

Are We Equal In The Eyes Of The Law: Comparison Of Criminal Cases Amongst Black And White People In South Africa?

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Abstract-People who are committing a white-collar crime has been able to get away with it without any legal consequences. Democratic South Africa has experienced different types of criminal activities in the past 25 years. The apartheid government committed several criminal activities against black people and the court of law favored white people against black people. Crime in South Africa was labeled and associated with the black race. A black man was always a suspect in the apartheid era and a white man was always innocent regardless of his wrongdoing towards black people. even though the current government from 1994, is a democratic government led by black people, the courts are still applying the same principle. The objectives of this paper are to show the inconsistency in criminal cases that are the same but the sentences are not the same because of the skin colour. The judiciary system in South Africa is still treating people differently, based on various cases, this paper argues that money and race is a contributing factor in decisions made by the courts in South Africa. The paper applied secondary research methodology, newspaper reports on various cases were reviewed, criminal justice reports were analyzed, and lastly, the journal papers that are related to this study.

Keywords: Justice system, Criminals, Cases, Black people, White people

I. INTRODUCTION

South African courts take murder cases seriously as it is taken by the society at large. The killing of black people by white people was normal in South Africa during the apartheid regime. Mr. Louis van Schoor is among many white people who murdered black people and was not subjected to account for his action by a court of law because of being a white man. He has confessed that he lost count of black people that he had murdered but more than 100 people. Most white people in South Africa have not owned up to apartheid-era atrocities (Carroll, 2011: 02). There are cases of murder of black people by white people and the sentences of those white people are less when compared with sentences of black people that committed similar cases. A similar case of a teenager that was killed by two white people in Mafikeng is a practical example.

A 15-year-old boy in April 2017 was thrown from a moving vehicle by Pieter Doorewaard and Philip Schutte to kill him. South African white farming communities has stirred racial tensions and protests. White farmers do not report criminal elements but take the law into their own hands. Black people in South Africa comprise 80 percent of the 56 million population but whites are dominating is serious economic activities like farming. The white community comprises of eight percent of the country but key institutions in the country like the judiciary system is dominated and mostly influenced by whites. This affects the outcome or the verdict of criminal cases that involve white people (TRTWORLD, 2019: 02).

A serious contradiction in law was shown when judge John Horn sentenced Chris Mahlangu and his co-accused. They were both sentenced to life imprisonment for killing Eugene Terre Blanche but similar cases committed by white people have a different verdict. This type of inconsistency in law by judges has sparked a lot of confusion and public protests. Mr. Mahlangu indicated that the murder was not planned because he was defending himself against the deceased but the judge did not consider that. In similar cases where white accuses are indicating that they were defending themselves, the verdicts are different (BBCNEWS, 2012: 02).

During the apartheid regime, the police were used as a vehicle to strengthen the apartheid system. The stigma of the brutality of police to citizens still exists even today. The apartheid government created all systems to protect all the wrongdoings of those who were in favour of the apartheid government. The courts were also used to instill fear and to prosecute innocent people just because they were black. The police were the face of apartheid representing force against the majority of the population in South Africa (Coombes, 2003: 10).

The court system that exists today is the same system that was used to introduce the series of laws that were used to displace people or making their location in one or more places insecure or vulnerable. The police cemented the vulnerability by brutally beatings and killings of innocent people. Police and courts were at the forefront of the denial of human dignity to the majority of South Africa's people. The police were harassing black people for not carrying passes and removed them from their homes in areas that were designated for white people only. The courts emphasized the group areas Act that was designed to oppress black people (Keck, 2017: 381).

The police and courts were pursuing the same agenda of oppressing black people and make them feel inferior. The stigma of police and courts against black people still exists even today. The legal system of the apartheid which includes the police was designed to treat black people as subhuman and implied that being human beings was a quality reserved for whites only. Black people that were recruited to be police officials during the apartheid were expected to be more brutal to black people compared to their white colleagues. This Behaviour still exists even after more than 25 years of democratic South Africa. The way white people are treated during the arrest is different compared to how black people are treated during the arrest. The general view of police conduct during the apartheid was one of terror against black people. This image still exists in the minds of many people that were victimized by the apartheid government police force (SUTTNER, 2017: 03).

