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The Institute for Security Studies is an African organisation which aims to enhance human security on the continent. It does independent and authoritative research, provides expert policy analysis and advice, and delivers practical training and technical assistance.

The Centre of Criminology is a niche research organisation within the Faculty of Law at the University of Cape Town. It is committed to advancing research and policy analysis on critical issues of public safety, criminal justice and evolving forms of crime.

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Editorial policy

South African Crime Quarterly is an inter-disciplinary peer-reviewed journal that promotes professional discourse and the publication of research on the subjects of crime, criminal justice, crime prevention and related matters, including state and non-state responses to crime and violence. South Africa is the primary focus of the journal but articles on the above-mentioned subjects that reflect research and analysis from other African countries are considered for publication, if they are of relevance to South Africa.

SACQ is an applied policy journal. Its audience includes policymakers, criminal justice practitioners and civil society researchers and analysts, including academics. The purpose of the journal is to inform and influence policymaking on violence prevention, crime reduction and criminal justice. All articles submitted to *SACQ* are double-blind peer-reviewed before publication.

Policy on the use of racial classifications in articles published in *South African Crime Quarterly*

Racial classifications have continued to be widely used in South Africa post-apartheid. Justifications for the use of racial descriptors usually relate to the need to ensure and monitor societal transformation. However, in the research and policy community racial descriptors are often used because they are believed to enable readers and peers to understand the phenomenon they are considering. We seem unable to make sense of our society, and discussions about our society, without reference to race.

South African Crime Quarterly (SACQ) seeks to challenge the use of race to make meaning, because this reinforces a racialised understanding of our society. We also seek to resist the lazy use of racial categories and descriptors that lock us into categories of identity that we have rejected and yet continue to use without critical engagement post-apartheid.

Through adopting this policy *SACQ* seeks to signal its commitment to challenging the racialisation of our society, and racism in all its forms.

We are aware that in some instances using racial categories is necessary, appropriate and relevant; for example, in an article that assesses and addresses racial transformation policies, such as affirmative action. In this case, the subject of the article is directly related to race. However, when race or racial inequality or injustice is not the subject of the article, *SACQ* will not allow the use of racial categories. We are aware that some readers might find this confusing at first and may request information about the race of research subjects or participants. However, we deliberately seek to foster such a response in order to disrupt racialised thinking and meaning-making.

Editorial

The end of the year, the end of an era

In the three months since the publication of *South African Crime Quarterly (SACQ)* 57, South Africa's tertiary education, prosecutorial and political landscapes have been shaken, perhaps irrecoverably. Although we cannot predict how it will all turn out, change is certainly afoot. So too with *SACQ*.

South African Crime Quarterly: the end of an era

This issue of *SACQ* marks the end of a path-breaking era for the journal. We offer our heartfelt thanks and a fond farewell to our long-time editor and champion, Chandré Gould. Over the past decade, Chandré has worked tirelessly to grow the quality and reach of the journal, ensuring the publication of valuable research on crime and justice-related matters pertinent to South Africa. She has ensured that *SACQ* has been produced in a format that is both elegant and easily accessible and digestible to a broad readership. In the process, she has facilitated the commitment of over 200 articles, reviews, commentaries and interviews to South Africa's research record, and helped foster a new generation of researchers.

One of Chandré's greatest contributions to *SACQ* has been to facilitate its accreditation by South Africa's Department of Higher Education and Training. This is a huge achievement, which significantly raises the status and profile of the journal, and provides real incentives for South Africa-based academics to publish in *SACQ*. She has also overseen the migration of the *SACQ* submission, review and production processes to the Open Journal System (OJS). The OJS is an open-source software tool for the online management of peer-reviewed academic journals, aligned with best practice in academic publishing. In 2015, *SACQ* was one of four South African journals chosen by the Academy of Science of South Africa (ASSAf) to be piloted, using the OJS. ASSAf works to reward excellence and promote innovation, scholarship and the public interest in South Africa. That it identified *SACQ* as a journal through which to pioneer this aspect of its work is a tribute to the quality of the journal Chandré has nurtured.

Over the years Chandré also made significant changes to *SACQ*'s format and content. She introduced book reviews to the journal, and in 2009 she instituted the interview-driven *On the Record* feature. *On the Record* provides readers with intimate insight into the minds of some of the country's most influential individuals in the criminal justice arena, and commits their testimony to the national record. Since its introduction, *SACQ* has featured over 15 *On the Record* interviews with important stakeholders, among others former minister of police, Nathi Mthethwa, former Constitutional Court judge and Khayelitsha commissioner, Kate O'Regan, and former deputy minister of cooperative governance and traditional affairs, Yunus Carrim.

Another of Chandré's legacies is the *SACQ* policy on the use of race labels in articles. Through it, *SACQ* challenges the uncritical use of race labels in academic writing, and in the country more broadly. Importantly, the policy does not encourage the pretence of colour blindness. We all know that access, opportunity and life outcomes unacceptably correlate with the race categories manufactured during the colonial and apartheid eras, so that white South Africans in general remain significantly wealthier, better educated and employed, and safer than black South Africans (as protesting #FeesMustFall students made so clear in September and October 2016). And yet, '[t]he truth', as noted by Anthony Appiah, 'is that there are no races: there is nothing in the world that can do all we ask race to do for us'.[1] *SACQ*'s policy compels authors to pause and ponder what work they intend a reference to race to do if they insert it into their writing. Where it is relevant, it absolutely must be drawn out, but where not, it should be avoided.

Finally, Chandré introduced the role of sub-editors to *SACQ*. These voluntary positions provide early career researchers with rare and intimate exposure to the systems and processes of academic publishing. I consider my own prior work in this role a hugely positive experience. In part to fill the great space that will be left after Chandré's departure, I am pleased to welcome five new sub-editors to the *SACQ* team. (Read more about them at the end of this editorial.)

These are some of the most tangible changes Chandré has brought to *SACQ*. But, I believe, she has also had a much bigger, if less obvious influence, both on the journal and in the lives of those whose words make up its pages. This is reflected in the critical but encouraging posture she adopts to her work, simultaneously challenging authors to think and write with analytical clarity while supporting their growth and development through constructive, patient feedback. I have benefitted immensely from this mentorship myself, and suspect many others have too. The ripples set in motion by Chandré's interactions with authors over the past decade will almost certainly continue to shape the waves that wash up onto South Africa's research shore in the decade to come. For all that she has done, we owe her our immense gratitude.

While Chandré will no longer edit *SACQ*, her work will be no less impactful. Last year she completed a life history study of incarcerated violent offenders in partnership with the Department of Correctional Services. The results of the study have been published in a monograph titled *Beaten bad: the life stories of violent offenders,* which I cannot recommend highly enough. Get online, download it free of charge, and read it. It is excellent.

Chandré is currently working with the University of Cape Town's Associate Professor Cathy Ward and the Seven Passes Initiative on a three-year project. The aim is to determine whether it is possible to achieve a population shift in parenting in an entire community through a social activation process in combination with the provision of four evidence-based parenting programmes. This work will feed into broader initiatives undertaken by the Institute for Security Studies and its partners to ensure the uptake of evidence-based violence prevention programmes nationally. Chandré also recently co-curated an exhibition, 'Poisoned pasts', about the apartheid-era chemical and biological warfare programme. The exhibition is on display at the Nelson Mandela Foundation in Johannesburg until March 2017 and is well worth a visit.

I hope our readers will agree that *SACQ*, and South Africa as a whole, are better off because of the work Chandré has done, and continues to do.

A new era of tertiary education

Another era that may be coming to an end is that of tertiary education as we know it in South Africa. On 19 September, Minister of Higher Education and Training Dr Blade Nzimande announced that fees at public universities would increase in 2017. This after a fee-freeze in 2016, primarily as a result of student protests in 2015 under the slogan '#FeesMustFall'. In subsequent weeks, students demanding free, quality, decolonised tertiary education forced the closure of public university campuses across the country, clashing with police and private security officers in the process, at times violently. Just 10 days into the six-week protests, one person had died, it was estimated that damage amounting to R600 million had been done to university property, and allegations of police brutality abounded. While classes were suspended, students, police, university administrators and government vied to shape the narrative through which the events would be interpreted, and therefore the change they would bring to South Africa's tertiary education sector.

There can be no doubt that this generation of young people has demanded change, and that their demands have been heard by the government and the country more broadly. Like the school learners of 1976, they have found their elders too complacent and their political leaders too corrupt to entrust them with their futures. It is unclear what form post-protest changes may take, but tertiary education as we know it in South Africa may be approaching the end of an era.

Two articles and a book review in this issue relate to protests in South Africa. Phillip Broster's review of Luke Sinwell and Siphiwe Mbatha's *The spirit of Marikana: the rise of insurgent trade unionism in South Africa* describes it as a book that places the Marikana killings in the context of much bigger historical struggles for dignity and economic freedom by working-class people. Similarly, the #FeesMustFall protests are best understood through George Lipsitz's concept of 'the long fetch', which Broster refers to in the review. This is the slow, sometimes imperceptible but mounting pressure that builds over long periods of time, then manifests in what may otherwise be perceived as sudden and unpredictable events.

Predicting and learning from events such as those in Marikana in 2012 is something the South African Police Service's (SAPS) Public Order Police (POP) tries to do through the collection of vast amounts of data. Two articles in this issue refer to this data. In the first, Peter Alexander, Carin Runciman and Boitumelo Maruping try to make sense of the data captured using the SAPS's Incident Registration Information System (IRIS). IRIS captures information on 'crowd incidents' attended by the POP but, as the authors show, this should be engaged with caution. Fewer than half of the incidents captured, they suggest, are actual protests. And yet each year the SAPS claims it polices over 10 000 protests, a claim that is both politically and fiscally beneficial to the organisation.

Also in this issue, an article by David Bruce documents and reflects on the experience of using the Promotion of Access to Information Act (PAIA) to request protest and use of force data, including that of IRIS, from the SAPS and the Independent Police Investigative Directorate (IPID). The article paints a picture of a police service that at times appears very willing to share data with researchers, but it also exposes the IRIS data as ambiguous and incomplete, so that the SAPS appears to be misleading itself about the nature of protest in South Africa, and its own responses to it.

An era of politics and prosecution

Two final and related eras that may be coming to an end are those of Jacob Zuma and his faction within the African National Congress (ANC), and of Advocate Shaun Abrahams's term as the country's chief prosecutor.

On 2 November, outgoing Public Protector Thuli Madonsela's report, *A state of capture,* was released after failed bids by Zuma and Minister of Co-operative Governance and Traditional Affairs Des van Rooyen to interdict its release. Madonsela's investigation was launched following the late-2015 claims by Deputy Minister of Finance Mcebisi Jonas and former ANC MP Vytjie Mentor that they had been offered ministerial positions by the Gupta family, which has close ties to the president and his son. The report compels Zuma to establish a commission of inquiry to investigate claims that he and his allies have abused their power, and yet in late November Zuma told Parliament that nobody had the authority to instruct him to do so. A week later he survived but was surely wounded by a motion of no confidence debated at the ANC's National Executive Committee meeting, a motion no doubt sparked in part by Zuma's dismissal of the matter.

The public protector's report comes at the end of a year of surreal scandals involving the president, many of which were touched on in the *SACQ* 56 and 57 editorials. What is worth noting, however, is the apparent overlap between claims of state capture against Zuma and the perceived abuse of office of the National Director of Public Prosecutions (NDPP), Shaun Abrahams.

In the September issue of *SACQ* we published an intimate interview with Abrahams, in which he spoke of 'a myth that the institution is being utilised as a political tool to advance somebody's ends or goals'. He also defended his reappointment of controversial Advocate Nomgcobo Jiba as Deputy NDPP, and expressed an eagerness for the Constitutional Court to rule on the National Prosecution Authority's appeal against a high court judgement that it must reinstate corruption and fraud charges against Zuma – something Abrahams has not appeared eager to do.

But the months since the publication of our interview with Abrahams have not been favourable to him. In September the Pretoria High Court agreed with a prior ruling that Jiba and Special Director of Public Prosecutions Lawrence Mrwebi were unfit for their jobs and should be struck from the roll of advocates. The ruling was based on the judges' view that the two had irrationally prevented the prosecution of former SAPS crime intelligence boss, murder accused and Zuma ally, Richard Mdluli.

Despite losing these battles, Abrahams convened a press conference in October where he announced, with much spectacle, that Finance Minister Pravin Gordhan would be charged with fraud, adding that '[t]he days of disrespecting the NPA are over'. In an unfortunate twist of events for Abrahams, the charges and the grandeur of their announcement were perceived by many as confirmation that he was abusing his office to wage politically motivated battles on behalf of a Zuma-aligned faction within the ANC. In the weeks that followed, powerful people and bodies called for Zuma to step down or be recalled. The calls came from ANC stalwarts, including former ministers, the Nelson Mandela and Oliver Tambo foundations, and the largest public sector union, Nehawu (National Education Health and Allied Workers' Union), among others.

Perhaps in response to this public outrage, or perhaps because the case was so weak, Abrahams withdrew the decision to prosecute three weeks after announcing the charges, was summoned to

Parliament to defend his actions, and on 15 November was asked by Zuma to justify why he should not be suspended while an inquiry into his fitness to hold office takes place. Bizarrely, on the same day it emerged that the head of the SAPS's elite investigation unit, the Hawks, Berning Ntlemeza, had written to Abrahams lambasting him for withdrawing the charges against Gordhan. Clearly, it is not the prerogative of police to decide who is prosecuted and who not, making Ntlemeza's intervention quite stunning.

The exchange between Abrahams and Ntlemeza forms part of court papers filed by the civil society groups Freedom Under Law (FUL) and the Helen Suzman Foundation (HSF) in a failed attempt to have Abrahams removed. What remains unclear is whether Abrahams is the innocent victim of a politically captured Ntlemeza (though this would reveal that he had not reviewed the case against Gordhan before his public announcement of the charges), whether Zuma has chosen to sacrifice Abrahams to protect himself, or whether his letter to Abrahams was simply a delay tactic and an attempt to have the FUL and HSF stop their court action (which went ahead and was struck from the roll on 24 November). The establishment of a mock inquiry might take the wind out of the sails of public outrage, before absolving Abrahams (and so Zuma and Ntlemeza) of wrongdoing and keeping him where he is.

On the subject of inquiries, 2016 marks 10 years since the Jali Commission released its report on the state of South Africa's prisons. In this issue of *SACQ* Lukas Muntingh reflects on South Africa's correctional facilities in relation to the Jali Commission's recommendations. He notes that while some areas have shown improvements, substantial shortcomings remain.

I hope you enjoy this issue of *SACQ*. We wish all our readers a safe and joyful end to 2016.

New to the *SACQ* team

I am delighted to announce that five new sub-editors have joined the *SACQ* team. They are:

• Ms Reema Nunlall, a human rights activist, PhD candidate and lecturer in Criminology and Forensic Studies at the University of KwaZulu-Natal. Her work focuses on sexual offences and African criminology.

