape, robbery, assault, housebreaking, murder, arson and public violence. Women as well as people suffering from ‘psychoneurotic or psychopathic condition’ were, however, excluded and in 1986, the crimes of ‘sodomy’ and ‘bestiality’ were withdrawn from the Criminal Procedure Act.

Throughout apartheid, flogging was administered inside prison for the most serious offences, while light canning took place at the Magistrates’ Courts. Although the presence of a district surgeon was compulsory for adults, the whipping of juveniles did not require one. The Medical Association of South Africa never denounced the use

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of corporal punishment, despite the fact it positioned itself against death penalty and detention without trial in 1989.\footnote{MAR, BC668. Amnesty International, ‘Corporal Punishment in South Africa’, 1990.} The authorities defined flogging as the administration of strokes applied on the buttocks with a rattan cane.\footnote{CADP, UOD 2212 E326. The Penal Reform News, July 1950.} The prison administration also used it as a disciplinary measure for already sentenced prisoners, who could be condemned to a maximum of six lashes.\footnote{HPW, AK2442. Prisoner’s Handbook, 1983.} Indres Naidoo, a political prisoner incarcerated from 1963 to 1973 at Robben Island, described in his autobiography ‘the Mary’, a large wooden frame placed in the middle of a prison court.\footnote{I. Naidoo, Island in Chains: Prisoner 885/63: Ten Years on Robben Island (Harmondsworth, 1982), pp. 124-5.} Warders stripped the sentenced offender of his clothes, attached his legs and arms to the frame and covered his buttocks with a thin drape fabric to prevent the flesh from bursting under the strokes.

Although corporal punishment is often characterised by its publicity, which is supposed to act as a deterrent, the apartheid state chose to confine this punishment to the prison compounds of the country. Flogging was hence visible to other prisoners but not to the wider society – with the exception of light caning – reinforcing the idea that the apartheid state continuously attempted to retain the image of a liberal Western Republic.\footnote{MAR, BC668. Johannes Wier Foundation for Health and Human Rights, Health Professionals and Corporal Punishment, 1990.} Throughout apartheid, judges nearly exclusively passed the sentence of corporal punishment on black offenders. From 1941 to 1948, out of the 18,865 offenders flogged inside prisons, 18,712 were black.\footnote{Statistics calculated from CADP, UOD 2212 E326, The Penal Reform News, July 1950.} During the period from 1 July 1987 to 30 June 1988, Blacks represented over 90 per cent of offenders sentenced to flogging. Such discrepancy reflected the racialised conception that Blacks, although more ‘dangerous’, were also ‘primitive’ and with a ‘lower level of education’, which
meant that they could respond better than Whites to the impact of corporal punishment.\textsuperscript{312} The same argument was used to justify the administration of flogging to juveniles, for whipping could ‘stop a criminal career at the very start’ for personalities which were in their ‘formative stage’.\textsuperscript{313}

The application of death penalty in apartheid South Africa can also be perceived as a measure of white minority’s fears of being attacked, of the white body being targeted in its integrity. In contrast with corporal punishment, however, the issue of death penalty recurrently emerged in the public sphere, raising heated debates on the ‘hanging judges’ and the actual need to perpetuate what was seen, for its opponents, as a ‘disgrace’ for South Africa. During the 1960s, several organisations and individuals denounced the fact that judges mostly used the death penalty against black offenders. These groups often compared the South African situation with the American one for, despite the difference in population rate, South Africa had hanged more than twice the numbers of offenders than the United States during the first half of the 1960s. The wide application of death penalty during the decade led to a judge of the Eastern Cape Supreme Court recommending the abolition of death penalty in 1966 and to the Methodists and the Church of Province siding with the opponents to the death penalty.\textsuperscript{314}

On 14 March 1969, Helen Suzman requested the government to appoint a Commission of Inquiry into the issue of death penalty. Although the government did not fulfil this demand, several media relayed Suzman’s opinion. The MP argued that after the Lansdown commission had declined to recommend abolition on the grounds that ‘a large part of the population (i.e. the Africans) was “just emerging from barbarism”’, the issue disappeared from the public sphere.\textsuperscript{315} Suzman also launched a debate on the racial
bias inherent to the South African death penalty. Aiming at the white minority, she asserted that:

People fear that the abolition of the death penalty will result in thousands of non-Whites, overcome by their primitive instincts, murdering us in our beds. Incidentally, I want to say that prosecution figures over a 10 year period show that Whites commit murder and rape on non-Whites at a rate four times greater than non-Whites on Whites.  

In 1975, despite the significant decrease in the number of judicial hangings since 1969, the controversy around the death penalty reemerged. The fact that no white person had ever been sentenced to death for the rape of a black person, while it was rare for a black offender to escape death row if he was accused of raping a white woman, became emblematic of the problematic adjudication of death penalty cases.

Opponents to lethal punishment also criticised the apartheid government’s decision to extend this sentence to other crimes than treason, murder and rape, which had been the rule before 1948. During the 1950s and 1960s, the law added housebreaking with aggravating circumstances, terrorism, sabotage, armed robbery, kidnapping, child stealing, undergoing armed training abroad and ‘advocating abroad economic and social change in South Africa by violent means through the aid of a foreign government or foreign institution’, to the offences liable to death sentence. In addition, apartheid South African law compelled judges who did not find extenuating circumstances to impose the death sentence. All hangings took place at the Pretoria Central prison. Sentenced offenders could spend years segregated in ‘death row’, being held 20 hours a day in their cell. Although the regulations allowed them more visits from their family and lawyers than usual prisoners, warders had to supervise these visits

316 Suzman asserted that she drew these figures from official statistics. Further research needs to be done on the topic, which deconstructs myths on the ‘dangerousness’ of black populations. HPW, A2084. *The South African Outlook*, April 1969.
far more strictly, as well as the prisoners’ transfers and daily movements. In 1977, the Professor of Law from the University of Natal Barend van Niekerk, who had been prosecuted for contempt to the court two years earlier, reasserted that statistics betrayed the racialised application of death penalty in South Africa, arguing that ‘for cross-racial murder there has been only 6 or 7 executions since 1911 of Whites for the murder of Blacks, whereas in the inverse racial direction the number of executions runs into hundreds’. During the 1980s, the number of offenders sentenced to death rose again, climaxing in 1987, during which 102 ‘Africans’, 53 ‘Coloureds’ and 9 Whites were executed. According to Robert Turrel, the application of death penalty in South Africa had taken the form of a ‘racial self-defence’ since the 1930s. During apartheid, and especially so in the 1960s and 1980s when the government felt threatened by the dissidence movements spreading in the society, this act of sovereign power disclosed without ambiguity that the apartheid regime functioned in terms of ‘biopower’, as described by Foucault, where the power which separated those who could live from those who had to die based itself on a racialised and biological field. In addition to the legal conceptualisation of ‘terrorism’, the apartheid regime vested itself in a discourse based on race, youth, sex and drugs to sustain its theory on the difference between the white body and the corrupting Other.

*Drugs, Sex, Youth and Race*

Behind the discourse on terrorism and the use of police violence, corporal punishment and death penalty by the government to ‘keep black people in their place’,

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lay a wider elaboration of the *swart gevaar* based on the notions of moral decadency and sexual danger.\textsuperscript{324} This image reflected the ‘self-referential way’ in which penal and psychiatric discourses constructed the black population while disclosing the ‘psychological vulnerability’ of the white minority.\textsuperscript{325} The apartheid rhetoric on the *swart gevaar* established itself in the continuity of discourses formulated during the first half of the century and that advocated the need for segregation in order to protect the white minority from an essentially different, and hence dangerous and deviant, black population. One of the first reasons of concern lay in the urbanisation and proletarianisation which South Africans underwent at the beginning of the twentieth century. The Union government implemented the first measures of urban segregation based on racial categories in the 1910s and 1920s, as an official response to the epidemics of plague which had devastated some cities, and more particularly Cape Town.\textsuperscript{326} The Public Health Act of 1919, the Housing Act of 1920 and the Native Urban Areas Act of 1923 constituted devices that actually allowed the implementation of an urban social control leading to the gradual displacement of the black population to the margins of the cities.\textsuperscript{327} The need to protect the Afrikaner minority, conceived as vulnerable in a time of economic crises and rural exodus, induced a public debate on the necessity for country-wide segregation.

Scientists and politicians developed theories on crime, alcoholism, ‘miscegenation’ and urbanisation to sustain this argument. The growing influence of the psychiatric discipline played a fundamental role in the shaping of the debate, producing an essentialist discourse that linked Blacks’ crime rates to deculturation and inherent

\textsuperscript{324} Interview, Mr. Gardener.
\textsuperscript{327} For an analysis on the role of plagues in the implementation of urban social control in Europe, see Foucault, *Surveiller et Punir*, pp. 231-2.
What characterised the period was a shift from ‘racial attributes’ to ‘cultural differences’. After World War I, the South African Association for the Advancement of Science, for instance, drew from social and anthropological theories rather than anthropometric measurings to investigate the ability of black people to ‘evolve’ on the scale of civilisation towards Western standards. During World War II, the policies developed in Germany further discredited unabashed scientific racism and reinforced the consensus on the relevance of ‘culture’ to legitimise the apartheid system of segregation. In 1952, the South African National Council for Mental Health, after commenting on the ‘various racial groups’ composing the ‘Non-European population’ and asserting that they were more exposed to ‘infections that may lead to psychosis’, added that:

The large centres draw a proportion of the Non-European population to settle in what are for them unnatural surroundings. Thus the various groups referred to in the previous paragraphs must be subdivided once again, into the rural and the urbanised groups and those in process of transition.

This stance reveals how scientists and politicians based their segregationist argument on the division of ‘non-Whites’ into different racial categories and the dichotomy between rural Africans living in their ‘natural’ setting and migrants confronted with an urban ‘alien environment’. Similarly to the United States after the collapse of Jim Crow, legislating in apartheid South Africa, it was ‘no longer socially permissible to use race, explicitly’. Like in Kenya during the 1950s, ‘culture’, rather than referring to a set of customs, institutions and behaviour, was used to describe ‘types of personality’.

Saul Dubow showed, ‘culture’ became ‘the credible linguistic peg’ which reconciled the ‘civilising mission’ liberals and the racist ‘repressionists’.

Notwithstanding the internal contradictions of this stance, once acquired the legitimacy to speak about other ‘cultures’, apartheid psychiatric and penal discourses could freely discuss the different mental illnesses and criminal deviances supposed to separate Whites from the others. The elaboration of the division between ‘normality’ and ‘abnormality’ slightly detached itself from the way scientific racism had portrayed deviant sexuality. Sally Swartz has argued that by the end of the nineteenth century, psychiatrists divided mental illnesses according to gender and racial categories, where insane white women were a threat to the health of the white population and too weak to ‘avoid sexual contact across racial borders’. Psychiatrists constructed insane black women as hypersexual and seductive; black men as an ‘intellectually infantile work force’. ‘Coloureds’ embodied ‘degeneration through racial mixing’ while Afrikaners represented the poor and ignorant White. During apartheid, the shift from ‘race’ to ‘culture’ meant that the creation of these categories based itself on ‘social evils’ rather than on inherent racial features, although, in practice, the underlying theory was similar. For instance, although psychiatrists depicted alcoholism as a curse affecting all racial categories, they often associated it with male ‘Cape Coloureds’ deviance. The usual rhetoric deployed by psychiatrists and other scientists first asserted the absence of difference in mental deviances between South African ‘races’, in accordance with the Western myth of universal illnesses and cures, before acknowledging the existence of ‘special cultural phenomena’, such as the confusing belief in ‘supernatural or occult forces’.

In 1976, the South African Institute of Race Relations hence asserted that:

335 Swartz, ‘Colonialism and the Production of Psychiatric Knowledge’, pp. 101 and 128.
Whereas there is little evidence of any difference in the incidence of psychoses among different population groups, the incidence of neuroses is higher among Whites and Coloureds in South Africa than among Africans and Indians. Among Whites this can be partly attributed to the unnatural habits imposed by Western civilisation and among Coloureds to insecurity and frustration experienced in trying to maintain a certain way of life without possessing the means.\(^{337}\)

During the same year, the Commission of Inquiry into the Penal System reasserted the idea that ‘deculturation’, urbanisation and industrialisation were the main causes for criminal deviance. According to the commission, ‘Africans’ and ‘Coloureds’ became criminals due to alcoholism and the social conditions and gang structures prevailing in townships. It also linked Whites’ criminal behaviour to the advance of technology and the decline of Western moral values. The commission concluded its report by condemning contact between racial categories and advocating the need for a further implication of psychiatrists in the penalisation of criminal deviances.\(^{338}\) In 1984, the notion of ‘culture’ still enabled psychiatrists to base the understanding of Blacks’ mental illnesses in the fact that ‘in African thinking there is no concept of history moving forward’, adding that:

> The judgement of aberration depends on what a society considers normal but many Blacks live in changing, kaleidoscopic communities where tribal and Western values intermingle, and it is often difficult to say what constitute a ‘normal’ personality.\(^{339}\)

Such focus on the difficulty of defining ‘normality’ and ‘abnormality’ among Blacks was common to other colonial settings, and allowed psychiatrists to ascribe dangerous features to the standard ‘non-White’.\(^{340}\) Thus defined, the concept of criminal deviance based on different ‘cultures’ had a profound ideological significance in apartheid South Africa. It reinforced the idea of ‘black savagery’ and western superior civilisation, while

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\(^{337}\) MAR, BC653. SAIRR, ‘Mental Health Facilities: much needs to be done’, Race Relations News, 38, 5 (May 1976).


striving at instilling in women a sentiment of inferiority, innate sexual deviance and alienation.\(^{341}\)

During apartheid, the public debate on the psychologisation of crime recurrently emphasised two ‘social evils’: juvenile delinquency and drug addiction. The issue of young ‘delinquents’ and ‘mentally retarded’ emerged at the end of the 1940s, when mental health societies across the country demanded the provision of facilities for ‘coloured’ and black ‘mentally disturbed’ children. To support their argument, they outlined the fact that among the ‘non-white’ children they attended, the most common problems encountered were truancy, refusal to go to school, backwardness at school, ‘out of control at home’, stealing, difficult behaviour and ‘sexual misdemeanours’.\(^{342}\) As this list indicates, the focus placed on black juveniles emphasised the threat they were supposed to represent rather than the provision of care to those suffering from psychological strain. During the 1970s, the Labor Party condemned the fact that the Mentally Retarded Children’s Act of 1974 ‘glibly overlook[ed] all children who [were] not White’.\(^{343}\) Since 1937, after the South African juvenile court was set up, the government had constructed black juvenile delinquency on the basis of the ‘detribalisation’ and ‘urban disorder’ hypothesis.\(^{344}\) This representation gained momentum at the end of the 1970s, when the apartheid government heavily repressed township movements led by school children across the country. The courts increasingly sentenced children and students for public violence offences.\(^{345}\) During the 1980s, repression against the youth was at its height, with police force permanently stationing

\(^{341}\) Marks and Andersson, ‘The Epidemiology and Culture of Violence’, p. 58; Jackson, *Surfacing up*, p. 17.
\(^{343}\) *Sunday Times*, 12 October 1975.
\(^{345}\) *Cape Argus*, 4 February 1977.
at certain schools in order to ‘curb unrest’ and whipping children in the school yards and classrooms.  

Studies have retraced in detail the moral panic constructed around alcoholism and ‘dagga’ abuse during apartheid South Africa. During the 1950s, alcoholics were referred to mental hospitals on a voluntary or involuntary basis or to ‘work colonies’ – for men only. In 1959, the establishment of the first medical treatment centre for alcoholics at William Slater Hospital in Cape Town indicated that the previous perception of alcoholism as a mental illness was receding. Despite this medical shift, in the Western Cape, judges still sent people arrested for alcohol or dagga abuse during the 1960s and 1970s to Valkenberg. The Liquor Amendment Act n° 72 of 1961 ended the prohibition period which had entailed that ‘Coloureds’ and ‘Indians’ could access limited amounts of liquor while its consumption was forbidden to ‘Blacks’. This legislation was an attempt to curtail the development of shebeens, illegal pubs established in townships and which involved the corruption of police forces, links with gang activities and control over territory. The moral panic over drugs started at the end of the 1960s, after the number of drug-related sentences rose by 93 per cent over a span of six years. Dagga was the main focus of the repression, and was linked to ‘socio-economic squalor’, youth and the ‘crossing of the colour-bar’ in the search for drugs.

The Parliament passed the Abuse of Dependence-producing Substances and

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350 MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.

351 For a precise account of the dynamics at play in the creation and maintenance of shebeens, see W. Schärf, ‘Shebeens in the Cape Peninsula’, in Davis and Slabbert, *Crime and Power in South Africa*, pp. 97-105.

Rehabilitation Centres Act in 1971, which introduced ‘a number of drastic provisions similar in content to South Africa’s security legislation’. Anti-drugs laws further penalised offenders sentenced to prison, depriving them of the right to rehabilitation and parole, and leading to a number of prisoners protesting against this specific legislation. In 1990, a group of prisoners calling themselves ‘the dagga smugglers’ sent a letter to Helen Suzman, protesting against the fact they were not allowed parole:

The present political structure in this country provides no rational dispensation to facilitate the life of a Black man. […] It surprises us that having been forced to deal in dagga by the government’s maladministration of South Africa by its racial policies, we should be denied paroles when serving imprisonments. We steal nothing, even the dagga money is ultimately taxed when we purchase furnitures and vehicles, etc.

Combined with the legislation on alcohol, this measure was a mechanism of social control, infusing fear in the white population regarding the danger of drugs for their children while establishing a repressive system specifically targeting Blacks as providers of drugs and agents of moral decay.

What best embodied the fears of the white minority and the government’s construction of an always menacing swart gevaar was the anxiety about immorality, sexual deviance and inter-racial sexual contact. The infamous Immorality Acts of 1950 and 1957, based upon an early Act of 1927, proscribed sexual relationships between ‘Europeans’ and ‘non-Europeans’, revealing that the fear of degeneration, feeble-mindedness and hereditary diseases allegedly induced by ‘racial miscegenation’ and which prevailed during the first half of the century had not scaled down. Along this perceived threat lay a concern about the growth of the black population and the receding


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numbers of the white one. Due to the interruption of white immigration and the rise of black unemployment, the apartheid government launched a system of ‘population control’ in 1974. According to Barbara Brown, although the programme circumspectly avoided to publicly associate such fear with the ‘family planning’ policy, the latter could barely hide the fact that it was a response to the threat of black revolt and the decline of white authority. The programme consisted in the deployment across the country of family clinics offering contraceptives, as well as educational campaigns. In addition to social constraints compelling black working women to restrict the number of their children, some coercive policies, such as the administration of the potentially dangerous Depo Provera contraceptive in factories, were also put in place. Sterilisation was widespread among ‘coloured’ women, and no attempt was made to ensure that the operation was conducted with informed consent, which led groups of women to attack several clinics. The Abortion and Sterilisation Act n° 2 of 1975 fostered the involvement of psychiatrists in the termination of pregnancy and the sterilisation of women and mentally-retarded people. Although this practice reflected the view that sterilisation was both necessary in terms of population limitation and the control of Blacks’ sexual deviance, the government was wary of making it appear as a medical operation with racial or psychiatric basis. Previously, in 1933, the Department of Health had forbidden psychiatrists from Valkenberg to express their views on sterilisation in newspapers and public places.