Theoretical framework

In a democratic South Africa, there is insufficient consideration to address the injustices of the past and how this could affect the future generation. This has serious implications to face the existing intergenerational injustices and inequalities (Adonis, 2018: 47). The current democratic government in South Africa has done too little to address the oppression of black people in farms owned by white people. Farmworkers are oppressed and exploited by whites daily but the government system is dismally failing to assist the black people. Black farm workers constantly reported their hardships and abuse they are subjected to, whether to police officials or prominent politicians but none has changed. The few cases that are taken to court are not successfully prosecuted in favor of the victims, instead, the perpetrators gain access to classified information about the case through corrupt police officials.

The system of undermining black people whether by other blacks who are in the authority or by whites is entrenched in South Africans. The way cases are handled by the police is not the same, cases of white people and cases of blacks are handled differently. Black complainants are not protected as white complainants. This modus operandi applied by the democratic government is the same as the one that was applied by the apartheid government (Maphumulo and Bhengu, 2019: 03). A black person that kills another person is regarded as a criminal and must be arrested immediately but a white person that kills another person is regarded as a person that is not mentally balanced and probably needs psychological support (Heleta, 2017: 02). Few examples of cases committed by whites and blacks support this notion. A case of Mr. Henri van Breda, the man who killed his family with an axe. Every stage that led to his arrest was followed considering his color in other words he was not a suspect for too long because it is believed that whites are not criminals. It took the police one year and a half (18 months) to arrest Van Breda because he is white.

Similar cases of black people who committed similar cases will also be shared and the process of their arrest was easily leading to their arrest. Mr. Van Breda used an axe to attack his entire family in 2015 and has been sentenced to one life imprisonment for 3 murders. In most murder cases a person who is found guilty is sentenced to life imprisonment but for double murder, it is normally two life imprisonments. In the case of Mr. Van Breda things happened differently, a bail for murdering so many people was very easy. Van Breda was granted an R100 000 bail and the conditions were very moderate (Fihlani, 2018: 01).

The inconsistency in the legal system in South Africa is questionable and judges keep creating the impression that the cases committed by white people are less punishable compared to those committed by blacks. Another popular case that is an example of this view is that of Don Steenkamp. Mr. Steenkamp is a white boy that raped his sister, killed his mother, father, and sister. For all the three serious cases that most black people are serving more than two life sentences but Mr. Steenkamp because of the colour of his skin got away with just 20 years' imprisonment for each murder and 12 years for rape and four years for defeating the ends of justice. The funny situation about the case is that the judge was a black judge (Daily News Correspondent, 2014).

Being white in South Africa still gives you a privilege even in a new democratic South Africa. White people are given lesser sentences for committing serious crimes which include the murder of white people. When white people kill black people, the sentence is far less. This was proven in a case of two white farmers that killed a black youth that was thrown from a moving vehicle after being accused of stealing a sunflower that worth R80. The two defendants, Pieter Doorewaard and Phillip Schutte were found guilty in October 2018 of murder, kidnapping, intimidation, theft, and pointing of a firearm.

During the apartheid era in South Africa, being black was enough evidence to find a person guilty before a fair trial. This type of approach and unfair judgment which is based on the colour of the skin still exist in democratic South Africa.

Data and research methods

Desktop research or secondary research is a research methodology or method that includes data that already exist. The existing data assist the researcher to come up with new conclusions and to show different perspectives. Secondary research consists of existing documents, internet reports, conference papers, newspaper articles, and online newspaper articles (Helms, Pölling, Curran and Lorleberg, 2018: 05). The researcher in this study applied a desktop research approach. The desktop approach was applied to make conclusions based on the overall situation of the problem in the country. Based on this view, it was not possible to obtain a holistically view if the study was conducted in a specific area or focusing on a particular case only.

Findings and discussions

The reports made by the South African Police Service (SAPS) revealed that there is an increase in the number of aggressive crime. The crime statistics are released quarterly based on the reported crime by the community and the police activity. As much as there is a decrease of minor cases in the 2019/20 report but there is a slight increase in cases such as murder and armed robberies.

