South African prisons are deemed to be the most overcrowded correctional facilities in Africa due to their inadequate capacity to safely and securely house the number of offenders in the country. The prison system in post-1994 South Africa has been characterised by a range of persistent challenges such as corruption and gross human rights violations. While the Constitution now places radically different demands on the prison system, there are still a lot of problems which include the problems associated with the overcrowding of South Africa’s more than 240 prisons.

Prison overcrowding has been a long-standing problem. Since 1965 (the earliest date for which information is available) there has been a shortfall between the demand for prison space and the available accommodation (Muntingh, 2012). In January 1995, eight months after the ANC government took office, the official capacity of South African prisons was 96 361, while the actual prison population was 116 846. The prisons were at 121% capacity. Nearly ten years later, on 31 July 2004, the official capacity stood at 114 821 and the actual prison population at 184 806 inmates. During that ten-year period, the prison population in South Africa had grown by 58% and the levels of overcrowding had increased by 40% (Steinberg, 2005).

Possible reasons for the initial increase
What brought about the drastic increase during the first ten years of our democracy? Steinberg (2005) stresses that the justice system was not prosecuting or convicting more offenders - rather, between 1991 and 2000, the number of prosecutions dropped by 23%, while the number of convictions dropped by 19%. The reality was not that more people were being incarcerated; the problem was that they were staying there for longer. Remand detainees contributed to the problem: on 31 January 1995, there were 22 282 remand detainees and by 31 January 2001, the figure had increased almost threefold to 61 563. The number of remand detainees began to decline in the 2000s and by July 2004 the figure had dropped to 48 306. The problem was mainly successfully managed by using release policies. During 2000, the power which is granted to the relevant Minister and the President by section 66 of the Correctional Services Act 8 of 1959 was used to release 8451 remand detainees who had been granted bail of less than R1000, but who had been unable to pay it. It was argued that these detainees had been granted bail by a court and therefore a court had decided in principle that they did not pose any danger to their communities should they be released.

Despite the remand detainee prison population declining, the sentenced population began to increase dramatically from 88 301 by 31 July 1998 to 136 500 by 31 July 2004.
sudden and dramatic increase in sentenced prisoners can be traced to policy decisions which mandate minimum sentences for various crimes. The legislation mandates life sentences for several crimes, including premeditated murder, the murder of a law enforcement official, serial rape, gang rape and the rape of a child. The legislation also mandates minimum sentences for crimes including robbery with aggravating circumstances, drug trafficking, the smuggling of ammunition, firearms and explosives and rape (Steinberg 2005).

According to the annual report of the Department of Correctional Services (DCS) for 2015/2016, the prison population included 113 691 sentenced males and 3036 sentenced females, totalling 116 727, as well as 44 100 unsentenced males and 1157 unsentenced females, totalling 45 257, by 31 March 2016. This brings the total number of inmates to 161 984 while the total approved bed space (capacity) is 119 134.

A global problem

Prison overcrowding is a global problem. By March 2015, South Africa had the 11th highest prison population in the world with 159 241 inmates (including remand detainees). This is according to the World Prison Brief released by the Institute for Criminal Policy Research who found that the USA is at the top of the rankings with 2.2 million prisoners in its criminal justice system. The USA has 4575 confinement facilities with an official holding capacity of 2 157 769. China has the second highest prison population in the world, with 1.65 million prisoners, followed by Russia with 644 700 prisoners (https://businessstech.co.za/news/general/102821/south-africas-prison-population-vs-the-world).

Reasons of overcrowding

Shabangu (2006) gives a number of causes for overcrowding:

- Structure

  The majority of correctional facilities are still old-fashioned designs where inmates are being housed in communal cells which were built to cater for between 20 and 50 inmates. Once beds are removed and inmates are allowed to occupy floor space without beds, this facilitates overcrowding.

- Crime rate

  Although Shabangu (2006) argues that the commission of crime is another factor which plays a very significant role in the overcrowding in prisons, Maravanyika (2016) states confidently that the problem of overcrowding does not stem from an “out of control” crime rate in South Africa.