• Dr Alexandra Hiropoulos, a postdoctoral research fellow based at the African Centre for Migration Studies at the University of the Witwatersrand. Her research interests include xenophobia and anti-migrant violence, violent crime, sex work and sexual violence, and geo-spatial analysis.

• Mr Thapelo Mqehe, a researcher at the Centre for Social Development in Africa at the University of Johannesburg. His interests lie in prisons, gender roles and sexualities, and research methods.

• Dr Esther Gombo, a postdoctoral researcher in the Department of Public Law, University of Cape Town. Her interest is criminal justice, particularly sentencing and punishment, and its interface with human rights.

• Ms Melissa Meyer, a PhD candidate and research assistant at the Centre of Criminology, University of Cape Town. Her research interests include millennials, cybersex, forensics and abnormal psychology.

These five join an already impressive team of sub-editors:

• Dr Camilla Pickles, a British Academy postdoctoral fellow in law at the University of Oxford, where her research explores obstetric violence and the law.

• Mr Khalil Goga, an analyst at the Nelson Mandela Foundation with an interest in social justice and organised crime.

• Ms Jane Kelly, a PhD candidate in psychology at the University of Cape Town, conducting research on gang joining and desistance from the perspective of former gang members. Her other research interests include substance abuse, alcohol use during pregnancy, criminality and gang involvement.

• Dr Elona Toska, who recently completed her doctorate at the Department of Social Policy and Intervention at the University of Oxford, and has been a research associate at the Centre for Social Science Research at the University of Cape Town since 2015. Her research focuses on the sexual and reproductive health practices and the needs of adolescents on long-term anti-retroviral medication.

Andrew Faull
(Editor)

Note

1   Kwame Anthony Appiah, *In my father's house: Africa in the philosophy of culture,* Oxford: Oxford University Press, 1994.

The use and abuse of police data in protest analysis

South Africa's Incident Registration Information System (IRIS)

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South Africa's Incident Registration Information System (IRIS) is a comprehensive, computerised database maintained by the South African Police Service. In principle, it records all public order policing activity, including all crowd incidents. While IRIS data is, potentially, a unique source for protest event analysis, it should be approached with considerable care. In this article we aim to correct misunderstandings about the data advanced by academics and in the media, and expose its misuse by police chiefs and politicians. In particular, we argue that the incidents that IRIS reports are not protests, although protests can be found in the raw data. This article is based, in part, on records of 156 230 incidents covering the period 1997–2013. We estimate that only about 67 750 of these, 43% of the total, were protests. This may be the largest number of police-recorded protests released anywhere in the world.

How many protests are there in South Africa each year? A compilation of media reports provides one answer, but the South African Police Service's (SAPS) Incident Registration Information System (IRIS) can take us closer to a reliable estimate, because it contains considerably more records of protests. However, as we will show in this article, IRIS registers all public order incidents, not just protests, which means the data must be interpreted judiciously.

IRIS and its statistics are widely misunderstood and sometimes wilfully misused. One example of the former was a mistake made by Bilkis Omar, who, in 2007, confused SAPS reports of 'crowd management incidents' with protests.[1] A 2013 article by two journalists broadened the problem. Working from actual IRIS data, they claimed the police had recorded more than

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3 000 service delivery protests in the preceding four years.[2] Looking more carefully at the data, we found they had incorrectly assumed that crowd incidents that had been assigned the IRIS 'motive' of 'dissatisfied with service delivery', were protests. 'Incidents' and 'protests' had been conflated yet again, and the IRIS category of 'motive' had been misconstrued. We return to this under *Motives on IRIS*, below.

While researchers' and journalists' errors were most likely unintended, the SAPS leadership have knowingly misled the public. They have done this, in particular, around the issue of violence. For instance, in 2014, Lt. General Elias Mawela, head of Operational Response Services (ORS), the SAPS division that included IRIS, told Parliament: 'Violent protest action escalated from 1 226 in 2011/12, and then in 2012/13 it is 1 882, and in the last financial year [2013/14] it escalated to 1 907.'[3] This statement elides 'unrest-related incident', one of two crowd incident classifications used in SAPS annual reports, with 'violent protest', but, as will be shown, they are not the same. Elsewhere, we have demonstrated that the same slippage was present in speeches by Police Minister Nkosinathi Nhleko and President Jacob Zuma. Disturbed by the way that statistics were being used to criminalise non-violent protests and campaign for increased funding, we exposed the matter for public consideration, and were damned by the SAPS for doing so.[4]

This article arose out of our attempt to make sense of an enormous amount of IRIS data on crowd incidents. We were granted access to this after a request made under the Promotion of Access to Information Act (PAIA).[5] In total, the data represents 156 230 incidents, divided among 34 Excel spreadsheets. These covered the years 1997 to 2013, and there were separate sheets for 'crowd (peaceful)' and 'crowd (unrest)'. These two classifications, which IRIS calls 'eventualities', are also referred to as 'crowd management (peaceful)' and 'crowd management (unrest)', and they are aligned with the annual report terms 'peaceful incident' and 'unrest-related incident'.[6] We refer to events falling under these two eventualities as crowd incidents.[7]

When using the data for protest analysis, one has to define and then find the protests. Regarding the former, we defined a protest as 'a popular mobilisation in support of a collective grievance'.[8] The latter task, of finding the protests, was extremely laborious, and we were only able to reach estimates through a careful reading of a large random sample of the open-ended notes recorded for each crowd incident. Elsewhere, we estimate that about 67 750 (43%) of the recorded crowd incidents were in fact protests.[9] In terms of scale, to the best of our knowledge, this means that IRIS contains more records of protests than any other publicly available and analysed police data in the world.

In this article, we limit ourselves to explaining IRIS; that is, its history, logic, concepts and biases. This is a necessary precursor to using its data for counting and analysing the protests it records. IRIS can be used for other purposes, and the article has relevance for anyone concerned with public order policing and crowd management in South Africa.

There are four substantive sections. The first summarises the kind of information that IRIS records, and in the process explains the differences between incidents and protests, and between unrest and violence. It also flags the importance of the relationship between IRIS and public order policing. The second section provides a brief account of their shared history. This paves the way for the third section, which examines IRIS's limitations. The most significant defect is its dependence on the capacity of public order policing to record crowd incidents. We then include, as an example of problems and possibilities of IRIS analysis, a section exploring

motives, one of the many categories of data to be found in the spreadsheets. This highlights the predominance of labour-related incidents and the rapid rise in the number of community-related unrest incidents after 2004.

What IRIS records

Registration of incidents on IRIS is the responsibility of public order police (POP) units, and it is one of their major duties.[10] There are two principal logics underpinning what gets registered on IRIS or, more accurately, what should be registered. These are the recording of (1) all crowd management incidents, whether or not POP were involved, and (2) all incidents involving POP, whether or not these were related to crowd management. In a 2006 training manual, the former were described as 'primary tasks' and the latter as 'secondary functions'.[11]

As we have seen, there are two classifications of crowd management: crowd (peaceful) and crowd (unrest). The distinction between the two is straightforward. If there was police 'intervention', the incident is categorised as crowd (unrest); if not, as crowd (peaceful). As Lt. Col. Vernon Day from the POP Policy, Standards and Research department explained:

> Unrest incidents require some form of police intervention. A spontaneous gathering resulting in a crime for which arrests are made and a case docket opened would constitute unrest. However, failure to give notice, resulting in a spontaneous incident, would not; even if a contravention of [the Regulation of Gatherings] Act 205 of 1993, as long as [it] remains peaceful … Arrests indicate an intervention, while peaceful incidents require only monitoring.[12]

'Intervention' means the police exerted their physical influence in some way. It is not just about arrests, but would include, for instance, pushbacks, tear gas or rubber bullets.[13] POP do not have to wait until a crowd has actually been violent before intervening. Firstly, they are expected to act if 'life (and property) is in danger', and, secondly, 'if a national road is being blocked'. The blocking of other roads is left to the discretion of the operational commander.[14] This means that certain forms of non-violent disruption can trigger an intervention, and thus lead to a protest being classified as 'unrest'. The critical point is that an incident is defined as 'unrest' or 'peaceful' determined by whether the police intervened, not by whether there was violence.[15]

From 1997, in addition to the primary tasks listed in IRIS, it had three main secondary functions, with a fourth added for the FIFA World Cup, which South Africa hosted in 2010. These are:

1. *Unrest (other).* This includes 'incidents of violence [that] cannot be classified as crowd management tasks, [including] taxi violence, gang violence etc.'.[16] According to our informant, these are often unpredictable and very violent.[17]

2. *Crime prevention*. This refers to arrests and confiscations made in the course of a crime prevention operation, which might, initially, have been the responsibility of another force (either within the SAPS or the metro police).[18]

3. *Support*. This involves assisting other police, for instance in the search and seizure of dagga.[19] The SAPS 2014 National Instruction on public order policing speaks of 'rendering of specialised operation support'. This includes searching for, arresting and escorting dangerous suspects, protecting VIPs, safeguarding National Key Points, handling crowds, and providing tactical reserves.[20]

4. Movement. This was introduced to cover assistance with logistics during the 2010 FIFA World Cup.[21] By 2013 there had been just over 500 such incidents, and there is no reference to the classification in the National Instruction.[22]

Another way to understand IRIS is to consider what it terms 'types' of incident. These are presented in Appendix 1. This draws on two sources: a 2006 code table, which links types to the five main classifications mentioned above, and a 2015 letter signed by Mawela that only covers crowd management incidents. The appendix helps clarify the differences between the classifications. It firmly underscores the point that protests cannot be equated with crowd incidents, which include church and sporting events as well as strikes and barricades.

Protest analysts should keep in mind that IRIS does not exist to help them do their job. It exists to help the SAPS do its job, in particular to plan actions, monitor incidents, distribute resources, publicise activities, and sometimes make a case for additional funding. In 2006 it recorded about 40 classes of information, including weapons used, types of offence, organisations involved and degrees of injury, as well as eventualities, types and motives.[23]

Public order policing and IRIS: an historical summary

It is necessary to place IRIS and its development within the context of public order policing in South Africa. IRIS was established at a moment of insurgency and uncertainty in January 1992, just two months after the formation of the paramilitary Internal Stability Division (ISD).[24] The idea was to standardise information, linking this to a process of computerisation,[25] but it took five years to develop IRIS into a fully functioning system. On the one hand, public order policing was evolving. In 1995, following the Convention for a Democratic South Africa negotiations, numerous reports by the Goldstone Commission, the passing of the Regulation of Gathering Act (1993) and the 1994 election, the ISD was replaced by POP units. This entailed a process of transformation. 'Crowd

control' was replaced by 'crowd management', which emphasised cooperation with protest organisers. There was retraining, a process of re-appointment aimed at weeding out racists (so we understand), and recruitment of black officers.[26] On the other hand, computers were not delivered until 1994, and there were teething troubles and debates about how to classify incidents.[27] IRIS generated some data in 1995, but less in 1996, and it was only from 1997 that it produced a full set of information.[28]

Monique Marks, who in the late 1990s undertook ethnographic research with POP units in Durban, described the period from 1995 to 2001 as a 'golden era'.[29] In 2002, in the context of declining numbers of crowd incidents and a public outcry over crime, public order policing was relegated in importance. POP members were re-organised into Area Crime Combatting Units (ACCUs) and deployed to assist local stations. The number of officers was cut from about 11 000 in the POP units to 7 327 in the ACCUs, and it is likely that training deteriorated and the quantity and quality of equipment declined.[30]

In 2006 there was further restructuring. With the aim of strengthening stations, SAPS areas, a middle level in its organisational hierarchy, were disbanded. The ACCUs were placed under national command, becoming Crime Combating Units (CCUs). Staffing was further reduced, to 2 595, and the number of units was cut from 43 in 2002, to 23.[31] Large parts of the country, including the whole of Mpumalanga, were left without any units.[32] For the SAPS, this cut was a serious blunder. As Omar commented at the time, there was a 'growing number and intensity of service delivery protests and riots',[33] and as Burger commented later: 'The short-sightedness of this decision was soon exposed when xenophobic violence erupted in March 2008.' There was a slight increase in CCU numbers,

to 3 306, in 2009, and then a major expansion, to 5 661, in 2010, the year of the World Cup.[34]

After the World Cup numbers slumped again, to 4 197 in 2011.[35] However, there was some reorganisation of public order policing. The CCUs were rebranded under their old POP identity, and the paramilitary units that fell under the ORS were sometimes deployed to undertake public order policing.[36] This was especially apparent at Marikana, where members of the Tactical Response Teams (TRT) killed workers at Scene 1.[37] In the wake of the massacre, Zuma called for new measures to combat violent protests, and in 2014 the SAPS requested funds to expand POP from 28 to 54 units, to increase personnel from 4 721 to 9 522, and to spend R3.3 billion on re-capitalisation, all over four years.[38] The new shape of public order policing is reflected in a plan to provide crowd management training for 992 metro police and 1 140 TRT officers, as well as 1 826 POP members.[39] To the best of our knowledge, the full expansion

has not yet been agreed to by South Africa's Treasury, although some resources have been moved into the POP units from elsewhere in the SAPS.

IRIS data

This brief historical reflection is important for interpreting the IRIS data. Figure 1 merges crowd (peaceful) and crowd (unrest) into a single line. It includes unrest (other), support and movement in one line termed 'other incidents'. Actual numbers are provided in Appendix 2. The high proportion of activity devoted to crime prevention should be noted. After a dip from 2000 to 2002, the line rises again with the formation of the ACCUs. This underlines the importance of crime combatting duties for public order units in this period. The other incidents are a small proportion of the total, although their numbers rise with the World Cup in 2010, and, in the case of unrest (other) and support, continue to increase substantially thereafter.

Figure 1: Incidents recorded by IRIS, 1997–2013
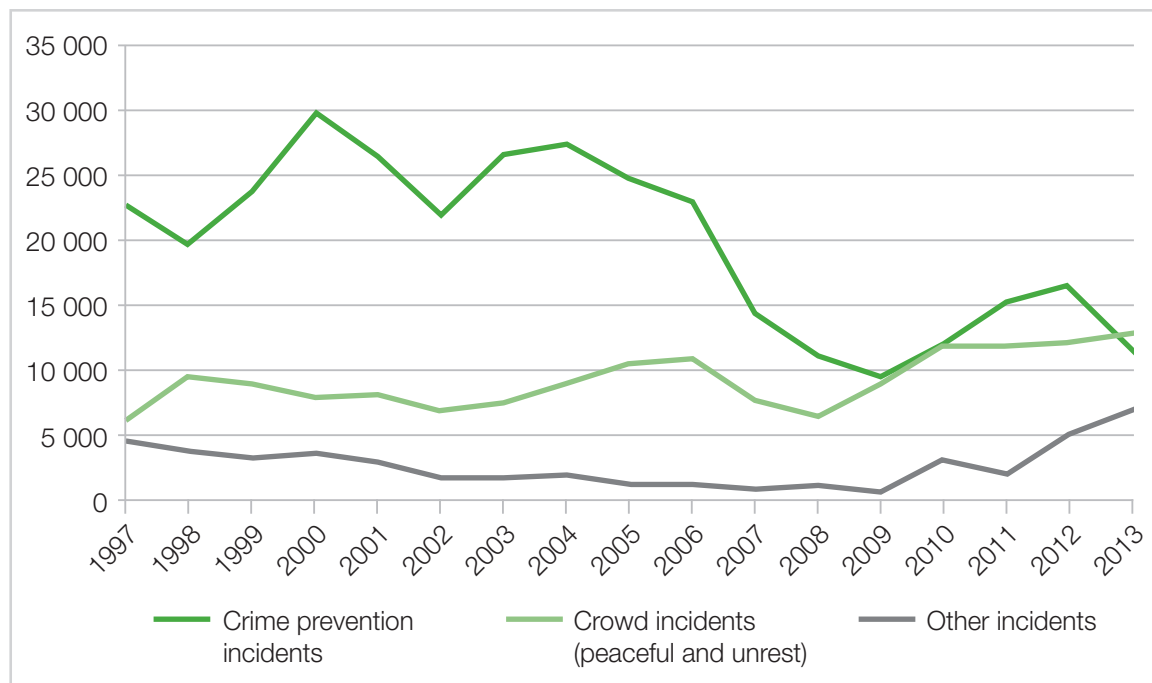
Source: IRIS data analysed by authors.