The Truth and Reconciliation Commission Special Hearings on Chemical and Biological Warfare revealed that the South African Defence Force undertook research to

358 Ibid, p. 266.
360 CTAR, HVG, 2/1/1. Secretary for the Interior to Valkenberg, 22 August 1933.
implement sterilisation of black women on a larger scale.\footnote{361 Truth and Reconciliation Commission, Special Hearings, Chemical and Biological Warfare Hearings, Cape Town, 1-3, 1998, accessed 12 April 2013, \url{www.justice.gov.za/trc/special/index.htm#cbw}} Although the SADF never actually launched the project, other experiments aiming at ‘treating’ what it perceived as sexual deviances secretly took place in Ward 22 of the Military Hospital in Pretoria. The South African law penalised ‘sodomy’ and homosexuality until 1994, and offenders could either be incarcerated in prisons or psychiatric hospitals.\footnote{362 HPW, AG3199. Psy-Watch to the LRC, 22 June 1993.} In the 1930s, B. J. F Laubsher, one of the most famous South African psychiatrists at the time, drew from the homosexuality allegedly prevailing in prisons and mental hospitals the conclusion that African men were led by a primitive sexual instinct which compelled them to engage in sexual intercourse with other men when no women were available. The same ‘instinct’ explained their alleged inclination to commit rape and sodomy.\footnote{363 McCulloch, \textit{Colonial Psychiatry}, p. 85.} Until 1973, the psychiatrisation of homosexuality in South Africa did not only affect black men. Attempts of ‘treatment’ more specifically targeted white men. While psychiatrists working in psychiatric hospitals dropped all experimentation in 1973, psychiatrists employed by the SADF continued to carry out ‘therapy’ on those who had been diagnosed as homosexuals among the soldiers. This ‘treatment’ consisted in administrating electroshocks while exposing ‘deviants’ to image of naked men, as well as narcoanalysis or, alternatively, chemical castration. The ‘treatment’ ended by gender reassignment surgery before discharging the newly formed men – and at a later stage women – from the military.\footnote{364 R.M. Kaplan, ‘Treatment of Homosexuality During Apartheid’, \textit{British Medical Journal}, 329 (2004), pp. 1415-6. For a detailed account of such practice, see M. van Zyl, J. De Gruchy, S. Lapinsky, S. Lewin and G. Reid, \textit{The Aversion Project: Human Rights Abuses of Gays and Lesbians in the SADF by Health Workers during the Apartheid Area} (Cape Town, 1999).}

The issue of rape during trials also reflected the construction of the \textit{swart gevaar} on the basis of racialised sexual deviance. Throughout apartheid, these cases recurrently attracted public attention, crystallising the fears of the white minority while scandalising
the black population. In 1972, in S. v. Thamaga, a judge sentenced a black man to four years’ imprisonment and six cuts for the rape of a fifteen years old black woman. The previous day, the courts had condemned a black man to a ten years’ imprisonment sentence for the rape of a fifteen years old white woman.\textsuperscript{365} Such discrepancy, while it strengthened Blacks’ fear and aversion towards the judicial system, reassured Whites to the fact that for the government, their protection was a priority. In 1994, a judge sentenced a twenty-three years old white man to eighteen months of corrective service after he had raped and strangled an eleven years old ‘coloured’ boy, leading to a public outcry in the community.\textsuperscript{366} During the 1980s, increasing attention was directed towards the issue of rape and the inequality of sentences imposed on black and white men. Whereas some individuals asked for harsher punishment against all rape offenders, calling for a wider application of the death penalty against such ‘human trash’, others demanded the creation of more centres like Zonderwater Hospital, which implemented ‘rehabilitation programmes’ and chemical castrations.\textsuperscript{367} Although they recognised that the ‘treatment of this condition is rather disappointing on the whole’, psychiatrists also advised castration for ‘exhibitionism’ offenders as an alternative to corporal punishment and prison sentences.\textsuperscript{368}

The government’s discursive construction of the swart gevaar sustained the numerous repressive laws and measures implemented against the black population to maintain the apartheid system and the integrity of the white minority. It also led to a multitude of prison and psychiatric incarcerations. Despite the state and institutions’ attempts to control and dehumanise the lives of prisoners and patients in order to provide the rest of the society with an example of the repression awaiting any person

\textsuperscript{365} Dlamini, ‘The Influence of Race’, p. 44.
\textsuperscript{366} HPW, AG3199. LRC to the Minister of Justice, 14 September 1994.
\textsuperscript{367} HPW, A2084. Suzman to the Prime Minister, 26 June 1987; HPW, A2084. Suzman to a prisoner’s mother, 17 June 1985.
\textsuperscript{368} HPW, A2084. A psychiatrist to a Leeuwkop prisoner’s wife, 3 May 1972.
straying from obedience to the apartheid law, resistance spread in prisons and hospitals, taking a variety of forms and targeting the apartheid system in its ideological core.
PART III

RESISTANCE AS CRIME, VIOLENCE AS MADNESS, BLACKNESS AS PERIL

The strike may have been ignited by the amnesty issue yet it was the explosion of a very volatile issue, the frustration and anger of a dejected and rejected community. The time-bomb of a dormant cry for help, triggered by high expectations and faint hope of emotional, spiritual, psychological, physical and mental freedom from a cruel form of punishment that is meted out to prisoners all over South African prisons.

Chapter 7

Politicisation of Crime, Criminalisation of Politics

During apartheid, legal, penal and psychiatric discourses reflected and contributed to the dissemination of fear in the social body. The racial implications underlying the representation of violence were a constituting element of this fear, for they justified both the existence of a general sense of threat and the counter-violence of repression and resistance. When analysing the power relationships at play during apartheid, one cannot stop at the binary dynamics opposing the state and movements of liberation, those who dominated and those who were apparently subjugated, warders and prisoners, or psychiatric authorities and patients. To unveil the ‘tight grid of disciplinary coercions’ which explained social mechanisms under apartheid, it is necessary to explore the ambiguities, blurring of frontiers and seemingly unconventional relationships linking these different actors.¹ Although violence profoundly shaped everyday life, inside and outside closed institutions, it was by no means singular or linear in its expressions. From a carceral viewpoint, the idea of a thread of violence, stretching from structural violence to the conditions of life in prison and including the production of crime, the development of political violence and police repression, provides a relevant theoretical framework.² It enables the investigation, without falling into the restrictive debate between ‘legitimate’ and ‘illegitimate’ violence, of the meanings which lay beneath the acts of terror, resistance and collaboration, and their evolution throughout apartheid.

¹ Foucault, Il faut défendre la société, p. 33.
Structural Violence, Crime and Terror

Johan Galtung was one of the first academics to characterise structural violence. According to him, it covers the social inequalities and injustice produced by a system, as opposed to a person, and is characterised by its silence, by the fact that ‘it does not show’. During apartheid, for the black population, structural violence took the form of massive people’s relocations, the criminalisation of daily acts and protests, forced migrant labour, the lack of social services and the prevention by all means of the possibility of gaining control over one’s life. In the Western Cape, migration flows towards Cape Town greatly increased after the ‘industrial revolution’ of the 1940s. According to Sandra Burman and Wilfried Schärpf, despite the creation of the townships of Langa and Nyanga, four-fifths of the black population in the area of Cape Town lived in squatter camps during the 1950s. Township housing were divided into family lodgings and hostels for single migrant men, the functioning of which bore similarities with prisons. The government saw squatter camps as a menace both to security and hygiene and continuously strove, without success, to destroy these ‘urban black spots’. The repression against the KTC squatter camp in 1983 led to hundreds of shelters being destroyed and to a great number of arrests, but did not curtail the presence of squatters in the area. The strict control of labour and movement reinforced the structural violence stemming from laws that denied propriety rights in housing or lodgings for black people. Those without regular work and thus breaking the pass laws could either choose between paying a fine they could usually not afford, going to prison where they would

be forced to work, or being referred to a labour bureau which would allocate them to the hardest jobs.\(^8\)

The plethora of laws criminalising black people’s daily moves, the stark social inequalities, added to constant repression by the police, massive incarceration and the culture of institutionalised violence which prevailed in mine compounds and single hostels across the country created the conditions for the development of illegal activities. For a variety of reasons, which historians and sociologists have depicted in terms of crisis in ‘masculinity’ and identity, ‘psycho-social stresses’ and dehumanisation or the destruction of community links, gangs overwhelmingly composed of men developed at a rapid rhythm in Western Cape townships.\(^9\) Crime fitted in the continuum of apartheid violence as a product of political, social and economic institutions, while it shaped in return the system of law and order implemented to restrain it. A number of studies have explored the emergence of urban gangs at the beginning of the twentieth century, analysing their internal structure and repertoires of actions in terms of a counteraction to the violence found in mine compounds, prisons and police cells, which played a major role in the enforcement of migrant labour work.\(^10\) Gangs continued to proliferate throughout the century. By the 1980s, when the context in South African townships resembled more and more one of ‘low intensity civil war’, gangs bore an influence on a great number of situations, from political activities to the administration of justice by peoples’ courts.\(^11\)

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*8* Cook, *Akin to Slavery*, p. 6.

*9* Most of these theories, despite the interesting analyses they provide on the social dynamics at play in the creation of the ‘underworld’, by forgetting to take into account the complexity of structural violence, do not escape the pitfall of offering a normative image of the ‘outlaw’. See Marks and Andersson, ‘The Epidemiology and Culture of Violence’ and Pinnock, *The Brotherhoods*.


The apartheid police force retained many of its earlier colonial features. Like in other parts of the British Empire, its role focused on internal security rather than civil policing.\textsuperscript{12} Prior to 1986, the criminalisation of ‘illegal urbanity’ by pass laws meant that the police, to the dismay of many residents, effectuated sporadic raids in the townships, targeting pass law offenders and alcohol producers rather than gang members.\textsuperscript{13} The creation and specialisation from the 1960s onwards of paramilitary units assigned to riot control revealed the increasing priority the government gave to the suppression of political protest.\textsuperscript{14} It is hence not surprising that academics have more widely applied the idea of the state and of its subjects’ violence mutually fostering one another to the relationships between police repression and the counterviolence of resistance than to the production of crime and the violence of gangs.\textsuperscript{15} Following the 1985 massacre in Uitenhage, waves of insurrection swept the country, leading to the declaration of states of emergency in a number of regions in July.\textsuperscript{16} During the first month of the state of emergency, 119 people died and 1,669 were arrested.\textsuperscript{17} Although the state of emergency was only promulgated on 26 October 1985 in the Western Cape, movements of unrest followed by waves of repression had shaken the region since the start of the national emergency.\textsuperscript{18} In July, students at the University of the Western Cape (UWC) and the University of Cape Town (UCT) organised massive gatherings and boycotts and were consequently tear-gassed, sjamboked and arrested.\textsuperscript{19} At the same time, repression hit the townships of Nyanga, Guguletu and Langa, in answer to student boycotts and police

\begin{itemize}
\item D. Anderson and D. Killingray, \textit{Policing the Empire: Government, Authority and Control, 1830-1940} (Manchester, 1991), p. 11.
\item Rauch and Storey, ‘The Policing of Public Gatherings’.
\item Beinart, ‘Introduction: Political Violence’, p. 464.
\item Burman and Schärf, ‘Creating People’s Justice’, p. 727.
\item Bundy, ‘Street Sociology’, p. 321.
\end{itemize}
vehicles being stoned and petrol-bombed.\textsuperscript{20} Women were also involved in the movements, particularly those concerning squatter camps. After a demonstration at the New Crossroads squatter camps, the police arrested 169 women for illegal gathering. The judicial system condemned 89 of them to suspended prison sentences.\textsuperscript{21}

On 28 August 1985, people marched to Pollsmoor in order to ask for the release of Nelson Mandela. The South African Defence Force came to bolster the police action and violently dispersed the march. In addition to the eight people killed by the police during the march, the arrest of female members of the Black Sash and the attacks on journalists were emblematic of the fact that the state’s reaction was now unhindered.\textsuperscript{22}

Funerals were symbolic moments when thousands of people gathered to honour those dead at the hands of the police. They punctuated the first months of the emergency and led to further repression, reinforcing the spread of terror through the desacralisation of death.\textsuperscript{23} This strategy of psychological terror was a characteristic of counter-insurgency strategy and reflected the state’s perception of the racialised Other as an ‘interior enemy’.\textsuperscript{24} Military occupation of townships, constant harassment by the police, recruitment of informers and strategies of disinformation propagated fear and distrust in the townships, adding to the overwhelming feeling of danger.\textsuperscript{25} Witch hunts and attacks against community councillors reflected this suspiciousness and added to the omnipresence of violence.\textsuperscript{26}

\begin{itemize}
\item \textsuperscript{20} MAR, BC854, \textit{Repression Bulletin}, October 1985.
\item \textsuperscript{21} MAR, BC1065. Federation of Transvaal Women, \textit{A Woman’s Place is in the Struggle, not Behind Bars}, 1987.
\item \textsuperscript{22} MAR, BC1065. Black Sash, \textit{Newsletter}, September 1985.
\item \textsuperscript{26} Burman and Schärfr, ‘Creating People’s Justice’, p. 719.
\end{itemize}
order to recruit informers, as in the case of a worker from the Knysna Advice Office of the Black Sash in 1988. In its deployment of terror, the apartheid government also played on the uncertainty about what was taking place in prisons and police cells, while being aware that rumours of torture and death in detention were spreading out. In the Western Cape, while the security branch was responsible for most of the abuses against those arrested in a political context, common law detainees were predominantly tortured by members of the Murder and Robbery Unit and by detectives. Indeed, as the Ad-Hoc Detention Action Committee denounced in 1985:

‘Random’ brutality and violence are not random at all – together with the continuing, massive police and army presence in the ghettos, their function is to intimidate and terrorise whole communities into submission. It is no good detaining leaders if masses of ordinary people carry on resisting – the violence that lurks in the prisons and interrogation rooms of South Africa must be brought onto the streets and dosed out to the oppressed people to teach them their place in Apartheid society.

The role of arrests, prison sentences and the treatment administered to offenders once inside prison played a crucial role in the dissemination of fear in the social body, a fear conceived as necessary to the maintenance of obedience and subjugation to the government’s authority. On 30 June 1985, black prisoners (awaiting-trial and sentenced) represented 0.31 per cent of the black national population, white prisoners represented 0.10 per cent of the white national population and ‘asian’ and ‘coloured’ prisoners 0.09 and 0.90 per cent respectively. The proportion of people admitted in prison during the year 1984-5 is even more relevant to the understanding of the dissemination of fear through massive incarceration. Compared to the national population, ‘black’ prisoners represented 1.5 per cent of the ‘black’ national population. The respective proportions

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for Whites, ‘Asians’ and ‘Coloureds’ were 0.34 per cent, 0.62 per cent and 3.3 per cent.  

By the 1980s, massive arrests did not so much reflect an increase in illegal activities as they constituted a display of police force. They also represented the will to impose psychological suffering on those detained and to reassert the pervasiveness of punishment. In 1987, the Black Sash recorded that in 68 per cent of all the trial cases it monitored – and in 81 per cent for juveniles – charges were dropped or the defendants were found not guilty. The function of prison sentences was more complex. From 1959 to 1969, the South African prison population increased by 76 per cent, shifting from 49,886 to 88,079, while the national population grew by 24 per cent. Not only did this trend continue in the following decades, but the lengths of detention for offenders awaiting their trial and of prison sentences also increased. In 1981, a lieutenant-general of the Prisons Services asserted, in his submission to the Commission of Inquiry into the Structure and Functioning of the Courts, that:

Compulsory minimum sentences of five years for offences involving the possession of dagga and the fact that a man could be declared a habitual criminal after being convicted on similar offences all helped to lead to an exploding prison population. It is possible for a person who was declared a habitual criminal by the courts to get a five to eight year sentence for stealing a chicken. Long periods of imprisonment are becoming so common place that it did not have any shock value.

The concern about the diminishing ‘shock value’ of prison sentences revealed a contradiction between a classic though extreme model of population control – through incarceration and exclusion from society – and the necessity to maintain the idea of a deterrent function of prison.

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33 Refer to the Appendice pp. 295-296 for precise statistical figures.
The torture and daily abuses to which political and common law offenders were confronted once in prison were also part of the logic of terror. To the prison ‘absolute power’ based on the ‘uncertainty of fate’, which prevented any possibility to foresee the future and induced submission in the waiting, echoed the indeterminacy of sudden police raids and violent repression in townships.\(^\text{35}\) The creation and propagation of terror during apartheid hence partly relied on a thread of state violence which ranged from the categorisation of ‘threatening populations’ to their repression, arrest and further brutalisation in prison.\(^\text{36}\) Closed institutions, by embodying and crystallising broader power relationships, acted as a threatening example of punishment while they further produced a category of ‘outlaws’ which helped in the dissemination of fear and legitimised the disciplinary power of the apartheid system. These ‘outlaws’ were, however, not so easily governed and had a profound impact on townships’ politics and dynamics of violence, especially during the later part of the apartheid regime.

**Resistance, ‘Comtsotsis’ and Township Violence**

Many researches have investigated the origins and modalities of the deployment of violence which accompanied the reforms and slow dismantling of the apartheid regime from the 1980s to the end of the democratic transition in 1994. Authors have analysed this historical phenomenon, particularly anchored in urban townships and depicted as ‘black on black’ violence by the state, as a clash between different social groupings, fuelled and aggravated by the covert actions of the state. One of the recurrent themes of these studies has been the ambivalent discourse elaborated on the influence of ‘comtsotsis’ on this outburst of violence. The term ‘comtsotsis’, which appeared during the 1980s, both represented self-defined politically aligned youth and ex-comrades who

had turned to ‘illegal activities’ and gangs. The press often viewed them as an undisciplined and greedy constituency partly responsible for necklacing, kangaroo courts, random violence and police informing. Movements of resistance and communities at large often acknowledged, however, the structural violence of apartheid policies which had led to the formation of street gangs. The general portrayal of the tense links between movements of resistance and ‘comtsotsis’, or between ‘political’ resistance, random violence and collaboration presents several pitfalls. Amongst them is the fact that by limiting the analysis of the relationships between police, movements of resistance and gangs to the 1980s, an ahistorical picture emerges, obliterating the deeper connections between the ‘criminal underworld’, the wider ‘tsotsi’ culture and different political parties, as well as the anti-establishment activities of gangs prior to the 1980s turmoil. The construction of the ‘tsotsi’ experience as an inherent feature of individuals constitutes another shortcoming. Having been a ‘tsotsi’ – either by shared culture or by involvement in illegal activities – seemed to ‘stain’ individuals for the rest of their lives. Hence, fellow ANC members often perceived some high-ranking members as defined by their ‘tsotsi’ background, even though they no longer had any contact with the ‘tsotsi’ world. Finally, it can be argued that the normative obligation to try and fit South African history into the dichotomy opposing ‘political’ – and hence respectable, organised and conscientised – and ‘criminal’ violence – seen as synonym for youth, ruthlessness and personal aims – prevents the investigation of the actual blurring of frontiers and ambiguities which characterised the resort to violence of a wide part of the population against an oppressive system.

Some members of the ANC and the PAC, as well as some researchers, acknowledged the fact that gang activities throughout apartheid stemmed from a

political anger, though, in their view, ‘misdirected’. According to them, the structural
violence of unemployment, forced removals, pass laws and massive arrests induced this
political anger. Indeed, most urban youth who joined a movement of resistance or a
gang were exposed to the same social conditions, bred the same frustration and went –
after the implementation of the Bantu Education system in 1953 – to school together.
What direction one chose seems to have been left to contingent elements. A member of
the Number held at Pollsmoor recalled the moment that led to his ‘criminal career’ in
the following terms:

It had to be frustrating because at that time, say 1975, 1976, I was a teenager. Many of us were teenagers. I was in school. I could have been a better person today. But because of the uprising in the Western Cape, the police used to come in our schools and hit us with sjamboks. Me, I started to lose my trust in the law. And I think that’s where things began to take the wrong road. I landed in prison in the 1970s. We used to call white people the boers. We didn’t give them any reason to beat us, we were just children, they used to hit us, we had to jump out of the windows. Some of our fellow students got shot with bird shot. We threw stones at the police.

Although the formation of the political consciousness of young comrades and young
gangsters followed a similar path, attitudes towards crime and violence differed. The
official discourse of the ANC constructed crime as a threat which had to be cured or
punished and viewed violence – after the ANC’s decision to engage in the armed
struggle in 1961 – as a necessary evil. In the 1950s, ANC members such as Robert
Resha and Nelson Mandela attempted to ‘rehabilitate’ tsotsis in order to incorporate
them into the ANC, while supporting local civil guards that aimed at eradicating
gangs. During his trial in 1988, Ashley Forbes evoked the planning of a ‘disciplinary

38 Dlamini, *Hell Hole*, p. 89; C. Glaser, ‘When Are We Going to Fight? Tsotsis, Youth Politics and the
PAC on the Witwatersrand during the 1950s and early 1960s’, History Workshop, University of the
Witwatersrand, 6-10 February 1990, accessed on 12 September 2013, at
wiredspace.wits.ac.za/bitstream/handle/10539/7868/HWS-136.pdf?sequence=1, p. 4.
39 HPW, AG3012. S. Soal, ‘Engaging Street Gangs: a contextual study exploring student and teacher
perceptions of gang activity, and the relationships between gangs and political organisation in the
high schools of Mitchell’s Plain, directed at generating guidelines for engaging with gangs’,
(University of Cape Town, Dissertation, 1988).
40 Interview, Mr. Hendricks.
41 Glaser, ‘When Are We Going to Fight?’, p. 5.
camp’ for ANC members who had committed robbery. Mxolisi Petane, in one of the most famous MK soldiers’ trial statements, reflected the ANC view on violence when he asserted:

When I joined Umkhonto we Sizwe it was not because of my desire for violence but because the time had come in my life, where I was left with only two choices, to submit or fight apartheid. I chose not to submit to tyranny but to fight back, so I would have been unrealistic and wrong after my 1976-7 experiences of tyranny to continue pursuing non-violent struggle when all our peaceful protests were met with naked and brutal violence.

