

IS NAMIBIA A SIMMERING POT FOR TERRORISM AND WOULD THE CURRENT STATUS QUO IN CORRECTIONS BE ABLE TO DEAL WITH THE REHABILITATION OF POSSIBLE FUTURE TERRORISTS?

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This paper has two main parts. Firstly, it looks at Namibia as a possible “simmering pot” for terrorist activities, and secondly it aims to see whether or not the current status quo in corrections will be able to deal with the rehabilitation of possible future sentenced terrorists.

The sequence is as follows: First a definition of terrorist activities is provided. This will be followed by outlining some of the key reasons why someone would engage in such terrorist activities and whether or not those reasons are applicable to the Namibian situation. The supposition being that if these reasons are applicable in the Namibian environment this will facilitate the increase of terrorism. At this point protective factors that could inhibit the development of terrorist activities is also discussed.

This will be followed by what is currently happening in Namibia in terms of rehabilitation within a correctional facility, and how this measures up to what is currently being done in other parts of the world in response to the rehabilitation of terrorists.

I. DEFINITIONS

Although defining of terrorist activity remains highly contested in the literature on the subject as well as amongst countries, in Namibia it is defined in the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014). The definition reads:

- (a) *Any act committed by a person with the intention of instilling terror and which is a violation of the criminal laws of Namibia and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any private property, natural resources, the environment or cultural heritage and is the calculated or intended to-*
 - (i) *Intimidate, instil fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles;*
 - (ii) *Disrupts any public service, the delivery of any essential service to the public or to create a public emergency;*
 - (iii) *Create general insurrection in the State; or*
- (b) *any act which constitutes an offence within the scope of, and as defined in one of the following treaties –*
 - (i) *the Convention of the Suppression of Unlawful Seizure of Aircraft (1970);*
 - (ii) *the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);*
 - (iii) *the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973);*
 - (iv) *the International Convention against Taking of Hostages (1979)*
 - (v) *the Convention on the Physical Protection of Nuclear Material (1980)*
 - (vi) *the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1988)*
 - (vii) *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (2005);*
 - (viii) *Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on*

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- the Continental Shelf (2005);*
- (ix) International Convention for the Suppression of Terrorist Bombings (1997) and*
 - (x) International Convention for the Suppression of the Financing of Terrorism (1999);*
 - (xi) International Convention for the Suppression of Acts of Nuclear Terrorism (2005)*
 - (xii) Convention on the Suppression of Unlawful Acts relating to International Civil Aviation (2010)*
and
 - (xiii) Protocol Supplementary on the Convention for the Suppression of Unlawful Seizure of Aircraft (2010);*
- (c) any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a) and (b);*
 - (d) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or to abstain from doing any act; or*
 - (e) the payment of ransom to designated persons or organisations, except where such payment is approved or authorised to secure the safety of a national of that country.*

II. NAMIBIA AS A SIMMERING POT

A. Conditions That Foster Terrorism

Individuals are propelled to join terrorist organizations and / or to launch a terrorist attack due to prolonged unresolved conflicts; de-humanization and violation of human rights; lack of law; collective grievance and victimization; intolerance or exclusion; lack of good governance; socio-economic marginalization; political discrimination; economic reasons including under/unemployment; lack of educational opportunities, deprivation, attachment to people who are in terrorist organizations; personal experience with unfair treatment; charismatic leaders of terrorist organizations that speak to the disenfranchised and globalization to name a few. (The United Nations Office on Drugs and Crime (UNODC); Kruglanski et al.)

In addition to this, Kruglanski and Fishman (2009) assert that terrorist behaviour can also be understood as a form of psychopathology and/or as reflecting as a unique constellation of personality traits. Thus, individuals who possess a specific problematic personality profile could also foster terrorism as the chances of them being recruited in terrorist organizations could not be overlooked.

It is difficult to establish if these factors prove true for Namibia, as at present there are no documented cases for terrorist offenders in Namibia.

What is discussed above refers to conditions that foster terrorism. In the next section what will be discussed is to what extent the conditions outlined above are relevant to the Namibian context.

B. Factors That Could Be Warning Signs for Namibia

Having looked at some of the basic conditions that foster terrorism one can assess if these conditions are present in Namibia. The author would like to reiterate that the path to offending is different for each individual. The factors and motivations that contribute to offending are unique to an individual, and great care should be taken not to generalize. Furthermore, the presence of the conditions that foster terrorism mentioned under Section 2.1 should not be viewed as conclusive evidence of the presence of terrorism, but merely as warning signs. Warning signs, which without intervention could escalate the current Namibian situation.

From the writer's observation and experience, having worked at a Correctional Facility as a Case Management Officer, there are no known cases of offenders who have been incarcerated due to acts of terrorism. This, however, is not an indication that it does not exist, or that there are no ongoing investigations related to terrorism.