- Mandatory minimum sentences

  As mentioned above, “mandatory” minimum sentences contribute to prison overcrowding. Maravanyika (2016) explains that in the absence of any good reason to do so (ie compelling and substantial circumstances), a court could not impose a sentence less than a stipulated number of years for a specific crime. Based on the nature of the crime and its corresponding sentence, an offender has to serve a required amount of time in prison before s/he can be considered for parole or release.

- Awaiting trial inmates

  According to the White Paper on Remand Detention Management in South Africa (2014), international literature indicates that the key drivers of overcrowding are the use of pre-trial detention and the increasing rate of serious crimes. The increase in serious crimes is closely related to an increase in the use of pre-trial detention by courts without the option of bail. (See a broader discussion on remand detainees below.)

- Recidivism/reoffending (see related article published from p 22).

Remand detainees: a huge contributor to prison overcrowding

Long-term offenders who are serving mandatory minimum sentences are not the only ones who are filling beds in prisons. Corbett (2014) found that the most overcrowded section is always the remand detention (awaiting trial) section. Research conducted in South Africa has shown that some inmates should not be in correctional facilities but in remand facilities. Maravanyika (2016) explains that a person awaiting trial is yet to be convicted and is therefore regarded as innocent in the eyes of the law. In the majority of cases, however, these individuals have been denied bail or they have been convicted and are awaiting sentencing. According to Maria Mulindi, the programme manager for Projects Abroad’s Human Rights Project, some of those in South African prisons have not even been to court for a two year period (Corbett, 2014). Correctional facilities are there to accommodate offenders who have been tried, convicted and sentenced so that their journey towards rehabilitation and subsequent reintegration into the community can start. Rehabilitation and reintegration do not form part of the awaiting trial or pre-sentencing process (Maravanyika, 2016).

A remand operations management office, which became operational on 1 April 2012, exists within the Department of Correctional Services (DCS) to deal with remand detainees. Maravanyika (2016) notes that it is estimated that there were approximately 41 700 remand detainees in South Africa’s prisons by 2016 - which make up approximately 95% of all remand detainees in the country. The other 5% are in the custody of the SAPS and the Department of Social Development. It therefore seems that the problem of overcrowding is not a result of mandatory minimum sentencing, as claimed above, but rather is due to the overflow of remand detainees. One can therefore conclude that there is ample room for sentenced prisoners in South Africa’s correctional facilities. Maravanyika (2016) argues that the problem of remand detainees clogging up correctional facilities is aggravated because:

- the problem has been inherited from pre-1994;
- court cases for detainees take far too long to be processed from the arrest phase to conviction/sentencing due to the clogged court rolls in many jurisdictions, and
- some remand detainees have literally been lost in the correctional system and are doing time despite not having been convicted or sentenced. Despite amendments to the Correctional Services Act that do not allow a remand detainee to be detained for a period exceeding two years, enforcement of this amendment is not strictly adhered to, resulting in remand detainees having been in prison for longer than five years while awaiting trial or sentencing. The problem lies in the misplaced accommodation of remand detainees within the DCS, a policy which was inherited from the former Department of Prisons.
Once incarcerated, juveniles awaiting trial are exposed to hardened criminals who eagerly share their crime skills, leading these youngsters down a path of far more serious crimes, particularly if they are disconnected from their families, communities and places of worship.

Maravanyika (2016) is of the opinion that there are two possible solutions to this problem. The first is to sort out the backlogs on court cases within reasonable time frames - this is not an easy task as both court and police investigations contribute to the speed at which a case is finalised. The second is to establish remand centres away from the custody of the DCS, which would make it easier to monitor remand detainees in their designated facilities, as well as to identify delays in court cases.

