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CRIME IN SOUTH AFRICA: SOME ASPECTS OF CAUSES AND TREATMENT

ROBERT C. WILLIAMSON

Dr. Williamson is Professor of Sociology and Psychology at Los Angeles City College since 1946. He teaches, also, in the Sociology Department of Los Angeles College. In his 1954 sabbatical leave he was interested in observing some of the social problems of Africa and writes of one of them in this article. Besides his interest in criminology, he is active in research in social psychology, marriage and the family, and social change. His articles have appeared in *MARRIAGE AND FAMILY LIVING*, *SOCIOLOGY AND SOCIAL RESEARCH*, and the *AMERICAN SOCIOLOGICAL REVIEW*—EDITOR.

Despite the mass of literature on race relations in South Africa, relatively little attention has been paid to the problem of delinquency and crime. Crime is complicated by the multi-racial character of the society, as in our South. Although the writer does not accept the solution which the South African government has followed, he appreciates the fact that the complex social and racial problems of that country makes a solution difficult. In any case, whether the present regime with its apartheid policy remains in power, or is replaced by an integration-oriented government, the Union will probably continue to have a severe delinquency problem. In this paper an attempt will be made to present some of the aspects of causation and treatment.

Some idea of the complexity of the South African social system may be derived from the mixed composition of the population. The Union contains four principal groups: Europeans, almost equally divided between British and Afrikaaner (2,643,187, according to the 1951 census); Africans or Bantus or "natives" (8,535,341); Colored, as those of mixed racial descent are known, (1,102,323); Asians, most of whom are Indians, (365,524). Geographically, the natives are fairly equally divided between three areas: the cities, as tenant farmers or squatters on European-owned land, and in their native reserves. The Colored are largely confined to the Cape area, where they have had three centuries of racial interbreeding.

Of a total of 1,163,388 convictions for both "serious" and "non-serious" crime in 1952, 156,373 were of whites or Europeans, 868,007 of natives, 114,080 of Colored, and 24,928 of Asiatics.¹ Considering that a relatively large number of natives are rural and consequently not in a position to be involved in some types of crime, the figures are high for that group, partly as a result of petty offences that constitute anti-social behavior in South Africa. More significant are the figures for "serious" crime rates. Of a total of 68,510 convictions in 1952: 10,573 were of whites. This is 0.4 percent of the white population; natives, 45,300 convictions—0.5 percent of the native population; Colored, 11,481 convictions, or 1.1 percent of the Colored population; Asiatic, 1,115, or 0.3 percent of their number in the general population.²

¹ OFFICIAL YEARBOOK OF THE UNION OF SOUTH AFRICA, No. 27. *Bureau of the Census*. Pretoria, Government Printer, 1954, p. 447.

² *Ibid.*

Despite the high incidence of delinquency on the part of the predominantly urban Colored, the emphasis of this paper will be on the Bantu, as they constitute the largest element of the population.

The pattern of crime in South Africa must be seen against the kaleidoscope of change that arises from the impact of one culture upon another. In the aboriginal culture of the Bantu there are: elaborate political organization, with high status attached to chieftainship; a polygynous marriage system; sedentary agriculture with a cattle economy and currency; and a system of values emphasizing the tribal traditions and the sanctity of ancestors. The chieftain is responsible for the actions of the members of his village and consequently attempts to maintain conformity to the mores. There is an emphasis on reciprocity and generosity in the Bantu society. Industriousness is highly rewarded, especially on the part of the wife. In premarital sex mores considerable permissiveness is enjoyed.

Into this relatively simple folk culture has come the influence of European culture. With detribalization there has been geographical and occupational mobility, the orientation to both secular and religious mobility, the dissolution of polygyny and the extended family, and most profoundly disturbing, the introduction to urban life and the recognition by the Bantus of their inferior status in a white or European world. Since 1948 there has been the further impact of the apartheid policy under the Nationalist government, which threatens the security of the non-white's existence in South Africa.

THE SOUTH AFRICAN DEFINITION OF CRIME

As with most parts of the Western world, there has been an almost steady increase in delinquency and crime over the last several decades. From the formation of the Union in 1910 (or at least from 1913 when statistics were first maintained), crime has tended to be high during war prosperity periods and low during the depression years. Law in South Africa is heavily influenced by the Roman-Dutch tradition which, more than English law, reflects an inflexible viewpoint toward human nature and social behavior. The rigidity of the legal institutions may be one factor in the constantly rising incidence of crime.

