SECURE PRISONS IN SOUTH AFRICA: THE SUPER MAXIMUM CONCEPT

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INTRODUCTION

To know what prisons were like before the prisons of today we have to rely on the writings of Plato or consult Jewish religious text in the form of the Bible. The deduction one makes is that in earlier times prisons were mainly used for temporary detention pending trial or the infliction of some form of punishment (Morris & Rothman 1995:3). Philosophies shift over time and the continuum of crime and punishment is not immune to these shifts in emphasis. Where the emphasis was placed on shorter periods of incarceration and draconian sentences after guilt was determined in ancient times, we now find that the draconian part of sentencing has moved to extremely long periods of incarceration. Throughout history public opinion and the approach to punishment of offenders by criminal justice agencies showed dominant paradigms. Traditionally, in the field of correctional services, the approach pendulumed between two extremes, namely punishment and treatment. In the view of Morgan-Sharp and Sigler (Muraskin & Roberts 1996:237) it is rare to have one extreme to the exclusion of the other at any stage. Most correctional systems would rather shift emphasis between the two.

Correctional services in South Africa seem to be at the crossroads with regard to the above extremes. Political change and the introduction of democracy in 1994 necessitated changes in the approach towards inmates. Human rights, dignified treatment of inmates and the development of offenders became important issues to be pursued. However, as stated by Van Swaaningen (1997:179), democracy implies first and foremost that there be room for a variety of interpretations. Such wider interpretation could, however, lead to deviant ideas. Deviant interpretations of democracy in South Africa are manifested in escalating serious crime. As a result of this harsher sentences were handed down for more dangerous offenders, and the response from the side of correctional services as a criminal justice agency, was the introduction of super maximum prisons.

SUPER MAXIMUM PRISONS DEFINED

As is the case with any particular subdivision in the correctional field, definitions of super maximum prisons differ from one correctional system to the next. According to Riveland (1999:3) super maximum housing is defined as “A freestanding facility, or a distinct unit within a freestanding facility, that provides for the management and secure control of inmates who have been officially designated as exhibiting violent or seriously disruptive behaviour while incarcerated. Such inmates have been determined to be a threat to safety and security in traditional high-security facilities and their behaviour can be controlled only in separation, restricted movement, and limited access to staff and other inmates.”

The above definition of a super maximum prison exists only in a few jurisdictions in the United States. In a survey done by the National Institute of Corrections (Riveland 1999:4) during December 1996, it became evident that some jurisdictions refer to “supermax” as a correctional architectural term describing a type of prison construction and a decision to concentrate higher risk inmates in these constructions. In turn, other jurisdictions refer to it as a new custody status
associated with a changing inmate profile.

According to the South African Department of Correctional Services (Republic of South Africa 1999:10 of 15) a Super Maximum Prison is an institution/facility where disruptive inmates are incarcerated and segregated in restrictive housing units through internal classification management, based upon a structured behaviour management system. However, in practical terms, South Africa could also house “other inmates who are perceived as dangerous by the Department of Correctional Services” in super maximum facilities (Ramafoko 1999:9). The end result is that first offenders could end up in super maximum prisons merely because of the perception that they are dangerous.

From both the above definitions it could be derived that super maximum prisons are mainly designed and instituted to manage those inmates who proved that they could not be managed in normal conditions of incarceration. The lack of a universal definition, however, stresses the necessity for further debate to determine whether the term “super maximum prison” should be a custody status (ascribed to a person) or a facility security designation. In the case of South Africa, there seems to be, at least at the moment, a combination of the two ideas in practice. Officially the South African Department of Correctional Services refer to the person in their definition, while in reality, ultra secure facilities are also erected.

THE HISTORY OF SUPER MAXIMUM PRISONS

Super maximum prisons are relatively new in South African terms. Nevertheless, the whole idea of a prison of last resort forms an integral part of the American prison tradition which started with the notorious Alcatraz Prison, which was opened in 1934 (Morris & Rothman 1995:187). Marion Prison evolved from 1963 as substitute for Alcatraz to become the highest security prison in the United States of America in 1978, when the Bureau of Prisons added a security level six category to its prisoner classification system. The prison was constructed to detain 500 adult male inmates who “are difficult to control”. However, according to the Committee to End the Marion Lockdown (1997:5) Marion was not originally designed as a super maximum prison.