The most important reason for including the graph is to highlight the massive decline in all recorded incidents that occurred after the CCU restructuring of 2006. This affected crime prevention duties but, critically, from the perspective of protest analysis, it also affected crowd management. In the case of Mpumalanga, only four crowd management incidents were logged in the year 2007/8.[40] Day told us that for the three worst years, IRIS under-recorded crowd incidents by 20%–40%.[41] He added: 'They were policed but not recorded. We didn't have the capacity to get at them.'[42]

In the above quote 'they' refers to crowd incidents and 'we' refers to the CCUs. This highlights a further problem with using IRIS data. Where crowd management is undertaken by forces other than POP, there is an increased likelihood that an incident will not be registered.[43] This has two pertinent consequences. For the first of these, it is necessary to factor in the impact of threat assessment, which has three levels. With Level 1 and Level 2 threats, POP units are, respectively, 'on standby' or 'in reserve'. It is only with a Level 3 threat that they are the 'primary role player'.[44] The threat level and response can change in the course of an event. According to the National Instruction, where there is violence, 'POP must take full operational command and stabilise the situation'.[45] In practice, because POP is less involved with Level 1 and Level 2 incidents, there is a higher chance that these will not be recorded, and, as a result, IRIS probably under-records peaceful protests. The second consequence is a geographical predisposition in the under-recording of incidents. In 2014, there were 28 POP units. These were stationed in the eight metros and 20 other major towns. A few extra POP units have been added in the last two years, but the situation has not changed significantly. If a protest occurs a significant distance from where the units are located, there is a higher chance that it will be covered by local police, or perhaps occur without a police presence. Hence, there is an urban bias in IRIS data.

According to Day, the proportion of incidents registered has been improving, with IRIS now missing only about 5% (most of these being in rural areas).[46] The SAPS's concern to secure additional funding for POP would be an incentive to improve the quantity of registrations, and its expansion should further increase reliability. However, one is wary of depending too heavily on this 5% figure, because we are finding media-reported protests on our database that do not appear on IRIS.[47]

A further factor affecting assessments of the total number of protests is that the quality of data output is determined by the quality of data input. Unit commanders are instructed to ensure speedy capture of data. This is achieved by deploying at least one officer per shift to undertake the task.[48] Each POP unit has an IRIS controller responsible for checking data integrity and the system is, or was in 2006, maintained by the ORS Management Centre in Pretoria.[49]

However, with evident frustration and concern, the authors of the Training Manual declare:

> MANAGEMENT, CONTROLLERS AND USERS MUST HOWEVER REMEMBER THAT THE IRIS SYSTEM IS NOT A MAGICAL SYSTEM … The quality of the statistics … is wholly dependent on the quality of the information which is entered into the system. … [IRIS presents statistics] in a user friendly format [but] … [t]his is not always a true reflection of what is occurring in an area, because the information [on] incidents [is] not captured correctly or not captured at all.[50]

From reading the IRIS data sheets, we can also attest to the uneven quality of data capture.

From comments by SAPS officers and a government minister, we know there may be a variety of reasons for this, including the poor education of many officers, inadequate training and overwork. The SAPS is aware of the problems that exist with IRIS and we understand that there have been internal discussions about how it might be improved.[51]

Motives on IRIS

This section examines a problem raised in the introduction, that of literal and uncritical interpretation of the IRIS lexicon. It looks specifically at motives. In the process we make an assessment of what crowd incidents were about, providing clues for further analysis of protests (a second phase in our research that is not considered in this article).

'Motives' are assigned to incidents using a dropdown menu. For crowd management incidents between 1997 and 2008 there were 60 options to choose from, and from 2009 onwards there were 72. An incident could be recorded with more than one motive, but until 2013 it was not obligatory to assign a motive to an incident. Indeed, 34% of all incidents recorded between 1997 and 2013 were listed as 'no motive registered', which is a significant obstacle for analysis. In practice, minimal use was made of the majority of motive options and Figure 2 just shows the 10 most frequently cited. It excludes, as do percentages below, no motive registered. The two most common motives were 'demand wage increases' and 'labour dispute', which together accounted for 25% of incidents. 'Sporting event' and 'social event' combined accounted for 10%. 'Dissatisfied with service delivery' represented 4% of the incidents. 'Solidarity', the third most common motive, is defined vaguely and applied inconsistently, and 'Forcing of demands &' (sic), the fifth most common (despite only being used until 1999), was also ambiguous.[52]

Looking at the notes recorded for each incident, it is clearly wrong to assume that

Figure 2: Most commonly assigned motive options on IRIS database, 1997–2013
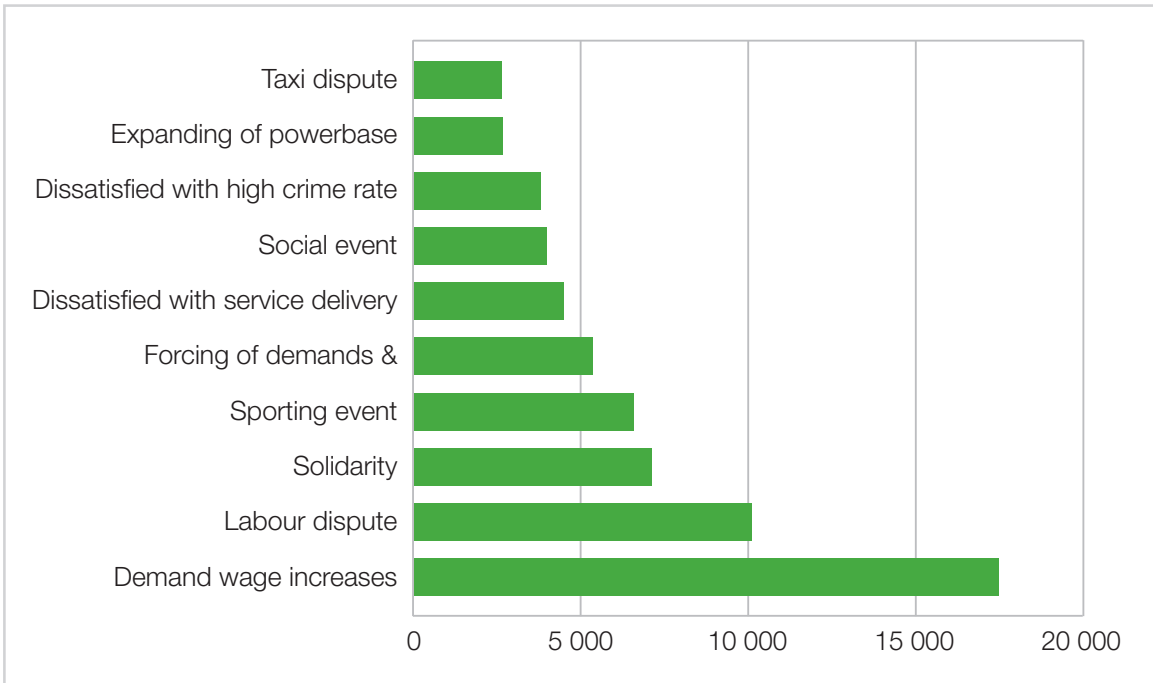
Source: IRIS data analysed by authors.

'dissatisfied with service delivery' equates to 'service delivery protest' (as the Media24 journalists assumed). Two examples will illustrate the problem. The first, a crowd (peaceful) incident that occurred in the Eastern Cape in 2013, was an official event or *imbizo* that discussed service delivery. There is no indication that a protest took place. While it is likely that a higher proportion of crowd (unrest) incidents recorded as 'dissatisfied with service delivery' were indeed protests, there were exceptions. In a second example, from North West in 2009, there was a protest, but not over service delivery. Possibly the recording officer conflated *service delivery protest* and *community protest*. On the other hand, there are numerous incidents assigned another motive that most of us would regard as a service delivery protest. Our conclusion is twofold: once again, one should not confuse an incident with a protest, and the assigned motives cannot be taken at face value.

That said, 'motives' can be used to gain some insight into the nature of incidents. We tried to get a sense of major trends by aggregating 'motives' into 10 broad categories.[53] As part of the process, we examined samples of incidents where the motive was absent or its meaning obscure. Clearly there is a high level of approximation in this process and a good deal of circumspection is required when interpreting the results. In the graphs that follow we only show the three most numerous kinds of aggregated motives.[54] For both of the graphs, the previously mentioned problem with data for 2007 to 2009 should be kept in mind.

In Figure 3, crowd (peaceful) incidents, there is a peak for labour-related and recreational, cultural and religious (RCR) incidents in 2010. This can be explained by, respectively, the 2010 public sector workers' strike, which in terms of working days lost was the largest in South African history, and the FIFA World Cup. There were fewer community-related events than labour-related and RCR events, and the trend for the former is flat. The picture that emerges in Figure 4, showing crowd (unrest) incidents is

Figure 3: Selected estimated aggregate motive categories for 'crowd (peaceful)', from IRIS data, 1997–2013
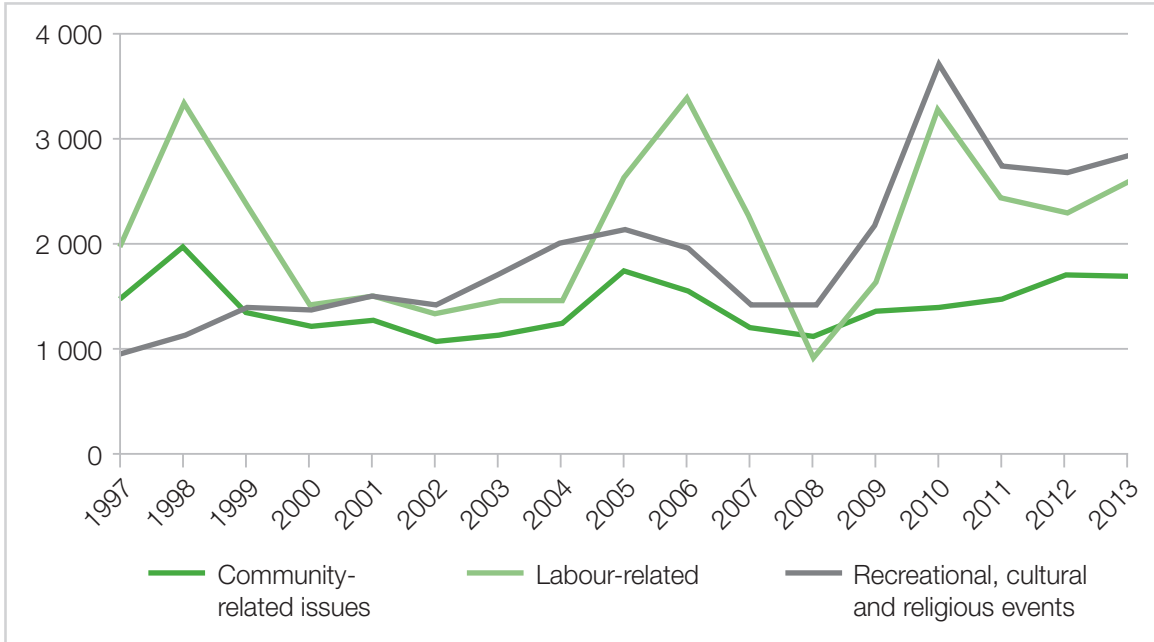
Source: IRIS data analysed by authors.

Figure 4: Selected estimated aggregate motive categories for 'crowd (unrest)', from IRIS data, 1997–2013
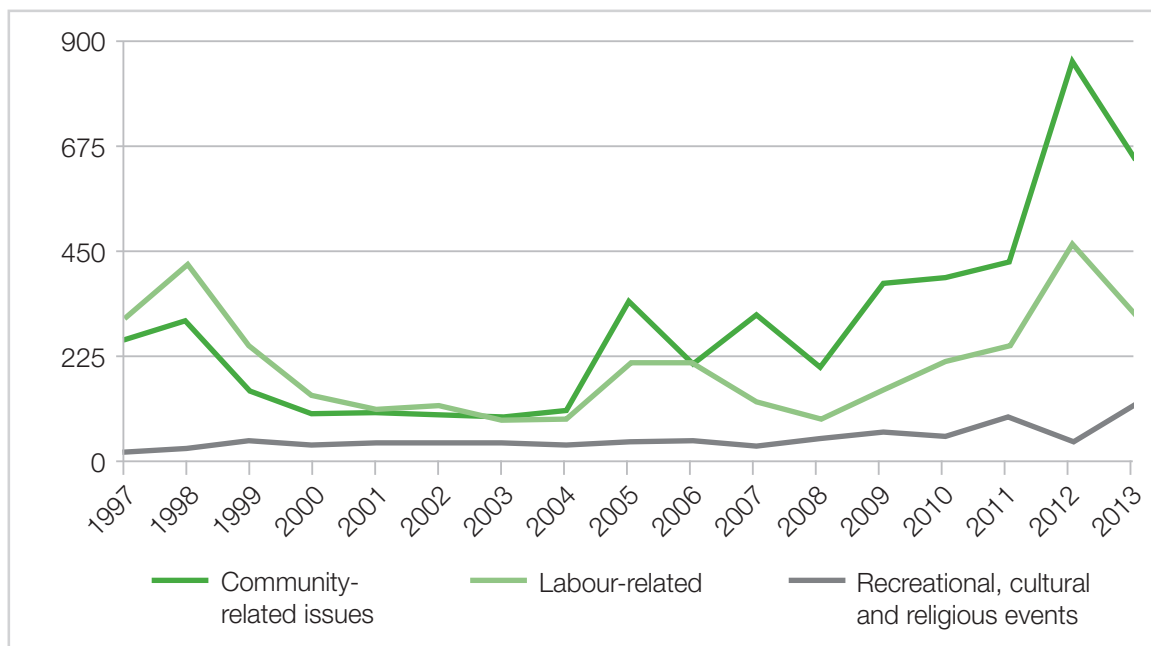
quite different (though it must be kept in mind that there were far fewer 'unrest' than 'peaceful' incidents). Here there are fewer RCR incidents than either labour-related or community incidents and the line is flat. For labour-related incidents, there are two peaks, the one in 1998 and another in 2012, the year of the Marikana Massacre (although the Marikana strike itself was only a very small proportion of the total). The pattern for community-related incidents is more dramatic. Here there is a nadir in 2003 (as there is for labour-related incidents), followed by a strong upward trend, leading to a pinnacle in 2012. It is clear from the notes that, overwhelmingly, the community-related unrest incidents are protests, and that our database of media-reported community protests has a similar shape.