Laws involving crime are of two types: statutory and "serious." Statutory law is of two varieties: (a) laws regulating various aspects of industry, agriculture, health, and sanitation; and (b) an enormous amount of codification regarding permitted behavior for the African, such as discriminatory laws relating to liquor production, distribution, and consumption; and most important the "pass laws," which define his mobility and access to employment, education, and residence. Statutory offenses constitute over 70 percent of non-European offenses, or over 50 percent of the total court cases.

Laws controlling the brewing of alcohol are undoubtedly a necessary evil; yet they have been employed in a manner that is frequently unjust and arbitrary, and violations number nearly 300,000 per year. "Kaffir beer," the only legal intoxicant for the African, is in many communities the manufacturing responsibility of the municipal government. Due to the highly circumscribed limits of purchase and consumption, it is not surprising that illegal home brewing is widely prevalent.

The pass laws have been a melange of complex and contradictory rules by which the African must carry a number of documents for such diverse purposes as visiting a sick relative in a distant town, looking for work, or being out after curfew—variously defined by the given community. Then there are, among others, the land tax, poll tax, registered voter's permit, and permit to attend school. Exceptions are made occasionally for individuals who are: (1) over 25 years of age; (2) employed for three years; (3) in possession of an acceptable police record; (4) adequately educated; and (5) recommended by their employer. The number of individuals who fulfill these requirements is not overwhelming. With the average annual number of violations in excess of 250,000, there has been a movement in recent years toward a simplified pass system, and the first Native Registration Books have been issued only since 1953. An integrationist program would terminate the pass system as soon as the African is sufficiently advanced.³

Among the more "serious" crimes, as opposed to the statutory offenses above, those against property are most numerous and have shown the largest increase. They cover a variety of actions. One common type is trespassing and vagrancy. A cheap and legal labor supply is made possible to the European by statutes in some areas which, permit a magistrate to order a convicted vagrant to a form of servitude under contract.⁴ Convictions for theft are less frequent than for trespassing; however they are on the increase. Most of the cases are petty theft (under 50 pounds). Only the Europeans have access to anything resembling the "white collar" crime. The marginal subsistence in the rural areas accounts for stock thefts, which were particularly prevalent during the depression. The stereotype that the white has of the native as a dishonest, untrustworthy child is relevant to the incidence of property crimes.

Sex offenses, although inconspicuous compared to other categories, are basic in the white's conception of the African. Part of the reason for the alleged sex delinquency is discrepancy between European and African mores. Premarital intercourse is regarded with more leniency by the latter. Such offenses as rape, attempted rape, and indecent assault are relatively greater than with the white and Asian groups. Yet the African demonstrates a relatively small amount of incest, due to the tribal taboo. Possibly most serious in its psychological aspects, is the homosexuality that is found in the mining compounds, due to the isolation of the male on labor contracts.

Crimes against persons, at least "aggravated assault," number over 20,000 convictions in 1952, accounting for one third of all the serious crimes in the Union. The European has the stereotype of the African as having innate uncontrolled aggressiveness as indicated by the latter's knife-carrying, street fighting, or, more grandiosely, the history of nineteenth century warfare.

One aspect of the non-conforming behavior has been gang life, particularly among the non-European juvenile offender. It is especially noticed in the cities, above all, in the native locations of the Rand about Johannesburg. Violence is directed largely toward their own racial group so that in some locations and townships, residents

³ TOEKOMS, JAN, *WHEN MALAN GOES* Johannesburg: Central News Agency, 1953, pp. 109-120.

⁴ SIMONS, H. J., *The Law and the Administration*, in HELLMANN, ELLEN, Ed., *HANDBOOK ON RACE RELATIONS IN SOUTH AFRICA*, Capetown: Cape Times Ltd., 1949, p. 89.

prefer not to be on the streets after nightfall. One variation of juvenile misbehavior is the Cape skolly, who, like the "zootsuiter," exhibits special dress and behaves with a mixture of in-group loyalty and intense rejection of the society about him.⁵ Especially about the age of 17 or 18, with frequenting the dagga dens, there is some intensification of delinquent conduct. By 19 or 20, there may be either a gradual return to normality and regular employment, or development of a full criminal career.