The Justice and Correctional Services Minister, Adv Michael Masutha, acknowledges that the number of remand detainees who are kept in a correctional facility while they are awaiting trial or waiting to be sentenced, is a big contributing factor to overcrowding. He specifically referred to the Pollsmoor Correctional Facility which was almost 300% above capacity by 23 December 2016. Earlier that month, the Western Cape High Court ruled that the prison population at Pollsmoor Remand Detention Facility be reduced to 150% of its accommodation capacity within the following six months. The Minister said that the problem with remand detainees started when the legal policy was changed to the effect that arrested people could not stay incarcerated in police cells for more than seven days. Due to a lack of amenities at police cells suitable for longer stays, these people, if not granted bail, would then have to be moved to correctional facilities. According to the Minister, this is a multi-stakeholder problem and he pointed out that the finalisation of cases is the court’s responsibility and that Correctional Services have no control over it.

Correctional facilities in all major cities such as Johannesburg, Pretoria and Durban are overcrowded and the solution will not be to move remand detainees to other, more outlying areas. Adv Masutha made it clear that these detainees cannot be taken too far away from where they will stand trial, since witnesses must not find it inconvenient to testify far away from their locations. The Minister said that the DCS has made a national attempt by trying different methods to reduce prison populations. Over the past decade, the DCS has brought the number of remand prisoners in their facilities down from 60 000 to approximately 45 000 (www.news24.com/SouthAfrica/News/why-pollsmoor-prisons-overcrowded-cant-be-solved-overnight-masutha-20161223).

Corbett (2014) reports that Maria Mulindi argues that when prisoners are awaiting trial, they are vulnerable to being approached by dangerous criminals and gangs. By the time they stand trial, they have to fight for survival or give in to something they do not want to. A specific concern is the safety of young, first-time offenders who have committed petty crimes. By the time they are released, they have most probably suffered more damage than rehabilitation.

**Inmates’ rights**

Both sentenced and unsentenced inmates lose some of their fundamental rights upon incarceration, such as the right to freedom of association, freedom of movement and residence, and freedom of trade and occupation. However, they retain many legal and human rights as set out in Chapter 2 of the Constitution of the Republic of South Africa, 1996, ie the Bill of Rights in which section 35(2), states: “Everyone who is detained, including every sentenced prisoner, has the right -

(a) to be informed promptly of the reason for being detained;

(b) to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;

(c) to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;

(d) to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;

(e) to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state
expense, of adequate accommodation, nutrition, reading material and medical treatment; and
(f) to communicate with, and be visited by, that person's -
(i) spouse or partner;
(ii) next of kin;
(iii) chosen religious counsellor; and
(iv) chosen medical practitioner.”

In addition, section 11(2) of the Bill of Rights provides that no person shall be subject to torture of any kind, whether physical, mental or emotional, nor shall any person be subjected to cruel, inhuman or degrading treatment or punishment.

One can, however, question whether or not detainees’ rights weigh more than those of law-abiding citizens. Shabangu (2006) is of the opinion that law violators enjoy an upper hand in relation to law-abiding citizens and draw attention to the fact that any law violated is violated against the taxpayer - the very taxpayer whose rights are violated (sometimes very seriously) who must, in addition, pay the price of catering for those individuals while incarcerated.

However, despite all the human rights, the state of affairs of overcrowding in prisons has negative implications for both the inmates and the authorities. The Correctional Services Act 111 of 1998 sets conditions for those in detention and states that the conditions must be safe and hygienic and that inmates must be provided with adequate food, bedding, clothing, exercise and healthcare. In reality, however, prison conditions in numerous facilities across South Africa are a far cry from those required by law as many facilities battle with extreme overcrowding. This results in crowded cells which hold double or up to three times the number of prisoners they were designed for. (www.buzzsouthafrica.com). Banham (2015) reports that when Constitutional Court Justice Edwin Cameron visited Pollsmoor and its sister prison Pollsmoor Women’s Correctional Centre during 2015, he said: “The extent of overcrowding, unsanitary conditions, sickness, emaciated physical appearance of the detainees and overall deplorable living conditions were profoundly disturbing.” Muntingh (2001) mentions that there are cases in which inmates even had to sleep in shifts because of the overcrowdedness.