The graphs are revealing, for three main reasons. Firstly, the large number of RCR events underscores the fact that a high proportion of crowd incidents are not protests. Secondly, the media focus on community protests has drawn attention away from the high level of labour-related action in South Africa. Thirdly, from 2004, there has been an explosion in unrest-related community protests, reflecting what we have called a 'rebellion of the poor'.

Conclusion

For counting and analysing protests, data from IRIS has the potential to be a source of considerable value. The sheer number of recorded incidents made available to us is astounding, probably larger than anything similar elsewhere in the world. However, IRIS has been misrepresented by the SAPS and misunderstood by academics and journalists. We have attempted to correct false impressions and have argued that its data needs to be treated critically and with care. IRIS exists to assist POP, and they are required to record crowd management incidents, not protests. We estimate that less than half of registered incidents are protests. Moreover, with the two main crowd incident categories, 'unrest' is

defined by police intervention, not violence, and 'peaceful' refers to an absence of intervention, rather than an absence of violence. Further, there are limitations to the capacity of POP to capture information accurately. If one is aware of these problems, and can find ways to address them, IRIS data becomes an unparalleled source of information for protest analysis. Its value is enhanced if utilised alongside other sources, for instance media reports and qualitative research.

Appendix 1: 'Types' of IRIS incident listed in 2006 code tables and a 2015 letter

Type of incident	2006 code tables[55]					2015 letter[56]
	Crowd management (peaceful)	Crowd management (unrest)	Unrest incident (other)	Crime prevention	Support	
Accident					x	
Arrests				x	x	
Arson		x	x			
Assembly (church)	x					x
Assembly (festivity/ commemoration)	x	x				x
Assembly (elections)						x
Assembly (funeral)	x					x
Assembly (meeting)	x	x				x
Assembly (music festival)	x	x				x
Assembly (political meeting)	x	x				x
Assembly (poster demonstration)	x	x				x
Assembly (procession)	x	x				x
Assembly (sport)	x	x				x
Attack		x	x		x	
Barricade		x	x			x
Bomb threat					x	
Boycott action	x	x				x
Corpses found					x	
Deliberate damage		x	x			
Demonstration	x	x				x
Disaster/catastrophe					x	x
Explosion			x		x	
Gathering	x	x				x
Hijacking			x		x	
Hostage situation		x	x		x	x
Intimidation		x	x			x
Occupation		x				x
Seizure				x	x	
Siege			x			
Sit-in	x	x				x
Stayaway action						x
Strike (labour affairs)	x	x				x
Strike (occupation)						x
Strike (stayaway)	x					x
Threat			x			

Appendix 2: Total incidents recorded on IRIS, by classification, 1997–2013[57]

Year	Crowd (peaceful)	Crowd (unrest)	Unrest (other)	Crime prevention	Support	Movement
1997	5 386	895	2 535	22 665	2 195	–
1998	8 315	1 198	2 227	19 657	1 489	–
1999	8 227	746	1 852	23 790	1 393	–
2000	7 202	718	1 398	29 605	2.349	–
2001	7 569	637	1 152	26 360	1 761	–
2002	6 433	572	557	21 740	1 203	–
2003	7 078	537	496	26 561	1 132	–
2004	8 307	573	533	27 465	1 441	–
2005	9 532	943	383	24 694	941	–
2006	10 049	861	573	22 937	745	–
2007	6 833	714	583	14 492	285	–
2008	5 747	740	908	11 241	273	–
2009	7 967	892	462	9 556	235	–
2010	11 179	948	604	12 184	961	1 585
2011	10 918	1 231	768	15 335	1 359	4
2012	10 351	1 819	1 208	16 519	3 814	183
2013	11 095	1 704	1 559	11 349	4 816	519
Total	142 188	17 728	17 798	336 114	26 392	2 292

Notes

1   Bilkis Omar, *SAPS' costly restructuring: a review of public order policing capacity,* Institute for Security Studies (ISS), Monograph, 138, October 2007, 17–18. The mistake was repeated by Shauna Mottair and Patrick Bond, The politics of discontent and social protest, *Politikon,* 3:3, 2012, 310, and Monique Marks and David Bruce, Groundhog Day? Public order policing twenty years into democracy, *South African Journal of Criminal Justice,* 27:3, 2014.

2   *News24,* Athandiwe Saba and Jeanne van der Merwe, SA has a protest every two days, 21 January 2013. This error was reinforced by Jane Duncan, *The rise of the securocrats: the case of South Africa,* Johannesburg: Jacana Media, 2014, 124–5.

3   This quote is taken directly from a recording of Lt. General Elias Mawela's statement. We are grateful to Monique Doyle for providing the link to this recording. Mawela's assessment was embellished by Riah Piyega, the SAPS National Commissioner.

4   See Peter Alexander, Carin Runciman and Boitumelo Maruping, *South African Police Service data on crowd incidents: a preliminary analysis,* Johannesburg: South African Research Chair in Social Change, University of Johannesburg; Carin Runciman et al., *Counting police-recorded protests: based on South African Police Service data,* Johannesburg: Social Change Research Unit, University of Johannesburg. Both reports are available at the Centre for Social Change's website.

5   We are grateful to the South African History Archive for assistance in making the PAIA request.

6   When we re-formatted the Incident Registration Information System (IRIS) data by financial year, to bring it into line with the annual reports, we found that the numbers were very similar to those in the reports, but not exactly the same. We cannot explain the difference.

7   For each incident there were 10 column headings, which included date, province, motive and, crucially, a note that provided a brief description of what happened. For further details see our technical report: Alexander, Runciman and Maruping, *South African Police Service data on crowd incidents.*

8   For our exposition, see Runciman et al., *Counting police-recorded protests,* 17–20.

9   Ibid., 12, 37.

10 Operational Response Services (ORS) Division (of SAPS), National Instruction 4 of 2014. Public order police: crowd management during public gatherings and demonstrations, 6, http://protestinfo.org.za/download/saps_standing_orders/National-Instruction-4-of-2014-Public-Order-Police-Crowd-Management-During-Public-Gatherings-and-Demonstrations.pdf.

11 BMR Stroh and HL Louwrens, Training manual, 9 January 2006, 6–7, SAHA, SAH-2015-SAP-0024 (A20.02.06). Parts of this manual may have been superseded by an information management manual, which we have not seen and do not know the fate of. See ORS, National instruction. There is a possible exception to the distinction, which is that, in 2006, IRIS was supposed to record all 'unrest', including taxi violence, whether or not Area Crime Combatting Units (ACCUs) were involved. In addition, IRIS records operational plans for crowd management, which, according to the training manual, should be registered under 'peaceful'.

12 Lt. Col. Vernon Day, email to Prof. Peter Alexander, 21 May 2015. We are obliged to Day for taking the time to explain IRIS to us, both in this email and by letter. On arrests, see also letter from Lt. Gen. E Mawela to Prof. Jane Duncan, letter headed 'Request for information regarding crowd management (peaceful) and crowd management (unrest) on IRIS system', 6 March 2015. We are grateful to Duncan for sharing the letter.

13 Vernon Day, interview with Peter Alexander, 20 August 2014.

14 ORS, National instruction, 16, 19.

15 The peaceful/unrest distinction replaced an earlier one between 'lawful' and 'unlawful' on the grounds that 'the right to protest is a Human Right [and] gatherings are not considered either legal or illegal'. See Minister of Police, Written reply to National Assembly, 19 April 2010, 36/1/4/1/201000030.

16 ORS, National instruction, 16, 19.

17 Day, interview.

18 Stroh and Louwrens, Training manual, 12. While, to the best of our knowledge, IRIS retains the distinction between 'unrest (other)' and 'crime prevention', the SAPS also refers generically to 'Combatting of serious and violent crime'. See ORS, National instruction, 5–6.

19 Stroh and Louwrens, Training manual, 12.

20 ORS, National instruction, 5.

21 Day, interview.

22 IRIS, Incidents by class, 1996–2013, SAHA, SAH-2014-SAP-0008.

23 SAPS, Code tables for IRIS, SAHA, SAH-2015-SAP-0024 (A20.02.07).

24 Stroh and Louwrens, Training manual, 4; Marks and Bruce, Groundhog Day?, 353–5.

25 Stroh and Louwrens, Training manual, 4.

26 Day, interview.

27 Stroh and Louwrens, Training manual, 4; Day, interview.

28 For 1996, seven crowd (peaceful) and four crowd (unrest) incidents were recorded. For 1997, the respective figures are 5 386 and 895. See IRIS, Incidents by class, 1996–2013.

29 Marks and Bruce, Groundhog Day?, 355.

30 SAPS, Enhancing of the public order policing capacity, slide 6; Marks and Bruce, Groundhog Day?, 353, 360.

31 SAPS, Enhancing of the public order policing capacity. There had been 42 units in 1995.

32 Natasha Vally, National trends around protest action: mapping protest action in South Africa, presentation to Centre for Sociological Research, 8.

33 Bilkis Omar, Crowd control: can the public order police still deliver? *South African Crime Quarterly,* 15, 2006, 1.

34 Johan Burger, Public violence: what does it mean for the police?, presentation to Institute for Security Studies seminar, 13 March 2014, slide 6.

35 SAPS, Enhancing of the public order policing capacity, slide 6.

36 Marks and Bruce, Groundhog Day?, 364–6.

37 Peter Alexander, Marikana Commission of Inquiry: from narratives towards history, *Journal of South African Studies,* 42:5, 2016, 823–28.

38 SAPS, Enhancing of the public order policing capacity, slides 4 and 37.

39 The plan was to undertake this before the 2019 general election. Ibid., specifically slide 28.

40 Vally, National trends around protest action, 9.

41 Day, interview.

42 Ibid.

43 Ibid.; Marks and Bruce, Groundhog Day?, 352.

44 ORS, National instruction, 6. A Level 1 threat would include a peaceful gathering or less significant sports event; a Level 2 threat implies an unconfirmed possibility of injuries or damage; and a Level 3 threat is determined by confirmed information of a likely threat to lives or property.

45 Ibid.

46 Day, interview.

47 Similarly, in a case study of Mbombela Municipality, 2011 and 2012, Duncan showed that many planned protests reported to the municipality were not recorded on IRIS. We are uncomfortable about placing too much weight on this example, however, because Mbombela is in Mpumalanga and, to the best of our knowledge, did not have a CCU at that time. See Jane Duncan, *Protest nation: the right to protest in South Africa,* Scottsville: UKZN Press, 2016, 42.

48 ORS, National instruction, 6

49 Ibid.; Stroh and Louwrens, Training manual, 8.

50 Stroh and Louwrens, Training manual, 4–5.

51 Discussion at seminar organised by the Human Sciences Research Council and University of Johannesburg, 'Rebellion of the poor: research, politics, policing and people', Pretoria, 30 June 2016. Participants included SAPS generals and the deputy minister for co-operative governance and traditional affairs. See also Day, interview.

52 'Solidarity' was defined as: 'If a person or group of persons show their dissatisfaction/approval of a certain incident/ action through joint actions or speeches'. 'Forcing of demands' was defined as: 'The act, by a person/persons of forcing their demands upon another in some way or another'. See Stroh and Louwrens, Training manual, Appendix C: Definitions of the types of incidents and reasons/motives.

53 For full methodology see Alexander, Runciman and Maruping, *South African Police Service data on crowd incidents,* 43–45.

54 Those not included in the graphs are: education-related, official government and party political events, crime and policing-related, transport-related, elections, racism and xenophobia, and other.

55 SAPS, Code tables for IRIS. Definitions for the categories of 'type' are available in Stroh and Louwrens, Training manual, Appendix C: Definitions of the types of incidents and reasons/motives. 'Gathering' has various meanings, and in Appendix C, page 2, it is defined as: 'The spontaneous assembly of a number of persons without a joint goal or objective, after an incident or happening, e.g. a fire, accident or explosion.' It also explains (page 1) that 'crowd management tasks imply that the number of persons involved must be greater than 15 [but] this excludes a demonstration'. So, in contrast to 'gathering', the definition of 'demonstration' is aligned to that of the RGA.

56 Mawela to Duncan, letter.

57 IRIS, Incidents by class, 1996–2013.

Public order transparency

Using freedom of information laws to analyse the policing of protest

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This article discusses two research projects that have used the Promotion of Access to Information Act (PAIA) to analyse protest in South Africa and the policing thereof. A total of 23 information requests were submitted on behalf of the two projects, 19 to the South African Police Service (SAPS) and four to the Independent Police Investigative Directorate. The article starts by discussing police transparency in South Africa, information on the policing of protest that the SAPS routinely publishes in its annual report, the PAIA framework, and some of the limitations of the projects. It then focuses on insights into SAPS information on levels of protest and protest-related violence in South Africa that emerged from the two projects. This includes information disclosed by the police regarding their use of force during protests, and police accountability for this. The article concludes by reflecting on the implications of and lessons from these exercises in police transparency.

In contemporary democracies police are increasingly exposed to public scrutiny. One reason for this is the proliferation of technologies such as closed-circuit television (CCTV) and cell phone cameras. In recent years, CCTV and cell phone videos, exposing apparently unjustified police actions, have often circulated on social and traditional media, notably in the United States (US), but increasingly in South Africa too. Accountability legislation and oversight architecture, and laws promoting public access to state information also increasingly compel police to share information. Police could embrace such transparency as a means to build trust and cooperation with civilians and civil society groups;[1] however, they do not always welcome scrutiny and may be resistant to transparency. This possibly reflects what Joshua Chanin and Salvador Espinosa call a 'preference for reticence' motivated by '[m]istrust of the media and scepticism about the motivations of the information-seeking public'.[2]

Related to the fact that protest is often linked to political conflict and social divisions in society, the policing of protest is a source of controversy in many countries. As a result, police may be wary about opening themselves to scrutiny around it.[3] In South Africa, protest is a key issue of public concern and debate.[4] Public Order Police (POP) are the key component of the

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South African Police Service (SAPS) responsible for dealing with protest, especially where there is violence or the risk thereof. Scrutiny of POP in South Africa has intensified in recent years in the wake of a series of deaths during protests and strikes, most notably at Marikana in August 2012, where police shot and killed 34 striking miners and wounded 76 others.[5] Protests on university campuses in September and October 2016 involved widespread disruption of teaching programmes and some incidents of violence by protestors. Police action on university campuses in response to this protest also became a source of heated contention, particularly in relation to some incidents in which excessive force was allegedly used.[6] In brief, when and how public order policing is practiced in South Africa remains contentious.