Created in 1959, the PAC let its members broadly interpret its view on violent action. Initially, it did not advocate the resort to armed struggle, but recurrently made references to the need for ‘confrontation’. According to Clive Glaser, the PAC managed to recruit a great number of ‘tsotsis’ in its ranks during the 1960s, due to the fact that it was willing to ‘[break] the law and [offend] the white liberal establishment’, as well as to encourage robberies to finance the movement. However, in their autobiographies, Moses Dlamini and APLA Commander Letlapa Mphahlele criticised the use of crime to further the aims of liberation movements and promoted instead the ‘education’ and ‘sensibilization’ of gangsters to ‘the needs of the revolution’. In addition to class and generational issues, the reason for the ANC and, to a lesser extent, the PAC’s will to distance themselves from gangsters lay in the fact that part of the latter’s activities involved brutally preying on fellow township residents and the sexual abuse of women. Although such actions distinguished gangsters from the traditional image of social bandits, medias’ focus on this violence often wiped out other forms of more organised operations. Economic illegality was both a consequence of unemployment and apartheid policy and a reaction – and ‘fair retribution’ – against inequal social conditions.

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44 Glaser, ‘When Are We Going to Fight?’, p. 16.
45 Dlamini, Hell Hole, p. 95; Mphahlele, Child of this Soil, p. 144.
Moreover, as in the case of the Number’s attitude towards warders, street gangs perceived the police as the prime enemy, the most symbolic representatives of apartheid system. During the 1950s, they were the only groups who fought directly against them, attacking police stations and confronting the police when they entered townships to implement the laws relating to alcohol production, passes and forced removals.\(^47\) The widespread ‘tsotsi culture’ amongst youth, which extended beyond gang membership, also evidenced the insertion of gangs and their identities in some parts of the communities.\(^48\)

Despite the official claims of most resistance movements, the connections between crime and politics ran deep. In the ANC, important figures such as Joe Modise, the army commander of MK in exile, were known – and either revered or despised – for their background as ‘street fighters’ in townships such as Alexandra or Sophiatown.\(^49\)

Inside South Africa, some members of the PAC and the ANC committed armed robberies to obtain finances for the struggle. In exile, larger illicit trades of Mandrax and cars, sometimes combined in the ‘politics of repossession’ which involved armed robberies in host countries, were common.\(^50\) Resistance movements also benefited from gangs’ mode of actions on a sporadic basis. Movements of resistance relied on the ‘bravery’, tradition of violence and ‘ability to kill’ of gang members to insure the implementation of boycotts, the petrol bombing of houses and vehicles or the killing of police informers and collaborators. In the interviews led by Scheper-Hughes, comrades acknowledged that ‘without the criminal element the struggle would not have been available to [them]’.\(^51\) Although the ANC and PAC were aware they needed ‘tsotsis’ to

\(^{47}\) Glaser, ‘When Are We Going to Fight?’, p. 9.
\(^{48}\) Kynoch, ‘From the Ninevites’, p. 55.
\(^{49}\) Callinicos, ‘Oliver Tambo’, p. 137.
help sustaining a struggle they were not able to wage alone from their exile, the reluctance to qualify their acts as political constituted a way to endow the discourse on the struggle with legitimacy, while achieving its aims on the ground.

The shifting boundaries between legitimate and illegitimate violence revealed a struggle for sovereignty. They became even more blurred during the 1980s, a decade that was characterised by a ‘state of exception’ where numerous social groups attempted to impose their own ‘force of law’. The 1976 student revolts propelled young township residents into more direct forms of confrontation against the apartheid state. These actors widened their action after the ANC launched its slogans on ‘people’s war’ and ‘making townships ungovernable’ in 1985. The establishment of peoples’ courts, often linked to the UDF, as well as ANC and PAC-aligned self-defence units widened the popular basis of the struggle. In addition, the conflict opposing the Inkatha Freedom Party (IFP) and resistance movements, the covert actions conjointly led by the army and the police, the violent confrontation between different movements of resistance and the fact that all these actors partly relied on gangs’ networks for their actions created a context where politics, local power relationships and identity dynamics meshed together. While the apartheid state attempted to depict these conflicts as ‘black on black violence’, the ANC, anticipating its role as a government in waiting, deployed an ambivalent discourse oscillating between a condemnation of violent acts such as necklacing and a condonation of ‘mass violence’ as an understandable reaction to police brutality and informants’ networks.

The emergence of necklacing, a practice aiming at killing a ‘collaborator’ by placing a tyre filled with petrol around the informer’s body and setting it alight,

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coincided with the ANC approving attacks on ‘soft targets’.\footnote{Ibid, p. 141.} People’s courts and street committees, which modelled themselves according to a century-long history of structured popular justice, became politically aligned in 1985. At the same time, ‘kangaroo courts’, often perceived as ‘impromptu forms of revenge, hooliganism and violence’, meted out brutal punishment against those deemed to deviate from the political and social norms of the period.\footnote{HPW, AK2915. Report by M.W. Schärf, Institute of Criminology, UCT, in the matter of State v. Sipati. Regional Court, George, 1991-1992.} In 1990, the ANC officially recognised the legitimacy of people’s courts, though it warned that some ‘had lost sight of political objectives’ and ‘had fallen into the hands of ill-disciplined activists’, as in the cases of courts sentencing people to 330 lashes.\footnote{HPW, A2084. South African Press Association, ‘ANC and People’s Courts’, 17 October 1990.} The dissension between ANC cadres who had called for ‘ungovernability’ but rejected violent excesses and comrades who clearly understood that the ANC had ‘encouraged and even glorified’ acts such as ‘the killing and burning of collaborators and informers’ resulted in confusion and frustration.\footnote{HPW, A2084. Pretoria political prisoners to Walter Sisulu, 26 July 1991.} The media played an important role in reinforcing the blurring of the dividing line between justifiable and arbitrary violence, placing a strong emphasis on the pervasive influence of ‘comtsotsis’. In an article entitled ‘The Khmer Noir’, The Mercury described the latter in the following terms:

They have been christened the Khmer Noir. They kill. They rape. They force some of their victims to drink cooking oil. Like the Khmer Rouge of Cambodia, they are greatly feared and their intimidation largely works. And, like the Khmer Rouge, it’s all done in the names of ‘justice’ and ‘liberation’.\footnote{The Mercury, 7 November 1990.}

The increase in violence that accompanied the unbanning of resistance movements and the release of the first group of political prisoners in 1990 led to a deeper fracture between the ANC leadership and self proclaimed ANC-aligned gangs such as the

\footnote{Burman and Schärf, “Creating People’s Justice”, p. 726.}
‘Gaddafis’, accused of burning houses and people, raping women and extorting township residents. On the ground however, the line between ‘comrades’ and ‘tsotsis’ grew thinner as revenge actions induced spirals of violence between local groups. This cleavage became particularly blatant when some defence units refused to surrender their arms after the 1994 election. The situation also profoundly affected the issue of political prisoners’ amnesty. This issue would have a crucial impact on the negotiations between the ANC and the National Party and reflected the parties’ will to ‘normalise the political scene’ by ‘decriminalising’ politics.

The links between gangs and the repressive state apparatus also came under light during the 1980s. Some specific units, such as the Brixton Murder and Robbery Squad, were infamous for their collusion with ‘the criminal world’. The use of gang members by the police to infiltrate or attack movements of resistance was more common. In exchange for money, protection or release from police cells without further prosecution, the Civil Cooperation Bureau encouraged gangs that alleged to be aligned with conflicting political groups to exacerbate tensions and help amplifying the spirals of violence. Many entered IFP factions, which the South African Defence Force bolstered and sometimes trained. As recent studies have shown, however, the paradigms of resistance and collaboration did not always relate to moral issues. They reflected ‘rational and alternative strategies’, constituted ‘acts of negotiation with forces of political and economic change’ and undermined the classic dichotomies opposing oppressors and oppressed. This was even more compelling in a context where the

covert actions of the police and the army, described at that time as the operations of a ‘Third Force’, shadowed the political violence shaking the country. Youth clubs such as ‘The Eagles’ entered in violent conflict with movements of resistance after having followed anti-communist camp trainings without knowing who sponsored them. Older men organised in groups of vigilantes protected by the police physically confronted youth gangs and comrades. The police subjected to torture and brutal treatment *Askaris* – members of resistance movements arrested and turned into collaborators. Organised into death squads such as the infamous *Vlakplaas, askaris* were responsible for a great number of covert killings. Some figures were even more ambiguous. Joseph Mamasela invented his past as an ANC member to become an *askari* in order to escape jail and put to use his own hatred towards the ANC. The use by the ANC of outlaws working for the police to revert the flux of information further muddied the waters. Although the structural and police violence prevailing in townships as well as the relative unpreparedness of resistance movements to engage in an armed struggle partly accounted for the connections which tied these movements to gang members, the dynamics of alliance and collaboration developed in prison also had a profound impact on the blurring of the frontier between legitimate and illegitimate violence and the transfers of modes of resistance.

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70 Ellis, ‘The Historical Significance’, p. 269.
71 On Mamasela’s ambiguous discourse over his own past, see J. Pauw, *Into the Heart of Darkness* (Johannesburg, 1997), pp. 170-80.
Fraternity and Betrayal: the Number and Political Prisoners

In order to deconstruct, in a Derridian sense, the ‘violent hierarchy’ implied by the binary opposition between political and ‘criminal’ violence, it is useful to investigate the relationships between political and common law prisoners throughout apartheid.\(^{73}\) The structural and repressive violence implemented by the successive governments led to massive incarcerations under criminal law. On the one hand, the public opinion feared that the contact in prison between young people arrested for public violence offences and ‘hardened criminals’ might induce the corruption of the former.\(^{74}\) On the other hand, during the democratic transition, the issue of amnesty rested in the complex delimitation between common law and political prisoners. According to the Human Rights Commission, ‘between 70 and 80 percent of “political prisoners” were jailed under common law crimes such as public violence, intimidation, assault or murder’.\(^{75}\) Moreover, the plethora of laws constraining Blacks’ movements and labour entailed that economic illegality was often assorted with a political conscience as to the oppressive inequality of social conditions. The similar popular perception of white policemen and white warders as underlings of the regime reinforced the articulation of police repression with prison oppression.\(^{76}\) Throughout apartheid, while for members of resistance movements, a passage in prison inscribed itself in individual political careers, for those labelled as ‘common law’ inmates, prison experience gradually lost its stigma. Inside, the Number offered to new incomers its own version of an oppressive past marked by colonisation and capitalism, modes of defence against white minority rule and an identity characterised by determination, violence and resistance. Despite the similitudes between the aims proclaimed by political prisoners and those of the Number,

\(^{74}\) *Cape Times*, 6 June 1986.
\(^{75}\) *The Star*, 15 August 1990.
\(^{76}\) Interview, Mr. Urbosch.
the relationships between the two groups were diverse, ranging from mutual help to overt distrust. More generally, connections between political prisoners and common law inmates, despite their variability, had a profound consequence on the discourses and modes of action adopted by individuals from both groups during their continued incarceration and/or once they were released.

The few analyses that pictured the relationships between political and common law prisoners have focused on Robben Island. However, conditions in this prison differed from Pollsmoor and evolved throughout apartheid. During the 1960s, political leaders imprisoned on Robben Island had reached some agreements with the prison administration, a situation which the younger generation sent to the Island in the aftermath of the 1976 revolts challenged.\(^77\) Despite the fact that by the late 1960s, the organisation of political prisoners had induced a significant amelioration of their conditions on the Island, the collaboration between the prison administration and some common law prisoners led to repeated abuses against political prisoners. Affiliated to the gang of the ‘Big Fives’, these common law prisoners helped warders humiliate and brutalise ANC, BCM and PAC members. The arrival of the ‘Big Six’ gang at the end of the 1960s, which would later disappear into the Number 28’s gang, changed the relationships between political and common law prisoners. The sharing of a common enemy, the prison administration, entailed that some alliances and protection services tied the Big Six to Robben Island political prisoners. The differentiation between them was still sharp, as Dlamini revealed when describing their arrival at the prison:

> Many of them were toothless, some had front teeth missing and old scars over their eyes, ears, mouths and noses. There were a few among them who were still young. They all looked like men who had left planet earth for another planet and there become engaged in wars and after many years had now returned to find human society completely changed from what is was. Some of them greeted us sadly.\(^78\)

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The separation between common law and political convicts at the beginning of the 1970s transformed the atmosphere on the Island, leaving political prisoners enough margins of manoeuvre to create structures conducive to their political work.\textsuperscript{79} By the end of the 1980s, Mxolisi Petane evoked the new climate in the following terms:

\begin{quote}
I am not trying to draw a rosy picture about this place, but despite the disadvantages of incarceration, the fact that this is where we are regrouping is a big plus; camaraderie, positive rather wonderful spirit towards furthering of academic standards, upliftment of our culture are tremendous achievements.\textsuperscript{80}
\end{quote}

In May 1991, the 40 political prisoners left on the Island after the first waves of amnesty were transferred to Pollsmoor, marking the end of the most symbolic political prison of apartheid. Pollsmoor, in contrast, never housed such large numbers of political prisoners.\textsuperscript{81} Most of them remained grouped according to their trial and party affiliation, which prevented them from establishing overarching structures and struggles for all political prisoners. Like in Robben Island, their conditions improved from the end of the 1960s to the 1980s. Their contacts with common law prisoners, however, vastly differed. The regulations officially preventing communication between them, the architecture of the prison and the fact that in Pollsmoor, to the difference of Robben Island, political prisoners did not have to work, meant that exchanges between the two groups were mostly clandestine. The force of the Number gangs left little space to the Big Fives, which did not mean, however, that collaboration with warders was absent from the common law prisoners’ range of actions. In addition to the variations between different prisons, the links tied between political and common law inmates depended on the resistance movements to which the former belonged. The diversity of attitudes adopted by members of the PAC, the BCM and the ANC regarding the legitimacy of criminality replicated itself inside prison. Hence, most accounts by ANC members

\begin{footnotes}
\item[80] MDR, Mxolisi Petane to his lawyer, 1 May 1989.
\end{footnotes}
outlined the difference, to take up Mandela’s words, between the ‘victimisation’ of ‘prisoner freedom fighters’ and the ‘privileges which are enjoyed by non-political prisoners including those who have been sentenced for such serious crimes as murder, rape, theft, fraud and similar offences’. As an ex-ANC political prisoner summed it up: ‘I would have no benefit in changing their minds, because they were people who I needed to keep at arm’s length anyway, because we had to keep clean politically’. It seems that ANC members imprisoned during their exile training in neighbouring countries such as Botswana held less contempt for their common law counterparts. The PAC stance towards ‘criminals’ was as ambiguous inside as outside. PAC members such as L. Mlahleki emphasised the will to ‘conscientize’ their fellow inmates. At the same time, they were wary of common law prisoners attempting to join the PAC solely to access economic or social gains, which did not prevent PAC members to instrumentalise their belief in a future admittance to the PAC in order to use their services.

In Pollsmoor, from the 1960s to the mid-1990s, the prevailing contacts between common law and political prisoners hinged on daily survival. In addition to exchanges of cigarettes, newspapers, food and toiletries, political prisoners could learn from observing or talking with their common law counterparts ways of communicating and swapping goods without the warders noticing. A detainee held in Pollsmoor awaiting-trial section in 1976 related how he learnt to communicate with members of the 26’s across the section through emptied toilet buckets. He also traded money against ‘dagga’ through the same system, by tying the money around a piece of soap and covering it with cotton before flushing it down the toilet in order for the ‘26’ to pull it from his cell

82 HPW, AG2510. N. Mandela to Dr. Kelly, 1981.
83 Interview, Mr. Jeffrey.
84 Mphahlele, Child of this Soil, pp. 121-2.
86 Interview, Mr. Khumalo.
toilet bucket with a string. Communication between political and common law prisoners, despite the restrictive policy, could take place when the latter brought food to the former or came to do maintenance work in their sections or cells. During the 1980s, in Medium B, the white males’ section, the two groups sometimes intersected for half an hour during exercise time. Relationships, crucial in order to break away from the imposed anonymity of the place, were formed in the courtyard and later continued in the forms of letters smuggled from one cell to another.

Gang members retrospectively expressed a deep respect for political inmates. The way historical situations developed after the evoked events – in this case, the access to power of the ANC in 1994 – undoubtedly influenced oral narratives. However, political prisoners, in their written or oral testimonies, also attested that they mostly encountered deference from gang members, with the exception of occasions when the latter collaborated with warders. Generally speaking, political prisoners held a highly negative view on gang members. Once more, the specificities of oral history and autobiographies explain part of this attitude, for mnemonic practices entail issues of representation and identity, often constituted in opposition to an evil-portrayed ‘Other’ from which one has to be distinguished. The internal violence of the Number, the tattoos and scars covering its members’ bodies and the inaccessibility of the gangs’ founding mythology to outsiders only came to reinforce this tendency. The most caricatural but not uncommon terms and phrases used by political prisoners to describe gang members and, more broadly, common law inmates oscillated between a ‘world where reason left somehow’; ‘someone who is socially weak […] without the slightest

87 MAR, BC756. Interview with a former political detainee, 1976.
88 Interview, Mr. Bloomberg.
89 Interview, Mr. Ebbing.
90 Interview, Mr. Urbosch.
sense of responsibility to anybody else, and no feeling for originality or “property”; or ‘dregs of humanity who had been crushed by the system and had been brought by our political opponents to come and demoralise us, turn us into homosexuals and make us opt for the Bantustans’. 93

Despite the discrepancy between the mutual perceptions of political and common law inmates, modes of fraternity emerged, followed by practices of mutual help. The establishment of such connections seemed more casual for female political prisoners. A white detainee held at the end of the 1970s in Pollsmoor recalled that black female common law prisoners were ‘incredibly supportive’. 94 A few years later, Pollsmoor prisoners who worked as cleaners helped a ‘coloured’ female detainee held in a police cell to pass messages to the outside, providing her with a pencil and paper. 95 In her autobiography, Makhoere evoked how common law prisoners – ‘our brothers’ – working around the sections invented ways of providing them with political information from outside and newspapers, breaking the political prisoners’ isolation. 96 The idea of a common fraternity also appeared in testimonies by male detainees held at Pollsmoor, who portrayed how ‘the other bandiete’ were ‘very nice’, seeking ways to ‘swap things’ and acknowledged that ‘their conditions are just really shit’. 97 In 1965, in a letter sent to Helen Suzman, Robben Island political prisoners expressed the will for a presidential pardon which would apply to ‘all prisoners, political or criminal’. 98 This relative compassion led to the development of mechanisms of mutual help which could be more or less ambiguous. During the 1960s, PAC prisoners held at Pollsmoor used the structure of the Number to pass letters outside. Gang members would smuggle out the

93 Interview, Mr. Jeffrey; Breytenbach, The True Confessions, p. 148; Dlamini, Hell-Hole, p. 23 and p. 165.
94 MAR, BC756. Interview with a former political detainee, 1980.
95 MAR, BC756. Interview with a former political detainee, mid-1980s.
96 Makhoere, No Child’s Play, p. 38 and 42.
97 MAR, BC756. Interview with a former political detainee, 1981.
letters and bring back answers through their own channels in exchange for a few rands. Despite the fact that this ‘messenger’ work proved risky for common law prisoners and extremely useful to political inmates, the latter were still wary of offering them opportunities to become PAC members. On the other hand, gang members played on the political prisoners’ ‘sensibility’ and sense of fraternity. According to a PAC member, when gang members were housed in cells across a corridor, they would, for instance, assault one of their fellow inmates while requesting tobacco from political prisoners, until the latter could no longer bear seeing the inmate being beaten up and hand in their rations of tobacco. 99

More *bona fide* attitudes also emerged and practical connections between political prisoners and gang members could occasionally end up in recruiting procedures. 100 The same PAC member recalls that once him and his fellow trialists were incarcerated at Pollsmoor, they recruited a couple of common law prisoners and entered in contact with other ‘PAC members’:

> We managed to get some who were members of the PAC. Some of these prisoners were members of the PAC from outside. When they were convicted, they didn’t tell the judge or the magistrate that they were members of a political party. They would appear to be less interested in politics, but once they are inside, and they can say ‘we are members of the PAC’, they would immediately identify themselves to us. 101

Although the distinguishing line between the alleged PAC members and other common law inmates is not clarified in the interview, it can be assumed that the distinction depended on politically articulated discourses, the nature of offences and the time spent in prison. Recruiting procedures could also go the other way round, as a detainee held at Pollsmoor at the end of the 1970s described:

99 Interview, Mr. Khumalo.
100 MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
101 Interview, Mr. Khumalo.
They recruited me to a gang! 26s. I got so fucking scared. [...] He thought that I
would be a good recruit, without meeting me. He could just listen to me when
we were talking about things. And he was telling me his life, which is just a life
spent in prison. How many murders he was responsible for in that prison. God it
was heavy. And he was working on me, trying to recruit me for the gang. And I
got quite scared. Because the guy was working with my brains.102

Fraternity and mutual help only constituted one aspect of the relationships
between political and common law prisoners. A continuum of modalities extended to the
other extreme, which involved the collaboration of common law prisoners with warders
in order to brutalise or mislead political prisoners. The actions of the Big Fives on
Robben Island, for instance, have been related in detail. They included placing weapons
and false letters into the political prisoners’ cells before a warders’ search so that
political prisoners would be sent to isolation, assisting warders in beating prisoners up
or burying them alive before urinating in their mouths.103 In other prisons like
Humansdorp, gang members were involved in the ‘admission ceremony’ where warders
hit political prisoners with sjamboks while they ran around, naked, in one of the
courtyards.104 Gang members could also be called to testify in court in order to defend
warders charged with assaulting political prisoners. In return, they received awards such
as early paroles and protection against other gangs.105 A political prisoner held in
Pollsmoor white males’ section detailed how a common law prisoner working as a
cleaner offered his service to pass messages to another political prisoner held in the
prison’s hospital. The two political prisoners eventually found out that each message
had been brought to the warders, who had made copies of them in order to threaten the
two political prisoners with punishment.106 Collaboration was not, however, an
irrevocable decision, and could be turned around against the prison administration.