THE CAUSES OF CRIME

A number of variables that have led to delinquent behavior in other parts of the world, notably the South of the United States have been the same critical determinants in South Africa. Racial discrimination has probably been an important factor, though this has not been statistically proven. For both European and non-European there has been the anxiety and tension that is almost inescapable in a multi-racial society. From the first meeting of European and African in the Cape in the seventeenth century there has been segregation. However, since 1948 there has been the apartheid policy, which has been, in the writer's opinion, a factor in the increase of crime, though that, too, lacks definite proof.

Although a discussion of apartheid falls beyond the scope of this article,⁶ it appears that some defense might be made for the policy of the Department of Native Affairs. Certainly the African is entitled to the freedom of self-government and self-development which *apartheid* implies. There is a question as to whether Bantu integrity would be respected by Prime Minister Strydom and his followers. There is often a difference between plans and performance.

Perhaps the non-humanitarian aspects of *apartheid* are most clearly seen in the present pressure on the Cape Colored. Much of the legislation of the Nationalist government has been aimed at these racially mixed individuals, whose acculturation represents a direct threat to the sanctity of the *Herrenvolk*. There are the barriers that surround the Colored or native on all sides: the signs in public places that indicate *Blankes aljeen*—Europeans only; the inability to find any but unskilled work; the isolation from the white populations by confinement in townships or locations; and other violations of basic rights. As with the American Negro, the frustration is the more acute when the individual has acquired some of the skills and status symbols of the dominant group. For example, the attempt to secure a passport on the part of the upper status non-Europeans has often been rebuffed.⁷

Education itself offers an example of the degree to which a caste system operates in South Africa. There is one school per 430 whites; one per 1,850 Bantus, who,

⁵ WOLLHEIM, O. D., *The Cape Skolly*, RACE RELATIONS JOUR., 17, 1950, pp. 46-50.

⁶ On South African race problems, there is a variety of literature. The writer's own viewpoint is found in *Race Relations in South Africa*, SOCIOLOGY AND SOCIAL RESEARCH, 39, January-February, 1955, pp. 165-170.

⁷ The last year has seen a distinct deterioration of race relations in South Africa: for example, the provision of new restrictions on the mobility of non-whites, the apparent increase in social disorganization, particularly in Johannesburg and on the Rand, and the requirement that women, also, must carry passes. Perhaps most significant in the conflict is the development of political crime. In December 1956, some 150 whites and non-whites were charged with treason under the Suppression

except in Cape Province must pay a sum for tuition. For 1951-52 the respective amounts spent per pupil were \$116 for Europeans, \$52 for Colored, and \$21 for natives.⁸ About ten per cent of the Africans receive instruction, which appears to be confined to a minimal level of skills. This policy is part of the government's attempt to restrict the Bantu to the agrarian life of the reserve. The recent closing of Fort Hare University (although apparently now reopened⁹); the struggle of religious societies to retain educational functions despite the loss of governmental support; and the appearance of clandestine "school meetings" in various areas all imply a crisis that can hardly avoid being reflected directly or indirectly in delinquent behavior patterns.

The discrimination of the South African accentuates the poverty in which the average African lives. Some index of the differential is that unskilled wages earned by the non-white are reported to be 16.7 per cent of the skilled or European wages. Unemployment, migration, and other forms of social disorganization account for the poverty as demonstrated by the squatter camps of cast iron, tin, or odd lumber. Much of the culture system implements the tendency toward poverty as, for example, the tot system in the Cape area where farmers provide payment in the form of small amounts of liquor at various periods during the workday.

An important factor in producing criminal behavior is culture conflict. This discontinuity is seen in the movement of hundreds of thousands of Bantus from the *weld*, the native reserves, and even other parts of Africa to the cities, where a new set of physical and personal associations surrounds the individual. There is a breakdown in primary controls that follows detribalization with the introduction of cash economy, accelerated mobility, personal anonymity, and new leisure-time pursuits. Unaccustomed to making complex decisions, the African is seen guilty of some infraction in the maze of legal superstructure. The differential attitudes and laws regarding sex mores, for example, may explain the high illegitimacy rate which in some areas reaches 59 percent.