Figure 1: SA crime stats for 2020 (1 April 2019 to 31 March 2020)

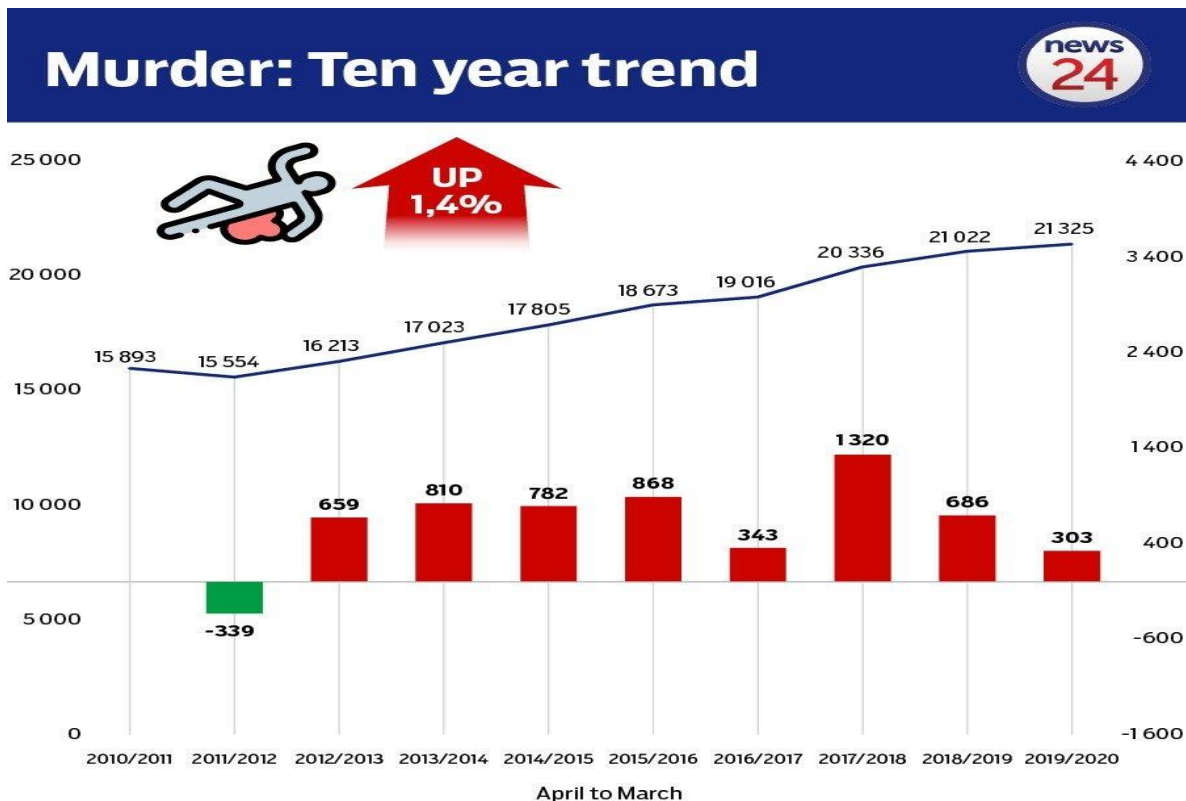
Category	2019	2020	Change
Contact Crimes	617 210	621 282	+0.7%
Contact-related Crimes	117 172	112 244	-4.2%
Property-related Crimes	495 161	469 224	-5.2%
Other Serious Crimes	444 447	426 589	-4.0%

Total public reported	1 673 990	1 629 319	-2.7%
<i>Crime detected as a result of police action</i>	339 281	290 176	-14.5%
Total	2 013 271	1 919 495	-4.7%

Source: Business Tech, 2020.

The above figure 1, indicates the types of crimes and the number of cases from 01 April 2019 to 31 March 2020. The statistics are provided on an annual basis to detect if the police are combating the crime effectively or not. The statistics are divided into different categories that indicate the type of crime that was committed and reported or detected by the police. The contact crime is showing an increase of 0.7 percent, the contact crime includes murder, attempted murder, and sexual offenses, as well as common assault and robbery. This shows that murder cases have gone up compared to other types of crime. The figures show that Murders in South Africa remain high, with a 1.4% increase in 2019/20, to 21,325 reported cases. This indicates that about 58 people are murdered in the country every day at a rate of 35 people per 100 000 population (BUSINESS TECH, 2020: 02).