102 MAR, BC756. Interview with a former political detainee, 1976.
104 MAR, BC756. Interview with a former political detainee, 1977.
105 Human Rights Watch, *Prison Conditions in South Africa*.
106 Interview, Mr. Jeffrey.
Jonny Steinberg studied how MK soldiers held at Pollsmoor in 1987 were put in collective cells with members of the Number with the idea that they would be killed. Instead, the Number gangs, after thoroughly examining them, decided to place them under the protection of the ‘27’, the Number’s army, seen as the equivalent of MK.  

More broadly, the multiple facets of these relationships were linked to the repertoire of actions available to prisoners during apartheid. Stretching from resistance to collaboration, and including processes of mimicry and faking mental illness, these different modalities revealed that the military system of law and order imposed on prisoners’ life presented cracks and flaws, in which the prisoners’ subjectivities shaped themselves.

Chapter 8
Protesting, Mimicking, Faking

The analysis of resistance in prisons and mental hospitals during apartheid is crucial in order to investigate the effect of disciplinary power and the possibilities for the formation of subjectification processes in closed institutions. As several authors have remarked, such a study needs to distance itself from the usual dichotomies between oppressed and oppressors in order to outline the different power relationships tying so-called subjugated people among themselves. Following Frederic Cooper, the idea is to look at the ‘ways in which power [was] engaged, contested, deflected and appropriated’.

Focusing on the agency of political prisoners, common law inmates and mentally ill patients in spaces that strove to prevent any control over one’s actions and future reveals that apartheid domination, despite its authoritarian features in prisons and mental hospitals, was not limitless. Closed institutions were contested spaces of negotiation, resistance and collaboration. These operations took a variety of forms, ranging from overt violent resistance to James Scott’s ‘hidden transcripts’ and including modes of self-violence and social desertion.

Practices evolved throughout the period, depending on the different tools and resources actors could rely on at certain points of time. They necessitate, in order to be unveiled, a careful investigation breaking away from essentialist hierarchies for, as Breytenbach stated, ‘resistance, if that is what you want to call survival, is made up of a million little compromises and humiliations’.

109 Cooper, ‘Conflict and Connection’, p. 1517.
Political and Common Law Prisoners: Different Tools and Resources

With individual exceptions, the perceived need for political prisoners to differentiate themselves from common law prisoners has been a constant feature of incarceration during apartheid. Dlamini recalled how, during the 1960s in Robben Island, a number of common law prisoners, who had become members of the ANC and PAC during their incarceration and been condemned to additional sentences for ‘furthering the aims of banned organisations’, arrived on the Island. The authorities, which could not fit them in their usual categories, labelled them ‘Poqo-criminals’ – Poqo being the original name of the PAC armed wing. They soon disbanded to join the groups of the ANC, the PAC or the gangs. He also mentioned the common law convicts’ will to be called ‘economic saboteurs’, a request political prisoners rejected, for they perceived ‘hardened criminals’ to be in need of ‘rehabilitation’ and even planned the establishment of ‘special rehabilitation camps’ for them once the liberation struggle would be over. Far from being restricted to South Africa under apartheid, this need for division also characterised a number of prison-based struggles across the world during the second part of the twentieth century. The ones led by the Maoists of the 1968 movement in France or the Blacks Panthers during the 1960s and 1970s in the United States, for instance, reflected similar trends. More exceptionally, some historical contexts witnessed the blending together of political and common law prisoners’ struggles, particularly during the 1970s Italian prison insurrections. In most cases, although they sometimes saw delinquency as an active illegalism, a number of political prisoners’ movements viewed common law inmates as lacking the ability to form a class

112 Dlamini, Hell-Hole, p. 128.
113 Ibid, pp. 164-5.
115 On the Italian prison movement, see Artières, Quero and Zancarini-Fournel, Le Groupe d’information sur les prisons.
or race consciousness and, consequently, to create a structure for organised resistance inside prison. ¹¹⁶ What political prisoners did not take into account, however, was the fact that common law prisoners did not have access to the same tools and resources as them. This heavily reduced the range of actions they could follow in their fight against and in their adaptation to the prison environment.

During apartheid, the assistance of lawyers and non-governmental organisations, added to the wider media attention regarding political prisoners, constituted one of the prime differences. From the 1960s to the 1990s, the public sphere gradually acknowledged and helped to reinforce the idea of political prisoners’ specificities. While the 1969 report of Amnesty International stated that South African political prisoners were ‘subjected to worse prison treatment than in all other classes of prisoners’, the situation had changed by the 1970s.¹¹⁷ Nonetheless, the massive politically-related arrests which rhythm the 1970s and the 1980s resulted in an increasing commitment by a variety of organisations to fight for differentiated rights in favor of political prisoners. In 1979, for instance, the Institute of Race Relations launched a public appeal to allow an investigation on the conditions of political prisoners, this ‘intelligent or sophisticated group’.¹¹⁸ Dedicated structures such as the Black Sash produced flyers for detainees and political prisoners, listing their rights in order for them to be aware of what they could legitimately request from the authorities.¹¹⁹ Meanwhile, common law inmates addressed their smuggled letters to Suzman, the Council of Churches or the Black Sash, but these organisations or individuals often felt that there was nothing they could do for them, or recognised that it was ‘hard to work up any sympathy for rapists

¹¹⁸ Cape Times, 4 July 1979.
who do not protest that they were wrongfully arrested but complain about petty matters’.

Political prisoners’ families were also better organised and received more support than common law ones, which enabled them to help their incarcerated relatives in their requests. In 1974, they planned to ‘make representation to the special commission of inquiry into South Africa’s penal system’, in order for political prisoners to obtain more rights and privileges, such as early releases and remissions of parole. In addition, they could coordinate their actions with their relatives’ lawyers, who represented a powerful threat political prisoners could use in their battles against the prison administration. Lawyers could pressurise the authorities into bestowing more visits to political prisoners or access to newspapers, could relay their complaints and threaten warders they would lay charge against them. As a PAC prisoner held at Pollsmoor summed it up, ‘they could not do that to us. Because if they did that to us then we would have our lawyers come in. And the lawyers were very sharp’. Despite this discrepancy between the resources political and common law inmates could rely on and the media attention they could attract, both groups took up some issues to the same degree. Archives reveal, for instance, that throughout the period, nearly as many common law prisoners as political ones smuggled letters to denounce assaults by warders and even attempted to lay charges against them.

Due to the circumscribed modes of contestation left to political and common law prisoners by the authorities, hunger strike was one of the most common methods used in

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122 HPW, AK2442. Affidavit by Barbara Hogan, 24 June 1983.
124 Interview, Mr. Khumalo.
prison to break away from anonymity and make one’s requests heard in the public sphere.\textsuperscript{126} It aimed at provoking a feeling of culpability in a targeted public by placing oneself in the liminality between death and life, by eating up one’s body reserves.\textsuperscript{127} Although the hunger strike did not challenge the foundations of the carceral system, it was an act of resistance to the extent that it reappropriated the sovereignty over one’s body that the prison administration attempted to take away.\textsuperscript{128} Collective and individual hunger strikes were already common in apartheid prisons before their increase in 1989, linked to the issue of amnesty. If common law prisoners used this method to some measure, it was much more practiced among political prisoners. Before the democratic transition, most hunger strikes led by common law prisoners were individual, and scattered across time and places. In Pollsmoor, these hunger strikes were more frequent during the 1980s. They involved both awaiting-trial and already sentenced prisoners and regarded the general issues of food, ill-treatment and difficulties to raise a complaint.\textsuperscript{129} Across the country, collective hunger strikes launched by common law prisoners such as the 1986 one at Witbank prison, which hinged on refusal to do forced work and complaints about food and hygiene, remained exceptional until the democratic transition.\textsuperscript{130}

In general, awaiting-trial prisoners were more prone to adopt this mode of resistance, for there was still a possibility for them to change their future. The practice was also less likely to result in harsher sentences than violent acts against warders. It is hence understandable that during the 1980s, when international attention focused on the late-apartheid massive arrests and police repression, there was a recrudescence of collective hunger strikes initiated by detainees. Rumours played an important role in the

\textsuperscript{126} Baillette, ‘Corps recluse’, p. 38.
\textsuperscript{127} Bourgoin, ‘Les automutilations’, p. 132.
\textsuperscript{128} Roux, ‘Mettre son corps en cause’, p. 115.
\textsuperscript{129} HPW, A2084. Suzman to the Minister of Justice, 12 February 1982; HPW, A2084. A Pollsmoor Medium B prisoner to Suzman, April 1986.
\textsuperscript{130} HPW, A2084. Witbank prisoners to Suzman, June 1986.
dissemination of information and modes of resistance from one prison to another
despite the lack of access to newspapers. Detainees held at Pollsmoor in 1981 related
how they discovered very late that detainees from Victor Verster were on a hunger
strike. The day they decided to follow their example in order to support them, Victor
Verster prisoners had called off their own strike.\textsuperscript{131} Hunger strikes gradually increased in
numbers of participants and frequency throughout the 1980s. In February 1986, 50
detainees embarked on a hunger strike at Diepkloof Prison.\textsuperscript{132} One year later, 200
detainees launched one at Fort Glamorgan Prison in East London, followed by 45
prisoners at Modderbee Prison.\textsuperscript{133} In 1988, the trialists of the Yengeni Trial, held at
Pollsmoor, embarked on a hunger strike to protest against the racist treatment warders
meted out against them.\textsuperscript{134} Sentenced political prisoners also widely used this collective
practice, especially on Robben Island.\textsuperscript{135}

Prisoners considered collective hunger strikes to be easier than individual ones,
thanks to the support its participants could afford to one another.\textsuperscript{136} However, some
prisoners also described the fact of sharing the responsibility for those prisoners who
fell ill during hunger strikes as a heavy burden.\textsuperscript{137} The discrepancy between the tools
and resources available to political and common law prisoners also affected the
perceived usefulness of the hunger strike. For political prisoners, it constituted an
efficient weapon. Through communication with their families or lawyers, news of the
hunger strike soon reached the public sphere and induced reactions from the
government. For common law prisoners however, and especially gang members, hunger
strikes constituted a sometimes necessary but mostly unwanted act. As they did not have

\textsuperscript{131} MAR, BC756. Interview with a former political detainee, 1981.
\textsuperscript{132} HPW, AG2918. Amnesty International, ‘South Africa: Imprisonment and Ill-Treatment of Children
and Young People’, 13 February 1986.
\textsuperscript{133} Weekly Mail, 5-11 June 1987; New Nation, 25 June 1987.
\textsuperscript{134} Cape Times, 4 June 1988.
\textsuperscript{135} Weekly Mail, 4-10 September 1987.
\textsuperscript{136} Interview, Mr. Jeffrey.
\textsuperscript{137} Interview, Mr. Mpendu.
access to a similar outside support, gang members saw hunger strikes as ‘making you vulnerable’ in the war against the prison administration. As an ex-Number gang leader, speaking of the relationships between common law inmates and warders, stated: ‘We are not the people that he cares about. You are his enemy, and that is how he sees you, he feels nothing, if you die it’s one inmate less’. 138 This perception explained the emergence of other forms of strikes in Pollsmoor during the 1980s, such as the collective work strikes launched in July and August 1988. 139 Similarly, although warders subjected political and common law prisoners to repression once they embarked on a hunger strike, common law inmates were less protected against abuses, due to the lack of media attention restraining the warders’ moves. The prison administration viewed hunger strikes as an ‘undisciplined action’ and often decided, except in the case of massive political prisoners’ hunger strikes, to place the participants in isolation cells after beating them up. 140 In some cases, warders, with the help of district surgeons, chained the hunger strikers to their hospital bed to force feed them. Other complaints from hunger strikers regarding repression included the withdrawal of privileges or threats and abuses from warders, like placing the hunger strikers in freezers until they renounced pursuing their strike. 141

To a certain extent, the resort to internal and external physical violence by the Number also stemmed from the lack of outside resources and support available to them. However, the prison setting also induced common patterns in the development of – often violent – tools to ensure a cohesive organisation of prisoners against warders and avoid a Hobbesian war of all against all. 142 Political prisoners also implemented a strict

138 Interview, Mr. Pieterse.
142 Buntman, Robben Island, p. 142.
law and order system to maintain unity within their group. This was especially visible in Robben Island, where clashes between the PAC, the ANC and the BCM recurrently led to violent confrontations between prisoners, the most prominent ones taking place in the 1970s. As early as the 1960s, political prisoners on Robben Island had formed a committee, composed of one member each from the PAC, from SWAPO, from the ANC, the Unity Movement and the Liberal Party in order to avoid tensions between the different groups. This committee adjudicated punishment if a prisoner failed to achieve his tasks, such as cleaning a passage. A former political prisoner held at Robben Island in the 1960s described these disciplinary actions in the following terms:

First time they call you and then they’d say you must clean the passage. Second time, you made a second mistake again, you are told to clean the passage and then go and work in the kitchen, clean the whole area there. Then on the third time, that is where the cruelty comes in. The committee will impose a sentence that nobody is going to talk with you for three months. [...] First day, he [the offender] is going to be sitting there by himself and he doesn’t care about anybody. Second day, you can see that he is now feeling the pain of punishment. He starts calling his friends. Then these people would look at him and then move away. On the third day, he now really wants to speak with the people. And nobody is going to speak to him. [...] It took only five days, on the fifth day, we went to the committee, no man, this man is going to go mad. Because he was actually crying now, begging for mercy because of this isolation. It was really a very cruel way of dealing with each other.

The ‘Disciplinary Code’ also harshly condemned homosexuality and could lead to political prisoners severely assaulting the ‘guilty’ prisoners. Interestingly, although this system of discipline bore some similarities with the one implemented by the Number, political prisoners expressed contempt for the violence implemented by gang members amongst themselves, in an attempt to redraw the frontier between political prisoners and those ‘mimicking’ resistance.

143 Interview, Mr. Khumalo.
144 Ibid.
In his analysis on violence, Fanon states that ‘at the individual level, violence is a cleansing force. It rids the colonised of their inferiority complex, of their passive and despairing attitude. It emboldens them, and restores their self-confidence’.\textsuperscript{147} Undoubtedly, gangs saw part of the violence contained in the practices of the Number during apartheid as a cleansing force. However, gangs’ violence took a variety of forms and targeted warders, fellow gang members and non-members (\textit{frantz}). There was a clear discrepancy between the official mythology of the Number, which rested on the ideas of fraternity, solidarity and resistance, and the gangs’ violent actions and collaboration with the administration. In order to understand the origins and power relationships at play in a carceral environment such as Pollsmoor, the researcher needs to be wary of criticising violence as ‘a means to a just or unjust end’\textsuperscript{148}. The very fact of labelling an act as ‘violent’ often entails an ideological background which, by focusing on the need to differentiate between legitimate and illegitimate violence, obfuscates the complexity of the studied practices.\textsuperscript{149} The analysis of violence in a prison setting increases the complexity of the task, for the violence of inmates, broadly seen in terms of resistance and collaboration, helps to maintain institutionalised powers while creating new frontiers of conflict.\textsuperscript{150}

During apartheid and up to the late 1990s, when the change of regime had a profound impact on the structure of the Number, the illegal organisation perceived violence as both a purifying and bonding mechanism. The fact that the initiation procedure entailed ‘letting the blood flow’ through stabbing and being beaten up by warders symbolised a point of no return in the fraternity of the Number. From then on,
the new member subjected himself to a set of laws which, by their mere existence, were
supposed to threaten the foundation of the prison system. The inmate entered a world
that could be assimilated to an ‘invented tradition’, in the sense that this world inscribed
its ritualistic practices and rules in the continuity of a mythological past.\textsuperscript{151} The
specificities of the prison setting came to reinforce the imaginary component of the
Number and its resort to violence in a place that attempted to annihilate the existence of
conflict.\textsuperscript{152} The secrecy that surrounded the gangs’ structure during apartheid also
strengthened its members’ feeling of being part of an illegal organisation of resistance
which mimicked the dominant power relationships in order to better challenge them.\textsuperscript{153}

For members of the Number, the idea of a fraternity bound by violence was
unavoidable if one wished to stand up for one’s rights. Despite its stringent hierarchy,
this fraternity was also supposed to entail a sharing of resources and power – and hence
responsibility in violent deeds – between the members of a gang. As an article from \textit{The
Argus} commented in 1983: ‘even in prison, gangs operate as a force which makes both
resistance and survival possible’.\textsuperscript{154} Members of the Number widely shared this view,
which the media exceptionally took up. A prisoner recalled his admission into the 28’s
at Worcester Prison in the 1980s in the following terms:

\begin{quote}
I’m going there, I’m a juvenile. That time when I’m going there, the guys have
no shorts, have no shoes, no matter if it’s cold, the cops from prison they don’t
care. And now me too I get in the Number, because it’s not a choice. Because if
you’re not a Number you don’t have rights. If you don’t have a Number, you
can’t see your rights, they treat you like a sheep, now you see this guy treat me
like a sheep, it’s not all right. I’ll tell him I’m a Number, I’m a 28.\textsuperscript{155}
\end{quote}

\begin{flushleft}
\footnotesize
\textsuperscript{152} A. Chauvenet, ‘Privation de liberté et violence : le despotisme ordinaire en prison’, \textit{Déviance et
\textsuperscript{153} Interview, Mrs. Dorsan, social worker, Pollsmoor Medium B Prison, 25 February 2008.
\textsuperscript{154} \textit{Cape Argus}, 18 August 1983.
\textsuperscript{155} Interview, Mr. Bashophu.
\end{flushleft}
Some members refuted the label of ‘gangsters’, asserting that their fight against warders and fellow gang members was a necessary evil, that violence in its structured form was a way to maintain the balance of power inside Pollsmoor:

We wanted to be treated like human beings, like people. Because if one guy did something wrong, in the early 1980s, or even if they catch you with a fresh tattoo, then the warders will call all the 26 gang, and they won’t ask too many questions. You come in the yard, where nobody can see you, then the warders come in, with batons, and they hit you until you lie on the floor. In Goedemoed I was in such a thing, and they hit one of my 26 brothers, and they killed him, but we can’t do nothing. But the bond between the prisoners, you could feel it, now it’s more like gangsterism, they misuse the thing, but at that time it was more like an organisation. Because we understood each other. Sometimes there were difficulties between the Numbers, but usually we sorted it out, we had to stab somebody, maybe one of the prisoners who was working with the warders, or we stabbed one of the warders.156