This article focuses on the intersection between police transparency and the policing of protest in South Africa. Researchers have started using freedom of information (FOI) laws to access SAPS information on crowd incidents and public order policing. It discusses two projects that have used the Promotion of Access to Information Act (PAIA) to obtain information on protest and its policing. It focuses on key insights gleaned from the data regarding protest numbers and the use of force by police during protests. The conclusion reflects on SAPS compliance with PAIA, the unsatisfactory quality of some of the information that has been disclosed, continued official reliance on this information, and the implications of the two research projects discussed in this article for how the SAPS understands transparency.

Police transparency in South Africa

Evaluations of an organisation's transparency often focus on how it responds to requests for information lodged under FOI laws. For instance, reports by a civil society network in 2013 and 2014 indicated that the SAPS had responded positively to less than 50% of requests that were submitted to it.[7] But assessing degrees of transparency is not only about an organisation's willingness to disclose information but also about whether the information is reliable, accurate and up to date. A 2007 assessment of the SAPS in relation to 'indicators of democratic policing' noted that the standard of reporting in the SAPS's annual reports was relatively good, compared to that of many other government departments.[8] However, the auditor-general has consistently raised questions about the reliability of information on the SAPS's performance against set indicators provided in its annual reports.[9] The system through which the SAPS releases crime statistics has also frequently attracted criticism. This is partly because when crime statistics are released, they are already six months out of date.[10]

Information routinely provided on public order policing

The SAPS's annual reports consistently include information on the number of POP units, the number of members of these units, the procurement of public order equipment, public order training, and arrests during crowd incidents. In addition, the section on POP consistently provides data on two categories of 'crowd related incidents' distinguished as either 'peaceful' or 'unrest'.[11] The data comes from a database of incidents to which POP units have responded, known as the Incident Reporting Information System (IRIS). Table 1 provides IRIS data on these two categories of incidents from April 2011 to March 2016.

Many people assume 'public order policing' means the policing of protest, and interpret the data on *crowd incidents* as data on protests in South Africa (see Alexander et al. in this issue of *SACQ*).[12] This misreading is reinforced by the limited supplementary data in SAPS reports on such incidents. For instance, the 2015/16 SAPS annual report refers to

Table 1: SAPS reports of 'peaceful' and 'unrest' crowd incidents, April 2011 – March 2016[13]

	2011/12	2012/13	2013/14	2014/15	2015/16
Peaceful	10 832	10 517	11 601	12 451	11 151
Unrest	1 226	1 882	1 907	2 289	3 542
Total	**12 058**	**12 399**	**13 508**	**14 740**	**14 693**

Source: South African Police Service, 2016.

'peaceful incidents' as including 'assemblies, gatherings and meetings'. 'Unrest-related incidents' are said to include 'labour disputes, including the mining sector, dissatisfaction with service delivery by local municipalities, demarcation of municipality borders, but also in the transport and education sectors'.[14] This does not explain whether the crowd incidents recorded were all protests. A further persistent source of confusion is the tendency of both the public and senior police to interpret the statistics on 'unrest' crowd incidents as statistics for violent protest.[15] Some have suggested that police deliberately misrepresent IRIS data, and that they do so to present an inflated picture of levels of violent protest, thereby potentially feeding into a situation where the state is seen as justified in stifling dissent.[16]

The Promotion of Access to Information Act

PAIA gives effect to the right of public access to information provided for in Section 32 of the constitution. The act obliges a 'public body' (the act also has provisions regarding private bodies) to provide access to 'records' that it holds if these are requested. This is subject to specified grounds for refusal and procedural requirements.[17] The act therefore provides access to 'records' that are already held in one form or another, rather than imposing a general obligation to provide information. The act also provides that public bodies must publish a manual to inform members of the public about how to submit PAIA requests to that body.[18]

Both the SAPS and the Independent Police Investigative Directorate (IPID) publish this information on their websites.[19]

PAIA distinguishes between records that may be requested and those classified as 'automatically available'.[20] For instance, according to the SAPS PAIA manual, 'National Instructions' are automatically available.[21] This means that requests for them do not have to be evaluated in terms of PAIA criteria and they can simply be provided to the requestor.

Information requests on the policing of protest

In 2014 and 2015, the Freedom of Information Programme at the South African History Archive (SAHA) submitted 23 information requests to the SAPS and IPID on behalf of the two research projects discussed in this article. These requests resulted in the release of 95 records. The records that have been released are available online on the SAHA 'PAIA Tracker'.[22]

Social Change Research Unit, University of Johannesburg

Three of the PAIA information requests were submitted on behalf of the Social Change Research Unit (SCRU) at the University of Johannesburg. The first of these was submitted in March 2014. The unit has researched protest in South Africa since 2009 and the requests were submitted in line with this interest.[23] These three requests sought information from IRIS and resulted in 43 records being released. The most notable of these requests was submitted in

October 2014 and resulted in the release of 34 records containing IRIS data in nine categories, including all incidents in the crowd management 'peaceful' and 'unrest' categories, spanning 17 calendar years from 1997 to 2013. The SCRU's analysis of this data represents a significant breakthrough in understanding protest in South Africa (see Alexander et al. in this issue of *SACQ*).

Open Society Justice Initiative

Twenty other PAIA requests were submitted to the SAPS and IPID in terms of an international comparative 'transparency audit' under the auspices of the Open Society Justice Initiative (OSJI), a programme of the Open Society Foundation.[24] The audit was carried out simultaneously by locally based researchers in Brazil, India, Mexico, South Africa and the United Kingdom.[25] Questions were agreed on through consultation between researchers and were organised around the themes of preparedness of police forces, policing in practice, and the oversight and accountability of police forces in respect of the policing of gatherings and protest.[26]

Of the 20 requests submitted in South Africa, 16 were to the SAPS and four to the IPID. Requests submitted to the SAPS resulted in the release of 47 records. Those to the IPID resulted in the release of five records.

Other PAIA requests on the policing of protest

In addition to these requests, the OSJI project also submitted five PAIA requests to five municipalities. These were concerned, inter alia, with 'conditions' that people who are planning protests are supposed to comply with. The response to these requests is not discussed here. PAIA requests linked to the policing and regulation of protest have also been submitted by other parties.[27]

Information not available or that was refused

Records that were released, and which may be of interest to people interested in protest and the policing of protest, include the national instructions on the policing of gatherings, National Instruction 4 of 2014 (classified as 'automatically available'), training materials, SAPS organograms for the Operational Response Services division, and others.[28] However, not all of the requests for information were successful.

In terms of Section 23 of the act, where a record cannot be found or does not exist, an affidavit must be provided to this effect. In response to a request for records of disciplinary action for police misconduct connected to gatherings, the SAPS provided an affidavit from an SAPS official stating that he was not aware of any disciplinary action being taken against any officers in his unit and that he did not know of any cases being opened or lodged against any member of his unit.[29] Some of the issues raised by this response are examined in the discussion of IPID data on complaints and disciplinary cases relating to protest, below. The SAPS previously proved unwilling to respond to information requests regarding disciplinary action against police involved in the Marikana incident.[30]

The SAPS did not respond to a query for information on shooting incident investigations relating to protests.[31] In addition to the provisions of Section 23, Section 25(3) of PAIA provides that, in the event that requests are refused, reasons must be provided. However, no affidavits or reasons were provided for not responding to this query.

Other limitations of SAPS responses

The SAPS only released some of its crowd management training manuals after an 'internal appeal' process provided for in the act.[32] Apart from this, all the records that were released,

were released spontaneously. The SAPS ultimately provided one or more records in response to 16 of the 19 requests, including all three of the SCRU and 13 of the 16 OSJI requests. However, the records that were given did not necessarily contain the sought-after information. Requests for records about the number of people injured in protests, or about complaints received by the SAPS in relation to the policing of protest, were not answered in a meaningful way.[33] A request for information on the budget for public order policing was similarly unsuccessful. This may in part be explained by the formalistic and bureaucratic nature of the PAIA process. Information officers at public bodies are legally obliged to comply with the request for information within the framework of PAIA, but this does not extend to an obligation to clarify requests that are not clearly formulated. It is possible that in these cases the information request did not clearly set out the needed information.

Another limitation of the process was that some information appeared to be incomplete. For instance, a 2011 policy document on public order policing indicates that training programmes for POP include courses not only for platoon members but also for platoon commanders, first line operational managers and operational commanders.[34] But, in response to the request for training materials, the SAPS only provided training manuals for the course for platoon members as well as materials on crowd management from the basic training curriculum. No explanation was given why manuals were provided for some, but not all, SAPS crowd management courses.

IRIS information provided by the SAPS

The SAPS released a number of records from the IRIS system in response to requests from the University of Johannesburg's SCRU. Of the records provided in response to the OSJI

requests, 15 related to the IRIS system. In total 57 of the 92 records released by the SAPS were therefore related to the IRIS system.

The most important set of documents released by the SAPS were the 34 records of IRIS data on 'crowd management peaceful' and 'crowd management unrest' that were released to the SCRU. The records cover 156 230 incidents over the years 1997 to 2013.[35] Analysing this large volume of information presented a major challenge to the unit. A team of four research assistants was assigned the task of interpreting and coding a stratified random sample of the incidents.[36] Two reports based on the analysis of these records have been published.[37]

The reason these records are important is that each incident record includes detailed 'notes'. These are narrative entries by POP officials. The SCRU's 2016 analysis is based on the narratives in these 'notes' for a stratified random sample of 4 520 incidents over the 17-year period. This work shows that the only way to systematically distinguish protest incidents from other incidents on IRIS is through analysis of these notes. There is no other data field on IRIS that can be used for this purpose. For example, IRIS contains a field for number of arrests, but it is not possible to provide the number of people arrested during protests without isolating protest cases from non-protest incidents through a painstaking analysis of the notes section on a case-by-case basis – as the SCRU has done.

Through its analysis the SCRU has been able to make findings on the number of protests reflected in the IRIS data for 'peaceful' and 'unrest' crowd incidents. Overall figures emerging from the SCRU analysis for the 1997–2013 period are provided in Table 2. The SCRU report indicates that there are substantial variations from one year to another in the percentage of crowd incidents that are protests.

Table 2: Estimated percentage and number of protests recorded on IRIS according to SCRU analysis, 1997–2013[38]

	Peaceful	Unrest	Total
Crowd incidents recorded on IRIS	140 604	15 626	156 230
Number of crowd incidents in SCRU sample	2 856	1 654	
Number of protests identified by the SCRU in sample	1 173	1 141	
Protests as % of incidents in SCRU sample	41%	69%	
Estimated number of protests recorded on IRIS, 1997–2013	56 950	10 800	67 750
Estimated % of all 'peaceful' and 'unrest' crowd incidents on IRIS that are protests			43.4%

Source: South African Police Service, 2016.

The SCRU analysis also engages with questions about the focus of protests (but not other 'crowd incidents') during the 1997–2013 period. The analysis indicates that 46% were 'labour protests' and 22% 'community related', with the balance falling into seven other categories.[39] The SCRU research demonstrates that the classification of an incident as 'unrest' does not necessarily mean that it involved violence. It also highlights the need for official systems for recording protests to differentiate incidents that involve injury to persons or damage to property, from those that are disorderly in other ways.[40] It is not clear if IRIS can be modified to address these issues, or if an entirely new system must be developed.

Monitoring the use of force during protest

One of the key questions regarding the policing of protest in South Africa is about the justifiability of police use of force. One OSJI request asked for information on the 'three gatherings in relation to which most arrests were made' over the period April 2012 to March 2014.[41] In response to this request, the SAPS provided eight documents containing data from the IRIS system on three incidents – allegedly the protest incidents during this period at which the largest

number of arrests were made. The incidents were at Woodstock station in Cape Town in June 2013 (184 arrests), at the Waterworks informal settlement near Randfontein in Gauteng in September 2013 (176 arrests), and in Aliwal North in the Eastern Cape in January 2014 (163 arrests).

The eight documents are of interest partly because they seem to provide all the information recorded on IRIS on these three incidents. The information is broader than the nine categories of information in the records released to the SCRU. These documents indicate that there are about 36 categories of information recorded on IRIS. These include, for instance, information about the notification process (if there is prior notification),[42] the route, organisations involved, any weapons used by participants, the 'security force' units involved, and ammunition used by them. Many of the 36 categories include a number of subcategories. An interesting aspect of these documents is the information on the use of force, including the weapons and ammunition used by the police. There is no evidence of police use of force in the Woodstock incident, but some information on the use of force is provided in the documents dealing with the Waterworks and Aliwal North incidents. Notably, in the

incident at Waterworks, during which residents of the informal settlement used burning tyres to barricade a turnoff on the N12 highway, IRIS documents indicate that police used close to 1 100 rubber rounds, five teargas canisters and 10 stun grenades. However, in the category 'person injured as a result of police action', no information is recorded.

One of the press reports dealing with the Waterworks incident records that a woman was shot in the shoulder with a rubber bullet.[43] There appears to be no information in the public domain suggesting that other people were injured during the protest. Nevertheless, considering the number of rubber bullets used, it is likely that more people were injured. In incidents where rubber bullets are used, it is possible that force may be used relatively indiscriminately.[44] It is also likely that those injured by rubber bullets would flee from police rather than wait to have their wounds documented and risk arrest. As a result, it may not be possible for police to comprehensively record injuries. Nevertheless, one would at least expect the police to acknowledge the likelihood that some people were injured, even if they indicate that the exact number is unknown.

The Aliwal North documents are, at best, vague on the use of force by police. They include no detailed information about use of force, although there are indications that rubber bullets and one stun grenade were used. They also indicate that seven civilians were injured and taken to hospital, although no explanation is provided on how they were injured.

These documents therefore add to the concerns raised by the SCRU about the quality of information recorded on IRIS.[45] In particular, they raise questions about whether IRIS is a reliable record of the use of force by police during protests. It would seem that IRIS reports may downplay injuries resulting from police use of force. Concerns that IRIS data may not

be comprehensive were also raised in a 2007 report that discussed IRIS data on people killed by police during demonstrations.[46]

Information held by the IPID

The IPID also provided two documents, with overlapping information, on complaints about the policing of protests. The documents provide information on 68 complaints (11 in 2014 and 57 in 2015) by members of the public against the police. These relate to 52 incidents of protest. One anomaly in the documents is that, although they are supposed to provide data on complaints relating to gatherings during 2014 and 2015, they contain no cases from Gauteng, the province with the greatest population and which accounts for more protests than any other province.[47] They also contain only four cases from KwaZulu-Natal, South Africa's second most populous province. This suggests that the information comes from a system that does not classify and record complaints in a reliable manner.

The documents also suggest that there are extremely few, if any, cases where complaints against police working at protests result in a finding against individual police members. Among the 69 cases there appears to be only one where the IPID concluded that there was wrongdoing on the part of the police. In this case the report contains no indication that the police responsible were identified, or faced disciplinary action. Many other cases are closed because the police officer allegedly responsible for wrongdoing cannot be identified. In others the case is closed by the IPID because the person laying the complaint is unable to prove that they were not part of a group who were protesting violently. In effect, complainants, some of whom claim to have been bystanders who were hit by rubber bullets while in the vicinity of protests, carry the burden of proving that they were not part of a violent protest. If

they fail to do so the IPID places no obligation on the police to justify the use of force.