According to Dankwa (2007), thousands of prisoners across South Africa face conditions that span from being locked up 23 hours a day to not having a clean facility in which to bathe and use the toilet, to being packed in a cell with ten other people, to not having access to hot water or electricity. Judge Bertelsmann, a former Inspecting Judge of Correctional Services, was quoted as saying: “It is no exaggeration to say that, if an SPCA were to cram as many animals into cages as our correctional services are forced to cram prisoners into a single cell, the SPCA would be prosecuted for cruelty to animals.” Overcrowding like this is surely a grave infringement of prisoners’ basic rights. Keve (1991) identifies, among other problems related to overpopulation, the fact that more inmates have less recreation, as space for outdoor play and even space for indoor day rooms and libraries is inadequate.

Albrecht (2011) stresses that overcrowded prisons have a negative impact on all conditions of incarceration and intended consequences of incarceration. This overall negative impact is manifested in a number of ways, as summarised in the following couple of paragraphs.

Privacy of inmates
Restricted living space is associated with a loss of privacy and human dignity. Privacy is a big problem in overcrowded prisons, since inmates have no privacy when embarking on activities such as showering, dressing and using toilet facilities. Muntingh (2001) criticises the situation in which a communal cell, meant for 20 inmates, has to house double that number. This is an unacceptable situation, especially if there is only one toilet which is in a working condition.

Health hazards
Overcrowding of South Africa’s correctional centres can and has resulted in a series of health hazards. It is an undisputed fact that overcrowding has negative implications upon the hygienic conditions in correctional facilities, since the incremental exposure to diseases and infection from other inmates cannot be avoided. Overcrowding often forces inmates to live and sleep inches away from toilets (Shabangu, 2006).

An example of the unhygienic circumstances to which inmates are exposed in overcrowded prisons became clear in September 2015 when two inmates at Pollsmoor died of leptospirosis - a disease carried in rat urine. After this epidemic broke out due to a rat infestation, more than 4000 inmates had to be moved to other facilities. This temporary relocation came with a huge cost of R9 million (www.news24.com/SouthAfrica/News/why-pollsmoor-prisons-overcrowding-cant-be-solved-overnight-masutha-20161223).

Life in prison is harsh and overpopulation leads to the spreading of numerous communicable diseases such as tuberculosis (TB), hepatitis (B and C) and HIV. Albrecht (2011) adds that standard medical services and a generally unhealthy environment place inmates at an increased risk of infectious diseases. The link between HIV and TB further exacerbates the spread of TB in South African correctional centres, where the burden of HIV is already high. TB seems to be one of the diseases that spread fast through overcrowded correctional facilities. Mahlati (2015) found that, from October to December 2014, the Judicial Inspectorate for Correctional Services (JICS) received 11 reports of natural deaths caused by TB, which is a preventable and treatable disease. Skosana (2015) writes about an inmate who survived tuberculosis twice during the ten years he had spent in a correctional centre. Many of his cellmates were not as lucky. He first got TB in 2006 because, he believes, he shared a cell with inmates who had TB and he often had to sleep on the floor since all the beds in the cell were occupied. He received treatment for six months and recovered. In 2008 he redeveloped TB. He was on TB treatment for about three months, but this time the treatment didn’t work and the doctors claimed that he had MDR-TB (multi-drug-resistant TB) for which ordinary TB treatment doesn’t work. He got MDR-TB treatment, but eight months into this treatment, he developed ulcers that were so bad that he had to have surgery twice. His vision was also affected by the treatment.