As with most parts of the world, urbanization itself is a variable in the causal sequence, as there is maximum opportunity to experience frustration, conflict, poverty, gang life, and other forms of personal disorganization. The familiar sight of the pickup van, liquor raids, the endless checking of passes, are a basic part of the urban fabric. There is also the migrant labor in the mines. The recruitment of labor on native reserves with the signing of twelve and eighteen month contracts leads to disruption of family life and the restriction of men to the mine compounds. The one refuge for the African is the weekly pass of several hours to the city and its beer halls. With the two-to-one ratio of African men to women in the cities (four to one in Johannesburg), the indices for prostitution and homosexuality are high. Deser-

of Communism Act enacted in 1950. The impression in some quarters within the country, and certainly outside the Union, is that Communism is interpreted as any kind of action that might be a barrier to the apartheid program of the government. See *South Africa Reports*, Union of South Africa Government Information Office, New York, December 11, 1956, and *United States News*, January 4, 1957

⁸ RICHMOND, ANTHONY, *THE COLOUR PROBLEM*, Edinburgh: Pelican Books, 1955, p. 117.

⁹ SOUTH AFRICA REPORTS New York: Union of South Africa Government Information Office, September 8, 1955, p. 5.

tion which appears to be largely a product of urbanization and migration, accounts for 84 per cent of the divorces.¹⁰

TREATMENT OF THE OFFENDER

Role of the Police. In any culture the definition of crime is to some degree a function of law enforcing agents. In the police structure the personnel is largely white; in fact, rural Afrikaaners, as a group, have predominated. Generally speaking, the lower segments of European society have entered the force, for neither pay nor educational requirements have been attractive enough to interest more competent applicants. There is some opportunity for non-whites but at a markedly lower rate of pay (Africans receiving less than Asians or Colored), and the salary would appeal to few who are educated. One consequence is that in the Cape, Colored areas are patrolled by Bantus, a situation somewhat humiliating to the former group as they feel superior to the African.

THE COURTS

The courts must share some responsibility for the maladministration of justice.¹¹ This is not to deny that in some instance they have been protective of African rights. The judiciary although separate from the executive, has the usual sensitivity to community interests which (in South Africa) is likely to lead to partiality in the interpretation of justice. This bias is especially true of the magistrate's courts as compared to the higher court. Court personnel is composed exclusively of whites, and judges or juries are inclined to over-value testimony from their own racial group.

There is also the problem of communication during cross-examination. Interpreters employed, but, whether white or black, are frequently not well trained and are poorly paid. Often, for social and emotional reasons, the defendant is unable to speak, and the general awkwardness of the native in court is a tremendous disadvantage. Only where the death penalty is involved is it possible for the state to guarantee some legal aid to the defendant. Often the native is unaware that bail is possible, even if he should be in a position to manage it financially.¹² The Institute of Race Relations, with its headquarters in Johannesburg and branch offices in other cities, has for several years provided financial aid through their Legal Aid Bureaux, although the latter now receive state support.

In the treatment of the offender, there is considerable variation depending on the seriousness of the crime, the discretion of the judge, and the nature of the individual

¹⁰ CAPE TIMES, January 6, 1954.

¹¹ Actually the court structure is divided into: one, native courts, (chief's courts, Native commissioner's courts, appeal courts, and special divorce courts); and two, the European courts system that has much wider jurisdiction. The latter is divided into circuit and supreme courts.

¹² An accused has the right to "subpoena witness through official channels at state expense, if he can show that they are necessary to his defense, and that he is unable to pay the charges involved. Accused persons are not told of this right unless they ask for information. If the magistrate refuses bail, or fixes it at too high a figure, the accused has the right of appeal to the Supreme Court. In practice, magistrates seldom grant bail unless the police consent, and they usually oppose in, case against a non-European, on the assumption that any non-European is likely to abscond, or because they hope to obtain disclosures from the accused by persistent questioning." SIMMONS, *op. cit.*, p. 72.

offender, especially his racial identification. The suspended sentence, or probation, is the most frequent method of handling the less serious delinquencies. Fines may be imposed but the African's inability to pay has generally resulted in his incarceration. Nearly ten times as many convicted Africans or Colored are imprisoned as are whites. The African is more than twice as likely to be imprisoned without option of a fine. The Lansdown Commission Report, a far-reaching investigation aimed at improving the treatment of offenders in the Union, made, among other things, quasi-official note of the partiality of judges.