Along with the absence of information on disciplinary action against POP unit members described earlier, this suggests that complaints that are lodged with the SAPS or IPID are highly unlikely to result in disciplinary charges being brought against a police officer. Apart from general difficulties in establishing the truthfulness of complaints, one obstacle would appear to be the difficulty of identifying POP members who are allegedly responsible for inappropriate force or other abuses. If there are members of the public who feel aggrieved in public order incidents it is likely that, as a general rule, they are unable to identify the individual police officer allegedly responsible. Even if the SAPS member wears the requisite name tag it is unlikely that this will be visible to the victim of POP use of force.

Another issue is highlighted by the IPID response when a six-year-old girl was hit by rubber bullets while waiting for transport to school. The IPID report indicates that the investigation had concluded that '[i]t is unfortunate that the child was at the wrong place at the wrong time. There is no evidence to suggest the police official intended to injure the child.'[48] This is clearly inadequate as an assessment of whether the use of force by police was appropriate or not. The questions raised by the IPID should include whether police were aware of the presence of children in the area and took sufficient care to ensure that they were not harmed. Along with the evidence that people injured by POP are sometimes bystanders, this raises the question whether POP take adequate steps to ensure that force is targeted at individuals who are involved in violations of the law, rather than against the general public in the vicinity of a protest.

Conclusion

This article explores the intersection between two of the rights provided for in the South African constitution: the right to freedom of assembly and the right to information. Rather than generating their own data, the research projects discussed here have used information held by government departments, obtained through requests for information in terms of PAIA. In response to 19 requests lodged on behalf of the two projects the SAPS disclosed a total of 90 records, and the IPID disclosed five. One conclusion is that the SAPS responds positively to many requests for information. Although some requests did not generate the information that was sought, this may have been because they were not clearly formulated. It is therefore difficult to draw firm conclusions about what protest-related information the SAPS does not have or is not willing to disclose.

The SAPS exhibits relatively high levels of transparency. But many of the key records provided indicate that SAPS data on protest and how police respond to it have limited utility. In combination, the uneven standards of data entry, the absence of categories that differentiate protests from non-protest incidents, and the ambiguity of the unrest category, may lead one to conclude that IRIS mystifies more than it explains. There is a need for information that more readily lends itself to analysis of how the legal framework regarding protest is interpreted and applied by police.[49]

The IPID also responded positively to the PAIA requests it received. But the IPID data did not include any cases from Gauteng, the province with the highest annual number of protests. This suggests that the data does not reflect all cases of protest that the IPID receives.

It remains unclear why senior government officials repeatedly present the IRIS data on crowd incidents as data on protests.[50] If this does not demonstrate a deliberate misrepresentation of the data, it indicates that there is confusion about what the data represents, even at senior levels within the

SAPS. It also indicates that SAPS data on protests and police responses to protests must be improved.

Better quality information is necessary in order to evaluate demand for, and resourcing of, public order police. It is also important to better understand when, why and how force is used in public order policing. As shown in this article, the SAPS is limited in its ability to answer questions on these issues. It also shows that mechanisms for holding police accountable for the use of force during protests are inadequate. This is sometimes due to the fact that individual police officers accused of abusing force cannot be identified, and sometimes because the criteria that are applied in assessing officers' use of force are inadequate.

One argument in support of police transparency is that sharing information with the public may lead to 'police data being analysed in new ways', leading to insights that were not previously available.[51] A further argument is that sharing information can build familiarity and trust in communities, and promote organisational legitimacy.[52] However, according to US security expert Brian Jackson, 'making more data available to the public is a strategy for improving police-public trust'. But, 'that strategy will work only if the data is trusted'.[53]

The exercises in transparency discussed in this article do indeed reveal the SAPS's willingness to respect laws governing transparency. They have also provided an opportunity for conducting new analyses of data held by the SAPS. However, these exercises reveal serious shortcomings in the SAPS, and expose it as an organisation that is uninformed about the nature of protest and its own responses to it. It therefore highlights one risk of transparency for the police: that their inadequacies may be exposed, resulting in their being subject to increased criticism. Hopefully the SAPS, IPID

and others will continue to recognise the value of providing data to members of the public in compliance with South Africa's FOI laws. But transparency will better contribute to trust only if the quality of the information provided can be improved.

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Ten years after the Jali Commission

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Ten years have lapsed since the Jali Commission's final report became publicly available, and it is therefore an opportune time to assess the state of South Africa's prison system. The Jali Commission was appointed when it became clear that the state had lost control of the Department of Correctional Services (DCS). A decade on, some notable advances have been made in regaining control, and addressing corruption and maladministration. However, serious and persistent challenges remain. These are explored in this article, with a particular focus on policy development, the performance of the DCS against set targets, governance and human rights violations. In all four of these areas substantial shortcomings remain. Impunity for human rights violations is perhaps the most critical challenge, as the DCS has been reluctant to acknowledge the scale of this problem or to seriously address it.

In 2001, president Thabo Mbeki established the Jali Commission of Inquiry into Corruption and Maladministration in the Department of Correctional Services ('Jali Commission'). Before the establishment of the Jali Commission there had been at least 20 investigations into irregularities and abuses within the department.[1] In 2000 it was reported to Parliament that the state had lost control of the Department of Correctional Services (DCS).[2] It was in this context, and at the request of the then minister of Correctional Services, Ben Skosana of the Inkatha Freedom Party (IFP), that Mbeki established the Jali Commission in 2001.

In 2005 the Jali Commission submitted its full report with recommendations to Mbeki. Following much pressure from the Portfolio Committee on Correctional Services and Judge Jali himself, then minister Ngconde Balfour released the report to the public in November 2006. The findings were damning of the department's conduct as it related to corruption, maladministration and the treatment of prisoners. Nearly 10 years on it is opportune to assess the state of South Africa's DCS and the prison system itself.

This brief article provides an overview of the South African prison system post-Jali Commission, focusing on four key issues: policy development, delivery on set targets, governance and corruption, and human rights. Using the commission as a reference point,

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it provides a succinct overview of the most noteworthy developments within the DCS, or lack thereof, over the past 10 years.

The Jali Commission had a particular scope. It examined, for example, only nine of the department's 52 management areas as well as specific focal areas defined in the commission's terms of reference.[3] The mandate given to the commission was indicative of the scale and scope of corruption, maladministration and rights violations in the DCS. It included investigations into the procurement of goods and services; the recruitment, appointment, promotion and dismissal of employees; the treatment of prisoners, dishonest practices and illicit relationships between employees and prisoners, leading to unlawful activities; alleged incidents of non-adherence to departmental policy and deviation from national norms and standards; alleged incidents of violence against or intimidation of employees; and to what extent recommendations from past investigations relating to the department had been implemented.

While it is acknowledged that there have been some notable improvements in the decade since the commission submitted its report, especially when assessed against the crises-engulfed DCS of the late 1990s, many also argue that imprisonment has not fundamentally changed since apartheid. On the positive side, great strides have been made to rid the DCS of high level corruption and to re-establish state control over the department. Supply chain management was improved, a new disciplinary code was established, corrupt officials were dismissed and large-scale training of staff was undertaken, to name just a few improvements. However, in respect of familiar problems such as human rights violations, legislative compliance, conditions of detention and access to much needed services, far less has been achieved.

The National Development Plan (NDP) provides guidance on the reforms necessary to ensure South Africa's criminal justice system is democratic and fair.[4] The NDP asks, among other things, for the criminal justice system to have a single set of objectives, priorities and performance measurement targets; a demilitarised, professional police service that is sensitive to community needs; an inter-sectoral approach to safety; and a particular focus on vulnerable groups in society.[5] There is, however, scant evidence in the annual reports of the justice and security cluster departments that any substantial realignment has taken place.

Policy development

The White Paper review

The highly anticipated 2005 White Paper on Corrections in South Africa (the 'White Paper') was in part drafted in response to the Jali Commission, but was widely criticised.[6] Policy development has not been one of the department's strengths, as illustrated in Sloth-Nielsen's comprehensive overview of the erratic and at times illogical nature of policy development in the DCS at the time.[7] The White Paper identified the rehabilitation of offenders as the 'core business' of the department. This was seen as misguided, given the serious and fundamental challenges facing the DCS, such as poorly skilled staff, overcrowding and gross human rights abuses – issues clearly identified by the Jali Commission. Eight years later, in April 2013, the DCS informed the parliamentary Portfolio Committee on Correctional Services that a review of the White Paper would be undertaken and that it would be completed by the end of that year.[8] By August 2015 nothing had been delivered.[9]

From the available literature it is not clear why the White Paper review project seems to have been abandoned, especially as the DCS, the Portfolio Committee and civil society institutions

acknowledged the need for it. The 2005 draft and final White Paper brought a sense of purpose to the department, despite criticism that it was too ambitious and at odds with the realities of South Africa's prisons.[10] With the White Paper having thus suffered a further serious blow to its credibility, the question arises as to what directs policy development in the DCS. It is clear from departmental communications that the White Paper no longer enjoys the same prominence it once did. The need for a review remains, because, as will be discussed below, some problems have remained persistently familiar.

Remand detention

In commenting on overcrowding in correctional facilities, the Jali Commission paid scant attention to the plight of awaiting trial prisoners. At the time the commission regarded the inspecting judge (the late Judge Hannes Fagan) as an adequate champion for the rights of remand detainees.[11] The commission was, however, concerned about the department's attitude towards overcrowding. The department blamed the police for the large awaiting trial population, and expressed the wish that awaiting trial prisoners be detained at police stations.[12] A policy framework on remand detention, as it became known, was not a priority for the Jali Commission.

Subsequently, the *White Paper on Remand Detention Management in South Africa* (the 'Remand White Paper') was released in March 2014, after extensive amendments to the Correctional Services Act 1998 (Act 111 of 1998) by means of the Correctional Matters Amendment Act 2011 (Act 5 of 2011). The Remand White Paper describes in detail the management of remand detainees, their rights and responsibilities, as well as cooperation between different government departments around remand detention. The language and detailed prescripts are akin to the departmental

standing orders, known as the 'B-Orders', which provide step-by-step guidance on nearly every aspect of DCS operations and are intended to be a central resource to officials. In overview, the Remand White Paper is regarded as a positive development that was intended to clarify a range of uncertainties of a legal and practical nature.

Despite its noble intentions, the Remand White Paper's implementation, with specific reference to the size of the remand population and duration of their custody, is highly dependent on other role players. The remand detention problem has two main drivers: too many people are held on remand, and those on remand stay for too long before being acquitted or convicted. Of the roughly 155 000 prisoners in South Africa in 2016, approximately one-third were awaiting trial on any one day. Moreover, half of those on remand had been there for three months or longer.[13] This situation is the result of large numbers of unnecessary arrests by the police, and a criminal justice process that is extremely slow and inefficient.[14] These are factors outside the control of the DCS, but they become the department's central problem: overcrowding in the large metropolitan remand detention facilities, such as Johannesburg, Durban Westville and Pollsmoor. With such severe overcrowding – above 175% occupancy – the good intentions of the Remand White Paper become unachievable and irrelevant.

The 2011 amendment to the Correctional Services Act attempted to create a mechanism that would limit the duration of remand detention by means of section 49G. This was incorporated into the Remand White Paper, and stipulates that the DCS must refer a remand detainee to court before s/he completes a detention period of two years, and annually thereafter if the detainee remains in custody after the initial referral.[15]

The 2013/14 DCS annual report noted that the average duration of custody had been reduced

by a modest 13 days since section 49G came into operation. While this may in part be due to other trends in the criminal justice system, the impact of the amendment has nonetheless been limited. As well-intentioned as section 49G may be, it will not have the desired effect, as it does not regulate the criminal justice process. Indeed, judicial review should be mandatory far sooner than two years. It should furthermore not be assumed that if a head of centre brings a section 49G case to court that the court will indeed undertake an investigation into an unduly delayed trial in terms of the provisions of the Criminal Procedure Act.[16] Plainly put, the Correctional Services Act does not tell the court what to do with a section 49G case. Moreover, the constitutional right to a speedy trial is rendered meaningless when it takes two years before a delayed matter is brought to the attention of the court.[17]

If the Remand White Paper is to have an impact, the remand population has to be drastically reduced. This would necessitate the support and cooperation of the police, the National Prosecuting Authority (NPA) and the courts. The DCS framework and practice are simply not able to reduce the remand population. What is required is an interlinked, overarching framework covering the police, DCS, NPA and courts to ensure that suspects are not unnecessarily detained and that their cases are dealt with expeditiously, as recommended by the NDP. Ten years after Jali, the systemic causes of overcrowding remain unaddressed.

Gang management strategy and policy on sexual violence

The Jali Commission was extremely critical of how the department had failed to deal with prison gangs (and sexual violence), despite the 'number gangs' having been part of South African prisons for more than a century.[18] It found that there was no strategy in place to deal with the disruptive, corrupting impact of prison gangs on prison administration. Only in the 2009/10–2013/14 DCS Strategic Plan did the department identify the need for a gang management strategy and set out a basic process to develop one. At last there was recognition in the strategic plan that change was necessary and that ignoring the problem would not make it disappear. However, the subsequent strategic plan (2013/14–2016/17) mentioned gangs as a threat to prisoner safety, but did not mention a gang management strategy as such.

The 2014/15 DCS annual report provided no proper description of the gang management strategy, save for one reference to 'Improved Implementation of Gang Management Strategy' as a means to reduce inter-prisoner violence.[19] The 2015/16 DCS annual report briefly mentioned that the 'gang management checklist' was implemented at 'various centres' and that a NICOC-led (National Intelligence Coordinating Committee) national gang management strategy was to be implemented.[20] Based on these reports, it appears that one of the most critical challenges to prisoner safety and good governance has been shifted on to the back burner.

Sexual violence is a regrettable part of South Africa's prison landscape, and is frequently, but not exclusively, linked to the number gangs. Gear and Ngubeni have given an authoritative account of the insidious nature of sexual violence in South Africa's prisons and the devastating consequences for survivors.[21] Jali described it as 'the horrific scourge of sexual violence that plagues our Prisons where appalling abuses and acts of sexual perversion are perpetrated on helpless and unprotected prisoners'.[22] The Jali Commission was appalled at how the DCS had failed victims of sexual violence and how some warders were complicit in sexual violence, including the trafficking of prisoners.

Seven years later, in 2013, the DCS adopted a policy on the prevention of sexual violence, which had been developed in cooperation with two non-governmental organisations.[23] However, the 2014/15 and 2015/16 DCS annual reports made no mention of the strategy or of the implementation of any measures relating to the reduction of sexual violence among prisoners. Public recognition by the DCS of the problem, and of the policy document, has been scant and it appears to be similarly sitting on the back burner next to the gang management strategy.