The CARE (Control and Rehabilitation Effort) programme was introduced at Marion Prison. Inmates from throughout the Federal prison system “whose behaviour seriously disrupted the orderly operation of an institution” were gradually transferred to Marion. In 1973 one unit at Marion officially became the Long-term Control Unit. The end result was that Alcatraz “returned” to the American correctional scene under a new name. Marion also became the most violent prison in the USA. Marion Prison was put into permanent “lockdown” (administrative segregation) in 1983 when inmates killed two prison guards. Within days the control unit was expanded from its original 72 cells to include all 353 Marion inmates. The use of Marion Prison for super maximum purposes was reduced dramatically with the opening of Florence, a new state-of-the-art super maximum prison in Colorado. According to Stern (1998:56) only 157 inmates were detained in the top security unit of Marion in 1995.

The Federal Bureau of Prisons opened a new control unit prison in Florence, Colorado during 1994. The super maximum prison at Florence was designed as a 550 bed facility in a complex of four Federal prisons and became known as the Administrative Maximum Penitentiary. Inmates were prevented from talking to each other or from seeing other cells by means of solid cell doors. Cells have very small windows and the Rocky Mountains are not visible from the cells (Stern 1998:56). In a March 1997 survey by the National Institute of Corrections it became evident that 34 out of 55 respondents in the USA and the Corrective Service...
of Canada are either operating super maximum housing units or will operate such facilities in the next two years. At the time of the survey (March 1997) there were at least 57 super maximum facilities in operation in the United States, providing a total of more than 13,500 beds. From 1989 to 1993, 15 super maximum facilities opened in the USA. Between 1994 and 1996 five more became operational, while five additional super maximum facilities would have been opened by 1999 (National Institute of Corrections 1997:3).

SUPER MAXIMUM PRISONS IN SOUTH AFRICA

Super maximum prisons were not confined to the United States, but the concept drew the attention of many international penal systems. During a penal study on maximum prisons Luyt (1996:199) recommended that ultra-maximum prisons be implemented in South Africa. The rationale behind the recommendation was to isolate real troublemakers inside prisons from the rest of the prison population. It was further recommended that these prisons should be small as to exercise easy control over inmates. The study also recommended that the feasibility of adapting existing structures be investigated for this purpose.

South Africa opened its own Closed Maximum Security (CMAX) unit in a section of the Pretoria Maximum Prison in September 1997 (Ramafoko 1997:7). The unit has a design capacity of 281, of which 252 beds are used for super maximum purposes. In April 2000 the unit had an average inmate population of 226 per day. The unit is maintained with a staff compliment of 139. During April 1999 it was reported that South Africa would erect a new super maximum prison in Kokstad, KwaZulu-Natal. According to the Project Manager of the Kokstad Supermax, Mr Pfuluwani Phaswana, the prison is the first of its kind in South Africa and the Southern Hemisphere. It is also reported to be the biggest super maximum prison in the world (Ramafoko 1999:8) with a design capacity of 1,440 beds (Republic of South Africa, Schedule 1, 1999:6 of 30). A total of 516 staff members will run the operation. It is believed that the Kokstad Super Maximum Prison will reduce the rate of prison escapes to zero (Department of Correctional Services 1999:11). It has in the meantime, however, been reported that Pelican Bay State Prison in California provides 1,578 beds to super maximum inmates, which contradicts the statement that the Kokstad Super Maximum Prison would be the biggest in the world (National Institute of Corrections 1997:4).

OPERATING SUPER MAXIMUM PRISONS

The criteria by which inmates are admitted to super maximum prisons

According to Johnson (1997:1) super maximum security is one of the fastest-growing types of prisons in the United States. The number of inmates in super maximum prisons alone was estimated to exceed 16,000 by the year 2000.

In general, security issues become the central theme in super maximum security prisons. The purpose of super maximum prisons in the United States is to ensure extended control over inmates associated with major escape risks, violent trends in behaviour and the likelihood to promote disturbances in a general prison. The term “extended control” suggests that “inmates who have demonstrated that they are chronically violent or assaultive, who present a serious escape risk, or who have demonstrated a capacity to incite disturbances, or otherwise are threatening the orderly operation of the general institution, may become target populations” (National Institute of Corrections 1997:6).