Perhaps the most serious aspect in the treatment process is corporal punishment. Both Dutch and British law have justified its application, and this type of punishment has not been limited to the non-European offender. Frequently "ill treatment" is reported on arrest and during the imprisonment awaiting trial. One example of the extent to which corporal punishment is administered is that of three Transvaal judges who, during a four-day period, disposed of 139 native and five white cases, sentencing 72 of the former to receive a total of 381 strokes or lashes.¹³ The rationalization is that only violence can enforce the necessity of good behavior on the part of the African. Prison itself is not sufficiently a deterrent, as the world outside prison is itself not preferable; physical force must be added. It appears that the punitive element of punishment is stressed for the non-European; for the white, the reformative.¹⁴

The application of the death penalty, with few exceptions, has been applied only to non-whites. The pattern resembles our South; however, lynching is practically unknown, as the enforcement of law is contiguous to the mores of the Afrikaaner. One of the findings of the Lansdown Commission was that, although there had been abuse in the death sentence, its abolition appeared unwarranted. In any case, the basic situation will probably be retained, namely, where the victim is a European, murder or homicide will be followed by hanging. One may generalize that, as in the United States, aggression against whites receives undue harshness, whereas interpersonal aggression among Africans obtains less attention.

One problem is the juvenile offender. For the white, and especially for the non-white, facilities are not adequate to handle this problem. There are Children's Courts to care for delinquents under nineteen. However, as with other countries, the increase in delinquency and the rise in standards of processing for this group have made former provisions insufficient. The shortage of probation and welfare officers and the lack of sufficient "certified hostels" for the non-white group has made widespread commitment to reformatory mandatory.

PRISONS

The question of prisons cannot be detached from the problem of treatment. The Lansdown Commission revealed to the South African nation some of the more unsound and detrimental phases of its prison system. The pattern is not different from existing conditions in many American states: overcrowding, inadequate staffing,

¹³ HORRELL, MURIEL, *Survey of Race Relations*, Johannesburg: Institute of Race Relations, 1953, p. 64.

¹⁴ SIMONS, *op. cit.*, p. 103.

and faulty classification. Relatively little attention is given to age, former convictions, psychiatric aspects, or "reformability." Part of the problem is attributable to the sparseness of the country's population. In many cases the prison population numbers less than fifty inmates. Inadequacies are most evident in the non-European prison: a lack of the most elementary sanitation, a diet insufficient in proteins and vitamins, refusal to consider personality needs, and absence of any preparation for return to civilian life.

One problem has been the inability to construct a motivational system with concrete incentives toward morale. The provision of satisfying work is the more necessary as educational and recreational programs are frequently absent. While there is construction and agricultural labor, at least for the non-European, the vocational program is not properly planned and is complicated by the multi-racial division of labor. One favorable aspect is the "mark" system, a basic part of British penal practice. Under this arrangement the prisoner may shorten his sentence by merits; however, the African is rarely covered by this proviso. Possibly the most serious shortcoming is the failure to provide adequate supervision and guidance for the prisoner after release.

CONCLUSIONS

In no society is it possible to isolate crime from other aspects of social behavior. The South African social system places enormous strains on the non-European to conform to norms that he does not understand. The conflict between English-speaking and Afrikaans-speaking, between white and Bantu, along with the marginal position of the Colored and the Asian, spells a society fraught with tensions that signify a complex delinquency problem. Yet the Bantu population does not exhibit an unduly high incidence of criminality.

There are a number of reforms that progressive individuals in the Union of South Africa are hopeful of initiating. They include a variety of changes: improvement of law enforcement agencies and personnel; of court procedures (more highly trained interpreters, for example); of sentencing and punishment (elimination of corporal punishment and installment payment of fines); of penal treatment (training programs for literacy and occupational skills). Some reforms require a financial budget that is unlikely in a country where over two-thirds of the population are deprived of earning an income that would enable them to contribute adequately to the tax fund.

It appears that some of these reforms would be more likely if the government were moving in the direction of integration, rather than toward apartheid. In either alternative a decrease in criminal behavior and the establishment of more enlightened treatment of the offender would most likely result.