The department's reluctance to deal with sexual violence in a concerted manner is inexplicable. The legislative framework is more than adequate, and the problem well-documented. Yet there remains little political recognition or condemnation of the problem, nor is the department fostering an environment where victims are taken seriously and supported, and active steps are taken to prevent sexual victimisation.

In respect of both these strategies it must be concluded that they are not priorities for the DCS, despite the constitutional right that all persons be free from all forms of violence.[24] The DCS has a particular responsibility in this regard as it has a legal obligation to ensure the safe and humane custody of all prisoners.[25]

Delivery on targets

The Jali Commission did not focus specifically on departmental performance against set targets, but the range of problems identified, especially in relation to poor governance and maladministration, should be seen in this context. While the Jali Commission paid particular attention to widespread corruption and maladministration, the overall intention was, and is, to have a department that is well-managed, efficient in resource utilisation, and

fulfilling its mandate with particular reference to service delivery.

The DCS Strategic Plan, together with the annual reports, sets out the plans and targets for the medium term, as is generally required across the public service. In 2010 the auditor general started to include performance targets in his audits, the results of which are not particularly encouraging in the case of the DCS. In his 2011/12 report he noted that there were numerous problems with the quality of the information that was presented and made some critical remarks in this regard:

> Treasury Regulation 5.2.4 requires that the strategic and annual performance plan should form the basis for the annual report, therefore requiring the consistency of indicators between planning and reporting documents. A total of 22% of the reported indicators were not consistent with the indicators as per the approved strategic and annual performance plan. This is due to the lack of alignment between the Strategic Plan indicators and the Annual Performance Plan indicators.[26]

The auditor general's 2014/15 report expressed substantive concerns about the validity of information in the DCS annual report regarding the performance of the incarceration and rehabilitation programmes; non-compliance with material legislation; accuracy of financial statements; strategic planning and performance management; internal auditing; failure to constitute an audit committee; control of irregular expenditure; revenue management; filling of vacancies; poor leadership of the accounting officer; and weak financial and performance management.[27]

The issues raised by the auditor general are not new. Since 1994 the DCS has not received an unqualified audit, although the subject and number of qualifications have changed over the years. When the basic requirements of public

administration, emphasising transparency and accountability, are not being complied with, it is unlikely that a human rights culture will flourish, and that prisoners will receive the services they are entitled to or be treated in a manner consistent with constitutional requirements.[28]

While criticism should rightly be levelled at the DCS's senior management in respect of planning, it should also be held accountable for not holding officials to their set and largely modest performance targets. Good performance appears to be a function of individual managers at operational levels and is not being driven by generally applicable legislation and policy. Between 2006 and 2016, there seems to have been limited progress in creating a department that is well-managed and performance-driven.

Governance

Widespread corruption in the DCS was a central reason for the Jali Commission's establishment in 2001. In 2002 the DCS approached the Special Investigations Unit (SIU) to assist it in rooting out corruption.[29] The SIU achieved significant successes and played a substantial role in turning the 'captured ship' around. There is no doubt that the DCS and SIU cooperation helped reduce corruption and resulted in enormous savings to the tax payer.[30] The Jali Commission made extensive recommendations regarding poor governance and maladministration in respect of every focal area it investigated. Essentially these were aimed at regaining control over a department that had been captured by organised labour at all levels, including at head office. Whether petty corruption has been brought under control is not known, but, as illustrated below, some events suggest that high-level corruption remains.

In November 2009 the SIU reported to the Portfolio Committee on Correctional Services on its findings, following an investigation into four major contracts awarded by the DCS to the Bosasa group of companies.[31] The findings were damning, implicating DCS Chief Financial Officer Patrick Gillingham and former National Commissioner Linda Mti. The four contracts were awarded in similarly irregular ways, deviating from the Treasury Supply Chain Management Policy. The SIU's final report was handed to the minister of correctional services and the NPA in September 2009, but at the time of writing (November 2016) no criminal prosecutions had been initiated. The chief financial officer was suspended in September 2010 and ultimately resigned without facing departmental disciplinary action.[32] Mti subsequently took up a position at the Nelson Mandela Bay Metro.

In June 2016, the Democratic Alliance (DA) motivated to have Mti's appointment at the metro overturned, as he was implicated in corruption and also convicted of drunk driving, but nothing happened in this regard. By June 2016 the NPA had not yet responded to questions from the DA regarding the prosecution of Mti – despite the fact that the findings of the SIU clearly implicated senior DCS officials and a *prima facie* case for prosecution undoubtedly existed.[33] One should not forget that the allegedly corrupt awarding of the high value contracts to Bosasa happened at a time when the ink had barely dried on the Jali Commission's final report. There are thus clear indications not only that some senior DCS managers are protected by other elites but also that criminal investigations hold little weight when one enjoys political protection. The lack of action from the NPA clearly communicates that some people can and do get away with crime.

In April 2016, the Office of the Chief Procurement Officer for the DCS ordered National Commissioner Zach Modise to cancel the awarding of a tender valued at R378 million to a company called Integritron. Integritron has links to the ruling party, and one of its subsidiaries is a benefactor of the ANC.[34] The chief procurement

officer found several irregularities in the awarding of the contract. As more information emerged, the minister of justice and correctional services, the minister of finance, Treasury and the auditor general became involved in a public spat. Ultimately, Minister of Finance Pravin Gordhan instructed his counterpart in Justice and Correctional Services, Michael Masutha, to cancel the deal, upon which Integritron obtained an interdict against the minister of justice and correctional services to refrain from taking any action that would affect the deal until the matter was properly adjudicated by a court.[35] The matter was subsequently placed on the ordinary roll, after an initial application to be heard on an urgent basis.

To add to the department's woes, in April and May 2016, Zuma proclaimed two cases for the SIU to investigate. These cases related to irregularities in the procurement of an electronic monitoring system and irregularities in the appointment of a service provider to render project management services and condition assessments in respect of correctional facilities.[36]

Again, a key oversight function, namely that of the chief procurement officer, was undermined by forces of a political nature in the DCS. Whether the Integritron case will go the same route as the Bosasa case remains to be seen, but it is nonetheless clear that high-level corruption has not disappeared from the DCS.

Human rights

The Jali Commission found ample evidence of officials treating prisoners as though they had no rights.[37] While the commission acknowledged that overcrowding in prisons makes the protection of human rights very difficult, it rightly did not accept this as an excuse for the torture and ill-treatment of prisoners. The commission found that prisoners were subjected to torture, assault and abuse, and made to perform

duties that infringed on their dignity. It appeared to the commission that warders were generally of the opinion that prisoners were in prison 'for punishment' and not 'as punishment'.[38] Regrettably, it remains the case that large volumes of human rights violations are still reported in the DCS and Judicial Inspectorate for Correctional Services (JICS) annual reports, and that Jali's remarks remain by and large true.

It is not within the scope of this article to provide details on human rights violations – the DCS annual reports and the JICS do so adequately. A few key indicators are, however, worthy of mention. In 2014/15 the JICS inspected 90 prisons and found that 61 exceeded 100% of their capacity, 21 exceeded more than 150% of their capacity, and 10 more than 175%.[39] In 2014/15 more than 3 150 prisoners alleged that they had been assaulted by officials; an increase of more than 3 000 compared to 2011/12.[40] Reported intra-prisoner violence increased from fewer than 4 000 cases in 2011/12 to 7 388 cases in 2014/15, despite the prison population being relatively stable since 2008.[41]

Poor conditions of detention are a major source of prisoner complaints to the JICS. In 2014/15 nearly 34 000 complaints of this nature were recorded.[42] Other major sources of complaints relate to nutrition, access to reading material, healthcare and access to legal representation. A total of 57 175 complaints regarding healthcare were recorded by the JICS in 2014/15, an increase of 67% from 2011/12.[43] The profile of complaints has also remained remarkably consistent from one year to the next, indicating that they are not regarded as systemic problems and consequently not addressed in a systemic manner.

Conclusion

The overall impression gained is that many of the problems identified by the Jali Commission 10 years ago are still present in the prison system.

While overcrowding is largely a problem created outside of the department's control, rights violations such as assaults by officials, inter-prisoner violence, access to healthcare and other support services are very much within the department's control. Based on the figures reported above, it also appears that the situation is getting worse. It is in particular egregious rights violations such as assault and torture that are not thoroughly investigated and thus create a situation of *de facto* impunity.[44] It is indeed a rare occurrence that DCS officials are criminally prosecuted for human rights violations perpetrated against prisoners. To the best knowledge of the author, there has not yet been a successful prosecution against a state official for the crime of torture since it was criminalised in 2013.

Ten years after the Jali Commission released its report, the DCS remains beset by the same problems as those the commission was established to address: overcrowding, corruption, impunity, rights violations and services that do not reach sufficient numbers of prisoners and leave much to be desired with regard to impact. All indications are that there have been significant improvements in the DCS, especially regarding corruption and maladministration, but that there is plenty that remains unacceptably dysfunctional. The Bosasa and Integritron cases are testimony to this, as are the 2016 proclaimed investigations.

This brief review of the DCS 10 years after the Jali Commission demonstrates the medium-term limitations of judicial commissions of inquiry. For the Jali Commission to have a sustained impact it needed the support of Parliament, which it lost in 2014 when the Portfolio Committee on Correctional Services was merged with the Portfolio Committee on Justice. Since then it appears that, in part due to this reconstituted committee's workload,

the Correctional Services portfolio has been shifted to the background. This is of particular concern, considering that the DCS has an almost allergic reaction to external criticism, oversight and accountability.

Gross human rights violations continue to occur and may even be increasing. This is reason for deep concern. If the department is to have one priority for the next 10 years, it should be to address rights violations and the culture of *de facto* impunity. Good governance and human rights are inter-connected and mutually reinforcing, and compliance with the Bill of Rights necessitates a well-managed organisation.

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Notes

1   Commission of Inquiry into Alleged Incidents of Corruption, Maladministration, Violence or Intimidation in the Department of Correctional Services (Jali Commission), *Final report,* 2005, 885, http://www.gov.za/sites/www.gov.za/files/jali_comm_full_0.pdf (accessed 22 November 2016); Julia Sloth-Nielsen, The state of the nation's prisons, in Sakhela Buhlungu et al. (eds), *State of the nation – South Africa 2007,* Cape Town: HSRC Press, 2007, 380.

2   *Die Burger,* 'Staat het alle beheer oor DKD verloor, sê DG' 15 April 2000 [State has lost all control over DCS, says DG (Director General) – own translation]; PMG, Report of the meeting of the Portfolio Committee on Correctional Services of 14 April 2000, http://www.pmg.org.za/minutes/20000413-audit-department-correctional-services (accessed 8 August 2016).

3   A management area may contain one or more prisons, depending on the size of the prison population in that area and geographical spread. Each management area is headed by an area commissioner.

4   The National Development Plan (2013) is a high-level long-term plan that aims to reduce poverty and eliminate discrimination by 2030. Developed by the National Planning Commission in the Presidency, the plan aims to achieve these goals by drawing on the energies of the country's people, growing an inclusive economy, building capabilities, enhancing the capacity of the state, and promoting leadership and partnerships throughout society. See South African Government, National Development Plan 2030, http://www.gov.za/issues/national-development-plan-2030 (accessed 21 October 2016).

5   National Planning Commission, Our future – make it work, Pretoria: National Planning Commission, 2013, 385–406.

6   Department of Correctional Services (DCS), White Paper on Corrections in South Africa, Pretoria: Department of Correctional Services, 2005, 59, para 2.9.6.

7   Julia Sloth-Nielsen, Overview of policy developments in South African Correctional Services 1994–2002, Civil Society Prison Reform Initiative (CSPRI), Research Report, 1, Bellville: Community Law Centre, 2003.

8   Parliamentary Monitoring Group (PMG), Review of White Paper on Corrections 2005–2012, ministerial task team resolutions, progress reports, 24 April 2013, https://pmg.org.za/committee-meeting/15760/ (accessed 8 August 2016).

9   CSPRI, *Submission by CSPRI to the Portfolio Committee on Justice and Correctional Services,* 4; PMG, Offender management, rehabilitation & independent monitoring standards: CSPRI, NICRO & Correctional Services meeting, 18 August 2015, https://pmg.org.za/committee-meeting/21335/ (accessed 8 August 2016).

10 CSPRI, Oral submission to the Portfolio Committee on Correctional Services regarding the Draft White Paper on Correctional Services, 3 February 2004; PMG, report on the meeting of the Portfolio Committee on Correctional Services, 3 February 2004, https://pmg.org.za/committee-meeting/3417/ (accessed 9 November 2016).

11 Jali Commission, *Final report*, 621.

12 Ibid., 635.

13 Jean Redpath, Unsustainable and unjust: criminal justice policy and remand detention since 1994, *South African Crime Quarterly,* 48, 2014, 25–37, 31.

14 Lukas Muntingh, Race, gender and socio-economic status in law enforcement in South Africa: are there worrying signs?, CSPRI, Research Report, Bellville: Dullah Omar Institute, 2013; Department of Justice, Annual report 2014/15, 86: 'Courts are on average only achieving 78.1% (3 hours 31 minutes) of the expected 4 hours 30 minutes as stated in the Chief Justice's Norms and Standards, a decrease of 2.6% from the previous year.'

15 DCS, White Paper on Remand Detention Management in South Africa, 2014, 55.

16 Criminal Procedure Act 1977 (Act 51 of 1977), Pretoria: Government Printer, 1977, Section 342A.

17 South African Constitution 1996 (Act 108 of 1996), Pretoria: Government Printer, 1996, Section 35(3)(d).

18 The so-called number gangs came into being in the late 19th century in what is now known as Gauteng. The 'number' refers to their names – the 26, 27 and 28 – as the three main prison gangs. Other gangs include the Big 5, which collaborates with the authorities, and the Air Force, which specialises in escapes. The 26 and 28 are the main and larger gangs, whereas the 27 is intended to be the go-between or peacemaker. Their structures are hierarchical and discipline is strictly enforced on members, from whom absolute loyalty is expected. Their influence has spread to most prisons in South Africa. Their history is steeped in myth and secrecy and it must be accepted that little is understood about how they function. For insightful accounts into the number gangs see Sasha Gear and Kindiza Ngubeni, *Daai ding: sex, sexual violence and coercion in men's prisons,* Johannesburg: Centre for the Study of Violence and Reconciliation (CSVR), 2002; Jonny Steinberg, *Nongoloza's children: Western Cape prison gangs during and after apartheid,* Johannesburg: CSVR, 2004.

19 DCS, Annual report 2014/15, 2015, 49.

20 DCS, Annual report 2015/16, 2016, 53.

21 Gear and Ngubeni, *Daai ding*.

22 Jali Commission, *Final report*, 393.

23 DCS, Policy to address sexual abuse of inmates in DCS facilities, 2011. Although dated 2011 it was adopted in 2013. The NGOs are Just Detention International (SA) and the CSVR.

24 South African Constitution, Section 12(1)(c).

25 Correctional Services Act 1998 (Act 111 of 1998), Pretoria: Government Printer, 1998, Section 2(b).

26 DCS, Annual report 2011/12, 2012, 105.

27 DCS, Annual report 2014/15, 106–108.

28 South African Constitution, Section 195.

29 PMG, Briefing by Special Investigations Unit on investigation of department, 20 May 2008, https://pmg.org.za/committee-meeting/9140/ (accessed 8 August 2016).