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Despite the side effects, he completed his treatment. But the conditions in prison made it difficult for him to adhere to his treatment. “It’s overcrowded and people are scared to get tested. They are scared of being laughed at by the others. When I was sick they said I have Aids. It got so bad that at times I even thought of stopping the treatment, but I just told myself that my family needs me. I had to continue with the treatment,” he said. Apart from discrimination from fellow inmates, access to TB medication was also a challenge for him and his fellow inmates. “Sometimes the medication would run out, and it would take two days for the pills to be ordered from an outside hospital. Then you have to wait for the medication to arrive,” he said. In December 2012, the Constitutional Court made a landmark ruling in the case of Dudley Lee, who spent four years awaiting trial in prison before he was acquitted in 2004. The ruling held the Department of Correctional Services liable for causing Dudley Lee’s TB infection. The court ruled that there is a legal duty on the responsible authorities to provide adequate healthcare services as part of the constitutional right of all prisoners to adequate conditions. Dudley Lee was awarded R270 000 in damages which he received in November 2013, just a few months before he died in May 2014 (Mahlati, 2015).

Overcrowding of prisons also limits the extent to which transmission prevention policies can be implemented and this places the general population at risk when infected prisoners are released. Mahlati (2015) argues that the prevalence and spreading of communicable diseases in prisons are not only a concern for inmates and correctional services staff, but has implications for general society because those who are detained will eventually be released back into their communities. During the 2012/2013 financial year, some 65 931 inmates were released back into the community.

Albrecht (2011) argues that overcrowding further reduces the general services that are rendered to comply with the standards set for access to medical treatment, sanitary infrastructure, education, training and rehabilitative programmes. But South Africa’s Deputy Minister of Correctional Services, Thabang Makwetla, claimed in December 2016 that correctional facilities in South Africa are not the “disease-infested”, poorly-serviced centres of public perception. He said that prisoners in South Africa have access to better healthcare services than the general public. According to the DCS, by 31 July 2014, 1469 healthcare professionals were employed by the Department, in addition to contract workers. This equates to roughly one healthcare professional for every 105 prisoners. Authorities claimed that there have been improvements in the management of HIV/AIDS and TB, two of the biggest killers in prison (Rademeyer, 2014).

Mental health problems can also emerge under overcrowded conditions. In 2010, a study that was undertaken by the Department of Psychiatry of the University of KwaZulu-Natal determined the prevalence of serious mental disorders in a Durban correctional centre. It was the first ever study to measure the psychiatric morbidity in a South African correctional centre and it demonstrated a high prevalence of serious psychiatric disorders among prisoners. According to the study, the rates for major mental disorders among prison inmates are considerably higher than in community samples. Common disorders included substance use disorders, psychotic disorders, major depressive disorders, bipolar mood disorders, obsessive compulsive disorders and post-traumatic stress disorders. It was a source of great concern to the researcher that a large number of inmates who have mental disorders remain undetected in the system (www.health24.com/Medical/Depression/News/Prevalence-of-mental-disorders-in-SA-prisons-20141112).

Suicides are aligned to overpopulation. Reid (1991) explains that inmates who are threatened with homosexual rape or other violence often become depressed and desperate about their physical safety.

**Violence - rape, murder and assault**

Reid (1988) is of the opinion that crowded prisons experience more violence, deaths and uncontrolled homosexual assaults, as such crowded conditions lead to more contact among inmates. Inmates are routinely subjected to brutality, extortion and rape at the hands of their cellmates. Reid (1991) identifies prison gangs with drug sales, gambling, sexual exploitation, extortion and murder. It is an obvious conclusion that if a greater number of prison gang members are imprisoned, more gang-related problems will be encountered. (Our discussions will not focus on prison gangs, eg the 26s, 27s and 28s, in this article, since this was done in detail in Servamus: March 2015.)

Sexual violence among inmates is a worldwide phenomenon and in South Africa, this is strongly associated with prison gangs, who use rape as an instrument of control and dominance within the prison. Reid (1988) mentions that inmates go to sleep with the knowledge that they may be raped or assaulted by their fellow inmates at any time. A recently released document by the United Nation’s Human Rights Committee pointed out that violence among prisoners is prevalent. The document states: “Sexual abuse in places of detention is a widespread problem that directly infringes on the right to personal safety and freedom from violence for far too many inmates in South Africa” (www.buzzsouthafrica.com). Gear and Ngubeni (2002) argue that first-time offenders are often tricked and manipulated into providing sex in exchange for cigarettes, protection or other commodities which are smuggled into the correctional facility (see more about smuggling below).