In 1983, the massacre at Barberton prison brought the issue of gang membership in prison to the public sphere. Although some trials had already disclosed the existence of this secretive organisation, the commission of inquiry that followed the events at Barberton outlined the ‘merciless barbarity which, at times, characterises the phenomenon of gangs’.157 The fact that nine prisoners had been killed as a reprisal for their attacks against warders, which resulted in stabbing injuries, showed that if the Number saw violence against warders as a tool of resistance, warders perceived the killing of some members of the Number as necessary to maintain law and order inside prison. The report commissioned to the Human Sciences Research Council in the aftermath of the massacre revealed the Prison Services’ will to understand gang structures. This new tactic, which shifted from mere repression to an attempt at instrumentalising the gangs, entailed another acquaintance by some warders of the origins and dynamics of the Number, as reflected in the comments provided by a warder working at Pollsmoor:

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156 Interview, Mr. Hendricks.
157 HPW, A2084. Memorandum from the Commissioner of Prisons to the Minister of Justice, 1984.
In the beginning, because the white people oppressed them very much, people were killed, disappeared, and they stopped it, because if things like that happen, then people will mobilise, they become one. The more you oppress people, the more you force them to become one. And as they form one they become a group, and this group, in its understanding, is going to form something that is going to resist. [...] Then they started killing, stabbing white people in prison. Because for them they were fighting oppression, assimilated with relationships with white persons.158

As stated out by this warden, the brutal repression which fell on a gang as an answer to the dissidence, be it violent or not, of one of its members only strengthened the organisation. These frequent and collective assaults reinforced the perception of the Number as a fraternity articulated around violence. As a warden commented:

Members [warders] on inmates also, obviously, there were a lot of assaults, they used to stab us and we used to assault them. The assaults took place quite frequently, especially if there was a little bit of unrest and uneasiness in the section. They would call in a group of members [warders] to go in the section and search, and the first inmate to actually stand up and protest, he would be knocked down. And if there were followers the whole of them would get a hiding, that’s it.159

The gangs legitimised the violence they directed against warders as resistance against the penal order and the apartheid system as a whole. The obliteration of the fear of death meant that prisoners could regain some form of sovereignty over their bodies.160 Combined with the feeling of being part of a community, a brotherhood, it paradoxically enabled prisoners to survive by disrupting the system’s anomy. At the same time, they entered a process of political subjectification by asserting themselves as meaningful actors fighting a struggle against those attempting to silence them.161

The cohesion of the different gangs and their relationships did not, however, simply stem of a general feeling of ‘fraternity’. The internal laws of this system, which mimicked the military and penal structure as it existed around the 1900, were laden with their own

158 Interview, Mr. Hillier, head of section, Pollsmoor Medium B Prison, 26 February 2008.
159 Interview, Mr. Goedhal, head of unit, Pollsmoor Medium B Prison, 26 February 2008.
160 On the link between the fear of death and sovereignty, see G. Bataille, Visions of Excess: Selected Writings, 1927-1939 (Minneapolis, 1985).
161 Rancière, La Mésentente, p. 60.
violence. The existence of judicial practices inside the Number ensured that any deviancy from the oral rules was punished. According to the South African Police, the punishments meted out by the 26’s court against one of the gang’s members included verbal warnings, the assignment to sentry duty, different numbers of blows on the face, the demoting of ranks and could go as far as the death penalty.162 During the 1981 trial of S. v. Sauls and others, three 28’s members charged with the murder of a fellow 28’s prisoner during the night appeared in court. Although the reason for such a punishment did not emerge clearly during the trial, the latter revealed the functioning of a hierarchy of orders within the gang, which led to the ‘victim’ – in the eyes of apartheid justice – or the ‘offender’ – for the Number – being strangled to death before his throat was slit open.163 According to members of the Number, they did not rejoice in such violence, but saw it as necessary. They even compared it to a ‘rehabilitation process’ where prisoners had to bind to the rules of a community.164 Like in the military wings of other resistance movements, the organisation had to attain ‘discipline and respect’ at all costs.165 Similarly to the people’s courts which emerged during the 1980s in South African townships, death was mostly reserved for ‘collaborators’ and ‘traitors’.166 As a 28’s lieutenant explained, warders who were aware of the gangs’ strict judicial system could even instrumentalise its violence:

If I talk about ambush this is what happens: in the Numbers, say we are a lot here, and we sleep in the cell. The boer comes in the cell and fetch you, you leave and the other brothers know that guy has gone out, he cheated on us. Now tonight we are gonna sit, but he doesn’t sit with us, he must sit one side. So what

162 HPW, AG3012. ‘Prison Gangs, Western Cape’, Confidential report by the Intelligence Coordination, 1991.
164 Interview, Mr. Urbosch.
165 For a description of how ANC mutineers were sentenced to death and detained in punishment camps in exile, see S. Ellis, ‘The ANC in Exile’, South African Affairs, 90, 360 (1991), pp. 445-6. The violence of gangs in mine compounds and prison environment also shared many similarities, especially during the first half of the twentieth century. See Kynoch, ‘Of Compounds and Cellblocks’, pp. 463-77.
we do, we cut his throat off tonight. We murder this guy, then we put him in the toilet, and we throw a blanket on him. When the boers come, they must count us in the room, and they see there is one short. Now they lock the whole room. The police must come, and the dogs are coming in. They want to know who made the murder. We must stand right and say we did the murder. But it is a complot from the boers’ side, so that they can put us in big danger.\textsuperscript{167}

Hence, the violence of the Number did not boil down to an overt resistance against the prison administration. Neither did it reflect in a superficial way an immediate ‘rage’ or fell into Fanon’s Manichean world.\textsuperscript{168} Its complexity also stemmed from the gang battles dividing the Number. Although it is hard to account for historical changes in the ideology and perception of the Number through oral history, archives disclosed that the number of gang murders and fights between gangs that reached the public and judicial sphere increased from the mid-1970s to the end of the 1980s. During the 1970s, gang murders were especially rife at the prisons of Pollsmoor, Bellville, Victor Verster, Brandvlei and Allandale, all situated in the Western Cape.\textsuperscript{169} Gang battles could involve dozens or hundreds of prisoners, like during the February 1985 conflict between 26’s and 28’s, when 117 prisoners attacked one another in Durban Point Road Prison.\textsuperscript{170} While battles between Number gangs and other gangs such as the Big Five involved ideological reasons, the reasons for the ‘fratricidal’ opposition between different Number gangs mostly lay in a fight for scarce resources such as money, drugs or food. According to some non-member prisoners, this same ‘carceral economy of scarcity’ applied to forced homosexuality, rape and jealousy murders linked to the 28’s.\textsuperscript{171} The insufficiency of food and other resources, combined with the prohibition of sexual relationships for prisoners, created the perfect environment for such predatory practices.\textsuperscript{172}

\textsuperscript{167} Interview, Mr. Urbosch.
\textsuperscript{169} \textit{Sunday Times}, 27 August 1978.
\textsuperscript{170} \textit{The Star}, 28 February 1985.
\textsuperscript{171} Chantraine, \textit{Par-delà les murs}, p. 86.
\textsuperscript{172} MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
The violence of gang battles also constituted, in some circumstances, an additional tool of resistance. Members would embark on large-scale fights to attract the media attention on the extreme violence of prison life, although it also meant that this violence increased the feeling of insecurity for one’s life in prison during apartheid.173 Gang battles were also a way to distract the attention of warders while prisoners elaborated plans for collective escapes.174 The drawback was that warders bolstered and fed these conflicts. They encouraged some gangs to attack others and chose to lay charges on certain gangs while protecting others in order to redirect the violence of the Number against fellow prisoners rather than against themselves.175 Collaboration between gang members and warders, although it seemed contradictory with the mythology and ideology of the Number, happened recurrently and at different levels. Throughout apartheid, warders helped smuggle in dagga and other products in order to round off their low salaries and obtain the promise of protection from gang attacks at times when life in Pollsmoor resembled the low-intensity war raging outside the prison walls.176 Some warders even became members of the Number, bridging the inside and outside illegal worlds and asking money to their fellow warders to protect them from attacks in the sections.177 Warders often bribed gang members into giving false evidence during court cases relating to warders’ assaults on prisoners. To the dismay of other prisoners, warders later transferred, promoted to the A privilege group or released the complicit inmates. Those who wished to testify against warders and invalid the false witnesses’ statements were subjected to ill-treatment and threats.178 In return, warders also silenced the attacks and murders committed by the complicit prisoners while in

173 Interview, Mr. Bashophu.
176 MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
177 Interview, Mr. Hillier.
During the 1980s, the new strategy implemented by the Prisons Services relating to gangs involved assigning high-ranking members of different gangs as monitors, who had to clean the passages, dish food to other prisoners and could move around their sections more freely. In exchange for this privilege, the gang members, whom the prison administration called ‘homeboys’, helped to protect warders against stabbing attacks and acted as liaison agents with the different gangs. As Hollander and Einwohner have shown, the phenomenon of resistance is hence not necessarily ‘pure’: ‘even while resisting power, individuals or groups may simultaneously support the structures of domination that necessitate resistance in the first place’. Although the practices of the Number reinforced the idea of a complexity in resistance mechanisms, the attitudes adopted by inmates transferred to or held in mental hospitals were even more ambiguous and suffered from a great lack of visibility.

**Resistance and Madness**

The portrayal of life in psychiatric hospitals during apartheid, with its overdosed sedatives and neuroleptics, its frequent electroshocks and the near absence of therapy, gives birth to an image of patients as wandering zombies deprived of the faintest degree of proper will and subjectivity. Despite the crushing power of the psychiatric power/knowledge and the nurses’ brutal treatment, hospitals such as Valkenberg also constituted spaces of confrontation, of struggle, submission and domination between the ‘straight’ will of the doctor and the ‘troubled’ one of the patient. In order to understand the power relationships at play in the asylum, it is hence essential to analyse,
despite the scarcity of the archives, the emergence of resistance modalities among patients. This need is reinforced by that fact that there seems to be a historiographical lack concerning this resistance. With few exceptions, like Sally Swartz’s doctoral thesis, studies have often brushed away the idea of a resistance against the internal order of psychiatric hospitals in colonial settings. Yet another problem in the investigation of resistance to the asylum is to be found in the focus of a number of historical or sociological resistance studies on events. Although their analysis as moments when different historical periods are entangled proves extremely relevant in other situations, they do not provide much hints when related to the muffled reactions of patients against psychiatric practices over longer periods of time.

Looking for acts of resistance in Valkenberg during apartheid hence calls for a displacement of the gaze to a level that is often seen as lacking historical relevance. Two additional issues make this task delicate. On the one hand, the inaccessibility of most Valkenberg archives relating to the apartheid period, slightly balanced by the interviews led with medical practitioners, means that one has to recreate historical patterns from different sources and points in time. On the other hand, the very dynamics of psychiatric detention, which represented an objectifying process carried out to extremes, have silenced the different reactions adopted by patients to break away from the rules of the asylum. Indeed, the system of power/knowledge deployed by psychiatrists in charge of mental hospitals during apartheid attempted to impose on patients a new sense of reality, to transform the reality of the asylum into the reality of the broader social system.

This practice induced that any speech, any action on the part of the inmate was reduced to a manifestation of his or her mental illness, which had to be treated, circumscribed

183 Swartz, ‘Colonialism and the Production of Psychiatric Knowledge’, p. 214.
185 Foucault, Le pouvoir psychiatrique, p. 172.
and dominated. Any act of protest against illegal detention, wrongful diagnosis or brutal treatment only came to reinforce the psychiatric categorisation of madness. The strict hierarchy, which placed psychiatrists’ orders and knowledge above the ones of any other practitioners in mental hospitals, consolidated these power relationships.

A psychologist working at Valkenberg in the 1970s recalled how, after offering therapy sessions to a female patient and frequently removing her from her ward, she attacked other patients. The head of the hospital summoned the psychologist, asking him if he did not understand ‘that both under stimulation and over stimulation of mad people [made] them more mad’. 186 This reflected how anything that fell outside the strict administration of patients’ lives disturbed psychiatrists’ attempts to ‘rehabilitate’ patients by forcing a normative reality of what constituted ‘good’ and ‘bad’ behaviour onto them. Such readjustment was even more compelling for black patients, whose exact symptoms of mental illness remained an unexplored subject of inquiry for psychiatrists. As a psychiatrist from Valkenberg alleged, the idea that Blacks did not suffer from depression was due to different ‘cultural’ features. Although the black patient denied ‘the characteristic subjective experience’ of depression, if ‘pressed hard’, ‘he may, however, say that his heart is sad’ 187

If patients tried to resist ‘treatment’ and ‘rehabilitation’, psychiatrists assumed that their mental condition was declining. According to the hospital’s records, a male patient admitted in 1931 at Valkenberg ‘became suspicious and resistive and accused people here of controlling him and acting on him with electricity and pulling his viscera out of order’. 188 Despite the implicit reference to the brutal treatment of the hospital’s nurses, the conclusion was that he had ‘tended to deteriorate’ and needed further

186 Interview, Mr. Holler.
detention. Psychiatrists diagnosed a female patient admitted in 1948, who claimed that she was unjustly detained, as ‘deluded’ and ‘paranoiac’, and the magistrate approved the request for her further detention.\textsuperscript{189} Two years later, lawyers pressed the hospital to release her due to abusive detention.\textsuperscript{190}

Complaints against illegal detention or letters challenging psychiatrists’ diagnoses constituted the most visible form of resistance. Although these letters rarely managed to get across the hospital’s walls or found an interlocutor who would deem them credible, the ones that did receive an echo outside explicitly condemned the daily violence and brutalisation nurses subjected patients to.\textsuperscript{191} Letters that refuted the magistrate and psychiatrist’s verdict revealed a reaction against the ‘unobtrusive violence’ of psychiatric categorisation.\textsuperscript{192} Some even went as far as denying the materiality of madness, stating that what ‘some of your people call […] lunacy, I call it common sense’.\textsuperscript{193} However, due to the difficulties encountered when attempting to raise a complaint, resistance within the hospitals also took different shapes. For despite the fact that once someone became patient, his or her words and actions lost their legitimacy, resistance still occurred within the hospitals, albeit in often – but not only – mute or concealed forms. One of these modalities lay in what Goffman has described as ‘situational withdrawal’, by which an ‘inmate withdraws apparent attention from everything except events immediately around his body’.\textsuperscript{194} Once more, the further categorisation as mental illness of any act of withdrawal in the hospital makes it hard to track the emergence of this phenomenon. Hints of it still emerge out of the archives, like in a report written on a patient in May 1947, which incredulously stated that the patient did not ‘know the date or day’, could not ‘remember how long he [had] been here’ and

\textsuperscript{189} MAR, BC1043. Periodical report on patient, 12 May 1949.\textsuperscript{190} MAR, BC1043. Lawyers to Valkenberg, 31 July 1950.\textsuperscript{191} HPW, A2084. A Weskoppies Hospital patient to Suzman, 1983.\textsuperscript{192} Swartz, ‘Colonialism and the Production of Psychiatric Knowledge’, p. 95.\textsuperscript{193} CTAR, CO, 7826, B142. A Valkenberg patient to the Colonial Secretary, 4 May 1910.\textsuperscript{194} Goffman, \textit{Asylums}, p. 47.
was ‘wholly unable to find his way about the ward in spite of the fact that he [had] been here since the 27th April, 1947’. Some would argue that due to the fact that medical practitioners did not recognise this behaviour as such, it could not be considered as resistance. Nonetheless, Scott’s concept of ‘hidden transcript’ shows that practices of dissidence can underlie public performances which mislead the viewer into thinking they are characterised by conformity – in this case, by a further symptom of mental illness. Although such ‘symptomatic behaviours’ are characteristic of psychiatric institutions, until no oral historical or personal records emanating from patients can be retrieved, it will remain hazardous to analyse in detail the specific patterns they took at Valkenberg and how they evolved throughout the period.

Other more confrontational or overt manifestations of resistance rhythmmed the life of the psychiatric hospital. Since the establishment of the hospital, escapes were a real concern for its administration. The authorities’ apprehension increased after the creation of the Maximum Security section in 1976. Escapes were often collective and involved a variety of strategies. Some patients chose the moment when they were outside the wards to run away, but most escapes and attempts to do so took place within the wards, either by managing to open or break down windows or by attacking the nurses. Interestingly, it seems that either the heavy sedation administered by nurses did not prevent this behavior, or patients found ways not to swallow the prescribed pills without nurses noticing. Other acts of more open conflict with Valkenberg administration included threats, resisting in a violent way ‘nurses’ attention’, rejecting

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195 MAR, BC1043. Valkenberg to the Magistrate, 13 May 1957.
196 For an overview of the debate on resistance studies, see Hollander and Einwohner, ‘Conceptualizing Resistance’.
198 Swartz, ‘Colonialism and the Production of Psychiatric Knowledge’, p. 214.
199 Interview, Mr. Colman.
201 MAR, BC1043. Groote Schuur Hospital to Valkenberg, 7 September 1951.
food and refusing to answer to the administration staff. In the 1990s, nurses who helped the Legal Resources Centre to compile a report on assaults in the male units stated that they did not report ‘minor incidents’ which were extremely common such as ‘being threatened’, ‘spat at’ or ‘sworn at’. These outbursts of indocility could be recurrent but did not last long, for in most cases nurses managed to impose ‘treatment’ on reluctant inmates, force feed them or get hold of the patient in order to place him or her in a padded cell. The common psychiatric diagnoses deduced from these behaviours oscillated between viewing patients’ violence as a further proof of severe mental illness, or reflecting that they ‘had no insight’ as to the fact they were ill.

Analysing the occurrences and patterns taken by certain mental illnesses within the hospital as modalities of resistance constitutes a risky path. In this trend, Foucault has assimilated deliriums of grandeur and other deliriums as manifestations of ‘sovereignty’, of all-powerfulness, while picturing the French nineteenth century movement of incarcerated hysterics as the first ‘depsychiatrisation’ moment that forced the psychiatric knowledge to recognise its own scientific lies. The analysis of the historical hints drawn from oral history and written sources does not sustain such claims in the context of apartheid South Africa. What they do reveal, however, is that deliriums of grandeur and delusions reflected the broader power plays of domination and resistance at different points of time. At the beginning of apartheid, recorded hallucinations, delusions and deliriums of grandeur in Valkenberg ranged from being a prophet, a king who had to fight invaders, the British Trade Commissioner or ‘Dr Malan’s valet’ – for male black patients – to perceiving invisible enemies using ‘electrical methods’ to interfere with one’s body, heart and sexual organs or

203 HPW, AG3199. Assaults and aggressive or dangerous behaviour on the male admission unit, Valkenberg Hospital, 29 August 1996.
204 MAR, BC1043. Medical certificate on a Valkenberg patient, 18 June 1948.
205 Foucault, Le pouvoir psychiatrique, pp. 134-7 and 146.
broadcasting through one’s brain messages from Pollsmoor and the police – for female white patients.\textsuperscript{206} During the 1970s, black patients’ identification to Napoleon and Jesus Christ or claims to be white seem to have been more common.\textsuperscript{207} At the time of the democratic transition, the hospital witnessed a recrudescence in ‘Mandelas’ and people feeling the government persecuted them. The psychiatrist who detailed these two last trends refuted, however, the idea that these behaviours were endowed with any political connotation:

Quite a few people insisting that they were Mandela. […] He had that kind of charisma that entered into the psychotic world. […] And a lot of government, I mean even now, ‘I am persecuted by the government’, and people wanting to go and take over the Parliament, because they believed they’ve been treated unjustly. […] I don’t want to sound exclusionary, but it’s such a strange separate deluded world that part of the nature of psychosis is that they’ll lose the sense of context, historical context or political context. They do seem to drift into private, idiosyncratic worlds. For the time being, for a period of weeks. […] they weren’t able to articulate the political significance of the context of their delusion.\textsuperscript{208}

At the opposite extreme of the spectrum from deliriums and delusions lay the exceptional collective revolts. They exposed to a wider public the conditions of life prevailing within psychiatric hospitals or sections and the ability for inmates to regain some sense of subjectivity through violent means. Although it is not known if riots and collective movements took place in Valkenberg during apartheid, the broader patterns reflected in the practices of other institutions revealed that the ‘criminally mentally ill’ held in Maximum Security sections were more likely to organise collective movements. There was hence a discrepancy between the modalities of resistance adopted by those whose status was reduced to the one of ‘patients’ and those who had experienced incarceration in police cells and/or prisons before their admission in a hospital. This revealed a difference in the process of anomie, brutalisation and the stripping of one’s

\textsuperscript{206} MAR, BC1043. Medical certificate, 1947; Periodical report, 1956; Valkenberg to the Magistrate, 13 May 1957; Report of the district surgeon, 6 September 1952; Medical certificate, 1948.
\textsuperscript{207} Interview, Mr. Buten.
\textsuperscript{208} Interview, Mr. Bauer.
dignity and legitimacy in prisons, hospital-prisons and hospitals’ Maximum Security sections on the one hand, and general psychiatric hospitals on the other. The 1977 revolt which threatened to burn and tear down Zonderwater prison-hospital was a good example of such discrepancy, when compared to the silence of the archives relating to collective movements during apartheid in Valkenberg. On 15 May 1977, at Zonderwater, prisoners labelled as ‘psychopaths’ by penal and psychiatric discourses decided to sustain their complaints relating to food, punishment and warders’ violence by embarking on a labour strike. Following the administration’s resolution to deprive the inmates of food in reprisal of the strike, the inmates set fire to the buildings’ roofs and to their mattresses and blankets, before beginning to break down all the cells’ furniture. The repression that ensued was brutal and necessitated the presence of warders called up from the whole Transvaal province.\textsuperscript{209} Valkenberg Maximum Security section would have to wait until the democratic transition to witness the emergence at a large scale of collective actions which included violent attacks against nurses and escapes. With its association of fear and excitement, revolt and repression, the South African democratic transition shed light on the power dynamics which underlaid the penal and psychiatric systems during apartheid, while redrawing the frontiers between political and criminal, legitimate and illegitimate violence.