The use of extended control is by no means a decision to be taken without due consideration. The potential for abuse in an environment where human beings are, either by definition or in reality, described as the worst
of the worst, is eminent. Operational issues of particular importance in super maximum prisons include the following:

- Criteria for admittance to or exclusion from super maximum facilities
- The way in which inmates are managed
- The services inmates receive
- The expected behaviour of inmates
- The amount of contact with humans, including staff and visitors
- The amount of force to be used to ensure control
- Criteria for release from super maximum prisons or units

In South Africa, inmates must fall into one or more of the following categories before they can be admitted to super maximum custody (Department of Correctional Services 2000:1-2):

- Violent, dangerous and disruptive inmates
- Inmates with a history of violent offences or violent conduct inside the prison
- Identified and substantiated evidence of gang leadership
- Leaders of criminal syndicates and drug cartels who are to be prevented from continuing criminal activities inside the prison
- Inmates sentenced for violence against and murder or attempted murder of members of Correctional Services, the South African Police Services, another inmate or who threaten to harm the above officials or their families
- Inmates posing a risk to other inmates through conduct, manipulation and negative influences on the progress of other inmates
- Inmates who are declared as dangerous in terms of the Criminal Procedure Act. Section 286A of the Criminal Procedure Act of 1977 (Republic of South Africa) makes provision for such a declaration by regional or higher courts.

The above reference to criteria according to which a person could be transferred and detained under super maximum security conditions is certainly very wide and open to interpretation. It has been reported that the previous Commissioner of Correctional Services expressed the view that “inmates who are perceived as dangerous by the Department of Correctional Services” will be incarcerated in super maximum prisons (Ramafoko 1999:9). It becomes a worrying factor when a mere perception could be enough motivation to become one of “the worst amongst the worst” within the South African inmate population.

The use of force in super maximum prisons

According to Riveland (1999:14) the use of force becomes inevitable under super maximum security conditions. Theoretically one can argue that force is used every time an inmate is removed from the cell. This argument is based on the fact that non-lethal security devices are used before cells are opened and inmates are allowed to move to any destination outside the cell. It is typical routine that super maximum security inmates are placed in handcuffs and leg irons, and escorted by two or more staff members when they exit cells. In the American system such instances are referred to as routine use of force.

The American Federal Court heard a case about the routine use of force in 1988, in which inmates claimed the conditions of detention at Marion Prison were in breach of the Eight Amendment to the Constitution (prohibition of cruel and unusual punishment). According to Stern (1998:55) it was reported as follows: “When an inmate is outside his cell he is handcuffed and a box is placed over the handcuffs to prevent the lock from being picked; his legs may also be shackled. Inmates are forbidden to socialise with each other or to participate in group religious services. Inmates who throw food or otherwise misbehave in their cells are sometimes spread-eagled on their beds, often for hours
at a stretch, while inmates returning to their cells are often subjected to a rectal search; a paramedic inserts a gloved finger into the inmate’s rectum and feels around for a knife or other weapon or contraband.”

In 1993 a Sunday Times journalist, Russell Miller reported that inmates in Marion “are never moved from their cells without being in chains. Before their cell doors opened they are placed in leg irons and handcuffed behind their backs. Outside their cells they are always escorted by three officers carrying metal-tipped clubs known as ribsreaders” (Stern 1998:55).

Inmates detained in the CMAX unit of the Pretoria prison in South Africa are also subjected to the use of force. In terms of section 32 of the Correctional Services Act (1998:36) South African correctional officials are authorised to use force, subject to certain restrictions. The use of force is further authorised in sections 33, 34 and 35 of the Correctional Services Act by making provision for the use of non-lethal incapacitating devices, firearms and other weapons.

The Pretoria CMAX unit detains inmates in two phases. Inmates under phase one are described as more troublesome than those under phase two. Therefore, phase one inmates are escorted with an electric shield, while being cuffed at the wrists and ankles. Inmates in phase two are subjected to restraint measures only in cases of emergency. When CMAX inmates leave the prison for whatever reason, those who are perceived as high-risk would be escorted and subjected to a belly-chain and kidney belt.