Although allegations of trafficking in people in prisons have surfaced in the past, a video which emerged in 2002 (known as “the Grootvlei video”), demonstrated with horrific clarity the nature of the practice. The video showed a young prisoner from the juvenile section being brought to an older prisoner by a warder for payment and then being made to have sex with the older prisoner. The warder was paid R25 and the juvenile R10 for the sex. The older inmate remarked afterwards: “I pay for sex, but what can I do?” (www.iol.co.za/news/south-africa/sex-slaves-drugs-and-video-tape-88292). This was not an isolated incident, because the Jali Commission found evidence at Grootvlei prison that indicated that the sale of young prisoners for sex with older prisoners was commonplace and that a sex ring involving juvenile prisoners existed among warders (Muntingh, 2012). More
recently, Pauw (2014) wrote about text messages and images sent by an inmate at the overcrowded Leeuwhof Correctional Centre outside Vereeniging. One message stated: "Wyfies are bought, the guard brings him in for R100. Two stand at the door and keep guard. The guy being raped gets R50. There have been cases of eight guys on one guy in cell 19. They bring in the juveniles from the other side of the prison into the cell." 

Assault and murder are prevalent in overcrowded prisons and it is not only inmates who sometimes have to pay with their lives. Correctional Service officials are often on the receiving side of this violence. In January 2013, three remand detainees were killed and 65 others were injured in gang-related violence at the St Albans correctional facility in the Eastern Cape. The Congress of the People (COPE) blamed the unrest on overcrowding. A few days earlier, four warders and around 50 inmates were injured in gang-related violence at the St Albans correctional facility in the Eastern Cape. The Congress of the People (COPE) blamed the unrest on overcrowding.

Recent reports have highlighted the challenges faced by staff and inmates at various correctional facilities across South Africa. For example, on 27 December 2016, three inmates died and 25 others, together with five officials, were injured during a breakfast-time incident. An inmate allegedly stabbed a warder with shanks (homemade stabbing implements) and attacked other warders, who retaliated. There have been at least three other major incidents in the previous four months at other correctional facilities. One was an incident that took place at the Leeuwkop Correctional Centre in which inmates were involved in a violent scuffle with correctional officials, and another happened at the Johannesburg Correctional Centre (Sun City), where five correctional officials were attacked and stabbed when intervening in a gang-related altercation (Ngoepe, 2016).

One could argue that prison riots happen as a result of overcrowpopulation and gangsterism. It is clear that, given the prison set-up, it becomes an extremely difficult exercise to maintain proper order and control in overcrowded institutions. Staff shortage is another challenge with which the DCS is faced.

Smuggling of contraband

The security objective of the prison system prohibits the possession of a range of goods in addition to those usually considered illicit. But the trade in contraband such as drugs, alcohol, food and weapons are part and parcel of life in overcrowded prisons. Muntingh (2012) reminds us that lifestyles and addictions developed prior to incarceration create further demand for a range of commodities. Trading in drugs and alcohol is undoubtedly financially rewarding for those involved, which sometimes includes warders. For example, in 2002 a warder at Grootvlei prison allegedly made an average profit of R9000 per month from selling brandy to prisoners at hugely inflated prices (www.news24.com/xArchive/Archive/Warders-R9-000month-brandy-racket-20020715). According to the Jali Commission, the smuggling of drugs, prevalent in the prison system, is very profitable for both warders and prison gangs. The now infamous Grootvlei video showed a firearm being sold inside the prison for R6000 (Muntingh, 2012).

Pauw (2014) reports about an inmate of the Leeuwhof Correctional Centre who sent images and text messages to a newspaper claiming...
that warders do anything for money. "All the smuggled stuff comes through the guards. The guards all work together and bring it to the cells for payment," wrote the inmate. According to him, his mother brought six plastic shopping bags containing food and groceries to her son on a specific day and paid a warder not to search them. Large amounts of drugs, alcohol and even knives enter the prison in this way. He claims that the wardens bring them to the cells, saying that: "The guards are so busy smuggling and making money that they do not take notice (sic) of what's going on. My mother gave a guard R50 today to let my things go through. Now he wants a new kettle, can you believe it?"