The biggest and longest trial in the history of Namibia took place from 2003-2015. This case was of treason, and it started with the indictment of 132 people who attempted to secede (the Caprivi Strip) from Namibia. Given the definition of terrorism as indicated in the Prevention and Combating of Terrorist and

Proliferation Activities Act, 2014 (Act No. 4 of 2014) it is highly likely that had the Act been in place in 2003 some if not all of the accused would have been tried under the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014).

In recent years there have also been newspaper articles related to terrorist organizations such as Al-Qaeda and Al-Shabaab using Namibia as a springboard for their terrorist activities. (*The Namibian* 14.08.2015). In the last couple of months there have been newspaper reports of a group of young people who call themselves Boko Haram terrorising the streets of Katutura (*The Namibian* 24.03.2017). What is worthy of note about this case is not only the name choice for the group, but also that witnesses described the youth as angry and having no regard for other people. At the very least this indicates that Namibia is not immune to international influence. This influence is made more readily available to people through the easy access to the internet.

Globalization therefore increases the likelihood of Namibia becoming a fertile ground for terrorism. Technology has made it easy to get news as it is developing from around the world. As Namibians we can see what is happening in other countries, the demonstrations, the violence, the tactics used by extremist organizations to get what they want. We are not immune to this information. This information can affect us in two primary ways. Firstly, it can cause Namibians to use those tactics in pursuit of what we want. This has come out in some of the actions of the people who are in pursuit of acquiring land as well as recent activities by the children of the liberation struggle. Secondly, Namibians can view the footage of what is happening around the world and endeavour to take up the fight for those who seemingly cannot fight for themselves.

Namibia has one of the biggest gaps between the rich and the poor (UNDP Income Inequality Report, 2013). According to the last Namibian Housing and Population Census of 2011 the unemployment rate of Namibia is at 37 %. This gap is conducive to the fostering of terrorist activities because the poor which is the majority could feel as if the government is not responsive to their needs, making them fertile to being incited to anarchy. The high unemployment rate, particularly amongst the youth, is significant in three key ways. Firstly, it leads to idleness. If time is not used productively, it creates an opportunity for offending especially when individuals are not able to afford or provide their basic needs or let alone have access to services and resources (Mehlum, Moene & Torvik 2004). This is especially telling as in the last number of years there has been an increase in the number of instances of "land grabbing", which is the illegal occupation and appropriation of land. Making this portion of the population susceptible to recruitment into terrorist activities.

Secondly, unemployment can make the youth vulnerable to recruitment, particularly if they are offered financial or material compensation for their efforts (Kruglanski and Fishman, 2009). Thirdly, it can lead to an increase in anger or feelings of being disenfranchised. These feelings could be exploited by terrorist recruitment officers that aim to direct these feelings of anger at, for example, the government. Terrorists are notorious for distorting or misusing cultural, political or religious beliefs in an attempt to garner support for their nefarious activities (Kruglanski and Fishman, 2009).

The children of the liberation struggle are another group of people vulnerable to recruitment into terrorist activities. As a group these individuals have a collective memory of feeling victimized. They have been airing their grievances over the last couple of years in a variety of ways. They are not above using violence to get their point across. Last year in a struggle between the children of the liberation struggle and the police, shooting broke out where one protestor died. This collective memory of grievance, or sense of feeling oppressed or victimized could easily be exploited by a terrorist organization who might look to recruit in an attempt to cause civil unrest, or to overthrow the government. This group is worth looking into further as they have shown to be both willing and able to use violence in pursuit of their agenda and have been relentless and steadfast in that pursuit.

C. Protective Factors

Namibia is run as a secular state where people are free from discrimination based on religion, culture and ethnicity. The Constitution protects people's right to life, education, to own property, to a fair trial to name a few. People have under the Constitution some inalienable freedoms such as the freedom of speech and expression, freedom of peaceable assembly, freedom of movement and freedom of association. Namibians vote in free and fair elections for their representatives in government including the president, who can serve a maximum of two terms. Added to this is the establishment and running of the Office of the Ombudsman.

One of the key roles of this office is to investigate all violations of the rights and freedoms afforded to the Namibian people under the Constitution of the Republic of Namibia. Since independence, Namibia has also enjoyed relative peace and stability in the country, free from civil war and lawlessness. These factors could be viewed as protective factors against the likelihood of Namibia becoming a fertile ground for terrorism.

III. CAN THE CURRENT STATUS QUO IN NAMIBIAN CORRECTIONAL FACILITIES DEAL WITH THE REHABILITATION OF POSSIBLE FUTURE TERRORISTS?

As stated earlier, at present there are no offenders in incarceration for offences related to terrorist activities. This being said it is important to look at whether or not the Namibian Correctional Service (NCS) will be able to effectively rehabilitate these offenders based solely on what is currently being done.

First the author will look at what has been identified as best practices in the rehabilitation of terrorists in correctional facilities, followed by what is currently being done within correctional facilities in Namibia. The aim is to see if we are on par with global trends and possible shortfalls that need to be ironed out before the NCS is faced with terrorists to rehabilitate while in custody.