**Release**

In most cases release from a super maximum prison is determined by factors like the perceived risk the inmate presents, change in behaviour, the amount of time left in the total sentence of the inmate, willingness to renounce gang ties and activities, and other factors. This means that detention in most super maximum prisons is organised along the lines of indeterminate periods of placement. However, an ongoing need for extended control beds in many correctional systems requires movement of inmates out of super maximum prisons. In the view of Riveland (1999:10) such movement from super maximum prisons should be based on clear criteria related to the factors that led to the inmate’s placement under super maximum security conditions. This means that no one set of release guidelines should be developed and followed rigidly.

Before an inmate in super maximum custody in South Africa could be placed in a maximum security prison (the next step down the line), phases one and two (with regard to conduct and adaptability) need to be completed. The Provincial Commissioner must approve such release from a super maximum unit. The minimum stay in a super maximum unit is six months. The inmate needs to complete a period of at least three months in phase one with not more than three negative incidents to advance to phase two. The minimum period of stay in phase two could be three months.

Some other guidelines are also applicable, for example that inmates with very long sentences or those who were sentenced for murdering police or correctional officials must serve at least 25 percent of their sentence period before release from super maximum custody could be considered. Once the inmate receives A-group status in terms of conduct and maintains the status for a period of two years in phase two, release could also be considered. Inmates who escaped or who committed violent acts against other inmates have to spend the whole sentence for that particular offence in the super maximum unit. If a criminal case against an inmate originates while the inmate is in the super maximum unit, the case must first be finalised before the inmate could be released from the unit.

**Staff issues**

Staff selection is the single most important aspect to
ensure safe, secure and humane operations in super maximum prisons. Working conditions in these correctional settings are difficult and a mixture of routine, unscheduled incidents and physical challenges. Ideal characteristics for suitable staff include adaptability, maturity, good judgement, intelligence and physical capability. Diversity in the inmate population needs to be respected through consistent and even-tempered conduct. Thorough training in security procedures and facility operation guidelines, together with regular refresher courses, compliments the above.

The South African Department of Correctional Services decided to recruit staff for the Kokstad super maximum prison by tendering out the whole process of staff selection. The successful tenderer needs to provide a selection battery and train the entire staff component to manage and operate the prison. More than 90 percent of the staff intended to operate the Kokstad super maximum prison have to be recruited from existing human resources in the Department of Correctional Services (custodial staff = 99%, managerial staff = 98%, vocational staff = 80%) (Republic of South Africa 1999:7 of 15).

According to Bottoms and Light (1987:25) working with long-term inmates pose unique challenges. One of the major challenges is the creation of higher stress levels in an already stressed working environment. Super maximum prison conditions create a more intense environment in terms of stress levels. Riveland (1999:17) states that stress levels could be mitigated in a number of ways, including:

- Periodic rotation of assignments, posts and shifts in the unit
- Periodic rotation of assignments outside the unit
- Training in stress reduction
- Counselling
- Debriefing sessions after every traumatic incident
- Strong institutional leadership.

CONCLUSION

The intention with super maximum prisons appears to be the isolation of inmates who are dangerous. The way in which these prison units or prisons as a whole is operated indicates that contact with the inmate is avoided as far as possible. Opportunities to incite disturbances or disrupt the operation of the prison are inhibited through mechanical constraints.

In South Africa it remains an open question why the introduction of such harsh measures have not been researched more scientifically. Super maximum prisons appear to be exactly the opposite approach of development and treatment of inmates announced by the South African Minister of Correctional Services during February 1996. The amount of money spent on the erection of the Kokstad prison could have been used to erect unit management facilities with the view to develop those offenders who really want to change their lives and become law-abiding citizens. Existing maximum security prisons and certain sections of existing prison facilities could have been sufficient to deal with the amount of inmates who cause disturbances. Some maximum security prisons in South Africa still detain significant numbers of inmates who are classified as medium security risks. Against the above background one can substantiate one or more super maximum security units. What the country really needs is effective measures to bring down the total cost of incarceration, together with bigger involvement of community structures. Super maximum prisons would certainly not serve this purpose.

BIBLIOGRAPHY