\textsuperscript{209} MAR, BC1065. Prisoners’ interviews, received by Prof. M. Savage, 1989.
Chapter 9

The Democratic Transition: Fire and Citizenship

Despite the political and social reforms of the 1980s and their combination with an increased repression, the apartheid government did not manage to undermine the growing legitimacy of resistance movements. In February 1990, President F.W. De Klerk unbanned anti-apartheid political parties and announced the release of Nelson Mandela, initiating a process of democratic transition which would last until the first multi-racial elections of April 1994. During this period, each step in the negotiations between the ANC and the National Party coincided with a recrudescence of violence in South African townships and countryside. Prisons, and to a lesser extent psychiatric hospitals, echoed this ambivalent mixture of frustration and hope, of reforms and violence. The appearance of new modalities of collective action inside prisons did not so much follow from a changing ‘structure of political opportunities’ than from the emergence of new actors inspired by the promise of change.\footnote{O. Fillieule and D. Della Porta, ‘Variations de contexte et contrôle des mouvements collectifs’, in O. Fillieule and D. Della Porta, Police et manifestants : Maintien de l’ordre et gestion des conflits (Paris, 2006), p. 18.} By modifying the fragile equilibrium which had characterised power relationships between prisoners and warders until then and by voicing the two groups’ complaints in the public sphere, these actors created the conditions for the deployment of countrywide carceral revolts in 1994.

The Emergence of New Historical Actors

During the 1980s, the weakening apartheid state combined reforms concerning pass laws, economic empowerment and the abolition of the Mixed Marriages Act with harsher repression and a devolution of police power to local actors such as...
Inside prisons however, the reforms implemented by the Prisons Services did not result in an increase in power for warders or prisoners. Changes that were to represent the new liberal attitude of prison authorities did not challenge the violent structure of racialised and military domination which oppressed prisoners and, to a lesser extent, black warders. A first series of ameliorations took place in 1988 and 1989, with prisoners being promised the official provision of new hygiene kits and mattresses as well as the possibility to buy personal underwears. These improvements were a response to prisoners’ petitions but for ‘practical reasons’, the distribution of mattresses or hygiene kits remained restricted to a small number of inmates.

In 1990, amendments to the Prisons Act introduced more significant reforms. The most prominent one was undoubtedly the desegregation of closed institutions. White political prisoners had already called for the abolition of segregation between black and white political prisoners in 1989. The amended Prisons Act did not distinguish between political and common law inmates in its programmed desegregation. Valkenberg was also the first psychiatric hospital of the country to ‘integrate its wards’. As in Pollsmoor however, the official desegregation was not followed by significant changes in the daily life of inmates. Warders moved white prisoners to single cells for ‘security reasons’ while psychiatric authorities transferred a number of black patients from Valkenberg to Lentegeur Hospital. The restriction of the death penalty to fewer offences and the commutation of numerous death sentences

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212 PA, 1/4/1/4/1, Pollsmoor to the Commissioner of Prisons Services, 6 October 1988; PA, 1/4/1/4/1.
213 Prisons Services to Pollsmoor, 19 October 1990.

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to life imprisonment or 20 to 30 year-prison sentences also had a crucial impact on prison daily life. The Prisons Services became independent from the Department of Justice and was named the Department of Correctional Services (DCS). The fact that warders became ‘correctional officers’ reflected a deeper change in the official priorities of the DCS. The introduction of correctional supervision measures for first offenders attempted to reduce the prison population and its overcrowding. In 1992 for instance, the percentage of overcrowding at Pollsmoor Maximum was still above 100 per cent, the highest in the country.

The democratic transition’s new focus on the discriminatory practices of the judicial system led to further changes. The amount of fines as alternatives to imprisonment was reduced to account for the low economic backgrounds of most offenders. The Commission of Inquiry into the status of psychopathy appointed in 1990 criticised the program of ‘rehabilitation’ implemented in prison-hospitals such as Zonderwater, slowly breaking away from the apartheid perception of violent crime as a mental illness. The incarceration of children in prison became a public disgrace once the knowledge that a 13 years old boy had died at Robertson Prison, ‘after his cellmates allegedly sodomised him, beat him and ruptured his internal organs after jumping on his stomach’, filtered to the public sphere in 1992. In the aftermath of his death, Lawyers for Human Rights launched a campaign, asking the country’s lawyers to do their utmost to release all children from jail before Christmas 1992.

218 HPW, AG2918. Press Statement by the Minister of Justice and Correctional Services, 17 April 1991.
219 Super, ‘Like Some Rough Beast’, p. 204.
Despite the discrepancy between official reforms and the structural resistances of closed institutions, authorities implemented some material changes at Pollsmoor. TV sets became available for political prisoners thanks to the help of the Association of Ex Political Prisoners (AEPP) in 1992, as well as to ‘A group’ common law prisoners.\(^{226}\) In April 1994, the prison authorities allowed awaiting-trial prisoners to use coin-operated telephones in order to contact their relatives and inform them of their incarceration.\(^{227}\) Combined with the fact that the censorship that surrounded information relating to prison was lifted in 1990, these measures slightly undermined the prisoners’ isolation from the rest of society and enabled easier transfers of information between the inside and the outside. Changes at Valkenberg, which included the closure of chronic beds, only took place in the late 1990s, revealing that the issue of mental illness and its repression/treatment did not constitute a priority during the democratic transition.\(^{228}\)

The reforms which started in the late 1980s inside prisons did not modify the violence inherent to the relationships between warders and prisoners. In spite of the officially restricted use of disciplinary measures, assaults, solitary confinement, covered murders, warders’ corruption and racism still characterised daily life in Pollsmoor and other South African prisons. What had changed, however, was that the hope of a new social and judicial system had empowered prisoners. In 1988, at Modderbee Prison near Johannesburg, political and common law prisoners formed the South African Prisoners’ Organisation for Human Rights (SAPOHR). In March 1990, two prisoners from St Albans Prison near Port Elizabeth launched the Prisoners’ Democratic Movement (PDM). Prison authorities refused to acknowledge both movements, insisting that only individual complaints could be taken into account and subjecting its members and the

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\(^{227}\) PA, 1/3/11. Western Cape Commissioner to all prison commanders, 19 April 1994.

\(^{228}\) Interview, Mr. Bauer.
prisoners who were found in possession of their reading materials and letters to punishment.\textsuperscript{229} At St Albans, warders placed members of the PDM in solitary confinement as a response to their complaints, even after some of them had embarked on a hunger strike.\textsuperscript{230}

In 1992, one of SAPOHR then released founders, Golden Miles Bhudu, opened a National Office, revealing the importance gained by the organisation in the space of four years. Considering itself as ‘the voice of apartheid prisoners’, SAPOHR strove to attract public attention on abuses that occurred within prison, offer para-legal services to prisoners and warders and advocate the democratisation of the DCS.\textsuperscript{231} In 1994, the organisation estimated its membership around 10,000 people, at a time when the daily national prison population rose above 110,000.\textsuperscript{232} The support encountered by SAPOHR in prisons from all over the country partially rested in its interpretation of crime under apartheid. In the draft of its constitution, the organisation stated that ‘South African society under apartheid is conducive to and fraught by criminality and violence (unemployment, lack of housing, health-care, political and social tension, etc). The apartheid criminal justice system does not address the root causes of crime, it worsens them’. As an example, the text quoted the testimony of a Leeuwkop Maximum prisoner:

\begin{quote}
We the prisoners do not condone crime in whatever form it comes. Regardless of the crime committed we are the victims of an unjust system, a system created by monsters, a system that deprived people of their God-given right to life, to freedom, a system that took away the basic right of people to fend for their families by normal means.\textsuperscript{233}
\end{quote}

Moreover, because most outside members of SAPOHR had experienced life in prison, they knew how to pass information inside and how to deal with the prison

\begin{flushright}
\end{flushright}
administration. Along more legal means, the organisation was not disturbed by the need to resort to unauthorised visits and smuggled letters to fulfil its role as ‘watch-dog’ and spokesman. Although scarce human and financial resources did not prevent SAPOHR from achieving some significant tasks in its early days, it was not before 1993, when the organisation decided to turn to radical action, that it became more widely known and visible.

The fact that SAPOHR received letters of complaints and denunciation from warders reflected a shift in the relationships between prisoners and black warders at the end of the apartheid regime. During the first months of 1989, black warders’ resentment against the military and racialised structure of their job grew steadily. They mainly complained against the fact that their white superiors rarely promoted them, shouted at them and gave them the ‘filthy jobs’. In September 1989, black warders from Pollsmoor contacted the police lieutenant Gregory Rockman, after the latter had publicly criticised the riot police for behaving like ‘a pack of wild dogs’ in Mitchell’s Plain. On 5 November, a small group of policemen and Pollsmoor warders created the Police and Prisons Civil Rights Union (POPCRU). Soon, the new organisation was confronted with the repression of its own institutions. After a first public protest in Mitchell’s Plain in November, Rockman and twelve Pollsmoor warders were suspended. In December, Pollsmoor authorities sent letters to the warders, reminding them that they were contravening the prison regulations and had to dissociate themselves from the organisation. Despite pressures from the prison and police institutions, POPCRU membership rapidly increased, especially in the ranks of warders, and expanded to other regions than the Western Cape. The organisation formulated a number of complaints,
starting with the fact that the government’s medical scheme did not cover the family members of black warders and policemen and that the housing for black and white warders vastly differed.\textsuperscript{238} Pollsmoor ‘coloured’ warders alleged their families were living in old converted cells while white warders lived in cottages on the prison grounds. From the very start, warders did not restrict their declarations to their own conditions of work but also included prisoners’ issues, such as the incarceration of black children as young as eight years old at Pollsmoor.\textsuperscript{239}

As POPCRU movement of protest accelerated, the public opinion, which had first praised Rockman for his dissidence, became split about the legitimacy of the organisation which the Police and Prisons Services still refused to recognised. Some began to worry about the collapse of internal discipline and the consequent security problems which would affect the rest of the population.\textsuperscript{240} In February 1990, POPCRU president, Gregory Rockman, launched a nationwide protest to support the organisation’s demands and request the reintegration of 305 members, who had been suspended from their work during protest events.\textsuperscript{241} POPCRU members organised sit-ins and strikes in a number of prisons across the country. Despite the repression conducted by prison and police authorities, which led to assaults by policemen, dogs unleashed at warders, arrests under the Internal Security Act, dismissals, suspensions and demotions, the movement did not slow down. Warders requested the parity in medical aid between black and white warders, a salary raise, the accessibility of prison facilities for all racial categories and an ‘immediate end to racism and discrimination’.\textsuperscript{242} They denounced the fact that promotions were based on racism and favouritism, that married black women, unlike their white counterparts, had to work night-shifts and that apartheid was ‘worse

\textsuperscript{238} The Natal Witness, 9 November 1989.
\textsuperscript{239} City Press, 3 December 1989.
\textsuperscript{240} The Citizen, 16 November 1989.
\textsuperscript{241} Business Day, 22 February 1990.
\textsuperscript{242} The Star, 14 March 1990; New Nation, 11 May 1990.
inside than outside prisons’. The UDF and the ANC began to support POPCRU requests and asked for the lifting of warders’ suspension, asserting that POPCRU could become ‘the basis of a people’s police force in a new, democratic South Africa’. In 1992, APLA met with the organisation and announced its intention to exclude POPCRU members from its attacks.

From 1990 to 1993, Pollsmoor Prison witnessed a great number of strikes, sit-ins and demonstrations. Dozens of warders were suspended and those who were gradually reinstated suffered harassment from their colleagues. The suicide of a white warder in September 1992 aggravated the existing conflicts and warders complained that Pollsmoor atmosphere had become ‘very tense and very dangerous’. In 1993, there were 500 male and female white warders employed at Pollsmoor, against 562 ‘Coloureds’ and 10 ‘Blacks’. While white warders still administered the prison, the highest rank achieved by a ‘coloured’ warder was that of a major and Blacks could only reached the rank of sergeant. After POPCRU members marched across cities, brandishing the flag of the ANC, tensions escalated in other jails. At Boksburg Prison for instance, black warders claimed they would conceal firearms and kill abusive white officers who were self-confessed members of the Afrikaner Weerstandsbeweging (AWB), an extreme-right paramilitary organisation. In August 1993, the DCS authorised warders to join unions but refused to acknowledge their right to strike. In January 1994, POPCRU, whose membership had grown to 20,000, was eventually registered as a union. Conflicts among warders and between warders and the prison

244 The Citizen, 27 March 1990.
247 PA, 8/2/1. Pollsmoor to the Regional Commissioner, 8 September 1993.
248 Cape Times, 2 April 1990.
administration persisted until POPCRU members were gradually promoted and the union, according to Pollsmoor warders, lost its combativity.\textsuperscript{252} During the democratic transition, the emergence of SAPOHR and POPCRU disrupted the power relationships which had maintained the law and order system of apartheid prisons. Prisoners made use of these new disjunctions to raise their own claims and adopted new modalities of action to request their integration in the creation of a new South African society.

\textit{Amnesties and Prisoners’ Resistance}

The South African democratic transition was far from being a smooth process. Negotiations between the National Party still in power and the ANC were suspended on several occasions. State repression, like during the March 1990 Sebokeng protest when the police killed 17 people, was among the grounds for the interruption of the official peace negotiations.\textsuperscript{253} Another reason was the issue of release, amnesty and indemnity of prisoners. In February 1990, De Klerk announced that his government wished to release political prisoners, but it soon became clear that the NP definition of ‘political prisoner’ would have little effect, as all those charged for violent acts such as murder and sabotage did not fit in this description.\textsuperscript{254} The ANC rejected the proposition, asserting that it would not pursue negotiations until every political prisoner, including those on death row, had been released.\textsuperscript{255} While organisations and political prisoners’ relatives marched to the Parliament, more than 300 Robben Island prisoners embarked on a hunger strike to request their unconditional release.\textsuperscript{256}

The tensions over the issue between the two parties lessened when they reached an agreement during the Groote Schuur Minute in May and the Pretoria Minute in

\begin{itemize}
\item \textsuperscript{252}Interview, Mr. Bartram.
\item \textsuperscript{253}Klopp and Zuern, ‘The Politics of Violence’, pp. 132-3.
\item \textsuperscript{254}Weekly Mail, 9-15 February 1990.
\item \textsuperscript{255}Weekly Mail, 27 July 1990.
\item \textsuperscript{256}MAR, BC1210. Cowley House Review, 1990.
\end{itemize}
August 1990. The government broadened the definition of political prisoners to include ‘members of all organisations, groupings or institutions, governmental or otherwise, who committed offences on the assumption that a particular cause was being served or opposed’ and decided that the cut-off date for the commission of offences would be 8 October 1990.\textsuperscript{257} To the disarray of thousands of prisoners who were affiliated to other political parties or did not belong to any political movement when they were caught up in the political violence of the apartheid regime, the Minutes first focused on the release of ANC members.\textsuperscript{258} The guidelines explicitly excluded political prisoners condemned to death sentence as their case would be considered at a later stage on an individual basis.\textsuperscript{259} The Department of Justice and the DCS were assigned the task of validating the lists of prisoners who applied for the indemnity process while committees and an Office for Indemnity, Immunity and Release were created ‘to investigate applications and to report them to the State President’.\textsuperscript{260}

Although the workgroups established by the Groote Schuur and Pretoria Minutes were due to accomplish their task by April 1991, according to the Human Rights Commission and the International Defence Fund, approximately 2,000 political prisoners were still incarcerated at that date.\textsuperscript{261} On 1 May 1991, over 200 political prisoners across the country embarked on a hunger strike to demand their release.\textsuperscript{262} Tensions between the ANC and the NP reappeared. The Minister of Justice Kobie Coetsee declared that all political prisoners had been released and that those still in jail were ‘criminals convicted of rape and bestiality’. The ANC accused the NP of having voluntarily delayed the release procedures and denounced the DCS for the mistreatment

\textsuperscript{257} MDR. Pretoria Minute, 6 August 1990.
\textsuperscript{258} The Star, 15 August 1990.
\textsuperscript{259} MAR, BC668. Briefing by W. Hofmeyr on hunger strikers, 5 June 1991.
\textsuperscript{261} The Star, 29 April 1990.
\textsuperscript{262} HPW, AG2918. Press Release by the Hunger Strike Support Committee, 8 May 1991.
The Minister of Correctional Services alleged that out of the 4,600 applications for release he had received since 30 April 1991, 90 per cent were not from political prisoners but from inmates ‘taking a chance’. He also qualified hunger strikes as ‘uncivilised blackmail’. Despite the repeated hunger strikes which extended into June 1991, in July, the ANC and the NP agreed that the process of release, which had enabled more than 1,040 political prisoners to go home, had come to an end and that no application for indemnity received after 17 July 1991 would be investigated.

This declaration did not prevent the political prisoners remaining behind bars to pressurise the ANC into requesting their release. At Pollsmoor, there were still 20 prisoners considered as political in July 1991. Phyllis Fante, the last female political prisoner in the Western Cape, was one of them. Charged with attempted murder in 1987 along with eight people, she was still incarcerated in December 1991 in spite of her hunger strike. The fact that by that date, seven of her co-accused, charged for the same offence, had been released revealed that the process of amnesty was not equally administered. Robert McBride, an MK soldier known for having killed three white civilians during a bomb attack in 1986, wrote from his death row cell to denounce the fact that MK soldiers’ further imprisonment was a strategy ‘not to upset the white electorate’ and begged the ANC to stop compromising with the NP until all political prisoners were released. In December 1991, the ANC ended its silence on the issue and backed a campaign for the release of all political prisoners. Eight months of conflict later, negotiations between the ANC and the NP stalled again on the issue of political prisoners’ release, forcing the adoption of the Further Indemnity Act, which

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263 The Citizen, 31 May 1991; HPW, AG2918. Statement by political prisoners on hunger strike at Somerset Hospital, 16 May 1991.
269 SouthScan, 13 December 1992.
asserted that ‘political motivation’ was now the unique element which proved if an
offence could be characterised as political.\textsuperscript{270} The Act allowed for the release of all
prisoners who had acted with a ‘political motivation’ and mentioned future regulations
which would also apply to prisoners serving life sentences, including those whose death
sentence had been commuted to life sentence.\textsuperscript{271}

The process of release excluded various categories of prisoners at different
points in time from 1990 to 1993. Although the Pretoria and Groote Schuur Minutes did
not mention the mental state of an offender as a reason preventing the release of a
political prisoner, some political prisoners, held in mental hospitals when the democratic
transition was initiated, encountered numerous problems to apply for indemnity. For
instance, in 1991, the Indemnity Office denied an MK soldier held at Valkenberg for
psychiatric treatment the right to apply for indemnity until the authorities did not
decertify him ‘as mentally incompetent’.\textsuperscript{272} Sentenced to death in 1980, the political
prisoner in question suffered a nervous breakdown while held in death row and was
transferred to Valkenberg in 1990. His lawyers, helped by Valkenberg psychiatrists who
asserted that the recognition of his status as political prisoner would help him recover,
eventually managed to force the government into granting him indemnity in 1992.\textsuperscript{273} He
was then transferred to a hospital closer to where his family lived.\textsuperscript{274}

Some PAC, BCM and Azanian People’s Organisation (AZAPO) prisoners
initially refused to apply for indemnity, as they saw this procedure as a legitimization of
the NP government strategy to remain in power. The government, in turn, first denied
PAC prisoners any release due to the fact that their party did not enter in the negotiation
process. Some of these dissident prisoners had already been imprisoned for a number of

\textsuperscript{270} Keightley, ‘Political Offences’, p. 355.
\textsuperscript{271} PA, 1/8/2. Statement on the release of prisoners who have committed crimes with a political
\textsuperscript{272} MAR, BC1210. Indemnity office to Mallinick and co, 27 June 1991.
\textsuperscript{273} MAR, BC1210. Winslow to the Judge of the Supreme Court, 14 August 1992.
\textsuperscript{274} MAR, BC1210. Winslow to Valkenberg, 10 November 1992.
years, such as the BCM member Monde Khazaka transferred from Robben Island to Pollsmoor in 1990. He was the longest serving political prisoner at the time, with 24 years already spent in jail. Notwithstanding, these inmates refused to partake in hunger strikes led by other political prisoners to request their amnesty. In April 1991, the release of PAC prisoners from Robben Island symbolised a step forward in the possibility for the NP and the PAC to negotiate. In 1993, despite the Further Indemnity Act, a number of political prisoners remained incarcerated. Human Rights Watch asserted that by October 1993, there were still 46 prisoners who met the requirement of the indemnity procedures and had not been released. Moreover, although the ANC had called for the interruption of guerilla activities, the PAC was still engaged in armed conflict during the democratic transition. Events such as the APLA attacks on the St James Church and the Heidelberg Tavern meant that new political prisoners, who could not benefit from the indemnity process whose cut-off date was 1990, were incarcerated.