A. Global Trends

The UNODC's Handbook on the Management of violent extremist prisoners and the prevention of radicalization to violence in prisons, the UN Standard Minimum Rules for the treatment of prisoners as well as the Rome Memorandum on good practices for Rehabilitation and Reintegration of violent extremist offenders jointly discuss various strategies or good practices for use in the rehabilitation of offenders while in a correctional facility. In a nutshell these include but are not limited to: Respect for human rights and non-discrimination based on race, colour, sex, language, religious or political affiliation; housing offenders in safe, secure and adequately resourced facilities (preventing overcrowding); rehabilitation that is dynamic by relying on input from various disciplines such as social workers, religious leaders, and psychologists; adequately trained and educated staff; effective intake, assessment and classification system; separation of offenders (juveniles from adults, men from women, and tried from untried); medical service; opportunity to work, improve their education and engage in recreation and sport. These are a few of the elements outlined that improve or foster rehabilitation of offenders.

B. The Namibian Situation

Namibia, as a member of the UN, has ratified all UN resolutions or guidelines including the UN Standard Minimum Rules for the treatment of prisoners. Furthermore, the Namibian Constitution protects all human life and safeguards all offenders' inalienable rights and freedoms secured thereunder. This sentiment is evident in the Namibian Correctional Service Act, 2012 (Act No. 9 of 2012). Some of the key functions outlined in the Act include: to ensure the secure, safe and humane custody of all inmates, rendering health care to inmates, applying rehabilitative programmes and other meaningful and constructive activities that contribute to their rehabilitation and successful reintegration as well as the supervision of offenders on conditional release.

The structure of the Namibian Correctional Service (NCS) has provisions made to assist offenders in a multi-faceted manner. There are Directorates for Rehabilitation and Re-integration (which includes psychological services, educational services, conditional release, community corrections, programmes and research); Health Care; Inmate Affairs, Pastoral Care, Community Supervision and a separate division tasked with female and juvenile offenders. The Government through the NCS provides an offender with their basic needs such as bedding, food, clothing and cleaning materials. Correctional Officers also receive basic training of six months before starting to work with the NCS. This basic training is aimed at equipping correctional officers with the necessary skills to work with offenders. It also provides them with skills to assess dangerous situations and how to diffuse these using minimum force. This period is therefore aimed to relay skills necessary for working in the NCS.

On the ground at present, correctional facilities have a total population size of 3,505 (as on 17.05.2017), and the total capacity for all thirteen correctional facilities is 4,150. This indicates that at present as a whole there is no overpopulation.

NCS is fervent in its pursuit to use the period of incarceration as a means through which to rehabilitate offenders. To this effect NCS has implemented the Offender Risk Management Correctional Strategy (ORMCS). This is a multi-faceted approach to incarceration, rehabilitation and reintegration. Although the system has not rolled out to all the facilities, it is envisioned to do so in the next couple of years.

C. The Offender Risk Management Correctional Strategy (ORMCS)

The Offender Risk Management Correctional Strategy (ORMCS) at its core is a three-component-based system that deals with offenders from admission to discharge. The three components are: The Offender Data Management System (ODMS), the Unit Management System and Case Management System.

The ODMS is an electronic and automated data-capturing and management system that records all the key and relevant information of the offender. This system captures the basic profile of offenders including but not limited to their identity, offence, sentence, further charges, nationality and property booked in and kept until their release.

Unit Management focuses on separating offenders based on their level of security risk. In order to manage offenders, they are divided into four main categories (minimum, low-medium, medium and maximum security) upon admission. Furthermore, a re-classification is done annually thereafter, or upon a breach in security. Each unit will therefore have different privileges and different security protocols. Unit management also allows for offenders to be separated: males from females, juveniles from adults, and sentenced offenders from non-sentenced offenders.

Case Management is the cornerstone for rehabilitation and reintegration. Different tasks are completed from admission to discharge. Upon admission Case Management Officers (CMOs) at the Reception and Assessment (R&A) Unit are tasked to complete the tools that will put in process the path of the offender's stay within the correctional facility. These tools are scientifically based. CMOs complete the initial security classification that will determine the first security level of the offender, they complete a risk and needs assessment that will outline what criminogenic factors (both internal and external factors) contributed to the commission of the offence, and what needs need to be addressed during the period of incarceration. Based on this they also complete a correctional treatment plan that aims to address these needs and criminogenic factors. After this the offender is sent to the living units. The onus then rests on the CMOs of the living units to make sure that the plan is followed and that the offender's criminogenic factors are addressed. The CMO does this in a number of ways. By referring the offender for education, to workshop to learn a marketable skill, or to Programmes where the offender is assisted with structured core programmes that are cognitive-behavioural in nature and attempt to address problematic thinking.

The above-mentioned indicates that Namibia is on par with what is expected for the rehabilitation of offenders. The Unit Management and Case Management components of the ORMCS is still in the process of being rolled out to all thirteen correctional facilities. Whether or not it is effective in the rehabilitation of terrorists remains to be seen. At present there is not a programme tailor-made for the rehabilitation of people sentenced for terrorist activities.