Between 19 May 2014 and 9 June 2014, several large orders for drugs - including heroin, Tik, nyaope, Mandrax and dagga - were delivered to cell 14 and others in the Leeuhof Correctional Centre and the inmate sent pictures as proof to the newspaper. He mentioned ten plastic bags of dagga which were coming in via the bread truck at 04:00 and said that everyone was already paid via Moneygram. Two days later he mentioned that 100 Mandrax tablets came in via a visitor, hidden in sugar, about 500 Mandrax tablets came in hidden in packets of chips together with another 500 Mandrax tablets, crystal meth, Tik, nyaope and 30 bank bags of dagga. He also texted: "Knives are smuggled in from the kitchen, in the dishes among the food, through all the security, porridge, meat, soup" (Pauw, 2014).

All this and more was happening at one overcrowded prison within less than a month. The trade in contraband must remain part of any prison system (Muntingh, 2012).

Possible solutions to overcrowding and recidivism

The overcrowded correctional centres in South Africa have proven to have hampered, and continue to hamper, the application of rehabilitation programmes, the maintenance of the inmates' personal safety, and efforts to control the spreading of incurable diseases and a lot of other anti-social behavioural tendencies, such as gangsterism. This state of affairs cannot continue indefinitely without being addressed. At first glance, the solution looks obviously simple: build more prisons. That would solve the overcrowding problem immediately, as this is essentially a housing problem. But this will definitely come at an enormous cost to taxpayers. According to Shabangu (2006), there are several other possible solutions.

- **Community courts** could be used to deal with petty crimes and to implement alternative sentencing methods.
- Courts could hand down **heavy fines for less serious crimes**. However, before a fine could be imposed, the court has an obligation to look at the seriousness of the offence; the interest of society; previous convictions; and the prospects of the offender committing the offence in question, etc. Fines should only be considered in deserving cases. It would therefore make sense to say that fines should be considered without endangering those who need to be protected by law, while simultaneously not creating an impression that law and order is only meant for the wealthy.

- Another option is **group counselling for less serious offences** that may result in incarceration, such as shoplifting, driving under the influence of alcohol (without any other offence committed), and numerous traffic violations. These are presently being treated with success by the dynamics of group counselling, or encounter sessions. Group counselling entails weekly attendance by the offender and participation in such group meetings until the group leader sees evidence of the offender making progress towards self-mastery and self-understanding. The offender then has to demonstrate to the court that s/he has successfully undergone the programme, whereafter the active sentence will be dropped.

- **Probation** is an alternative to incarceration and is used by South African courts to some extent. Most persons committed to correctional institutions eventually return to the community. This sentencing option has many advantages: the offender remains in the society where s/he can lead a normal social life and assume the responsibilities of law-abiding citizens; the offender does not stand alone in his/her efforts to adjust to society, but has the advantage of the probation officer, family and friends, and most probably other social bodies; and it is a more cost-effective option. Before opting for probation, however, courts must answer questions such as:
  - Does the person pose a danger to society?
  - Would incarceration be beneficial to the person, or would s/he be harmed by incarceration?
- Would probation be an acceptable and or constructive plan of action in the case concerned?
- Would society, otherwise benefit by probation?
- What would society’s attitude be towards his/her probation?
- Has s/he gotten any support system in which to make an appropriate start?

**Partial incarceration:** Jarvis (1978) makes reference to a number of options:
- Split sentencing is a solution whereby a court may split a sentence into a short active period along with a probation period. It should be understood that this option would be applicable to minor first offenders only.
- Work release is an option whereby offenders are allowed to work during the day and return to prison after work. The interesting aspect of this option is that it adapts the offender to real outside life by letting them pay the local government for their board- ing and lodging, to earn money for their personal needs, and to support their families.
- Educational release is a popular option as a lot of research findings indicate that most inmates are illiterate, unskilled or too under-qualified to find professional or well-paying jobs. Given the motives behind educational release, one would understand why it is so important to consider this option (Shubangu, 2006).