The largest category which felt it had been excluded from these ‘reconciliation’ procedures was undoubtedly constituted by common law prisoners. In October 1990, the Minister of Justice announced that, ‘in a spirit of goodwill’, the government was granting a six month remission of sentence to all prisoners, black and white, in custody on December 10th, 1990. ‘Mentally ill’ prisoners, prisoners certified as ‘psychopaths’, and those charged with rape, murder, culpable homicide and housebreaking could not benefit from this amnesty. According to Lawyers for Human Rights, this remission of sentence precipitated the release of 50,000 prisoners in the space of seven months.

276 The Citizen, 3 May 1990.
278 Human Rights Watch, Prison Conditions in South Africa.
280 HPW, AG3199. Statement by the Minister of Justice to the Prisons Services, 12 October 1990.
July 1st, 1991, De Klerk declared that he would grant a general one third remission of sentence to all first offenders, with a few categories excluded. This further amnesty, supposed to counter the ‘imbalance’ produced by political prisoners’ release, only reinforced common law prisoners’ frustration. The latter contested the fact that the definition of ‘political prisoner’ did not encompass those who had been incarcerated as a direct result from apartheid laws. In a letter to the President, 60 Leuuwkop prisoners requested the release of ‘second and further offenders, irrespective of their crimes’, in order to prove ‘to the new multi-society of SA whether they were criminals by birth or because of apartheid’. 

The release of extreme-right prisoners like members of the Boerestaat Party and sentenced ex-policemen embittered this frustration. In August 1991, 450 Pollsmoor prisoners embarked on a labour strike to request their release and denounce the differential treatment between black and white prisoners; multiple-offenders held at Brandvlei set fire to their cells; 1,500 Zonderwater inmates and 3,000 Pretoria prisoners organised labour strikes to demand the reduction of their sentences. In the following months, prisoners’ letters of complaints and some press articles criticising ‘racist releases’ often made references to the names of, among others, La Grange, a police officer sentenced to death for murder and Bester, a member of an extreme-right organisation condemned for culpable homicide. The number of complaint letters sent by prisoners, be them political or common law, greatly increased during this period. In a letter to De Klerk, Pretoria political prisoners asked him if the release of policemen and extreme-right members were due to the fact that they were white or that ‘the people they killed were black and therefore not important’ to him. A female Pollsmoor first

284 The Citizen, 8 August 1991.
287 HPW, AG2918. Pretoria political prisoners to De Klerk, 10 October 1991; HPW, AG3199. A
offender who had not received a one third remission of sentence accused the
government of discriminating against either Africans or females. Situations of unrests
and hunger strikes relating to the amnesty persisted during 1992 and 1993. In October
1992, a number of Pollsmoor prisoners violently confronted warders before 780
prisoners embarked on a hunger strike. Although the government announced in
January 1992 that a further 7,500 common law prisoners were to be released, SAPOHR
called on a national indefinite hunger strike, starting on 4 February 1993. At
Pietermaritzburg Prison, warders teargased and charged with dogs and batons 564
striking prisoners. After 14 days of strike, the DCS promised to look into SAPOHR
requests, which included a commission of inquiry into deaths and abuses in prisons and
police cells, the release of all remaining political prisoners, ‘the establishment of a
national release forum committee to investigate individual prisoners’ sentences,
rehabilitation and release’ and the immediate dismissal of the ministers of correctional
services and law and order.

Despite the organisation of common law prisoners’ movements of protest, their
numerous letters of complaint and the actions of SAPOHR as spokesman, the public
opinion remained suspicious of common law prisoners’ releases. In 1990, Lawyers for
Human Rights and some judges condemned the remission of sentence granted to
common law prisoners, asserting it would induce an increase in crime and the
discrediting of the judicial sphere. In 1991, the Black Sash criticised the amnesty
procedures, alleging that common law prisoners’ releases had ‘resulted in enormous
problems both for the prisoners themselves, their families, and society’ and that they
had ‘undermined the justice system, and the idea that criminals have a debt to

Pollsmoor female prisoner to the LRC, 26 September 1991.
289 Green Left Weekly, 4 August 1993.
The public opinion also reproved the blanket amnesties granted to certain categories of offences by the government in order to cope with the large number of applications coming from political prisoners. The case of Lucky Malaza was symbolic. Considered an ANC-political prisoner, he was released in terms of the blanket amnesties, only to announce once outside that he was not a member of the ANC but of a gang who had killed a policeman during a bank robbery in 1987 in Cape Town. Once released, he declared to the press: ‘I am representative of many people in SA who, because of the harsh conditions in our country, have been criminalised. Many of us live in conditions that create a complete disregard for the value of life’. The political articulation of Malaza’s perception on apartheid did not prevent the public scandal that his release provoked. The reaction of the public opinion revealed both the pressure felt by the South African society due to the increase of public violence during the democratic transition and the heritage of apartheid, which had accustomed the society to strong and repressive police and judicial actions.

In addition to the issue of amnesty, the violent conflicts that opposed the ANC, the PAC, the IFP and extreme-right organisations on the outside had an impact on prison life and helped transform the modalities of action adopted by common law prisoners. In 1991 and 1992, information relating to extreme-right warders assaulting and instrumentalising prisoners began to filter to the public sphere, revealing the politicisation of relationships inside prison. If racial assaults and abuses from the part of white warders were not unusual, the fact that AWB warders tortured inmates and ‘promoted ANC-Inkatha conflict’ at Pietermaritzburg Prison or that prisoners were forced to manufacture weapons to be used in ‘township violence’ and train attacks while

warders shouted AWB slogans provoked a small public scandal.\textsuperscript{294} The repressive methods used by the DCS to counter common law prisoners’ movements of protest only caused a diversification of their modes of resistance. In August 1991, Pollsmoor POPCRU members informed the press that a ‘task force of white warders without identification tags’ assaulted prisoners who were part of the protest movements for amnesty and that the DCS was concealing the fact that nine prisoners had died as a result of these assaults.\textsuperscript{295} In Pollsmoor, despite the increased repression, the number of hunger strikes, arsons, petitions, refusal to return to the cells, attacks against warders or fellow prisoners and escapes escalated from 1991 to 1993.\textsuperscript{296} Collective escapes, such as the one organised by 11 awaiting-trial juveniles in November 1993, who outnumbered the warders and locked them in a cell before attempting to flee the prison grounds, became a priority focus for the DCS.\textsuperscript{297}

The reconfiguration of the use of violence and modes of protest inside Pollsmoor found an echo in Valkenberg Maximum Security section. In 1992, assaults – including sexual ones – against nurses and collective escapes became increasingly frequent. They revealed that the confusion, hope and violence of the South African democratic transition even managed to pass through the hospital’s walls.\textsuperscript{298} On the eve of the first democratic multi-racial elections in April 1994, the tension within closed institutions was at its height and would soon find its outcome, in prisons at least, in the most important carceral revolts of the country’s history.

\textsuperscript{295} Cape Argus, 7 August 1991.
\textsuperscript{297} PA, 1/6/2/P9. DCS to the Cape Times, 24 November 1993; PA, 8/1/2. Circular on the frequency of escapes, 11 October 1993.
\textsuperscript{298} Cape Times, 18 February 1992; Interview, Mr. Colman.
Revolts and Citizenship

The year 1994, which marked the end of the democratic transition, witnessed two waves of revolts inside South African prisons. The first one, which took place before the April 1994 elections, revolved around the right to vote for prisoners. The second, which occurred in June, after Mandela came to power, hinged on the issue of a general amnesty. Partly due to the fact the press extensively relayed them, these revolts constituted important events in the history of prison struggle in South Africa.\(^\text{299}\) They disrupted the paradigms of understanding around prisons and revealed the strategies and experiences which had shaped the subjectivity of prisoners during apartheid.\(^\text{300}\) In a Fanionan perspective, these revolts proved that the violence implemented against prisoners throughout apartheid finally engendered a violence similar in intensity, that the revolt the apartheid regime had strove to imprison eventually transformed itself in a prison revolt.\(^\text{301}\) During the democratic transition, prisons became spaces of anticipation and retrospection, announcing the future problems of the South African society while disclosing the paradoxes and brutality of the apartheid regime inside closed institutions.

When attempting to portray the 1994 revolts, one must be wary of descriptions in terms of homogeneous collective movements that can be explained through an analysis of their causes and conditions of emergence.\(^\text{302}\) Instead, it is necessary to insist on the fact that the movements of protest were organised by a number of different actors, contained a part of spontaneity and answered to their own internal dynamics, which were sometimes detached from the prime reasons sustaining the apparition of revolts.\(^\text{303}\) The involvement of PAC prisoners and members of the Number gangs in the revolts, for

\(^{301}\) Fanon, ‘On Violence’, p. 3; Bellanger, *Vivre en prison*, p. 244.
instance, helped providing effective tools for the massive organisation and mobilisation of prisoners, although many of the latter’s objectives were not always congruent with the ones of the PAC and the Number. Hence, one must keep in mind that if the right to vote, amnesties and the new release policy constituted the official causes explaining these movements, they were the expression of a more general discontentment which challenged the way penal and carceral systems had functioned until then.

The tensions around the granting of the right to vote to prisoners became noticeable in February 1994. At that time, the Electoral Act of 1993 stipulated that only a few categories of prisoners would be allowed to vote during the first multi-racial democratic elections.\(^{304}\) The Independent Electoral Commission (IEC) had nonetheless advised that all prisoners should attend voter education programs to ‘counteract the possibility of dissatisfaction, conflict and intimidation’.\(^{305}\) While prisoners began to send letters to request the extension of the right to vote to all prisoners, groups of inmates continued to embark on hunger strikes and other modalities of protest, like they had done during the first years of the democratic transition, for a variety of reasons. In Pollsmoor Maximum, six members of the notorious Khayelitsha Balaclava Gang went on a month-long hunger strike over the fact that the judicial system refused to grant them bails.\(^{306}\) The awaiting-trial section was particularly tense. Some prisoners also attempted to escape by taking hostages during their court trials.\(^{307}\) By the end of February, the Transitional Executive Committee of South Africa (TEC) declared that it was not possible to extend the franchise. The list of categories which were not entitled to vote included ‘mentally ill’ patients, people detained under the Prevention and Treatment of Drug Dependency Act of 1993 and prisoners sentenced for murder,

\(^{304}\) Electoral Act no 202 of 1993.  
\(^{305}\) HPW, A2084. DCS to the IEC, 1 February 1994.  
\(^{307}\) Cape Times, 16 February 1994.
culpable homicide, rape, indecent assault, child-stealing, kidnapping, assault, robbery, ‘malicious injury to property and breaking or entering any premises with intent to commit an offence’, fraud, corruption, bribery, or any attempt to commit such offences. This meant that out of the 6,614 prisoners held at Pollsmoor in February 1994, 3,313 were not qualified to vote. Due to the growing frustration of inmates and the announcement of future mass actions by SAPOHR, prison authorities across the country began to anticipate ‘the possible impact of upcoming elections on prison violence’ and to reinforce their security apparatus. At Pollsmoor, warders made lists of the arms available to them, sent reports on the prison atmosphere and consolidated accesses to the prison.

On 1 March 1994, SAPOHR launched a mass-action in all South African prisons to campaign for the right to vote. On 4 March, after the IEC and the ANC announced that they were in favour of the extension of franchise and that the IEC would ask the TEC to amend the Electoral Act, SAPOHR suspended its action. Despite this interruption, hunger strikes continued in prison. On 15 March, trainers began going to prisons to launch voter education programs. SAPOHR, confronted to the refusal of the TEC to change the legislation, called for a new national mobilisation. Shortly after, riots broke out in numerous prisons across the country. On Friday 18 March at 7:30 am, 60 prisoners of Pollsmoor Medium A began ‘toyi-toying’, which consisted in dancing and singing along political slogans. 300 inmates gathered in a courtyard, waiting for the prison authorities to contact SAPOHR. Their requests included the extension of the franchise, ‘the right to free political activity inside prison without the intimidation from


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the prison authorities’, access to political parties and voter education for all.\textsuperscript{315} During the afternoon, 300 additional Medium A prisoners joined the movement. According to the warders, ‘they started to get out of control by breaking down the gates, throwing stones to the Visitors’ building, throwing stones at members, climbing on the roof of the prison, etc’.\textsuperscript{316} After warders using teargas and rubber batons had forced back the prisoners into their cells, inmates set fire to their mattresses and beddings in Pollsmoor Maximum. Warders fired teargas bullets in the cells and placed the protesting prisoners in isolation.\textsuperscript{317} Throughout the revolt, the taskforce was positioned on the roofs and armed with tear gas and other guns, in order, according to a warder, ‘to bring the child under control’.\textsuperscript{318} The authorities stated that seven warders and 17 prisoners suffered from injuries during the revolt, most of the prisoners’ injuries consisting in deep head lacerations.\textsuperscript{319}

Many other prisons witnessed similar protests, some extending until the end of March 1994. On 20-21 March, 2 prisoners died at Paardeberg prison after setting their cells alight, communal cells were burnt down at Allandale and a hundred prisoners confronted warders and were severely injured at St Albans – they were ‘hit so hard that warders’ batons broke’, according to POPCRU members.\textsuperscript{320} During the following week, 21 prisoners died in a fire at Queenstown prison. Violent revolts, arsons and taking of hostages occurred at Maritzburg, Pretoria, Boksburg, Paardeberg and Modderbee. Following the increase in death numbers, the Minister of Law and Order accused SAPOHR leaders of having ‘blood on their hands’.\textsuperscript{321} The DCS ordered the implementation of new security measures in all prisons, with a special focus on fire

\textsuperscript{315} PA, 8/2/1. Report of the Trauma Centre for Victims, 22 March 1994.
\textsuperscript{316} PA, 1/3/6. Pollsmoor to the Regional Commissioner, 4 May 1994.
\textsuperscript{317} Ibid.
\textsuperscript{318} Interview, Mr. Muller.
\textsuperscript{319} PA, 1/3/6. Annex to the letter from Pollsmoor to the Regional Commissioner, 4 May 1994.
\textsuperscript{320} Cape Times, 21 March 1994; The Eastern Province Herald, 21 March 1994.
\textsuperscript{321} Weekend Star, 26-27 March 1994.
extinction. While revolts as such had slowed down by the end of the month, other types of violence broke out. In Pollsmoor, prisoners stabbed each other both as a result of the tensions exacerbated by this volatile situation and in an attempt to catch more public opinion. On 29 March, although the press did not relay it, nine Pollsmoor prisoners died as a result of assaults between prisoners.

At the beginning of April, the implementation of the IEC measures to prepare all prisoners – although the Electoral Act had still not been amended – for the day on which they would vote, on 26 April, slightly lessened tensions inside prison. External organisations such as NICRO organised voter education programs and made sure election leaflets were available in all prison libraries. The IEC urged warders to solution any delay, lack or problem relating to this preparation in order to ensure that no ‘unpleasant situation’ would emerge. Warders organised the distribution of temporary identity cards to the numerous prisoners who did not have a permanent one. Amidst this relative calm, Pollsmoor authorities were confronted to what they qualified as an ‘isolated event’ with no political motive. On the evening of 12 April 1994, the prisoners held in Pollsmoor Women’s Prison began rioting and burning down their cells. The oral history of this event revealed a different standpoint from the authorities’ one. Female prisoners asserted that their action was organised, concerted, and not easily repressed by the task force:

So we had to think a lot and we had to strategize a lot as to how we’re gonna do certain things to get a certain effect, but to a certain level as well, because we need to keep in mind that at the end of the day we all want to survive. […] the prison was like in chaos. Because we burnt mattresses, we hit the fluorescent lights, we hit down the windows, the passages were running with water, it was just a whole mess. […] We hit them [the task force] with our hands, with the

326 Cape Argus, 5 April 1994.
soap, with the brooms, with the mobs, whatever we could get our hands on, with our shoes, we threw our clothes at them, we threw whatever there was, we had buckets of water thrown at them.328

In the light of the fact that white women were granted the right to vote as early as in 1930 and of the focus placed by SAPOHR on women in prison, the planning of protests by female prisoners was not unexpected. Pollsmoor warders attempted to silence this revolt and the repression that ensued. They constantly denied the allegations made by Phyllis Fanté, the former Pollsmoor female political prisoner, that 11 prisoners remained on hunger strike after the revolt and that warders had placed them in isolation, threatened them and ‘terrorised’ them.329 The reasons for this concealment and the later amnesia around women’s revolts are multiple, but mostly hinged on the isolation of female prisoners, the valorisation of masculine norms inside carceral institutions and the lack of attention regarding the criminalisation of women under apartheid.330

While tensions in prison rose again and assaults between prisoners resulted in a high number of deaths, debates between the IEC, the NP, the ANC and the TEC continued.331 Eventually, the franchise was extended during the night of 25 April 1994.332 Only prisoners who had been convicted for murder, rape, armed robbery or intention to commit such offences were disfranchised.333 In prisons across South Africa, the government allowed inmates to vote on 26 April. Several problems emerged, relating among others to the temporary IDs and the fact that due to the late decision to extend the franchise, prison authorities were ultimately the ones to decide who could vote.334 Despite these issues, in Pollsmoor, prisoners and warders alike described the day

328 Interview, Mrs. Tillis.
329 PA, 8/2/1. Cape Times to the Regional Commissioner, 19 April 1994; PA, 8/2/1. Regional Commissioner to the Cape Times, 22 April 1994.
330 Perrot, Writing Women’s History, p. 5.
as ‘a big party’, when inmates could wander freely around the prison. Soon after the elections, violence broke out again, revealing that the right to vote was not the single reason explaining the organisation of protests by prisoners. Inmates strongly contested the implementation of a new release policy in March 1994, which abolished the possibility for remission of sentences. In addition, the reduced number of working warders, due to the persisting national movements organised by POPCRU, meant that the tacit relationships of domination and subjection which tied prisoners and warders were still perturbed throughout 1994. On several occasions, POPCRU members also protested that the authorities had refused them to consult with prisoners in order to prevent riots and arsons. More importantly, prisoners grew increasingly frustrated after the Government of National Unity presided by Mandela failed to grant a general amnesty to common law prisoners, although Mandela had announced the amnesty during his inauguration discourse. Prisoners sent letters of complaints to the government and the DCS, requesting to be released so as to be ‘in motion with all Africans to build a better place for our children’, reminding them that they were in prison ‘because of the apartheid laws of racial discrimination’.