30 According to the Special Investigations Unit (SIU), the investigation into medical aid fraud alone yielded the recovery of R22 million and savings amounting to R3.4 billion. See PMG, Briefing by Special Investigations Unit to the Portfolio Committee on Correctional Services, 17 November 2009, https://pmg.org.za/committee-meeting/11105/ (accessed 8 August 2016).

31 The SIU investigated four contracts awarded to the Bosasa Group of Companies between 2004 and 2006 and reported on these. These were a catering contract to the value of R717 million (US$85 million); an access control tender for R237 million (US$28 million); a fencing contract for R587 million (US$70.2 million); and a tender for televisions at R224 million (US$26.8 million). See *Mail and Guardian,* Prisons graft: Bosasa's empire of influence, 20 November 2009, http://mg.co.za/article/2009-11-20-prisons-graft-bosasas-empire-of-influence (accessed 8 August 2016).

32 *News24.com,* Suspended prisons official quits, 12 November 2010, http://www.news24.com/SouthAfrica/News/Suspended-prisons-official-quits-20101112 (accessed 8 August 2016).

33 TMG Digital, 'SIU and NPA lied to protect Linda Mti': DA, *TimesLive,* 21 June 2016, http://www.timeslive.co.za/politics/2016/06/21/%E2%80%98SIU-and-NPA-lied-to-protect-Linda-Mti%E2%80%99-DA (accessed 8 August 2016).

34 *Business Day Live,* Chief procurement officer orders Modise to cancel deal, 14 April 2016, http://www.bdlive.co.za/national/2016/04/14/chief-procurement-officer-orders-modise-to-cancel-deal (accessed 8 August 2016). Integritron is part of the Sasstec group of companies, which have benefited from government tenders in the past. Integritron is a security system business, providing services in perimeter detection, access control and software solutions. It was contracted to develop a system to monitor inmates electronically for the department.

35 Ahmed Areff, Masutha interdicted from acting on controversial R378m IT tender, *News24,* 7 June 2016, http://www.news24.com/SouthAfrica/News/masutha-interdicted-from-acting-on-controversial-r378m-it-tender-20160607 (accessed 8 August 2016).

36 DCS, Annual report 2015/16, 119.

37 Jali Commission, *Final report*, 332.

38 Anthea van der Berg, Summary and comment on the final report of the Judicial Commission of Inquiry into Allegations of Corruption, Maladministration and Violence in the Department of Correctional Services: 'the Jali Commission', CSPRI, Report, 13, Bellville: Community Law Centre, 2007, 31.

39 Judicial Inspectorate for Correctional Services (JICS), Annual report 2014/15, 2015, 51.

40 JICS, Annual report 2011/12, 2012, 43; JICS, Annual report 2014/15, 77.

41 JICS, Annual report 2011/12, 43; JICS, Annual report 2014/15, 77.

42 JICS, Annual report 2014/15, 77.

43 JICS, Annual report 2011/12, 43; JICS, Annual report 2014/15, 77.

44 Lukas Muntingh and Gwénaëlle Dereymaeker, Understanding impunity in the South African law enforcement agencies, CSPRI, Research Report, Bellville: Community Law Centre, 2013.

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Despite its title, this book does not look exclusively at the massacre that occurred at Marikana on 16 August 2012, when South African police officers shot and killed 34 striking mineworkers and wounded 78 others. Rather, it places that event in the context of a longer, larger struggle for dignity and economic freedom by the working class in South Africa. The authors did not do this to trivialise this significant event but to implore the reader to recognise that it was one moment, one particular incident in a long history of struggle and conflict, one that is not necessarily more important than another. As such, it pursues what George Lipsitz has called the 'long fetch', looking into the past and identifying the forces that slowly shaped what may otherwise appear to have been sudden and inexplicable.[1] The book does this by attempting to describe the tensions between the various 'ordinary' individuals – the striking employees of Lonmin's platinum mine at Marikana – and their relationships to the labour collectives they started, helped lead, or held to account. It attempts to show how understanding these tensions is crucial to understanding the events that occurred at Marikana, and understanding South Africa as an economic project.

One must be careful not to overstate the importance of the Marikana massacre and events discussed in this book, as the lessons and memories of them infuse the ongoing protests at South African university campuses with protesting students demanding *free,* *quality, decolonised* education. This book not only tells the stories of the *how* and the *why* of the platinum belt strikes that started in 2012, and the associated responses by the police, government and mining companies that culminated in the Marikana Massacre. It also serves as a guide to others involved in these labour struggles by explaining protest tactics and positions taken, victories won and ongoing battles still being fought. It gives life to

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sociological theory, helping us better understand present and future working class struggles; the book, and lessons contained in it, possibly progressively shaping their outcomes. The book is a historical document that carefully shares the testimony of people who were protest organisers, who were on the ground when the events at Marikana were unfolding, and who were central to its story. For this contribution, we and future South Africans must be forever grateful.

Reading this book reminded me of a book taught in first-year sociology classes at UCT: Robert Michels's *Iron law of oligarchy*. In this book, Michels suggests that, regardless the state of democratic organisations when started, all complex organisations are eventually ruled by a few elite individuals – they all eventually develop into oligarchies. By describing the manner in which one of the two main labour unions at Marikana, the National Union of Mineworkers (NUM), had become separated from the control of the workers it was meant to serve, the book hints at the replication of Michels's iron law. However, in describing the emergence and influence of independent worker committees, the second major union, the Association of Mineworkers and Construction Union (AMCU), and the manner in which workers demanded their collective voice be their mandate rather than being dictated to by their union, the book serves as a possible counter-example to the 'iron' law. Perhaps, rather, the book begs us to ask whether in the struggles of workers there is in fact an iron law of democracy, one that shows workers will always and ultimately demand that their voices are heard.

Not only are the powerful collective voices of South Africa's platinum miners heard through this book, but, most importantly, so are the stories of the individuals who experienced the ongoing injustices of working conditions described on the mines. When these individual mineworkers spoke of their experiences with

those around them and found their lives to be similarly painful; they discussed what they felt was a justified wage for the work they did and, as the authors write, began a rallying cry for economic freedom and basic dignity. Each worker presented in the book has their backstory sensitively told in a way that exposes the effects of the presence of the past. This includes how the apartheid-reinforced migrant labour system still affects the daily lives of mineworkers, and serves to give the characters in the story a dignity and fullness that merely recounting the facts might not.

The book is composed of an extensive yet vital preliminary section, followed by a lengthy introductory chapter and five more chapters, chronologically detailing the events leading up to the 12 August massacre at Marikana and the subsequent strike, the longest in South African mining history.

The preliminary section introduces the key players making up the political landscape of South Africa. It also contains a list of the various leaders, formal and informal, discussed in the book. I found this very helpful as it can be difficult to keep track of the many individuals quoted and discussed. Perhaps most importantly, this section contains a timeline of key events that provides a helpful and clear overview of the big picture, and some appropriate maps, up front.

The introduction positions the reader by explaining the theoretical frameworks through which the authors navigate the stories. The authors use Antonio Gramsci's analysis of emergent trade unions and his concept of 'organic intellectuals' to explain the events at Marikana. Gramsci's work is particularly relevant in this case because the emergent leadership of those involved in the worker committees showed intellectual insights into their lives and working conditions. They were not intellectuals in any formal sense – but when the opportunity presented itself, these 'ordinary' workers offered

a counter narrative that successfully challenged the hegemony they experienced and inspired mass participation.

Chapter 2 describes the origins of the worker committees at the mines and tells the important story of how the demand for a living wage of R12 500 was conceptualised. It weaves together the individual stories of the workers who were working at Lonmin mine and how they together started the discussion over wages, giving the chapter its title 'The spark underground'. The authors emphasise that movements such as those at Marikana don't 'just' happen, that coming together in such a show of conviction requires unity and the persuasion of others to the validity of a particular course of action. The chapter also details the growing dissatisfaction with the dominant union at the time – the NUM – and how many suspected it had become a so-called 'pocket union', that it was too close to mine management and government, and was not taking the interests of the workers forward. It was due to this dissatisfaction and the need for proper worker control over their politics and formalised demands that the committees became stronger until Lonmin was forced to engage.

Chapter 3 deals with the strike at Lonmin, which led to the Marikana massacre, and the stubborn continued struggle, in spite of the violence meted out against the miners. It first describes how Lonmin had failed to adequately address the concerns of the well-organised miners. It illustrates how this led workers to promise that they would continue fighting for what they believed was a legitimate living wage. The chapter discusses the fear and betrayal the miners felt when they embarked on their unprotected strike and the ever-growing antagonism toward the NUM, which seemed further away than ever from the workers it was meant to be representing. The book only briefly discusses some of the violence around

this period, and touches on the massacre itself without going into a lot of detail. The authors point out early on that the aim of the book is not to advance a sociological argument regarding the massacre itself and implore readers to search elsewhere for a deeper knowledge regarding what exactly happened. However, the authors do explore how the massacre failed to break the workers' unity. Rather, worker unity was strengthened by the widespread public condemnation of the massacre, as well as by the arrival in Marikana of several left-wing groups, the Democratic Left Front (DLF) and others, to support the post-massacre worker struggles. The chapter ends with the striking workers agreeing with mine management to a wage increase far lower than that which they had demanded.

Chapter 4 details the history of the unprotected strike at Amplats mine, another large mining company operating in the North West province of South Africa. It explains the history of the simmering unhappiness among workers there, and concludes that all that was needed for the workers to engage in a strike was one final push. The Marikana massacre and continued strength of the workers at Lonmin proved to be that final push. Much like earlier in the book, the authors detail how the demanded wage of R16 070 by the individual miners was conceived. They were individuals who sought a better world for themselves, their families and future generations, who also found support in independently organised worker committees after feeling disillusioned with the NUM. The chapter talks about a unity built out of the failure of the NUM. The strike was very specifically non-unionised and in spite of the reaction of Amplats management, which fired 12 000 workers, the strike continued. Zwelinzima Vavi, the leader of South Africa's largest trade union federation, the Congress of South African Trade Unions (COSATU), is described as becoming sympathetic to the striking workers after meeting them. As a result, he negotiated on their behalf

with mine management, but never outside the mandate of the workers. The strike was settled, but a bigger, longer strike was yet to come.

Chapter 5 looks at the transition from informal to formal ways of organising, how worker committees became a legal, legitimate part of the AMCU. After the unprotected strikes had ended it was necessary to formalise the manner in which negotiations were conducted with mine management, hence the decision that a union was needed to represent the workers. The authors explain the complex set of events that eventually led to the AMCU being that union. There were workers who wanted to stay outside any unions and remain militant, while the AMCU also feared the power of the independent worker committees. There were, the authors suggest, issues of mistrust among workers and leaders, with power struggles in the AMCU leading many to fear that it might be corrupted like the NUM. Workers began to join the AMCU, resulting in the Greater Lonmin Workers Committee being set up as a go-between for the workers and the union, a form of mediation between the two. The committee constantly reminded the AMCU leadership to stay to true to the workers. With the AMCU growing in strength and building trust, the parts were in place for the power of collective action to once again be expressed.

Chapter 6 looks at the great strike of 2014, which took place at a time when workers at Amplats, Implats and Lonmin were united in the AMCU. The leader of the AMCU felt pressure from all sides, but ultimately drove the strategy based on the workers' mandate saying, 'AMCU – it belongs to the workers' (p.146). The workers of the platinum belt went on strike for 15 weeks, until late April 2014, and the book tells of the tensions and difficulties during this time. However, the workers knew that their union affiliation meant they were legally protected. Alfonse Mofokeng, one of the initial

worker leaders, is quoted as saying: 'You know what motivated these people? Was one thing, that is Mr Mathunjwa's (AMCU leader) certificate, it does not expire. It does not get expired' (p.154). The book explains how unity grew as the strike continued, with outside groups offering different types of support. Although there were issues within the AMCU, the book talks of the ultimate, definitive source of continued unity being the fact that no decisions were ever taken without consulting all of the workers. This demand of control by the workers and the independence shown by the worker committees to shape their own lives, resulting in the unions having to do their bidding, spread to other situations. This is what the book names 'The spirit of Marikana' – the insurgency among the rank and file that forced the trade union to act in its members' interest rather than fold to the mining companies.

This book is important to anyone who is interested in understanding not only the events surrounding the massacre at Marikana and the great strike of 2014 but also the social movements in South Africa more broadly. Everything has a context, a *long fetch,* and this book shows this. It is important because it offers people in struggle a guide to the thinking, the challenges, the tactics and the victories of those who came before them. It is important because it shows that ordinary workers can indeed be 'organic intellectuals' in the Gramscian sense, as it tells of how 'ordinary workers developed a critique of the hegemonic discourse of their employers (and pocket trade unions), formed a counter-discourse based on their own lived experiences and then undertook a series of actions in order to transform their reality, and – unintentionally, at least at first – the political face of South Africa' (p.18).

this article visit

http://www.issafrica.org/sacq.php

Note

1   George Lipsitz, *Footsteps in the dark: the hidden histories of popular music,* Minneapolis: University of Minnesota Press, 2007.

Previous issues

SACQ 58 is crammed full with contributions. Research articles explore blood alcohol analysis systems, police organisational culture over time, and the assessment of flight risk in bail hearings. Two commentary and analysis pieces discuss determining the age of criminal capacity, and politically motivated violence and assassinations in KZN. Don Pinock's book *Gang town* is reviewed with meticulous comparative detail, and Shaun Abrahams speaks openly about his work as head of the NPA in our *On the record* interview.
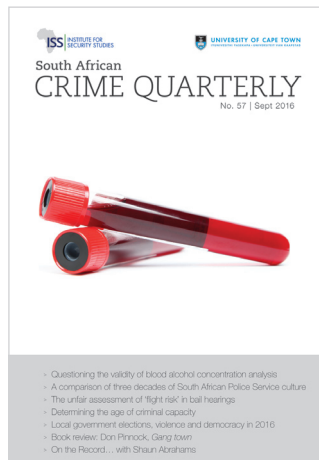
A range of topics are covered in *SACQ 56,* from women prisoners' views on the conditions in which they were detained to the socioeconomic characteristics of areas with high levels of murder, and private prosecutions in Zimbabwe. Two pieces explore challenges to policing in Khayelitsha in Cape Town. There are discussions of social barriers to the policing of domestic violence, and an interview with the Social Justice Coalition's General Secretary, Phumeza Mlungwana.
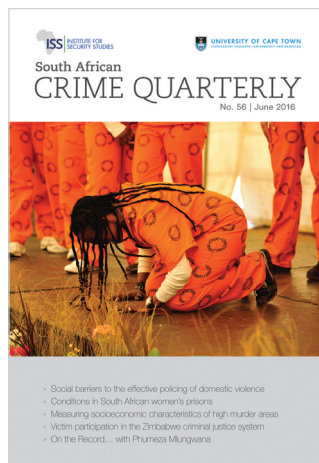
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