Figure 2: murder trend in ten years



Source: 2019/2020 crime stats

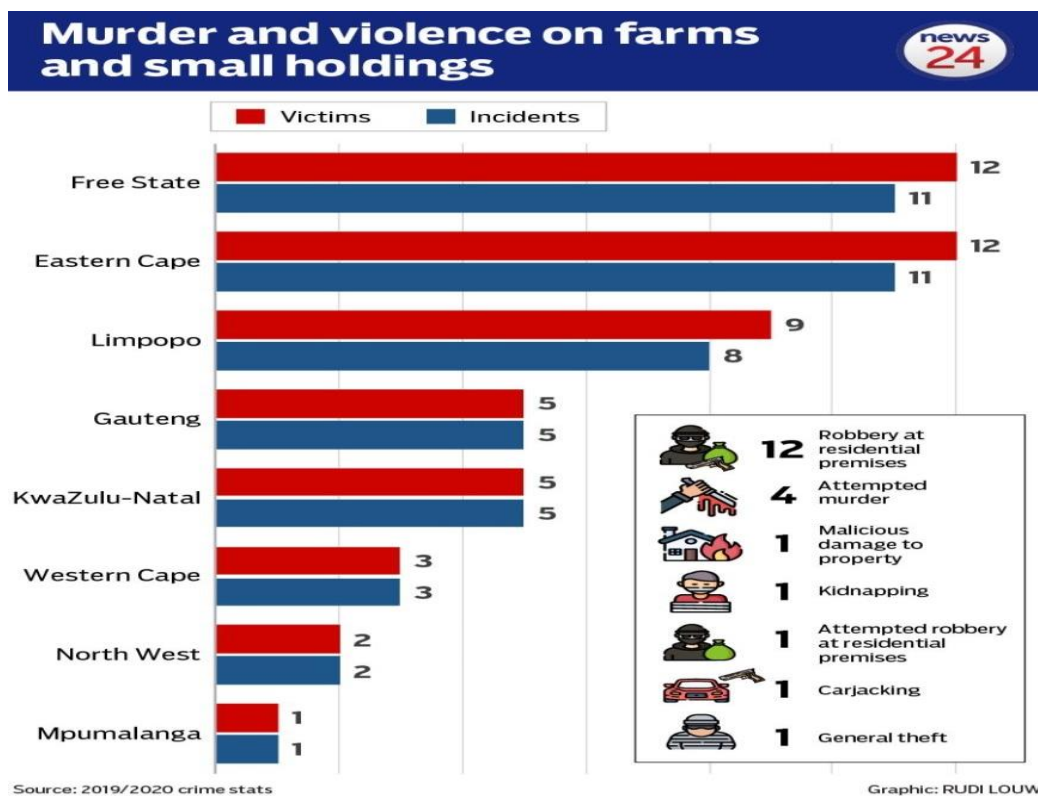
Graphic: RUDI LOUW

Figure 2 is showing the trajectory of murder cases in South Africa. There is an increase in the murder cases in South Africa and the sentencing of those murder cases is not the same. The biases in the police system and the judiciary system have left most people in South Africa

hopeless and helpless. Despite the increase of the murder cases, the white people who are arrested are still treated better for the same crime that is committed by blacks.

The colour of crime in South Africa during the apartheid regime was black and the system has not changed even after the democracy took place in the country. The apartheid government did not prosecute white people who killed blacks even if the blacks did not do anything (Schlemmer, 2019: 08). A murderer that killed more than 101 black people during the apartheid was not prosecuted and is still not prosecuted in democratic south Africa for killing innocent people just because they were black. Louis Van Schoor deliberately killed black people just for being black, as security he dragged most of his victims to the property and killed them using a firearm. After killing more than 100 people, the man was sentenced and released from prison after 12 years.

Figure 3: murder cases per province.



The above figure 3, provided by the crime stats (2020:02) shows that the number of killings in the provinces is not the same. Free State province is on top of the list when it comes to the number of murder cases (Gerber, 2020: 02). The main argument of this article is not necessarily to show the statistics of murder cases but to show the disparities in the treatment of black and white murderers.

Mr. Oscar Pistorius was found guilty and sentenced to 6 years for killing his late girlfriend. After a community organization that includes organizations that are fighting against gender-

based violence protested and supported by the prosecutor, the case was taken for review by a Supreme court of appeal. Even though the case was taken for review, the sentence was still slightly increased from 6 years to 15 years' imprisonment. The contributing factor in him getting a lesser sentence is primarily because of his skin colour and his status in society. Similar cases are handled differently if the perpetrators are black. On the other hand, Mr. Obed Leshoro was sentenced to 15 years for killing his girlfriend Naledi Lethoba. The perpetrator pleaded guilty and shown remorse and did not waste the time of the court by calling different witnesses.