**Parole**

In addition, the following options can also be added:
- **Electronic monitoring:** In November 2013, the Department of Correctional Services launched an electronic monitoring system in terms of which parolees, people released on bail and those awaiting trial would start wearing a bracelet fitted with a GPS device that tracks them 24/7. The Minister of Correctional Services at the time, Sbu Ndebele, said that this would result in substantial savings for taxpayers by reducing the cost of keeping offenders in prison and easing overcrowding in the country’s jails - at that time, it cost taxpayers approximately R9876 per month to incarcerate an inmate. For electronic monitoring, the monthly cost per offender was R3379, representing a saving of almost R6500 per offender every month. Once the bracelet is fitted and activated, it cannot be removed without breaking the transmitter, strap or connecting clips. Interference with the equipment, including tampering or failing to charge the receiver, is relayed to the control room (SANews.gov.za). For a number of years, NICRO has advocated for the implementation of electronic monitoring among low-risk and first-time offender juveniles (under 24) awaiting trial. This NGO is of the opinion that the use of electronic monitoring would yield successful results. According to this NGO, reoffending rates declined by 40% in the UK after electronic monitoring was introduced. Once incarcerated, juveniles awaiting trial are exposed to hardened criminals who eagerly share their crime skills, leading these youngsters down a path of far more serious crimes, particularly if they are disconnected from their families, communities and places of worship. Incarceration can lead youths to a formal engagement with gang structures. When they go to prison, they become deeply entrenched in those gangs. It can be argued that throwing young offenders in prison is ineffective (De Villiers, 2016). According to the DCS’s Annual report for 2015/2016, only 604 persons have been placed under electronic monitoring.

By March 2013, 63 240 criminals were serving time outside prison. Of these, 48 323 were out on parole, while 14 917 were probationers (convicted offenders serving non-custodial sentences). At that stage, the Minister of Correctional Services, Sbu Ndebele, called on the public to help re-integrate paroled and released offenders into society as law-abiding citizens. “As corrections are a societal responsibility, and not just the responsibility of the Department of Correctional Services, the community forms an integral part of the rehabilitation of offenders on parole to reintegrate them as law-abiding citizens.” Mr Ndebele said that the department had played its role in attempting to prepare offenders for a life back in the community and added that measures are in place to ensure that released offenders comply with their parole conditions. Every month, approximately 23 000 inmates leave prisons while 25 000 new inmates are admitted (http://mg.co.za/article/2013-03-10-63-240-criminals-doing-time-outside-prison).

In April 2016, the DCS says it believes it can change the “deplorable” conditions in South African prisons over the next three years. The DCS spokesman, Manelisi Wolela, said that R2.6 billion would be spent in an attempt to improve all South Africa’s correctional centres. "This will help reduce pressure on our infrastructure, while creating a more humane condition of incarceration," he said (www.buzzsouthafrica.com).

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A prison can be regarded as another society behind closed doors - a place where inmates are coined into better, law-abiding citizens who are supposed to have a positive influence in their life after release. It is therefore common knowledge that the opposite will most probably have negative implications and result in inmates who would become hardened criminals with the end result being recidivism. The serving of a prison sentence in overcrowded conditions has been associated with higher rates of recidivism and re-entry problems, as overpopulation in prisons makes it nearly impossible to create an environment that will be conducive to preparation for life outside prison.

By merely looking at the conditions of overpopulation, one realises that it is very hard for inmates to survive our overcrowded prisons. Overcrowded prisons are equivalent to getting a death sentence to many of them, as the chances of being rehabilitated in such conditions are nearly impossible. The chances that they will get pulled into more criminal activities, get raped, assaulted, murdered or contract a life-threatening disease, however, are increasing. After all, many refer to prisons as universities of crime ...

**Editor’s note**

The list of references is published on p 72.