On 7 June 1994, SAPOHR issued an ultimatum to the government, announcing prisoners would embark on work strikes throughout the country until a general amnesty was granted. The victory relating to the right to vote, however, had comforted prisoners in the efficiency of more violent forms of protest. A second wave of revolts shook the country’s prisons. At Pollsmoor, a first incident occurred in the Women’s

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335 Interviews, Mrs. Tillis and Mr. Muller.
336 HPW, AG3245. Submission to the Commission of inquiry into unrest in prison by Amanda Dissel, September 1994.
341 PA, 1/4/2/9. Regional Commissioner to Pollsmoor, 8 June 1994.
Prison on 7 June, swiftly followed on 9 June by hunger strikes, working strikes and arsons.\footnote{342 PA, 8/2/1. Pollsmoor to the Regional Commissioner, 8 June 1994; PA, 1/4/2/9. Pollsmoor to SAPOHR, 10 June 1994.} Prisoners continued to urge Mandela to grant them amnesty, promising that ‘chaos’, ‘bloodshed’ and ‘damage to property’ would arise otherwise.\footnote{343 PA, 1/3/6. Pollsmoor Medium A prisoners to the Head of Prison, 10 June 1994.} On 10 June, the government decided to grant a six-month indemnity to all prisoners, a decision criticised by SAPOHR as being ‘unfair’, for it did not distinguish between individual cases.\footnote{344 HPW, AG3245. Submission to the Commission of inquiry into unrest in prison by Amanda Dissel, September 1994.} Indeed, prisoners’ frustration remained high. On 11 June, revolts broke out again in different prisons at Pollsmoor, including in the awaiting-trial section, where cells were set alight in solidarity with the campaign of amnesty.\footnote{345 J. Kriegler, \textit{Unrest in Prisons: Final Report of the Commission of Inquiry into Unrest in Prisons Appointed by the President on 27 June 1994} (Pretoria, 1995).} These movements echoed what was happening in other prisons where, in the space of three days, 32 revolts occurred.\footnote{346 Ibid.} The heavy repression implemented by warders, the task force and policemen called in support eventually brought the revolts to an end, although sporadic collective hunger strikes and arsons around the issue of amnesty would persist during 1995.\footnote{347 HPW, AG3245. Update on submissions to the commission of inquiry into unrest in prison by Amanda Dissel, January 1995; PA, 1/8/11. A Pollsmoor Maximum prisoner to the Minister of Justice, November 1994.} The repression was fierce. Warders charged prisoners with dogs, teargas and batons. Prisoners were transferred or sent to isolation as a punishment for the revolts and had to repair the parts of the prisons which had been burnt down or destroyed. Some asserted they were ordered to remove broken glass with their bare hands.\footnote{348 \textit{City Press}, 13 November 1994.} According to the Kriegler Commission of Inquiry into unrests in prison, appointed on 27 June 1994, between 28 January and 27 June, 71 ‘unrests’ and 47 ‘incidents’ occurred in 53 prisons. 750 prisoners and 145 warders were injured and 38 prisoners died as a result of the revolts.\footnote{349 Kriegler, \textit{Unrest in Prisons}.}
Prisoners adopted the method of setting cells alight to such an extent that the DCS decided to replace the foam rubber mattresses with fire proof mattresses. The symbolic use of fire disclosed that during the democratic transition, prisoners were ready to endanger their own lives in order to burn to the ground the buildings of apartheid prisons, to inform the rest of the society of the oppression they had suffered during apartheid and of their will to participate, as free men and women, to the new South Africa. In contrast, the silence and lack of protests inside psychiatric hospitals and their maximum security sections revealed that the process of subjectification, both as oppression and control over one’s life, differed in prisons and mental hospitals. In the latter, the anomy and neutralisation of dissidence meant that collective revolts were far harder to organise and that protest against the psychiatric system of normalisation had to take different shapes.

350 PA, 1/4/2/2. Dr. Craven to Pollsmoor, 1994.
Conclusion

The Aftermath of Prisoners’ Revolts

After the 1994 revolts, silence gradually surrounded closed institutions again. New discourses, strongly influenced by the heritage of apartheid, were elaborated to account for the incarceration of ‘deviants’ while inside prisons, modalities of survival and solidarity shifted. The granting of the right to vote constituted an exceptional historical event. Once the claim that prisoners had been victims of apartheid regulations lost some of its impact, the government disfranchised prisoners. The question of amnesty remained a tense issue which the Truth and Reconciliation Commission (TRC) did not resolve. Established in 1995, the TRC received 7,116 applications for amnesty before the September 1997 deadline. Out of these requests, the TRC only considered 1,674 as fitting the criteria.\textsuperscript{352} The Commission excluded a great number of common law prisoners, failing to acknowledge the deeper connections between political and criminal violence.\textsuperscript{353} According to PAC member Letlapa Mphahlele, ‘the TRC disregarded African history and was blind to the causes of violence and strife’.\textsuperscript{354} While the TRC did not take into account the difficulty for political and common law prisoners to get lawyers’ help in completing the amnesty applications, it granted amnesty to perpetrators of torture from the Security Branch despite them concealing parts of their pasts.\textsuperscript{355}

By denying a great number of prisoners the possibility to be considered for amnesty, the TRC participated in the construction of a new discourse on the past which helped shape the dynamics of social control after the democratic transition. For the new

\textsuperscript{352} Foster, Haupt and De Beer, \textit{The Theatre of Violence}, p. 13.
\textsuperscript{353} Kynoch, ‘Crime, Conflict’, p. 495.
\textsuperscript{354} Mphahlele, \textit{Child of this Soil}, p. 205.
\textsuperscript{355} Payne, \textit{Unsettling Accounts}, p. 238.
government, 1994 symbolised a historical rupture between political struggle and criminality. Although ANC members had an intimate knowledge of the effects of incarceration, lengths of imprisonment increased. Like in many other post-colonial settings in Africa, the new mechanisms of law and order adopted in South Africa resembled the disciplinary apparatus implemented by the former oppressive state.\(^{356}\)

Inside prisons, the enthusiasm which had initiated the revolts slowly declined. Despite material ameliorations for prisoners and reforms such as the temporary demilitarisation for warders, the violence undermining relationships in prison persisted. The Number, whose organisational capacity and ideology had been crucial in the elaboration of a prisoners’ force able to challenge the authorities and imbue a feeling of dignity to the prisoners, rapidly transformed itself. Slightly better prison conditions and the establishment of international drug cartels on the outside impacted on the structure of the Number on the inside. If the violence of the gangs barely decreased, the motives of the latter changed, revealing a renewed focus on money, drugs and sex.\(^{357}\) In the collective memory of prisoners and warders alike, 1994 became the mark of an exceptional but hollow victory that did not have lasting effects on the power relationships, brutality and repressive rationality of the carceral institution.

From a historical standpoint, the prison revolts and warders’ mobilisation of 1994 disclosed and brought to the public sphere the dynamics of social control and repression which had prevailed during apartheid. They also shed light on the modalities of resistance that inmates had developed to fight against the military and racialised system of law and order implemented in prisons. The revolts of 1994 hence drew the


\(^{357}\) Steinberg, *The Number*, pp. 315-16.
veil on the processes of objectification and subjectification prisoners had undergone during apartheid.\textsuperscript{358} The silence of offenders held in psychiatric hospitals’ Maximum Security sections also revealed that the effects of the psychiatrisation of criminality were far-reaching and entailed a more profound subjection to the disciplinary power of psychiatry and criminology.

The microhistorical study of Pollsmoor Prison and the Maximum Security section of Valkenberg Mental Hospital from 1964 to 1994 highlights the links between practices of incarceration, the definition of what constituted ‘deviancy’ and ‘normalcy’ by penal and psychiatric discursive mechanisms and the methods adopted by inmates and patients to challenge this attempt at a total control over their lives. By shifting the levels of investigation between institutions, courts and discourses, this study revealed a permeability of prison and psychiatric institutions which, far from constituting closed-off microsocieties, played a crucial role in the repressive apparatus of the apartheid regime and contributed to the dissemination of fear and obedience in the rest of society.

\textit{Madness, Criminality and Political Dissidence Under Apartheid}

The very architecture and organisation of daily life inside Pollsmoor and Valkenberg Maximum Security section during apartheid was an echo of how the broader system of apartheid functioned (Chapter 1). The segregation of prisoners and patients according to race, gender, age and behaviour strove at categorising the institutions’ populations in order to undermine any potential alliance and control the daily gestures of incarcerated populations. The administration of punishment and the bestowal of privileges according to these same categories highlighted the rationality of grand and petty apartheids, which did not resume themselves to a segregation between Whites and

\textsuperscript{358} Foucault, ‘The Subject and Power’, p. 778.
‘non-Whites’ but attempted to govern the society by elaborating a hierarchy of racial
groups.

Although there were many similarities between the way prison and psychiatric
authorities conceived the implementation of a smooth system of law and order, their
techniques of repression differed (Chapter 2). Violence and brutality permeated both
institutions which were, at the same time, embedded in supposedly liberal discourses
about rehabilitation and normalisation. Warders and nurses themselves were subjected
to a stringent hierarchy. In Pollsmoor, punishments ranged from transfers to solitary
confinement with the use of straightjackets and mechanical restraints and included
random assaults. In Valkenberg, authorities both perceived the administration of
electroshocks and the high doses of sedatives and neuroleptics distributed to patients as
‘treatment’ and punishment. The use of padded cells and mechanical restraints to ‘calm
down’ those suffering from violent outbursts resembled the methods prevailing in
prisons. In Pollsmoor, like in other South African prisons, three brother gangs, the 26’s,
27’s and 28’s, reversed in a paradoxical way the repression that targeted them. In an
operation of mimicry, the gangs functioned according to a military and judicial
organisation based on violence and solidarity and aimed at fighting against the
exacerbated apartheid prevailing in prison.

In addition to the categories of race, gender, age and behaviour, prison
authorities further delineated the inmates’ population according to ‘political’, ‘common
law’ or ‘insane’ statuses (Chapter 3). Despite efforts deployed by the government to
conceal its political repression and its consequent refusal to acknowledge the category
of ‘political prisoner’, thanks to the struggle led by such prisoners for recognition, they
became increasingly visible in the public sphere from the 1970s onwards. Their
conditions in prison consequently improved, and few were the prisoners and
organisations which did not reassert the difference between ‘criminal’ and ‘political’ inmates to bestow resistance movements with a further aura of legitimacy. Meanwhile, the fate of common law prisoners rarely made it to the headlines. The conditions of offenders who, during their trials or their prison time, were labelled as ‘insane’ or ‘psychopaths’ were veiled with silence, notwithstanding the fact that penal and psychiatric systems subjected them to a double violence.

In order to understand the rationality behind this governance through differentiation, one needs to turn the gaze to the level of the courts, where judges and magistrates drew the line between what constituted ‘obedient’ and ‘threatening’ behaviour according to the different racial categories (Chapter 4). Throughout apartheid, and especially from the 1970s onwards, psychiatric and criminological discourses became increasingly entangled. Judges, with the help of psychiatrists, had to assess offenders’ ‘certifiability’, ‘triability’ and ‘responsibility’. In addition, the deployment of tougher police repression from the end of the 1970s to the end of the 1980s rapidly transformed courts into political arenas where the very legitimacy of the apartheid regime was at stake. In answer to the psychiatrisation of the judicial system and the use of the ‘common purpose’ and ‘public violence’ rhetoric, a group of psychologists called by defence lawyers began testifying in court. They argued that according to the ‘crowd theory’, people randomly arrested by the police in the course of ‘unrests’ could not be found culpable and hence sentenced to death. They also developed alternative practices of psychology and disclosed to the courts and the public sphere the severe psychological impact of torture, solitary confinement and indeterminate detention.

This minority of psychologists restricted their efforts to political, common purpose and public violence trials. Common law offenders who were sent for ‘observation’ to Valkenberg during their trials did not benefit from a similar external
support (Chapter 5). In the Maximum Security section of the hospital, untrained psychologists and nurses subjected them to a series of non-standardised tests and behavioural surveillance and decided if the offenders were to be sent to prison, to a prison-hospital for psychopaths or be certified – often for life – as State President Patients. Political and common law prisoners could also be temporarily transferred to Valkenberg. In these cases, the hospital could acquire the paradoxical status of a relative refuge in contrast with prison conditions.

The practices of observation, categorisation and certification conducted at Valkenberg Maximum Security section revealed broader social dynamics as to the definition of sanity and insanity as well as to the links between criminality and race. The adjudication processes implemented in courts according to criminological and psychiatric arguments came to reinforce these practices and evolved throughout the period according to the changing social imperatives of the apartheid governments (Chapter 6). The judicial issues relating to terrorism, corporal punishment and death penalty highlighted the racial bias of courts and the way they offered a veil of legitimacy to the racialised arguments sustaining the maintenance of the apartheid system. From these discursive practices stemmed a portrayal of the ‘non-Whites’ as a dangerous though child-like black mob prone to crime, political unrest, sexual depravity and drug addiction. The white population, in turn, was depicted as in danger of being contaminated by this degradation and in need of protection from the apartheid state.

While prisons and hospitals’ authorities, judges, magistrates and, more generally, psychiatric and criminological discourses strove at dividing the population in order to regulate and exercise control over each ‘homogeneous’ category, inside closed institutions like in the rest of society, the population constantly blurred, modified and redrew these lines of delimitation. The 1980s, with their heightened repression, popular...
mobilisation and increase in terror and violence, witnessed an intensification of such confusion (Chapter 7). Outside prisons, gangs and youth were even more involved than during the first decades of apartheid in the tensions springing between resistance movements, the police, ‘comsotsis’ and the actors of a still enigmatic ‘Third Force’, making the frontier between political and criminal violence oscillate. Inside prisons, the relationships tied between the Number gangs and political prisoners echoed the deep connections between gangs and resistance movements, connections which ranged from outright collaboration to betrayal and instrumentalisation.

Within prisons and psychiatric hospitals, the authorities’ attempts at regulating the most minute gestures of prisoners and patients were confronted to a myriad of small strategies of survival, resistance and adaptation from the part of the incarcerated population (Chapter 8). Such modalities were present throughout apartheid, but influenced by the atmosphere of reform, repression and political mobilisation of the 1980s, they increased during this period. In prisons, political and common law had access to different tools and resources which determined the margins of manoeuvre in which they could develop resistance strategies. The Number symbolised the ambivalent use of violence, partly forced upon prisoners by the repressive and anonymising techniques adopted by warders. In psychiatric hospitals and their Maximum Security sections, the specificities of the psychiatric power/knowledge meant that resistance was barely visible, for authorities interpreted any act of defiance as a supplementary proof of the dangerous and deviant features of the mentally ill. Consequently, patients’ strategies to retain some control over their lives were multiple and could include complaints, violent assaults, social withdrawal, escapes and, less frequently, collective and violent movements.
The democratic transition initiated in 1990 led to the dissemination of feelings of hope and frustration in the South African society (Chapter 9). Inside prisons, the series of reforms implemented from the end of the 1980s to 1994 did little to prevent the emergence of new historical actors willing to voice out the protest of prisoners and black warders. The process of granting amnesties, early releases and indemnities to political prisoners proved to be an issue both for the negotiating parties and for common law prisoners. While patients in psychiatric hospitals occasionally attempted to express their will to be free by organising collective escapes, in prisons, tensions built up and contributed to the eclosion of numerous small protest movements. In 1994, the NP government and TEC’s refusal to grant the right to vote to all prisoners, as well as the fact that the new Government of National Unity discarded common law prisoners’ request to be granted amnesty, set fire to the prisons. In March-April and June 1994, two waves of revolts, during which prisoners embarked on hunger strikes, work strikes, set their cells alight and partially destroyed buildings, shook the majority of South African prisons. In their protests, prisoners revealed to the rest of the society that apartheid institutions’ endeavour to deprive them of their political subjectivity had failed. During the short time they managed to voice out their standpoint, prisoners proved that resistance, adaptation and the creation of new forms of integration and solidarity had been a constant feature of life inside apartheid prisons.

Logics of Social Control in a Global Perspective

Due to limited space, some aspects of this system of repression/resistance and objectification/subjectification have not been analysed with all the depth they require. These include gender dynamics; the construction of a ‘white’ identity; the historical experiences of nurses and warders and the impact of their training on the daily life of
closed institutions; the ambiguities of oral history and the need to appraise interviews as participating to the construction of a collective memory and identity; the differences between regions such as the Western Cape and ‘homelands’; as well as the way the presence of immigrants inside prisons and psychiatric hospitals shaped discourses on race and nationality. All these elements will need further investigation at a later stage and reinforce the idea that South Africa under apartheid, far from constituting an exceptional historical configuration, shared many features with colonial settings and societies shaped by postcolonial features. For instance, the role of psychiatric discourses and practices in South Africa under apartheid can be compared to the one prevailing in Nyasaland, Southern Rhodesia or colonial India. The differences between the uses of psychiatry in colonial Kenya and apartheid South Africa shed light on the heterogeneity of colonial psychiatry in the British Empire. The links between mass incarceration and the construction of racial hierarchies find a similar expression in today United States. The intensity of the 1994 prisoners’ movements echoed the revolts which occurred in Attica (1971) and Santa Fe (1980) in the United States or Strangeways (1990) in England. The psychiatrisation and racialisation of offenders during trials still take place in former imperial ‘centres’ such as France and England. The implementation of terror in South Africa also shared similarities with Algeria or Argentina.

360 Refer to McCulloch, Colonial Psychiatry; Mahone, ‘The Psychology of Rebellion’.
361 See Alexander, The New Jim Crow; Mauer, Race to Incarcerate; Sudbury, Global Lockdown.
Although South Africa under apartheid cannot be considered as an exceptional historical configuration, for it revealed in an amplified manner more global dynamics of social control, it still bore many specificities. The oral history which has emerged from this study disclosed the existence of an issue fundamental to the assessment of the evolution of subjectivities during apartheid. The interrogation as to who constructed history, who was deemed to be an historical actor, which voices were legitimate enough to be heard, lay beneath the struggles of ‘common law’, ‘political’ and ‘insane’ prisoners incarcerated under apartheid. The modalities of resistance, survival, adaptation and collaboration prisoners adopted also proved that prisons and the Maximum Security sections of psychiatric institutions did not constitute ‘total institutions’ in the sense that they did not manage to completely obliterate, through an oppressive system of law and order, prisoners and patients’ identity, solidarity and dignity. Although the theories developed by authors such as Goffman, Foucault and Fanon are essential in understanding certain dynamics relating to the role and functioning of closed institutions and the discourses that sustained them, the particular case of South Africa under apartheid reveals some limitations in their texts.

The changes in the mechanisms of violence that underlaid power relationships in prisons and psychiatric hospitals across the period also reflected the permeability of closed institutions, for these fluctuations echoed wider developments on the political and social scene throughout apartheid. The construction and use of racial categories in prisons, mental hospitals and judicial courts revealed in an amplified way the rationality of petty and grand apartheid. The role of the law in the implementation of such system was of crucial importance, for it offered a veneer of legitimacy to a supremacist state. In doing so, it created political arenas where offenders challenged the sovereignty and violent methods of the apartheid state. Hence, like in prisons and mental hospitals where
the authorities did not succeed in controlling and regulating the gestures of the incarcerated population, the emergence of resistance movements, popular mobilisation and the political use of courts proved that the apartheid regime failed in forcing its population to obedience despite its wide implementation of terror. The construction of a ‘healthy nation’ through the production and control of deviances was far from being a smooth process.

The violence and terror that prevailed in the South African society and were at their height during the 1980s were complex phenomena. Far from being reduced to physical aspects, they also had structural and psychological impacts. Criminological and psychiatric discourses participated to this violence by elaborating scientific explanations which came to legitimate its use. In conjunction with the practices of closed institutions, they produced specific forms of madness and criminality. These two elements of social deviance helped the regime in its endeavour to control through the imposition of terror the South African population. Prisoners and patients’ struggles for subjectivity, which came to light during the democratic transition, unveiled that far from being all-embracing, these dynamics of social control had been disrupted and confronted with innovative modalities of resistance throughout apartheid.
Appendice


The 1981 decrease is due to a general presidential amnesty bestowed on 31 May 1981.

Figure 1: Evolution of the National Prison Population According to Racial Categories (1966-1991)

![Graph showing the evolution of the national prison population according to racial categories from 1966 to 1991.]

Figure 2: Evolution of Prison Sentences under Apartheid (1966-1991)

![Graph showing the evolution of prison sentences under apartheid from 1966 to 1991.]

296
Figure 3: Evolution of the National Prison Population According to Racial Category and Status (1966-1991)

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* The terminology changed from 'Bantu' to 'Black' in 1977.
** The other categories include, among others, psychopaths, mentally ill, judgement debtors and detainees.
*** The 1981 and 1991 decreases are due to the general presidential amnesty bestowed on 31 May 1981 and the amnesties bestowed in the course of the year 1991.
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