This is showing an inconsistency in the legal system of South Africa, if the minimum sentence for murder is 15 years, it must apply to all perpetrators regardless of the skin colour. The judges are sentencing people different sentences and it is primarily because the merit of cases is different. The merit of cases may be different but a murder is a murder and perpetrators must be punished regardless of their skin colour. Mr. Leshoro murdered his girlfriend and he pleaded guilty but still sentenced more than Oscar Pistorius who pleaded not guilty (Mthethwa, 2020: 03). Another similar murder case is the one of Mr. Thabani Mzolo who murdered his girlfriend that was a University student.

Mr. Mzolo was sentenced to life imprisonment for killing his girlfriend in 2018, he shot his girlfriend at the student's residence in Durban (Bhengu, 2020: 02). This is another example of a murder case that was committed by a black person and sentenced to a maximum sentence. The sentencing of black people who committed murder is very consistent and well noticed while whites who are charged for murder are sentenced less. The life imprisonment handed over to Mr. Sandile Mantsoe for killing Karabo Mokoena who is his x girlfriend is consistent with other black murderers but inconsistent with white murderers (BBC NEWS, 2020: 03). Luyanda Botha is also adding to the statistics of black people who were sentenced to life imprisonment for rape and murder. Mr. Botha is a black man that was convicted of killing the late Ms. Uyinene Mrwetyana. Mr. Botha was working in the post office when he raped and killed the victim who needed service at the post office. Cases are the same but the sentences are not the same, Mr. Jason Rohde was sentenced by the High Court of Western Cape to 20 years for killing his wife. Mr. Rohde by the virtue of his skin colour was privileged enough to be sentenced to 20 years for murdering his wife. This sends a message that white people can easily get away with murder because of their skin colour. Whites are not only sentenced a lesser sentence when they kill each other but they also get a lesser sentence if they killed black people (NEWS 24, 2019: 02).

The case of two fathers that accidentally killed their sons is a classic example of how the justice system uses race when people are sentenced for the crime they committed. The merit of both cases is the same and these cases have exposed the modus operandi of democratic South Africa that was applied by the Apartheid regime. Both stories are horrific and traumatic to both fathers, none of them intentionally killed the son, both of them required extensive and professional counseling after the horrific incident. Firstly, before looking at the

court verdict, it was also noticed that the psychological support was not properly offered to the black father while the white father was given all the necessary support he needed.

The crime in South Africa is still regarded as the mischievous activity of black people, the support structure for crime victims and those who are perpetrators of crime are not offered proper support if they are black (Lamb, 2018: 934). White criminals are treated far better than black victims of crime in South Africa. This case of two fathers that accidentally killed their sons have exposed the disparities in the justice system and also on government leadership. The community-led by mostly politicians failed to offer emotional and psychological support to the black father. Community actions play a significant role in most criminal cases that are heard in South African courts. The more support victims have from the community leads to the harsher sentence of the perpetrators.

The verdict that was passed in both cases found both fathers guilty for culpable homicide and they both used firearms but the sentences are not the same. The black father was sentenced to an effective ten years' jail term and five years suspended sentence. The white father was sentenced to 10 years of a suspended sentence. A black man in South Africa is still seen as a suspect, crime in South Africa is associated with blacks. How the newspapers reported these two cases is also displaying a message that black people have normalized crime.

Figure 4: reports on both fathers



Source: Africa Check, 2019

The above figure 4 shows how reporters have reported the cases of both fathers. The black father is seen sitting with his face in his hands while the white father is seen comforted by the family. The black father was sentenced to jail term while the white father was free. The black father was sent to prison to continue with emotional breakdown after the horrific incident and

the white father was free and given free time to heal outside of prison (Africa Check, 2019: 02).

II.CONCLUSION

The apartheid regime in South Africa did not only colonize black people physically but even their minds. Black people are treating each other badly and treat white people better in various areas of society, which includes the Behaviour of police and courts. The South African courts are very sympathetic against white criminals and brutal towards black criminals. There is a need for the justice system to treat people equally regardless of their skin colour. This study is of the view that the justice system is not treating people equally and the verdict of the courts is based on skin colour.

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